



San Miguel County Personnel Policies

Ordinance No. 06-12-18-Personnel

County of San Miguel
State of New Mexico

SAN MIGUEL COUNTY
Pages: 54

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County Clerk, San Miguel, NM



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SECTION 1: TITLE AND PURPOSE

- 1.1 The following ordinance is adopted pursuant to San Miguel County's authority to implement a comprehensive Personnel Ordinance for all county employees. Furthermore, this ordinance is also adopted pursuant to the authority given to San Miguel County in accordance with state statute.
- 1.2 This Personnel Ordinance is applicable to all employees of San Miguel County as herein provided. A copy of this ordinance shall be available in each division and shall be available to all employees. In addition, a copy of this ordinance shall be given to each new employee on their first day of work during orientation. Each employee shall sign an acknowledgement as having received the ordinance.
- 1.3 This ordinance is not intended to address all personnel issues that may arise. The policies contained herein and those policies necessary to implement the ordinance are merely a guide. The county manager with input from the human resource administrator shall be responsible for the development and implementation of such procedures as may be necessary to carry out the goals set forth in this ordinance and such other policies as set forth by the San Miguel County Board of County Commissioners.
- 1.4 This ordinance shall apply to all matters not covered by a collective bargaining agreement. For example if a collective bargaining agreement does not include a grievance procedure the grievance procedure of this ordinance shall apply; however, if a collective bargaining agreement includes a grievance procedure the collective bargaining agreement processes shall be followed as the only option.

SECTION 2: GENERAL STATEMENT

- 2.1 The county manager and the human resource administrator in accordance with this ordinance shall administer the San Miguel County personnel policies and regulations passed and enacted by the Board of County Commissioners. The personnel policies contained herein replace and supersede all previous issued personnel policies applicable to San Miguel County employees.
- 2.2 The county manager is delegated the authority to administer the personnel ordinance and the terms thereof and its amendments. The county manager may issue interpretive memoranda or Administrative Regulations which are consistent with the personnel ordinance which further detail the interpretation of the personnel ordinance and its regulation. The county manager shall recommend to the board any necessary amendments to the ordinance as deemed necessary.

- 2.3 The personnel policies of San Miguel County shall be guided by the following principles:
- 2.3.1 As an Equal Opportunity Employer, employment actions at San Miguel County shall be based upon merit and competence, free from discrimination on the basis of race, color, national origin, political affiliation, religion, sex, sexual orientation or gender identity, age, handicap or disability, or status as a Veteran in accordance with applicable federal and state laws;
 - 2.3.2 As an aid to recruit, train and retain employees to achieve high quality job performance; to use discipline to address and correct employee performance and job improvement concerns; and to terminate employees where unsatisfactory performance cannot be corrected;
 - 2.3.3 To maintain equitable conditions of employment;
 - 2.3.4 To define a grievance procedure to be utilized by employees; and
 - 2.3.5 To assure objective treatment of all job applicants and employees and ensure that employees are protected against coercion for partisan political reasons.

SECTION 3: RECRUITMENT AND SELECTION

- 3.1 It is the philosophy of the county to recruit and select the qualified and suited person for all positions in an open and competitive manner. San Miguel County will comply with all federal and state laws and regulations to ensure equal employment opportunity and a process free from discrimination for all applicants and employees.
- 3.2 The county manager shall determine that a vacancy exists which the county desires to fill and shall authorize advertisement of such vacancy. The human resource office shall coordinate the public advertisement process and shall ensure the process complies with all applicable regulations. Public advertisement shall be placed in the local newspaper five (5) business days prior to the close of the application period and shall be posted on the county website for the duration of the opening.
- 3.3 The county manager may waive the public advertisement for a vacancy in the event that the position may be filled internally through in-house advertisement with a qualified applicant, as approved by the supervisor and the county manager.
- 3.4 All employment applications shall be submitted to the human resource office during normal business hours and prior to the deadline for such advertisement. Application shall be submitted on the employment application provided by the San Miguel Human Resource Office.

- 3.5 The applicant is responsible for furnishing proof of qualifications and possession of any license, certificate or degree when these requirements are part of the job description.
- 3.6 The applicant is responsible for furnishing proof of identification and right to work in accordance with the Immigration Reform and Control Act of 1986.
- 3.7 The applicant is required to sign the employment application and thereby certify as to the truth of all statements made in the application.
- 3.8 The human resource office shall refer qualified applicants who have met the basic qualifications of the county job description to the appropriate division supervisor or elected official for consideration for interviews and recommendations.
- 3.9 The division director/ elected official shall coordinate applicant interviews. Upon interviewing qualified applicants, completion of reference checks, NCIC checks (if applicable), driving record checks and pre-employment drug screening, a recommendation on an offer of employment to an applicant shall be submitted to the county manager for final approval along with budget approval from the finance division.
- 3.10 The county's classification/ compensation plan shall apply to salaries for employees hired as per the employee's classification.
- 3.11 An applicant shall be considered ineligible for hire or rehire by San Miguel County if the applicant has:
 - 3.11.1 Knowingly made any false statements or omission on the employment application materials;
 - 3.11.2 Not met the requirements of the position;
 - 3.11.3 Failed to successfully complete the pre-employment drug screening, physical examinations or other requirements as directed by the county;
 - 3.11.4 Not met the criteria for insurance or bonding as required by county or state law;
 - 3.11.5 Been previously dismissed from the county service as a disciplinary measure or resigned in lieu of termination within the previous five (5) years of the date of application or indefinitely as determined by the county manager;
 - 3.11.6 Not been certified by a physician that the applicant can perform the physical requirements of the position as determined by the county;

- 3.11.7 Been convicted of a felony or misdemeanor as described in NMSA 1978, § 28-2-1 et. seq. or convicted of a felony or infamous crime as defined in NMSA, § 1978 10-1-3;
- 3.11.8 Been convicted for driving while under the influence of alcohol or drugs within the previous five (5) years of the date of application;
- 3.11.9 Failed to provide a two week notice of resignation to the county.
- 3.12 The county may require an applicant to submit to testing for certain bona fide occupational qualifications to determine employment eligibility. This may include, without limitation, a pre-employment physical and drug and alcohol screening examinations for all but elected officials.
- 3.13 The above list is not necessarily exhaustive and does not include all the reasons which would make an applicant ineligible for hire or rehire.

SECTION 4: EMPLOYMENT STATUS/ CONDITIONS OF EMPLOYMENT

- 4.1 A Full-time classified employee is one who has completed the probationary period and who normally is scheduled to work forty (40) hours per week.
- 4.2 A Part-time classified employee is an employee who has completed the probationary period and works less than forty (40) hours per week. Part-time employees are not eligible for county benefits.
- 4.3 An Unclassified exempt at-will employee is the appointee of an elected official and serves at the discretion of the respective elected official. These positions are identified as follows: the county manager; the undersheriff and the administrative assistant to the sheriff; the chief deputy to the clerk; the chief deputy to the assessor; the first deputy to the assessor; and the chief deputy to the treasurer.

The following division directors/supervisors are also unclassified exempt at-will employees and serve at the discretion of the county manager: the finance director; the planning and zoning director; the human resource director; the detention center warden/ facility administrator; the public service director; the public service foreman; the information technology director; the emergency manager; the DWI coordinator; the fire marshal; the fleet and safety compliance officer; the maintenance supervisor; and the Section 8 administrator.

Appointees of elected officials or county manager receive a salary set by the Commission. Appointed employees are terminable at will. Appointed employees serve at the discretion of the elected officials or the county manager and cannot avail themselves of the grievance procedure set forth herein, but are entitled to all other county benefits provided herein. Exempt employees are Fair Labor Standards Act exempt and are not eligible for over-time.

- 4.4 Probationary employees are either full time or part time employees who have not completed the twelve (12) month probationary period. The purpose of a probationary term is to evaluate the employee's ability, potential, behavior and performance. Probationary employees are terminable at will and may not avail themselves of the grievance procedure set forth herein but are entitled to all other county benefits provided herein.
- 4.4.1 Prior to the end of the probationary period, the employee's supervisor shall complete the evaluation process.
- 4.4.2 If at the end of the probationary period, the supervisor feels more time is needed to evaluate the performance of the employee; the supervisor may request in writing to the human resource supervisor an extension of no more than an additional six (6) month period to extend the probationary period.
- 4.4.3 The first day of work in a full time or part time position shall be considered the first day of the probationary period.
- 4.4.4 If an employee does not satisfactorily complete the probationary period, the employee shall be dismissed. Dismissal of a probationary employee will be discussed with the county manager and human resource director prior to the action being taken.
- 4.4.5 A former San Miguel County employee rehired more than six (6) months after separation into the same position previously held or rehired at any time to fill a different position shall serve a new required probationary period.
- 4.4.6 If an employee transfers to another position or receives a promotion during the probationary period, the employee shall serve out the remainder of the probationary period or a three (3) month trial period in the new position, whichever is greater.
- 4.4.7 No employee shall be eligible for a salary increase until the employee has completed the probationary period with the exception of manpower shortage for a particular job classification, for which the county manager shall have the authority to adjust salary or promote accordingly.

- 4.4.8 An employee hired to fill a position which requires certification, shall obtain the certification for the position in the time period as specified in the job description. Failure to obtain such certification within the specified time period may result in dismissal.
- 4.4.9 Probationary employees are not eligible for personal holiday leave.
- 4.4.10 Probationary employees are not eligible to utilize accrued annual leave until the completion of ninety (90) calendar days of service. Sick leave may be utilized as accrued.
- 4.4.11 Probationary employees cannot grieve disciplinary actions.
- 4.4.12 An employee who fills a casual position and is subsequently hired to fill a classified position shall serve the required probationary period. The beginning date of the probationary period is the date the employee changes from casual to probationary/classified status.
- 4.5 A temporary employee is hired on a full-time or part-time basis to a position for no more than six (6) months. A temporary employee is terminable at-will and is not entitled to grieve personnel actions, accrue leave and is not eligible for other county benefits.
- 4.6 A casual employee may be hired on a short term as needed basis for no more than ninety (90) calendar days. A casual employee is terminable at-will and is not entitled to grieve personnel actions, accrue leave and is not eligible for other county benefits.
- 4.7 An acting position is assigned by the county manager when extended leave is granted to a director.
- 4.8 An interim position is assigned by the county manager when a vacancy exists. The term shall not exceed twelve (12) months and will entitle the employee to an increase in salary commensurate with the responsibilities of the interim assignment. After twelve (12) months, the position may become permanent upon a successful evaluation by the county manager.
- 4.9 County employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify.
 - 4.9.1 If a vacancy is advertised with a higher salary range, the employee may apply for the position. In house applicants may have preference in the selection process all other factors being equal.
 - 4.9.2 A department director may recommend a promotion for an employee within the director's department. Classified employees who are promoted shall complete a

ninety (90) day evaluation period. Upon completion, the director shall document the evaluation report and submit to human resource to place in the employee's personnel file. A successful evaluation shall allow the employee to continue in the position. An unsuccessful evaluation report results in dismissal or demotion of the employee. An employee may be demoted to a position that is available and for which the employee qualifies should the evaluation be unsuccessful.

4.10 An employee may be demoted to a vacant position for which the employee is qualified when the employee would otherwise be laid off because the employee's position is being eliminated due to a lack of funds or lack of work and there are no vacancies at the same classification, when the employee does not possess the necessary ability to render satisfactory performance in the position presently held; or when the employee voluntarily requests. Employees may also be demoted for any other reasons constituting just cause. Demoted employees shall receive a reduction in pay. Demotion based on lack of funds or lack of work cannot be grieved through the formal grievance procedure.

4.11 An employee may be transferred from one position to another at the same classification and pay, either voluntarily or involuntary. A probationary and/or classified employee may be transferred by the county manager if it is in the best interest of the county.

4.11.1 A classified employee may request, in writing, a voluntary transfer to a position that is vacant. All voluntary transfers are subject to the approval of the county manager. Transfer requests shall be submitted to the employee's supervisor, human resource office and the county manager. The transferred employee shall be subject to an evaluation period of ninety (90) days. Prior to completion of the evaluation period, the supervisor shall document the evaluation report and submit to human resource to place in the employee's personnel file. A successful evaluation shall allow the employee to continue in the position. An unsuccessful evaluation report results in demotion to a position that is available and for which the employee qualifies. If no position is available or a position for which the employee qualifies does not exist, the employee shall be dismissed.

4.11.2 A probationary or classified employee may be transferred involuntarily by the county manager if it is in the best interest of the county. The transfer shall occur at the same classification and pay. Involuntary transfers are not grievable. A probationary employee shall be required to complete the remaining time of the employee's evaluation period. A classified employee shall complete a ninety (90) day evaluation period. Prior to completion of the evaluation period, the supervisor shall conduct a performance evaluation and submit such to the human resource office. A successful evaluation shall allow the employee to continue in the position. An unsuccessful evaluation results in dismissal of the employee.

- 4.11.3 An employee who has been certified by a licensed physician as being physically unable to perform the duties of the employee's current position may be transferred as a reasonable accommodation to an available position in which the employee is qualified to perform. If no such position is available, the employee is subject to the leave without pay provisions contained within these policies or termination of employment.
- 4.12 An employee voluntarily resigning shall submit, in writing at least a two week notice of resignation to the employee's supervisor, county manager and human resource office. Unauthorized absence for a period of three (3) consecutive, regularly scheduled working days shall be considered a voluntary resignation. Upon resignation, the employee shall return all county property to the employee's supervisor. Failure to return county property may result in the value of the items deducted from the final paycheck. The supervisor must submit a separation form immediately. Resignations may only be rescinded with the approval of the county manager.
- 4.13 A reduction in force may occur in the event that it is necessary for the county to reduce the number of county employees because of lack of funds or lack of work. The county manager, upon consultation with director/supervisor, elected officials and the board of county commissioners shall make the determination of the necessity of the reduction in force. The reduction in force shall be determined utilizing the following criteria:
- 4.13.1 Casual, temporary and probationary employees shall be laid off before full or part-time classified employees.
- 4.13.2 Exempt and classified employees shall be laid off based on the level of essential required services as determined by the county commission.
- 4.13.3 Employees to be laid off shall be notified at least seven (7) days prior to the effective date of layoff.
- 4.13.4 Exempt or classified employees who are laid off due to a reduction in force shall be provided preference should they apply for vacancies within the county. Preference shall be based upon length of service with the county and past county performance evaluations.
- 4.14 The county manager, division director, or elected official (excluding county commissioners) shall have the authority to dismiss an employee when it is in the best interest of the county and conforms to the following:
- 4.14.1 The county manager, division director or elected official (excluding county commissioners) shall have the authority to recommend the dismissal of classified employees for just cause, which includes but is not limited to, unsatisfactory

performance, illegal activity, unacceptable conduct, insubordination or any other reason constituting just cause. All dismissals shall be discussed with the county manager, human resource and county attorney before any action is taken. The county manager has the final approval authority in the dismissal of a classified employee.

- 4.14.2 Exempt employees, employees other than classified employees, serve at the discretion of the county manager or elected official (excluding county commissioners) under whom they are employed and may be dismissed with or without cause. All dismissals shall be discussed with the county manager, human resource and county attorney before any action is taken.
- 4.14.3 At the time of an employee's voluntary or involuntary termination, the employee shall return all county property to their supervisor, including but not limited to: keys, vehicles, supplies, equipment, uniforms that may be in the employee's possession. Failure to return county property may result in deduction of the value of the item(s) from the employee's final paycheck. The supervisor must submit a completed separation form to the human resource office. A completed separation form shall serve as authorization to release the final paycheck.
- 4.15 An employee may be involuntarily terminated upon completion of the twelve (12) week family medical leave if the employee is physically unable to perform the essential duties of the employee's position as certified by a qualified, licensed physician with reasonable accommodations that do not impose undue hardship upon the county, as determined by the county. The provisions of this subsection are subject to the provisions regarding Workers Compensation laws and "on the job injury leave" found in said policies.
- 4.16 Employee performance evaluations for probationary employees shall occur in the eleventh month prior to the one year anniversary and classification. The performance evaluation shall contain an overall appraisal of the employee's performance and/or behavior. Evaluation forms shall be provided by the human resource office. All evaluations will be signed by the employee and supervisor submitting the evaluation and shall be placed in the employees personnel file in the human resource office.
- 4.16.1 In the event a classified employee exhibits unsatisfactory performance, the employee will be placed on a performance improvement plan in an effort to correct the performance and/or behavioral issue(s). An employee may submit a written response within five (5) workdays of receipt of the PIP. The written response will be attached to the PIP. Failure to meet the requirements of the PIP may result in disciplinary action, including possible termination. A PIP may also be implemented in conjunction with disciplinary action. A follow up review shall be scheduled within ninety (90) days of the implementation of the PIP. If the performance remains

unsatisfactory, the employee shall be dismissed pursuant to the procedures in these policies.

SECTION 5: NEPOTISM

- 5.1 Nepotism defined:** The practice of showing favoritism toward relatives, in both hiring and work related functions.
- 5.2 Nepotism-Elected Officials:** The Board of County Commissioners, other elected officials and all employees in a supervisory position shall not recommend for hiring, appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a position, any individual who is a relative in accordance with state law.
- 5.3 Relationship to Board Members:** For the purpose of applying this section, the following rules shall apply to employees under the hiring authority of the Board of County Commissioners:
 - 5.3.1** A prohibited relative to any board member shall be considered to be a prohibited relationship to the board as a whole.
- 5.4 Relatives to other elected officials:** For the purpose of applying this section, the following rule shall apply: All positions in a given office shall be considered under the supervision, management and control of the elected official.
- 5.5** An employee's relative shall not directly or indirectly supervise the employee or have authority to grant promotions, transfers, pay or schedule changes, and/or other employment related privileges. Therefore, division heads are not permitted to supervise, manage and control relatives as this situation creates the potential for preferential treatment and discrimination toward other department employees.
- 5.6** A relative for purposes of this policy a relative is defined as spouse, domestic partner, parent, grandparent, children, grandchildren, siblings, uncle, aunt, first cousin, nephew, niece, and all like relations of the employee's spouse, any former spouse(s) or unrelated persons sharing a spousal relationship. This definition is to cover any person related to the employee by birth, adoption, marriage and/or domestic partnership.
- 5.7** The practice or appearance of nepotism is prohibited. Relatives cannot work in the same division when there is a supervisory relationship between them. Any problems arising from such a situation should be referred to the county manager for review.

SECTION 6: PERSONNEL RECORDS

- 6.1 The official personnel file shall be maintained in the human resource office for each employee working for the county. The personnel file is property of San Miguel County. Generally, the county considers the personnel file to contain confidential records; however, portions may be subject to the Inspection of Public Records Act or other discovery orders. Employees may request, in writing, copies of information contained in their official personnel file.
- 6.2 Records that include protected information will be kept confidential as protected by the exceptions to the Inspection of Public Records Act or other applicable laws.
- 6.3 All documents contained in an employee's personnel file will be maintained and retained as outlined by State and Federal law. Documents shall not be purged from this file. All personnel records and confidential employee records maintained by human resource may be destroyed by shredding after retention dates have passed; this pertains to all personnel records. Application materials for employment by applicants who were never employed may also be destroyed pursuant to the appropriate state retention schedule.
- 6.4 Elected officials and division supervisors may review their employees' files; however, the file may never be removed from the human resource office. Supervisors may also request written approval from the elected official or division supervisor to view the files of the employees they supervise. If an employee wishes someone other than those authorized to have access to those parts of the employee's file that are not open to the public as required by the Inspection of Public Records Act, that employee must give written authorization. This authorization must be given to the human resource supervisor and must state the name of the person or entity obtaining permission.
- 6.5 For benefits administration and emergency purposes, it is the employee's responsibility to notify the human resource office of any change in his/her home address, phone number, marital status, number and names of dependents, or other information required by the human resource office to be able to maintain accurate and current personnel records.

SECTION 7: CLASSIFICATION/ COMPENSATION PLAN

- 7.1 The purpose of the compensation plan is to establish equitable compensation for all positions in the county. Such a plan shall establish a salary schedule containing at least a minimum and maximum wage or salary schedule for each position and shall be reviewed and updated every five (5) years. Pay ranges are intended to allow for administrative

flexibility; however, all wages and salaries are approved by the Board of County Commissioners during the budget process or otherwise.

- 7.2 All employees shall work their scheduled hours pursuant to work schedules established by their division supervisors or elected official, and as approved by the county manager. Classified full-time employees will work a minimum of forty (40) hours per week. Actual work periods may fluctuate at the discretion of the division supervisor or elected official. Part-time employees are scheduled to work pursuant to scheduling set forth by their division supervisor or elected official.
- 7.3 Classified employees take a one (1) hour unpaid lunch break. Lunch breaks for law enforcement and detention center may be shorter or interrupted or canceled due to the needs of the operation. Classified full-time employees may have two (2) fifteen (15) minute breaks per day as scheduled by the employee's supervisor in each four (4) consecutive hours worked. Breaks shall not coincide with the beginning or ending of the workday or lunch break, are not accrued, and no compensation is given for missed breaks. Employees working four (4) hours per day may be granted one (1) fifteen (15) minute break.
- 7.4 The County's work week begins Saturday at 12:00 midnight and ends on Friday at 11:59 p.m.
- 7.5 Employees shall be paid biweekly on Thursday. If a holiday falls on a Thursday, the employees shall receive pay on the Wednesday prior to the holiday. Employees shall not be paid for time not worked.
- 7.6 Direct deposit is available to all county employees.
- 7.7 Compensatory time is time off for hours worked beyond forty (40) hours of actual work for an FLSA nonexempt employee who is not holding a public safety position. A nonexempt public safety or detention officer is subject to the 207(K) exemption of the FLSA. A nonexempt employee shall, at the discretion of the division supervisor, accrue compensatory time in lieu of overtime worked. Overtime hours worked and compensatory time hours accrued and taken off shall be recorded for each nonexempt employee and submitted to the county manager's office each pay period on approved forms. An employee shall not accrue over 120 hours of compensatory time. The division supervisor is authorized to require employees with accrued compensatory time to use compensatory time when division needs allow.
- 7.8 Overtime pay shall be paid to FLSA nonexempt employees only when overtime work is authorized by the county manager and only when the division needs preclude the employee from taking compensatory leave time off. The rate of pay shall be one and one-half (1 ½) times regular pay for each hour beyond forty (40) hours in a seven (7) day work week, except for public safety and detention officers. Nonexempt public safety officers and

detention officers shall be subject to the 207(K) exemption of the FLSA. Holiday, vacation, sick, and other leave hours are not to be considered actual working hours for the purpose of calculating overtime. Employees working a holiday will receive pay at time and a half regardless of the number of hours worked; however, the holiday time worked will not be counted for the purpose of calculating overtime. Employees working overtime without proper authorization shall receive disciplinary action. Fair Labor Standards Act exempt employees shall not receive overtime pay.

- 7.9 An employee who resigns or is dismissed shall receive their final paycheck in accordance with State law. The supervisor shall complete the separation report form with the proper documentation authorizing the release of the final paycheck by the human resource office. Deductions from the employee's final paycheck shall be charged to the individual.

In the event that the employee passes away, final salary and compensation for unused annual leave and accrued compensatory time shall be paid to the employee's named beneficiary or if unnamed, to the employee's estate.

- 7.10 Division directors shall be responsible for the accuracy and timely submission of timesheets to the finance division. The finance division shall keep cumulative record of all leave time accrued and used. Biweekly timesheets shall be completed and signed by the employee and the employee's immediate supervisor. Timesheets containing overtime shall require the signature and approval of the county manager. Timesheets shall be submitted no later than 12:00 p.m. on the second Wednesday of the pay period.

SECTION 8: EMPLOYEE BENEFITS AND SERVICES

- 8.1 **MEDICAL, DENTAL, VISION, LIFE AND DISABILITY.** The county offers group insurance benefits for medical, dental, vision, life and disability insurances. Employees must have at least twenty-seven (27) hours of work or paid leave during the regular pay period to be entitled to the county's share of group medical and/or dental benefits. Insurance plans may be changed at the discretion of the board of county commissioners.
- 8.2 **RETIREMENT BENEFITS.** All county employees with the exception of those who are subject to exclusion under PERA rules are required to join the Public Employees Retirement Association of New Mexico.
- 8.3 **EMPLOYEE ASSISTANCE PROGRAM.** The Employee Assistance Program (EAP) is a free and confidential short-term counseling service designed to assist employees with personal problems that might adversely affect job performance. Please see human resource personnel for more information.

- 8.4 The county will follow the Internal Revenue Service's rules with regard to fringe benefits. Taxable fringe benefits will be included on the employee's W-2 form. Examples of fringe benefits are: uniforms, uniform allowances, vehicle usage, etc.
- 8.5 Employees are allowed to request the use of the Employees Educational/Training Assistance fund. All requests shall be in accordance with Administrative Regulations No. 09-12-2006. The education assistance provided by San Miguel County is for the purpose of extending the knowledge base for all county employees, introducing them to new technology in completing job-related duties, to provide all county employees the opportunity for growth within the county organization and to allow for educational opportunities as a benefit to employees during the workday and after hours. All education and training assistance shall be contingent upon available funding, as determined by County Commissioners on an annual basis, when the county budget is calculated and approval of the county manager.

SECTION 9: LEAVE POLICIES

- 9.1 Leave is any authorized absence with or without pay during regular scheduled work hours which is approved by the division supervisor. The division supervisor is responsible for maintenance and transmittal of leave records to the county manager's office and to the county's finance division.
- 9.2 An unauthorized leave is an absence without approved leave and is subject to disciplinary action and possible loss of pay.
- 9.3 **HOLIDAYS.** Legal holidays shall be designated via resolution as approved by the board of county commissioners in December of each year. The designation of legal holidays assures employees of eleven and one half (11½) holidays per year. Approved holidays shall be compensated according to the employees work day. Four (4) hours workday = four (4) hours holiday, eight (8) hours workday = eight (8) hours holiday, etc. The following conditions apply with respect to holidays and holiday pay:
- 9.3.1 When a holiday falls during an employee's paid vacation or authorized sick leave day, the employee shall receive the holiday. Time shall not count against an employee's annual or sick leave.
- 9.3.2 Contract employees, chief deputies, exempt employees and temporary employees are not eligible for holiday overtime pay.
- 9.3.3 The following shall be observed as holidays, but the day of recognition is subject to change by the board of county commissioners:

New Year's Day; Martin Luther King Day; President's Day; Good Friday afternoon; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day; Lincoln's Birthday; Christmas Day.

- 9.3.4 Holidays worked shall be automatically paid at time and a half regardless of the number of hours worked in the pay period; however, holiday hours worked will not be re-counted for purposes of Section 7.8.

9.4 **ANNUAL LEAVE.** Classified fulltime employees accrue annual leave according to the following schedule:

<u>Years of Service</u>	<u>Biweekly hours accrued</u>	<u>Annual hours accrued</u>
0 - 5	5	130
6 - 10	6	156
11 - 15	7	182
16 and up	8	208

- 9.4.1 An employee does not accrue annual leave for time worked in excess of forty (40) hours per week.
- 9.4.2 Part-time classified employees working at least twenty (20) hours per week accrue annual leave based on the schedule in 9.4.11.
- 9.4.3 Annual leave shall not be granted in advance of accrual.
- 9.4.4 An employee may not accrue in excess of 240 hours of annual leave at any time. Annual leave in excess of 240 hours at midnight on Saturday of each pay period shall be forfeited. It is the employee's responsibility to schedule leave in advance of the date at which it shall be forfeited.
- 9.4.5 Upon termination or separation from county employment, an employee shall be compensated for the employee's unused accrued annual leave.
- 9.4.6 An employee may take annual leave prior to their separation from the county, with supervisor approval.
- 9.4.7 An employee shall not be paid for accrued annual leave at any time of employment in lieu of taking the time.
- 9.4.8 Annual leave shall be requested and approved in advance. Reasonable effort shall be made to accommodate the employee's request, though approval shall be subject to advance notice and the needs of the division. If vacation time is requested by one

or more employees during the same time period, leave will be granted based upon work schedule and division needs.

9.4.9 A probationary employee shall not use accrued annual leave until the completion of ninety (90) calendar days of the employee's probationary period. However, if a probationary employee resigns or is dismissed before completing the probationary period, the employee shall be compensated for the accrued annual leave at the time of termination.

9.4.10 Temporary employees accrue annual leave.

9.4.11 Annual Leave Accruals. In the event that an employee is paid for work and/or paid leave less than eighty (80) hours per pay period, leave accruals will be pro-rated based on the following schedule:

<u>Work/Paid Leave Hours</u>	<u>Accrual</u>
Greater than 0 but less than 20 hours	25% accrual
Between 20 hours but less than 40 hours	50% accrual
Between 40 hours but less than 60 hours	75% accrual
Between 60 and 80 hours	full accrual

9.5 DONATION OF LEAVE. Exempt classified county employees who have accumulated more than 80 hours of annual leave may donate any excess hours above 80 hours of annual leave to an employee who has been authorized to accept leave donation. The recipient of said leave donations must be a non-probationary classified county employee who has exhausted all annual and sick leave, compensatory time, RAP hours and personal holiday, due to a serious non-work related injury or illness. Exceptions may be made at the discretion of the county manager.

9.5.1 Donations shall be made on the forms provided by the County and signed by the donating employee and witnessed by Human Resource personnel.

9.5.2 Donated leave accrues to the employee receiving the donation and no leave shall be returned if unused. Donated leave will be based hour per hour, at the hourly rate of pay of the person receiving the donated time. In the event that there is a balance of donated time upon the recipients return to work, that balance will be removed. Donated leave shall not exceed the maximum allowed under the annual leave policy.

9.5.3 Donation of leave is voluntary. No employee, supervisor, or elected official shall demand the donation of leave from any employee.

9.5.4 Terminated employees are not eligible to receive donations.

9.5.5 No right of donation is hereby created in any employee, regardless of circumstance.

- 9.6 **SICK LEAVE WITH PAY.** Sick leave with pay is granted to classified or appointed exempt employees when a medical reason, such as described in section 9.7, keeps an employee from performing the duties of the position. A full-time classified employee accrues sick leave according to the following schedule. Part-time employees working at least twenty (20) hours per week accrue leave at one-half the rate listed below:

<u>Years of Service</u>	<u>Biweekly hours accrued</u>	<u>Annual hours accrued</u>
0 – 10	5	130
11 and up	6	156

9.6.1 Accrued sick leave may be accumulated year-to-year up to a total of four hundred eighty (480) hours.

9.6.2 There shall be no pay for sick leave upon separation of employment.

9.6.3 Temporary employees accrue sick leave in the same manner as classified employees.

9.6.4 **Sick Leave Accruals.** In the event that an employee is paid for work and/or paid leave less than eighty (80) hours per pay period, leave accruals will be pro-rated based on the following schedule:

<u>Work/Paid Leave Hours</u>	<u>Accrual</u>
Greater than 0 but less than 20 hours	25% accrual
Between 20 hours but less than 40 hours	50% accrual
Between 40 hours but less than 60 hours	75% accrual
Between 60 and 80 hours	full accrual

- 9.7 **SICK LEAVE AUTHORIZATION.** Sick leave shall be authorized by the employee's supervisor when an employee is unable to perform normal job duties due to medical consideration including, but not limited to, illness, injury, pregnancy, prearranged medical or dental care, therapy, counseling and treatment, or when any of the aforementioned applies to an employee's immediate family member. Authorization is subject to approval of the immediate supervisor.
- 9.8 **Unauthorized Leave.** Leave without authorization may subject an employee to disciplinary action and loss of pay. Unauthorized leave for three (3) consecutive work days may be considered job abandonment and cause for dismissal.

9.9 MEDICAL CERTIFICATION.

- 9.9.1** A physician's certificate (doctor's note) shall be submitted when the employee is absent from work for three (3) or more consecutive work days or portion of a workday or when sick leave of three (3) or more days is used due to the serious illness of an employee's family member. A physician's certificate may also be required from an employee if the supervisor suspects sick leave abuse.
- 9.9.2** **Physician's Examination:** The County may require that an employee have a medical examination when it appears to the division director/supervisor that the employee cannot perform the essential functions of the position; when a pattern of sick leave develops; or when an employee advises the division supervisor that he cannot perform the essential functions of the job. An employee may be terminated if no other position for which the employee is qualified is vacant or the employee refuses the position.
- 9.10** **REPORTING SICK LEAVE.** Sick leave shall be reported to the employee's supervisor by the employee or an immediate family member on a daily basis, prior to the start of the employee's work day or as soon as possible but no later than one (1) hour after the beginning of the employee's work shift unless the nature of the illness requires extended leave certified by the employee's physician and of which the employee's supervisor is notified in writing and has given approval.
- 9.11** **BEREAVEMENT LEAVE.** In the event of the death of an employee's spouse, domestic partner, parent, parent-in-law, grandparent, grandparent-in-law, 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 which may be extended for an additional three (3) days if extraordinary circumstances exist and is recommended by the elected official or division supervisor and approved by the county manager.
- 9.12** **PERSONAL DAY.** A classified employee is entitled to one day per year that may be used for personal circumstances which require a day off and are not listed above and must be utilized in a full day increment.
- 9.12.1** This personal day must be used before the end of the employee's next anniversary date of hire; otherwise, it will be forfeited.
- 9.12.2** Probationary and temporary employees are not entitled to a personal day.
- 9.12.3** The personal day accrues on the employee's anniversary date of hire.
- 9.12.4** The personal day may not be taken in hourly increments and shall be paid in accordance with the employee's regular work schedule.

- 9.13 **ADMINISTRATIVE LEAVE WITH PAY.** Leave with pay and travel pay may be authorized by the county manager to allow FLSA exempt employees to attend meetings of boards and commissions when the employee's attendance is on behalf of the County. Exempt and classified employees are entitled to leave with pay when authorized by the County Manager.
- 9.13.1 Administrative leave with pay may also be granted by the County Manager pending disciplinary action or during an internal investigation process.
- 9.13.2 Administrative leave action shall not exceed thirty (30) calendar days unless an extension of time is authorized by the county manager.
- 9.14 **Administrative Leave for Parent-Teacher Conferences.** On May 14, 2014, the State of New Mexico authorized up to eight (8) hours of administrative leave to attend scheduled parent-teacher conferences (depending on the number of children), with up to four (4) hours of leave being granted in the fall semester (August through December) and up to four (4) hours of leave being granted in the spring semester (January through May). Please see San Miguel County Administrative Regulation No. 10-14-2014-CM for reference regarding this policy.
- 9.15 **FAMILY AND MEDICAL LEAVE.** The County of San Miguel shall grant family and medical leave in accordance with the Family and Medical Leave Act of 1993, as amended.
- 9.15.1 The county will provide up to a combined total of twelve (12) weeks of job protected leave during a rolling calendar year for family and medical reasons consistent with the Family and Medical Leave Act (FMLA) and relevant state law. Family and Medical leave will consist of appropriate accrued paid leave and unpaid leave for a period not to exceed twelve (12) weeks during any twelve (12) month period. The county will use a rolling calendar year measured back from the date an employee's FMLA leave begins.
- 9.15.2 **Eligibility**
- A. The employee must have worked for San Miguel County for at least one year; and
 - B. The employee must have worked at least 1,250 hours during the twelve months immediately preceding the request. Time worked does not include vacation pay, holidays, sick pay, unpaid leave, or any period of layoff.
- 9.15.3 **Qualifying Leave.** The employee may take family /medical leave for any of the following reasons:
- A. Care for the employee's child after birth or placement for adoption or foster care;

- B. Care for the employee's spouse, domestic partner, son, daughter, mother or father who has a serious health condition;
 - C. Care for the employee's own serious health condition that renders the employee unable to perform his or her job. Medical certification is required.
 - D. If qualified, to attend to exigencies of having a spouse, son, daughter, or parent who is a military service member who is placed on active duty or has been notified of an impending call or order to active duty;
 - E. To provide care to an injured covered service member who is the eligible employee's spouse, son, daughter, parent, or eligible "next of kin" (FMLA leave under this category may be up to twenty-six (26) weeks).
- 9.15.4 During a period of unpaid family and medical leave, an employee will be retained on the San Miguel County's group health insurance plan under the same conditions that applied before the unpaid leave commenced. To continue health coverage, the employee must continue to make payment for 100% of the premiums.
- 9.15.5 An employee granted family and medical leave will be restored to his or her previous position or to a position with equivalent pay, benefits and other terms and conditions of employment or as required by the Family and Medical Leave Act.
- 9.15.6 A supervisor shall notify Human Resource when an employee has used leave three or more times (or more than five workdays) within the preceding two (2) week time period.
- 9.15.7 If the reason for an employee's leave qualifies as FMLA leave, the employee cannot decline FMLA leave. The county designates all qualifying time as FMLA leave and counts that time against the employee's twelve (12) week leave entitlement.
- 9.15.8 An employee on FMLA leave is not permitted to work in an outside job during this leave unless a specific request for outside employment is made in advance of the leave and approved by the department head, the human resource director and the county manager.
- 9.15.9 Employees must request FMLA leave thirty (30) calendar days in advance or as soon as practical by completing the FMLA Leave Request Form and submitting it to their supervisor and then to the human resource office.
- 9.15.10 Employees returning to work after FMLA leave for a qualifying event related to personal illness or injury must provide a medical release to return to work to the human resource office before returning to work.

9.16 OCCUPATIONAL INJURY TIME/ WORKERS COMPENSATION

- 9.16.1 The county provides a comprehensive workers' compensations insurance program. This program covers any injury or anyone suffering from occupational diseases sustained in the course of employment as approved by the insurance carrier. Subject to applicable legal requirements, workers' compensation insurance provides benefits for a qualifying on-the-job injury.
- 9.16.2 Employees who sustain work related injuries or occupational diseases must inform their supervisor immediately. Regardless of how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible. A "First Report of Injury" shall be filed with the safety coordinator immediately following the work-related injury within twenty-four (24) hours of occurrence. The report shall be signed by the employee and the employee's supervisor. In addition, the supervisor shall complete the Accident Investigation Report by the next working day. The safety coordinator shall file copies of all documents with the human resource office for placement within the employee's personnel file.
- 9.16.3 Neither the county nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary participation in any off-duty recreational, social, athletic activity or similar event.
- 9.16.4 On-the-job injury leave: An employee injured on the job may use accrued sick leave until exhausted, then accrued annual leave is permissible for each regularly scheduled work day after the injury occurs for all such days that are not paid by workers' compensation insurance. If the employee is on workers' compensation time for more than four (4) weeks, is entitled to workers' compensation benefits for the first seven (7) days and has used accrued leave for the seven (7) days of injury, the workers' compensation payments received for all such days shall be paid directly to the county by the workers' compensation carrier for reimbursements of such leave payments. In the event an employee uses accrued leave in lieu of workers' compensation, the leave used shall be credited to the employee upon the county's receipt of the reimbursement by the workers' compensation carrier after the expiration of the statutory waiting period.
- 9.16.5 Return to Work. An employee shall return to his former position or be reassigned to a comparable position if the employee's physician certifies that the employee can return to work within six (6) months. If an employee is unable to perform the essential functions of his job with reasonable accommodations within six (6) months, the employee may be terminated.

9.16.6 **Modified Work Schedule.** If an employee's physician certifies that the employee can return to modified duty, the employee may be offered modified duty if such a position is available. Modified duty is defined either as performing the same job as the employee held before the injury for fewer than eight (8) hours each day; as performing the duties of another position for which the employee is qualified; or having reduced physical requirements for the full day or less than the full day. The terms and conditions of modified duty shall be determined by the employee's supervisor in conjunction with the safety coordinator, human resource director and county manager. All modified duty assignments are temporary and shall not exceed sixty (60) days.

9.16.7 **Reemployment of County Employees Injured on the Job.** A classified full-time employee who has received benefits pursuant to the Workers' Compensation Act and who was unable to return to work during the six (6) month period, may later apply for any job vacancy posting.

9.17 **CIVIC DUTY LEAVE.** An employee shall be granted necessary time off with pay for the following:

9.17.1 **Jury Duty pay** shall be authorized for only those days that the employee is scheduled to work. If excused by the court during the work day, the employee shall return to duty. If the employee does not return to work, the balance of the day shall be charged to annual leave or leave without pay. Fees received by the employee for jury duty during the work day, except fees for meals or travel, shall be remitted to the County.

9.17.2 **Court Appearance Time.** When required by the county or subpoenaed to appear before the court, personnel hearing officer, public body or county commission for the purpose of testifying on behalf of the county, the employee shall be compensated as regular work time. If the employee is not testifying on behalf of the county, the employee receiving the subpoena may take leave without pay.

9.17.3 **Voting.** For the purpose of national, state, or local election, an employee who is registered to vote shall be granted up to two (2) hours paid leave for voting between the time of opening and closing polls. The employee's supervisor may specify the hours for the leave. This leave shall 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. Proof of voting may be required.

- 9.17.4 **Request for Leave Procedures.** The division supervisor shall be responsible to ensure the county's request for leave form and the employee's timesheet accurately reflect the civic duty leave authorized.
- 9.18 **MILITARY LEAVE for Reserve or National Guard Duty.** Military leave will be granted in accordance with State and Federal Law.
- 9.19 **NEW MEXICO DOMESTIC ABUSE LEAVE.** All New Mexico employers are required to provide guaranteed leave for victims of domestic abuse for the purpose of seeking protection and court time in the prosecution of the abuser. If you have any questions as to your rights under this provision, your human resource administrator is available to assist you.
- 9.20 **LACK OF WORK OR INCLEMENT WEATHER.** The county may, at its discretion, send an employee home when there is no work available as determined by the county manager. The county manager may close county operations utilizing non-essential employees due to inclement weather. The county manager may authorize administrative leave for late entering or early release due to inclement weather for essential employees; and all non-essential employees shall be compensated for normal work hours as administrative leave with pay and shown on a leave report form. The county manager will determine those positions deemed essential on a case-by-case basis. Essential staff that has to report to work will be eligible for additional pay in relation to the number of hours that they would have otherwise been off.
- 9.21 **LEAVE WITHOUT PAY.** The county manager may grant classified employees leave without pay (LWOP) for a period not to exceed three (3) months, when the county manager deems that such leave is in the best interest of the county and the employee.
- 9.21.1 **Re-employment upon return.** If an employee returns to work at the conclusion of the approved leave without pay or earlier and within the three (3) months, the employee shall be returned to the same position.
- 9.21.2 **Use of all leave.** Prior to going on leave without pay, the employee shall use all available annual leave, except for those going on military leave without pay.
- 9.21.3 **Benefits at Employee's Expense.** An employee on leave without pay that is not on FMLA leave does not accrue leave or receive county benefits. An employee wishing to continue receiving insurance benefits may do so at the employee's expense by submitting the employee's and the county's share of the premiums to the payroll clerk on the regular day of pay.

- 9.22 **LEAVE ACCRUALS.** In the event that an employee is paid for work and/or paid leave less than eighty (80) hours per pay period, leave accruals will be pro-rated based on the following schedule:

<u>Work/Paid Leave Hours</u>	<u>Accrual</u>
Greater than 0 but less than 20 hours	25% accrual
Between 20 hours but less than 40 hours	50% accrual
Between 40 hours but less than 60 hours	75% accrual
Between 60 and 80 hours	full accrual

SECTION 10: DISCRIMINATION/ HARASSMENT/ SEXUAL HARASSMENT POLICY

- 10.1 **PROHIBITION OF DISCRIMINATION AND HARRASMENT.** San Miguel County disapproves of and shall not tolerate unlawful discrimination or harassment of its employees or by its employees. Employees are forbidden from engaging in harassing conduct or creating a hostile work environment in the workplace. Employees are also forbidden from engaging in conduct outside of work that creates a hostile environment at work.

Any employee who engages in discrimination or harassment in violation of this policy shall be subject to discipline and appropriate corrective action, up to termination of employment, and measures shall be taken to prevent its reoccurrence. Any incidents of discrimination or harassment by anyone, including non- employees, should immediately be brought to the attention of the county manager, or the human resource administrator for appropriate action.

- 10.2 **Harassment is a Form of Discrimination.** For this purpose, the term harassment includes slurs, jokes, other offensive remarks based on an individual's race, color, gender, gender identity, sexual orientation, religion, age, national origin, ethnicity, mental or physical disability, serious medical condition, or any other legally protected characteristic.
- 10.3 **Sexual Harassment.** The Equal Employment Opportunity Commission has adopted guidelines which state that unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
- a) Submission to the conduct is an explicit of or implicit term or condition of an individual's employment.
 - b) The submission to or rejection of the conduct by an individual is the basis for any employment decision affecting that individual; or

- c) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. A hostile work environment may be one where inappropriate touching occurs, crude or vulgar language is used, jokes of a sexual nature are told, comments are made that demean an individual based on gender or sexual orientation, unwelcome nicknames, such as honey or babe, are used, or photographs, calendars, magazines, books, etc. of nude or partially nude individuals are displayed and/or disseminated.

10.4 Discrimination and Harassment Complaint Procedures. Any employee who feels that they have been the subject of discrimination or harassment in violation of this policy by anyone, including non-employees, should whenever possible 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 follow this procedure in bringing the matter to the county's attention:

- a) The employee shall promptly report the matter to the attention of the county manager or human resource administrator. This report may be oral or written.
- b) The county manager and/or human resource administrator shall advise the person who allegedly engaged in the discrimination or sexual harassment of the charge, and the county manager, or his designee shall conduct an investigation of the allegation. The complaint shall be kept as confidential as possible consistent with the county's obligation to investigate promptly and thoroughly. All employees are required to cooperate with any investigation.
- c) After the investigation, the county manager shall determine whether this policy has been violated. The employees involved shall be notified of the decision.
- d) If a determination is made that this policy has been violated, the employee's supervisor shall take appropriate disciplinary action, which may include dismissal.
- e) The county will not retaliate against an employee or anyone who assists in bringing a good faith complaint of discrimination or harassment to the attention of the county manager or the human resource office. Retaliation is a serious violation of this policy and should be reported immediately.
- f) Nothing in these procedures shall prohibit the employee from filing a complaint directly with the Federal Equal Employment Opportunity Commission or the New Mexico Human Rights Division. This avenue should be used when the employee feels that the employee cannot obtain appropriate relief within the steps as explained above. Employees are encouraged to seek consultation with the county

manager or human resource director before filing a complaint with an outside agency for resolution.

- g) It is the policy of San Miguel County to provide an atmosphere where employees may raise concerns or complaints without retaliation about matters deemed unlawful by Title VII of the Civil Rights Act and other laws dealing with discrimination. The county prohibits any form of retaliation against any employee for good faith filing or assisting in the investigation of a complaint of harassment or discrimination. If it is determined that an employee has been retaliated against, the county will take appropriate disciplinary action, up to and including dismissal. If it is determined an employee has filed a complaint in bad faith, appropriate disciplinary action may be taken, up to and including dismissal.

SECTION 11: GENERAL ETHICAL PRINCIPLES AND CONDUCT

- 11.1 San Miguel County elected officials, employees and volunteers shall treat their governmental or quasi-governmental positions as a public trust, requiring adherence to and respect for the Constitution and laws of the United States of America, and the ordinances, resolutions, and policies of San Miguel County. Elected officials, employees and volunteers shall use the powers and resources of public office to advance the public interest rather than as an opportunity to obtain personal benefits or pursue private interests incompatible or competing with the public interest. County government cannot function efficiently without the confidence of the public. The public's confidence in the effectiveness, equity and honesty of county employees is directly related to the ethical conduct of county employees and officials.
- 11.2 **GENERAL CONDUCT STANDARDS.** San Miguel County requires all employees to familiarize themselves with all rules and regulations (general policies and those pertaining to their duties and positions) and employees must abide by these rules and regulations. The New Mexico Governmental Conduct Act Compliance Guide shall be referenced as a resource and each employee will be required to sign a disclosure statement at the time of initial employment and each subsequent year.
 - 11.2.1 Each employee shall make an immediate report to his/her immediate supervisor of any violation of the law or rules and regulations of the county of which he/she has knowledge. Such report may be required in writing at the discretion of the receiving supervisor and the human resource administrator.
 - 11.2.2 Each employee shall make a written report within three (3) working days to the elected official (excluding county commissioners) or supervisor of any criminal

charges filed against him/her or any arrest for any violation of any law or ordinance with the exception of minor traffic violations that do not result in suspension or revocation of a driver's license.

- 11.2.3 Each employee shall perform his/her duties fairly and impartially, and conduct themselves in a professional manner.
- 11.2.4 No employee shall be insubordinate, neglectful, or unwilling to follow orders or perform officially designated duties.
- 11.2.5 Violence, fighting, horseplay, bullying, mobbing and threatening behavior will not be tolerated.
- 11.2.6 Employees shall not reveal confidential information regarding county business to unauthorized persons.
- 11.2.7 Employees will comply with safety rules and regulations and shall report promptly to their supervisor and the safety coordinator any injury or illness.

11.3 POLITICAL ACTIVITIES. The following are prohibited political activities:

- 11.3.1 Using official authority or 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.
- 11.3.2 Directly or indirectly coercing, attempting to coerce, commanding or advising a state or county officer or employee to pay, lend or contribute anything of value to a party, committee or organization, agency or person for a political purpose.
- 11.3.3 Threatening to deny promotions to any employee who does not vote for certain candidates, requiring or coercing employees to contribute part of their pay to a political fund, influencing subordinate employees to buy tickets to political fundraising events and similar events, advising employees to take part in political activity and matters of similar nature, displaying political items while at work or in the workplace, or political influence of employee by other employees who are politically active while at the workplace or representing the County.
- 11.3.4 Engaging in political activity while on duty, utilizing county time, or equipment for political reasons or campaigning on county property.

11.4 HATCH ACT COMPLIANCE. A county employee whose principal employment is in connection with an activity financed in whole or in part by federal loans or grants is required to comply with the provisions of the federal Hatch Act (5 U.S.C. Section 7321-7328.)

- 11.5 **RUNNING FOR POLITICAL OFFICE.** Employees of the county, whether classified or unclassified, who become a candidate for state, federal , municipal, county or local office, shall take a leave of absence from the employee's position in county service. Such leave of absence shall be for thirty (30) days immediately prior to the general election. The leave may be charged to accrued annual leave or compensatory time, if available. This provision shall not apply to candidates running unopposed.
- 11.6 **CONFLICT BAN.** No employee shall engage in any business or transaction or accept private employment or other public employment which is incompatible with the proper discharge of the employee's responsibilities or which gives the appearance of impropriety or is prohibited by federal and/or state law. All employees, including elected officials, are required annually to complete and file with the human resource office, a conflict of interest statement.
- 11.7 **GIFTS, GRATUITIES AND KICKBACKS.** All employees are prohibited from accepting gifts or other considerations from anyone given with intent of modifying the employee's performance of duties or encouraging the employees to make purchases from or decisions that will benefit the individual or business involved. Employees will maintain the highest moral standards and any attempt to influence an employee's performance by a vendor or other person will be reported immediately to the department director or elected official and to the county manager.
- 11.8 **OUTSIDE EMPLOYMENT.** Employees may not, directly or indirectly, engage in any outside employment or financial interest which conflict(s) with the best interest of the county or interfere with the employee's ability to perform his/her assigned responsibilities. Examples include, but are not limited to, outside employment which:
- a) Prevents the employee from being available for overtime assignments, emergencies, causes the employee to not be alert and functional during the employee's normal work hours;
 - b) Is conducted during the employee's work hours;
 - c) Utilizes county telephones, computers, supplies, or any other county property;
 - d) Constitutes employment, contractual commitment or self-employment which conflicts with section 11.7(gifts, gratuities, kickbacks); or
 - e) May reasonably be perceived as a conflict of interest, gives the appearance of impropriety or otherwise discredits public service.

An employee who has an additional job, that does not conflict, as described above, shall be required to provide written notice to their immediate supervisor of their outside

employment. This report shall be filed annually and at any time changes occur in the outside employment in the human resource office, within the employee's file. The employee's supervisor shall continuously monitor outside employment, to ensure that such employment does not conflict with county policy.

11.9 INVESTIGATIONS. Internal/ Administrative investigations may be warranted when allegations of misconduct have been made. The county manager and human resource director will determine under which circumstances an external investigation may be warranted.

11.9.1 An employee may be placed on administrative leave with pay pending an investigation. If this occurs, the employee will be notified in writing of such action. The employee will remain available to report to work during normal administrative work hours.

11.9.2 Internal/ administrative investigations will normally be completed within forty-five (45) calendar days. If an investigation continues for more than forty-five (45) calendar days, the employee may request a status report.

11.9.3 An employee must make them self available for interview when called upon by the investigator during normal scheduled work hours.

11.9.4 Investigations shall comply with applicable law of the State of New Mexico.

SECTION 12: DISCIPLINE

12.1 JUST CAUSE DISCIPLINE. Disciplinary actions for classified employees are based on just cause in order to promote the efficiency of the services rendered by the county and the operation of its respective divisions and offices. Disciplinary actions shall be consistent with governing laws and regulations and shall be taken without regard to race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or serious medical condition. No employee shall be disciplined for refusing to perform an unlawful act.

12.2 DEFINITION OF JUST CAUSE. Just cause is defined as any conduct, action or inaction arising from, or directly connected with, the employee's work which is inconsistent with the employee's obligation to the county and reflects the employee's disregard of the county's interest, or conduct which brings discredit upon the county. Just cause includes, but is not limited to: incompetency; theft; misconduct; fraud; dishonesty; negligence; insubordination; violation of county policy or procedure; unauthorized use of county funds, property, facilities, materials or equipment; unauthorized absences, repeated tardiness and excessive absences, or other performance which continues to be inadequate

after reasonable efforts have been made to correct the performance problems; or for violations of safety practices, conviction of a felony, or misdemeanor involving moral turpitude as described in the Criminal Offender Employment Act. NMSA 1978, § 28-2-1 et. seq. or conviction of a felony or infamous crime as described in NMSA 1978, § 10-1-3.

- 12.3 **DISCIPLINARY ACTION.** The county manager, elected officials, and/or division supervisors may take disciplinary action against an employee under the supervisor's authority, consistent with departmental policies and this personnel ordinance. Copies of any documented disciplinary actions must be furnished to the human resource office for placement in the employee's file with the signature of the recipient acknowledging receipt of the action or a notation stating the employee refused to sign.
- 12.4 **Consultation with County Manager.** Dismissal, involuntary demotion and suspension require consultation with the county manager before implementation. Whenever such consultation is not practical because of urgent circumstances necessary action may be taken and the situation reviewed with the county manager and county attorney as soon as practical.
- 12.5 **PROGRESSIVE DISCIPLINE.** A classified employee shall be progressively disciplined whenever determined appropriate by the county. Progressive discipline may not always be warranted. The level of discipline applied depends on the severity of the infraction and the employee's previous work record. Under certain circumstances, suspension or termination may be the appropriate discipline without prior disciplinary action having been taken. Each case of inadequate performance or act of misconduct shall be judged individually. Adverse actions involving substandard work performance require progressive discipline.
- 12.5.1 **Verbal Reprimand.** A verbal reprimand is used for minor infractions such as informing the employee that his actions, behavior or conduct needs to change. Supervisors shall document all verbal reprimands, and place such within the supervisor's files. These shall not be placed in the employee's personnel file, unless made of part of a later written reprimand. A verbal reprimand is not grievable. Causes of verbal reprimands include, but are not limited to:
- a) substandard work performance including failure to complete assignments or failure to complete them timely, inaccurate or unprofessional work product, interrupting other employees and keeping them from completing their work, excessive use of the telephone for personal business, loud and disruptive conduct, conducting personal business while on duty, conducting business related to politics, insubordination, and any other violation of county rules, policies, and regulations.

- b) tardiness and/or excessive absences.

12.5.2 Written Reprimand. 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 ineffective. Causes for written reprimand include, but are not limited to:

- a) the causes listed for verbal reprimands
- b) refusal to carry out directives; insubordination; and failure to comply with the lawful orders of a supervisor including the refusal to accept after hours assignments
- c) sleeping on the job
- d) failure to follow safety rules
- e) failure to follow county rules and procedures
- f) unauthorized leave
- g) harassment
- h) conduct unbecoming of a county employee
- i) failure to follow the chain of command within the department
- j) unauthorized use or abuse of county property (i.e. telephones, cell phones, computers, vehicles, equipment, property, etc.)

12.5.3 The supervisor shall present the written reprimand to the employee. The employee shall acknowledge having received and read the written reprimand by signing the reprimand. The employee may note disagreement on the reprimand or may prepare a written rebuttal within five (5) days. The written reprimand and rebuttal, if any, shall be placed in the employee's personnel file in the human resource office. Written reprimands are not grievable.

12.5.4 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 shall not exceed twenty (20) work days. Suspension of a classified employee may be appealed pursuant to the formal grievance procedures. Causes for suspension include, but are not limited to:

- a) Continued, repetitive instances of misconduct, for which verbal and/or written reprimands have been issued;
- b) Continued, repetitive instances of poor performance and failure to adhere to policy and continued acts of conduct unbecoming of a county employee.
- c) Serious offenses warranting suspension.

12.5.5 Demotion. An employee may be demoted as a disciplinary measure provided a position is available for which the employee otherwise qualifies. Demotion is not an appropriate disciplinary action for an employee who has a record of excessive absences, tardiness, insubordination, dishonesty, or failure to follow county policy or regulation.

12.5.6 Dismissal. Dismissal is the final consequence when progressive discipline has failed to change unacceptable behavior or performance. Dismissal is also appropriate when the employee has engaged in behavior that is of a serious nature which is unacceptable for county employees even though the employee has not been previously disciplined. Causes for dismissal include, but are not limited to:

- a) All causes listed for the previous three (3) disciplinary actions if continuing after attempts to correct has failed
- b) Excessive or unauthorized absences or tardiness
- c) Theft of county property
- d) Conviction of felony or misdemeanor as described in the Criminal Offender Employment Act, NMSA 1978, § 28-2-1 et. seq.
- e) Acts of negligence or carelessness causing damage to persons or county property or the property of others
- f) Falsification of information on the employee's job application or other county records
- g) Unlawful manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on the job or reporting to work under the influence of an unlawful controlled substance or alcohol; or failure to meet requirements of rehabilitation programs
- h) Intentional abuse or destruction of county equipment
- i) Refusal to carry out reasonable orders or assignments
- j) Bringing unapproved weapons onto county property
- k) Refusal or failure to comply with county policy or safety hazard
- l) Inappropriate, harassing, and /or disruptive conduct interfering with the county's operation
- m) Unauthorized use of county property, facilities, materials, equipment, or other county assets, including the Internet, for personal use or personal gain
- n) Accepting gratuities or violation of other county rules, policies or regulation

- o) Failing to cooperate in an administrative investigation and /or lying to the investigator
- p) Any other conduct deemed not to be in the best interest of the county and its employees
- q) When demotion is recommended as a disciplinary action and no position is available
- r) Fraud, lying or practicing deception
- s) Engaging in a work stoppage, slow down, or picketing in a labor dispute
- t) Failure to return to work after use of FMLA or attempting to return to work without supporting doctor's excuse
- u) Inability to perform functions of the job
- v) Engaging in acts that bring discredit upon the department or the county; conduct unbecoming a public employee/official.

The above examples are typical of the types of infractions sometimes encountered but are not inclusive of all situations which may arise. The county reserves the right to exercise judgment and render disciplinary action or dismissal as determined appropriate based on the circumstances of each case.

SECTION 13: EMPLOYEE GRIEVANCE PROCEDURE

- 13.1 The chain of command establishes communication protocol between San Miguel County and its employees to ensure employee's concerns are addressed, the county and its employees will utilize the chain of command protocol. An employee shall discuss his/her concern(s) with his/her immediate supervisor. If the concern cannot be handled at this level, the employee may request a meeting with the next level supervisor, up to the elected official or division supervisor of his/her division. If it becomes necessary to pursue the issue beyond the supervisor level, or if the concern cannot be handled or remedied within the department due to supervisory conflict, the next appropriate step will be a meeting with the human resource director who may confer with the county manager. If the matter is not resolved at the supervisory level, the matter shall be referred to the county manager, for final resolution, as per this ordinance.
- 13.2 **INFORMAL GRIEVANCES.** The purpose of the informal grievance is to provide employees, in an atmosphere of courtesy and cooperation, an equitable solution to problems or complaints which may affect the employee in the course of his/her employment with the county. When applicable, the informal grievance procedure allows employees to voice complaints concerning alleged improper actions of supervisors or management. The informal grievance procedure does not apply to suspensions, demotions, and terminations.

13.3 INFORMAL GRIEVANCE PROCEDURE. To initiate the informal grievance procedure, an employee must verbally discuss the problem with his supervisor not later than five (5) days after the occurrence of a problem. In the event that the employee is not satisfied with the action proposed to be taken by his supervisor, or for any other reason, the employee shall put the complaint in writing and submit it to the human resource director within five (5) days of the meeting with the supervisor. In such cases the written informal grievance shall be forwarded to the county manager for resolution and decision with any additional explanatory material deemed useful by the human resource director. The decision if the county manager is final. Supervisors may not take reprisals against employees who take advantage of the informal grievance procedure, but abuse of the process by the grievant can be the subject of disciplinary action.

13.4 FORMAL GRIEVANCE PROCEDURE. This formal grievance procedure applies exclusively to suspension, involuntary demotion, and dismissal of classified employees.

13.4.1 Written Disciplinary Notice. The employee's division supervisor shall present the employee with written notification of intent to suspend, demote, or dismiss at least three (3) working days in advance of the pre-disciplinary meeting. The written notification shall include the charges, proposed discipline, date, time, and location of the pre-disciplinary meeting. The notification shall be hand-delivered to the employee or mailed certified mail. Receipt of which shall be acknowledged by signature of the employee or recipient of the certified letter. An employee may waive his/her right to a pre-disciplinary meeting.

13.4.2 Immediate Suspension. In cases where county property, other employees, or citizens may be at risk because of the employee's actions or otherwise deemed appropriate by the county manager, the county manager may place the employee on administrative leave with pay while an investigation is conducted, up to the time the final decision on any disciplinary action is rendered.

13.5 PRE-DISCIPLINARY MEETINGS.

13.5.1 Pre-disciplinary Meeting Procedure. The employee's division supervisor and the human resource representative shall meet with the employee. At this pre-disciplinary meeting, the employee shall have the opportunity to respond to the charges and proposed disciplinary action. The employee may be represented by a person of his/her choosing at the pre-disciplinary meeting. The county attorney may also be present at the pre-disciplinary meeting. An employee may waive the pre-disciplinary meeting.

13.5.2 Pre-disciplinary Meeting Decision. The employee's supervisor shall issue a decision in writing within ten (10) calendar days of the pre-disciplinary

meeting and shall include the effective date of the disciplinary action. The written decision shall be delivered either directly to the employee (obtaining the employee's signature of receipt of the decision) or be sent certified mail, return receipt requested. The employee has the right to appeal the decision to a personnel hearing officer by filing a written appeal within five (5) calendar days with the county manager.

13.6 POST DISCIPLINARY HEARING/APPEALS PROCEDURE.

- 13.6.1 The county manager shall appoint a hearing officer when a timely appeal has been filed. The hearing officer shall determine the date and time of the post-disciplinary hearing and any continuances. Requests for continuance of hearings shall be made five (5) working days prior to the scheduled hearing, absent extenuating circumstances. Requests for continuance of hearings shall be made in writing directly to the hearing officer with copies to all parties.
- 13.6.2 Post-disciplinary hearings shall be conducted as open meetings with notice given to the public pursuant to the New Mexico Open Meetings Act, unless the grievant requests a closed hearing in writing at the time of the appeal to the county manager.
- 13.6.3 Notice of the hearing shall be sent by certified mail to the grievant and postmarked at least ten (10) days prior to scheduled hearing. Copies of the hearing notice shall be sent concurrently to the county manager, division supervisor and the county attorney.
- 13.6.4 Either a tape recorded or stenographic record of all post-disciplinary grievance hearings shall be made.
- 13.6.5 At least seven (7) working days prior to the hearing all parties shall submit to the hearing officer and the opposing party: a statement identifying the issues to be heard, a witness list, and a complete list of documents to be admitted as evidence. A copy of all documents shall be provided with the list to the opposing party. Failure to timely submit this documentation shall result in the party being denied the opportunity to call witnesses or submit documents into evidence.
- 13.6.6 The parties shall attempt to stipulate the facts and issues to the greatest extent possible prior to the hearing.

13.6.7 Prior to the hearing, the parties shall prepare copies of all exhibits and evidence which are expected to be presented. The parties shall stipulate to exhibits to the extent possible and bring to the hearing adequate copies for the hearing officer as well as the witness.

13.6.8 Witnesses, other than the parties' representative in the grievance hearings, shall not be admitted into the hearing room until called upon to testify.

13.6.9 The hearing official shall:

- a) Make a ruling on procedural and substantive issues raised at the hearing
- b) Determine the admissibility of evidence and testimony, all of which must have a direct bearing on the issues before the hearing officer
- c) Follow the evidentiary standard for administrative agencies
- d) Issue a written decision which will include finding of fact and conclusion of law within thirty (30) days of the close of hearing or submission or post-hearing briefs.

13.6.10 Conduct of Hearings

- 1) The County, which carries the burden of proof by preponderance of evidence, shall present its case, followed by the grievant. Opening statements are limited to the pertinent issues of fact and law and shall not exceed ten (10) minutes without permission from the hearing officer.
- 2) Order of Presentation
 - a) The county shall present its case first. Following each witness' testimony, the grievant shall have the opportunity to cross examine the witness. Redirect questioning shall be allowed and re-cross and further redirect is at the discretion of the hearing officer. The hearing officer shall then have the opportunity to question the witness on matters related only to the witness' testimony and shall restrict his/her questions to those necessary to clarify the testimony previously given.
 - b) Witnesses for the grievant may be questioned on their involvement in or knowledge of the case. Following each witness' testimony, the County shall have the opportunity to cross examine the witness. Redirect questioning shall be allowed and re-cross and further redirect is at the discretion of the hearing officer. The hearing officer shall then have the opportunity to question the witness on matters related to the witness' testimony and shall restrict his/her

questions to those necessary to clarify the testimony previously given.

- c) Following presentation of the grievant's position, the county may offer brief rebuttal testimony. Such testimony shall address only the issues brought forth in the grievant's presentation.
- d) The county's closing statement shall be presented, followed by that of the grievant. These statements shall not exceed ten (10) minutes without the permission of the hearing officer and at a minimum shall contain a request for the desired outcome. The county shall have the opportunity to make a brief and final statement which shall be limited to issues brought forth in the grievant's closing statement. Closing statements may be waived or presented in post-hearing briefs.
- e) The hearing officer may request that each party prepare findings of fact and conclusions of law and/or post-hearing briefs to be submitted to the hearing officer. Either party may also request the right to file a post-hearing brief, which shall be granted.

13.6.11 Communications of Hearing Officer's Decision. The hearing officer's findings and conclusions shall be issued within thirty (30) calendar days of the hearing or the submission of briefs and shall be signed by the hearing officer and transmitted to the grievant, division supervisor, and the county manager by hand delivery or certified mail. The hearing officer may uphold, modify, or reverse the decision of the county manager and may reinstate the employee and award only back pay and benefits. The record of the proceedings shall be retained by the county manager's office or the certified court reporter for a period of not less than one (1) year from the hearing date, along with all of the physical evidence admitted by the hearing officer. The verbal record shall be transcribed only in the case of appeal to the district court by one of the respective parties. The party requesting the transcription shall make arrangements to pay for the transcription.

13.6.12 Appeal of the Hearing Officer's Decision. Either party may appeal the hearing officer's decision in the Fourth Judicial District Court within thirty (30) days of the date of the hearing officer's decision.

13.7 MATTERS NOT GRIEVABLE

The following matters are not grievable:

- Disputes as to whether or not an established county practice or policy is good.

- Matters where a method of review is mandated by law.
- Matters where the county is without authority to act or does not have the ability to provide a remedy.
- Release of temporary employees prior to or at the end of their anticipated employment period.
- The dismissal of probationary employees prior to the expiration of their probationary period.
- The dismissal of appointed employees at any point during their employment with the county.
- Performance evaluations, preferences for employment promotions, transfers, temporary assignments, removal from temporary assignments, and layoffs.
- Verbal or Written reprimands.

SECTION 14: SAFETY

The county is committed to having all work conducted in a safe manner. All county safety policies shall be adhered to.

- 14.1 **SAFETY AND LOSS CONTROL INITIATIVE** establishes and sets forth guidelines for safety and loss control programs for all San Miguel County employees, in accordance with Administrative Regulation, ADM-R-09-11-07 SA.
- 14.2 **WEAPONS IN THE WORKPLACE.** It is the policy of the county that employees are strictly prohibited from introducing, possessing, using, buying, or selling weapons, firearms, ammunition, explosives, or other items constituting deadly weapons as defined by NMSA 1978, § 30-1-12 (B) (1963), as amended. Said weapons are prohibited on any premise controlled by the county, including parking areas, regardless of whether the individual possesses a “concealed weapons permit” or not. Additionally, all county employees, including contract and temporary employees, are prohibited from carrying firearms or dangerous weapons of any type outside county premises while acting within the course of their employment, regardless of whether the person possesses a “concealed weapons permit”.

The aforementioned policy statement regarding the possession of firearms or other dangerous items does not pertain to deputies commissioned by and for the sheriff’s department, certified animal control officers or those detention officers authorized to carry firearms by the warden of the detention center, when said employees are in the lawful performance and discharge of their duties.

- 14.3 **HAZARDOUS EMERGENCY PROCEDURES PLAN** establishes and sets forth guidelines for the handling of all hazards, in accordance with Administrative Regulation, ADM-R-11-12-03-EVAC.
- 14.4 **SEARCHES.** The county's employees should not expect privacy in their personal effects and vehicles while on county property or on county time. The county may search lockers, desks, toolboxes, lunch sacks, purses, backpacks, gym bags, clothing, county internet, county e-mail, county computer accounts and county electronic media, storage, a county vehicle, or a private vehicle on county property. To the extent that an employee refuses to permit a search, such refusal may constitute grounds for disciplinary action. All searches shall be authorized only as determined to be necessary by the county manager.
- 14.5 **INFECTION CONTROL** establishes and sets forth guidelines for an infection control policy for San Miguel County employees, in accordance with Administrative Regulation, ADM-R-07-21-03-INFEC.
- 14.6 **WORKPLACE VIOLENCE.** The county provides a safe work place for all employees. All employees, including managers and supervisors, are responsible for using safe workplace practices, for following all directives, policies and procedures, and for assisting in maintaining a safe and secure work environment.
- 14.6.1 **Prohibited Conduct.** The county does not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities. This list of behaviors, while not inclusive, provides examples of conduct that is prohibited:
- a) Causing physical injury to another person;
 - b) Making threatening remarks;
 - c) Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subject, or causing another individual severe emotional distress;
 - d) Intentionally damaging county property or property of another employee;
 - e) Possession of a weapon while on county property or while on county business;
 - f) Committing acts motivated by, or related to sexual harassment, harassment, or domestic violence.
- 14.6.2 **Reporting Procedures.** Any potentially dangerous situations must be reported immediately in writing to a supervisor or the County Manager's office. All reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need

to know basis. The county will actively intervene at any indication of a possible hostile or violent situation.

14.6.3 Risk Reduction Measures.

- a) **Hiring:** the county takes reasonable measures to conduct background investigations to review candidate's backgrounds and reduce the risk of hiring individuals with a history of criminal behavior.
- b) **Safety:** the loss control specialist and risk management carrier conduct annual inspections of the premises to evaluate and determine any vulnerability to workplace violence or hazards. Any necessary corrective action will be taken to reduce all identified risk areas.
- c) **Individual Situations.** While the county does not expect employees to be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and to inform their supervisors or department director if any employee exhibits behavior which could be a sign of a potentially dangerous situation. Such behavior includes:
 - 1. Discussing the use of weapons in a threatening manner related to workplace, or bringing them to the workplace;
 - 2. Displaying overt signs of extreme stress, resentment, hostility, or anger;
 - 3. Making threatening remarks;
 - 4. Sudden or significant deterioration of performance;
 - 5. Displaying irrational or inappropriate behavior.

14.6.4 Dangerous/Emergency Situations. Employees who are confronted by or encounter an armed or dangerous person should not attempt to challenge or disarm the individual.

14.6.5 Enforcement. Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated. Any employee determined to have committed such acts will be subject to corrective or disciplinary action, up to and including dismissal. Non-employees engaged in violent acts on the county's premises will be reported to the proper authorities.

14.7 DRUG FREE WORK PLACE. San Miguel County is committed to a drug-free work place in compliance with the Drug- Free Work Place Act of 1988.

- 14.7.1 **Illegal Use of Drugs or Alcohol.** The use of controlled substances, drugs, prescribed and non-prescribed, or alcohol is a concern to San Miguel County when it interferes with job performance, conduct, attendance, safety, or when it is violation of the law. The unlawful manufacture, distribution, possession, or use of a controlled substance or alcohol by an employee while on county premises or while on county business is prohibited. Conducting county business, which includes driving vehicles or operating county equipment, while under the influence of alcohol or other drugs is also prohibited. Engaging in any of these prohibited activities shall result in termination from employment.
- 14.7.2 **Pre-Employment Drug Testing.** Once an individual has been identified as a potential candidate to fill a vacant position, including temporary positions, the employee/candidate shall be tested for alcohol or drugs. A confirmed positive test result shall be grounds for revoking the job offer. If the individual has started work, the employee shall be terminated.
- 14.7.3 **Reasonable Suspicion Testing.** Any San Miguel County employee shall be tested for alcohol and/or drugs if the division supervisor, elected official, safety officer, human resource director or county manager has reasonable grounds to suspect that the employee is engaging in the use of drugs or alcohol on the job or reporting to work under the influence of drugs or alcohol. Reasonable suspicion includes, but is not limited to, the following:
- a) Job accidents requiring medical treatment or causing damage to property, where the employee is a contributing factor to the accident.
 - b) Evidence of alcohol or drugs or drug paraphernalia discovered on the employee's person, personal or county vehicle, personal effects and/or at the employee's workplace.
 - c) Any employee showing signs of erratic behavior, changes in mood, altered appearance or speech patterns, dilated or constricted pupils, glazed stare, poor concentration, difficulty walking, needle marks, smell of alcohol on breath and/or person, an increase in absenteeism, tardiness, deterioration of work performance and/or other signs of impairment.
 - d) An articulated report that the employee is reporting to work under the influence of drugs or alcohol or is distributing or in possession of alcohol or drugs in the workplace.
- 14.7.4 **Refusal to Submit to Drug Testing.** Refusal by the employee to submit to drug testing based on reasonable suspicion shall be grounds for dismissal.

14.7.5 Random Drug Testing. All employees who perform safety sensitive functions shall be randomly tested for alcohol and controlled substances. Any employee who is subject to random drug testing and who refuses to be randomly tested shall be dismissed.

14.7.6 Testing Procedures. All testing procedures shall be in accordance with San Miguel County Drug and Alcohol Testing procedures as administered by San Miguel County's third party administrator and managed by the human resource office.

SECTION 15: MISCELLANEOUS

15.1 PERSONAL APPEARANCE. Employees are constantly in the public eye; consequently it is important that the employees present the best possible image to the public. Employees should always be clean and neatly dressed in clothing suitable for their work assignments and must dress in appropriate business attire at all times. All employees are to be considerate of co-workers, clients, customers and guests as good personal hygiene is a must. Heavy application of perfume and cologne is not permitted due to sensitivity (allergies, illness, etc.) of employees and customers/clients. Traditional business attire is required for employees in direct contact with the public. Employees in positions that do not require direct contact with the public should still dress suitably for a professional office environment. Clothing must be clean and neat without holes and tears.

An employee who is in doubt about the appropriateness of a particular mode of dress should consult with the employee's supervisor in advance. Supervisors and the county manager are responsible for enforcing the dress code. An employee found to not be in compliance with this provision may be sent home to change on unpaid time.

15.2 DESIGNATED WORK AREAS. All employees shall be at their designated work areas on time and ready to work and 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 shall keep them neat and clean.

15.3 PERSONAL BUSINESS. Personal business shall not be conducted during work hours while on or off county premises. Use of personal cell phones shall be minimized and shall not interfere with county work duties.

15.4 COUNTY PROPERTY. Employees shall not misuse county property, records, or other material in their care, control, custody, or remove any county property, records, or other materials from the premises of the county offices unless written permission has been granted by the county manager. Employees shall not use any county property, records, or equipment for personal use or gain or for non-county business.

15.5 **COMPUTER, EMAIL AND INTERNET USE.** Use of the Internet by employees of San Miguel County is permitted and encouraged where such use supports the goals and objectives of the county and helps achieve work goals. However, access to the Internet through San Miguel County is a privilege and all employees must adhere to the policies concerning Computer, E-mail and Internet usage. Violation of these policies could result in disciplinary and/or legal action leading up to and including termination of employment. Employees may also be held personally liable for damages caused by any violations of this policy. Internet access is limited to job-related activities only and personal use is not permitted. If an employee is unsure about what constitutes acceptable Internet usage, then he/she should ask his/her supervisor for further guidance and clarification.

- A. Job-related activities include research and educational tasks that may be found via the Internet that would help in an employee's role.
- B. All Internet data that is composed, transmitted and/or received by San Miguel County computer systems is considered to belong to San Miguel County and is recognized as part of its official data. It is therefore subject to disclosure for legal reasons or to other appropriate third parties.
- C. The equipment, services and technology used to access the Internet are the property of San Miguel County and the County reserves the right to monitor Internet traffic and monitor and access data that is composed, sent or received through its online connections.
- D. E-mails sent via the County e-mail system should not contain content that is deemed to be offensive. This includes, though is not restricted to, the use of inappropriate, vulgar or harassing language and/or images.
- E. All sites and downloads may be monitored and/or blocked by San Miguel County if they are deemed to be harmful and/or not productive to business.
- F. The installation of software such as instant messaging technology, web browser toolbars, hard drives, back-up drives, or other software or hardware not pre-approved by the county information technology director is strictly prohibited.

Unacceptable use of the internet by employees includes, but is not limited to:

- a. Access to sites that contain obscene, hateful, pornographic, unlawful, violent or otherwise illegal material.
- b. Sending or posting discriminatory, harassing, or threatening messages or images on the Internet or via San Miguel County e-mail service.
- c. Using computers to perpetrate any form of fraud, and/or software, film or music piracy.
- c. Stealing, using, or disclosing someone else's password without authorization.
- d. Downloading, copying or pirating software and electronic files that are copyrighted or without written authorization from the county manager.

- e. Hacking into unauthorized websites or bypassing San Miguel County network security.
- f. Sending or posting information that is defamatory to the County, its products/services, employees, elected officials, and/or customers.
- g. Introducing malicious software onto the County network and/or jeopardizing the security of the County's electronic communications systems.
- h. Sending or posting chain letters, solicitations, or advertisements not related to business purposes or activities.
- i. Passing off personal views as representing those of the County.

SECTION 16: DEFINITIONS

A

Acting Position – A position assigned by the county manager when extended leave is granted to a director/supervisor or an extended vacancy exists for a period of time greater than five (5) days and no more than one (1) year.

Administrative Leave – paid leave approved at the discretion of the county manager. Administrative leave allows the employee to be away from work without losing any work-related benefits.

Anniversary – the date on which an employee was appointed to a classified position, also referred to as the “date of hire”.

Annual Leave – leave with pay granted to employees at a specific rate to be used by the employee with prior approval from management.

Appeal – a formal request that a decision pertaining to a formal grievance be considered at a further stage in the grievance process.

Applicant – an individual who has filed an application for a vacant position and desires to be considered for appointment to a position in the county service.

B

C

Casual Employee – An employee called to work on an occasional basis without a guarantee of hours of work or continued employment.

Class – one or more positions which are sufficiently alike to warrant using the same (or similar) title, qualification requirements, examination and pay grade, sometimes referred to a “classification”.

Classification Plan – the sum total of all class specifications in the county service.

Classified Employee – An employee holding a Board of County Commissioners’ approved position who has successfully completed the initial probationary period. A classified employee is entitled to all of the rights and benefits of the San Miguel County Personnel Ordinance and all other personnel rules and regulations. Classified employees are subject to the disciplinary and grievance procedures set forth in these policies.

Compensation Plan – An organization of positions and compensation for employees set by the Board of County Commissioners.

Compensatory Time – those hours granted to employees covered by the Fair Labor Standards Act in lieu of overtime on the basis of one and one-half (1 ½) hours of compensatory time for each hour of overtime actually worked in excess of forty (40) hours in one week or pursuant to the 207(k) exemption. Overtime must be pre-approved by the county manager.

Confidential Information – Information not available to the public and protected by NMSA 1978, Chapter 14, Article 2, “The Inspection of Public Records Act”.

D

Demotion – the assignment of an employee from one class to another which has a lower pay grade (also known as downgrade and reclassification).

Dependent – an employee’s biological child, step-child, adopted child, or foster child, who resided with the employee, is under the age of 19 at the end of a calendar year or under the age of 24 and a fulltime student for at least five (5) months out of the year, or at any age and totally and permanently disabled and for whom the employee provided more than half of the individual’s support.

Division Director – a county official designated with responsibility for operations and management of a major division of county government as determined by the county manager.

Disability – a physical or mental impairment which substantially limits one or more major life activities; or a record of having such impairment; or is regarded as having such an impairment.

Discipline – action taken with regard to an employee that may include reprimand, suspension, demotion, involuntary transfer specified as disciplinary action, or termination.

Domestic Partner – two individuals who are in a mutually exclusive, committed relationship for the last twelve (12) months, who share a primary residence, who are jointly responsible for the common welfare of each other, who share financial obligations and have executed an affidavit of domestic partnership with the Human Resource Department and have been granted domestic partnership status.

Due Process – the right to a pre-disciplinary meeting and grievance procedure granted to a full-time or part-time classified employee, who has successfully completed the probationary period.

E

Elected Official – an individual elected by popular vote or appointed to fill a vacancy in elective office (i.e. county commissioner, county clerk, county assessor, county treasurer, county sheriff, and probate judge).

Essential Employee – for the purpose of inclement weather leave, essential employees are San Miguel County Sheriff's Office personnel, Detention Center personnel and Public Works personnel.

Essential Job Functions – the fundamental job duties of the employee's position.

Exempt Employee – employees occupying positions determined to have met the exemption requirements as defined in Department of Labor regulations relating to the Fair Labor Standards Act and whose compensation is based on a fixed annual salary.

F

Fair Labor Standards Act (FLSA) – the federal law which sets minimum wage, overtime pay, equal pay, record keeping and child labor standards for employees who are covered by the act.

Family Medical Leave – leave granted under the Family and Medical Leave Act of 1993 and as amended.

G

Grievance – a written complaint from an employee regarding working conditions, appeal of discipline, or application, interpretation, or violation of the rules and regulations of the county or the department for whom the employee works.

H

Hearing – a formal review in the grievance process of the facts and circumstances surrounding a personnel action.

I

Immediate Family – the employee’s parents, step-parents, or the parents of the employee’s spouse or domestic partner, children, siblings, grandparents, step-child(ren) and domestic partner.

Insubordination – failure to obey a direct lawful order of a supervisor or someone higher in the chain of command or a policy, rule, regulation, or procedure. The conduct of an employee constituting defiance, disobedience, dissention, rebelliousness, or resistance to supervision.

Interim Position – a position assigned by the county manager when a vacancy exists. The interim assignment entitles the employee to an increase in salary commensurate with the responsibilities assumed.

J

Job Description – a written statement of duties, responsibilities, and essential functions which characterizes a job and includes the education, experience, knowledge and ability to perform the duties of the job.

Just Cause – any conduct, action or inaction arising from, or directly connected with, the employee’s work which is inconsistent with the employee’s obligation to the county and reflects the employee’s disregard of the county’s interest or conduct which brings discredit upon the county.

K

L

Layoff – the separation of an employee which occurs when a position has been abolished due to material changes in duties, or shortage or stoppage of work or funds or other reasons in the best interest of the county, as determined by the county manager.

Leave – an authorized absence from regularly scheduled work hours for reasons specified in the personnel rules (holidays, vacations, sickness, injury, disability, jury duty, etc.).

Leave With Pay – Authorized absence from work with pay.

M

Management – persons designated as heads of a group of employees, a section, a major functional unit or an activity with authority and responsibility to exercise independent judgment; who assign tasks, set standards of job performance, recommend hires, transfers, suspensions, layoffs, recalls, promotions, and terminations of subordinates. Further, they may assign, discipline, and direct employees or adjust employee grievances.

Military Leave – paid leave granted to an employee who is a member of the armed services, air national guard, or a military reservist not to exceed fifteen (15) working days per calendar year.

Misconduct – unacceptable or improper behavior by an employee; failure to meet the employer's expectations, or disregard for the county's or citizens' interests.

N

Nepotism – the practice of showing favoritism toward relatives, in hiring or work-related functions (see Section 5).

New Hire – a person not previously employed by San Miguel County.

Nonexempt Employees – all employees who are not exempt employees as defined in Department of Labor regulations relating to the Fair Labor Standards Act and eligible for overtime.

O

Overtime – the time an employee is directed and authorized to work in excess of the forty (40) hours per week or pursuant to the 207(k) exemption for designated Sheriff and Detention Center employees.

P

Pay Period – a two week period, of which there are twenty-six (26) per specified year.

Performance Evaluation – the written objective review conducted by the employee's supervisor of an employee's performance related to the employee's assigned duties and/or behavior.

Performance Improvement Plan – the written plan set by a supervisor to improve performance of an employee that may include: standards, deficiencies, and expectations for improvement, time deadlines, and/or a monitoring schedule.

Personal Day – Leave with pay, one (1) day per year accrued on the anniversary date to be used in full day increment at the discretion of the employee and subject to supervisor's approval.

Political Appointee – an employee appointed by an elected official in the following divisions: County Assessor's Division (deputy assessor and first deputy), County Clerk's Division (deputy clerk), County Treasurer's Division (deputy treasurer), Sheriff's Division (undersheriff and office manager).

Pre-Disciplinary Meeting – a meeting scheduled by the county manager or his designee to determine propriety of proposed disciplinary action of suspension, demotion or dismissal.

Probation – a one year (12 month) period of at-will employment during which an employee is required to demonstrate fitness for continued employment. The probation period is another phase in the selection process.

Probationary Employee – a full-time or part-time employee hired to fill a position in the classified service who has not yet completed the probationary period of employment during which time the employee may be terminated at will.

Promotion – the assignment of an employee from one class to another, which has a higher maximum rate of pay and greater responsibility. Promotion requires that an employee be upgraded and reclassified.

Q

R

Reclassification – reassignment of a position from one class (grade) to a different class (grade) to correct an error in the original assignment or to recognize a change in duties and responsibilities of a position.

Reasonable Accommodation – any modification or adjustment to a job, the work environment, or the way in which the work is customarily performed that makes it possible for a qualified individual with a disability to perform the essential functions of the job and ensure equal employment opportunity.

Re-Hire – Re-employment of a former employee who left the county in good standing.

Reinstatement – an action whereby an employee is restored to county employment after an involuntary termination or suspension. Reinstatement may be to the same position, a similar position in pay, or a different position.

Resignation – voluntary separation from county employment prior to retirement.

S

Salary – payment for work performed that is predetermined and uniform from one payday to the next and does not depend on the number of hours worked.

Selection – the choosing of a candidate for employment.

Separation – removal of an employee from the payroll for voluntary or involuntary reasons; to include dismissal, resignation, layoff, retirement, abandonment of job, death, and other reasons.

Sick Leave – leave with pay granted to an eligible employee after accrual at a specific rate for illness, injury, medical appointment, or to care for an immediate family member with a serious medical condition.

Standby – the period an employee spends waiting for work. The employee is required to stay within a thirty (30) mile radius from the San Miguel County border or forty-five (45) minute response time of the employee's worksite.

Suspension – an involuntary leave of absence, without pay, for disciplinary reason.

I

Temporary Employee – an employee who has been appointed to a temporary position in accordance with the personnel rules, who is not eligible to receive benefits and who is not entitled to rights of grievance and appeal. A temporary employee may be full-time or part-time.

Termination – the dismissal of an employee from county employment.

Transfer – assignment of an employee from one position to another in the same salary schedule. May also be an assignment of an employee from one work site to another, from one division to another, to more or less responsibility or skilled occupations or from one operational assignment to another in accordance with existing policy. Transfers may be voluntary or involuntary.

U

Unauthorized Absence – absence from duty without supervisory approval.

Unpaid Leave – authorized absence from work without pay.

V

Vacancy – an authorized position not occupied by an incumbent which has been approved by the appropriate designated authority for filling.

Volunteer – Section 203 (e)(4)(A) of FLSA and 29 CFR 553.101, 553.103 and 553.106 state that individuals are volunteers and not employees of a public agency when they meet the following criteria:

- Perform hours of service for civic, charitable or humanitarian reasons without promise, expectation, or receipt of compensation for the services rendered. Volunteers can receive no compensation but may be paid expenses, reasonable benefits or a nominal fee to perform such services (553.101(a), 553.106 (a));
- Offer their services freely and without any pressure or coercion, direct or implied from the employer (553.101 (c)); and
- Are not employed by the same public agency to perform the same services as those for which they propose to volunteer (553.101(d)).


W

Wage – payment that is calculated according to the number of hours worked and which may fluctuate from one pay day to the next as the number of hours worked varies.

SAN MIGUEL COUNTY ORDINANCE NO. 06-12-18-PERSONNEL

Replacing Ordinance No.12-12-00-ORD-Personnel and all subsequent amendments, for all persons employed by San Miguel County and will be in effect July 1, 2018.

MOVED, SECONDED, and ADOPTED, BY THE Board of County Commissioners of San Miguel County, New Mexico this 12 day of June, 2018, after a hearing and public notice as required by law.

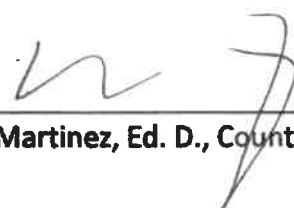

Chris A. Najar, Chairman


Janice C. Varela, Vice-Chair


Arthur J. Padilla, Member


Rock G. Ulibarri, Member


Maria L. Martinez, Member


Vidal Martinez, Ed. D., County Manager

Approved as to Form and Content:


Dave Romero, Jr., SMC Attorney

Attested:


Geraldine Gutierrez, SMC County Clerk

SAN MIGUEL COUNTY

ORDINANCE NO. 06-12-18-PERSONNEL

ACKNOWLEDGEMENT FORM

I, _____, hereby acknowledge that I have been presented with a copy of the San Miguel County Personnel Policy. Furthermore, I acknowledge that I have been given the opportunity to review the same and to ask questions in order to have a clear understanding of the County's Personnel Policy.

Signature

Date

Human Resource Division

Date



Human Resource Division

Eileen T. Sedillo

Human Resource Director

Maria L. Martinez
Chair - District 4

Chris A. Najjar
Vice-Chair - District 5

Harold M. Garcia
Commissioner - District 1

Janice C. Varela
Commissioner - District 2

Max O. Trujillo
Commissioner - District 3

Vidal Martinez, Ed. D.
County Manager

RESOLUTION NO. 04-14-2020-PERSONNEL
COUNTY OF SAN MIGUEL
AMENDMENT TO ORDINANCE NO. 06-12-2018-PERSONNEL

TITLE: AN ORDINANCE AMENDING SAN MIGUEL COUNTY PERSONNEL ORDINANCE NO. 06-12-2018-PERSONNEL, SECTION 4 EMPLOYMENT STATUS/ CONDITIONS AND ADDING A NEW PARAGRAPH 4.17, TERM APPOINTMENT EMPLOYEE.

4.17. Term Appointment Employee is hired as a full-time or part-time employee, into a position that is designated to run for a defined period of time of not more than one (1) year; however, may be renewable depending on the funding source for the position (i.e. grants and contracts). Employees hired for a term appointment will be separated from the County as of the specified date unless the department supervisor notifies the employee that the appointment will be extended. Term employees are terminable at will and may not avail themselves of the grievance procedure set forth but are entitled to all other County benefits as defined by the San Miguel County Personnel Ordinance No. 06-12-2018-Personnel. Term appointment employees are not placed on layoff status at the end of the appointment.

MOVED, SECONDED AND ADOPTED this 14th day of April, 2020, by the Board of County Commissioners of San Miguel County, New Mexico.

Maria L. Martinez

Maria L. Martinez, Chair
District 4

Chris A. Najjar

Chris A. Najjar, Vice-Chair
District 5

Harold M. Garcia

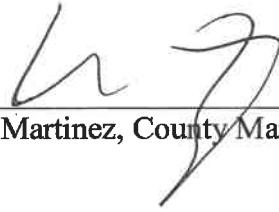
Harold M. Garcia, Commissioner
District 1

Janice C. Varela

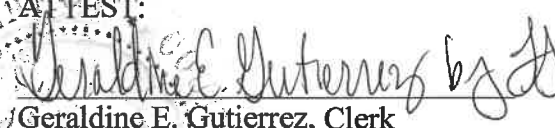
Janice C. Varela, Commissioner
District 2

Max O. Trujillo, II

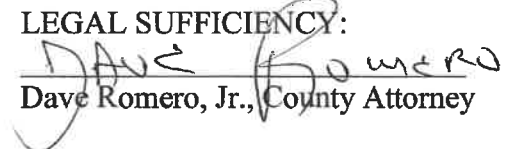
Max O. Trujillo, II, Commissioner
District 3


Dr. Vidal Martinez, County Manager

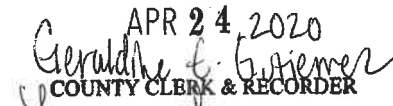
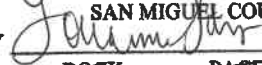
ATTEST:


Geraldine E. Gutierrez, Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:


Dave Romero, Jr., County Attorney

FILED IN MY OFFICE
AT 2:37 O'CLOCK P.M

APR 24 2020

COUNTY CLERK & RECORDER
SAN MIGUEL COUNTY
BY  DEPUTY CLERK
BOOK _____ PAGE # 202000912