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TORRANCE COUNTY
BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO. 2019-03

TORRANCE COUNTY PERSONNEL ORDINANCE 2019

WHEREAS, The Torrance County Board of Commissioners is charged with protecting the health, safety, and welfare of the citizens of Torrance County; and,

WHEREAS, in order to achieve the goals, responsibilities, statutory and constitutional obligations of the County, the Commission must retain numerous employees with varying skill sets and capabilities; and,

WHEREAS, the Commission desires to create a productive work environment for all its employees; and,

WHEREAS, the County must make clear to all of its employees the terms, conditions, potential disciplinary actions, and expectations of every County employee;

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF TORRANCE COUNTY, NEW MEXICO that the attached document entitled "Torrance County Personnel Ordinance 2019" is hereby adopted; and

BE IT FURTHER ORDAINED that this ordinance supersedes any previously adopted resolution, policy, or ordinance, and those policies are hereby repealed.

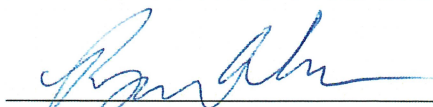
DONE THIS 26th DAY OF June, 2019.

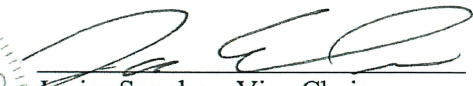
APPROVED AS TO FORM ONLY:

BOARD OF COUNTY COMMISSIONERS


County Attorney


6/26/19
Date


Ryan Schwebach, Chair


Javier Sanchez, Vice Chair


Kevin McCall, Member

ATTEST:


Linda Jaramillo, County Clerk

Torrance County
Personnel Ordinance
2019

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SECTION 1. GENERAL PROVISIONS

1.1 Purpose

The purpose of this personnel policy manual is to establish consistent, basic policies and practices concerning relations between Torrance County and its employees. This personnel policy manual further establishes the formal grievance procedure available to regular employees to hear grievances with respect to demotions, dismissals and suspensions. The provisions of this personnel policy governing merit and the grievance of disciplinary actions do not apply to employees appointed by elected officials who serve at the discretion of the elected official.

1.2 Scope

Definite rules and regulations cannot be readily formulated for every possible problem and situation. This ordinance serves as a general basis and guide for the proper, efficient, and effective administration of personnel matters of the employees of Torrance County. The Personnel Rules contained herein replace and supersede all previously issued Personnel Rules and Regulations applicable to employees of Torrance County.

1.3 Employee Knowledge and Information of Policy

County Manager or designee shall provide a copy of this policy to present employees and to all new employees with instructions to read and know of all provisions of these rules. Employees shall sign for the copy upon receipt.

1.4 Equal Employment Opportunity Policy

Individuals will not be discriminated against on the basis of race, age, religion, sexual orientation, color, national origin, ancestry, gender, gender identity, physical or mental disability or medical condition, or any other legally protected status, in consideration for employment, duration of employment, compensation, terms, conditions, or privileges of employment by Torrance County.

1.5 Americans with Disabilities Act Compliance

Torrance County has committed itself to comply with the Americans with Disabilities Act which protects qualified individuals with disabilities from discrimination in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment.

1.6 Administration by County Manager

The County Manager is delegated the authority to administer the personnel system and the terms of this personnel policy manual and its amendments, and all future approved personnel policies and operating procedures. The County Manager is further authorized to promulgate administrative rules for the purposes of implementing any or all of the provisions of this ordinance.

2.7 Classified Employees

All employees who are not exempt employees as defined in Department of Labor regulations relating to the Fair Labor Standards Act. Classified employees are eligible to receive overtime pay and/or compensatory time off and are eligible for the County's grievance procedure.

2.8 Compensatory Time

Time off granted to employees covered by the Fair Labor Standards Act (FLSA), in lieu of overtime pay on the basis of one and one-half (1 1/2) hours compensatory time for each hour of overtime physically worked in excess of forty (40) hours in one work week. The work period and number of hours to be worked prior to qualifying for overtime/compensatory time by employees covered by the Fair Labor Standards Act 207(k) exemption shall be determined based on the guidelines of that exemption.

2.9 County Business

The performance of duties of a county position at an employee's normal workstation or at a location authorized by the county.

2.10 Demotion

A personnel action that reduces the employee's responsibilities and rate of pay. Demotions may be voluntary or involuntary, and may be the result of disciplinary actions.

2.11 Department Head

The elected official or appointee of the County Commission who has responsibility for supervising and administering a department of county government as determined and designated by the voters of Torrance County and/or the County Commission. County Commissioners are not considered Department Heads.

2.12 Developmental Plan

A performance plan developed as a result of an unsatisfactory employee evaluation that specifies areas of improvement that must be met in order to obtain a satisfactory job performance evaluation.

2.13 Dismissal

An action that terminates an individual's employment with the county.

2.14 Due Process

The right granted to a full-time classified employee who has completed the probationary period to the grievance process for actions of suspension, demotion, or dismissal.

2.15 Duties of Department Heads

All department heads and elected officials shall adhere to the provisions of this Personnel

2.23 Holiday Pay

Pay received on designated County holidays. Holiday pay is paid at the same rate as the employee's regular pay and shall not exceed the number of regularly scheduled hours.

2.24 Insubordination

The conduct of an employee constituting defiance, disobedience, dissension, rebelliousness, or resistance to supervision. Acts of insubordination may result in disciplinary action up to and including dismissal.

2.25 Layoff or Reduction in Force

The involuntary separation of an employee from the county service, without fault on the part of the employee, due to abolishment of position, reorganization, lack of work, lack of funds, or any other reason determined by the County Commission and/or County Manager to be in the best interest of the County.

2.26 Medical Disability Termination

The termination of an employee from county employment when the employee is unable to perform the essential functions of the position due to a physical or mental condition notwithstanding any reasonable accommodation.

2.27 Overtime

Any hours by a regular full-time employee in excess of forty (40) hours every week. Employees shall receive overtime only for hours actually worked. Holiday, annual, sick and other leave hours shall not be considered actual work hours.

2.28 Part-Time Employee

An employee paid by the hour that may be called on short notice or an occasional basis. A part-time employee generally works less than nineteen (19) hours per week and are terminable-at-will.

2.29 Performance Review

The written objective review made by the employee's supervisor of an employee's performance relating to the employee's assigned duties.

2.30 Probationary Employee

A full-time employee hired to fill a classified or qualified appointed regular position who has not yet completed the six (6) month period of employment during which time the employee is terminable-at-will; with the exception of law enforcement and dispatch, whose probationary period is twelve (12) months.

2.31 Promotion

Transfer to a position requiring greater responsibilities and compensated at a higher rate of

regular employee cannot change to part-time status without the approval of the County Manager.

3.2 Part-Time Employee

A part-time employee is paid by the hour. A part-time employee generally is scheduled to work less than nineteen (19) hours per week. A part-time employee does not accrue annual or sick leave and is not eligible for any other type of leave provided by the County.

3.3 Appointed Employee

The appointees of elected officials include but are not limited to: the County Manager, Deputy County Manager, County Attorney, Fire Chief, Undersheriff, Executive Secretary to the Sheriff, and the Chief Deputies to the County Assessor, Clerk, and Treasurer. Appointees of Elected Officials shall receive a salary set by the County Commission. Appointed employees are considered exempt employees as defined by the Fair Labor Standards Act (FLSA). Appointed employees are terminable-at-will and cannot avail themselves of the grievance procedure set forth herein, but are entitled to all other benefits provided by the county.

3.4 Exempt Employee

Exempt employees shall receive a fixed annual salary set by the Department Head, the County Manager, and/or the County Commission. Exempt employees are not entitled to overtime pay or compensatory time off nor the grievance process.

3.5 Probationary Employee

The purpose of the probationary period is to evaluate the employee's ability, potential, and performance. A full-time probationary employee is one who is hired to fill a regular or qualified appointed position who has not yet completed their probationary period of employment. A probationary employee shall accrue annual and sick leave at the same rate as a regular full-time employee, but may not use any of the accrued annual leave during the first six (6) months of employment. (See section 3.5.G.)

- A. To determine whether an employee has satisfactorily completed the probationary period, the employee's department head shall review the employee's performance and the employee's ability to work with the public, peers, supervisors, and management. A probationary employee shall be reviewed at the end of the probationary period, and may be evaluated at any other time during the probationary period.
- B. An employee hired to fill a law enforcement or dispatch position shall serve a twelve (12) month probationary period and shall obtain the statutorily required certification for the position. Failure to obtain such certification within the probationary period shall result in the employee's dismissal.

County provided such positions exist and said employee meets the qualifications of said position(s).

SECTION 4. MANAGEMENT AND APPOINTED POSITIONS

4.1 County Manager

Believing it to be in the best interest of the county to obtain a professional manager to provide for continuity and efficiency in the administration of county affairs, the board of county commissioners hereby establishes the position of County Manager pursuant to NMSA(1978) § 4-38-19. The County Manager shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to and vested in the county manager and hired by the Board of County Commissioners. The County Manager shall be a Fair Labor Standards Act (FLSA) exempt employee who serves at the pleasure of the Board of County Commissioners and cannot avail themselves of the grievance process. The County Manager shall be a salaried, contract position entitled to all of the benefits of a Full-Time Regular Employee but shall not be entitled to overtime or compensatory time.

4.2 County Manager Powers, Duties, and Responsibilities

The County Manager shall be responsible to the Board of County Commissioners for the efficient administration of all of the affairs of the county. They shall be responsible for proper management of fiscal and budgetary matters, real property and facilities, roads, streets and county operations which are assigned to the County Commissioners by the State Constitution, state statutes and county ordinances. They shall have the power and it shall be their duty to:

- A. Carry out the directives and policies of the Board of County Commissioners and enforce all orders, resolutions, ordinances and regulations of the board and exercise all executive authority.
- B. Select, appoint, direct the work of, discipline or remove, the Deputy County Manager, department directors, and all subordinate employees of the county, subject to the terms of the Torrance County Personnel Ordinance and Torrance County Personnel Policy. The County Manager may delegate the authority with respect to the direction of work and discipline to the Deputy County Manager and/or department directors. Unless authorized by another section of this Code, neither the Board of County Commissioners nor any of its members shall dictate, either directly or indirectly, the appointment of any person by the County Manager nor prevent them from exercising their own judgment in the appointment of the Deputy County Manager, department directors, the public information officer, or the executive assistant to the County Manager.

4.5 Other Exempt Positions

In addition to the aforementioned exempt positions, the Deputy Clerk, Deputy Assessor, Undersheriff, Sheriff's Administrator, County Attorney and Department Directors are deemed to be exempt, terminable-at-will positions.

4.6 Transition

Any position created or defined in this section as an exempt status position that is deemed to be a classified status position prior to the enactment of this ordinance, shall retain its status as a classified position until a vacancy occurs, at which time the position will become an exempt status position.

SECTION 5. RECRUITMENT AND SELECTION

5.1 Recruitment Posting Procedure

Whenever filling a vacant position, the Department Head must submit a "Request to Hire" form to the Human Resource Director. Within two (2) business days of receipt of the request, the Human Resource Director shall seek approval of the County Manager and post the opening within County offices. At the same time that the position is posted within the County, the position shall be posted on the County's public website and shall also be advertised at least once in the local newspaper.

5.2 Permission for Transfer

No county employee or department head can deny another county employee who is not the subject of a disciplinary action, permission to apply for a job vacancy in any other county office or department for which the employee is qualified. Probationary employees are not eligible for transfer.

5.3 Applicant Responsibility

A. Submission of Applications

Applications for employment shall be accepted in the County Manager's Office during normal business hours. Applicants shall be considered for positions for which they have applied and are qualified. Applications must be submitted on the employment application form provided by the county with any other applicable documents attached.

B. Proof of Qualification

The applicant is responsible for furnishing proof of qualifications or possession of any license, certification, or degree when these requirements are necessary and set forth in the job description.

C. Criminal History Check

All applicants selected for interview will be asked to sign a written authorization for the County to conduct a criminal history check. Any applicant who refuses to sign the written authorization shall not be considered for employment with the County. If the criminal history check reveals a felony or misdemeanor conviction as described in NMSA 1978, 28-2-1 or 10-1-3, et seq., the applicant is ineligible for hire with the County.

D. Physical Examinations and Drug Testing

Applicants to whom positions have been offered shall be required to undergo medical examinations, which may include urinalysis, blood testing, and radiographic examination. Drug testing will be done for all new hires. Employment medical examinations must be completed and reviewed before the employee can report to work. Offers of employment are contingent upon the physician's statement that the individual can perform the assigned duties and tasks of that position and is drug free. The Human Resource Director will arrange all physical and drug testing appointments. Employment medical examinations will be paid for by the County. The County Manager may approve a conditional hire of an applicant pending the results of the physical and drug test in exceptional circumstances.

E. Law Enforcement Entrance Exam

All applicants for a law enforcement position must successfully complete the law enforcement entrance exam to be considered for employment with the County. The law enforcement entrance exam consists of a physical agility test, written exam, and interviews by the hiring board.

5.5 Ineligibility for Hire or Rehire

An applicant shall be considered ineligible for hire or rehire by Torrance County if the applicant:

- A. Made any false statement or omission on the employment application.
- B. Unable to furnish proof of identification and right to work as defined by section 5.3(C).
- C. Refused to sign authorization for reference checks.
- D. Not met the requirements of the position.
- E. Failed to complete pre-employment examinations or other requirements as directed by the county.
- F. Not met the criteria for insurance or bonding as required by County or State law.
- G. Been dismissed from County service as a result of a disciplinary measure.
- H. Not been certified by a physician that the applicant can perform the physical requirements of the position.
- I. Does not have a valid New Mexico driver's license as described in section 5.4(B)

SECTION 6. CHANGES IN EMPLOYMENT STATUS

6.1 Promotion

County employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify. Probationary employees are not eligible for promotions until they have successfully completed their probation period.

6.2 Demotion

An employee may be demoted to a vacant position for which the employee is qualified when the employee would otherwise be terminated because the employee's position is being abolished due to the lack of funds or lack of work and there are no appropriate vacancies at the same level; when the employee does not possess the necessary ability to render satisfactory performances in the position presently held; or when the employee voluntarily requests such a demotion. Demoted employees will receive a reduction in pay. Only a regular employee demoted due to an inability to render satisfactory performance in the position presently held is entitled to grievance proceedings. See Section 8.2.

6.3 Transfer

Employees may be moved from one position to another at the same rate of pay either voluntarily or involuntarily. An employee may be transferred if it is in the best interest of the county.

6.4 Resignation

An employee voluntarily resigning shall submit, in writing, a two-week notice of resignation. Failure to provide written two-week notice of resignation may be grounds for refusal of future employment with the County. Unauthorized absence from work for a period of three (3) consecutive, regularly scheduled working days may be considered a voluntary resignation.

6.5 Reduction-In-Force

If it is necessary for the county to reduce the number of county employees because of lack of funds or lack of work, the department head shall make the determination of the necessity for layoffs. The reduction will occur in the following manner:

A. Part-Time

Part-time, temporary, term and probationary employees will be laid off before regular full-time employees unless they are filling positions that require specific skills and knowledge.

B. Regular Full-Time

Lay off of regular employees shall be determined by the department head, based on the employees' suitability for the jobs remaining, ability to perform available

change notice.

B. Periodic / Other

All County employees shall have a performance review on an annual basis, but any employee may be reviewed at any time for the following conditions:

1. A change of job description (increases or decreases of current responsibilities).
2. Recommendations of any type of salary increase or decrease.
3. Demotion or suspension.
4. Insubordination or unsatisfactory work performance.

All performance reviews shall be documented and placed in the employee's official personnel file. Performance reviews must be signed by the employee and the Department Head.

C. Employee Rebuttal

The employee may submit in writing a rebuttal statement to the performance review, which will become a part of the performance review. The rebuttal shall be submitted within 10 days of the review.

D. Unsatisfactory Review

In the event an employee receives a performance review that is unsatisfactory, the employee shall be provided with written information that specifies the areas of deficient performance and steps for improvement. The employee shall be warned that failure to meet reasonable performance standards of the position within a set time period, which is not to exceed ninety (90) days, may result in disciplinary action or dismissal. An employee who receives an unsatisfactory review shall be re-evaluated within ninety (90) days, and, if performance remains unsatisfactory, the necessary actions will be taken. (Refer to Section 8.1. Basis for Employee Discipline).

7.2 Code of Conduct

County employees shall endeavor to conduct themselves in a professional manner when dealing with the public and other employees. The Human Resources Director shall provide each employee with a copy of the County's Code of Conduct, violation of which shall result in disciplinary action and possible termination.

7.3 Outside Employment

Full-time county employees are discouraged from holding outside employment in addition to their full-time county position. County Employees shall avoid conflicts of interest when

- b. Race or national-origin harassment: Epithets, slurs, or negative stereotypical comments, jokes or cartoons,
- c. Age harassment: Remarks or jokes relating to a person's age.
- d. Disability harassment: Disparaging remarks, slurs or jokes relating to a person's physical or mental disability.
- e. Religious harassment: Coercion of employee participation in religious activities, verbal attacks or religious slurs.
- f. Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, religion, sexual orientation or ethnic group, or individuals with disabilities.
- g. Denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, sexual orientation, national origin, or an individual with a disability.
- h. Retaliation against an employee who takes one of the following actions: filing a complaint of discrimination, participating in a discrimination investigation, opposing discriminatory practices or exercising any other right under federal or state anti-discrimination laws. The County will not tolerate employment-based retaliation and any violation should be reported immediately.

- B. Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during County business trips, business meetings, and business-related social events.

7.5 Discrimination and Harassment Procedures

The Human Resources Department shall be responsible for formally notifying all employees, Department Heads, Elected Officials and volunteers, of the discrimination and harassment policy. The Human Resources Department shall ensure that training on discrimination is periodically conducted, and that all employees and volunteers receive this training. Such training shall be offered to both elected and appointed officials.

- A. The County Manager, the Deputy County Manager, the Human Resources Director, Department Heads, managers and supervisors are responsible for creating a productive work environment in which discrimination, offensive conduct and harassment are not tolerated. They are responsible for taking immediate and appropriate corrective action in response to any confirmed violation of this policy and for assuring that no reprisals are taken against those who complain or participate in an investigation or oppose discriminatory conduct.
- B. An employee or volunteer who feels they have been subjected to any harassment or believes that they have been treated in an unlawful, discriminatory manner

- J. The complainant and witnesses shall be reminded of the County's prohibition against retaliation.
- K. The investigator shall ask the complainant and witnesses not only about the alleged discrimination but also about any efforts by the interviewee to complain about the alleged discrimination and the responses, if any, of those who received such complaint(s). If it is determined that any person with authority to receive such complain(ts) failed to ensure that such complaint(s) were documented and forwarded to the Human Resources Department, that individual shall be subject to appropriate disciplinary action.
- L. The results of all investigations of discrimination shall be forwarded to and reviewed by the County Attorney and Human Resources Department within ten (10) business days of the conclusion of the investigation. The County Attorney and Human Resources Department shall report the results of its review and any recommendation to the County Manager.
- M. If the County Manager determines that an employee has discriminated against or harassed another individual, prompt, appropriate disciplinary action will be taken, up to and including termination of employment.
- N. A closure interview shall be conducted with the complainant within ten (10) business days of the issuance of the investigative report informing the complainant of the results of the investigation and, where appropriate, that action will be or has been taken. The department head(s) of the complainant and alleged offender will be informed of the results of the investigation.
- O. No retaliation of any kind shall be taken against an employee who has asserted a complaint or who has reported or assisted in the investigation of a complaint of discrimination or harassment. If retaliation takes place this violation will lead to disciplinary action up to and including termination.
- P. If after the investigation of any complaint, if it is determined that the complaint is not verifiable and was not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the complainant or any employee who gave false information, up to and including termination.
- Q. Nothing in this policy precludes an employee from making a report to the State of New Mexico Department of Human Rights or the Federal Equal Employment Opportunity Commission at any time.

employee will be disciplined for refusing to perform an unlawful act.

B. Definition of Cause

Cause is defined as any conduct, action or inaction arising from, or directly connected with, the employee's work that is inconsistent with the employee's obligation to the County and reflects the employee's disregard of the County's interest. Cause includes, but is not limited to, inefficiency, incompetence, misconduct, negligence, insubordination, performance that continues to be inadequate after reasonable efforts have been made to correct the performance problems, or conviction of a felony or misdemeanor as described in NMSA 1978, 28-2-1 et seq.

C. Disciplinary Action

Any department head may take disciplinary action against an employee under the department head's authority consistent with this personnel ordinance. All disciplinary actions must be furnished in writing to the Human Resources Director for placement in the employee's file with signature of the recipient employee acknowledging receipt of the action.

D. Grounds for Disciplinary Action

The following includes those actions that may be a basis for disciplinary action. This list is not intended to be all-inclusive, but is illustrative of the types of actions that may lead to disciplinary action.

1. The employee's performance does not meet expectations.
2. The employee has been abusive in their language or actions, or has threatened or caused physical harm to others.
3. The employee has violated a written policy or order, or has failed to obey any lawful, reasonable directions given by his/her supervisor or other responsible County official.
4. The employee has been found under the influence of alcohol or drugs while on duty and/or in County facilities or has otherwise violated the Drug and Alcohol Abuse and Testing Policy.
5. The employee has been convicted of a felony or has engaged in any activity that violates State or Federal criminal statutes.
6. The employee has provided false or misleading information in any document, report, or statement related to their employment with the County. This includes but is not limited to the employment application and

All actions involving substandard work performance, leading up to and including dismissal, require progressive warnings.

A. Verbal Reprimand

A verbal reprimand is used for minor infractions such as informing the employee that his actions, behavior or conduct needs to change. A verbal reprimand is not grievable. A verbal reprimand must be documented with a copy provided to the employee. Record of a verbal reprimand remains in the department of origin unless or until it becomes part of a more serious disciplinary action.

B. Written Reprimand

1. An employee shall receive a written reprimand because the deficiency or infraction is of a greater degree than that for which a verbal reprimand may be used or if a verbal reprimand was not effective
2. A copy of a written reprimand shall be placed in the employee's personnel file by the Human Resource Director after the Department Head has provided the employee with the original statement. The employee will be asked to acknowledge having read the comments by signing the statement. If the employee refuses to sign, a witness will attest in writing that the statement was presented to the employee for signature. The witness' signature indicates that the employee received the statement, but does not necessarily indicate concurrence with its content. The employee may respond with a written rebuttal, which shall be placed in the employee's personnel file. The placement of a written reprimand in an employee's personnel file is not grievable.

C. Suspension With Pay

An employee may be suspended with pay for a single serious offense or incident where in the opinion of the County Manager, it is in the County's best interests to remove the employee from the work environment.

D. Suspension Without Pay

An employee may be suspended without pay for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed. Such suspension will not exceed ten (10) working days. Suspension of a regular employee is subject to Torrance County grievance procedures.

E. Demotion

An employee may be demoted for continued inadequate job performance after

- H. The layoff of an employee due to reorganization, lack of work, or lack of funds.

9.2 Informal Grievance Procedure

The purpose of the informal grievance procedure is to provide employees with a fair and equitable process for resolving complaints or problems with general working conditions. Most grievances should be resolved at the lowest possible level and as informally as possible. The following procedures should be the last resort in addressing problems in the work place.

Step I. The affected employee shall discuss the problem with the first line supervisor and attempt to work out a solution. No written documentation is required and it is anticipated that most problems will be resolved at this level.

Step II. If the problem is not resolved by the supervisor, the employee may file a written complaint with the Department Head, Human Resources Director, or County Manager who shall intervene in an attempt to resolve the problem. The member of management who received the complaint shall meet with the affected employee and shall issue a written finding, which shall serve as the final decision.

9.3 Pre-Determination Hearings

An employee notified of possible suspension, demotion or dismissal or loss of pay shall be entitled to a Pre-Determination hearing before the appropriate department head or County Manager.

A. Notice

An employee shall be notified in writing at least 48 hours prior to date and time of determination hearing. The notice shall disclose the reasons for the proposed disciplinary action and all evidence supporting the reasons, and shall state the time, place, and date of the hearing.

B. Immediate Administrative Leave

An employee may be placed on administrative leave with pay pending the outcome of the pre-determination hearing.

C. Hearing Procedure

The hearing shall be informal and shall be conducted by the employee's department head or County Manager. The purpose of the hearing is to provide the employee with a reasonable opportunity to address or refute the reasons for the proposed disciplinary action. Employees may respond to the notice of disciplinary action in writing in lieu of appearing at the hearing.

conducting administrative hearings, and the ability to render and write unbiased and impartial decisions.

2. The county shall be responsible for maintaining a list of at least five (5) hearing officers.
3. Within ten (10) calendar days of receipt of a timely appeal from an employee or the employee's representative, the employee or employee's representative shall contact the Human Resources Director or designee to select a hearing officer. A hearing officer shall be selected by the parties alternately striking the names off the list of hearing officers until only one name remains. The employee shall exercise the first strike.

F. The Hearing Officer Shall:

1. Prepare a written decision upholding, reversing or modifying the disciplinary action within thirty (30) calendar days of the conclusion of the hearing. The decision shall contain findings of fact and conclusions of law. The decision shall be served on the parties by certified mail, return receipt requested.
2. Have the authority to only award back wages and county contributed benefits to the employee, if applicable. If the hearing officer awards back wages, the employee shall provide the county with a sworn statement of gross earnings and unemployment compensation since the effective date of the disciplinary action. The county shall be able to offset earnings and unemployment compensation received during the period against the back wages awarded. After a written decision is issued, the hearing officer shall retain jurisdiction of the case for the sole purpose of resolving any disputes regarding back wages and county contributed benefits.

G. Each party shall bear its own costs. The hearing officer's fees and expenses for a hearing shall be paid:

1. Equally by the county and employee if the employee's suspension, demotion or dismissal is modified, but not reversed, by the Hearing Officer;
2. By the employee if the Hearing Officer finds in favor of the county; or
3. By the County if the hearing officer finds in favor of the employee.

starting time, and leave may be granted for up to 1/2 hour at the end of the day, in compensation for allowable travel time. Actual travel time in excess of 1/2 hour a day shall not be allowed for compensation as leave time or wages, whether or not the employee is traveling in a County vehicle.

- G. All employees electing to receive the use of a County vehicle for purposes of traveling to and from their home and work shall agree to the following: The value of the use of the County vehicle shall be treated as taxable income in accordance with the Internal Revenue Code.

10.2 Breaks

Full-time employees are allowed a one-half (1/2) hour unpaid lunch break. Full-time employees are entitled to two (2) fifteen minute breaks per day; employees working four (4) hours or less per day are entitled to one (1) fifteen minute break per day. Fifteen minute breaks are not to be added to the beginning or end of your lunch break. Employees are expected to return and be ready for work on time from all breaks taken. Only supervisors may determine that breaks should be limited, delayed, or extended because of an emergency or unusual conditions.

10.3 Pay Periods and Timekeeping

The County shall have a two (2)-week pay period, beginning at 12 a.m. on alternate Saturdays and ending at 11:59 p.m. on the following second Friday. Employees shall be paid Bi-weekly, every other Thursday.

A. Employee's Responsibilities

All employees are responsible for the following:

1. To accurately record all work time using the appropriate time system.
2. Timely requesting leave through the designated time system.
3. To document overtime/compensatory time authorized by their respective supervisor in the timekeeping system.
4. To approve all hours worked and leave taken by noon the following Monday. Any failure to approve hours worked, may result in delay of an employee's paycheck.
5. Each employee is responsible for their own recordkeeping unless the employee is absent from work.

10.5 Shift Differential

Shift differential pay will be given only for the number of "actual work hours" per shift. All deputies and dispatchers who work on the swing or graveyard shift will receive shift differential. The shift differential rates are as follows:

- A. Swing shift (4:01 p.m. to 12:00 a.m.) - thirty-five cents (.35) per hour
- B. Graveyard shift (12:01 a.m. to 8:00 a.m.) - forty-five cents (.45) per hour

10.6 Compensatory Time

Compensatory time is time off for hours worked beyond forty (40) hours. A FLSA classified employee may, at the discretion of the department head, accrue compensatory time in lieu of overtime payment at the rate of one and one half (1 ½) hours of time for each hour worked in excess of forty (40) "**actual work hours**". Compensatory time hours accrued and taken off shall be recorded for each non-exempt employee and submitted in the timekeeping system. Compensatory time shall be accrued only above thirty (30) minutes.

A. Compensatory Time Capped

Compensatory time shall be capped at 160 hours. Once an employee reaches 160 hours of compensatory time accrued, they shall be paid overtime. Employees who have accrued over 160 hours of compensatory time prior to the enactment of this ordinance shall be prohibited from accruing additional compensatory time and shall utilize the accrued compensatory time no later than five (5) years from the date of enactment of this ordinance.

B. Compensatory Time Not Available Under Forty Hours

Compensatory Time is only available for hours actually worked above forty (40) hours. Any hours worked in excess of the employee's regular hours, but less than forty (40) hours, shall not be considered compensatory time.

10.7 Final Pay Check

An employee who resigns shall receive a final paycheck on the first regularly scheduled payday following the employee's effective date of resignation. Any employee who is dismissed shall receive a final paycheck by 5:00 P.M. on the fifth (5) day following dismissal, and verification that all County items have been returned. Day one begins the day of dismissal and includes Saturday and Sunday. In case of death, final salary and compensation for unused annual leave shall be paid to the employee's named beneficiary or if unnamed, to the employee's estate.

10.8 Personal Safety Equipment

An employee in a designated job with the County may be required to wear special equipment or clothing to perform the job function. An employee who requires special equipment or clothing shall be provided the special clothing or protective equipment or

11.2 Unauthorized Leave

Absence without approved leave is subject to disciplinary action and loss of pay.

11.3 Holidays

Legal Holidays, including the date the holiday will be observed, will be designated by the Board of County Commissioners in January of each year. The following condition will apply with respect to holidays and holiday pay:

- A. Regular full-time employees are entitled to holiday pay. Part-time, temporary appointed and exempt employees are not entitled to holiday pay. Holiday pay shall be one additional hour of pay for every hour "actually" worked on the holiday during the regularly scheduled shift, if the employee's shift begins on the holiday.
- B. If a holiday falls on an employee's day off, the employee shall be granted an additional day off which shall be scheduled with the employee's supervisor within thirty (30) days of the holiday.
- C. When a holiday falls during an employee's vacation, the day shall be counted as a holiday, and not a vacation day.
- D. In order to receive pay for a designated legal holiday, an employee must be at work or on paid leave status on their scheduled workday immediately preceding and following the holiday. An employee absent without leave on their scheduled work day before or after a holiday will not receive pay for that holiday.
- E. When a holiday falls on a Saturday, it will be observed on the preceding Friday, and if the holiday falls on a Sunday, it will be observed on the following Monday.

11.4 Annual Leave With Pay

Full-time county employees accrue annual leave according to the following schedule:
(Note Section 3.5G)

<u>Hours Per Pay Period</u>	<u>Accrual Rate Per Pay Period</u>	<u>Years of Service</u>
72	3.23	Less than 3 years of service
72	3.78	3 or more but less than 7
72	4.61	7 or more but less than 11
72	5.45	11 or more but less than 15
72	6.00	15 or more years of service
80	3.47	Less than 3 years of service
80	4.08	3 or more but less than 7
80	5.00	7 or more but less than 11

other valid reason approved by the department head.

6. Any donated time at the end of the medical emergency or when no longer needed shall revert to the donating employees on a prorated basis.

I. The minimum eligibility qualifications for receiving leave donations are:

1. Full-time employees who have completed their probationary periods.
2. A probationary employee may receive up to a maximum of eighty (80) hours of donated leave, with approval from the County Manager.
3. Part time and temporary employees are not eligible to donate or receive leave.
4. Employees wishing to receive medical or family emergency leave donations or for other valid reasons shall complete and submit a request form to the Human Resources Department. Employees are not permitted to directly solicit leave donations from other employees, either for themselves or for another employees.
5. Leave donations, whether annual or compensatory leave, will go into a donation pool which is converted to dollar amount for each employee receiving donated time.

J. Appointed employees shall accrue annual leave at a rate of five (5) hours per pay period.

11.5 Sick Leave with Pay

Leave with pay is granted to a regular, exempt or qualified appointed employee when a medical reason, such as described in 11.6 below, keeps the employee from performing the duties of the position.

- A. All full-time employees shall accrue 3.69 hours per pay period of sick leave.
- B. Accrued sick leave is capped at 480 hours. At no time will any employee be allowed to have more than 480 hours of sick leave.
- C. There shall be no sick leave paid upon termination.
- D. Part-time and temporary employees do not accrue sick leave.
- E. Abuse of sick leave is subject to disciplinary action.
- F. An employee cannot take sick leave just before the employee's separation from county employment without a medical provider's certificate or receipt of

11.11 Administrative Leave with Pay

Leave with pay may be authorized by the County Manager due to special or unforeseen circumstances where the Manager deems the absence is in the best interests of the County and/or the public.

11.12 Occupational Injury Time/Worker's Compensation

A. Worker's Compensation

Employees injured on the job or suffering from occupational diseases, as defined in the New Mexico Worker's Compensation Statute, shall receive Worker's Compensation benefits as prescribed by law. An employee may elect to continue group health coverage, with the employee and the employer paying their respective share of the premium, during an unpaid leave of absence for which worker's compensation is being paid for up to a period of four months, provided however, all other eligibility requirements must continue to be met for the period of continuation of coverage.

B. Pre-existing Injury

Newly hired employees shall be required to complete a certificate of pre-existing condition form. Pre-existing conditions shall be certified by a medical provider where the condition may affect their ability to perform the requirements of the position for which they are hired.

C. Americans with Disabilities Act

Torrance County Complies with the Americans with Disabilities Act. The County shall make reasonable accommodations to allow employees to perform the requirements of their jobs.

D. Injury Leave Pay

An employee injured on the job may use accrued annual or sick leave for each regularly scheduled work day after the injury occurs for all such days not paid by worker's compensation. If the employee is on worker's compensation time for more than four weeks and is entitled to compensation for the first seven days and has used accrued annual or sick leave for the first seven days of injury, the worker's compensation payments received for all such days shall be paid directly to the County by the worker's compensation carrier. In that event, annual or sick leave used by the employee upon the County's receipt of the reimbursement by workers compensation shall be reinstated after the expiration of the statutory waiting period.

E. Medical Procedure

An employee who incurs a job related injury/illness, must go to the County designated medical provider, who will treat the employee or will refer the

11.13 Civic Duty Leave

An employee shall be given necessary time off with pay for the following:

A. Jury Duty

Pay for jury duty shall be authorized only for those days that the employee is scheduled to work. If excused by the court during a work day, the employee shall return to duty if at least four (4) hours of County duty can be served in that work day. If the employee does not return to work, the balance of the day will be charged to annual leave or leave without pay.

B. Court Appearance Time

When required by County duties or subpoenaed to appear before a court, Torrance County Grievance Board, public body or County Commission for the purpose of testifying in regard to County matters.

C. Voting

For purposes of a national, state, or local election, an employee who is registered to vote will be granted up to two (2) hours paid leave for voting, between the time of opening and the time of closing of polls on election day. The employee's supervisor may specify the hours for the leave. This leave will not be granted to any employee whose work day begins more than two (2) hours subsequent to the time of the opening of the polls, or ends more than three (3) hours before the closing of the polls.

D. Emergency Volunteer Service Leave

1. A volunteer emergency responder, while acting in said capacity, may be absent from work for a period of ten (10) work days per calendar year in order to respond to emergencies or disasters.
2. The employee shall make reasonable efforts to notify their supervisor of the service and make reasonable notification efforts over the course of the absence.
3. The County may request an employee to provide a written verification from the Office of Emergency Management or a state or local official managing an emergency or disaster of the dates and time the employee served as a volunteer emergency responder to an emergency or disaster.
4. The County will charge against an employee's regular time any time the employee is absent from employment while serving as a volunteer emergency responder.

unless the leave is for emergency purposes.

B. Unpaid Military Leave

Employees voluntarily or involuntarily serving in active duty for more than fifteen (15) working days shall be placed on leave without pay. The employee taking military leave will not first be required to exhaust annual and sick leave.

C. Employees Returning from Unpaid Military Leave

Any employee who leaves a position they have held with the County, other than a temporary position, to enter the armed forces of the United States, national guard or organized reserve, and who serves on active duty and is honorably discharged or released from active duty to complete their remaining service in a reserve component, and who is still qualified to perform the duties of the County position previously held, shall be re-employed in such position or in a position of like seniority, status, and pay. To be re-employed in such position, the employee must make application for re-employment within ninety (90) days after they are relieved from training or duty, or from hospitalization continuing after discharge for a period of not more than one (1) year.

1. The returning employee will be deemed to have accrued seniority and length of service rights as though their employment with the County had been continuous since the date of initial employment.
2. The returning employee shall retain all unused annual and sick leave accrued at the time of their departure for military service.

11.16 Lack of Work and Inclement Weather

The County may at its discretion, send an employee home when there is no work available as determined by the department head, and may close offices and send employees home due to inclement weather declared by the County Manager. Employees who are sent home by the County due to inclement weather, or other circumstances not covered in this policy manual, shall not be charged with leave for all normal work hours missed. Hours paid pursuant to this provision shall not be counted as hours worked for the computation of overtime.

11.17 Family Medical Leave Act

Torrance County is subject to and complies with the provisions of the Family Medical leave act of 1993 as enacted and amended. Torrance County implements the provisions of the Family Medical Leave Act (FMLA) based on a rolling twelve (12) month period. If an employee has exhausted their available sick leave, they shall be required to apply for FMLA after four (4) days of consecutive absences. If an employee is out on sick leave for two (2) consecutive weeks, the employee shall be required to apply for FMLA regardless

SECTION 13. MISCELLANEOUS

13.1 Designated Work Areas

Employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the supervisor has been obtained for different work hours. Employees shall not litter work areas and will keep them neat and clean.

13.2 Personal Business

Personal business shall not be conducted during work hours with the exception of breaks and lunches. County employees should not conduct personal business within view or hearing of the public.

13.3 County Materials

Employees shall not misuse County property, records, or other material in their care, control or custody. County property, records, or other material shall not be removed from the premises of the County offices unless permission has been given by the department head. Employees shall not use County property, records or equipment for personal use.

13.4 County Property

The County Manager or designee shall track all property and equipment issued to County employees and/or elected officials for the performance of their job and/or elected duties. County employees and/or elected officials shall not receive county property at their personal residence or personal place of business. Storage of county property by county employees or elected officials shall only occur with the permission of the County Manager or designee and shall be documented with appropriate justification and location of said property. At the time that an employee is voluntarily or involuntarily terminated or an elected official's term in office shall end, the employee / elected official shall return all County property to the County Manager or designee who shall certify the proper return of said property.

13.5 County Vehicles

County vehicles shall only be used only for County business and commuting to and from work, if required for a work-related purpose. County vehicles shall not be used for personal business, except where incidental to commuting as determined by the employee's department head.

13.6 Dress and Appearance

Dress, grooming and personal-cleanliness standards contribute to the morale of all employees and affect the image the County presents to the general public. Employees are constantly in the public eye. During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions.

No County employee shall make a public statement on any matter involving litigation or personnel matters without express authorization from the County Manager.

13.10 Social Media

Torrance County respects the desire of employees to participate in social media during their personal time. The use of social media is strictly prohibited during work hours unless they are authorized by the County Manager to do so. Social media, for purposes of this policy include blogs, microblogs, message boards, chat rooms, electronic newsletters, online forums, social networking sites, and other sites and services that permit users to share information with others in a contemporaneous manner. In general, employees who participate in social media are free to publish their own personal information without restrictions by Torrance County. Employees must avoid, however, posting information that could place the County at a competitive disadvantage or cause financial damage or liability to Torrance County. If an employee chooses to identify himself or herself as an employee of Torrance County on a personal website or blog, he or she must adhere to the following guidelines.

- A. Employees must make it clear to the readers that the views expressed are the employees alone and they do not necessarily reflect the views of Torrance County. Employees are prohibited from acting as a spokesperson for Torrance County or posting comments as a representative of the County. If employees choose to publish content after-hours that involves their work or subjects regarding Torrance County, a disclaimer should be used, such as "The postings on this site are my own and do not represent Torrance County's positions, strategies or opinions."
- B. Employees may not use the County's logo on any personal social media network without permission from the County Manager in writing.
- C. Employees may not disclose any information that is confidential or proprietary to Torrance County or to any third party that has disclosed information to the County. Consult with the County Manager for guidance to what constitutes as confidential information.
- D. Employees are responsible for maintaining the county's positive reputation and presenting the County in a manner that safeguards the positive reputation of themselves, as well as, the county's employees, managers, etc.
- E. If social media activity is compromising, defaming, releases confidential information, or libelous, Torrance County may request a cessation of such commentary and the employee may be subject to disciplinary action up to and including termination.

13.11 Technology and Equipment Usage

Usage of County Technology and Equipment is governed by the Torrance County Information Technology Policy. Violation of any of the provisions contained therein may be cause for disciplinary action up to and including termination.

13.12 U.S. Mail, Telephone and Cell Phone Usage

- A. The U.S. mail delivery systems are resources available for use within the course and scope of employment and should not be used for personal reasons. Employees' use of these systems has the effect of granting permission to Management to access, read and print any messages created or received using the systems.
- B. On those occasions an employee needs to receive or make a personal telephone call or email, the calls/transmissions should be brief and infrequent. Long-distance personal calls resulting in charges to the County are discouraged and must be reimbursed to the County within thirty (30) calendar days. Upon termination of employment, any outstanding charges will be billed to the employee.
- C. County records involving telephone and the U.S. mail are subject to access by management and potentially to public disclosure. Therefore, employees should assure that the information contained therein is accurate, appropriate and lawful.
- D. County mail systems shall not be used to create or send any offensive or inappropriate message. Among those which are considered offensive or inappropriate are any messages which contain sexually suggestive statements or implications; racial, gender or religious slurs or proselytizing; or those containing vulgar or profane language.
- E. County mail systems shall not be used to solicit for outside business ventures, personal parties, charities or membership in any political, social and/or religious organizations.
- F. Employees shall keep personal phone calls to a minimum while on-duty, whether they are using the County landline or cell-phone services, or the employees' personal cell-phones.
- G. Employees shall abide by acceptable business etiquette for cell-phone use by placing phones on vibrate during meetings.
- H. County cell phones and pagers are to be used primarily for County business. Employees' airtime must remain within the parameters of their assigned calling

A. Public Employees Retirement Association

All employees will complete a PERA Termination Notice based on their current PERA affiliation to include designating one of the disbursement options (if applicable).

B. Insurance Benefits

Medical, dental, vision, and life insurance will normally end on the last day of the month in which the employee's last day of employment occurs. Employees have the right/option to convert to individual insurance benefits in accordance with the Consolidated Omnibus Budget Reconciliation Act ("COBRA") regulations. Human Resources will notify the organizations administering compliance with the Consolidated Omnibus Budget Reconciliation Act ("COBRA") regulations, who in turn contact the employee.

C. Additional Items

The employee may fill out a questionnaire concerning employment with Torrance County in order to disclose any issues they would like to share prior to termination.

13.14 Additional Rules

Employees shall obey all additional rules, directives and requests stated verbally or in writing by their supervisors. Employees are generally required to follow all standards, rules, procedures and policies that are similar or normally expected in the work place.