

Luna County

Personnel Ordinance

ORDINANCE NUMBER 23 AS AMENDED

**Adopted in 1994
Amended in 1997
Amended in 2000
Amended in 2006
Amended in 2014
Amended in 2016**

Now Amended December 14, 2017

WHEREAS, the Board of County Commissioners of Luna County is empowered by statute to adopt rules, regulations, policies and procedures pertaining to the terms and conditions of employment of county employees; and

WHEREAS, the Board of County Commissioners of Luna County desires to implement a system of personnel management to facilitate a positive work environment that will promote quality service to the residents of Luna County;

WHEREAS, the Board of County Commissioners of Luna County previously adopted Ordinance Number 23 in 1994 and has amended it accordingly.

NOW THEREFORE, BE IT ORDAINED THAT the Board of County Commissioners of Luna County does hereby amend and restate Ordinance Number 23 as follows:

LUNA COUNTY PERSONNEL ORDINANCE

TABLE OF CONTENTS

SECTION	PAGE
1. General Provisions	1
2. Definitions	2
3. Employment Status	5
4. Recruitment and Selection	7
5. Changes in Employment Status	9
6. Conditions of Employment	11
7. Employee Discipline	14
8. Grievance Procedures	16
9. Compensation and Benefits	17
10. Leave, Paid Time Off and Holidays	19
11. Miscellaneous	25

SECTION 1 - GENERAL PROVISIONS

- 1.1 **SCOPE.** This ordinance serves as the personnel policy for Luna County and is a general basis and guide for the proper, efficient, and effective administration of personnel matters for the employees of Luna County. The personnel rules contained herein replace and supersede all previously issued personnel rules and regulations applicable to employees of Luna County.
- 1.2 **AMENDMENT OF POLICY.** The Luna County Board of County Commissioners reserves the right to amend this personnel ordinance at any time according to statutory procedures.
- 1.3 **DISTRIBUTION POLICY.** Luna County Human Resources Department (HR Department) shall provide a copy of this ordinance to all employees. The copies will be made available electronically and a paper copy will be provided upon request. Employees shall sign for the copy upon receipt and will certify that they have read the policy or have had it read to them and that they will be responsible for following the policy.
- 1.4 **EQUAL EMPLOYMENT OPPORTUNITY POLICY.** It is the policy of Luna County that employees will be provided a work environment free from all forms of unlawful employment discrimination. All decisions regarding recruiting, hiring, promotion, assignment, training, termination, and other terms and conditions of employment will be made without unlawful discrimination on the basis of race, color, national origin, ancestry, sex, sexual orientation, gender identity or expression, religion, age, pregnancy, disability, work-related injury, covered veteran status, political ideology, genetic information, marital status, or any other factor that the law protects from employment discrimination. Individuals will be selected for promotion based on experience and demonstrated skill and abilities.
- 1.5 **ADMINISTRATION.** The Luna County Manager or in his absence, the Assistant County Manager or other designee shall be responsible for the administration and enforcement of this ordinance and any related amendments, resolutions, regulations, or policies adopted by the Luna County Board of County Commissioners. The County Manager shall recommend to the Luna County Board of County Commissioners new or revised employment relations rules and regulations as necessary. The County Manager is authorized to implement administrative instructions, procedures, policies and directives that are not directly contradictory to the rules and regulations or this Personnel Ordinance, as necessary, to effectively administer the employment relations system. The County Manager shall update and maintain the position classifications, benefits and comprehensive pay plan for Luna County employees as established by the Luna County Board of County Commissioners.

- 1.6 **PRONOUNS.** All pronouns used in this personnel ordinance shall include the masculine, feminine and neutral gender, the singular and plural, and the context of this ordinance shall read accordingly.
- 1.7 **EMPLOYMENT AGREEMENTS.** Employment agreements involving Luna County must be approved by the Luna County Board of County Commissioners and shall supersede any provision of this policy when in conflict but only when in compliance with state or federal laws and regulations. Temporary or term agreements may be approved by the County Manager.

SECTION 2 - DEFINITIONS

- 2.1 **ADMINISTRATIVE LEAVE WITH PAY.** Leave with pay is authorized by the County Manager for cause or in the best interest of Luna County.
- 2.2. **ADMINISTRATIVE REASSIGNMENT.** The temporary reassignment of an employee who is subject to a pending investigation, disciplinary action or if the reassignment is in the best interest of Luna County.
- 2.3 **ANNIVERSARY DATE.** The date of hire with Luna County.
- 2.4 **ANNUAL PAY INCREASE.** Annual percentage of increase shall be determined by the Luna County Board of Commissioners contingent upon available budget. This may not apply to grant employees, contract employees, temporary employees, appointed employees, or elected officials.
- 2.5. **APPEAL.** Written request from an aggrieved employee that a decision on a formal grievance be reconsidered at a further stage in the grievance procedure.
- 2.6 **APPLICANT.** A person who has made a formal application on an official Luna County personnel application form for a posted or advertised position with Luna County.
- 2.7 **AT-WILL EMPLOYEE.** At-will employees serve at the pleasure of the hiring authority and have no property interest in the continued position, and may be dismissed with or without cause.
- 2.8 **CAUSE (For Cause).** Any misconduct by an employee that warrants disciplinary action, including suspension, demotion, or termination, even though no previous disciplinary actions have been taken. Cause includes, but is not limited to: inefficiency, incompetency, misconduct, negligence, insubordination, performance that continues to be inadequate after reasonable efforts have been made to correct the performance problems, harassment of employees in violation of this ordinance, violations of other policies of Luna County, conviction of a crime, loss of required certification/licensing, or loss of the ability to perform the essential functions of the assigned job. Cause may also include non-renewal of funding for term positions.

- 2.9 **C.F.R.** The regulations of the federal government known as the Code of Federal Regulations.
- 2.10 **COMPENSATORY TIME.** Paid leave hours earned by and granted to a non-exempt employee in lieu of pay at the rate of 1½ times the employee's regular rate of pay as defined by the FLSA.
- 2.11 **COUNTY BUSINESS.** The performance of duties on behalf of Luna County at an employee's normal work station or at a location authorized by Luna County.
- 2.12 **COUNTY MANAGER.** Refers to the Administrator for Luna County.
- 2.13 **DEMOTION.** Demotions may be voluntary or the result of disciplinary action. A change in any employee's duties or job description without a pay reduction is not a demotion. An employee may be demoted to a position at a lower salary range due to unsatisfactory job performance, misconduct or other disciplinary considerations. When an employee is demoted, his/her present salary must be reduced by at least 5%, to a rate within the salary range of the position classification to which the employee is demoted and shall not exceed the maximum of the new salary range.
- 2.14 **DEPARTMENT DIRECTOR.** An employee who has responsibility for supervising or administering a department or division of Luna County government. An Elected Official is also classified as a Department Director for the purposes of this ordinance.
- 2.15 **DUE PROCESS.** The right of disciplinary process granted to full-time regular, part-time regular, full-time term, or part-time term employees, for all disciplinary hearings for action involving suspension, demotion, or termination. Due process, as defined herein, does not apply to appointed employees who are at-will employees and serve at the discretion of elected officials, contract employees, probationary employees, or temporary employees.
- 2.16 **ELECTED OFFICIAL.** An individual elected by popular vote or appointed to fill vacancies in an elected office in Luna County (i.e., County Commissioners, County Clerk, County Treasurer, County Sheriff, County Assessor, and County Probate Judge).
- 2.17 **EMPLOYEE RELATIONS COMMITTEE (ERC).** Ad hoc committee designated to hear and review complaints consisting of the County Attorney, an appointee made collectively by the Luna County Sheriff, Treasurer, Assessor and Clerk and an appointee of the Luna Board of County Commissioners. This committee will be convened at the discretion of the County Manager. All appointments shall be made in January of each year or as needed.

- 2.18 **ENTRY LEVEL EMPLOYEE RATE OF PAY.** Luna County may pay a newly hired employee from the minimum rate up to the midpoint of the salary range for a vacant position. Salary placement above the midpoint rate must be based on the following documented assessments, unless approved by the County Manager: The employee possesses qualifications, training and/or experience above the minimum qualifications required for the position classification and the County Manager determines that the employee is well qualified for the position.
- 2.19 **EXEMPT EMPLOYEES.** All executive, administrative, professional, computer, outside sales employees as defined in the FLSA, as amended from time to time, and whose compensation is based on a fixed salary. Exempt employees are not eligible for overtime pay or compensatory time.
- 2.20 **FLSA.** The federal Fair Labor Standards Act of 1938, codified at 29 U.S.C. Section 8.
- 2.21 **FMLA.** The federal Family and Medical Leave Act of 1993, codified at 29 U.S.C Section 2601.
- 2.22 **FORMAL GRIEVANCE.** A written complaint of an employee concerning actions taken by management which resulted in loss of pay, suspension, demotion or termination to the employee.
- 2.23 **INFORMAL GRIEVANCE.** A complaint of an employee concerning actions taken by management which do not result in loss of pay, suspension, demotion or termination to the employee.
- 2.24 **LAYOFFS (Reduction in Force).** The involuntary separation of an employee from County service without cause on the part of the employee, due to reorganization, lack of work, lack of funds, or lack of appropriation of funds.
- 2.25 **NMSA.** The laws of the State of New Mexico known as the New Mexico Statutes Annotated.
- 2.26 **NON-EXEMPT EMPLOYEES.** Employees who are not exempt from the overtime provisions of the FLSA. Non-exempt employees shall receive overtime pay or compensatory time off for actual hours worked in excess of the work week as defined by the FLSA.
- 2.27 **PAID TIME OFF (PTO).** Leave with pay granted to a regular or eligible employee, after accrual of leave at a specific rate, with the approval of the Elected Official or Department Director.
- 2.28 **PROMOTION.** Assignment of an employee to a position with a higher classification, rank, responsibility and salary range.

- 2.29 **TERMINATION.** An action initiated by the Elected Official, Department Director for whom the employee works and approved by the County Manager that ends an individual's employment with Luna County.
- 2.30 **U.S.C.** The laws of the federal government known as the United States Code.
- 2.31 **USERRA.** The federal Uniformed Services Employment and Reemployment Rights Act, codified at 38 U.S.C. Section 4301 – 4335.

SECTION 3 - EMPLOYMENT STATUS

- 3.1 **FULL-TIME REGULAR EMPLOYEE.** A full-time regular employee is one who has completed the probationary period and who normally is scheduled to work a minimum of forty (40) hours per week indefinitely and is not subject to contract or term conditions. A full-time regular employee is eligible for all employment rights and benefits provided by Luna County.
- 3.1.1 **Full-Time FLSA Non-exempt Employee**
A full-time FLSA non-exempt employee is an employee who normally is scheduled to work a minimum of forty hours (40) in a seven (7) consecutive day period. A full-time FLSA non-exempt employee is paid on an hourly basis for hours worked. Full-time FLSA non-exempt employees are eligible for retirement benefits, paid personal time off or annual leave, and all other benefits and privileges provided by Luna County.
- 3.1.2 **Full-Time FLSA Exempt Employee**
A full-time FLSA exempt employee is an executive, administrative, computer related, highly compensated or professional employee as defined by the FLSA and whose compensation is based on a fixed annual salary. Full-time FLSA exempt employees are eligible for retirement benefits, paid personal time off or annual leave, and all other benefits and privileges provided by Luna County.
- 3.2 **PART-TIME REGULAR EMPLOYEE.** A part-time regular employee is one who has completed the probationary period and who is scheduled to work a maximum of 19 hours per week indefinitely. A part-time regular employee's work term at the time of employment is anticipated to be continuous and not temporary or seasonal.
- 3.3 **TEMPORARY OR SEASONAL EMPLOYEE.** A temporary or seasonal employee is an employee who is scheduled to work full or part-time for a period of less than nine months. A temporary or seasonal employee is not entitled to any benefits or paid leave. Additionally, they are not eligible for the formal grievance process.

- 3.4 **FULL-TIME TERM EMPLOYEE.** A full-time term employee is one who has completed the probationary period and whose salary and/or benefits are funded and paid on a term basis, contingent upon continued funding. A full-time term employee can be terminated without regard to job performance in the event funding is not continued.
- 3.5 **PART-TIME TERM EMPLOYEE.** A part-time term employee is an employee who is scheduled to work a minimum of 20 hours or more, but less than 40 hours per week. A part-time term employee is one who has completed the probationary period and whose salary and/or benefits are funded and paid on a term basis, contingent upon continued funding. A part-time term employee can be terminated without regard to job performance in the event funding is not continued.
- 3.6 **AT-WILL EMPLOYEE POSITION.** An at-will employee has no property interest in their position and may be terminated with or without cause. At-will employees are not entitled to seek redress through the formal grievance process.
- 3.7 **OTHER CLASSES OF EMPLOYEES.**
- 3.7.1 **Appointees of Elected Officials.** The appointees of Elected Officials are as follows: County Manager; Under Sheriff; Executive Secretary to the Sheriff; Chief Deputies to the Assessor, Clerk, and Treasurer; and others designated by job description or employment agreement. The Under Sheriff and Chief Deputies do not accrue PTO and work at the discretion of the respective elected official. They are considered "at-will employees."
- 3.7.2 **Probationary Employees.** A full-time or part-time probationary employee is one who is hired to fill a regular or term position that is subject to a nine (9) month probationary period and who has not yet completed that period. All Law Enforcement, Dispatch, and Detention employees serve a twelve (12) month probationary period. The purpose of the probationary period is to evaluate the employee's performance, fitness for and behavior in the job. A probationary employee may be terminated at any time during the probationary period and may not utilize the formal grievance procedure set forth herein. The probationary period may be extended, up to a total of 6 months, at the discretion of the Elected Official or Department Director with the approval of the County Manager or designee.
- 3.7.2.1 In order to determine whether an employee has satisfactorily completed the probationary period, the Elected Official or Department Director will determine the employee's fitness for the position and the employee's ability to work with the public, peers, supervisors, and management.
- 3.7.2.2 During the probationary period, an employee hired to fill a position requiring certification shall obtain the certificate required for the position.

Failure to obtain the certification within the stated period given by the Elected Official or Department Director may result in the employee's termination.

3.7.2.3 An employee may be dismissed at any time, with or without cause, during the probationary period. The County Manager must approve all proposed terminations of probationary personnel.

3.7.2.4 An employee who is temporarily assigned to a vacant position and is subsequently hired to fill that position shall serve the required probationary period. The beginning date of the probationary period is the effective date the employee changes from temporary to probationary status.

3.7.2.5 A former employee rehired for any position shall serve a new probationary period.

3.7.2.6 If an employee is hired to a full-time regular or term position, the first day of work in that position shall be used in computing the beginning of the probationary period.

3.7.3 **Grant Employee.** A full or part-time employee hired in connection with a specific contract or grant for a defined period of time.

SECTION 4 - RECRUITMENT AND SELECTION

4.1 **RECRUITMENT AND POSTING PROCEDURE.** Vacancies may be filled in-house from any department by internal posting of the job notice and without public advertisement. Positions not filled in-house shall be advertised at least once on the Luna County website. The notice shall allow at least five (5) working days for receiving applications. Internal posting may occur simultaneously with advertising. The County Manager may set restrictions on filling vacant positions in consideration of budgetary and other constraints or requirements. Elected officials are not required to advertise for their respective appointed positions.

4.2 **EXCEPTIONS TO ADVERTISING.** Advertising may be waived with the approval of the County Manager for temporary hires or when in the best interest of Luna County.

4.3 **REQUEST FOR TRANSFER.** Any County employee who is not the subject of current disciplinary action may apply for a position vacancy in any County office or department for which the employee is qualified. Final actions are at the discretion of the County Manager or designee. Employees who transfer positions will serve another respective nine (9) or twelve (12) month probationary period.

4.4 **APPLICANT RESPONSIBILITIES.**

4.4.1 **Submission of Applications.** Applications for employment shall be accepted in the HR Department 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 Luna County within the stated time period.

4.4.2 Proof of Qualification. Applicants are responsible for furnishing proof of qualifications or possession of any license, certificate, or degree when these requirements are specified in the job description. Qualification exceptions and/or equivalencies must be approved by the County Manager.

4.4.3 Immigration Laws Compliance. Applicants are responsible for furnishing proof of identification and employment authorization in accordance with the Immigration Reform and Control Act of 1986, 8 U.S.C. Part 245a, and any amendments thereto.

4.5 SELECTION. The HR Department shall screen all applications to determine if the applicant meets the minimum qualifications of the position. The HR Department shall prepare a list of all applicants meeting the minimum qualifications. The hiring panel for the vacant position shall be responsible for selecting from the list of qualified applicants a minimum of three (3) applicants to be interviewed. The HR Department shall insure that selections are made in conformance with collective bargaining agreements, when applicable, these rules and regulations and affirmative action requirements. In the event there are less than three (3) qualified applicants, then each applicant shall be interviewed. Interviewing and hiring an applicant shall be made in accordance with this policy and based on at least the following: job-related skills and competencies; educational background; related work-experience; personal interview performance; personal references; and results of pre-employment examinations when required. The HR Department shall oversee the interview process and maintain records of all interviews conducted by Luna County. At any point in the hiring process, the County Manager may review hiring in all offices except for appointments by Elected Officials and may add or reject nominees. Prior to issuance of an offer of employment by the HR Department, the County Manager must provide the final approval. Any applicant who has been interviewed but not selected shall be notified in writing or by e-mail by the HR Department of his or her non-selection.

4.5.1 Employment Reference Checks. References provided by the applicant may be contacted and interviewed by the HR Department. Prior employers may also be contacted and interviewed.

4.5.2 Conditional Offers of Employment. Background checks and drug screens will be conducted by the HR Department and used as part of the hiring process. Physical examinations and other tests may be conducted as part of the hiring process following a conditional offer of employment.

4.6 INELIGIBILITY FOR HIRE AND RE-HIRE. An applicant may be considered ineligible for hire or re-hire by Luna County if the applicant has:

4.6.1 Made any false statement or deliberate omission on the employment application;

4.6.2 Not met requirements and qualifications of the position;

- 4.6.3 Not met the criteria for insurance or bonding as required by Luna County or State of New Mexico;
- 4.6.4 Not completed or failed a drug screen or unsatisfactory background check;
- 4.6.5 Provided inadequate resignation notice as defined in this policy;
- 4.6.6 Not been certified by a physician that the applicant can perform the essential duties of the position;
- 4.6.7 Failed to complete the medical examination, psychological examination, or other requirements;
- 4.6.8 Failed to fulfill the statutory requirements of NMSA 1978, §4-41-8, if applying for position of Deputy Sheriff;
- 4.6.9 Previously resigned a position with Luna County to avoid a pending disciplinary action unless the County Manager determines that the applicant has been sufficiently rehabilitated to warrant the public trust; or
- 4.6.10 Has been previously dismissed for cause from employment with Luna County unless the County Manager determines that the applicant has been sufficiently rehabilitated to warrant the public trust.

This Section is subject to the provisions of the Criminal Offender Employment Act, Section 28-2-1 et seq, NMSA 1978 and Section 10-1-3, NMSA 1978.

The above list is not necessarily exhaustive and may not include other valid and/or substantive reasons in the best interest of Luna County that would make an applicant ineligible for hire or re-hire. The County Manager retains authority over all discretionary decisions pursuant to this section.

- 4.7 **DRUG AND ALCOHOL TESTING POLICY.** Pursuant to the Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C 5331, and resulting regulations at 49 CFR Part 40, the United States Department of Transportation enacted regulations requiring mandatory drug testing. These regulations apply to Luna County and Luna County has adopted the Luna County Drug and Alcohol Policy which applies to employees.

SECTION 5 - CHANGES IN EMPLOYMENT STATUS

- 5.1 **PROMOTION.** Luna County employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify. Promotion is a reassignment of an employee to a position, with a higher salary range, different job duties, qualifications and responsibilities. Upon promotion, an employee's salary may be increased as determined by the Elected Official or Department Director in consultation with the County Manager and in consideration of budget availability. Employees who accept new positions or promotions will be subject to a probationary period not to exceed 9 (nine) months. Any promotional salary increase beyond the salary range mid-point or maximum of the new position classification must be justified in writing based on qualifications, years of experience, expertise, performance evaluations, etc., with prior approval of the County Manager.

5.2 TEMPORARY ASSIGNMENT.

- 5.2.1** A temporary assignment occurs when an employee is assigned additional, significantly higher-level duties to meet operational needs or in order to temporarily fill a vacant position.
- 5.2.2** An employee performing a temporary assignment shall receive an increase of 5% or the minimum of the range whichever is greater. The HR Department will review all temporary assignments and, under special circumstances, may recommend a higher increase. The County Manager will have final approval of all temporary assignments and corresponding salary increases.
- 5.2.3** When temporary assignments are to temporarily fill a vacant position, the temporary compensation shall end on the date the employee resumes regular duties.

5.3 DEMOTION. Demotion is a reassignment of an employee to a position with a lower salary range, different job duties, qualifications and responsibilities. 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 does not possess the necessary abilities and/or skills to render satisfactory job performance; misconduct, or other disciplinary reasons. Upon demotion, an employee's salary shall be reduced as determined by the Elected Official or Department Director in consultation with the County Manager but not less than five percent (5%). Only a regular full-time or part-time, and term employees demoted in the position presently held are entitled to pursue the formal grievance process. An employee may also request a voluntary demotion which will not be subject to the grievance process.

5.4 TRANSFER. Transfer is a reassignment of an employee from one position to another at the same salary range and rate of pay either voluntarily or involuntarily. An employee may be transferred if it is organizationally necessary and/or it is in the best interest of Luna County. Complaints involving involuntary transfers may be pursued through the informal grievance process.

5.5 REORGANIZATION. An employee reassigned without an associated reduction in pay as a result of departmental reorganization.

5.6 RESIGNATION. An employee voluntarily resigning shall submit in writing a notice of resignation to the HR Department at least two weeks in advance of the date of resignation. Failure to provide a written two-week notice of resignation may be grounds for refusal of future employment with Luna County.

5.7 ABANDONMENT. Any unauthorized absence from work for three (3) or more consecutive days shall constitute abandonment and will be considered voluntary resignation.

5.8 LAYOFFS (REDUCTION IN FORCE). The County Manager shall make the recommendation regarding the need for layoffs. The reduction will occur in the following manner and shall be approved by the Luna County Board of County Commissioners.

- 5.8.1** Temporary and probationary employees will be laid off before full-time or part-time regular employees unless they are grant employees or they are filling positions that are determined to be operation-critical by the County Manager.
- 5.8.2** Lay off of regular employees shall be determined by the County Manager in consultation with the Elected Official or Department Director with consideration of the employee's suitability for any remaining vacant positions.
- 5.8.3** Employees to be laid off may be notified at any time during the pay period, once notified the employee may be placed on paid administrative leave and may receive pay to the end of that pay period.
- 5.8.4** Accrued annual leave shall be paid with the final paycheck to the employee.
- 5.8.5** An employee that is laid off must reapply to be considered for future employment.
- 5.8.6** A laid off probationary employee returning to County employment within six months of lay-off will resume their probationary period if hired to the same position.
- 5.8.7** Grant funded employees shall be laid off in the event the grant funds become reduced or unavailable.

5.9 TERMINATION. Elected Officials and Department Directors shall have the authority to recommend termination of regular employees for cause. Appointed employees serve at the discretion of the Elected Official under whom they are employed and may be terminated with or without cause. The County Manager must approve any termination. Termination of regular employees who have successfully served the probationary period for their position may be grieved through the formal grievance process. Appointed officials and employees with specific contract provisions to the contrary are not entitled to grieve when they are terminated from employment.

SECTION 6 – CONDITIONS OF EMPLOYMENT

6.1 PERFORMANCE EVALUATIONS.

- 6.1.1** Written performance evaluations in conjunction with written performance plans may be conducted at the discretion of the County Manager.
- 6.1.2** Other Evaluations: Employees may be evaluated upon the following conditions, including but not limited to, at the discretion of the County Manager:
 - 6.1.2.1** A change of status;
 - 6.1.2.2** Salary increase request prior to approval;
 - 6.1.2.3** During and at the conclusion of the probationary period;
 - 6.1.2.4** Any disciplinary action; and

6.1.2.5 Any other time that a Department Director or immediate supervisor wishes to conduct an evaluation.

6.1.3 **Unsatisfactory Evaluation.** An unsatisfactory evaluation may result in disciplinary action up to and including termination, subject to the provisions of this personnel policy. If termination is recommended due to an unsatisfactory evaluation, the employee may use the formal grievance process as outlined herein.

6.2 **PROHIBITED POLITICAL ACTIVITIES.**

All employees are prohibited from the following:

- 6.2.1 Using Luna County equipment, materials, authority or employment influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose.
- 6.2.2 Directly or indirectly using a position of employment to coerce, attempting to coerce, command or advise a State or County officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, union, agency, or person for a political purpose.
- 6.2.3 Threatening to deny promotions to any employee who does not vote for certain candidates; requiring employees to contribute part of their pay to political funds; coercing subordinate employees to buy tickets to political fund-raising events and similar events; advising employees to take part in political activity and matters of a similar nature.
- 6.2.4 No Luna County employee may be a candidate for an elective office in a partisan political campaign if such candidacy violates the provisions of the Hatch Act of 1938, 5 U.S.C. Section 7323. The County Manager shall notify the appropriate agency with regard to any matters pertaining to the Hatch Act.
- 6.2.5 Any person elected to a Luna County Office (Commissioner, Clerk, Treasurer, Assessor, Sheriff, Probate Court Judge) shall not be employed by Luna County in any other capacity after taking office. This excludes independent contractors and vendors of Luna County.

6.3 **NEPOTISM.** The practice or appearance of nepotism is prohibited, as defined in Section 10-1-10, NMSA 1978 as follows:

It shall hereafter be unlawful for any person elected or appointed to any public office or position under the laws of this state or by virtue of any ordinance of any municipality thereof, to employ as clerk, deputy or assistant, in such office or position, whose compensation is to be paid out of public funds, any persons related by consanguinity or affinity within the third degree to the person giving such employment, unless such employment shall first be approved by the officer, board, council or commission, whose duty it is to approve the bond of the person giving such employment; provided, that this act [10-1-10, 10-1-11 NMSA 1978] shall not apply where the compensation of such clerk, deputy or assistant shall be at the rate of \$600 or less a year, nor shall it apply to persons employed as teachers in the public schools.

6.4 CONFLICTS.

- 6.4.1 Conflict Ban.** Conflicts of interest are prohibited in accordance with the Governmental Conduct Act, 10-16-1 et seq. NMSA 1978.
- 6.4.2 Termination of Outside Employment.** A determination by the County Manager that supplementary outside employment violates this policy may require termination of the outside employment.

6.5 WORKPLACE HARASSMENT. Luna County maintains a Workplace Harassment Policy intended to promote a safe and harmonious work environment free from all forms of unlawful harassment. All Elected Officials and employees are responsible for knowing and following this policy. A copy of which shall be made available by the HR Department.

6.6 EMPLOYEE SAFETY MATTERS. Luna County maintains a Safety Program intended to promote a safe work environment and working conditions that are free of known dangers. All Elected Officials, Department Directors and employees are responsible for knowing and following this program. A copy of which shall be made available by the HR Department.

6.7 RELATING TO USE OF COUNTY VEHICLES.

- 6.7.1** No Luna County personnel shall use Luna County vehicles for travel to and from home except as authorized by the County Manager. If an employee is assigned a take home vehicle on a regular basis, they will be subject to all guidelines and provisions established by the Internal Revenue Service (IRS).
- 6.7.2** Any violation of this policy may result in the revocation of driving privileges by the County Manager.

6.8 GOVERNMENTAL CONDUCT ACT. All Elected Officials, Department Directors and employees must comply with the Governmental Conduct Act, Section 10-16-1 et seq., NMSA 1978. In addition, Luna County maintains a Code of Conduct Policy which establishes guidelines for ethical standards of conduct for all elected officials and employees of Luna County. All Elected Officials, Department Directors and employees are responsible for knowing and following this policy. A copy of which shall be made available by the HR Department.

6.9 MANDATORY TRAINING. All Elected Officials, Department Directors and employees shall receive training on Human Resources core subjects, included but not limited to, sexual harassment, workplace violence and code of conduct. Supervisory training courses are provided, as needed, to ensure that all Elected Officials, Department Directors and Supervisors receive training in the Human Resources core subjects to instruct them on legal and Luna County requirements and obligations in the supervision

of its staff and to help maintain employee satisfaction and productivity. The training requirements will be directed and maintained by the HR Department.

SECTION 7 – EMPLOYEE DISCIPLINE

7.1 BASIS FOR DISCIPLINE

7.1.1 Discipline. Disciplinary actions for employees are based on showing of cause. Disciplinary actions will be consistent with governing laws, regulations and policies, and will be taken without regard to race, age, religion, national origin, ancestry, gender or gender identity, familial status, veteran status, sexual orientation, genetic information, physical or mental disability or medical condition. No employee will be disciplined for refusing to perform an unlawful act.

7.1.2 Consultation with County Manager. Termination, involuntary demotion, and suspension without pay require final approval from the County Manager before implementation.

7.2 PROGRESSIVE DISCIPLINE. An employee shall be progressively disciplined when appropriate. Corrective action will depend on the severity of the infraction(s) and the employee's work record and performance. Because of the serious nature of some infractions, progressive discipline may be inappropriate and the first disciplinary action may be termination.

7.2.1 Verbal Reprimand. When determined by the Supervisor, in consultation with the HR Department, a verbal reprimand is used for minor infractions to inform employees that performance, actions, behavior or conduct needs to change. Supervisors will provide written notification containing details of verbal reprimands to the HR Department for placement in the employee's personnel file.

7.2.2 Written Reprimand. When determined by the Supervisor, in consultation with the HR Department, 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 when a pattern of minor infractions exists. Written reprimands shall be placed in the employee's personnel file. The employee will be provided a copy of the statement after signing an acknowledgement of receipt. If an employee refuses to sign an acknowledgment of receipt, it shall be deemed insubordination and shall result in further progressive discipline. The employee may respond by noting on the reprimand that the employee does not agree with the reprimand. Complaints or disagreements concerning written reprimands may only be addressed through the informal grievance procedure.

7.2.3 Suspension. When determined by the Supervisor, in consultation with the HR Department, an employee may be suspended or placed on administrative leave without pay for a serious offense or for continued inadequate job performance or misconduct. Such suspension will not exceed ninety (90) working days per offense. Suspension of an employee is subject to the formal grievance procedure.

The County Manager must give final approval of any suspension before implementation.

7.2.4 Demotion. An employee may be involuntarily demoted for continued inadequate job performance or other cause. The demotion of an employee is subject to the formal grievance procedure. Reassignment to another position not resulting in a reduction in pay is not a demotion. The County Manager must give final approval of any demotion prior to implementation.

7.2.5 Termination. When progressive discipline has failed to change unacceptable behavior or performance, an employee may be subject to termination. Termination without progressive discipline may be appropriate when the employee has engaged in any behavior, misconduct or job performance that is serious and unacceptable for Luna County employees. Termination may also result from the loss of required certification or licensing or the ability to gain or maintain the required certification necessary to perform the essential functions of the assigned county position. Termination may also result from the inability to perform essential functions of the position. The termination of a regular employee is subject to the formal grievance procedure. The County Manager must give final approval of any termination prior to implementation.

7.3 PRE-DETERMINATION HEARING. Only eligible employees who have completed the probationary period and are notified of possible suspension, demotion, termination or loss of pay shall be entitled to a Pre-Determination Hearing before the appropriate Elected Official, Department Director, or designee.

7.3.1 Notice. An employee shall be notified in writing, at least three (3) business days prior to date and time of a Pre-Determination Hearing. The basis for the proposed disciplinary action, all supporting evidence, the time and place, and date of hearing shall be included in the notification.

7.3.2 Administrative Leave/Administrative Reassignment. An employee may be placed on administrative leave with pay or administrative reassignment for an investigation or pending the outcome of the hearing. All administrative reassignments will be administered by the HR Department in consultation with the County Manager.

7.3.3 Hearing Procedure. The Pre-Determination Hearing shall be informal and shall be conducted by the employee's Elected Official, Department Director, or designee (HR Department must be present). The purpose of the hearing is to provide the employee with a reasonable opportunity to address or refute the basis for the proposed disciplinary action. The employee may be accompanied by a witness, however the witness may only observe and may not participate in any other manner. The employee may respond to the notice of disciplinary action in writing prior to or on the date and time of the hearing in conjunction with or in lieu of appearing at the hearing.

7.3.4 Waiver. The hearing may be waived by the employee in which case the proposed disciplinary action is effective immediately.

- 7.3.5 **Decision.** In consultation with the HR Department, the Elected Official or Department Director shall render a final decision within three (3) business days of the hearing or receipt of the written response to the disciplinary hearing.
- 7.3.6 **Appeal.** An employee dissatisfied with the final decision may file an appeal as outlined in the formal grievance procedure.

SECTION 8 – GRIEVANCE PROCEDURES

- 8.1 **PURPOSE.** The purpose of a grievance procedure is to provide employees with a process for resolving complaints or problems related to general working conditions.
- 8.2 **INFORMAL GRIEVANCE PROCEDURE.** The following procedure applies to informal grievances:
- 8.2.1 Unless otherwise directed by the County Manager, the affected employee shall discuss the problem with the immediate supervisor or appropriate person in the employee's chain-of-command in an attempt of a resolution at this level. The supervisor, with approval from the Elected Official or Department Director, shall provide a memo to the HR Department regarding the outcome of this discussion.
- 8.2.2 If the problem is not resolved to the employee's satisfaction with their supervisor, the employee may file a written complaint with the Elected Official or Department Director who may intervene in an attempt to resolve the problem. The Elected Official or Department Director shall provide a memo to the HR Department regarding the outcome of this discussion.
- 8.3 **FORMAL GRIEVANCE PROCEDURE.** If an employee is not satisfied with the decision of a Pre-Determination Hearing, a written request for a Formal Grievance Hearing shall be filed with the County Manager. The formal grievance procedure applies only to an employee appealing a suspension without pay, demotion, loss of pay or termination.
- 8.3.1 **Request for Formal Grievance Hearing.** An employee may file a request for a Formal Grievance Hearing within three (3) business days after receipt of a Pre-Determination Hearing decision. The written request shall state specifically the reasons for disagreements with the decision reached at the hearing.
- 8.3.2 **Formal Grievance Hearing Officer.** The HR Department shall appoint an impartial hearing officer to act as the Formal Grievance Hearing Officer. The hearing officer shall not be in the aggrieved employee's chain of command.
- 8.3.3 **Hearing Schedule.** The HR Department, in conjunction with the hearing officer, shall issue a Notice of Formal Grievance Hearing within ten (10) business days of receipt of a formal written request. The hearing date shall be no later than thirty (30) days after issuance of the Notice. The Notice shall be served on the employee by the Luna County Sheriff's Office. The service shall be coordinated by the HR Department. The hearing date may be extended by written request for either party for reasonable cause.

- 8.3.4 Formal Grievance Hearing.** The hearing shall be conducted in a formal and professional manner, rules of evidence are not applicable and relevance shall be the basis for admissibility of evidence and testimony. The grievant and Luna County may be represented by legal counsel. Luna County shall present its case, including witnesses, documentation and other evidence first, the employee shall then be allowed to present his/her case. Both sides may cross-examine and have one opportunity to present rebuttal evidence; opening and closing statements may be made at the option of the respective parties. The employee and Luna County shall pay their own legal fees and costs.
- 8.3.5 Final Decision.** The hearing officer will issue a final decision in writing within ten (10) business days of the conclusion of the hearing unless extended in writing for reasonable cause. Notice of any extension shall be given to the grievant and Luna County.

- 8.4 COMPLAINTS REGARDING DISCRIMINATION.** Complaints regarding discrimination based on race, age, religion, national origin, ancestry, gender or gender identity, familial status, veteran status, sexual orientation, genetic information, physical or mental disability or medical condition, should be referred to the HR Department for prompt investigation. Upon receipt of the investigative report from the HR Department, the County Manager will take appropriate action, which may include referral to the ERC. Within five (5) business days of the conclusion of the process, the County Manager will issue a final determination.

SECTION 9 – COMPENSATION AND BENEFITS

- 9.1 HOURS OF WORK.** Employees will work their scheduled hours pursuant to work schedules established by the department. Employees will not be paid for travel time from home to the site of their work within Luna County or from the work site to their home. Actual work periods may fluctuate at the discretion of Luna County and will be communicated to affected employees as soon as feasible.
- 9.2 BREAKS.** While not mandatory, breaks and authorized meal (lunch) periods shall be coordinated between the employee and the Elected Official or Department Director. Supervisors may occasionally limit or delay breaks if continuous work is required because of workload, emergency or unusual conditions.
- 9.3 PAY PERIODS.** Employees shall be paid on a bi-weekly basis.
- 9.4 OVERTIME.** FLSA Non-Exempt Employees shall not work overtime without prior authorization from their supervisor. Overtime hours accrued shall be recorded for each Non-Exempt Employee and submitted to the Department Director or Elected Official each pay period on approved forms. Luna County will comply with all FLSA requirements.

9.5 COMPENSATORY TIME.

- 9.5.1 The accrual of compensatory time is subject to the discretion of the County Manager.
- 9.5.2 Subject to FLSA, a Non-Exempt Employee will accrue compensatory time in lieu of overtime payment when overtime work is approved and is worked, unless otherwise approved by the Elected Official or Department Director.
- 9.5.3 Compensatory time hours accrued and taken off shall be recorded for each Non-Exempt Employee and submitted to the Elected Official or Department Director each pay period on time sheets. Limits for maximum accrual of compensatory time shall be determined at the discretion of the County Manager.
- 9.5.4 Accrued compensatory time shall be used before PTO.

9.6 FINAL PAYCHECK. 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 terminated shall receive a final paycheck by 5:00 p.m. on the fifth (5th) business day following termination. In the case of death, final salary and any other accumulated compensation shall be given to the employee's named beneficiary.

9.7 UNIFORMS. An employee may be required to wear special clothing essential to performing specific job functions.

9.8 GRATUITIES. Pursuant to the Luna County Code of Conduct Policy and the Governmental Conduct Act, all employees are prohibited from accepting gifts or other considerations from anyone giving with the intent of modifying the employee's performance of duties or encouraging the employee to make purchases from the vendor involved in the gift. Employees will maintain the highest moral standards and any attempt to influence an employee's performance by a vendor or other person shall be immediately reported to the County Manager.

9.9 PER DIEM AND MILEAGE. All payments of per diem and mileage allowance to Luna County employees require prior approval and will be made pursuant to policies established by the State of New Mexico and the Luna County Board of County Commissioners.

9.10 TIME SHEETS. Time sheets are furnished to each department by the Payroll Department. At the end of each pay period and upon approval by the Elected Official or Department Director, the time sheets for that department will be forwarded to the payroll designee. The Payroll Department will keep a cumulative record of all time accrued and used. Time sheets must be submitted prior to issuance of the paychecks. If a time sheet is not submitted or lacks a required signature, the paycheck will be prepared and held until the required time sheet or signature is submitted.

- 9.11 **ANNUAL PAY INCREASE.** Employees of Luna County may receive an annual pay increase on a date determined by the County Manager. The annual pay increase amount shall be determined by the Luna County Board of County Commissioners during the final budget process. This may not apply to grant employees, at-will employees, employees at the maximum of the pay range or contract employees.
- 9.12 **P.E.R.A. and R.H.C.A. BENEFITS.** Luna County and its employees mandatorily participate in the Public Employees Retirement Association of New Mexico (PERA) and the New Mexico Retirement Health Care Authority (RHCA), and these benefits are governed by respective state statutes and PERA and RHCA rules and provisions. Copies of the latest PERA and RHCA rules and provisions may be obtained in the HR Department.
- 9.13 **INSURANCE BENEFITS.** Luna County provides health insurance for full-time regular and part-time regular employees working year round thirty (30) or more hours per week, full-time term employees working a minimum of fifty (50) weeks per year and if these benefits are included in an employment contract. Luna County will pay at least the minimum of the percent required by statute of the premium for basic health benefits. Luna County may pay more depending on financial limitations. Optional plans such as vision and supplemental policies may be offered as a payroll deduction at the employee's expense.
- 9.14 **CLASSIFICATION AND COMPENSATION PLAN.**
- 9.14.1 A compensation plan for employees shall be adopted by the Luna County Board of County Commissioners. Such plan shall establish a schedule containing a minimum and maximum pay range for each position in the classification plan.
- 9.14.2 The County Manager shall review the compensation plan annually and may initiate comparative wage studies and market surveys of salary levels. The County Manager may then recommend changes to the compensation plan to the Luna County Board of County Commissioners for review.
- 9.14.3 Factors to be considered in determining the compensation plan include, but are not limited to are:
- 9.14.3.1 Prevailing rates of pay for comparable work in similar work situations;
- 9.14.3.2 Pay equity between position classifications having substantially similar duties, responsibilities, and qualifications; and
- 9.14.3.3 Financial condition of Luna County.

SECTION 10 – LEAVE, PAID TIME OFF AND HOLIDAYS

- 10.1 **AUTHORIZED LEAVE.** Any authorized absence, with or without pay, during regular scheduled work hours which is approved by the Elected Official or Department Director, or designee. The Elected Official, Department Director, or designee is responsible for the maintenance and transmittal of leave and PTO records to the Payroll Department.

10.2 UNAUTHORIZED LEAVE. Any absence without approved leave may be subject to disciplinary action and loss of pay.

10.3 HOLIDAYS. Paid holidays will be designated by the Luna County Board of County Commissioners in December of each year. The following conditions will apply with respect to holidays.

10.3.1 Temporary and part-time employees are not entitled to paid holidays, unless agreed upon pursuant to an employment agreement.

10.3.2 When a holiday falls during an employee's PTO, the day shall be counted as a holiday and not PTO.

10.3.3 In order to receive pay for a designated paid holiday, employees shall be in a work or PTO status on their paid scheduled workday immediately preceding and following the holiday or must have worked on the stated holiday. An employee who is absent without authorization or who is on unpaid leave on their scheduled work day before or after a holiday shall not receive pay for that holiday without written approval from the Elected Official or Department Director and the County Manager.

10.3.4 For 24 hours-per-day/7days-per-week operations, if an employee is scheduled to work on a paid holiday or it is their regularly scheduled day off, they will receive eight hours of holiday pay. If an employee of the 24/7 operation requests to take a holiday off as a day off they do not receive holiday pay.

10.3.5 FLSA Exempt Employees who work a paid holiday may request another day off in exchange for the worked holiday. The exchanged day off must be approved by the County Manager.

10.4 PAID TIME OFF (PTO). Full-time employees accrue PTO as follows:

0 - 60 months of employment = 160 hours/year (6.15 accrued hours/pay period)

61-120 months of employment = 200 hours/year (7.69 accrued hours/pay period)

121-180 months of employment = 240 hours/year (9.23 accrued hours/pay period)

181 months plus of employment = 280 hours/year (10.77 accrued hours/pay period)

For sick leave benefit, see Section 10.5 below.

10.4.1 An employee does not accrue PTO for time worked in excess of forty (40) hours per week.

10.4.2 An employee may accumulate no more than three hundred sixty (360) hours of accrued PTO. If PTO is not taken after an employee accrues 360 hours it will be forfeited on a monthly basis. During critical projects, the County Manager may grant a short term variance to employees from this requirement.

- 10.4.3 PTO shall be earned on a pro-rata basis each pay period and will not be authorized for use prior to accrual.
 - 10.4.4 Upon termination of employment, or taking office as an Elected Official, Chief Deputy, or appointed position, an employee shall be paid for the employee's unused accrued PTO up to a maximum of 360 hours.
 - 10.4.5 An employee may take PTO immediately prior to separation from employment if approved by the County Manager.
 - 10.4.6 PTO shall be requested and approved in advance unless emergency circumstances exist. Reasonable efforts will be made to accommodate the employee's request, though approval will be subject to advance notification, supervisor discretion and the needs of the department.
 - 10.4.7 Probationary employees may not use PTO until completion of nine (9) months of employment without the advance approval of the County Manager. If an employee is placed on a probationary period due to a promotion or reorganization, an employee may use PTO if approved by the Department Director, Elected Official, or County Manager.
 - 10.4.8 Part-time regular, temporary, part-time term, elected officials, chief deputies and appointed employees do not accrue PTO. The only employees eligible to accrue PTO are full-time regular, full-time term and grant employees if specified in the terms of the grant.
 - 10.4.9 Employees may donate PTO to the Luna County Employee PTO Pool for medical or hardship purposes. Employees with medical or family hardships who have exhausted all PTO may submit a written request through the Elected Official or Department Director to the County Manager for use of PTO from the Pool on a dollar for dollar basis. PTO donations shall be submitted in writing to HR Department.
- 10.5 **SICK LEAVE.** All employees with accumulated sick leave at the time of the adoption of the revised ordinance approved in 2006 shall be paid for fifty percent (50%) of the value of that leave in the event of resignation, retirement or at the County Manager's discretion up to a maximum of 320 hours. No such payments shall be due and owing if an employee is terminated for cause.
- 10.6 **BEREAVEMENT LEAVE.** In the event of the death of an employee's spouse, domestic partner, parent, parent-in-law, grandparent, grandparent-in-law, child, step-child, son-in-law, daughter-in-law, grandchild, or sibling, the employee shall be entitled to bereavement leave with pay not to exceed three days during any twelve (12) month period.
- 10.7 **ADMINISTRATIVE LEAVE WITH PAY.** Administrative leave with pay may be authorized by the County Manager.

10.8 OCCUPATIONAL INJURY- WORKER'S COMPENSATION.

10.8.1 Worker's Compensation. Employees injured on the job or suffering from occupational diseases as defined in the Worker's Compensation Act, Section 52-1-1 et seq., NMSA 1978, may receive Worker's Compensation benefits as prescribed by law.

10.8.2 Leave Pay. An employee injured on the job may use accrued PTO for each regularly scheduled work day after the injury occurs for all such days not paid by Worker's Compensation. If an 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 leave for the first fifty-six (56) hours of injury, the worker's compensation payment received for all such days shall be paid directly to Luna County by the Worker's Compensation carrier. The fifty-six (56) hours paid to the employee by Worker's Compensation shall be returned to Luna County as credit for leave taken.

10.8.3 Reporting Procedure. All work related injuries must be reported to the employee's Elected Official or Department Director immediately. An employee signed Notice of Accident Form must be filed with the HR Department within 15 days of accident.

10.8.4 Medical Procedures. All medical procedures shall comply with the regulations of the New Mexico Workers Compensation Act.

10.8.5 Return To Work. An employee shall return to his or her former position or be reassigned to a comparable position if a physician certifies that the employee can return to work. All return to work procedures shall comply with the regulations of the New Mexico Workers Compensation Act.

10.8.6 Modified Work Schedule.

10.8.6.1 An employee returning from worker's compensation disability may return to modified duty if an appropriate position is available and does not present a hardship, inconvenience or additional cost to Luna County. A physician must certify that the employee can return to the modified work schedule.

10.8.6.2 As allowed by law, the conditions of modified duty will be determined by the employee's Elected Official or Department Director in consultation with the County Manager.

10.9 CIVIC DUTY LEAVE. An employee shall be given necessary time off with pay for the following:

10.9.1 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 working day, the employee shall return to duty if at least four (4) hours of work remain in that employee's work day. If the employee does not return to work when at least four (4) hours of work remain, the balance of the day will be charged to PTO or leave without pay. Jury pay shall be remitted to Luna County unless the employee elects to take PTO while on jury duty.

10.9.2 Court Appearance Time. Pay for court appearance time shall be authorized by the HR Department when an employee is required by county duties or if subpoenaed to appear before a court to testify on job related matters. Leave for non-job related court appearances may be granted by the County Manager upon request by the employee without adverse consequences to the employee.

10.9.3 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 polls. The employee's supervisor may specify the hours for the leave. This leave will not be granted to an employee whose work day begins more than two (2) hours after the time of the opening of the polls or ends more than three (3) hours before the closing of the polls.

10.10 MILITARY LEAVE FOR RESERVE OR NATIONAL GUARD DUTIES.

10.10.1 Paid Military Leave. Paid military leave is granted for authorized active duty, Reserve or National Guard activities a maximum of fifteen (15) working days during a one- year period, or as required by state or federal law. Military leave must be requested twenty (20) days in advance. The employee must furnish military orders or other official documentation prior to leave being granted unless the leave is for emergency purposes.

10.10.2 Unpaid Military Leave. Employees voluntarily or involuntarily serving on active duty for more than fifteen (15) working days shall be placed on leave without pay. The employee taking additional, unpaid military leave may be allowed to use PTO, compensatory time or sick leave at the discretion of County Manager.

10.10.3 Employees Returning from Unpaid Military Leave. Luna County abides by The Uniformed Services Employment and Reemployment Rights Act (USERRA). USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services. A copy of the entire Act may be obtained in the HR Department.

10.11 INCLEMENT WEATHER. Luna County may close offices and send employees home due to inclement weather declared by the County Manager. Employees who are sent home by Luna County due to inclement weather, or other circumstances not covered in this policy manual, shall not be charged PTO for all normal work hours missed. Hours paid pursuant to this provision shall not be counted as hours worked for the computation of overtime.

10.12 LEAVE WITHOUT PAY. An employee may submit a written request to the County Manager through their Elected Official or Department Director. The request shall include the reason for the request and the expected duration. The County Manager, may grant regular employees leave without pay (LWOP) for a period not to exceed three (3) months on terms and conditions set by the County Manager and, when the Elected Official or Department Director deems that such leave without pay is in the best interest of Luna County.

10.13 GENERAL PROVISIONS FOR LEAVE WITHOUT PAY

10.13.1 Re-employment. If an employee returns to work within three (3) months of the commencement of leave without pay, the employee may be returned to the same position, if available, or other county employment.

10.13.2 Leave Without Pay. Unless prohibited by law, prior to commencing leave without pay, an employee requesting leave without pay shall use all available PTO, compensatory time and Sick Leave, if applicable, except for those going on military leave without pay.

10.13.3 Benefits at Employee's Expense. An employee on approved leave without pay does not accrue PTO nor does the employee receive county benefits. An employee on approved leave without pay wishing to continue receiving benefits may do so, but will be responsible for timely payments of the employee's portion of the insurance premium. Luna County's insurance premium contribution shall continue as long as the employee remains on an approved unpaid leave and contributes the required portion of the insurance premium.

10.14 FAMILY AND MEDICAL LEAVE.

10.14.1 Eligible employees are entitled to leave in accordance with the FMLA. Eligible employees are determined by law. A copy of the FMLA may be obtained in the HR Department.

10.14.2 FMLA leave may be comprised of any combination of sick leave, PTO, compensatory time and leave without pay and must be requested and pre-approved at least thirty (30) days in advance, except in the case of emergencies. Coordination of the use of PTO, paid leave, compensatory time and leave without pay must occur prior to the commencement of FMLA leave except in the case of emergency.

LUNA COUNTY - NH
ANDREA RODRIGUEZ, CLERK
20170431
27 of 29
12/14/2017 05:01:51 PM
BY PILAR

- 10.14.3 No part of FMLA leave shall be considered a break in employment and shall not change an employee's anniversary date.
- 10.14.4 Employees shall not accrue PTO or be paid for approved holidays while on unpaid FMLA leave. Employees may be paid for approved holidays and accrued annual and sick leave, if applicable, on a prorated basis based on whether FMLA leave is paid or unpaid.
- 10.14.5 Employees that qualify are entitled to the FMLA benefit extensions provided in the National Defense Authorization Act.

SECTION 11 – MISCELLANEOUS

- 11.1 **DESIGNATED WORK AREAS.** All employees shall be ready to work at their designated work areas on time and continue working until the end of the work day.
- 11.2 **PERSONAL BUSINESS.** Excessive personal business or personal business which is disruptive to the work environment shall not be conducted during work hours and will not be tolerated.
- 11.3 **SAFETY.** Luna County is committed to having all work conducted in a safe manner. All safety precautions and practices must be followed.
- 11.4 **COUNTY PROPERTY.** Employees shall not misuse or use unofficially, Luna County property, records, or other material in their own control, or custody; nor shall any Luna County property, records, or other material be removed from the premises of Luna County offices unless notification has been given to and approved by the Elected Official or Department Director.
- 11.5 **RETURN OF COUNTY PROPERTY.** At the time that an Employee resigns or employment is terminated, the employee shall return all Luna County property to the appropriate Elected Official, Department Director, or HR Department, as directed by their supervisor.
- 11.6 **COUNTY VEHICLES.** No Luna County vehicles will be taken out of Luna County without permission from the Elected Official or Department Director, and employees shall notify the Elected Official or Department Director of their destinations and itinerary. Luna County vehicles may be used only for county business or related activities
- 11.7 **DRESS AND APPEARANCE.** Employees are constantly in the public eye; consequently it is important that employees present the best possible image to the public. Employees must always be clean and neatly dressed in clothing suitable for their work assignments. Elected Officials or Department Directors may promulgate reasonable and appropriate dress codes for their respective departments after consultation with HR Department with approval by County Manager

- 11.8 CONTENTS OF PERSONNEL FILE.** Subsequent to hiring, a separate record file shall be prepared and maintained on each employee. These records shall be kept in the HR Department or in a place designated by the County Manager. It is the responsibility of the HR Department to ensure that the records of the employees are completed; are up-to-date; and remain confidential. The file shall contain but is not limited to the following:
- 11.8.1** The original Application form;
 - 11.8.2** The original Personnel Action Form showing occupation, date of hire and salary;
 - 11.8.3** Copies of personnel action forms including disciplinary notices;
 - 11.8.4** Copies of all performance evaluations if applicable;
 - 11.8.5** Copies of all relevant letters or memorandums and certificates;
 - 11.8.6** Other related actions/forms concerning PERA application and payroll deductions;
 - 11.8.7** Employee benefits information; and
 - 11.8.8** Any and all relevant personnel documentation.
- 11.9 MAINTENANCE OF PERSONNEL FILES.** Public access to personnel files is governed by state law and Luna County policy. Physical access to an employee's records shall be subject to the control of the HR Department. An employee may grant access to their personnel file with written authorization.
- 11.10 WEAPONS IN THE WORKPLACE.** Subject to applicable law, all Luna County employees, with the exception of law enforcement and those employees who possess a New Mexico Concealed Carry Permit and have obtained required permissions, are prohibited from carrying a handgun, firearm or prohibited weapon in or on Luna County property.
- 11.10.1 County Property.** This Ordinance covers all county owned or leased buildings and vehicles.
 - 11.10.2 Prohibited Weapons.** Prohibited weapons include any form of weapon or explosive device restricted under State or Federal regulations (chemical dispensing devices, such as pepper spray that are sold commercially for personal protection are exempt from this Ordinance).
 - 11.10.3 Searches.** Luna County reserves the right to conduct searches of any Luna County property.
 - 11.10.4 Violations.** Any employee who violates this Section shall be subject to disciplinary action, up to and including termination.
- 11.11 CONCEALED CARRY PERMITS.** Luna County employees who possess a New Mexico Concealed Carry Permit are allowed to carry a concealed weapon on Luna County property as long as they do not violate the conditions of the permit, and they notify and receive approval from the County Manager and their Department Head or Elected Official in writing. Luna County reserves the right to refuse or disallow an employee with a Concealed Carry Permit from carrying a concealed weapon in or on Luna County property. Written approval may be revoked without cause at any time.

11.12 ADDITIONAL RULES. Employees shall adhere to all additional lawful rules, policies, directives and requests stated verbally or in writing by their supervisors. Employees are required to follow all standards, rules, procedures, and policies that are expected in the workplace.

11.13 SEVERABILITY. If any part of this Ordinance is found to be unconstitutional, invalid or otherwise in conflict with the laws of the State of New Mexico or the United States of America, the validity of the remaining portions of this Ordinance shall not be affected.

AMENDED THIS 14th DAY OF December, 2017.

LUNA COUNTY BOARD OF COMMISSIONERS

LUNA COUNTY:

Linda M. Smrkovsky
Linda M. Smrkovsky, Chair

John S. Sweetser
John S. Sweetser, Member

Barbara L. Reedy
Barbara L. Reedy, Member

ATTEST:

Andrea Rodriguez
Andrea Rodriguez, County Clerk

<p style="text-align: center;">Luna County WORKPLACE HARASSMENT POLICY</p>
--

PURPOSE

This Workplace Harassment policy is intended to promote a safe and harmonious work environment free from all forms of unlawful harassment. All employees are responsible for knowing and following this policy.

POLICY

Luna County is committed to taking reasonable steps to provide a professional working environment free from all forms of harassment, whether based on sex, sexual orientation, gender identity, race, color, religion, national origin, age, disability or any other protected classification. Although this policy focuses on sexual harassment, it applies equally to all forms of harassment based on a protected classification and the procedures described in this policy shall be followed for all such harassment. This policy also applies when a County employee is subject to harassment in the workplace by someone outside the County.

All County employees and members of the public have a right to be free from harassment from employees on official duty for the County. County employees are forbidden from engaging in harassing conduct in the workplace. Employees are also forbidden from engaging in conduct outside of work that creates a hostile work environment at work. Any act of harassment based upon a protected classification is a violation of county policy.

DEFINITION OF SEXUAL HARASSMENT

According to the EEOC, sexual harassment is any unwelcome sexually oriented behavior, demand, comment or physical contact initiated by any individual at the work place when:

- a) Submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's employment;
- b) Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions/opportunities affecting such individual, or
- c) Such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment.

EXAMPLES OF SEXUAL HARASSMENT

Sexual harassment can occur in a variety of forms. Harassing conduct based on gender often is sexual in nature but sometimes is not. This policy forbids harassment based on gender regardless of whether the offensive conduct is sexual in nature. Sexual harassment is unacceptable in the workplace itself and in other work-related settings such as business trips and business-related social events. The following are some common examples of behaviors or situations that may constitute sexual harassment if they are unwelcome and if they create a hostile, intimidating or offensive work environment:

1. Oral or written sexual statements, comments, jokes, questions or innuendoes;
2. Display of sexually oriented visual items such as calendars, cartoons, photos or posters;
3. Assault, molestation or unwelcome physical contact such as kissing, touching, patting, pinching, brushing against or hugging;
4. Requests, demands or subtle pressure for sexual activity;
5. Threats or retaliation against an employee who refuses unwelcome sexual attention or sexual behavior;
6. Overt promises or practices that imply preferential treatment for any employee in exchange for dates, sexual attention or sexual behavior;
7. Sexual insults and suggestions including, but not limited to, lewd remarks, obscene gestures and sexually suggestive materials;
8. Any conduct that ridicules, or is malicious or abusive to, an individual because of the individual's gender;
9. Pressuring an employee to go out on a date; or
10. Asking employee questions of a sexual nature.

RESPONSIBILITY TO REPORT HARASSMENT

Any employee, who believes they are a victim of harassment because of their protected classification, should first confront the person or persons responsible for the offensive behavior and indicate that it is unwelcome and should be stopped. The employee also has an obligation to promptly report the matter to the Human Resources Director and the County Manager. These are the individuals who are authorized by this policy to receive and act upon complaints of harassment or discrimination on behalf of the County. All employees who observe, or become aware of harassment, also have an obligation to bring the matter to the attention of the Human Resources Director or County Manager, even if they are not the victim of harassment.

INVESTIGATION OF COMPLAINTS

It is the County's intent to provide a fair process for investigating and resolving complaints of harassment.

The County will investigate all reports of alleged harassment. Information associated with the investigation will be kept confidential, to the extent possible, and consistent with the County's obligation to investigate promptly and thoroughly. All employees are required to cooperate with any investigation by the County in response to an allegation of harassment. Refusal to cooperate in an investigation may result in disciplinary action, up to and including termination.

APPEAL

Any affected employee who is dissatisfied with the conclusion or results of an investigation, or with any corrective measures taken, may appeal the decision to the County Commission Chairperson. Any such appeal should be in writing and must include the nature of the employee's dissatisfaction with the conclusions or results of the investigation. Any qualifying disciplinary appeal must follow the grievance process.

PROTECTION AGAINST RETALIATION

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

DISCIPLINE

Unlawful harassment, including sexual harassment, of employees, or members of the public, may be cause for dismissal. If the County determines that harassment has occurred or that counseling, training, disciplinary measures or termination are appropriate, it will take appropriate measures to correct the problem following County disciplinary procedures. Serious cases of harassment constitute cause for termination without prior progressive discipline.

Employees who knowingly make false allegations of sexual harassment may be subject to disciplinary action.

MANDATORY TRAINING

Periodic mandatory training for all employees, including supervisors, managers and elected officials, will be provided by the County to increase knowledge of the workplace harassment policy, state and federal laws and the process for enforcing the policy.

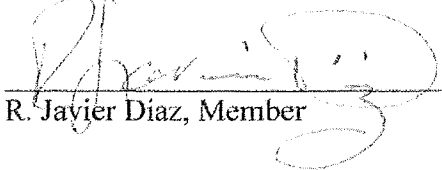
VENDORS AND CUSTOMERS

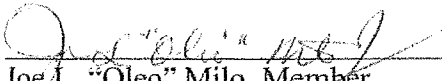
Employees should report sexual harassment from vendors, customers, other county employees and the general public utilizing this Policy.


Effective: December 6, 2012

APPROVED THIS 16th DAY OF December, 2012
LUNA COUNTY BOARD OF COMMISSIONERS


Jay Spivey, Chairperson


R. Javier Diaz, Member


Joe L. "Oleo" Milo, Member

ATTEST: 
Karen Smyer, County Clerk

