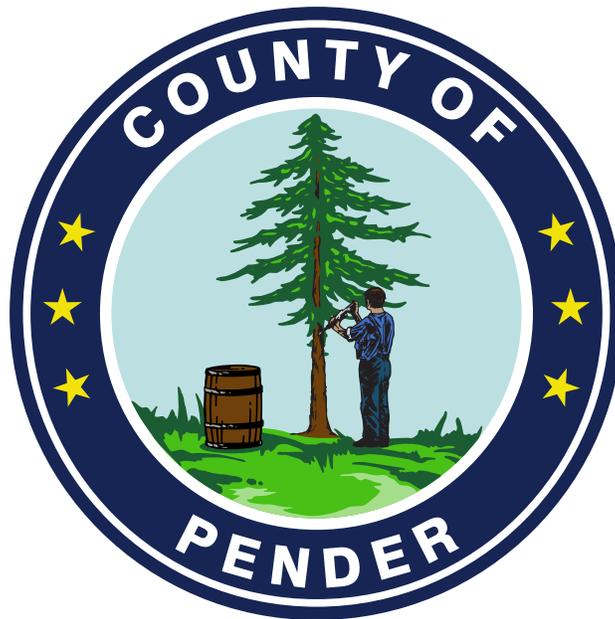


Employee Personnel Policies

*Effective
07/01/2025*

*Previously Amended
12/06/2021*



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WELCOME PENDER COUNTY EMPLOYEES

The Pender County Board of County Commissioners welcomes you as an employee of Pender County Government and wishes you every success during your career with Pender County. Each employee individually contributes to the growth and success of Pender County Government, and it is the hope of the Board of Commissioners that you take pride in working for Pender County.

Our Mission Statement

Pender County is committed to delivering exceptional public service through the responsible stewardship of resources in order to build a safe, healthy, and vibrant community where anyone can thrive.

Pender County Government focuses on five core strategic priorities:

- 1) Support Schools and Education
- 2) Enhance Public Safety
- 3) Strategic Growth and Infrastructure
- 4) Enhance Public Communication
- 5) Internal Development & Retention

Pender County Values include:

- Community
- Stewardship
- Transparency
- Professionalism
- Excellence

Employees play a critical role in Pender County's core strategic priorities, values and mission and all employees are encouraged to always strive to achieve excellence. Thank you for being a part of the Pender County Government team.

POLICY DISCLAIMER

The Pender County Board of Commissioners is making these Employee Personnel Policies available to provide important information about your employment with Pender County. Whether you are a new employee or have been a Pender County employee for many years, we believe you will find the information contained in the Employee Personnel Policies useful in understanding your responsibilities as a Pender County employee and in explaining the benefits available to you.

These Employee Personnel Policies provide the County with a framework to promote consistent human resource management practices and procedures throughout all County departments. We believe these policies promote a work environment that helps employees perform their duties to the best of their abilities. In this way, the Employee Personnel Policies positively contribute to the County's efforts to provide the most efficient and responsible service to the County's citizens.

Employees are responsible for becoming familiar with and complying with the content of these policies. If you have questions about any of the policies and how they apply to you, you are encouraged to contact your supervisor or Human Resources for more information. The Employee Personnel Policies do not constitute a guarantee or contract of employment, and the County reserves the right to change, revoke, interpret, or add to any of these policies at any time at its sole discretion without prior notice. The County is an “at-will” employer and retains the right to terminate employment at any time and for any reason not prohibited by law or public policy of the State of North Carolina.

The Employee Personnel Policies cannot cover every possible situation that may arise. There may be amendments to the Employee Personnel Policies over time. As policies are amended, employees will be notified of the changes. The most current version of the Employee Personnel Policies will be posted on the County’s Intranet, MyPender and on the Human Resources webpage.

PENDER COUNTY EMPLOYEE PERSONNEL POLICIES ACKNOWLEDGEMENT

By signing below, I acknowledge that I have received, and have been provided the opportunity to read, and understand the County's Employee Policies. I understand that the Employee Personnel Policies are provided to me for general guidance and are not an exhaustive statement of County policies or procedures.

In addition, I understand that the Employee Personnel Policies do not constitute a contract of employment and that the County may change, revoke, interpret, or add to any of these policies at any time at its sole discretion without prior notice. I understand that the County is an at-will employer and retains the right to terminate my employment at any time for any reason not prohibited by law.

Finally, I understand that any amendment of the Employee Personnel Policies will always govern and supersede any prior version. I also understand that if I have questions or concerns regarding the Pender County Personnel Policies, my terms of employment and/or working conditions with the County, I should contact my supervisor or Human Resources.

Employee Name (Print): _____

Employee Signature: _____

Date: _____

SAMPLE PAGE

This page is provided for the employee's record. All employees will complete a separate Pender County Employee Personnel Policies Acknowledgement Form and submit it to Human Resources for their personnel file.

ARTICLE I – GENERAL PURPOSE AND SCOPE

Section 1. Purpose

The policies contained in the Employee Personnel Policies have been adopted by the Pender County Board of Commissioners to establish a human resources system that provides for the recruitment, selection, and continuous development of an effective workforce, responsive to the needs of Pender County residents. The policies are adopted pursuant to the State of North Carolina General Statute Chapter 153A.

With the adoption of these Employee Personnel Policies, the Pender County Board of Commissioners is making a good faith effort to comply with all applicable state and federal laws and regulations. While adoption of these policies culminates a comprehensive review and update of the County's personnel policies, the Pender County Board of Commissioners recognizes that these policies are not a complete and exhaustive set of policies or procedures that govern employment with the County. The Pender County Board of Commissioners also recognizes that periodic updates and revisions of these personnel policies will be necessary. Changes in personnel policies adopted by the Pender County Board of Commissioners will be communicated promptly to all employees through 1) adoption by the Board during the public Board Meeting, 2) e-mail, and 3) posted on the My Pender intranet and the Pender County website on the Human Resources webpage.

Section 2. Coverage

All employees in the County's service are subject to these policies except as specified in this section.

- A. Board of Commissioners and Elected Officials.
- B. The County Manager and County Attorney are appointed by the Board of Commissioners and are exempt from this policy unless provided for by separate documents or otherwise required by federal or state laws and regulations.
- C. Members of advisory boards, commissions, special boards, task forces, and committees.
- D. Employees of the Sheriff and Register of Deeds are subject to these personnel policies with the exception that they serve at the will of those elected officials. The Sheriff and Register of Deeds have the right to hire and terminate employees in their respective departments under the authority of N.C.G.S. 153A-103.

- E. Employees of the Cooperative Extension Service and Soil and Water whose annual compensation is supplemented by state and federal funds shall be subject to all provisions of these policies except those provisions which conflict with the memorandum of understanding executed between the County and the North Carolina Cooperative Extension Service and North Carolina Soil and Water.
- F. Employees of the Board of Elections are subject to these policies except the County Board of Elections shall appoint and remove election clerks, assistant clerks, and other Election employees under the authority of N.C.G.S. 163-33 (10). The Executive Secretary-Director of the State Board of Elections appoints the Director of Elections. The Executive Secretary-Director can render a decision to terminate the County Director of Elections following procedures set out in N.C.G.S. 163-35 (b).
- G. Temporary employees, as designated by the Board of Commissioners, shall be subject to all Articles and sections except those where they are specifically listed as exempt or ineligible.

Section 3. Employee Classifications

- A. **Full-time Employee:** An employee who is filling a budgeted position with a salary grade on the Pender County Payroll Plan and who is regularly scheduled to work forty (40) hours per week as defined under the Fair Labor Standards Act or 2080 hours a year.
- B. **Law Enforcement I/7K Exemption 86:** Law enforcement personnel are employees who are empowered by State or local ordinance to enforce laws designed to maintain peace and order, protect life and property, and to prevent and detect crimes, who have the power to arrest and who have undergone training in law enforcement. Section 7(k) of the FLSA provides that employees engaged in fire protection or law enforcement may be paid overtime on a “work period” basis. A “work period” may be from 7 consecutive days to 28 consecutive days in length. Law enforcement personnel must receive overtime after 86 hours worked during a 14-day work period.
- C. **Law Enforcement – 40 hours a week:** A law enforcement employee may also be designated to fill a budgeted position with a salary grade on the Pender County Payroll Plan and who is regularly scheduled to work forty (40) hours per week as defined under the Fair Labor Standards Act or 2080 hours a year. These employees would earn overtime at no less than time and one-half their regular rates of pay for all hours worked, more than 40 hours in a workweek.

- D. **Part-time Budgeted Employee work less than 30 hours per week:** An employee, who is regularly scheduled less than forty (40) hours per week as defined under the Fair Labor Standards Act or less than 2080 hours a year and is filling a budgeted position that is assigned a salary grade within the budget on the Pender County Payroll Plan. There are no County benefits associated with a part-time position except for Workers' Compensation, FICA and Unemployment Insurance.

- E. **Part-time Budgeted employees that work consistently 30 hours or more a week or 130 hours of service per month** are eligible for the county's contribution towards health insurance in accordance with the Affordable Care Act. (*Hour of Service as defined by the IRS states "Each hour for which an employee is paid or entitled to payment, for the performance of duties for the employer/county."*) Part-time employees that work 1,000 or more hours per calendar year will be eligible for retirement benefits with the Local Government Retirement System. Part-time employees who work at least 1250 hours a year are provided FMLA leave after one (1) year of employment if requested for a qualifying reason. If a part-time budgeted employee works over 30 hours or more a week, the part-time budgeted employee may be eligible for the county provided long term disability, \$10,000 basic life insurance, and 401K or 457 Contribution.

- F. **Probationary Employee:** A person appointed to a budgeted position who has not yet completed the probationary 12-month period of employment.

- G. **General Employee:** An employee that has successfully completed the prescribed probationary period. All County positions are subject to budget review and approval each year by the County Board of Commissioners, and all employees' work and conduct must meet standards of performance and behavior. Therefore, reference to "general" employee is not to be construed as a contract or right to perpetual funding or employment and does not affect the "At-will" status of the employment relationship.

The following classifications are not eligible for benefits and no service credit shall be given for time worked until transferred/hired into a position that has been budgeted within the annual budget with an associated salary grade on the Payroll Plan unless otherwise noted.

- A. **Part-time Temporary Employee:** A person hired to serve in a non-budgeted position or an employee serving on an as needed basis to fill in for other employees. less than 1,000 hours per calendar year. Temporary employees do not have individual budgeted positions. Temporary employees are budgeted as a group with a lump sum dollar amount available for the employees hired. Temporary employees can substitute for other employees or work as needed. Temporary employees may be assigned an hourly rate associated with assigned positions found on the payroll plan and paid the hourly

rate associated with assigned position. Temporary employees are not guaranteed hours. Temporary employees do not earn leave and are not eligible for holiday pay or administrative leave. Temporary employees that meet the 1,000-hour threshold in a calendar year cannot work during the remainder of that calendar year. If the temporary employee is worked beyond the pay period, that they meet the 1,000-hour threshold the Department Director will be scheduled on the next Commissioners agenda to seek approval from the Board of Commissioners to establish a part-time position in their department.

- B. **Seasonal Employee:** A temporary employee who works in a position that is seasonal in nature and does not work more than seven (7) months in any calendar year and who is exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act.
- C. **Volunteer:** A person who donates their time and energy without receiving financial or material gain. The individual would need to (1) work toward public service, religious, or humanitarian objectives; (2) not expect or receive compensation for services; and (3) not displace any genuine employees. Individuals cannot volunteer to do the same type of work that they perform as a part of their normal work duties as a Pender County employee.
- D. **Intern.** A person who may receive high school or college credit by completing educational tasks and not “busy work.” An intern cannot displace existing employees. An intern usually has a contract/agreement that is signed between the school and the employer with the criteria of the internship and completes a paper, project, presentation after the internship to share what is learned with the professor and/or class. Some internships may occur in the summer when students are out of school with no school credit involved, only work experience which may or may not be compensated. Students are not automatically entitled to a job at the conclusion of the training. In accordance with 2010 DOL Wage and Hour Fact Sheet, the agency makes a special exception “under certain circumstances for individuals who volunteer to perform services for a state or local government agency.” The DOL generally permits unpaid internships in the public sector, provided the intern volunteers his/her time without any expectation of compensation. Public Agencies may only provide payment to unpaid interns for expenses such as transportation, meals or uniforms or nominal fees that do not exceed 20% of the wages paid to a regular employee who performs the same tasks, are not tied to productivity and are not intended to be a substitute for compensation. Interns, whether paid or unpaid, are not eligible for county benefits and must work less than 1,000 hours in any twelve (12) month calendar year.

E. **Independent Contractor.** A person contracted to provide a service that does not qualify as an employee. In accordance with the July 15, 2015, Department of Labor (DOL) guidance that defines “independent contractor,” Pender County will consider the following six factors:

- The extent to which the work is performed is an integral part of the county's business.
- The worker’s opportunity for profit or loss depends on his managerial skill.
- The extent of the relative investments of the county and the worker.
- Whether the work performed requires special skills and initiative.
- The permanence of the relationship.
- The degree of control exercised or retained by the county.

An independent contractor does not have an individual budgeted position and would not be assigned a salary grade on the payroll plan. Independent Contractors do not earn leave and are not eligible for holiday pay. Independent Contractors also do not qualify for the Local Government Retirement System nor county benefits. This classification is not eligible for any benefits or compensation other than that which is specified in the contract, agreement, or Memorandum of Understanding; or otherwise required by federal or state laws and regulations.

Section 4. Responsibilities of the Board of Commissioners

Pursuant to North Carolina General Statutes, the Pender County Board of Commissioners is responsible for adopting personnel policies and amending them as necessary, adopting the classification and pay plan and amending the plan as necessary to maintain a plan that is fair and equitable, confirming appointments as required by law, and fulfilling other responsibilities that may be established by state statute. The Board of Commissioners shall establish office hours, workdays, and holidays to be observed by the various offices, departments, boards, commissions, and agencies of the County per N.C.G.S. 153A-94.

Section 5. Responsibilities of Elected Officials

Pursuant to North Carolina General Statute 153A-103, the Sheriff and the Register of Deeds have the exclusive authority to hire, discharge, and supervise the employees of their respective departments. These policies apply to the employees of the Sheriff and Register of Deeds to the extent they do not conflict or usurp the authority granted under N.C.G.S. 153A-103.

Section 6. Responsibilities of the County Manager

Pursuant to North Carolina General Statutes 153A-82, the County Manager is the chief administrator of the County Government and responsible to the Board of County Commissioners for the administration of all departments of county government under the Board's general control. The County Manager is authorized to appoint, discipline, suspend, and remove all County officers and employees, except those elected by the people or those employees whose appointment is otherwise provided for by law or those employees specifically exempt. The County Manager shall make appointments, dismissals, and suspensions in accordance with N.C.G.S. 153A-82 and these Employee Personnel Policies. Pursuant to N.C.G.S. 153A-92(c), the County Manager is responsible for preparing position classification and pay plans for submission to the Board of Commissioners and for administering the pay plan and any position classification plan in accordance with the general policies and directives adopted by the board.

North Carolina General Statute 153A-82 further states:

- The County Manager shall attend all meetings of the Board of Commissioners and recommend any measures that he considers expedient.
- He shall see that the orders, ordinances, resolutions, and regulations of the Board of Commissioners are faithfully executed within the county.
- He shall prepare and submit the annual budget and capital program to the Board of Commissioners.
- He shall annually submit to the Board of Commissioners and make available to the public a complete report on the finances and administrative activities of the County as of the end of the fiscal year.
- He shall make any other reports that the Board of Commissions may require concerning the operations of county officers, departments, boards, commissions and agencies.
- He shall perform any other duties that may be required or authorized by the Board of Commissioners. (1927, c.91, ss. 6, 7; 1973, c. 822, s. 1.)

Section 7. Responsibilities of the Human Resources Director

The County Manager may appoint a Human Resources Director who shall assist in the preparation and maintenance of the position classification plan and the compensation plan and perform such other duties in connection with the County personnel program as the County Manager may require. If the County Manager does not appoint a Human Resources Director, the County Manager or such employee who is under his or her direction and supervision shall perform all the following duties and responsibilities. The duties and responsibilities of the Human Resources Director or the County Manager as Human Resources Director shall include, but not be limited to the following:

- A. Apply, interpret, and carry out these Employee Personnel Policies, and the policies adopted hereunder, as directed by the County Manager.
- B. Establish and maintain records relating to all persons in County employment or service.
- C. Develop and administer recruiting policies and programs to attract qualified applicants to meet the needs of the County; qualified applications will be forwarded to the individual departments.
- D. Develop and administer a performance appraisal/review program with merit monies awarded for exemplary job performance and exemplary behavior above and beyond expectations as budgeted. The Human Resources Director will notify the County Manager of any incomplete annual performance evaluations that were not submitted by the deadline.
- E. Investigate, as necessary and appropriate, the time, operation and effect of these human resources policies and other policies as appropriate.
- F. Make recommendations, as appropriate, to the County Manager, Board of Commissioners and Department Directors regarding County personnel functions; and issue and publish, as necessary, administrative directives, supplements, interpretations, policy statements, forms, reports, and other personnel materials necessary for the proper functioning and maintenance of these Employee Personnel Policies.
- G. Designate those employees who are exempt from the overtime provisions of the Fair Labor Standards Act.
- H. Establish, maintain, and administer compensation and benefit programs.
- I. Review, evaluate and provide training, career development, and educational programs for County employees.
- J. Serve as the County's EEO Officer and report any EEOC claim or potential claim to the County Manager, Staff Attorney and County Attorney immediately upon notification.
- K. Serves as the County's ADA Coordinator.
- L. Coordinate personnel action processes and facilitate and document appropriate grievance processes to ensure the County provides adequate consideration in resolving personnel actions.

Section 8. Responsibilities of the Department Directors

- A. The Department Director of each County department or Board shall be responsible to the County Manager for recommendations for the appointment, suspension, and removal of County officers or employees assigned to their departments.
- B. Department Directors shall be responsible for bringing to the attention of the County Manager and/or Human Resources Director the need for new positions, abolishing positions and changes in the nature of duties, responsibilities, working conditions, or

- other factors affecting the classification of any existing positions.
- C. The Department Directors of each County department or Board shall be responsible to the County Manager that all employees are thoroughly familiar with the provisions of these Employee Personnel Policies.
 - D. Documentation of professional licenses and related training required for specific positions through a Career Development Plan must be maintained by the Department Directors and filed with Human Resources.
 - E. Documentation of employee changes and evaluations must also be maintained, and copies filed with Human Resources. It is the responsibility of the Department Directors to ensure that evaluations are conducted fairly, on time, on an annual basis, or as needed as a part of a Performance Improvement Plan.
 - F. Copies of departmental employee authorized travel must be maintained by the Department Directors.
 - G. Department Directors are responsible for ensuring that all employees under their supervision know how to and have accurately recorded their time for each payroll cycle. Once entered, Supervisors/Managers will sign off on each employee's time accurately reflecting their hours for the respective payroll to the best of their knowledge. Department Directors are also responsible for ensuring that time is entered in accordance with the requirements of the County's Human Resources Policies. If an employee has been absent for more than 3 consecutive days, the Department Director is required to inform Human Resources to see if the employee qualifies for FMLA and/or cooperate with further investigation if necessary.
 - H. Department Directors are expected to effectively and quickly manage personnel issues and harassment claims. Should the Department Director fail to address an employee issue or the employee's job performance, and/or behavior fail to improve, and the issue continues to impact or be problematic with the organization/operations, the Assistant County Manager may step in to resolve the matter. The Department Director may be held accountable with disciplinary action for his/her failure to address the situation timely and appropriately. Human Resources is available to assist as needed to resolve matters.
 - I. Department Directors are expected to always act appropriately and professionally while working with employees and the citizens of Pender County.
 - J. **Budget and Finance Responsibilities:** Each Department Director is responsible for the financial operations of their respective department. Annually, the Department Directors must coordinate with the County Manager and Finance Department to suggest the needs of their department to effectively operate in the budget year to come. Throughout the year, Department Directors are required to maintain their budget in accordance with the County's Budget Manual to avoid over expenditures in violation of North Carolina General Statutes. Department Directors are responsible for expending County funds only in accordance with the County's Purchasing Manual. Department Directors should

make every effort to obtain additional funding for the operations of their department if possible and communicate those efforts to Finance.

- K. Department Directors should have all contracts/agreements reviewed by the County Manager and/or Staff Attorney and the Finance Department for pre-audit certification and only authorized signers approved by the Board of Commissioners should sign on behalf of the County.
- L. During an emergency/inclement weather event, Department Directors are expected to coordinate with Emergency Management, the Human Resources Director, Finance/Payroll and the County Manager to assist with staffing the Emergency Operations Center, Shelters, etc. and/or planning for alternate work arrangements for employees to continue county services in time of emergencies if required.
- M. Department Directors are required to provide a minimum of four (4) weeks' notice to the County Manager when resigning/retiring from their positions.

ARTICLE II – EMPLOYMENT

Section 1. Statement of Equal Employment Opportunity

It is the policy of the County to provide equal employment opportunities for all employees and applicants seeking County employment. All employment policies and practices will be nondiscriminatory in compliance with federal laws, state statutes, and local ordinances.

Pender County will take appropriate action to ensure that all employment practices are administered without regard to race, religion, color, national origin, sex, age, disability, sexual orientation, gender identity, genetic information, or any other protected category under local, state, or federal law. These employment practices include but are not limited to recruitment, hiring, compensation, transfer, promotion, demotion, reduction in force, recall, benefits, training, and termination. The County's policy is to ensure that all employment decisions, including promotions, are based solely on individual merit, and qualifications for the job.

The Human Resources Director serves as the Equal Opportunity Officer and is responsible for carrying out the Equal Employment Opportunity policy. Employees can bring complaints, ask questions, and raise concerns under this policy without fear of reprisal. Charges or complaints of discrimination should be referred to the Human Resources Director. The County will not tolerate retaliation, harassment, intimidation, threats, coercion, or discrimination against anyone who files a complaint, exercises a right, opposes improper conduct or assists in an investigation.

Section 2. Reasonable Accommodations under the Americans with Disabilities Act (ADA) and Amendments Act

The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act, known as the ADAAA, are federal laws that require employers with 15 or more employees to not discriminate against applicants and individuals with disabilities and, when needed, to provide reasonable accommodations to applicants and employees who are qualified for a job, with or without reasonable accommodations, so that they may perform the essential job duties of the position unless such accommodation creates an undue hardship on the county. The Human Resources Director serves as the County's ADA Coordinator.

It is the policy of Pender County Government to comply with all federal and state laws concerning the employment of people with disabilities and act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). The County will not discriminate against a qualified individual because of disability with regard to job application procedures, hiring, promotion, compensation, job training, employee benefits, discharge of employees, and other terms or conditions of employment.

Pender County Government will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to

these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation and/or if the accommodation creates an undue hardship to the County. Employees must schedule an appointment with Human Resources to inform them of their need for accommodation as soon as possible to begin the process.

All employees are required to comply with safety standards. Current employees who pose a direct threat to the health and/or safety of themselves or other individuals in the workplace will be placed on appropriate leave until an organizational decision has been made in regard to the employees' immediate employment situation.

As used in this ADA policy, the following terms have the indicated meaning:

Disability means a physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such impairment or being regarded as having such an impairment.

Major life activities include the following, but are not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

Major bodily functions: The ADAAA also includes the term "major bodily functions," which may include physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. Also covered are any mental or psychological disorders, such as intellectual disability (formerly termed mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Substantially limiting: In accordance with the ADAAA final regulations, the determination of whether impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include, but are not limited to, epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. Impairment such as cancer that is in remission but that may possibly return in a substantially limiting form also is considered a disability under EEOC final ADAAA regulations.

Direct threat means a significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.

Qualified individual means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

Reasonable accommodation includes any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

Undue hardship (29 CFR § 1630.2(p) [ADA] and 29 CFR § 1636.3(j)(1) and (2) [PWFA] means an action requiring significant difficulty or expense by the employer. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include, but are not limited to:

- The nature and cost of the accommodation.
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources; or the impact of such accommodation upon the operation of the facility.
- The overall financial resources of the employer; the size, number, type and location of facilities.
- The type of operations of the employer, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular department involved in making the accommodation to the employer.
- The accommodation's impact on the county's operations, including the impact on the ability of other employees to perform their duties and the impact on the county's ability to conduct its business.

Essential functions of the job refer to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.

The examples provided in the above terms are not meant to be all-inclusive and should not be construed as such. They are not the only conditions that are considered to be disabilities, impairments or reasonable accommodations covered by the ADA/ADAAA policy.

Section 3. Pregnancy Discrimination Act (PDA)

April 15, 2024, the Equal Employment Opportunity Commission (EEOC) issued its final Pregnancy Workers Fairness Act (PWFA) rules. Previously, the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) provided its guidance on the 2016 Discrimination on the Basis of Pregnancy, Childbirth or related medical conditions Rule (§ 60-20.5).

And more recently, The PWFA became effective June 18, 2024, to expand pregnant worker's rights. The PWFA tells employers to treat pregnancy-related conditions as temporary disabilities that qualify for accommodations. The PWFA requires the county to accommodate conditions

related to pregnancy such as menstruation, infertility and fertility treatments, contraception, gestational diabetes, morning sickness, miscarriage, abortion, preeclampsia, and childbirth (vaginal delivery and caesarian section), issues involving breast feeding and lactation, and post-partum depression unless it causes an undue hardship on the county's operations. *(The above examples are not meant to be all-inclusive and should not be construed as such.)*

Although Human Resources has an open-door policy, employees must schedule an appointment with Human Resources to inform them of their need for accommodation as soon as possible to begin the informal, interactive process. Pender County will consider reasonable accommodation requests made by employees with pregnancy-related disabilities and grant accommodations where appropriate unless the accommodation poses an undue hardship to the county based on factors such as cost, severely impact business operations, resources available, etc. *(similar to the undue hardship explanation in the ADA Policy above.)* Reasonable accommodation may be available to individuals with temporary impairments including impairments related to pregnancy. If the particular accommodation requested by an employee cannot be provided, the possibility of providing alternative accommodation may be discussed. If an employee is unable to perform some of their job duties because of pregnancy, childbirth, or related medical condition, the county may consider alternative job assignments, modified duties, temporary leave or other accommodations that are reasonable. Some examples of reasonable accommodations that may be considered for a pregnant employee:

- Redistributing or altering marginal or nonessential functions that a pregnant worker cannot perform
- Modifying workplace policies such as allowing a pregnant worker additional eating, drinking, bathroom and rest breaks
- Modifying a work schedule so that someone experiencing severe morning sickness may arrive later than her usual start time and leave later to make up the time
- Working Part-time
- Providing equipment, uniforms, devices, or aids that assist with lifting or carrying
- Allowing a pregnant worker placed on bed rest to telework where feasible
- Offering temporary leave or FMLA if they qualify
- Purchasing or modifying equipment such as a stool for a pregnant employee who needs to sit while performing job tasks typically performed while standing
- Temporarily reassigning an employee to a light duty or vacant position
- Providing closer parking spaces

Suspending an Essential Function may be an option provided unless it is considered an undue hardship:

- The length of time that the employee will be unable to perform the essential function.
- Whether other work exists for the employee to do,
- The nature of the essential function including how frequently it is performed

- Whether essential functions have been temporarily suspended for other employees in similar positions
- Whether there are other employees to perform the essential function or whether temporary employees or third parties can be hired and
- Whether the essential function can be postponed or remain unperformed for any length of time.

Documentation Requirements. If the condition and need for accommodation is not obvious that the employee’s limitation arises out of pregnancy, childbirth or a related medical condition, the county can reasonably request confirmation of the employee’s physical or mental condition and a description of the workplace adjustment that is needed from a health care provider.

Confidentiality. Supervisors and Managers are only entitled to know the necessary restrictions on the employee’s work or duties and any required accommodations, not all their medical details according to 29 CFR §1630.14(d)(4)(i).

Pender County and the PWFA explicitly prohibits discrimination based on pregnancy, childbirth, or related medical conditions. This includes discrimination in hiring, pay, job assignments, promotions, termination, etc.

Section 4. At-Will Employment

Employment with Pender County is “at will” and can be terminated with or without cause, with or without notice, at any time, at the option of either the County or the employee, except as otherwise provided by law.

Pender County Government retains sole discretion to exercise all managerial functions, including the right:

- To dismiss, assign, supervise, and discipline employees.
- To determine and change starting times, quitting times and shifts.
- To transfer employees within departments or into departments.
- To determine and change the size and qualifications of the workforce.
- To determine and change methods by which its operations are to be carried out.
- To determine and change the nature, location, services rendered, and continued operation of the business; and
- To assign duties to employees in accordance with Pender County’s needs and requirements.

Nothing in this Employee Handbook should be considered as altering the employment-at-will relationship or as creating an express or implied contract or promise concerning the policies that Pender County has implemented or will implement in the future. Accordingly, Pender County retains the right to establish, change, and delete its policies, practices, rules and regulations “at will” and as it sees fit.

An exception to this policy is a written employment agreement approved at the discretion of the County Manger and/or Board of Commissioners, whichever is applicable.

Pender County has complete discretion to terminate employees for reasons not stated in the Pender County Personnel Policies.

Section 5. Recruitment

Recruitment and selection practices are conducted solely on the basis of job-relevant qualifications, ability, merit, and competence without regard to race, religion, color, national origin, sex, age, disability, sexual orientation, gender identity, genetic information or any other protected category under local, state, or federal law. All advertisements for employment shall include an assurance that the County is an equal opportunity employer and will comply with federal and state statutes regarding discrimination in employment matters. In making a selection among candidates to fill vacancies, the County may use written, oral or performance tests, an evaluation of training and experience, skills tests, psychological tests, or any combination of these. For selected Bona Fide Occupational Qualification (BFOQ) positions, a fitness for duty test, education/certification verification and credit/financial check may also be required.

Pre-employment background checks, driver’s history and drug screening is required for all potential new hires. See [Article IV](#) for more information on pre-employment background checks; see Article III, Section 8. Driver’s License Requirements for more on driver’s history and see [Article XVI](#) for more information on pre-employment drug screening.

When a position becomes vacant, the Department Directors must submit a HRMS (HR Management System) requisition to advertise/fill the position. The request to advertise the position must include any revisions to the position’s job description that should be made prior to posting or advertisement for the position. A position will not be posted or advertised if it has not been previously budgeted and authorized by the Board of County Commissioners.

Section 6. Residency

The position of County Manager shall be required to establish permanent legal residency within the County within twelve (12) months of the date of hire unless a different time frame has been agreed upon by the Board of County Commissioners. The Board of Commissioners are permitted to make an exception to the residency requirement. The County Manager shall provide proof of

residency (i.e. voter registration, driver's license, etc.) to the County. No other County employee is required to establish residency within the County.

Section 7. Job Advertisements

The goal of this policy is to ensure that all employees are made aware of and have the opportunity to apply for open positions either before or concurrently with the County's consideration of external candidates for employment. While it is Pender County's philosophy to promote from within whenever possible, there are business conditions that could cause a position to be filled without posting, or to post the position while simultaneously recruiting from the outside. The business conditions that could cause a decision to bypass posting, or to post the position while simultaneously recruiting from the outside, include, but are not limited to organizational restructuring; position requirements that include skills, education, certifications and/or experience that are not known to match any existing employee; critical operational needs; etc. In addition to these business conditions, managers may request an exception when they have candidates within the same department or division who are qualified and/or already trained for the position. The decision to fill the position without posting requires the recommendation of the Human Resources Director, and the approval of the County Manager.

Each job posting will contain the job title, department, a complete job description which includes: a concise summary of principal duties, responsibilities and requirements of the job, and minimum qualifications of the candidates for the job, grade and salary range.

Job postings will be posted on County employee bulletin boards and on the County websites from the date that the position is advertised until the established closing date for accepting applications. Job postings may be advertised with the Employment Security Commission, with other local, state or national organizations, and in newspapers and professional publications and on websites as deemed appropriate by the Human Resources Director. In general, it is the County's practice to post vacant positions for at least ten (10) calendar days.

All general part-time and full-time newly hired employees or recently transferred/promoted/demoted current employees with six or more months of continuous county service in their positions, and who have a satisfactory performance and attendance record, are eligible to apply for posted openings. All temporary/substitute employees with satisfactory performance are eligible to apply for posted openings. Elected Officials such as the Sheriff and Register of Deeds or those Department Directors that have employment statutes and/or the County Manager may make exceptions to this rule if it's beneficial to the Department.

Qualified and eligible employees who wish to apply for a posted position should complete an application from the internet (HRMS)or Human Resources and submit the application package to Human Resources by the closing date specified on the job posting. Human Resources may review each applicant's application package to determine if their qualifications are appropriate,

relevant and/or complete prior to forwarding the package to the hiring department. The hiring department will interview all selected qualified candidates. Managers may request to review an internal applicant/employee's original employment application, resume, and two most recent performance appraisals for each candidate. If an internal applicant is selected, the Department Director should as a courtesy inform the internal applicant's Department Director of the intention to hire the employee.

Once Human Resources is notified by the hiring department that all applicants are either not selected or interviewed, Human Resources through HRMS will notify the applicants of the disposition of the job. Once Human Resources is notified of the applicant selected for the vacant position, Human Resources through HRMS will notify the applicant with an offer letter. Once the applicant/new hire signs the offer letter, completes pre-employment screenings and Human Resources receives the successful results, the department will be notified of the start date, typically scheduled on an orientation day. Most new hires will begin at the minimum salary of the offered position unless significant justification is provided. The salary offered for the new position will be determined primarily based on the employee's qualifications for the new position, years of experience and internal equity within the department or work group. Employees can choose to accept, or decline offers without repercussions in their current position.

Section 8. Employee Referral Program

Pender County is always looking for great employees, and you can help. Research has shown, and our own experience supports, that new hires who come into the county through employee referrals are excellent contributors, stay with the county longer and are more cost-effective recruits.

That's where you come in! If you know someone who would be a good addition to Pender County, you may be awarded a referral bonus of \$1,000 (less taxes) if you refer a candidate and he or she is hired and successfully completes 6 months of the 12-month probationary period without any corrective action or disciplinary issues.

All Pender County employees, except County Manager, Attorneys, Department Directors, Human Resources personnel, and Supervisors with hiring authority over the referred candidates, are eligible for the referral bonus.

Temporary, contract and former employees of Pender County are not eligible candidates for referral awards. A referring employee may not receive a referral bonus for referring an immediate family member as defined in Article VIII – Employee Leave Benefits, Section 5. Sick Leave and Section 6. Bereavement Leave.

To be eligible for the award, the applicant must list your name as a referral on the application submitted through HRMS .

Only candidates who meet the essential qualifications for the position will be considered. All candidates will be evaluated for employment consistent with county policies and procedures. All information regarding the hiring decision will remain strictly confidential.

The referral bonus payment will be paid after the employee successfully completes 6 months of employment from the date of hire without any corrective action or disciplinary issues.

Section 9. Application for Employment

All qualified persons expressing interest in a county position, including current employees, will be given the opportunity to file an application for employment when the County is advertising to fill such positions. Pender County only accepts applications for positions that are vacant and posted. All applicants for a position must complete and sign the County's official application form for each position for which they are applying. Applicants may be required to submit certificates from educational and training institutions, proof of licensure, and other documentation requested by the County which provides reasonable proof of any statement made on the application. Any false statements within the application or omissions of relevant work experience may be cause for rejection of the application or, if employed, disciplinary action up to and including dismissal. Applicants who are not employed with the County and not selected for positions have no access to the County grievance procedure.

Applications will be maintained in a reserve file for a period of two (2) years, in accordance with the State of North Carolina Department of Cultural Resources Retention Schedule. To the extent that it is practical, reference to these files shall be made periodically in connection with the county's employment requirement to ensure that equal consideration is given to all applicants.

Section 10. Minimum Qualification Standards

The minimum qualification standards for applicants seeking County employment and for current County employees seeking a promotion or transfer must be consistent with the established job class requirements and with any documented specialized requirements for specific positions. Such specialized minimum job requirements must be a part of the position's job description maintained in the Human Resources Department. Minimum qualification standards include the specified education, experience, physical capabilities, and other knowledge, skills, and abilities necessary for the job class as established by the Human Resources Director in consultation with the Department Director.

Section 11. Selection

The County will select the successful candidate for each available position from among the applicants who meet the minimum qualifications established for the position.

Evaluation of qualifications is based upon job-related criteria and without regard to race, religion, color, national origin, sex, age, disability, sexual orientation, gender identity, genetic information or any other protected category under local, state, or federal law. It is the responsibility of the Human Resources Director to manage the selection process to ensure compliance with state and federal laws and consistent with the County's employment practices.

Selection procedures used to determine the qualifications of applicants for any position may include but are not limited to the following selection tools: an evaluation of the employment application and other submitted materials; structured interviews; reference checks; driver's license checks; academic verifications; criminal background and credit checks; and controlled substance testing. Department Directors must reasonably document hiring decisions to verify the basis for selection. If a structured interview format is used as a selection tool, it will include documentation that all candidates were asked identical questions and that the answers to those questions were evaluated in an objective, fair and good faith manner that provided a fair and equal opportunity to all candidates.

An interview panel, or other selection technique, shall be established to conduct candidate interviews, to evaluate the relative qualifications and merits of each candidate for all positions except those employed by elected officials or otherwise appointed by a separate board. In positions employed by elected officials or appointed by separate boards, the interview panel shall consist of employees in that department and the recommendation shall be made to the appointing authority. The Human Resources Director will assist the hiring manager to see that every interview panel reflects the diversity of the County's population among panel members. Once the selection process is completed, the hiring manager shall make the recommendation for hire to Human Resources through HRMS Personnel Action Form (PAF) which will then be sent to the County Manager for approval.

The Department Director, County Manager or Human Resources Director will notify the applicant deemed most qualified of selection and offer employment. The documentation of the interview procedures shall be placed in a file documenting the recruitment and selection process for that position. Once the candidate has been selected, and a phone call with a verbal offer has been accepted, HRMS will forward an offer letter with the details to the applicant. Once the offer letter is signed and accepted, it will be placed in the employee's personnel file.

The County reserves the right to condition an offer of employment on the results of a medical examination or screening. The purpose of a medical examination and/or screening is to determine if a candidate is physically able to perform the essential functions of the position and to ensure that an individual's physical condition will not endanger the health, safety, or well-being of other employees or the public. The County may also make hiring or employment decisions on the basis of sex and/or age when sex and/or age is a bona fide occupational qualification (BFOQ) for the job. The Human Resources Director and Department Directors shall develop a list, which will be on file in the Human Resources Department, of all jobs that require a pre-employment physical. Department Directors may not require a pre-employment physical for any position not on this list.

The Human Resources Director or his/her designee will approve all written offers of employment, with the exception of job offers for positions governed by elected officials.

- A. **Elected Offices.** The Sheriff and Register of Deeds have the exclusive right to hire, discharge, and supervise the employees in their respective departments under the authority of 153A-103 (1) of the General Statutes of the State of North Carolina. By the authority of Chapter 153A-103 (1) of the North Carolina General Statutes, the Board of Commissioners must approve the appointment by the Sheriff or Register of Deeds of a relative by blood or marriage or nearer kinship than first cousin or of a person who has been convicted of a crime involving moral turpitude.

- B. **Appointments of Department Directors:** The County Manager shall make all appointments of Department Directors under his or her direction, except those elected or appointed by the Board of County Commissioners or other boards established by General Statute.

- C. **Interim Appointment:** The County Manager may designate a County employee to serve in an acting capacity when a Department Director or supervisory position is vacant due to a resignation or due to an approved leave of absence of more than four (4) weeks, or as deemed appropriate. Employees serving in an acting capacity shall be compensated to reflect the increased duties they have assumed until an appointment to the position has been made, a leave of absence has been completed, duties are reassigned, or another personnel action is taken which no longer requires an employee to serve in an acting capacity.

Section 12. E-Verify and Eligibility for Employment

The County complies with the Immigration Reform and Control Act of 1986. All County employees shall be citizens of the United States or shall be authorized to work in the United States and will be required to submit appropriate documentation of alien employment eligibility pursuant to Title VIII, U.S.C. 1324 et seq. Pender County utilizes E-Verify to comply with this policy.

The employment verification process must be completed in person within three business days of the employee's hire date. Effective October 1, 2011, all new employees not only complete the I-9 form but must also be cleared by the Department of Homeland Security (DHS) and the Social Security Administration (SSA) as being eligible to work in the United States using the online E-Verify Program. Due to the photograph matching tool, the E-Verify Program also requires that one of the documents used to substantiate employment eligibility must contain a photograph of the employee.

The minimum employment age for employees is eighteen (18) years of age. Law Enforcement Officers must be a minimum of twenty- one (21) years of age.

Section 13. Employee Orientation

All newly hired or rehired employees shall complete the required County personnel forms. Employees who are eligible for fringe benefits must complete enrollment forms relating to certain mandatory and elective benefit programs. All employees shall be provided with a copy of these Employee Personnel Policies and must acknowledge receipt by completing an acknowledgment form. Each department shall be responsible for conducting an on-the-job training program for each new employee, which shall cover the employee's work environment, position responsibilities and duties, work schedule, safety requirements and application of these employee personnel policies and departmental policies to the position involved. Employees are also required to complete New Employee Orientation training pursuant to [Article X](#) – Employee Education and Training.

Section 14. Probationary Period of Employment

Pender County requires all employees to serve a probationary period when a new employee is appointed to a position and when existing employees are transferred or demoted. The County regards the probationary period as an integral part of the employment process. It affords the employee an opportunity to become acquainted with the new position and provides the County with a period of time during which the employee's work will be closely evaluated. The County may dismiss any employee with or without cause at any time during the probationary period. Employees dismissed during their probationary period have no access to the County's grievance procedure.

- A. **Duration:** The probationary period is twelve (12) months from the employee's date of hire. Employees who are initially appointed to a law enforcement position are subject to a twelve (12) month probationary period to complete minimum State mandated training requirements. Current employees transferred to a different position (including demotions) in the County shall serve a six (6) month probationary period. If an employee who is demoted or transferred to a different position is found to be unsuited for that position, the County may reinstate the employee to his/her former position if vacant and former rate of pay with the approval of the Human Resources Director and the County Manager. *NOTE: Those employees (with the exception of Law Enforcement) that are under a 6-month probationary period at the effective date of this policy change, will be grandfathered in with the 6-month probationary period.*

- B. **Probationary Period Extensions:** During the probationary period, the County shall closely observe an employee's work to ensure that the employee demonstrates that he/she is qualified for the position in which he/she has been appointed. The employee's supervisor shall evaluate performance, skills, and ability demonstrated during the probationary period in order to determine whether the employee should continue to be retained by the County. Employees' probationary periods may be

extended for no more than six (6) additional months if additional time is needed to evaluate performance or because of absences from work through a written request and approval by the County Manager. Under no circumstances will the probationary period be shortened.

- C. **Probationary Period Completion:** Prior to the completion of the probationary period, the employee's supervisor and/or Department Director must review the performance of the probationary employee and provide Human Resources with a written recommendation to retain or dismiss the employee. Upon the successful completion of a probationary period, the employee's classification will be changed to the status of a general employee. Work Against Employees who are initially employed at a salary less than the minimum for their class shall receive an increase to the minimum of that class at the completion of the probationary period and promoted to the status of a general employee.

Section 15. Changes in Employment Status Promotions and Transfers:

Employees are encouraged to apply for vacant County positions for which they are qualified. Promotions are competitive; transfers may be competitive, depending on the decision of the Department Director. Reclassifications that result in a promotion or transfer are not competitive. The County has the right to make the final hiring decision based on qualifications, abilities, experience, and County requirements and does not make a guarantee of a promotion or transfer to existing employees. The County Manager may affect promotions or transfers without regard to the recruitment process if it is determined by the County Manager to be in the best interest of the County. This policy does not limit the County's right to transfer employees to another position within the same job class taking into account the needs of the County and the employee.

- A. **Demotions:** Employees may be demoted if they have been found unsuited for the present position but may be expected to perform satisfactorily in a lesser position. Employees may also be demoted if their position has been abolished or reclassified to a lower class, and they cannot be transferred to a position of equal pay for which they are qualified and suited. All demotions must be approved by the County Manager. See [Article XII Section 6](#) for more information.

- B. **Voluntary Reassignment:** A reassignment is a change in employment resulting from assignment to a position in the same or a lower pay grade. This change is the result of a mutual agreement between the employee and the employer, or it may be the result of an employee applying for and being selected for a position at the same or a lower grade. If the reassignment is to a lower grade, a Request for Voluntary Reassignment must be completed by the employee and forwarded to Human Resources. Employees may also be voluntarily reassigned if their position has been abolished or reclassified to a lower class, and they cannot be transferred to a position

of equal pay for which they are qualified and suited.

- C. **Reclassification:** The Human Resources Director, based upon job audit and/or job evaluation that substantial change has occurred in the nature or level of duties and responsibilities of an existing position, will recommend to the County Manager that a revision in the level of the position is needed; or that the position needs to be assigned to a different job class; or that a new job class for this position needs to be established. Placement of a position at a higher level or in a different job class that is at a higher grade in the salary plan has the effect of a promotion, for salary administration purposes, for an incumbent and will need to be approved by the Board of Commissioners. The salary of an incumbent whose position has been moved to a lower level or reassigned to a job class at a lower salary grade may be lowered or it may remain the same and does not need to be approved by the Board of Commissioners.

Section 16. Re-employment

Employees who leave County employment without completing and working a two-week notice are barred for one year following the last day of employment from being re-employed by Pender County except as a precinct worker. A two (2) week notice is defined as the employee who works his/her normally scheduled shift and/or work week when a 2-week notice is given.

- During a two (2) week notice that involves a holiday, the holiday is not included as part of working the 2-week notice.
- Vacation leave is also not included as part of working the 2-week notice.
- If sick leave is used within the 2-week notice, a doctor's note will be required.

Department Directors who leave the County employment without completing and working a four-week notice are barred from being re-employed by Pender County for one year from the last day of employment. A four (4) week notice is defined as the employee who works his/her normally scheduled shift and/or work week when a 4-week notice is given.

- During a four (4) week notice that involves a holiday, the holiday is not included as part of working the 4-week notice.
- Vacation leave is also not included as part of working the 4-week notice.
- If sick leave is used within the 4-week notice, a doctor's note will be required.

Either resignation with extenuating circumstances such as retirement, disability retirement, emergencies, etc. shall be reviewed by the Human Resources Director and the County Manager to evaluate exception requests.

Former employees may apply for any County positions. The hiring manager shall review past personnel records, specifically performance appraisals, disciplinary documentation, reason for termination, etc. when evaluating the application package.

Rehired former employees may be credited with their previously accrued sick leave balance, unless the balance was transferred to another employer, and longevity eligibility date will be reinstated provided they are rehired within a year of their most recent separation date from the County and have not applied for or withdrawn retirement funds from the State of North Carolina retirement system. Rehired former employees will be subject to probationary employee status as detailed in Article II, Section 13 above, unless waived by the County Manager.

Section 17. Work Schedules and Hours of Operation

The County Manager shall establish standard hours of operation for County departments. The County Manager is also authorized to adjust standard hours of operation and department work schedules as needed to meet services and operational needs. No County office shall be closed at any time without the prior knowledge and approval of the County Manager, except in cases of emergency.

Section 18. Modified or Alternate Work Schedules

The employees of Pender County are the primary resource for achieving its mission and objectives. For many employees' alternate work schedules support a healthy work-life balance and improve employee morale. This policy has been developed to allow departments to offer flexibility to better meet the needs of the citizens of Pender County while accommodating an ever-changing and diverse workforce.

Authorization of temporary modified work schedules for individual employees is at the discretion of the Department Director as long as there is no interruption of departmental functions and efficient service is provided to the citizens of Pender County. The County Manager has the final authority to approve permanent modified work schedules. Once the modification is approved, it is the Department Directors' responsibility to inform the Human Resources Department in writing of such changes.

Full-time employees who have completed at least twelve (12) months of continuous full-time employment are eligible to request an alternate or modified work schedule. Employees who have been subject to disciplinary action during the previous 90 days may not be eligible to participate in the alternate or modified work schedule program.

Department Directors have the option to decide how and whether to implement a alternate or modified work schedule program to meet the needs of their customers and functions of their department. An evaluation of the employee's proposed work schedule will be assessed to determine if the employee is able to fully meet job responsibilities and performance

expectations, the level of employee interaction with members of the public and other employees, and has the employee demonstrated responsibility and dependability. Pender County supports flexibility for departments and employees with the understanding that effective and efficient service delivery for citizens is paramount.

The minimum operating days and hours of Pender County Government are Monday through Friday, 8:00 AM to 5:00 PM. Most county employees are required to work the core hours of 9:00 AM to 3:00 PM and the earliest time employees may arrive is 7:00 AM and the latest time they may leave is 6:00 PM unless defined differently by the Department Director. Those county departments that operate 24 hours daily may schedule appropriately to best meet the needs of those they serve.

At times it may be necessary for Department Directors to implement a temporary alternate work schedule based upon productivity, deadlines, completion of projects or other administrative needs. Department Directors are required to give as much advance notice of a schedule change to an employee as possible.

Employees that work an alternate work schedule should return to a regular work schedule or normal hours of operation during inclement weather closures and holiday weeks. If the employee does not have enough time to cover either the holiday or inclement weather, the employee will be required to use his/her accruals if available and if not, leave without pay (LWOP). (Prorated for part-time employees)

The continuation of an alternate schedule will be at the discretion of the Department Director in consultation with the Human Resources Director and the County Manager. Pender County Government reserves the right to suspend, cancel or amend this policy at any time. The County also reserves the right at any time to return an employee participating in an alternate week schedule to his or her standard schedule with or without cause at the convenience of the County. An alternate or modified work schedule is a benefit to be provided at the discretion of management and the denial of an alternate or modified schedule is not grievable by employees.

When an employee on an alternate work schedule takes paid vacation or sick leave, the employee must show the number of leave hours that would have been worked. For example, if an employee is working four (4) 10-hour days a week and wants to take a vacation that week, the employee would put on his/her timesheet, four (4) days of 10 hours of vacation leave.

All alternate options must adhere to applicable Federal, State and County Department of Labor regulations.

Exempt employees are required to depart from an alternate schedule as necessary to ensure the effective performance of their jobs. Exempt employees will continue to receive the same salary from week to week regardless of the schedule worked as long as the exempt employee worked

40 hours or as long as the exempt employee has available leave hours to make worked hours and leave hours equal 40. Non-exempt employees may be required to work overtime regardless of a alternate schedule.

Section 19. Telecommuting

Employees in certain positions within the county may be eligible to perform their job from their home during weather or emergency events, working on assigned projects, etc. with the County Manager’s approval. Department Directors must obtain County Manager’s approval of telecommuting for employees within their department by written request to the County Manager providing a summary of the individual’s job tasks and the expected length of time the telecommuting will last.

Once the employee logs in as working, they must log off for any personal activities other than ordinary breaks allowed under county policy. Authorization must be approved before any overtime is worked. Under no circumstances must work be performed that is not recorded and accounted for in full. Overtime that has been requested and approved in advance will be compensated in accordance with applicable laws and regulations. Pender County will vigorously discourage unapproved overtime. Failure to obtain proper approval for overtime work may result in the employee being removed from the telecommuting program or other disciplinary actions.

An employee participating in the telecommuting program may be offered county equipment to effectively work at home with the County Manager’s approval. If county equipment is provided, it is the responsibility of the employee to protect the equipment against damage and unauthorized use. It will be the employee’s responsibility to protect the county’s records, papers, computer files, and correspondence from unauthorized disclosure or damage and to ensure that all county documents are properly returned to county facilities as required. In the event that either the employee or the county chooses to discontinue the telecommuting arrangement, the employee will be responsible for ensuring that all documents and equipment are properly returned to the county immediately. Failure to comply with this policy may result in termination of the telecommuting agreement and/or other appropriate disciplinary action.

Section 20. Workweek

All employees whose overtime is governed by the Fair Labor Standards Act (FLSA) shall accrue overtime compensation in accordance with the provisions of the FLSA. The standard workweek shall be from 12:01 AM on Sunday through 12:00 AM on the following Sunday unless an alternate schedule has been designated by the County Manager. Department Directors, supervisors and other exempt employees under the FLSA shall work those hours necessary to ensure satisfactory performance of their departments, but not less than forty (40) hours per week.

Law enforcement Officers in accordance with 29 CFR 553.200-553.223, commonly known as the 207(k) exemption, shall not exceed eighty-six (86) hours within a fourteen (14) day work period in accordance with the law enforcement exemption set forth in FLSA. Law enforcement officers shall be compensated with overtime pay for working overtime.

Other departments may also be compensated with overtime pay at the discretion of the County Manager. All other county employees eligible for overtime compensation shall receive compensatory time for working overtime. For more information on overtime guidelines please see [Article II Section 21 Subsection B](#).

Section 21. Meal Periods and Rest Breaks

The FLSA does not require employers to provide break or mealtimes. OSHA could cite employers for violating the “General Duty Clause” for employee injuries caused by fatigue due to no breaks. The County recognizes that certain breaks in the daily schedule promote employee health and productivity. Therefore, it is required that all county employees take at least a 30-minute uninterrupted meal break during each work shift unless the Department Head or Supervisor approves otherwise with an acceptable reason.

- A. **Rest Break:** Provided that the workload permits it, employees may take a rest break at least once every workday. All breaks must be arranged so that they do not interfere with County business or continuous service to the public. Rest breaks cannot be used to shorten the workday or be banked from day to day. Rest breaks are paid work time and are generally between 5 and 20 minutes in duration. Please see [Article III Section 10](#) for more information on smoking, vaping, and tobacco use.

No break may be taken within one (1) hour of beginning work or within one (1) hour of the end of the workday. Work breaks may not be combined or accumulated to take a longer break. Employees cannot take a break at the end of the day to leave early. No additional pay will be given to employees that do not take breaks. Break periods may not be used to extend breaks for lunch.

- B. **Meal Break:** Full-time employees may also take up to a sixty (60) minute unpaid meal break for each full-time shift worked. Provided that the meal break is at least thirty (30) consecutive uninterrupted minutes, it is not paid, not included in the computation of overtime, nor included in the computation of a normal work shift or payroll period. Meal breaks must be scheduled with the approval of the employee's Department Directors and/or supervisor. The scheduling of meal breaks may vary depending on the departmental workload.

- C. **Break Time for Nursing Mothers:** In accordance with The Pregnant Workers Fairness Act (PWFA) effective June 18, 2024, Pender County provides reasonable paid break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has the need to express the milk. Pender County will provide a private place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public and is reasonably close to the employee's work area, which may be used by an employee to express breast milk. Employees requesting accommodation for expressing breast milk must make the request through their Department Director and/or Human Resources.

Section 22. Overtime Guidelines

- A. **Non-exempt Employees:** All employees governed by the Fair Labor Standards Act (FLSA) shall maintain true, complete and legible time records. All time worked shall be recorded to the nearest one-quarter hour (fifteen minutes - 15) and shall be submitted to the supervisor in a timely fashion. Supervisors shall arrange the work schedule of their employees to accomplish necessary work within an average workday and workweek without requiring overtime work, except in those cases in which hours of work beyond forty (40) in a workweek are necessary. Non-exempt employees in all departments may be required to work overtime as requested by their supervisor. Refusal to work overtime may result in disciplinary action up to and including dismissal. Supervisors will make reasonable efforts to balance the personal needs of their employees when assigning overtime work. Non-exempt employees are strictly prohibited from volunteering to work overtime without receiving compensation.
- B. All overtime must be authorized in advance by the employee's supervisor and Department Directors, except in emergency situations where conditions are such that prior approval cannot be obtained, and in such event, approval shall be obtained immediately subsequent to the emergency overtime worked, except when overtime is mandated by shift scheduling. Unusually large amounts of overtime, emergency work requiring overtime or ongoing overtime work must have written approval by the County Manager. Pender County will pay an employee for working unauthorized overtime, however, an employee who works overtime without approval may be subject to disciplinary action.
- C. **Exempt Employees:** All employees exempt from the FLSA overtime requirements are expected to work whatever hours are necessary in order to meet the performance expectations outlined by their supervisors or the County Manager. No authorization is necessary for exempt employees to work in excess of forty (40) hours in a work week.

- D. **Pay Under a State of Emergency:** Whenever the County is under a State of Emergency declared by the Chairman of the Pender County Board of Commissioners, the County Manager in his/her discretion is authorized to monetarily compensate exempt employees an additional amount over and above the exempt employee's guaranteed minimum salary. Subject hours will be fully documented and certified by the Department Directors and approved by the County Manager. Any out of county response with a NC State Mission number will be compensatory at a straight overtime rate for exempt employees. These monies should be reimbursable after filling the completed paperwork with the State of North Carolina.

Section 23. Human Capital Plan for Emergency Situations

Pender County acknowledges that regular workforce operations may be disrupted in a time of a state of emergency, pandemic, or natural disaster. To ensure essential county operations continue, each department is required to develop a human capital plan to assure the provision of essential county services continue during such emergencies when possible. Human capital plans may consist of methods of communicating with and accounting for employees, alternate work arrangements such as telework, working from alternative locations, working alternative schedules or remote access and informing employees of leave and pay options provided for in this policy.

ARTICLE III - CONDITIONS OF EMPLOYMENT

Section 1. Report of Personnel Changes

The County attempts to maintain complete and accurate personnel information on employees in accordance with [Article XXII](#) Employee Records and Reports. Employees must immediately notify Human Resources when a change in any of the following occurs:

- Name (through marriage or otherwise)
- Address
- Marital Status
- Beneficiaries for life insurance and retirement
- Telephone number (Cell and home)
- Emergency contact
- Employee personal email

Section 2. Attendance

Every County employee has an important role to play in maintaining a productive workplace. Therefore, it is essential that all employees be regular in their attendance during all scheduled hours of work. Unsatisfactory attendance, including reporting late and leaving early that become habitual and/or excessive may be grounds for disciplinary action, up to and including termination.

If an employee must be absent from work for any reason, other than approved time off, the employee must notify his/her immediate supervisor at least thirty (30) minutes prior to the start of his/her normal working hours. If an emergency prevents the employee from notifying his/her supervisor at such time, the employee is expected to call as soon as practical during the workday. The County reserves the right to require an employee to provide documentation from the employee's doctor or professional health care provider verifying the illness or injury which results in absence from work.

Any employee who fails to report to work without notification to his or her supervisor for a period of three days or more will be considered to have voluntarily terminated their employment relationship. A period of absence is defined as any absence, other than vacation, covering a period of not less than one (1) day or greater than three (3) business days in duration. Should an employee or Supervisor realize the period of absence is going to exceed three (3) days, they should apply for FMLA if eligible and/or leave with or without pay (if accruals have been exhausted) to maintain employment status.

Section 3. Outside or Secondary Employment

The County does not prohibit employees from engaging in outside employment. However, the County expects full-time employees to consider that the work of the County will take precedence over other occupational interests of employees. The County will not condone outside employment that interferes with the performance of an employee's duties with the County, or which represents a conflict of interest. The County will not change work hours to facilitate the scheduling of outside employment. All outside or secondary employment for salaries, wages, or other compensation and all self-employments must be reported in writing to and approved by the employee's Department Director and the County Manager. The County Manager shall be responsible for final interpretation and a copy will be forwarded to Human Resources for inclusion in the employee's personnel file.

Employees who are on an approved leave of absence (FMLA, worker's comp, etc.) may not engage in any form of self-employment or perform work for any other employer during that leave except when the leave is for military service or public service or when the employment, while out of work, has been approved by the Department Director and County Manager and the employee's reason for leave does not preclude the outside employment.

It is the employee's responsibility to complete and submit a secondary employment form for all outside employment and to update the form annually or when any changes occur to their secondary employment. Failure to report outside or secondary employment or conflicting outside or secondary employment will be grounds for disciplinary action up to and including dismissal.

Section 4. Dual Employment

Persons employed by the county are hired by one particular department at an appropriate pay grade and step. No employee will be permitted to perform services under a different job title for additional compensation such as overtime (or other benefits) for another department or the same department without prior approval from the Department Director that first hired the employee and the County Manager, with a required written notice of Dual employment to Human Resources providing the second department the employee will be working for and the associated job title, with grade and step.

The exception to the second job rule (Title 29 of the Code of Federal Regulations, Part 553, subsection 553.30 Occasional or sporadic employment – section 7(p)(2) of the FLSA) is when a local government employee works a second, unrelated job for the county on a part-time basis, but only occasionally or sporadically. Occasional and sporadic mean infrequent, irregular, or occurring in scattered instances. This does not include elected officials.

If the hours worked in the secondary job when added to the primary job hours worked is over 40 hours in a workweek, then the hours over 40 will be paid at an "averaged" overtime rate. Calculation of "averaged" overtime is exemplified below:

Primary job hours worked: 40
Secondary job hours worked: 6
Total hours worked: 46

Primary job hourly rate: \$36.00
Secondary job hourly rate: \$15.00

$$\frac{40}{46} \times \$36.00 = \$31.3043$$

$$\frac{6}{46} \times \$15.00 = \$1.9565$$

$$\$31.3043 + \$1.9565 = \$33.2608 \times 1.5 = \$49.8912$$

This "Averaged" overtime rate to be applied to hours over 40

Section 5. Employment of Relatives

For purposes of this policy, immediate family is defined as spouse, mother, father, guardian, children, sister, brother, uncle, aunt, grandparents, grandchildren plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named. The following provisions are applicable to all employees:

- A. Members of an immediate family may be employed in the same department, provided that an immediate family member does not directly supervise another member of the immediate family. The employment of immediate family within the service of the County within the same department or unit/section of a department at the same time is to be avoided unless significant recruitment difficulties exist.
- B. Members of an immediate family may not fall under any aspect of a supervisor's scope of responsibility. This restriction includes involvement of family members in writing or reviewing employee performance evaluations or where one member occupies a position that has influence over the other's employment, promotion, salary administration, and other related management or personnel considerations.
- C. Department Directors may not hire members of their immediate family to work in departments under their scope of responsibility. However, in cases of transfer, promotion, demotion, or other personnel transactions wherein a conflicting situation is created, it is incumbent upon the Department Directors, in consultation with the County Manager, to rectify such a situation within thirty (30) days, preferably through transfer. The County Manager has the authority to waive the thirty (30) day limitation if the Department Directors demonstrates good cause in a request for a waiver. Termination of an employee under these conditions should be avoided, when possible, though exceptions may be made where the position involves a married couple.

- D. The Board of Commissioners must grant approval prior to appointment by the Sheriff or by the Register of Deeds of a relative by blood or marriage of the nearer kinship than first cousin as required by North Carolina General Statute 153A-103(1). Approval of the Board of Commissioners is not required for the reappointment or continued appointment of a near relative of a Sheriff or Register of Deeds who was not related to the appointing officer at the time of initial appointment.

Section 6. Personal Relationships

Pender County strives to provide a work environment that is collegial, respectful and productive. This policy establishes rules for the conduct of personal relationships between employees, including supervisory personnel, in an attempt to prevent conflicts and maintain a productive and friendly work environment.

A “personal relationship” is defined as a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature.

An employee who is involved in a personal relationship with another employee may not occupy a position in the same department as, work directly for or supervise the employee with whom he or she is involved. Matters such as hiring, firing, promotions, performance management, and compensation decisions are examples of situations that may require reallocation of duties to avoid any actual or perceived reward, favoritism or disadvantage.

Pender County reserves the right to take prompt action if an actual or potential conflict of interest arises concerning individuals who engage in a personal relationship that may affect the terms and conditions of employment. Supervisors and managers are prohibited from dating subordinates and may be disciplined for such actions, up to and including termination.

If such a personal relationship between employees develops, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to the Department Director, Supervisor of Human Resources Director.

When a conflict or a potential for conflict affecting terms or conditions of employment arises because of the personal relationship, the individuals concerned will be given the opportunity to decide who is to be reassigned, transferred to another position, or terminated. If no decision is made within 30 calendar days of the offer to resolve the situation, Pender County will determine who is to be reassigned, transferred or, if necessary, terminated from employment.

The provisions of this policy apply regardless of the sexual orientation of the parties involved.

Section 7. Safety and Health

- A. Occupational Safety and Health Act (OSHA). It is the policy of the County to comply in all respects with the 1970 Occupational Safety and Health Act (OSHA) and all amendments thereof. The County Manager shall establish or approve policies and procedures relative to compliance with OSHA. Pender County is committed to making reasonable efforts to provide a safe and healthy working environment for all employees. Pender County's policy is to ensure that every reasonable precaution is taken to prevent the incidence of accidents, injuries, and illnesses for all employees. There is no job or task that cannot be performed safely and it is expected that all County employees adhere to this policy, follow safe working procedures and use good common safety sense when at work. The Pender County Risk Control Manual has been prepared and adopted as the County's safety guidelines and all employees are expected to comply with this policy and its procedures. Employees can access the County's Risk Control Manual at the County's Intranet website.
- B. **Accident Reporting:** Employees must report unsafe conditions or practices to their supervisor immediately. If a work-related accident, injury, or illness occurs, employees must report it to their supervisor immediately. If the employee requires medical attention as a result of a work-related accident, injury, or illness, they are required to follow the procedures set forth in [Article IX Section 7](#) Workers' Compensation Insurance. Pender County has adopted a proactive return to work policy that requires all employees in a modified or restricted duty status to return to work and perform their duties consistent with their physical restriction(s) set by their treating physician. If an employee has any questions regarding the accident reporting procedures, they are encouraged to contact their supervisor, Department Director or the Human Resources Director.

Section 8. Maintaining County Security

Keys and employee identification badges are issued to County employees to promote the security of County buildings, offices, equipment and supplies, and records and to protect the County from theft or damage to these assets.

- A. **Keys:** County employees will be given only those keys necessary for work-related purposes. The appropriate Department Directors must give approval for the issuance of keys. Keys to County buildings and other County facilities and equipment are the property of Pender County and must be returned immediately upon request by the County or separation from County employment. An employee who loses or misplaces a County-provided key must report this situation immediately to his or her supervisor.

Employees will be responsible for maintaining their County-provided keys in a safe manner. Unauthorized copying of keys is prohibited. If additional keys are needed, a request must be made through the employee's Department Director. Keys shall not be issued to persons who are not County employees unless approved by the Department Director. Initial and one replacement key will be provided to employees at no cost, however, if a key is lost two or more times, the cost to replace the key will be charged to the employee.

- B. **Employee Identification Badges:** Employee identification badges are issued to all employees, volunteers, and interns. All of these persons listed herein may be required to wear an employee identification badge when conducting County business at County facilities or in the field. Anyone who loses or misplaces his or her County-issued employee identification badge must report this situation immediately to his or her supervisor and arrange for reissue. Initial and one replacement badge will be provided to employees at no cost, however, if a badge is lost two or more times, a charge of \$20 will be assessed for a replacement badge to the employee.

- C. **Employee Fobs:** Unless otherwise approved by the Department Directors and the County Manager, employee Fobs will only be issued to Department Directors all other personnel should utilize their ID badge to access County doors. Anyone who loses or misplaces his or her County-issued Fob must report this situation immediately to his or her supervisor and arrange for reissue. Initial and one replacement Fob will be provided to employees at no cost, however, if a Fob is lost two or more times, a charge of \$20 will be assessed for a replacement Fob to the employee.

Section 9. County Property

Employees may be issued or have access to County property in the course and scope of employment. Employees are expected to maintain County property in proper and safe working condition and report any loss or damage to their supervisor immediately. Employees may be held responsible for loss of or damage to any assigned County property that is lost or damaged due to negligence, misuse or abuse. The employee may be subject to disciplinary action up to and including dismissal. Employees are expected to return any County property that is assigned or otherwise in their possession upon termination of their employment. The employee's Department Directors will decide if the employee is responsible for replacement or repair cost, and this cost may be deducted from the employee's wages, including the final paycheck in accordance with FLSA regulations.

A. **Personal Use of County Property:** County-owned equipment and facilities are not available for personal use by employees. Personal use is prohibited unless the employee's supervisor gives prior approval.

1. Office furnishings and property should remain in County offices unless required for the conduct of County business.
2. The County's laptop computers may be checked out by staff according to procedures established by the County Manager and upon approval of the employee's supervisor. Employees may check-out a laptop computer for business-related travel or business-related overnight or weekend use. The laptop should be returned to the County upon return of the employee to County offices.
3. County equipment or facilities may be loaned to community and civic organizations. Approval for such use must be obtained from the County Manager unless covered by a mutual aid agreement.
4. Unauthorized removal of County property or its conversion to personal use may be cause for disciplinary action up to and including dismissal.

B. **Use of County Vehicles or Motorized Equipment:** Employees authorized to operate County vehicles or motorized equipment must use these strictly for County business. County vehicles or motorized equipment must be kept on the County's grounds or in its facilities when not in use. Any employee operating or riding in a county vehicle or other motorized equipment must:

1. Possess a valid North Carolina driver's license or if required North Carolina Commercial Motor Driver's License (CDL).
2. Operate the vehicle or equipment in accordance with the County's safety policy.
3. Follow all laws and rules of the road. Report any traffic violations, citations, accidents, thefts, etc. immediately to your supervisor and/or Department Director.
4. Wear seat belts.
5. When driving, refrain from using a cell phone, including but not limited to, texting, instant messaging, using telephone-based internet services or any other function that would violate North Carolina law and OSHA Distracted Driving standards.
6. Refrain from smoking, vaping or use of tobacco products at all times while operating or riding in a county vehicle or other motorized equipment.
7. Vehicles must be kept clean at all times.
8. If the vehicle is "borrowed" for occasional use, it is the responsibility of the driver to ensure the vehicle is full of gas for the next driver.

9. Follow Pender County Fleet & Facilities guidance on service, maintenance and inspections. Vehicles or motorized equipment should not be operated with any known defects or service issues that would prevent safe operation. If known, the employee must report issues to his/her supervisor/Department Director and Fleet & Facilities immediately.
10. Relatives or unauthorized passengers are prohibited from riding in or driving County vehicles unless approved by the County Manager. Non-County employees such as vendors, consultants, inspectors, official guests, citizens, other government officials, prisoners, persons involved in police investigations or other activities, etc. as a part of routine work assignments or public safety activities may ride in a county vehicle if approved by the Department Director and/or the County Manager.
11. Employees shall not use vehicles for personal use except de minimum use such as taking reasonable breaks, lunch, etc. during working hours, in route to work, or on-call. However, no employee should purchase alcoholic beverages or visit inappropriate businesses with a county vehicle.

C. **Use of County Vehicles for Commuting:** The County may require certain employees to commute to and from work in County vehicles where it is deemed to be in the best interest of the County to reduce travel time, compensatory time or overtime, when an employee is assigned to be on-call or improve the efficiency of County business. In accordance with federal and state law, an employee may not use a County-owned vehicle for personal use other than commuting. Under these conditions, the County will account for commuting use as required in IRS regulations. Any employee operating a County vehicle for commuting purposes is subject to the following conditions:

1. **An Assignment of County Vehicle for Take-Home/Commuting Purposes form must be completed and submitted to the County Manager for approval.** Once executed, a copy must be retained in the employee's personnel file in Human Resources.
2. Vehicles shall not be used for commuting purposes outside the County, with the exception of vehicles used for law enforcement and/or emergency purposes and those employees approved in writing by the County Manager and placed in the personnel file of the employee.
3. Vehicles shall be kept in a safe and secure location at nights and weekends.
4. Employees who are called out during non-standard working hours and use a personal vehicle may be eligible to receive IRS mileage reimbursement at the current rate.

5. The County will follow IRS regulations concerning the use of employer-provided vehicles.
6. Occasional use of a County-owned vehicle for commuting may be authorized by the County Manager or Department Directors where it is deemed to be in the best interest of the County, where it will serve to reduce travel time, compensatory time or overtime, an employee is assigned to be on-call or otherwise improve efficiency in the conduct of County business.

Section 10. Driver's License Requirements and Driving Record

Employees who operate County vehicles as part of the essential duties of their position or who occasionally drive a county vehicle are required to meet the minimum standards set by the County and have possession of an appropriate driver's license valid in the State of North Carolina, except where preempted by military involvement, and proof of coverage as an insured driver. Any employee whose license is revoked, suspended, expired, lost, or whose insurance coverage is terminated, must notify his/her supervisor and/or Department Director and Human Resources immediately. The employee will be unable to resume operating a county vehicle until providing proof of a valid driver's license and insurance coverage to the Department Director and Human Resources. Employees who are not able to perform essential job duties due to the suspension or revocation of their driver's license may be reassigned to a non-driving position or dismissed.

Failure to operate County vehicles or motorized equipment as prescribed by policies, procedures, work rules, or federal and state law, may result in disciplinary action up to and including dismissal.

- A. **North Carolina Transportation Notification System** is a companion database with the Division of Motor Vehicles database. In an effort to mitigate the potential negative consequences of high-risk driving behavior, every county employee that drives either county vehicles or their personal vehicles to conduct county business is required to sign a Transit Driver Notification System Driver's Disclosure form to authorize Pender County to connect your driving record with the County as your employer. Once the process is completed, the Department of Motor Vehicles will notify Pender County when an employee is convicted of a driving offense.

Should the county receive notification from DMV of a traffic conviction without prior knowledge from the employee, the employee may be counseled, required to attend driving training, prohibited from driving a county vehicle, or disciplined appropriately based on the significance of the conviction.

B. Traffic Violations and Accidents

Fines for parking or moving violations are the personal responsibility of the assigned operator. The county will not condone nor excuse ignorance of traffic citations that result in court summons being directed to itself as owner of the vehicle.

Each driver is required to report all moving violations to the Department Director and Human Resources within 24 hours. This requirement applies to violations involving the use of any vehicle (county, personal or other) while on county business. Failure to report violations will result in appropriate disciplinary action.

The County will not assist or pay for any fines or penalties incurred due to moving violation that is due to employee's own personal conduct. Any wreck, accident or property damage involving a county vehicle should be immediately reported to the Supervisor and/or Department Head. The County will not provide proof of payment of property damage or proof of insurance to Court officials in order for said moving violations to be dismissed against employees in traffic or criminal court unless said moving violation is due to the County's conduct.

Traffic violations incurred during non-business (personal use) hours may affect your driving status and are subject to review if the traffic violation affects your ability to drive either a county vehicle or your personal vehicle while on county business.

C. **Global Positioning System (GPS)** is a technology available for Pender County to monitor county owned vehicles for safety and efficiency. We utilize this software to be able to:

- Managing productivity, e.g., dispatching, locating and routing employees to job sites.
- Ensuring safety, e.g., tracking an employee who doesn't arrive at his destination or identifying employees who need more driver training.
- Protecting and managing assets, e.g., locating missing or stolen vehicles and obtaining odometer readings for vehicle maintenance.
- Improving customer service, e.g., notifying drivers of scheduling changes and providing more accurate vehicle-arrival information for clients; and
- Evaluating driver job performance to ensure county vehicles are driven and/or parked in approved and appropriate areas – work sites, county offices, etc.

Employees are cautioned that they should have no expectation of privacy while using County vehicles. The County reserves the right to monitor and track drivers in county vehicles. County vehicles are a highly visible reflection of county government and therefore drivers of these vehicles are expected to drive them safely and in appropriate places at all times.

The Department Director, IT and/or the County Manager may access the GPS software and run reports as necessary. If it becomes a disciplinary or legal matter, Human Resources and the County Attorney and/or Staff Attorney may be involved in the investigation. Violations of this policy may result in disciplinary action up to and including termination.

Section II. Credentials

Employees may be required to obtain or maintain licenses, certifications or registrations as required by law, rule, regulation, occupation, boards or the duties of their position.

All such requirements and restrictions are specified in the statement of essential qualifications or recruitment standards for classifications established by the County Manager's Office in the position description for the position.

- A. Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law. Failure to obtain or maintain the legally required credentials constitutes a basis for immediate dismissal without prior warning, consistent with dismissal for unacceptable personal conduct or grossly inefficient job performance.
- B. Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment with the County, disciplinary action shall be administered as follows:
- C. If an employee was determined to be qualified and was selected for a position based upon falsified work experience, education, registration, licensure, or certification information that was a requirement for the position, the employee must be dismissed in accordance with this policy.
- D. In all other cases of post-hiring discovery of false or misleading information, disciplinary action shall be taken, but the severity of the disciplinary action shall be at the discretion of the Department Director.
- E. When credential or work history falsification is discovered before employment with the County, the applicant shall be disqualified from consideration of the position in question.

Section 12. Smoking, Vaping and Tobacco Use

Employees are permitted to smoke, vape or use tobacco only during breaks as provided in [Article II, Section 19](#). Employees are prohibited from smoking, vaping or using tobacco in non-smoking/vaping areas or in county-owned vehicles. Department Directors are responsible for ensuring that all County employees adhere to smoking, vaping and tobacco use policies. Employees violating this policy may be subject to disciplinary action up to and including dismissal.

Section 13. Confidentiality

Pender County citizens, customers, clients, employees, and other parties entrust Pender County with important information. It is Pender County's policy that all information considered confidential will not be disclosed to external parties or to employees without a "need to know." If there is a question of whether certain information is considered confidential, the employee should first check with his/her immediate supervisor. This policy is intended to alert employees to the need for discretion at all times and is not intended to inhibit normal business communications or disclosure of public records.

Section 14. Cost Saving Suggestions

The County Manager may grant vacation leave in varying increments or a monetary reward to full-time and permanent part-time county employees who identify policies or procedures that, once implemented, will result in significant cost savings to the county government.

Depending on the amount of the cost savings, which must be quantifiable, employees may be granted vacation leave by the County Manager in two (2) hour increments up to eight (8) hours. Leave will be granted at the discretion of the County Manager following a full or trial implementation of the new policy or procedure, which, upon completion, demonstrates significant savings to the county. Leave awards will be added to an employee's existing accumulated vacation leave hours.

Department Directors will determine the trial and implementation period and will be responsible for nominating the employee for an award following the successful trial period. The policy or procedure must not currently be in practice. The nomination, which can be submitted in the form of a memorandum to the County Manager, should include details on the new policy or procedure, along with information on the implementation period and the resulting cost savings. The County Manager will notify the Department Director and Human Resources when the suggestion results in a leave award for the employee.

ARTICLE IV - PRE-EMPLOYMENT BACKGROUND CHECK FOR APPLICANTS

Section 1. Purpose

Pender County believes that hiring qualified individuals to fill positions contributes to the overall strategic success of the County. Background checks serve as an important part of the selection process. Background checks help the County obtain additional applicant related information that helps determine the applicant's overall employability, ensuring the protection of the current people, property, and information of the organization.

Section 2. Information Gathered

Pender County uses a third-party agency to conduct the background checks. The type of information that can be collected by this agency includes, but is not limited to, that pertains to an individual's past employment, education, character, finances etc. This process is conducted to verify the accuracy of the information provided by the applicant. Human Resources will ensure that all background checks are held in compliance with all federal and state statutes, such as the Fair Credit Reporting Act.

Social media background checks are the practice of reviewing a potential employee's social media and web presence to ensure they are an appropriate fit for a position. Pender County Human Resources or a third-party agency may use the internet to conduct supplementary background checks on job applicants after a conditional offer of employment has been made to review social media sites such as Facebook, Twitter, Snapchat, LinkedIn, etc. Information found on social media can confirm details on a candidate's application and provide insights about how an applicant may conduct themselves and might fit in with the workplace culture.

Applicant/Employee consent to perform both background checks (regular and social media) will be required prior to conducting either. Pender County Human Resources will comply with federal reporting rules and the Equal Employment Opportunity Commission (EEOC) regarding protected class information will not be used to unlawfully discriminate. Only public job related information will be reviewed.

Pender County Human Resources can make inquiries regarding criminal records during the pre-employment stage; however, as part of Title VII of the Civil Rights Act of 1964, this information cannot be used as a basis for denying employment, unless it is determined to be due to job-related issues, false information provided on a job application or business necessity. *(For example, a convicted sexual predator would not be offered a position to work in the Park or Library where children frequent.)* Pender County Human Resources follows the guidance in accordance with the 2012 Equal Employment Opportunity Commission (EEOC) on the use of criminal history information in employment decisions. Typically, when evaluating a background check, four (4) factors are considered:

- The nature of the crime
- The time that has elapsed since the crime or the end of the sentence
- The nature of the job
- Individualized assessment

Pender County Human Resources can collect credit information on applicants consistent with the guidelines set forth by the Federal Credit Reporting Act (FCRA). The Fair Credit Reporting Act requires organizations to obtain a candidate's written authorization before obtaining a background and/or credit report.

If the results of the background and/or credit check are negative, the County must inform the applicant that it plans on taking adverse action, provide the applicant with a Statement of Consumer Rights from the Federal Trade Commission before adverse action, provide the applicant the opportunity to review a copy of their background and/or credit report, and advise the applicant of their rights to dispute inaccurate information. Applicants should be granted reasonable time to contest the information (5 business days).

Pender County is allowed by federal law to reject an applicant who refuses to undergo a background and/or credit check.

Background Checks are just one component of pre-employment screenings. After a contingent job offer is made, an applicant must successfully complete the background check, a pre-employment drug test; a check of the applicant's DMV driving history; two (2) professional reference checks from at least the most recent or current employer; education verification; social security verification/E-Verify; and a credit check if the employee will be handling credit cards, cash, or other County funds. Some positions within the County may be subject to the sexual offender registry check as part of State and Federal law. In the event that Federal or State standards conflict with this policy, then the Federal or State standard shall control. This applies to new employees, existing employees that transfer/promoted into new positions and have not had a background check in the two (2) years and also includes Temporary Employees. The background check will normally be limited to North Carolina unless the applicant has lived out of North Carolina during the past five (5) years. In that case, a national background check will be required. Depending on the position in question, verification of required academic credentials may also be performed.

Section 3. Coverage

This policy applies to applicants for all County positions except positions in the Sheriff and Register of Deed's Departments. The application process for positions in the Sheriff's Department is covered by policy adopted and implemented by that Department.

Section 4. Definitions

- A. **Applicant:** any individual who applies for a permanent or temporary position, whether full-time or part-time with Pender County.
- B. **Conviction:** a misdemeanor, felony, pleas of no contest, or deferred adjudication (Prayer for Judgment Continued).
- C. **Consumer Credit Check:** a background check of an applicant or employee's credit history.
- D. **Criminal Conviction Check:** a background check to verify that an applicant or employee does not have any undisclosed criminal record in any state or other jurisdiction in which they have resided. This shall include a search of the National Sex Offender Database.
- E. **Job reference:** This includes verification of prior employment including position, longevity, salary, and job performance.
- F. **Background Check:** This shall include one or more of the following: verification of academic credentials; job reference, license verification, criminal conviction check; and consumer credit check.
- G. **Social Media Background Check:** Social Media background checks are the practice of reviewing a potential employee's social media and web presence to ensure they are an appropriate fit for a position. Only public job related information is reviewed.

Section 5. Procedure - Background Checks/Consumer Credit Checks/DMV Driving History Checks

- A. **Background Checks:** Pender County conducts pre-employment background checks of applicants who are the final candidate for a County position in compliance with all applicable federal and state laws, including the Fair Credit Reporting Act and Title VII of the Civil Rights Act.
 - Selected applicants will be provided with written notice of the County's intention to obtain information by way of a background check and will give applicants the opportunity to obtain a free copy of any report obtained.
 - Applicants will be asked to authorize a background check and social media background in writing before such a check is performed. If the applicant refuses, the applicant will not be considered for the position, and the contingent job offer will be rescinded.

B. **Consumer Credit Checks:**

Pender County obtains pre-employment consumer credit reports only under very limited circumstances, for example, when applicants or employees are being considered for a position in which they will have access to bank or credit card account information. When the County needs to obtain a consumer credit report, it will comply with applicable federal and state laws.

Applicants will be asked to authorize a consumer credit check in writing before such a check is performed. If the applicant refuses, the applicant will not be considered for the position, and the contingent job offer will be rescinded.

All information obtained from the consumer credit check will be used only for the purpose of making employment decisions. This information will be maintained confidentially, in accordance with applicable legal requirements and may only be reviewed or accessed by authorized individuals with the approval of the Human Resources Director.

In the event that information discovered as a result of a consumer credit check may negatively impact an applicant, the applicant will be provided the information and given a chance to refute the information within five business days from receipt of the information. This includes providing the name of the company providing credit information, and time to address the information with that company. The County will not make an adverse employment decision until at least 5 business days after the applicant receives the information.

In the event that information from the consumer credit check prevents an offer of employment from being made, the Department Director (working together with the Human Resources Director) will send a notification to the applicant with the following information:

- The name, address, and telephone number of the Consumer Reporting Agency (CRA) that provided the report, including a toll-free telephone number if the CRA compiles and maintains files on consumers on a nationwide basis.
- A statement that the CRA did not make the adverse decision and is unable to give specific reasons why the adverse decision was made.

Notification that the candidate has the right to:

- Obtain a free copy of the report from the CRA within sixty (60) days, and
- Dispute with the CRA the accuracy of completeness of any information provided in the report.

C. **Criminal Conviction Check:** Once an applicant becomes the final candidate for any position with the County, the hiring department shall request a criminal conviction check from the Human Resources Department. The HR Department will request such a report from a reputable vendor. The criminal conviction check will only be used for evaluating the final candidate for employment and will not be used to discriminate on the basis of race, color, national origin, religion, gender, disability or age.

An applicant's previous conviction does not automatically disqualify them from consideration from employment with the County. The candidate may still be eligible for employment depending on a variety of factors (e.g., the relevance of the conviction to the duties and responsibilities that would be assigned to the candidate if hired, the date(s) of the convictions, and the candidate's record since the date(s) of the conviction(s)). However, if an applicant fails to reveal any previous conviction on the employment application, he/she will be disqualified from employment for that or any other position with the County for at least a period of one year as a result of the falsification of his/her application.

If an applicant is hired after failing to disclose a conviction, the falsification of an employment application will be grounds for dismissal from employment. Pender County reserves the right to conduct background checks, including a check on criminal conviction history, on any current employee suspected of providing false information on his/her application or other documents.

- D. **Job Reference Check:** The hiring department's supervisor (or the Human Resources Department) shall seek to obtain information on the applicant's work performance that affects the applicant's suitability for the particular position sought. Reference checks may include persons provided by the applicant. Work history and reference information may be secured from at least the most recent or current supervisor of the applicant, if the applicant indicates on the application the reference may be contacted.

A minimum of two (2) reference checks (preferably professional/work related) must be submitted to Human Resources. Reference checks should include information on

- Overall performance
- Attendance
- Experience applicable for job being sought
- Reason for leaving
- Eligibility for rehire
- Whether the applicant was involuntarily terminated for cause
- Any active disciplinary action

- E. **Driving Record Check:** Pender County will check the driving records of all applicants who are final candidates for employment in a county position that requires the employee to drive a county vehicle. The County will also monitor the Transit Driver Notification System for all current employees who operate or have the potential to operate a county vehicle as part of their work with the County. The County also conducts annual DMV driving record checks for all current employees who drive a county vehicle as part of their work with the County.

NOTE: Employees who are required to drive a county vehicle in their work must report any conviction of a moving violation to their immediate supervisor within 15 calendar days of the conviction or guilty plea. If not reported within fifteen (15) days, disciplinary action may occur up to and including termination.

Section 6. Responsibilities Under this Policy

- A. **Record-keeping:** The Human Resources Director for Pender County is responsible for keeping all records generated through this policy in a safe and confidential manner.
- B. **Conducting Background Checks:** The Human Resources Department is responsible for securing appropriate background checks as requested by the hiring departments of the County. These reports may be purchased through a reputable CRA or through other means as determined by Human Resources.
- C. All applicants and employees are responsible for completing all employment forms in a complete and accurate fashion. The omission of relevant information is considered falsification and may be grounds for disqualification from employment or termination if employed.

NOTE: Pender County also requires pre-employment drug testing for final candidates for employment. Pre-employment drug testing is covered in [Article XVI](#)- Drug-Free Workplace Policy.

ARTICLE V – CONDUCT AND ETHICS

The County finds it is in the public interest and general welfare of the County and its citizens that a statement of ethics be established for all employees of the County.

Employees shall not use their official position for personal gain, engage in any business or transaction or have a financial interest, direct or indirect, which is in conflict with the proper performance of their official duties.

To ensure orderly operation and to provide the best possible work environment, the County expects employees to follow the conduct standards, which are designed to protect the interests and safety of all employees and the County. County employees shall observe the highest standards of professional behavior at all times both within the County government and with the general public in all matters.

Section 1. Gifts and Favors

All County employees are strictly prohibited from directly or indirectly soliciting or receiving any gift, reward, promise of reward, or anything of value whether in the form of services, loan, travel, entertainment, hospitality (lunch or meals), thing or promise or any other form where the circumstances indicate it is in exchange of, or consideration for, some action to be taken or not taken in the performance of the employee's duties. Legitimate political contributions to elected officials shall not be considered as gifts. No County employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

Nominal gifts that are provided to a department or group of County employees, such as fruit baskets, cookie tins, candy assortments, etc., may be accepted provided they are approved by the Department Director and made available to all the employees in the department or group. This policy is not intended to prohibit customary gifts or favors in circumstances where it is clear that the relationship rather than the official business of the individual concerned is the motivating factor for the gift or favor. Gifts not described above, and which have a value of greater than \$25, such as gift cards must be turned over to the Human Resources who will generate a list of employees and a recipient will be randomly selected to receive the gift.

Violation of this policy shall be reported to the County Manager. Any County employee who violates this policy is subject to disciplinary action up to and including dismissal.

Section 2. Auctions or Sales of County Property

No elected or appointed official serving Pender County government or any active Pender County employee, general or temporary, shall purchase or receive any County surplus property offered for sale or trade. Said officials and employees are not to bid or negotiate for the sale of or transfer of County surplus property while in service to Pender County or while in the employ of Pender County. Violation of this policy shall be reported to the Pender County Manager's office. Employees found in violation of this subsection shall be subject to disciplinary action, up to and including dismissal.

Section 3. Political Activity Restricted

Each County employee has a civic responsibility to support good government by every available means and in every appropriate manner. The public has the right to expect excellent service from all County employees on an equal basis without regard to political affiliation. Further, the public should be free from the appearance that support, or non- support, of a person's candidacy for political office, may have an effect on the excellent services provided by County employees. County employees may participate in political activities as authorized in this section. County employees are not restricted from affiliating with organizations of political or partisan nature. While off-duty, County employees may attend political meetings, support and advocate political policies and positions, make financial contributions to a political organization and support candidates of their choice in accordance with the U.S. Constitution and the laws of the State of North Carolina. No employee can be required to contribute funds for political or partisan purposes as a duty or condition of employment, promotion, or tenure of office.

However, all County employees are prohibited from:

- A. Engaging in any political or partisan activity while on duty.
- B. Using or giving the impression of using official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
- C. Coercing, soliciting or compelling contributions for political or partisan purposes from another employee of the County.
- D. Using any supplies or equipment of the County for political or partisan purposes.
- E. This Section will not apply to individuals holding elected office as a result of partisan elections such as the Sheriff, the Register of Deeds and the members of the Board of Commissioners.

Any employee who violates this policy is subject to disciplinary action up to and including dismissal.

Section 4. Conflict of Interest

The credibility of local government rests heavily upon the confidence which citizens have in public officials and employees to render fair and impartial services to all citizens without regard to personal interest and/or political influence. Thus, County officials and employees must scrupulously avoid any activity which may suggest a conflict of interest between their private interests and County responsibilities.

Examples of activities that are considered violations of this policy include, but are not limited to, the following:

- A. Activities that require the official or employee to interpret County laws, codes, ordinances, or regulations when such activity involves matters with which the official or employee has business and/or family ties.
- B. Using an official's or employee's authority, influence, or County position for the purpose of private or personal financial gain.
- C. The use of County time, facilities, equipment or supplies for the purpose of private or financial gain or for any purpose other than that of official County business.
- D. Entering into a business transaction when it involves using confidential information gained in the course of employment.
- E. Accepting other employment or public office where it will affect the official's or employee's independence of judgment or require the use of confidential information gained as a result of County duties.
- F. Accepting rebates or procuring any financial gain through the bidding process or employment of outside personnel.
- G. No employee or official shall use or disclose information gained in the course of employment or by reason of position for purposes of advancing a financial or personal interest, a business entity which there is an ownership interest, a financial or personal interest of a household member or a family member, or any other private or political interest to the detriment of the County.
- H. No employee or official shall disclose confidential or privileged information concerning personnel matters, property, contract negotiations, litigation-related matters, or other affairs of the County that are afforded protection under state law.
- I. No elected official shall require, either directly or indirectly, any employees of the County to campaign on his/her behalf as a condition of employment.

- J. No employees shall use County time or resources in promoting or advocating the election of any individual.
- K. No employee or official engaged in development review may engage in activity which conflicts with North Carolina General Statute 160D-109 or North Carolina General Statute 160D-1108.

Any official or employee engaging in any activity involving either an actual or potential conflict of interest or having knowledge of such activity by another official or employee is encouraged to promptly report the activity to the County Manager, or if such activity is by the County Manager, to the Board Chair. The County Manager or Board Chair shall investigate the matter and make a determination as to whether or not an actual or potential conflict exists. If the County Manager or Board Chair determines a conflict exists, it shall be presumed that the continuation of the practice would be injurious to the effectiveness of the official or employee in carrying out his/her duties and responsibilities. In such cases, the official or employee shall immediately terminate the conflicting activity or be subject to termination of employment or removal from office.

For the purposes of this policy, the term "official" shall include all elected and appointed officials of the County including, but not limited to, the County Board of Commissioners, other elected officials, and members of boards and commissions. "Employee" shall include any individual employed by the County on a full or part-time basis, in either a regular or temporary appointment. Any County employee having knowledge of or a reason to know of a potential personal interest, or upon the discovery of a potential personal interest, has an affirmative duty to disclose such personal interest to the County Manager. Any attempts by any person, firm or corporation to influence the decision of a county employee with regard to County business must be reported to the County Manager. Nothing in this policy is intended to violate, supersede, or conflict with any applicable state or federal laws regarding conflicts of interest in public employment or disclosure requirements.

Any county employee who is found to have violated any provision of this Article will be subject to disciplinary action up to and including dismissal.

Section 5. Customer Service Policy

Pender County employees are expected to serve the public, business associates, clients and other employees with courtesy, respect, and professionalism. Providing good customer service is a primary responsibility for everyone employed at Pender County, as well as, for Pender County's elected officials, contractors, vendors, volunteers and any person doing business for or with Pender County.

Citizens of Pender County and fellow employees are the customers we serve each day. Employees are expected to treat one another and members of the public with respect, courtesy and dignity even when there is a disagreement or conflict. Employees are expected to remember the following principles and conform behavior to these standards in the course of their everyday duties:

- A. We will greet our customers, both internal and external, in a courteous and professional manner.
- B. We will be respectful of all the people with whom we come into contact.
- C. We will listen effectively to our customers' requests and promptly take the necessary actions to assist them.

We will be considerate, cooperative and helpful to every staff member to ensure quality service. We will hold ourselves and each other accountable for addressing inappropriate comments and behavior.

- D. Professional appearance goes hand in hand with employee behaviors.
- E. Behavior speaks as loudly as words. A pleasant expression, eye contact, and a sincere interest in each request go a long way toward fostering public confidence and projecting the integrity of Pender County.
- F. We will finish our encounters with our customers, both internal and external, in a courteous and professional manner.

Behavior not meeting these standards may result in disciplinary action in accordance with Pender County's Employee Personnel Policies. When a situation escalates, however, either in-person or via phone, the employee should politely end the conversation and refer the party to another staff member or their immediate supervisor.

ARTICLE VI – CLASSIFICATION PLAN

Section 1. Adoption of the Classification Plan

The County Board of Commissioners is responsible for adopting a classification plan that assigns all County positions to a series of job classes based on the results of a job evaluation system. The classification plan shall include all classes of positions in the County. For each position there shall be a written position or class description that will include the following:

- A. A position summary which explains the general definition of work.
- B. The qualification requirements include essential functions and responsibilities.
- C. Position requirements such as the knowledge, skills, and abilities necessary for the performance of the work.
- D. A statement of the education, experience, and training required, and desired (if different) for recruitment.
- E. Physical requirements and working conditions in compliance with the Americans with Disabilities Act; and
- F. Special requirements such as licensures, certifications, or registrations.

Section 2. Allocation of Positions

The County Manager, on the recommendation of the Human Resources Director, shall approve the allocation of each position covered by the position classification plan to its appropriate class.

Section 3. Maintenance of the Classification Plan

The Human Resources Director, as directed by the County Manager, is responsible for maintaining the classification plan to ensure that it accurately reflects the duties performed by employees in the job classes to which their positions are assigned.

Department Directors are responsible for providing the Human Resources Director with documentation of substantive changes in the nature of duties, responsibilities, working conditions or other factors that could affect the classification of any existing position under their supervision.

When the Human Resources Director determines through job audit and/or job evaluation that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, a recommendation will be prepared for the County Manager to do one of the following:

- A. revise or reassign the existing position to the appropriate job class within the existing classification plan,
- B. amend the classification plan by establishing a new job class to which the position may be assigned, or
- C. to take other action as needed.

Human Resources will maintain all official class descriptions for all County positions and position descriptions for all positions. Human Resources will maintain a record of all budgeted and authorized positions.

Section 4. Classification of New Positions

The Human Resources Director, as directed by the County Manager, is responsible for reviewing and making recommendations for assigning a new position to an existing job class or to a newly created job class. The recommendation must consider documentation furnished by the Department Director outlining the duties, responsibilities, typical tasks, and qualifications proposed for the position and the results of a job audit and job evaluation to be conducted by the Human Resources Director or a designee.

Section 5. Amendment of the Classification Plan

The Board of Commissioners shall approve amendments to the classification plan by adding, changing, or deleting positions or classes of positions and salary grades based on internal analysis and market comparisons within the authorized budget allocation, based upon the County Manager's recommendations.

Section 6. Administration

The Pender County Board of Commissioners authorizes the County Manager to implement the Classification Plan upon approval by the Board of Commissioners

ARTICLE VII – COMPENSATION PLAN

Section 1. Coverage of the Compensation Plan

Employees shall be compensated in accordance with the compensation plan established by the County and adopted by the County Board of Commissioners for administration by the County Manager's office. The County shall develop and maintain a compensation plan based on equitable compensation relationships for all position classifications in accordance with state and federal laws. The compensation plan shall include all position classifications in the County.

In accordance with the August 15, 2016, Department of Labor Discrimination on the Basis of Sex; Final Rule (§ 60-20.4), compensation may not be based on sex and the county will not discriminate in wages based on the sex of the employee. The county will not pay a different compensation to similarly situated employees on the basis of sex. However, salary may be determined by tasks performed, skills, effort, levels of responsibility, working conditions, job difficulty experience, and minimum qualifications.

In accordance with the January 11, 2016, Department of Labor, Office of Federal Contract Compliance Programs (OFCCP) Pay Transparency Nondiscrimination Provision, Pender County does not discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as part of their essential job functions cannot disclose any confidential personnel information unless it's (1) in response to a public records request governed by North Carolina General Statutes 153A-98 and 160A-168, (2) in response to a formal complaint or charge, and (3) in furtherance of an investigation, proceeding, hearing or action, including an investigation conducted by the county.

Section 2. Compensation Plan

The compensation plan is designed to establish and maintain a salary structure which attracts, motivates, recruits and retains qualified employees, is competitive with the local labor market, and recognizes and rewards individual employee performance accomplished through the use of:

- A. Formal job evaluation system.
- B. Competitive compensation structure with salary increases based on the cost of living and performance factors.
- C. Formal employee performance evaluations.

The compensation plan will consist of salary grades with an established minimum, and maximum rate. The compensation plan will also consist of graduated steps within the minimum and maximum range. Position classifications will be placed in a salary grade based on the formal job evaluation ranking of the position classification and upon market considerations. A performance evaluation may be a component of the County's compensation program as well as the basis for employee development. Employees may receive merit increases within their assigned salary grade based on the results of individual employee performance evaluation score when funding is available. The compensation plan will be reviewed and evaluated on an annual basis. Overall compensation (pay and benefits) may be limited by budgetary constraints and be structured accordingly. Nothing contained herein shall be deemed to override the Budgetary authority of the County Commissioners.

Section 3. Maintenance of the Compensation Plan

- A. The Human Resources Director, as directed by the County Manager, is responsible for the administration and maintenance of the compensation plan. The compensation plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the rates of pay for comparable positions in private and public employment in the area, changes in the cost of living, the financial conditions of the County, and other factors.

- B. The Human Resources Director is authorized to make comparative studies of all factors affecting the compensation plan. When the Human Resources Director determines through periodic market analysis and/or salary surveys that a reasonable change has occurred in the pay level of an existing position, a recommendation may be prepared for the County Manager to present to the Board of Commissioners to revise or reassign the respective position to the appropriate pay range/salary grade within the existing pay range/salary table, or to take other action as needed.

- C. The Human Resources Director, as directed by the County Manager, shall review the compensation plan and evaluate any amendments necessary to maintain a current compensation plan each year as part of the annual budget process. The County Manager shall make recommendations to the Board of Commissioners based upon a study of local economic conditions, the financial state of the County, and market/merit conditions of position classifications as requested.

Section 4. Transition to a New Pay Plan

The pay plan shall consist of one or more salary schedules. Each classified and evaluated position has a pay grade with a range including a minimum rate of pay and a maximum rate of pay. The following three (3) principles shall govern the transition to a new compensation plan:

- A. No employee shall receive a pay reduction as a result of the transition to a new compensation plan.
- B. Employees being paid at a rate lower than the minimum wage rate for their position classification in the new compensation plan shall receive an increase to the minimum of the new pay grade.
- C. Employees being paid at a rate above the maximum rate established for their position classification shall have their wage frozen at that level until such time as the maximum rate for their position equals the employee's wage.

Section 5. Payment at Listed Rate

All employees covered by the compensation plan shall be paid at least a listed rate within the pay range established for their respective job classification except employees in a "trainee" or "work-against" status.

Section 6. Rate of Pay upon Hire

Employees shall be hired at the minimum rate of the salary grade assigned to their position classification. Appointments above the minimum rate of the salary grade may be made with the approval of the County Manager, when deemed necessary to serve the best interests of the County, based on such factors as qualifications or prior experience of the applicant, a shortage of qualified applicants available at the minimum rate, or the refusal of qualified applicants to accept employment at the minimum rate. No new hire salary may exceed the maximum range of the salary grade.

Section 7. Salary of Trainee/Work Against

- A. An applicant hired or an employee promoted to a position in a higher class, who does not meet all the established requirements of the position, may be appointed at a rate in the compensation plan below the minimum pay grade established for the position. In such cases, a plan for training, including a time schedule, will be prepared and submitted to Human Resources for retention in the employee's official personnel file.
- B. Trainee salaries shall be five (5) percent below the minimum salary established for the position for which the person is being trained. The training salary will remain in effect until the Department Director determines that the trainee is qualified to assume the full responsibilities of the position. The Department Director will develop a training plan for each trainee and will review the trainee's progress monthly, or more frequently as necessary, to determine when the trainee is qualified to assume the full responsibilities of the position. Typically, an employee will be promoted to

full status within one (1) year, unless preempted by the specific approved job specification and/or class or training were not available within the timeframe specified in the job description. The employee must be registered for the next available class unless circumstances prevent the employee from completing the second training opportunity. After the second training opportunity is missed, the employee in training or in a work against status will be re-evaluated. Approved leave without pay shall not count as time worked toward meeting the minimum requirements for the position. All reviews will be forwarded to Human Resources for retention in the employee's official personnel file.

Section 8. Bi-Lingual Differential Pay

To ensure that people have equal access to county services, regardless of their language of preference, the County shall pay full-time employees competent in foreign language(s) utilized in daily performance of work activities or in service to the County but not typically a requirement of their position, two and half percent (2.5% or 2 steps) of base rate pay.

To receive bilingual incentive pay, an employee must demonstrate competence by successfully passing a bilingual fluency test approved by the County Manager. Eligibility for bi-lingual differential pay is subject to final approval by the County Manager.

Section 9. Continuous Feedback Performance System

A performance program focused on communication, growth and efficiency without relying on traditional once a year evaluations.

The **Employee Evaluation** schedule is as follows:

- January/February – Employee and/or Supervisor/Department Director meet to discuss annual goals, review job description accuracy, training/certifications needs, job performance (accomplishments and improvements), etc. for the calendar year
- June/July – Employee and/or Supervisor/Department Director meet to discuss mid-year progression of goals, training/certifications, job performance, etc.
 - Each Supervisor and/or Department Director is responsible for completing a one-page mid-year review on each employee's performance
 - Each employee will complete a one-page self-assessment in preparation of the meeting with their Supervisor and/or Department Director.
- November/December – Employee and/or Supervisor/Department Director meet to conclude annual completion of goals, training/certifications, and job performance
 - Each Supervisor and/or Department Director is responsible for completing a one-page performance review on each employee's performance. A meeting between

the employee and the Supervisor and/or Department Director is required to discuss the final performance review.

- Each employee will complete a one-page Supervisor assessment to be submitted to Human Resources to be summarized and submitted to either the Department Director or County Manager to assist in the completion of either the Supervisor and/or Department Director's annual performance evaluation.

The **Probationary Employee** evaluation schedule is as follows:

- Month of Hire - Employee and/or Supervisor/Department Director meet to discuss annual goals, review job description accuracy, training/certifications needs, job performance expectations, etc. for the 12-month probationary period.
- Human Resources will check-in with the new hire at 1 month to establish that the new hire is being properly mentored, quality training is provided and applicable to the job duties outlined in the job description, and if the new hire requires additional resources.
- 6 months after Hire – Employee and/or Supervisor/Department Director meet to discuss mid-year progression of goals, training/certifications, job performance (accomplishments and improvements), etc.
 - Each Supervisor and/or Department Director is responsible for completing a one-page mid-year probationary review on each employee's performance
 - Each employee will complete a one-page self-assessment in preparation of the meeting with their Supervisor and/or Department Director.
- 12th Month (Probationary Period Conclusion) – Employee and/or Supervisor/Department Director meet to conclude annual completion of goals, training/certifications, job performance, etc.
 - Each Supervisor and/or Department Director is responsible for completing a one-page final probationary review on each employee's performance. A meeting between the probationary employee and the Supervisor and/or Department Director is required to discuss the final probationary review.
 - Each employee will complete a one-page Supervisor assessment to be submitted to Human Resources to be summarized and submitted to either the Department Director or County Manager to assist in the completion of either the Supervisor and/or Department Director's annual performance evaluation.

Goals of Program

- Real-Time recognition of accomplishments and achievements whether it's a job well done, creative solutions, reaching milestones, etc.
- Address job performance and/or behavior issues more timely. If the issues persist, the Supervisor and/or Department Director is required to issue a Performance Improvement Plan (PIP), Corrective Action Plan or disciplinary action if warranted.
- Project based feedback on current assignments, projects, etc.
- Goal setting and development plans on improving skills, learning new tasks, tackling specific challenges, etc.
- Career development conversation to discuss training resources, classes, certifications, etc. to help the employee be successful
- Discuss any issues, guidance without fear of judgment

There is no merit-based pay associated with this performance evaluation system. However, the Board of Commissioners may implement a performance-based merit/bonus allocation as the budget allows.

If the employee fails to complete and submit the self-assessment and the Supervisor Assessment in the timeframe designated by Human Resources, the employee will not be eligible for the performance-based merit/bonus allocation if designated by the BOCC, Longevity Pay for that fiscal year and will not be eligible for a step increase in the upcoming budget.

If the Supervisor and/or Department Director fail to complete performance reviews and submit to Human Resources within the timeframe designated by HR or hold meetings with the employees, the Supervisor and/or Department Director may be disciplined and will not be eligible for the performance based merit/bonus allocation if designated by the BOCC, Longevity Pay for that fiscal year and will not be eligible for a step increase in the upcoming budget.

Section 10. Performance Bonus

Pender County wants to recognize hard work, going above and beyond what is expected, successfully completing a complex project, etc. to motivate and retain valued employees who provide exemplary performance. In recognition of extraordinary efforts by the employee, the Department Director shall nominate an employee for a once-a-fiscal year performance bonus. The Department Director must complete a Bonus Nomination Form and submit it to HR for review and ultimately it will be sent to the County Manager's office for approval.

The annual fiscal year lump-sum bonus may not exceed \$1,000 per person/per fiscal year. However, the County Manager may approve a higher bonus where it is justified (*in writing*)

- Significant savings to the county,
- Unique or extraordinary efforts not awarded according to pre-established criteria

Decisions about the amount of a lump-sum bonus should be dependent on the nature and complexity of the accomplishment.

Examples of areas that may be rewarded include:

- Outstanding achievements and accomplishments: Demonstrated and sustained outstanding achievements that consistently exceed goals and job expectations.
- Teamwork: Acting as an exceptionally effective and cooperative team member or demonstrating superior interactions within and outside the county and the client population served.
- Above and Beyond: The employee has fulfilled all normal job duties in addition to performing added duties to accomplish a special project or achieve a certain goal.
- Role Model: The employee serves as a role model for others, displaying desirable characteristics such as outstanding customer service, positive attitude and team leadership.

If the Bonus request is approved, the employee will be awarded the bonus the next pay period once the Department Director and/or Supervisor submits a Personnel Action Form with the County Manager approved form attached.

The feasibility of this policy is related to budgetary allowances and subject to the annual availability of funds. The Board of Commissioners may rescind this policy at any annual budget adoption.

Section 11. Annual Pay Rate Adjustments/Cost of Living Adjustments (COLA)

- A. The County Board of Commissioners will review the pay plan annually and consider recommendations from the County Manager to adjust the pay plan or pay ranges within the pay plan as needed to reflect changes in the cost of living, to maintain pay rates for County positions at a level comparable with rates paid by other public and private employers, and to consider the financial conditions of the County. The County will use the data published by the U.S. Department of Labor, Bureau of Labor Statistics and other prevailing scientific data.
- B. It shall be the policy of the County to annually review the compensation of its elected officials (Sheriff, Register of Deeds, and County Commissioners) by adjusting the base salary of each official by the combination of the amount of the annual Cost of Living adjustment budgeted annually by the County Commissioners for all other County employees and the established annual target pay for performance adjustment, when applicable, for all County employees as authorized by the County Commissioners in its annual budget approval process. The intent of this action is to

ensure compensation for all the County's elected officials remains consistent with those of other government jurisdictions of comparable size and structure.

Section 12. Salary Adjustments

The County Manager shall be responsible for implementing all salary adjustments. Employees shall be advised of all salary adjustments.

- A. Salary adjustments may occur as a result of the following:
1. **Promotion:** An employee who is promoted to a position classification with a higher salary grade may receive up to a ten (10) percent pay increase in base pay or an increase to the minimum rate of the new pay range with the appropriate seniority steps, whichever is higher, as long as the increase is consistent with the compensation plan, and the new pay rate does not exceed the maximum pay rate established for the pay range. Pay increases that exceed the minimum of the new pay range, or ten (10) percent, whichever is higher, but do not exceed the maximum pay rate established for the new pay range, can be approved by the County Manager if written documentation is provided to justify the increase by the Department Director.
 2. **Demotion:** An employee may receive a decrease in salary due to a demotion to a lower salary grade position as determined by the Department Director subject to review and approval by the County Manager. The new salary must fall within the range of the new position grade.
 3. **Negotiated Increase:** Other salary increases may be granted with the approval of the County Manager. The County Manager may increase the annual salary of an employee when the employee's position is known to be one that is hard to fill, the market rate exceeds the current rate of pay or increased duties and responsibilities warrant an increase. The salary increase may not exceed the maximum of the salary range and must be within the current budget.
 4. **Voluntary Reassignment:** An employee voluntarily transferring from a position in one grade to a position in another grade assigned to the same grade will continue to receive the same salary. When an employee is temporarily transferred from a position in one grade to a position assigned to a higher grade, the employee may be paid at a higher rate as long as the temporary transfer is in effect. The rate of pay for an employee who requests a voluntary demotion to a job class assigned to a lower grade will be set at the equivalent rate in the new pay grade provided that does not exceed the rate at which the employee was paid in the position from which the employee was voluntarily reassigned. For example, if the employee was paid at 110% of the minimum of the previous pay range, the new pay rate will be 110% of the minimum of the new pay range.)

If an employee requests a voluntary reassignment to the same vacant position as held previously within six (6) months of a transfer or promotion, it is at the discretion of the Department Director and approval of the County Manager that the individual

may resume their previous position at the same rate of pay as held previously in that position. A Voluntary Reassignment form must be completed by the requesting employee and approved by the Department Director before the request can be processed.

5. **Reclassification:** When a position is reclassified to a higher grade, the County Manager has the discretion to adjust the salary upward, provided that the adjusted salary does not exceed the maximum of the new salary range, or to leave the salary unchanged except when the salary is below the minimum of the new grade in which case the salary shall be brought up to the minimum of the new salary grade. If the position is reclassified to a lower pay grade and the employee is receiving a salary above the maximum rate established for the new class, the employee's pay will be reduced to the maximum rate established for the new position and maintained at that level until such time as the pay range to which the employee's job position is assigned increases.
6. **Trainee/Work-against to Full Class:** When an employee in a trainee/work-against status meets the minimum requirements for the position (full class), the salary shall be adjusted upward to the minimum of the position classification's salary range, unless otherwise negotiated at the time of hire.
7. **Transfer:** The County Manager may adjust the salary of an employee transferred to a new position within the salary range as recommended by the Department Director subject to review and approval.
8. **Cost-of-living Increase:** The Board of Commissioners may grant all general and permanent employees and/or others a cost-of-living adjustment each fiscal year based on the recommendation of the County Manager based on funds availability. When a COLA is applied, it adjusts the entire salary table by the approved percentage.
9. **Interim Appointments:** Employees serving in an interim or acting capacity may receive up to twenty (20) percent pay increase in base pay or an increase to the minimum rate of the new pay range, whichever is higher, as long as the increase is consistent with the pay plan, and the new pay rate does not exceed the maximum pay rate established for the pay range. Any increase received by an employee for functioning in an interim or acting capacity will cease when the employee no longer functions in that capacity.
10. **Furlough:** In cases where there are insufficient funds to meet payroll, the County Manager has the authority to place employees in a leave without pay status.

Any deviation from the pay practices detailed in this section must be requested in writing by the respective Department Director and approved by the Human Resources Director and County Manager.

Section 13. Salary Progression

The purpose of this policy is to offer employees the opportunity to progress through established salary ranges and eliminate salary compression at the beginning of the salary grade.

All budgeted full-time and permanent part-time employees that work 24 hours or more per week, completed their 12-month probationary period and have been employed for a year as of the end of the current fiscal year is eligible for a one step increase July 1st of the new fiscal year.

An employee will be eligible for a step increase if: 1) The employee is in good standing with no current corrective action or performance improvement plan or no current or pending disciplinary action within the last year. 2) An employee was not demoted as disciplinary action 3) The employee must have a current continuous feedback performance form on file with an average rating of at least “exceeds standards” for the position.

Progressions beyond the maximum of the salary range are not allowed.

The feasibility of this policy is related to budgetary allowances and subject to the annual availability of funds. The Board of Commissioners may rescind this policy at any annual budget adoption.

Section 14. Part-time and Temporary Employee Compensation

The compensation plan established by this policy is for full-time service. Permanent part-time budgeted positions will be pro-rated based on the number of budgeted annual hours. Part-time temporary employees are assigned an hourly rate from the pay plan of the position hired. The County Manager shall review the compensation of non-budgeted employees annually in the budget process and make recommendations to be considered for approval by the Board of Commissioners (ex. COLA).

All temporary employees (including retirees returning to work) will be placed at the minimum hourly rate of pay of the position they are hired to work. Any exception must be approved by the County Manager.

Section 15. Overtime Pay and Compensatory Time

It is Pender County's policy to comply with the provisions of the Fair Labor Standards Act (FLSA) and to prohibit improper deductions from pay, whether for lack of work or for any other reason. The Human Resources Director is assigned responsibility to designate each County job class as exempt or non-exempt in accordance with the provisions of the Fair Labor Standards Act (FLSA).

All prohibitions of retaliation and discrimination specifically set forth in 29 U.S.C. 215 will be strictly adhered to by all agents of the County. Employees in an exempt job class will not be compensated in any way for hours worked over 40 hours in a workweek unless during declared events where overtime can be compensated by State or Federal government or as approved by the County Manager. Non-exempt employees are strictly prohibited from volunteering to work overtime without receiving compensation.

- Non-exempt Full-Time and permanent part-time employees that work over 40 hours a week earn compensatory or overtime at time and half for each hour worked
- Non-exempt temporary part-time employees that work over 40 hours a week get paid overtime

It is the policy of Pender County that unless otherwise approved by the County Manager, work performed by non-exempt employees over 40 hours per week shall be compensated with time and a half compensatory time.

A. **Hours Worked:** Hours worked is the time for which an employee is entitled to compensation under the FLSA. The following further expands on what is and is not considered hours worked for the purpose of calculating overtime compensation:

1. Vacation, sick, compensatory time, holiday leave, administrative leave and unpaid meal breaks will not be considered hours worked for FLSA purposes.
2. Training-related time, either to increase efficiency or as required by the employer, is counted as hours worked. Time relating to training and educational seminars attended voluntarily by the employee that are not related to the performance of job duties is not considered hours worked.
3. Time spent by an employee during the regular workday preparing and attending a grievance under the County grievance policy is considered hours worked.
4. All travel time that is required by the County other than the normal commuting time between home and job is considered hours worked.
5. Paid rest breaks held in accordance with these employee personnel policies are considered hours worked.

B. All employees in a non-exempt job class will earn compensatory time at the rate of one and one-half (1 ½) hours for each hour worked over forty (40) in a workweek. Annual leave, holidays, sick leave or any other paid leave time do not count toward "hours worked" for purposes of computing overtime or compensatory time. Compensatory time may be accumulated to a maximum of 240 hours if approved by the County Manager

- C. For information regarding overtime compensation, please see [Article II Section 18](#) and [Article II Section 20](#).
- D. The employee's Department Director or a supervisor who has been designated by the Department Director to make such decisions must authorize all overtime and compensatory time in advance. The County has the right to adjust work schedules to stay within the budget constraints. Accumulated compensatory time shall not be converted to any other form of paid leave or donated as shared leave.
- E. **Exempt Employees:** All employees exempt from the FLSA overtime requirements are expected to work whatever hours are necessary in order to meet the performance expectations outlined by their supervisors or the County Manager.

Exempt employees are eligible to earn "bonus" time for working additional hours over and above forty (40) hours in a workweek at the rate one hour for one hour upon submission in the ESS timesheet with an explanation in the Note/Comment section and approval by the Department Director and the County Manager. "Bonus" time is not an entitlement or a right the exempt employee may demand, but is a privilege granted by the County in recognition for service rendered.

If the exempt employee has not taken "bonus" time by the end of the fiscal year, the "bonus" time earned will no longer be available. "Bonus" time earned under other agreements such as the Board of Elections is not included as part of this policy. "Bonus" time is not paid out when an exempt employee resigns or is terminated from county employment.

- F. **Overtime Payments:** The County Manager or the manager's designee may authorize payment of overtime when the maximum compensatory time accumulation has been reached or in emergency situations. Employees or classes of employees may be granted standing authorization for overtime payments by written authorization of the County Manager or the manager's designee. All compensatory time remaining on a non-exempt employee's leave record shall be compensated at the employee's current rate of pay upon separation.

Section 16. Payroll Deductions

Only payroll deductions specifically mandated or authorized by applicable federal and state laws and regulations or approved by the County Board of Commissioners may be voluntary deductions. Deductions which are required by law shall be deducted from employee pay each pay period. Pursuant to N.C. G.S. § 95-25.8, Withholding of Wages, an employer may withhold or divert any portion of an employee's wages when (1) N.C. G.S. § 95-25.8(a) (1), the employer is required to do so by state or federal law. (2) N.C.G.S. § 95-25.8(a) (2), The amount of a proposed deduction is known and agreed upon in advance and the written authorization is (a) signed on or before the pay day in which the deduction will be made, (b) includes the reason for the deduction, and (c) states the actual dollar amount or percentage of wages that are to be withheld. All voluntary deductions must be authorized by the employee.

Deductions which are required by law and/or policy shall be deducted from an employees' pay and shall include:

- A. Federal Income Tax
- B. State Income Tax
- C. Social Security/Medicare
- D. North Carolina Local Government Employee's Retirement System (where applicable)
- E. Garnishments
- F. Reimbursements to the County for lost items, property loss, etc. Employee will be given the option to pay out of pocket or have deducted from pay check.

In the event that the County becomes aware of a deduction that may have been made improperly, the County will fully investigate the situation and reimburse any employees who had improper deductions from their pay and take actions to prevent continued improper deductions. As well as, if an employee was not deducted correctly for a deduction and/or benefit premium, after the deduction is either researched or audited, the county will either reimburse the employee or collect the difference.

Section 17. Advance on Wages

There shall be no advancement on wages and no paycheck will be released early.

Section 18. Longevity Pay

In an effort to address employee retention, in addition to regular wages, a longevity payment will be made annually in recognition of long-term service of full-time employees who have served at least two (2) continuous years with Pender County in a budgeted full-time position. Annual longevity pay amounts are calculated based upon the length of continuous Pender County service and a percentage of the employee's annual rate of base pay on the date of eligibility. Longevity rates are as follows:

Years of Continuous Service	Longevity Pay Rate
2-3 years	.50%
4 years	1.00%
5 -9 years	1.50%
10 – 14 years	2.00%
15 – 19 years	3.00%
20 – 24 years	4.00%
25 or more years	5.00%

1. Employees must be actively employed by Pender County and working on their eligibility date (service date) to receive longevity pay unless the employee is on approved FMLA or an accepted Workers Comp Claim.
2. Receipt of longevity payment will be delayed for staff who are not actively working on their service date due to a Continuous FMLA or Workers Compensation leave until the employee returns to work from such leave. Payment will be issued on the first pay date of the employee's return.
3. Staff who do not return to work from an approved leave of absence will not be eligible to receive a longevity payment.
4. If an employee is on leave without pay (LWOP) and is not FMLA eligible and not actively working on their service date, longevity payment may be issued on the first pay date of the employee's return or forfeited for the current fiscal year. Each LWOP absence will be reviewed to determine eligibility.
5. Staff who do not return to work from an LWOP absence will not be eligible to receive a longevity payment.
6. If an employee is working in an "interim" position at the time of their longevity service date, the longevity will be based on their immediate prior position before the interim appointment.
7. If during a disciplinary process and/or the employee is on investigative administrative leave, and the decision is made that the employee is terminated or he/she resigns during or directly after the process, longevity will not be paid.
8. If during a disciplinary process and/or the employee is on investigative administrative leave, and the disciplinary process is concluded with the employee remaining employed, the longevity pay will be paid in the next available payroll.
9. Longevity pay is not considered a part of annual pay for reclassification and pay purposes, nor is it to be recorded in personnel records as a part of the annual base salary. For employees hired after July 1, 2006, the longevity pay benefit is a form of current compensation that may be changed or eliminated at any time in the sole discretion of the governing board.
10. Exceptions may be made by the County Manager.

Note: Currently permanent part-time employees are receiving longevity pay if longevity was paid as of May 9, 2024. Those employees will be grandfathered into the policy. However, permanent part-time employees that did not receive longevity as of May 9, 2024, and hired after May 9, 2024, will not be eligible for this benefit.

Section 19. Salary at Separation

The final check received by the employee will include eligible vacation leave, unused compensatory time for non-exempt employees, unused holiday pay and other pay as applicable and will be received on the payday following the pay period including the termination effective date.

An employee who separates employment with the County will receive a reduction in final pay if there is a:

- negative balance in any accrual - sick leave, vacation leave, holiday or compensatory leave
- if uniforms (including shirts, pants, hats, jackets, coats, etc.) that has the county's name, emblem and/or seal that was purchased or reimbursed by the county
- county equipment is damaged or has not been returned
- the expense of training and/or certification expenses if an agreement was executed between the employee and the county or in coordination with Article X Employee Education and Training, Education Reimbursement.
- Unpaid benefit premiums

The final check will be direct deposited as usual unless the employee's final check amount is less than the amounts owed to the county. For employees hired prior to March 6, 2000, who have been employed with Pender County for five (5) years see [Article VIII Section 3](#) regarding sick leave.

NOTE: See [Article IX Section 10](#) regarding 401k contributions at separation.

Section 20. Time Records

Time records must be submitted on a timely basis for each respective pay period. It is the employee's responsibility to provide a true and accurate time record for each pay period. It is the responsibility of the employee's supervisor to verify and approve time records for each pay period. Failure to submit a timely timesheet for payment may result in the timesheet being processed with the next payroll. Falsification or misrepresentation of time records may result in disciplinary action, up to and including dismissal.

Section 21. Pay Periods

Employees are paid on a bi-weekly basis every other Friday for the previous pay period. When a payday falls on a holiday and the banks are closed, employees shall be paid on the preceding workday. Employees that have discrepancies in their pay are to report the discrepancy to their supervisor, Human Resources or Payroll immediately. The County requires all employees hired after January 1, 2001, to receive payment electronically by direct deposit.

Section 22. Safe Harbor

It is our policy and practice to accurately compensate employees and to do so in compliance with all applicable state and federal laws. To ensure that you are paid properly for all time worked and that no improper deductions are made, you must record correctly all work time and review your

paychecks promptly to identify and to report all errors. You also must not engage in off-the-clock or unrecorded work.

Review Your Pay Stub

We make every effort to ensure our employees are paid correctly. Occasionally, however, inadvertent mistakes can happen. When mistakes do happen and are called to our attention, we will make any correction that is necessary. Mistakes that are determined to be a mistake made by the employee and/or Pender County will be corrected through the next paycheck usually. Please review your pay stub when you receive it to make sure it is correct. If you believe a mistake has occurred or if you have any question, please call Human Resources or Finance Payroll immediately.

Non-exempt Employees

If you are eligible for overtime pay or extra pay, you must maintain a record of the total hours you work each day. These hours must be accurately recorded on your time sheet. Each employee must submit his or her time sheet to verify that the reported hours worked is complete and accurate (and that there is no unrecorded or “off-the-clock” work). Your time sheet must accurately reflect all regular and overtime hours worked, any absences, early or late arrivals, early or late departures and meal breaks. Prior to submitting your time sheet to your supervisor each pay period; you should review your completed time sheet. When you receive each paycheck, please verify immediately that you were paid correctly for all regular and overtime hours worked each workweek.

To Report Violations of This Policy, Communicate Concerns, or Obtain More Information

It is a violation of the County’s policy for any employee to falsify a time sheet, or to alter another employee’s time sheet. A Department Director, Supervisor or Payroll may edit an employee’s timesheet to correct for errors such as inaccurate leave usage, but the employee should be notified of the change. If the employee disagrees with the time sheet correction, they may appeal to the Department Director, Human Resources or Finance Payroll. It is also a serious violation of County policy for any employee or Supervisor to instruct another employee to incorrectly or falsely report hours worked or alter another employee’s time sheet to under- or over-report hours worked. If any Supervisor or employee instructs you to (1) incorrectly or falsely under- or over-report your hours worked, (2) alter another employee’s time records to inaccurately or falsely report that employee’s hours worked, or (3) conceal any falsification of time records or to violate this policy, report it immediately to the Human Resources Department.

You should not work any hours outside of your scheduled workday unless your supervisor has authorized the unscheduled work in advance. Do not start work early, finish work late, work during a meal break or do any other extra or overtime work unless you are authorized to do so, and that time is recorded on your time sheet. Employees are prohibited from performing any “off-the-clock” work. “Off-the-clock” work means work you may perform but fail to report on your time sheet. Any employee who fails to report or inaccurately reports any hours worked will be subject to

disciplinary action, up to and including termination.

If you have questions about deductions from your pay, please contact Human Resources immediately. If you believe your wages have been subject to any improper deductions or your pay does not accurately reflect all hours worked, you should report your concerns to a supervisor, Human Resources or Finance Payroll immediately.

Section 23. On-Call

Department of Social Services Social Worker Supervisors receive a weekly stipend for Child Welfare On-Call. All other Non-exempt employees required to work on-call duty in response to an urgent situation outside of standard hours that can't be deferred to normal hours of operation should receive overtime for all time actually spent in the service of the County in excess of their regular 40-hour work schedule or 86 hours for law enforcement. A minimum of four (4) hours shall be guaranteed to any non-exempt employee on-call when the employee is required to leave home to conduct duties. If the employee is required to leave home or his or her current location, the recording of time shall begin when the employee leaves and shall conclude when the employee returns home or to the original location, provided the employee returns immediately following the on-call report. Telephone calls answered while on-call shall be counted as time worked for the duration of the call.

The Department Director and/or County Manager must approve on-call/emergency duty or overtime work. Those periods during which an employee is completely relieved from duty, and which are long enough to enable him/her to use the time effectively for his/her own purposes ("Waiting to be engaged") are not considered hours worked and it is not defined as compensable work time as defined by FLSA.

Employees designated for on-call/emergency or overtime work who fail to report to work for that assigned duty, fail to respond to phone calls or efforts to contact them without unnecessary delay or fail to gain approval to not report may be subject to disciplinary action up to and including dismissal.

ARTICLE VIII – EMPLOYEE LEAVE BENEFITS

Section 1. Cascading Leave Policy

- A. Employee leave benefits shall cascade in the following order, each leave type being fully exhausted before the subsequent is entered: holiday, compensatory time, vacation leave or sick leave if applicable with the exception of community service and/or blood donor time (as discussed on page XXX) which is used before holiday in the cascading leave progression.
- B. Accruals cannot be used to exceed their scheduled work week/shift or biweekly work schedule (Law Enforcement 86-hour schedule). The exception to this section is holiday accrual usage as discussed in Article VIII, Section 2. a.

Section 2. Holidays

The following holidays and such others as the Board of County Commissioners may designate shall be observed by the County. The County shall observe the holiday on the same day as the North Carolina Office of State Human Resources (OSHR) designates typically.

- New Year's Day
- Martin Luther King, Jr. Day
- President's Day
- Good Friday
- Easter Monday
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Wednesday, Thanksgiving Day and Thanksgiving Friday
- Christmas Day plus two (2) additional days according to the following schedule:

When Christmas is on the following day	County Employees Observe These Days
Sunday	December 23, 26 and 27 (Friday, Monday, Tuesday)
Monday	December 25, 26 and 27 (Monday, Tuesday, Wednesday)
Tuesday	December 24, 25 and 26 (Monday, Tuesday, Wednesday)
Wednesday	December 25, 26 and 27 (Wednesday, Thursday, Friday)
Thursday	December 24, 25 and 26 (Wednesday, Thursday, Friday)
Friday	December 24, 25 and 28 (Thursday, Friday, Monday)
Saturday	December 23, 24 and 27 (Thursday, Friday, Monday)

The Board of County Commissioners may adjust the holiday schedule as deemed necessary. It is the County's intent to ensure that regular, probationary and trainee full-time employees receive fifteen (15) paid holidays, equivalent to one hundred and twenty (120) hours annually. Any holiday falling on Saturday or Sunday will be observed on Friday or Monday pursuant to the determination of the County Board of Commissioners. If employees are assigned to a work schedule other than Monday to Friday, the holiday will be observed the day on the BOC approved holiday schedule.

Permanent Full-time employees will earn 8 hours of holiday per each approved date and permanent Part Time employees will earn a pro-rated amount based on budgeted position.

Non-Exempt employees, who are required as part of their normally scheduled workweek/shift to work on a scheduled holiday or required by their supervisor to work an approved holiday, will be paid holiday in addition to work time as the holiday occurs per BOC approved holiday schedule as long as the employee worked their fully scheduled work shift/workweek. If the employee did not work their full scheduled workweek/shifts, the holiday will be used as an accrual to cover the remainder of the workweek/shifts as discussed in Section 1.

All other employees will not be paid holiday in addition to work time. Exempt employees who work or are required to work on a holiday will not be paid holiday in addition to work time unless approved by the County Manager.

Permanent part-time employees that work twenty-four (24) hours or more per week but less than 40 hours per week will earn holidays on a pro-rata basis. Temporary and seasonal employees

are not eligible for paid holidays.

All eligible employees will be paid out unused holiday hours after the last June payroll of the current fiscal year and before the new budget year begins July 1st.

If a full-time employee works less than their scheduled work week/shifts but exceeds that work week/shift with the holiday hours added, then the employee only needs to use the amount of holiday hours to reach their scheduled work week/shift. **For example:** Example #1: Employee is scheduled for 40 hours. Employee worked 35 hours, only 5 hours of holiday is required to equal 40 hours for the week. The other 3 hours are banked for later use. Example #2: Employee is scheduled for 36.75 hours. Employee worked 32 hours, only 4.75 hours of holiday is required to equal 36.75 hours. The other 3.25 hours are banked for later use.

A full-time, non-exempt employee that normally works a regularly scheduled modified/alternate work schedule 40 hours a week, but the days may exceed 8 hours a day such as four (4) 10-hour days, the employee will use the 8 hours of holiday but may need to add another accrual to meet the remainder of the scheduled workweek/shift.

When an employee is on a leave without pay status or approved Workers Comp claim and a holiday occurs during that period, the employee will not earn the holiday(s). Holidays that occur during a vacation, sick or other paid leave period will not be charged as vacation, sick, or other paid leave.

In order to receive holiday pay, an employee must work their fully scheduled workday/shift or combination of work and/or accruals before and the first scheduled workday/shift after the holiday.

Section 3. Compensatory Leave (Comp Time)

Employees may request and use compensatory leave time off in the same manner as other leave requests. Employees shall be permitted to use such time off within a "reasonable period" if the use of the compensatory time off does not "unduly disrupt" the operations of the department. Department Directors will be responsible for administering the compensatory policy by allowing employees to take accrued compensatory time in a timely manner so that compensatory time will not accrue to excessive levels. In an effort to avoid the 240 compensatory time limits established by FLSA, any compensatory balance over 180 will be paid out to a zero balance. All compensatory time shall be marked as such on official timesheets, both when it is earned and when it is taken. The employee will be responsible for providing an accurate accounting of compensatory time earned and taken, and the Department Directors, or their designee, will sign off on all timesheets with compensatory time entries. The Finance Office maintains compensatory time records.

Section 4. Vacation Leave

Vacation leave is a benefit granted by the Board of County Commissioners to eligible employees. Vacation leave is earned by regular, probationary and trainee full-time and part-time employees that work twenty-four (24) hours or more per week working each pay period based on years of service to the County. Temporary and seasonal employees are not eligible for vacation benefits. Eligible employees begin accruing vacation leave on the employee's hire date. The following chart provides the rate at which full-time employees earn vacation leave each pay period and annually. Part-time employees that work twenty-four (24) hours or more per week accrue vacation on a pro-rata basis.

Years of Continuous Service	Hours Earned Each Pay Period	Approximate Hours of Full-time Annual Vacation Earned	Approximate Number of Days
Less than 2 years	3.0769	80	10
2 years, but less than 5 years	3.6923	96	12
5 years, but less than 10 years	4.6154	120	15
10 years, but less than 15 years	5.5385	144	18
15 years through 20 years	6.4615	168	21
20 years through 24 years	7.3846	192	24
25 years or more	7.6923	200	25

An employee retains active employment status during a period of vacation up to and including the date of separation. Vacation leave shall not be advanced for any employee. It shall be the responsibility of Human Resources to maintain a record of vacation leave for each employee, which shall be the responsibility of each supervisor to provide in a timely fashion.

- A. **Taking Vacation Leave:** Vacation leave may not be used for the first 6 months from hire date. Requests are subject to eligibility and the approval of the supervisor. Each department is responsible for scheduling employee vacation leave without undue disruption of department operations. Leave requests shall be submitted as early as possible, or at the direction of the Department Director. Vacation leave requests of an emergency nature must be made by the employee and approved by the supervisor within 30 minutes of the beginning of the workday or shift. Vacation may be used as sick leave when sick leave has been exhausted and must be used in the same manner as accrued sick leave. See [Article VIII Section 3](#)

- B. **Maximum Accumulation and Vacation Leave Transfer:** The maximum accumulation of accrued vacation leave for any eligible employee is two hundred and forty (240) hours in any given time period. If an employee has accrued vacation leave in excess of the allowed maximum accumulation amount, the employee's excess vacation leave will be converted bi-weekly as payroll is processed and will be converted to sick leave on an hour for hour basis. The converted sick leave must be used in the same manner as accrued sick leave. See [Article VIII Section 3](#)

An employee who retires due to a disability may transfer vacation leave to sick leave and exhaust all leave prior to the effective date of separation.

- C. **Payout of Accumulated Vacation Leave:** An eligible employee who is separated for reasons other than 1) involuntary termination or 2) probationary termination shall be paid for vacation leave accrued to the date of separation not to exceed a maximum of two hundred and forty (240) hours with the exceptions below:
- If an employee resigns without giving and working a proper termination notice, the employee forfeits all unpaid accrued vacation leave unless the Department Director and/or County Manager approve the employee/Department Director to not work the notice. If an employee resigns or is involuntarily terminated prior to completing twelve (12) months of probationary employment, the employee forfeits all unpaid accrued vacation leave.
 - When working a termination notice, vacation leave will not be used. If a pre-scheduled vacation was approved by the Supervisor and/or the Department Director, the employee must either 1) return from vacation and complete his/her termination notice or 2) forfeit vacation payout and the last work date is the termination date.
 - Employees that separate because of failure in performance of duties or personal conduct in accordance with Article XII – Disciplinary Actions will forfeit all unpaid accrued vacation leave. Once an employee receives the Letter/Notice of a Pre-Disciplinary Conference, employees that separate as a result of failure in performance of duties or personal conduct forfeit all unpaid accrued vacation leave, even if they choose to resign while in the disciplinary process.
 - The estate or designated beneficiary of an eligible employee who deceases while employed by the County shall be entitled to payment for all the unpaid accrued vacation leave, not to exceed a maximum of two hundred and forty (240) hours, at the time of death provided the deceased employee had been employed with the county for twelve (12) months.
 - Under this subsection, all accrued vacation leave is forfeited resulting in a zero balance for any employee terminated for cause or a deceased employee.

D. **Earnings and Suspensions**

- **Workers Comp** – The employee will not earn or use leave while out on workers comp except for the first 7 days from date of injury. If the employee is out of work after 7 days, workers comp will begin paying the employee's claim and 60% of the employee's salary. During this time, the employee is considered on leave without pay (LWOP) with the county and will no longer earn or be able to use vacation leave until the employee returns to work.
- **Family Medical Leave Act (FMLA) with pay** - using accruals while out on FMLA, you would continue to earn vacation leave until the payroll that vacation is exhausted and all other accruals are exhausted, then the employee enters into a FMLA/LWOP status. Vacation will not be earned until the employee returns to work.
- **FMLA/LWOP** – the employee has exhausted his/her leave and not earning a county salary, the employee would not earn vacation leave until the employee returns to work.
- **Administrative/Investigation Leave** – Is usually paid leave so the employee would continue to earn vacation leave but cannot use vacation leave while out on administrative/investigation leave unless the employee had a pre-planned vacation approved by his/her Supervisor and/or Department Director.

Section 5. Sick Leave

Sick leave is a benefit granted by the Board of County Commissioners to general, probationary and trainee status employees. Eligible full-time employees accumulate sick leave at a rate of 4 hours for each pay period worked up to a maximum of 104 hours per year. Eligible part-time employees that work twenty-four (24) hours or more per week earn sick leave on a pro-rata basis. Sick leave is cumulative indefinitely. Eligible employees begin accruing sick leave on their hire date. Temporary and seasonal employees do not earn sick leave benefits. Sick leave shall not be advanced to any employee. Abuse of sick leave is just cause for disciplinary action. Human Resources shall be responsible for maintaining a record of sick leave for each employee. Supervisors are required to provide employee sick leave records in a timely fashion.

- A. **Taking Sick Leave:** Employees must submit sick leave requests to their supervisor prior to the use of leave, when possible, or at least thirty (30) minutes prior to the start of a scheduled shift of work if the employee intends to be absent from work. If an emergency prevents the employee from notifying their supervisor within the allowable time, the employee is expected to call as soon as practical during the work shift. Employees are required to keep their supervisor informed of their condition and anticipated return to work.

Sick leave may not exceed the accrual balance or may be used within the pay period in which it is accrued. Sick leave will be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examination or treatment or exposure to a contagious disease when continuing work might jeopardize the health of others. Sick leave may be used when an employee must care for a member of the immediate family. Immediate family for the purposes of this policy means: spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, foster and adopted relationships that can be derived from these named.

If the employee's sick leave qualifies for the Family and Medical Leave Act (FMLA), the supervisor and/or Department Director will need to coordinate with the employee and Human Resources to complete the federally required FMLA paperwork. The accruals will run concurrently with the employee's 12 weeks of annual FMLA leave. Anytime an employee is out for more than three (3) days, the Supervisor and/or Department Director should inquire with Human Resources on whether the absence qualifies for FMLA.

- B. **Sick Leave - Physician's Certificate:** The employee's supervisor or Department Director may require a physician's certificate/note concerning the nature of the illness and the employee's physical capacity to resume duties for each occasion on which an employee uses sick leave in excess of three (3) days. Any restrictions of duty must be prescribed in detail by the employee's physician and submitted on the treating physician's letterhead. The supervisor or Department Director may also require a physician's certificate for less than three (3) days if they suspect abuse of sick leave privileges. The employee shall have fifteen (15) days to provide a medical certification and if the employee fails to provide the medical certification within the allowable time, the absence will be considered unexcused; the absence will be counted as leave without pay, even if the employee has sufficient leave to cover the absence. The employee may be subject to disciplinary action for such absences. Supervisors and Department Directors will submit all physician certificates and other medical data pertaining to an employee to Human Resources for their medical files.

- C. **Sick Leave - Retirement Credit for Accumulated Sick Leave:** One (1) month of retirement credit is allowed for each twenty (20) days accrued in an employee's sick leave account at the time of retirement to employees who are members of the North Carolina Local Governmental Employees Retirement System. Sick leave shall accumulate with no maximum accumulation and may be used as credit for service under the North Carolina Local Governmental Employees Retirement System, in accordance with all rules and regulations.

- D. **Reinstatement and Transfer of Sick Leave:** Employees hired by the County, whose immediate past employer within the last ninety (90) days was the State of North Carolina, any of its political subdivisions, any local government entity or authority, or municipality in North Carolina, may transfer to the County any unused sick leave, provided the employee has not requested or is receiving retirement benefits from the North Carolina Retirement System. The employee must request this transfer within ninety (90) days of the beginning of employment with Pender County, and it is the responsibility of the employee to provide bona-fide documentation of the amount of unused sick leave from the immediate past employer. Upon verification of the unused sick leave by Human Resources, the employee will be credited with the transferred sick leave. Transferred sick leave can be used in the same manner as sick leave earned in the scope of employment with Pender County.

A former employee who is re-employed by the County within 90 days from the date of separation shall be credited with the balance of sick leave at the time of separation, except when the employee retired under the North Carolina Retirement System and the sick leave was credited towards service time for the purposes of retirement or the sick leave was transferred to another governmental entity.

- E. **Payout of Accumulated Sick Leave:** All unused sick leave is forfeited upon separation of employment, except when separation is due to retirement or the provisions of [Article VIII Section 3 Subsection D](#) Reinstatement and Transfer of Sick Leave. Employees hired prior to March 6, 2000, who have been with Pender County for five (5) years shall have the option of being paid for twenty- five (25) percent of accumulated sick leave.

Section 6. Bereavement Leave

Governor Roy Cooper signed Executive Order 325 on November 1, 2024, detailing a new Bereavement Leave program available to eligible state employees but typically followed by counties. According to the Order, 40 hours of bereavement leave will be available for eligible employees following the loss of an immediate family member as defined in this section. Bereavement leave may be used as the employee deems appropriate for time to grieve, attend a funeral, visitation or memorial service, deal with estate matters, or other related needs. It is not required that the employee use the leave on consecutive days, so long as it is used within 180 days of the date of death of the family member, or the Bereavement leave expires. Supervisor approval is required in advance of using this leave.

For the purposes of Bereavement Leave, immediate family means: spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, foster and adopted relationships and dependents living in the employee's household that can be derived from these named.

Employees are eligible for Bereavement Leave following the loss of each immediate family member or colleague, even if they occur in the same calendar year. If an employee loses more than one immediate family member on the same day or event, the employee shall be eligible to take up to 40 hours of leave for each immediate family member. A Bereavement leave accrual table will be added starting the first day of the event.

The order also provides up to eight (8) hours of leave to attend the visitation, funeral or other memorial event of a colleague with whom they worked in their current agency, if that person interacted with the employee so long as the colleague worked for that agency within the last year. It is possible that not everyone who requests time off to attend a funeral or other memorial event for a colleague will be able to attend if it hinders business operations and therefore it will need to be approved by the Supervisor/Department Director and County Manager. When necessary to avoid impact to county services, Supervisors/Department Directors and/or the County Manager may deny the use of leave to attend the funeral or other memorial event of a colleague. An employee may not use bereavement leave to attend a memorial event for employees of other agencies unless they worked for the county within the last year. If approved, the employee will have 8 hours added to a Bereavement accrual table.

Eligible employees are those who are budgeted full-time or permanent part-time that work at least 24 hours a week. Permanent part-time employees will receive a prorated amount based on their number of hours compared to a full-time schedule. Seasonal and temporary employees are not eligible.

Following the loss of an immediate family member or colleague, the employee must provide documentation either the family member's death certificate, obituary or funeral and/or memorial event information to have access to the bereavement leave. Bereavement Leave following the loss of a colleague that is not used on the day of the funeral, or another memorial event is forfeited.

Any employee who attempts to gain eligibility for bereavement leave through falsification of a familia relationship, falsification of a death, falsification of supporting documentation or any other untruthful manner shall be subject to disciplinary action, up to and including dismissal.

Section 7. Family and Medical Leave Act (FMLA)

The County is a qualified employer subject to the provisions of the federal Family and Medical Leave Act of 1993 (FMLA). FMLA leave has complex eligibility and benefits provisions so **employees should schedule an appointment with Human Resources for detailed information regarding the FMLA.** This section is provided for informational purposes only and is not intended to grant any benefits greater than those provided by federal statute. Any conflict between the language contained in this Section and the FMLA will be resolved in favor of the FMLA.

- A. **Entitlement to FMLA Leave:** In general, the FMLA provides an eligible employee up to twelve (12) weeks of unpaid leave within any twelve (12) month period for:

1. Birth, adoption, or foster care placement of a child. An employee must conclude leave for the birth or placement of a child or adoption or foster care within twelve (12) months after the event. FMLA leave may begin prior to birth or placement, as circumstances dictate,
2. to provide physical or psychological care for a child, spouse or parent with a serious health condition (a child, for the purposes of FMLA leave, is either under the age of 18 or is over the age of 18 but incapable of self-care due to a physical or mental disability that substantially limits one or more major life functions as defined by the American with Disabilities Act (ADA),
3. to care for the employee's own serious health condition, or
4. for qualifying military exigencies arising from the fact the employee's spouse, son, daughter or parent is on active duty or has been notified of an impending call to active duty as a member of the Armed Forces including the National Guard or Reserves in support of a contingency operation as defined in Section 101(a)(13) of Title 10, United States Code.

B. **Eligibility:** To be eligible for FMLA, an employee must be employed with the County for 12 (twelve) months or fifty-two (52) weeks. The twelve (12) months or fifty-two (52) weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven (7) years. Separate periods of employment will be counted if the break in service exceeds seven (7) years due to National Guard or Reserve military service obligations. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week. The employee must have worked one thousand two hundred and fifty (1,250) hours or more during the immediate twelve (12) months prior to requesting leave. Vacation, sick, holiday, Workers' Compensation and other forms of leave are not considered hours worked for the purpose of calculating FMLA eligibility.

However, according to the Department of Labor (DOL), the time worked as a temporary employee does indeed count toward the 12 month service and 1,250 hour requirement.

The County has designated that eligibility for FMLA leave shall be determined using a 12-month period measured forward from the date an employee first took FMLA leave, with the exception of Military Caregiver Leave.

C. **Qualifying for Leave for the Employee's Own Serious Health Condition:** To qualify for medical leave, the employee must have a serious health condition that involves:

1. Inpatient care is an overnight stay in a hospital, medical care facility, including any period of incapacity or inability to work or perform other regular daily activities, or subsequent treatment in connection with such inpatient care.
 2. Continuing treatment by a healthcare provider which includes:
 - i. A period of incapacity lasting more than three (3) full consecutive calendar days and any treatment relating to this condition that includes treatment two (2) or more times by a healthcare provider (in-person visits beginning within seven (7) days and concluding within thirty (30) days of the first day of incapacity) or one (1) treatment by a healthcare provider with a continuing regimen of treatment such as prescription medication or physical therapy,
 - ii. Periods of incapacity related to pregnancy or for prenatal care,
 - iii. Periods of incapacity or treatment for a chronic condition which continues over an extended period of time that requires visits at least twice per year to a healthcare provider,
 - iv. Periods of incapacity that are permanent or long-term due to a condition for which treatment is not effective but is under the supervision of a healthcare provider, or
 - v. Absences to receive multiple treatments for restorative surgery or for a condition that may result in a period of incapacity of more than three (3) days if not treated.
- D. **Military Caregiver Leave:** The FMLA provides an eligible employee with up to twenty-six (26) weeks of unpaid leave within a single twelve (12) month period to care for the serious injury or illness of the employee's service member's spouse, child, parent or next of kin. For the purposes of FMLA leave, next of kin is defined as the nearest blood relative to the affected service member. A serious injury or illness is defined as an injury or illness that the service member incurred in the line of duty, while on active duty, that renders them medically unfit to perform the duties of their office, grade, rank or rating. The single twelve (12) month period for Military Caregiver Leave begins on the first day the employee takes leave for this reason and ends twelve (12) months later. Any person who believes that he or she is entitled to Military Caregiver leave under the FMLA should contact the Human Resources department.
- E. **Qualifying Military Exigencies:** Any person who believes that he or she is entitled to leave due to Qualifying Military Exigencies under the FMLA should contact the Human Resources department.

- F. **Intermittent or Reduced Leave:** Some serious health conditions do not require an employee to be absent from work for continuous blocks of time. Similarly, employees recovering from an illness, or a surgical procedure may not be able to work a full day upon their initial return to work. Employees with these types of serious health conditions may need FMLA occasionally rather than in a single continuous block of time. In the case of the employee's own serious health condition or that of a family member, the employee may take leave intermittently or on a reduced work schedule, if medically necessary. Leave may also be taken intermittently to care for a covered service member with a serious injury or illness, or for a qualifying military exigency arising out of the active-duty status or call to active duty of a covered servicemember. When the leave is for adoption or the birth of a child, the employee may take leave intermittently or on a reduced work schedule only with the joint approval of the employee and the Department Director, subject to approval by the Human Resources Director and County Manager. If the employee requests intermittent or reduced leave status, the County may temporarily transfer the employee to another position of equivalent pay and benefits in order to better accommodate the leave.

Employees on intermittent leave are still required to comply with the county's usual notice and procedure requirements for reporting absences such as sick leave, unless unusual circumstances prevent notification. Failure to comply with the county's absenteeism or sick leave call-in policies may be cause for discipline up to termination.

- G. **Use of Paid Time-Off Benefits:** The employee shall be required to use accumulated paid benefits in the following order – holiday, comp time, sick and vacation leave for the unpaid time off in accordance with the County's policy regarding the use of such benefits. Use of paid time-off benefits as well as Workers' Compensation periods will run concurrently with FMLA leave and will not add to or increase the total length of the FMLA leave time.

If an employee is on intermittent FMLA, accruals will be used in the same order (holiday, comp time, sick and vacation leave) until exhausted and then the employee will be placed on a leave without pay (LWOP) status.

- H. **Leave Provisions for Spouses Both Working for the County:** If leave is taken for the adoption or birth of a healthy child, or care of a sick parent, the maximum combined leave for both spouses is twelve (12) weeks (or twenty-six (26) weeks if leave is taken for the care of a sick or injured covered service member). If leave is taken to care for a serious health condition for themselves, an ill child or spouse, each spouse is entitled to twelve (12) total weeks of leave.

- I. **Job Restoration:** Most employees granted FMLA leave will be reinstated to the same position held prior to the FMLA leave or one that is equivalent in pay, benefits, and other terms and conditions of employment. The employee's reinstatement rights are the same as they would have been had the employee not been on FMLA leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.

If the employee fails to return from FMLA leave at the end of the twelve (12) week period and an extension has not been received or approved, the non-return will be deemed a voluntary resignation without notice.

If the employee returns from FMLA leave at the end of the twelve (12) week period, the employee will be reinstated to his/her same or similar position, only if available, in accordance with applicable laws.

- J. **Key Employees:** Certain highly compensated salaried employees who are the highest paid 10 percent of all the employees are eligible for FMLA leave but are not guaranteed restoration to their position if they choose to take leave.

Under FMLA, reinstatement of a key employee may be denied at the conclusion of FMLA leave if reinstatement would cause "substantial and grievous economic injury" to the county. To invoke the key employee exception to reinstatement, the county would provide the employee with written notice that the employee is considered a key employee at the time the FMLA leave is requested. The county must also inform the employee of the potential that reinstatement to his or her job and maintenance of benefits may be denied. Once the county determines if "substantial and grievous economic injury" has occurred and reinstatement will be denied, the county will provide notice to the key employee of its determination and the reason for its decision. The key employee is still entitled to take the FMLA leave.

- K. **Employee Benefits:** Employer-provided employee benefits will continue during FMLA leave. Both the County and the employee will continue to pay their customary portions of the monthly premiums for health insurance and all other benefits. If there are changes in the County's contribution levels while the employee is on leave, those changes will take place as if the employee were actively at work.

Human Resources will advise the employee of their respective premium amounts and due date. Failure of the employee to pay their share of the premiums within thirty (30) days of the due date will result in the suspension of coverage for health care benefits of their dependents and the termination of coverage for any non-

health care benefits for the period of non-payment. Non-healthcare benefits cannot be reinstated until open enrollment.

Once FMLA leave is exhausted and an extension has not been submitted or approved, the employee must coordinate through Human Resources COBRA coverage for employee health insurance and will be responsible for paying the premiums the County typically pays. Failure of the employee to pay any required benefit plan premium timely (Employee's premium payment is more than 30 days late) will result in termination of the benefits due to non-payment of premiums. Once an employee enters an LWOP status and no monies are payroll deducted to cover the benefit premiums, the employee must coordinate with the State Health Plan to qualify for COBRA for his/her medical insurance.

If the County pays the employee contribution(s) missed by the employee while on leave, the employee will be required to reimburse the County for delinquent payments no later than thirty (30) days after return from leave. If the employee does not return from leave for reasons other than the continuation, recurrence or onset of a serious health condition of the employee or a covered family member; or circumstances beyond the employee's control, the County may seek reimbursement from the employee for the portion of the premiums paid by the County on behalf of that employee during the period of leave.

If the FMLA leave is unpaid, service and paid leave earnings cease (401K Contribution, retirement, accruals, etc.), as do non-health insurance contributions and deductions.

All service and paid leave accrual rates in effect at the time of the start of an unpaid FMLA leave will resume upon the completion of the leave and return to work. Unpaid FMLA periods with no payroll contributions may constitute a break in service with the North Carolina Retirement System. In such cases, an employee may be able to purchase retirement credit from the Local Government Retirement System for any period(s) out of work on authorized leave without pay and would need to speak to Human Resources staff regarding that process upon returning to work. See Section 6. Leave Without Pay of this Article for more information.

L. Notification:

1. **Employee Responsibility: The employee must provide the County thirty (30) days written notice of the need for FMLA leave**, or if emergency conditions prevent such notice, the employee must notify the County as soon as possible. If the employee does not give a thirty (30) day notice of their need for leave, the County has the right to require an explanation of why the notice period was not submitted. If an employee fails to give a thirty (30) day notice for a foreseeable leave with no

reasonable explanation for the delay, the leave will be denied until thirty (30) days after the employee provides notice. Employees shall submit their FMLA leave notice to their supervisor. If Information is not sufficient for Human Resources to make an FMLA leave eligibility determination, the employee is required to provide additional information.

If an employee fails to provide FMLA notice within thirty (30) days, it may cause the employee to be in an unprotected status and not securing the FMLA benefits.

2. If the employee needs to extend FMLA leave, the employee must notify the supervisor immediately and the supervisor is to notify Human Resources. A doctor's note will be required with an explanation of why an extension is necessary and how long before the employee may return to work. Failure to return to work at the expiration of the approved leave period will be deemed a voluntary resignation without notice.
3. If the reason for FMLA leave was for the employee's own serious condition, a fit-for-duty certification or doctor's note from the employee's health care provider will be required before the employee may return to work. The employee should notify his/her supervisor and Human Resources ASAP to provide the Supervisor a date of return and if there are any modified or light duty restrictions upon the employee's return to work.
3. **Supervisor Responsibility:** The supervisor shall determine from each employee requesting leave the reason the leave is requested. If the employee fails to explain the reason leave is requested, the supervisor may deny leave. It is the responsibility of the supervisor to ensure qualifying leave is designated as FMLA leave. If the supervisor believes the reason for the leave may be a qualifying reason under FMLA, the supervisor shall consult with Human Resources in determining if the employee is eligible for FMLA leave. **The supervisor will notify Human Resources as soon as possible but not later than twenty-four (24) hours when an employee is out on sick leave for three (3) days.**
4. **County Responsibility:** When an employee requests FMLA leave or the County acquires knowledge that leave may be for FMLA purpose, the County must notify the employee of his or her eligibility to take leave, including a reason for the non-eligibility if the employee is determined not to be eligible. When the County has sufficient information to determine FMLA leave eligibility, the County will notify the employee that the leave is designated as FMLA leave. Such eligibility notice may be oral or written and should, generally, be given within five (5) business days of the request for FMLA leave. Subsequent eligibility notice in the same twelve (12) month period may be required when an employee's eligibility status changes. The County will inform the employee of their rights and responsibilities under FMLA, including giving specific written information on what is required of the employee and the amount of time that will be counted against the employee's FMLA leave entitlement.

5. Leave may not be designated as FMLA leave after the employee returns to work unless the supervisor or Human Resources does not learn of the reason for the leave until the employee returns to work or the leave has provisionally been designated as FMLA leave and is awaiting receipt from the employee of required certification information. If leave is designated as FMLA leave after the employee returns to work, such designation shall be made within two (2) workdays of the employee's return. An employee is not entitled to the protection of the FMLA if the employee gives notice of the reason for the leave later than two (2) workdays after returning to work.

M. Certification: Certification of the need for leave to care for the employee's illness or injury or that of a family member is required. **The employee must complete a Certification of Physician or Practitioner form and obtain the following information from a responsible health care provider and make it available to the County within fifteen (15) calendar days from the date of their request for leave:**

1. The date the serious health condition began,
2. The duration of the condition,
3. Appropriate medical facts about the condition
4. If a family member is the patient, whether the family member needs care, and an estimate of the frequency and duration of the leave required to care for the family member
5. If applicable, the medical reasons verifying the need for intermittent leave or a reduced work schedule, such as scheduled dates for treatment(s), or
6. For leave to care for a covered service member with a serious injury or illness, a statement that the employee is needed to care for the covered service member, and the estimated length of the leave or a statement that the employee cannot perform the functions of his/her job, or a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member's family,
7. If applicable, a copy of the covered service member's active-duty orders and certification providing appropriate facts related to a qualifying military exigency for which an employee is seeking leave.

8. If no certification is provided, based on the information at hand, the County may not designate leave as qualifying as FMLA leave. If the County designates leave as qualifying as FMLA leave, the employee will be provided with a written notification of such designation. Human Resources reserves the right to contact the employee's health care provider to verify the authenticity of any certification that is received. If the employee does not provide certification, the absence will be considered unexcused and subject to disciplinary action.

A certification is considered incomplete or insufficient when information provided is vague, ambiguous or non-responsive. The county will provide the employee at least seven (7) calendar days to correct any deficiencies in the certification. If the employee fails to provide a complete and sufficient certification despite the opportunity to correct the deficiency, the County may deny the employee's request for FMLA leave, to return to the same or a substantially equivalent job or the employee may be terminated. The County may make an exception when it has not been "practicable" for the employee to obtain the certification despite his/her diligent, good faith efforts to do so.

The County may request the employee provide a recertification no more often than every 30 days and when the employee is actually absent or requested to be absent. The County cannot require second opinions for recertification. Typically, recertification will be requested when an employee will need

- Intermittent or reduced schedule leave,
- The serious health condition has no anticipated end,
- The employee requests an extension of leave,
- The circumstances described by the previous certification have changed significantly
- The County receives information that casts doubt on the employee's stated reason for the absence or the continuing validity of the existing medical certification

- N. **Second Job.** Employees who are on an approved leave of absence (FMLA, worker's comp, etc.) may not engage in any form of self-employment or perform work for any other employer during that leave, except when the leave is for military or public service or when the employment has been approved by the Department Director and County Manager while the employee is out of work and the employee's reason for leave does not preclude the outside employment. An employee can be in violation of FMLA if he/she is working for another employer doing the same or similar duties that created the need for the FMLA leave.

- O. **Medical Dispute Resolution:** Except in cases of Military Caregiver or Qualifying Military Exigency Leave, if there is a dispute about the medical option provided by the employee's physician, the County may require a second opinion by a physician of the County's choice, at the County's expense. If a third opinion is necessary, a third physician may be selected, also at the County's expense. The third physician must

be agreed upon by both the employee and the County, and the physician may not be employed on a regular basis by the County.

- P. **Release to Return to Work:** A physician's release is required for the employee to return from family/medical leave if the leave was for the employee's own serious health condition. Failure to provide a medical certificate of fitness for duty may result in a denial of job reinstatement until medical certificate release is provided.

An employee returning from FMLA leave may be denied reinstatement altogether under the following circumstances:

- The employee is unable to perform the essential functions of the job with or without a reasonable accommodation for a qualifying disability under the ADA.
- The employee failed to return to work upon the expiration of approved leave without requesting a leave extension supported by documentation substantiating the need.
- The position is a highly compensated position that is essential to County operations.
- The employee's leave was obtained by fraud or deliberate misrepresentation.

- Q. **Problem Resolution:** It is the policy of Pender County not to discharge or discriminate against any employee exercising his/her rights under the FMLA. Any employee that feels he/she has been treated unfairly should contact the Human Resources Director or follow the Grievance Procedure detailed under [Article XIII](#) of this policy manual.

However, please be aware that should it be determined that an employee is committing FMLA Fraud, disciplinary action may be imposed up to and including termination. Examples of FMLA Fraud include:

- Working a second job with the same duties that created the need for the FMLA leave
- Engaging in activities clearly inconsistent with the alleged serious health condition
- Absence Patterns whereas the county may ask the physician if there is a medical reason for the pattern, for example. always out of the office either a Friday or Monday during intermittent FMLA

An employee who fraudulently obtains FMLA leave from the county is not protected by FMLA's job restoration or maintenance of health benefits provisions.

Termination for Poor Performance or Misconduct

- An employee may be terminated for poor performance or misconduct for matters occurring before leave can be grounds for refusing restoration if employment would not have been continued without the leave.

- Matters discovered during leave may be basis for disciplinary action up to termination.

Section 8. Leave Without Pay

Regular full-time and part-time employees, working at least one thousand forty (1,040) hours annually, may request a leave of absence without pay for absence from work not covered by any other type of eligible paid leave or if other paid leave balances are exhausted.

Typically, a leave without pay request is for emergencies or FMLA situations when an employee does not qualify for FMLA. Leave without pay is generally not to be used for the occasional absence when the employee has no leave available. However, it has been noted that at times, an employee may exhaust their leave because of circumstances beyond their control such as an unexpected illness with themselves or an immediate family member, death, etc. For these occasions, it may be considered to allow the employee leave without pay. Leave Without Pay may also be approved if vacation/leave is scheduled prior to an applicant being hired and it was agreed upon by the Supervisor/Department Head upon offer of employment.

- A. **Requests for Leave Without Pay:** Requests for leave without pay must be submitted in writing to the employee's supervisor or Department Director. If the Department Director approves the leave, then the request will be forwarded to Human Resources and the County Manager for approval. The following requirements apply:

Leave may be granted to an employee for a period of up to a maximum of six (6) months upon the approval of the County Manager.

- Accrued leave must be exhausted prior to taking any leave without pay. If the leave without pay request does not follow the guidelines under [Article VIII Section 3](#) Sick Leave, accrued sick leave does not apply and does not have to be exhausted prior to leave without pay.
- An employee's vacation and sick leave accrual are suspended during the period of unpaid leave until the employee returns to work.
- Holiday pay is also suspended during the period of unpaid leave until the employee returns to work.
- Leave without pay will run concurrent with any eligible FMLA leave.
- An employee that fails to report promptly at the end of the approved unpaid leave, unless otherwise prohibited by law or regulation, is presumed to have resigned, except if the reasons for the delay are submitted in writing in advance and approved

by the Department Director and County Manager.

- While out on leave without pay, the employee is not earning compensation, therefore the Local Government Retirement System deductions will not be withheld during a period of leave without pay. If the employee was on leave without pay for Workers' Compensation or military leave, when the employee returns to work, the employee may choose to purchase retirement credit from the Local Government Retirement System and would need to speak to the Human Resources to learn of the process.
- B. **Benefit Premiums and Deductions:** If Family and Medical Leave (FMLA) has been exhausted or the employee was not eligible for FMLA, employees granted leave without pay are responsible for paying all benefit plan premiums, including the employer's and employee's health premium, dental and vision insurance costs and any other voluntary benefits that the employee has approved. Failure of the employee to pay any required benefit plan premium(s) within thirty (30) days of the start of their LWOP period will result in termination of the benefit due to non-payment of premium.

Section 9. Maximum Leave of Absence

Leave may be extended to a maximum of twelve (12) consecutive months at the discretion of the County Manager unless preempted by State or Federal regulations. Employee's leave status will be reviewed periodically; however, once an employee has been on leave for six (6) consecutive months, the employee's status will be reviewed in detail to determine if the employee is to be separated from employment with the County.

With the exception of FMLA leave, an employee must request a leave of absence in writing from the employee's Department Director. All requests for non-FMLA leave of absence require the affirmative recommendation of the Department Director and the approval of the County Manager.

During any period of leave exceeding twelve (12) weeks for FMLA (twenty-six (26) weeks for military caregiver FMLA leave), the County reserves the right to fill, change or eliminate a vacant position if required by the needs of the County. Upon returning from leave without pay (if not FMLA eligible), the employee is not guaranteed the same position, classification, seniority or pay. If the employee fails to return to work on the agreed date, the continued absence will be viewed as a voluntary resignation. If the leave of absence is unpaid, refer to [Article VIII Section 6](#) Leave Without Pay.

Section 10. Military Leave

- A. **Military Training:** Employees who are members of the National Guard or Armed Forces Reserve will be allowed two (2) calendar weeks for a total of fourteen (14) days of military training leave annually. If the employee's military pay is less than the employee's regular pay the County will pay the difference, provided the employee provides proof of compensation from the respective military branch. Otherwise, this leave is without pay. Employees may elect to use accruals to cover part or all of the military leave.

Employees who are required to attend inactive duty training (weekend duty) may be granted accrued vacation leave or unpaid leave for assignments requiring their absence from their County position on Friday afternoon. If such military duty is required beyond the two (2) calendar week annual training period, the regular employee will be eligible to take accumulated vacation leave or be placed in a leave without pay status. While taking military leave with partial pay or without pay, the employee's leave credits, and other benefits shall continue to accrue as if the employee physically remained with the County during this period.

Employees who are Guardspersons and Reservists have all job rights specified in the Veterans Readjustment Assistance Act and The Uniformed Services Employment and Reemployment Act (USERRA).

Employees are required to provide copies of official orders for all periods of active-duty training. The employee will provide a memorandum from the unit commander for periods of inactive duty training (weekend duty) and proof of compensation if the duty requires the employee to be absent from work.

Employees on military leave of more than 30 days may elect to continue county health insurance for them and their dependents up to 18 months through COBRA. For military service of less than 31 days, health care is provided to the employee as if the service member had remained employed. However, the employee is still responsible for all other benefit premiums including dependent coverage premiums while out on leave without pay in accordance with the policy.

- B. **Active Duty:** An eligible employee who leaves County service as a result of volunteering for active duty or being drafted into the Armed Forces of the United States during time of war or other national emergency or when reservists and National Guard members are voluntarily or involuntarily called to active duty, shall be placed on military leave without pay. Requests for military leave shall be made in writing and submitted with copies of the employee's official military orders to the employee's supervisor. The employee shall notify their supervisor of the military obligation as far in advance as possible. A minimum of two (2) weeks advance

notices is required except for emergency call-up. In the case of an emergency call-up, the employee shall notify their supervisor as soon as practicable. The leave request and supporting military orders shall be forwarded to Human Resources. This policy is in accordance with the USERRA and all amendments. Any conflicts between this policy and USERRA will be decided in favor of USERRA.

1. The employee shall be entitled to restoration to the position vacated, or to a position of similar rank or status and pay. However, the returning employee must be able to perform the duties of the position with or without a reasonable accommodation as defined in Article II. Employment, Section 3. Reasonable Accommodations Under the Americans with Disabilities Act (ADA).
2. In accordance with the rules and procedures of the North Carolina Retirement System, the employee returning from military service may be eligible for continuing service credit for the time the employee was on active duty. The employee will need to schedule a time with Human Resources to coordinate with the Retirement System to qualify the employee and submit the required documents.
3. If an employee is injured while serving Annual Reservist Training or Active Duty, he/she must be cleared medically before the employee is allowed to return to work.

Section 11. Civil Leave/Jury Duty

Civil leave will be granted to regular employees who are summoned to attend court as a juror or witness, except when involved in personal litigation. A County employee called for jury duty or as a court witness for the federal or state governments or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accruals provided that the employee returns to work immediately upon release from court.

Any court fee payments, including mileage reimbursements, paid to the employee for jury duty must be remitted to County Finance unless the employee elects to take accruals for hours served. If the court pays the employee by a debit card, the employee can either 1) Keep the debit card and provide a copy of the letter with the stated card balance submitted with the card and turn over cash or a check for the amount of the card or 2) keep the card and will use accruals, except sick leave, only for the hours in court. Upon documentation from the court system, a pay code will be added to their timesheet so the employee can enter the hours they were in court. Documentation is required by the court system for dates of service.

An employee required to serve as a witness as a result of his or her official duties must remit to the County any witness fees paid by the court. While on civil leave, benefits and leave shall accrue as though on regular duty. Employees who are on jury duty and are scheduled for work on night shifts the same workday shall be protected from loss of pay for the entire twenty-four (24) hour period. Employees that are subpoenaed for court appearance as witnesses in connection with official duties shall not suffer loss of pay for performing any such duty. The employee must notify the supervisor of the date and time of the appearance, provide a copy of the respective subpoena, and return to work immediately after release from court and submit proof of appearance to the supervisor upon completion of such service.

Section 12. Community Service Leave

In recognition of the importance of parent involvement in schools, the County's diverse needs for volunteers to support schools, communities, citizens and non-profit organizations, and the commitment of Pender County employees to engage in volunteer service, Community Service Leave may be granted to eligible employees for:

- A. Parent involvement in schools.
- B. Volunteer activity in the schools or in a Community Service Organization.
- C. Tutoring and mentoring in the schools.
- D. Volunteering in a State of North Carolina Public University, Community College System or State agency provided that the service is outside of the employee's normal scope of duties and responsibilities and that the employee is not receiving any form of compensation for the services rendered.

Community Service Leave is a benefit granted by the Board of County Commissioners to regular full-time employees. Eligible employees are full-time employees who have completed their probationary period with the County. Eligible full-time employees are granted a maximum of eight (8) hours per calendar year.

Eligible non-probationary, budgeted permanent part-time employees that work twenty-four (24) hours or more per week earn Community Service Leave on a pro-rata basis. Part-time employees that work less than twenty-four (24) hours per week, probationary, trainee status, temporary and seasonal employees are not granted Community Service Leave.

Please note: the current permanent part-time employees that work twenty-four (24) hours or more per week are grandfathered in this policy. However, any future permanent part-time employees working 24 hours or more per week hired July 1, 2025, and later, will no longer be

eligible for this benefit.

Definitions for this Policy:

Term	Definition
School	A public or private elementary school, middle school, high school, or a childcare program authorized to operate under the laws of the State of North Carolina (NC).
Public University	A constituent institution of the University of North Carolina.
Community College	An educational institution that is a member of the North Carolina Community College System.
State Agency	A State government agency that is authorized to operate under the laws of the State of NC
Child	A child is a son or daughter who is a biological child, an adopted child, a foster child, a stepchild, a legal ward, or a child for whom an employee is acting in the role of a parent.
Community Service Organization	A community service organization is a non-profit, non-partisan community organization within the State of North Carolina that is designated as an IRS Code 501(c)(3) agency, or a human service organization licensed or accredited to serve citizens with special needs including children, youth, and the elderly.

A. Community service, for this purpose, is:

1. meeting with a teacher or administrator concerning the employee's child,
2. attending any function sponsored by the school in which the employee's child is participating. This provision shall only be utilized in conjunction with nonathletic programs that are a part or supplement to the school's academic or artistic program,
3. performing school-approved volunteer work approved by a teacher, school administrator, or program administrator,
4. performing a service for a community service organization.
5. performing volunteer work for a public university that is approved by a university administrator or other authorized university official.
6. performing volunteer work for a community college that is approved by a community college administrator or other authorized community college official, or
7. performing volunteer work for a state agency that is approved by the agency head or his/her designee.

8. Donating blood or bone marrow, pheresis procedure, or bone marrow transplant.

B. Approval of Leave:

Employees must receive approval from their supervisor to use this leave and employees shall make every effort to request use of this leave at least forty-eight (48) hours in advance. Supervisors may require the leave to be taken at a time other than when requested, based on the needs of the County. County needs will always take precedence over Community Service Leave.

Supervisors will require acceptable proof that leave taken is within the purpose of this policy. In order to receive the Community Service accrual, a Community Service Leave Form must be completed with proof of eligible Community Service participation attached and form must be approved by the supervisor. Once the completed and approved form is submitted to HR, the Community Service hours will be available on the employee's timesheet.

If an employee has an approved community service event within their normal scheduled workweek/shift and did not work their fully scheduled weekly/shift hours because of the community service, those community service hours, if employee chooses to enter hours on timesheets, those hours will be used before holiday, compensatory time (non-exempt), bonus time (exempt) or vacation leave.

C. Unused Community Service Leave:

Leave not taken is forfeited; it shall not be carried into the next calendar year. Employees shall not be paid for this leave upon separation.

D. Partisan Political Involvement:

Partisan political activity during County time and the use of County equipment or supplies for any community service are not permitted. Special care must be taken to avoid any possible interpretation that the County is, in fact, permitting time off and in so doing supporting a political candidacy.

Section 13. Leave Transfer

- A. **Voluntary Shared Leave Program:** There are occurrences brought about by prolonged medical conditions that cause employees to exhaust all available leave and therefore be placed on leave-without pay. It is recognized that such employees could be without income at a critical point in their life. It is also recognized that fellow employees may wish to donate some of their leave voluntarily so as to provide assistance to fellow employees. This policy provides an opportunity for employees to assist another affected by a medical

condition that requires absence from duty for a prolonged period of time resulting in possible loss of income.

In cases of serious medical conditions, an eligible employee may apply for or be nominated to become a recipient of leave transferred from the vacation leave accounts of one (1) or more employees. For purposes of this policy, serious medical condition means the serious medical condition of an employee, an employee's spouse, or an employee's legally dependent child that is likely to require an employee's absence from duty for a prolonged period, generally considered to be at least ten (10) consecutive workdays. The medical condition must be non-work-related and of a serious nature that prevents the employee from doing his or her job (i.e. heart attack, cancer, stroke, pregnancy-related complications, major muscle or bone injuries, and/or medically necessary operations). Generally, if an employee qualifies for FMLA, the employee will be considered to be eligible for the Shared Leave Program. The intent of this policy is to allow one (1) or more employees to assist another employee in cases of prolonged medical conditions that have resulted in the exhaustion of all earned leave.

To receive shared leave, an employee shall submit a request to his/her Department Director, using the County's Shared Leave Request form. The Department Director shall forward the request to Human Resources, indicating whether he/she recommends granting the request. If Human Resources approves the request, the Human Resources Director shall send a mass notification to all County employees (maintaining the anonymity of the recipient) that a request for shared leave has been approved. The notification shall not contain the name of the recipient nor any details of the reason for the request. The notification shall state that all donations are voluntary and should be sent directly to Human Resources. Once donations are received, Human Resources will transfer the leave from the donor to the recipient.

1. To be eligible for consideration to receive donated leave, the employee:
 - A. Must have been employed at least one (1) year in a full-time position with the County, that is eligible to earn leave benefits.
 - B. Will exhaust all accruals prior to receiving voluntary shared leave. Once you exhaust your accruals, if any voluntary shared leave is donated, it will be available on the next payroll.
 - C. Will use donated leave for the sickness of the employee, the employee's spouse, or the employee's legally dependent children only.
 - D. Should not have a history or pattern of abuse of leave.
2. Any full-time Pender County employee may, at the employee's voluntary option, and with supervisory review and approval, transfer vacation leave to another full-time

Pender County employee. Compensatory time earned by non-exempt employees for working overtime may not be transferred under this program.

3. After the donation, the donating employee must still have a minimum balance of forty (40) hours of vacation leave. Donors shall complete an authorization form designating the number of hours being donated. The employee must sign the form to authorize the transfer.
4. The employee receiving donated time will be given information on the amount of time donated but will not receive information such as the names of donating employees. Leave time will be donated to the employee anonymously.
5. Leave sharing shall only be considered for extreme illness-related hardship situations or catastrophic situations.
6. Donated leave will be applied as needed in the order of receipt. If all the donated leave is not used by the recipient, any excess leave will be returned to the donor.
7. Denial of a request to receive or donate shared leave is not grievable. The County Manager will make a final decision based upon the merits and circumstances of each request.
8. Leave sharing shall not be available to employees who are receiving Workers' Compensation.
9. Any donation of leave must be done strictly on a voluntary basis. Solicitation on the part of the Department Director, supervisors or recipient employee is not permitted.
10. The maximum amount of leave an employee can transfer in a calendar year is eighty (80) hours regardless of the number of employees donated to.
11. The maximum amount of shared leave an employee may receive in a calendar year is 480 hours.

B. Calculation of donated leave received: The amount of donated vacation leave that the receiving employee gets shall be calculated in this manner: The hourly rate of pay of the donating employee shall be divided by the hourly rate of pay of the receiving employee, and that figure shall be multiplied by the number of hours donated. The actual hours received shall be rounded off to the nearest whole number.

Example: John to donate 10 hours to Jane

\$52.35 (John's hourly pay rate)/**\$21.37** (Jane's hourly pay rate) = **\$2.44**

\$2.44 X's 10 hours donated = 24.49 hours or 24 hours of donated leave rounded to

nearest whole number

ARTICLE IX – EMPLOYEE BENEFITS

Section 1. Benefits Programs

Total compensation at the County consists not only of wages but also the various benefits programs which are offered. The terms of coverage of the County's benefits programs are more fully described in the summary plan description booklets provided to eligible employees. The County reserves the right to amend or terminate any of its benefit programs or to require or increase employee premium contributions toward any benefits without prior notice at its discretion. This reserved right may be exercised in the absence of financial necessity. Health and Dental benefits are not absolute and unchanging and may be modified at any time. If future financial situations with the County no longer allow these benefits to continue, the County reserves the right to change and modify this policy for current employees and future retirees who have not met the prerequisite years to vest and qualify for this benefit.

Section 2. Health Benefits

The County may offer to all full-time, permanent part-time, trainee and probationary employees who are scheduled to work 30 or more hours in a workweek. The Board of Commissioners may require an employee contribution towards the cost of an individual employee's coverage to be determined annually in the annual budget ordinance. A qualified employee wishing to have additional group health insurance for dependents may do so at the employee's own expense to be deducted through payroll.

- All new employees shall become eligible for health insurance the first of the month as per the State Health Plan website.
- All new employees shall become eligible for dental and vision insurance on the first of the month or the first of the second month following thirty (30) days of employment.

Retiree Reimbursement – Health Insurance

The County may offer to "qualified" retirees the option of maintaining individual employee coverage (not for dependents) provided the retiree purchases their own health insurance plan (under 65 years old) and/or if 65 years old or over, Medicare insurance/supplement and submits the receipt for payment monthly. The County may reimburse a retired employee's monthly health insurance premium (under 65 years old) or Medicare and/or supplement (65+ years old) in an amount up to an individual employee's group health coverage premium for active employees, the retiring employee upon retirement must meet one of the following criteria:

- A. For Sworn Law Enforcement Officers: Reach age fifty-five (55) or older: 1) completed five (5) years of creditable service as a law enforcement officer, 2) have been employed by Pender County as a full-time employee for minimum of five (5) continuous years immediately preceding the retirement date, 3) covered by the

county's group health insurance plan immediately preceding the retirement date for a minimum of five (5) continuous years or

- B. Reach age 55: 1) complete 25 years of creditable service, 2) have been employed by Pender County as a full-time employee for a minimum of five (5) continuous years immediately preceding the retirement date, 3) covered by the county's group health insurance plan immediately preceding the retirement date for a minimum of five (5) continuous years or
- C. Reach age 65: 1) complete five (5) years of creditable service, 2) have been employed by Pender County as a full-time employee for minimum of five (5) continuous years immediately preceding the retirement date; 3) covered by the county's group health insurance plan immediately preceding the retirement date for a minimum of five (5) continuous years or
- D. Have completed thirty (30) years of creditable service at any age and have been employed by Pender County as a full-time employee for a minimum of five (5) continuous years immediately preceding the retirement date and covered by the county's group health insurance plan immediately preceding the retirement date for a minimum of five (5) continuous years.

If an employee is approved by the NC Local Government Employees Retirement System for disability retirement, the employee must meet the following conditions to be eligible for retiree reimbursement for health insurance: 1) Five (5) years of creditable service, 2) have been employed by Pender County as a full-time employee for minimum of five (5) continuous years immediately preceding the disability retirement date and 3) covered by the county's group health insurance plan immediately preceding the disability retirement date for a minimum of five (5) continuous years.

Medicare Health Insurance for actively working employees 65+

When an employee, currently enrolled in the Pender County Group Healthcare Coverage, reaches 65 years old, Pender County will substitute the contribution currently paid to the group plan for the employee to the costs associated with the employee's enrollment in Medicare Part A (hospitalization), Part B (Medical Care Coverage), Part D (Pharmacy) and a gap coverage program should the employee wish to enroll in the Medicare Programs.

The benefit to enrolling in the Medicare Part A is there is no cost to the employee for this hospitalization benefit when they reach the age of eligibility. Medicare rules require an individual be enrolled in both Parts A and Part B before they are eligible to enroll in a Medical Gap/Supplement policy which will cover all expenses not covered by Part A and Part B.

Medicare Rules require individuals to enroll in Part A during the seven-month initial eligibility period which is 3 months before the month in which the person turns 65 and ends 3 months after the month in which the person turns 65. Failure to enroll in Medicare Part A during the initial enrollment period will subject the individual to a penalty which consists of a percentage higher cost per month based on the period of delay which the individual will pay a higher monthly rate going forward.

In summary, Medicare eligible employees may enroll in Medicare Part B when first eligible or the Medicare eligible employee may stay on the County Healthcare Plan for Part B medical coverage and delay enrollment with Medicare Part B with no penalty as long as they apply for Part B while still employed with continual medical coverage. Medicare will not assess a higher rate penalty for late application of enrolling in Part B since continuing employment with group insurance counts as a special enrollment period.

If the employee elects both Medicare Plan A for hospitalization and Plan B for medical care and drops the County's Healthcare Group coverage, the County will provide Medicare Plan G or the latest supplement offered, which covers all expenses for hospitalization and medical care not covered by Medicare Part A and B. Also, the Medicare eligible employee is eligible for Medicare Part D which provides prescription coverage.

Please note that Medicare eligible employees that elect to enroll in Medicare coverage instead of continuing their health insurance on the County's group healthcare plan, any dependents currently covered under the County's group healthcare plan would not be eligible for coverage and are not considered a COBRA qualifying event if the employee cancels their county group healthcare plan coverage.

The County will reimburse the employee's monthly expense of Medicare Plan B - medical, Plan D - prescription coverage and Plan G - medical gap/supplement insurance up to the amount of the county's cost of the premium paid for the individual employee in lieu of the County's group healthcare coverage. Please note that premium costs may differ year to year. The Medicare eligible employee is entitled to Medicare Part A hospitalization at no cost.

Medicare covered employees will submit their Medicare invoices to Human Resources for processing of the reimbursement of these policy expenses which are to be paid monthly by the County Finance Department directly to the employee.

County Commissioner's Health Insurance

The County may provide group health insurance to the Board of County Commissioners for an individual plan. Should a Board Member wish to have additional group health insurance for dependents, the Board member may do so at the Board Member's own expense to be deducted through payroll. All new members shall become eligible for health insurance per the State Health Plan website and all other benefits on the first of the month or the first of the second month

following thirty (30) days of employment.

If the Board Member is Medicare eligible (post 65), the County may reimburse a Board Member's monthly Medicare and Supplement premiums in an amount up to an individual employee's coverage for active employees in the group health plan.

In accordance with S.L. 2009-564(SB 468) amends G.S. 153A-93 permits counties to provide health insurance to retired county commissioners who are not part of a North Carolina retirement system. A current commissioner can be eligible for health insurance or Medicare/supplement premium reimbursement once he or she stops being a commissioner as long as the commissioner has had the requisite ten (10) years of service and was covered under the county health insurance at least twelve (12) months prior to separation. The Board Member must elect the reimbursement within 30 days of separation of service. If the Board Member is allowed to continue on the county's group health plan, they will be responsible for paying the group health insurance premium bi-weekly if they are not Medicare eligible.

Health Insurance Retiree Reimbursement Rules:

- The premium must be paid monthly, in advance.
- A retiree cannot submit several months of past premium invoices for reimbursement
- Any missed premium invoices for reimbursement and/or payments past sixty (60) days of the coverage month shall result in cancellation of health insurance group coverage and/or termination from the retiree reimbursement program
- This option must be elected without a break in coverage on the County's group health insurance plan.
- If the option is not elected upon the date of retirement, the option will not be available in the future.

Dental and Vision continuation insurance is available but must be elected thirty (30) days from separation/retirement. Dental and Vision insurance premiums are not reimbursable and must be paid by the retiree or separating employee. If the separating employee/retiree fails to pay the premium within thirty (30) days, the coverage will terminate.

COBRA

Pursuant to applicable state or federal law requirements, employees who terminate employment with the County may be eligible to continue group insurance for a specified period of time through COBRA or a benefit portability plan. Changes in family status, eligibility for Medicare, or the death of a spouse may also warrant continuing coverage. The premiums for this continuation of coverage must be paid by the employee.

COBRA continuation coverage is a continuation of benefits (Health, Dental, Vision and in certain circumstances Flexible Spending Accounts) that you can elect after a qualifying event such as resignation, termination or retirement from the county. If interested, please schedule a meeting with Human Resources to discuss your options but generally, you can elect to continue the benefits listed above up to 18 months from the date of the qualifying event (example: termination) and you would pay the monthly premiums plus an additional 2% administrative charge by the COBRA Administrator. More information can also be found in the County Benefits Book.

Other Notes

For employees who submitted retirement paperwork to the Local Government Employee Retirement System prior to December 5, 2016, the County may provide reimbursement for health insurance premiums attributable to providing coverage for that employee in an amount not to exceed One Thousand Dollars (\$1,000.00) per month. The employee shall be responsible for establishing to the satisfaction of the County that the amount reimbursed is only for insurance for the employee and is not attributable to a spouse or dependent. (Amended effective November 20, 2017.)

Health Insurance (both active and retiree) is a benefit and not a right. This benefit may be canceled or amended if, in the opinion of the Board of County Commissioners, it becomes too expensive for the County to maintain. Applicable state and federal laws will apply.

Termination/Resignations

Generally, if an employee resigns or is terminated, all benefits will be canceled/terminated as of the last day of the month of termination date. If the insurance (medical, dental and vision) has been deducted the month of termination date, those insurance premiums will be reimbursed to the employee in the payroll including the termination date or the next available payroll.

Section 3. Wellness Program

Pender County is committed to promoting health and well-being of our employees through our comprehensive Employee Wellness Program. The county's Employee Wellness Program is designed to support employees in making healthy lifestyle choices and achieving health and wellness goals. The program strives to foster a culture of well-being that encompasses physical, mental, emotional, as well as financial health. We are committed to empowering employees to prioritize self-care, manage stress, and cultivate healthy habits both in and out of the workplace. The program includes incentives for employees to earn points and be awarded for annual check-ups, completing an annual health risk assessment (HRA), physical activity or gym memberships, attending Lunch and Learns, etc. The program also includes gym membership discounts and an annual Employee Wellness Fair in October each year to begin the Open Enrollment season for benefit selection.

All Full-Time and Permanent Part-Time Employees (30 hours or more a week) are eligible to participate in all of our Wellness Options and Incentives.

All employees are encouraged to participate in the program, but participation is voluntary.

Section 4. Vacation, Sick Leave and Holidays

See [Article VIII](#) Employee Leave Benefits

Section 5. Unemployment Insurance

Pender County employees who are laid off or released from County service may apply for unemployment insurance benefits through the local office of the Department of Commerce, Division of Employment Security. Eligibility for unemployment insurance benefits will be determined by the Employment Security Commission. If it is determined by the Employee Security Commission that a former employee is eligible for unemployment insurance benefits, Pender County may be required to reimburse the Employment Security Commission for all benefits paid to the former employee.

Section 6. Retirement Benefits

Employees working a minimum of 1,000 hours per calendar year will be enrolled in the North Carolina Local Governmental Employees' Retirement System as a condition of employment. Employees are required to contribute, through payroll deduction, six percent (6%) of their gross salary or at a rate to be determined by the North Carolina Local Governmental Employees' Retirement System. The County contributes an actuarially determined percentage of the gross payroll each month to the Retirement Benefits published by the North Carolina Local Government Employees' Retirement System. There shall be no mandatory retirement age imposed on employees except in those positions where a bona fide occupational qualification exists in compliance with the Age Discrimination in Employment Act Amendment, 29 U.S.C. 621-634.

The North Carolina General Assembly enacted an Anti-Pension Spiking Contribution Based Benefit Cap on members of the North Carolina Retirement System in 2014. Pension spiking is a substantial increase in compensation that results in unusually high liabilities to the Retirement System. Promotions, reclassifications and comparable salary surveys are typically the reasons an employee may experience a significant raise in salary and if the employee's salary increases above \$100,000, the NC Retirement System will review the average final compensation (average annual compensation of a member during the four consecutive calendar years of membership service producing the highest such average salary) to determine if a spike occurred.

If you become a member of the North Carolina Retirement System **prior to January 1, 2015**, and the Retirement System determines you have experienced a pension spike in your average final compensation over \$100,000, the last employer will pay the cost of the additional expenses owed to the Retirement System.

If you became a member of the North Carolina Retirement System **after January 1, 2015**, and the Retirement System determines you have experienced a pension spike in your average final compensation over \$100,000, the County may choose to pay the additional expense owed to the Retirement System. If however, the County exercises its right not to pay the additional expenses owed, then the employee may choose to pay the additional expenses owed to the Retirement System or choose to receive a reduced pension benefit.

Section 7. Death Benefits

Death benefits are paid through the North Carolina Local Government Employees' Retirement System. If an employee dies while still in active service with at least one (1) year as a contributing member of the Retirement System, the employee's beneficiary will receive a single lump-sum payment. The lump-sum payment is equal to the employee's highest twelve (12) months of salary in a row during the preceding twenty-four (24) months before the death of the employee, but the death benefit will be no less than \$25,000 and no more than \$50,000. This benefit is also paid if the employee dies within one hundred and eighty (180) days of the last day for which the employee was paid a salary.

Pender County also provides each full-time employee working thirty (30) or more hours a week, a \$10,000 life insurance policy. Each employee is responsible for designating a beneficiary and updating the beneficiary as required.

Each employee should notify their Executor or list in their last will and testament of their county benefits and inform them to reach out to Pender County Human Resources to assist them with employee death benefits.

Section 8. Workers' Compensation Insurance

The purpose of this policy is to provide medical benefits, disability compensation and a smooth transition back to a regular work status for employees who sustain compensable injuries or illnesses, which arise out of or are found to be within the course and scope of their employment, in accordance with the North Carolina Workers' Compensation Act.

- A. **Covered Employees:** All employees of the County (probationary and regularly established full-time, part-time, elected official and temporary) are covered by the North Carolina Workers' Compensation Act and are entitled to medical attention and appropriate weekly indemnity for injuries or illnesses, which arise out of or are found to be within the course and scope of their employment. Volunteers are also

covered by the North Carolina Workers' Compensation Act and are only entitled to medical attention. Employees on official business outside the County will be covered by Workers' Compensation insurance in accordance with the North Carolina Workers' Compensation Act. Loss time is when a work-related injury or illness results in absence from work. Loss time due to a work-related injury or illness will not be credited towards the completion of an employee's probationary period.

B. The County provides insurance protection for on-the-job injuries and illness determined compensable under the North Carolina Workers' Compensation Act, which includes:

1. All eligible medical and pharmacy costs.
2. Weekly disability income benefits equal two-thirds (2/3) of the employee's average weekly wage if they are unable to return to work.
3. Mileage to and from the employee's doctor's appointments if they travel twenty (20) miles or more round trip.
4. Death benefits payable to the employee's survivors.

C. **Reporting Requirements:**

1. **Employees are responsible for:**

- **Immediately reporting any work-related injury or illness to their supervisor regardless of whether or not medical treatment is needed.** Failure to report a work-related injury or illness in a timely manner could result in the denial of the Workers' Compensation claim. In any event, under the North Carolina Workers' Compensation Act, if notice of an accident is not given to the employer within thirty (30) days of the accident, compensation may be refused.
- Completing a Workers' Compensation Election Form at the time the incident is reported in case it becomes a loss-time case. This form should be provided to the employee by their supervisor.
- Seeking medical treatment from one of the County's authorized medical providers during normal office hours or with the nearest hospital emergency room if the injury or illness is life-threatening or occurs outside normal office hours. If a doctor, other than one of the County's authorized medical providers or the nearest hospital emergency room, is seen without prior approval, the County may not assume responsibility for the medical cost of those claims.

- Immediately providing written documentation of any work restrictions, time away from work and/or changes in their restrictions or work status to their supervisor and Human Resources. The written documentation can be submitted to the supervisor in person, by fax, e-mail, or by any other means that ensure the supervisor will receive the documentation promptly.
- Reporting back to work after receiving medical treatment, if seen during normal working hours, unless otherwise instructed and documented by the physician. If seen after normal working hours, the employee is expected to return to work at their regular starting time the following day unless documented as unable to return to work by the authorized treating physician. Failure to report to work promptly after receiving medical treatment may result in disciplinary action, up to and including termination.
- Following the physical restrictions imposed by the authorized treating physician during non-working hours as well as working hours. In accordance with [Article III Section 3](#) – Outside or Secondary Employment, the work of the County will take precedence over other occupational interests of employees.
- Trying to schedule medical appointments during non-work hours (before work, after work, or during the employee’s lunch hour), whenever possible. If this is not possible, the County will pay the employee their regular hourly wage while attending their medical appointment. However, this time will not count towards the calculation of overtime. Abuse of medical appointment time may result in disciplinary action, up to and including termination.
- Completing timesheets for any hours worked and any time away from work while receiving Workers’ Compensation benefits and submitting them to their supervisor. Supervisors should enter time on Workers Comp non-cash on their employee’s timesheet for any time missed due to their work-related injury or illness.
- Once an employee returns to work, employee must enter time on worker’s comp pay code for any time missed due to a Workers Compensation medical appointment from their work-related injury or illness.

2. **Supervisors and Department Directors are responsible for:**

- Immediately notifying the Department Director and Human Resources of any incident that occurs during normal office hours. After normal office hours, the incident should be reported to the Department Director and Human Resources at the beginning of the next business day.
- Accessing MyPender, Documents, Worker's Comp Information to get the proper forms for a worker's comp claim.
 - **Incident Report Form** to describe the incident, contact information, witnesses, etc.
 - **Leave Election Form** – if the employee is out of work, during the 7-day waiting period, does the employee chose to use leave or leave without pay. The employee will only be reimbursed for the first 7 day waiting period, if the employee is out of work longer than 21 days with the compensable injury.
 - **Medical Treatment Waiver** if the employee feels they do not need to see a doctor on their injuries or illness
 - **Pharmacy Card** to cover medications once the employee seeks medical treatment at a authorized worker's comp medical provider
- Completing the Incident Report form and forward to Human Resources along with the completed Workers' Compensation Leave Election Form ASAP but no later than forty- eight (48) hours of the incident.
- Evaluating the injury and contacting Human Resources to arrange for medical treatment with a County's authorized medical provider. Life-threatening accidents or accidents occurring outside normal office hours should be directed to the nearest hospital emergency room.
- Contacting Human Resources to discuss the procedure for any employee illness in coordination with the Family Medical Leave Act (FMLA).
- Assisting Human Resources in identifying appropriate transitional work assignments for employees who have been returned to work with restrictions. Supervisors should implement modified duty in a timely manner and ensure that restrictions are not violated if an employee returns to work on modified duty. If modified duty cannot be provided due to the employee's job description, a discussion with Human Resources on what's available in other county departments to accommodate the restrictions
- Returning the employee to their regular job assignment when released to full duty and ensure that employees do not, under any circumstances, return to work until they have been released by their authorized treating physician.

- Maintaining complete confidentiality for all work-related injuries and illnesses as required by law.
- Ensuring OSHA and Workers Comp notifications are posted at all work locations and visible to all employees.

3. **Human Resources is responsible for:**

- Ensuring all potential Workers' Compensation claims are reported to the insurance carrier in a timely manner and that the employee receives benefits provided by the North Carolina Workers' Compensation Act, if applicable.
- Scheduling post-accident drug and/or alcohol screening when the incident follows the circumstances below in Section H. Drug and Alcohol Testing.
- Overseeing Workers' Compensation program and communicating policy and procedures to all employees and management.
- Maintaining effective communications with all parties involved in a Workers' Compensation claim
- Ensuring all modified duty is in compliance with this policy.
- Should a suitable position, other than the employee's regular position, become vacant, Human Resources will provide the insurance carrier with a job description for the position, so that the position can be evaluated and approved by the authorized treating physician. Normal announcement procedures for the new position will be required and the employee must submit an application to be considered for the approved position.
- Participating in North Carolina Industrial Commission hearings or mediations where appropriate.
- Maintaining complete confidentiality for all work-related injuries and illnesses as required by law.
- Ensuring that all medical recordkeeping and maintenance of OSHA 300, 300A and 301 forms are completed as required by law.
- Reporting fatalities and/or hospitalization of three (3) or more employees to the North Carolina Occupational Health and Safety Administration (OSHA).

Duty Status: After receiving notification that an employee has been released for modified duty, it is the responsibility of the Department to accommodate the employees' restrictions. Should the employee's regular position allow for the restrictions, the employee will be placed in that position and continue to perform under the restrictions until these restrictions are lifted by the authorized treating physician.

If a department cannot accommodate the restrictions or provide modified duty for the injured employee, the Department must notify Human Resources in writing immediately. The County Manager may approve budget amendments to transfer funds for salary from one Department to another, in order to accommodate an employee's return to work, only in extraordinary and unusual circumstances. Based on the supporting documentation provided by the Department, the County Manager will decide whether to transfer the funds.

Assignments to transitional/light or modified duty shall be for a period of up to six (6) months unless it's agreed to extend the time, and as long as medical evidence indicates the employee is improving and is likely to return to full duty. Transitional/light or modified duty may be revoked if the employee's medical condition, based on medical documentation, is not improving. Human Resources may review the transitional/light or modified duty to ensure compliance with all work limitations and that the employee is meeting all medical appointments. Employees assigned to temporary transitional duty shall conform to the work procedures, practices, dress requirements and regulations of the workplace, division or department assigned and shall perform all work in conformance with their medical restrictions. Failure of the employee to satisfactorily perform the required duties may terminate the transitional duty assignment.

If the employee's medical condition is determined to be permanent or permanent and stationary, precluding work for which the employee was hired, the employee's assignment, if any, will be governed by applicable County policies, Workers' Compensation law and/or state and federal law.

If at any time while an employee is on a temporary transitional/light or modified duty assignment the treating physician determines that the employee is able to perform regular work activities within current restrictions or without restrictions, the employee shall return to his or her regular duties.

COMPENSATION

While temporarily assigned to transitional duty, the injured/ill employee will be paid his or her regular base pay.

While an injured/ill employee is temporarily assigned to transitional duty, time associated with physician appointments shall be included on the time sheet for that week. If the Workers' Compensation claim is denied, then employee must use accruals for all appointments.

- A. **Employee's Obligation to Accept Suitable Employment:** Once released by the authorized treating physician to return to work in a transitional, modified, or restricted duty status, the employee is expected to accept a suitable position that is consistent with the restrictions imposed by the physician. If the employee refuses the position, the County will exercise its legal rights under the North Carolina Workers' Compensation Act (GS 97-32) which states, "if an injured employee refuses employment procured for him suitable to his capacity, he shall not be entitled to any compensation at any time during the continuance of such refusal, unless in the opinion of the Industrial Commission such refusal was justified."

Should the employee refuse modified duty approved by the authorized treating physician, a written statement from the employee is required. The statement shall note that the employee voluntarily declined the modified duty position with full and complete understanding that Workers' Compensation payments may be affected.

If initial efforts to contact an employee fail, a letter shall be mailed through certified mail and regular mail to the address on record for the employee. The letter shall include information concerning the medically approved transitional duty and shall state an expected return-to-work date. If the employee fails to contact either the supervisor or Human Resources within three (3) days of the receipt of the certified letter or if the certified letter is not claimed and is returned, this shall be considered a refusal of the offer of work and a possible voluntary resignation without notice under the [Article XI](#) - Separation from Employment.

- B. **Wage Compensation:** The amount of Workers' Compensation benefits is based on the employee's average weekly wage over a period of fifty-two (52) weeks prior to the date of the work-related injury or illness. Benefits equal two-thirds (2/3) of the employee's average weekly wage. Currently, under the North Carolina Workers' Compensation Act, there is a seven (7) calendar day waiting period, beginning the day after the injury or illness occurred, during which Workers' Compensation will not compensate the employee, except where the injury results in a disability for more than twenty-one (21) days. This waiting period will be unpaid unless the employee elects to use their accumulated accruals. If the employee elects to use their accumulated accruals, a copy of their completed Workers' Compensation Election Form will be submitted to the Workers' Compensation carrier to acknowledge that they have used their accumulated accruals to cover the first (7) seven days of disability and that they should not be compensated for this waiting period through Workers' Compensation because they are not entitled to retain more than 100% of their regular salary under current North Carolina law. If the employee elects not to use their accruals during the first 7 days, the employee cannot come back later to request to use their accruals to be compensated.

Benefits: If an employee has not been released to work in a modified or full duty status, the employee must immediately provide their supervisor written documentation from the authorized treating physician. In such cases, the employee will receive Workers' Compensation benefits. If an employee is unable to return to work and is being paid through the County's Workers' Compensation insurance carrier, the employee will be placed on an FMLA leave and/or placed on a leave without pay status (if not eligible for FMLA leave) since the employee may not use their accruals to subsidize their Workers' Compensation benefits. At this time, the

employee will follow either the FMLA or Leave Without Pay policies found in Article VIII – Employee Benefits, except the employee will not be responsible for the employer's health insurance premium and the employee may be out of work longer than the FMLA 12-week limit. Employees being paid through the County's Workers' Compensation insurance carrier will not accrue vacation, sick or holiday leave while on FMLA leave or leave without pay status.

Therefore, the County's [Article VIII Section 5](#) – Leave of Absence, Family and Medical Leave Act policy would take effect, even if the employee is placed in a leave without pay status, except the employee's accruals will not be exhausted.

When an employee returns to their regular work schedule but with medical restrictions, they will receive their regular salary. If an employee has limited work hours, they will receive a regular salary for the hours worked and Workers' Compensation benefits for the hours not worked. Such benefits shall equal two-thirds (2/3) of the difference between the employees' average weekly wage and the wage they receive while working limited hours.

C. **Drug and Alcohol Testing:** The County will send employees to be tested for the presence of drugs and alcohol following an on-the-job accident under the following circumstances:

1. A fatality
2. An injury to either the employee or another individual requiring immediate medical treatment away from the scene of the accident
3. The employee's county vehicle is disabled and removed from the scene by other than its own power.
4. An accident that would necessitate the need to file a claim with the County's Property and Liability Insurance.
5. A sequence of minor accidents or injuries where medical treatment may not have been required.
6. Reasonable suspicion based on facts that conclude the accident was due to the employee's drug or alcohol impairment.
7. While operating the county vehicle, the driver is cited for a moving traffic violation.

Following an accident as defined above, the employee will be tested as soon as possible but not to exceed (8) eight hours for alcohol testing and thirty-two (32) hours for drug

testing. Any employee who tests positive for drugs and/or alcohol will be subject to termination. If an employee refuses to submit to required post- accident drug and alcohol testing, they will be considered positive for drugs and alcohol and will be subject to termination.

D. **Discipline and Consequences:** Failure to follow the procedures as set forth in this policy will result in disciplinary action up to and including dismissal and may also result in the following:

1. Any employee involved in an on-the-job injury or illness who does not report it immediately may be subject to denial of benefits under the North Carolina Workers' Compensation Act.
2. Any employee injured on-the-job who does not get prior approval for medical treatment (excluding life-threatening accidents and accidents occurring outside normal business hours) will jeopardize payment of bills incurred relating to the accident.
3. Any employee who tests positive for drugs and/or alcohol will be subject to dismissal. If an employee refuses to submit to required post-accident drug and alcohol testing will be considered positive for drugs and alcohol and will be subject to dismissal.
4. If it is determined that an employee has abused their time away from work for Workers' Compensation medical appointments, they will be subject to disciplinary action up to and including dismissal.

Section 9. Social Security Retirement/Disability and Medicare Account

All eligible employees shall participate in Social Security coverage as provided by Title II of the Federal Social Security Act as amended. All exclusions contemplated by the Act shall be provided to elected governing officials who are not required to devote a major portion of their time to the duties of their office. This plan provides retirement income for the employee and spouse, disability income, death benefits for surviving spouse and dependent children, and Medicare protection at the age of 65. The County contributes a percentage of the employee's income into this federally operated program.

Section 10. Other Benefit Programs

The County offers a number of benefits designed to allow employees to meet their own health and welfare needs as well as those of their families. A number of approved payroll deduction plans are also available, which provide the employee with increased available income and an enhanced ability to save for retirement. Each employee is encouraged to make responsible decisions regarding both present needs and future financial stability. The County reserves the right to determine whether to allow the addition of a benefit or service and to provide for payroll

deduction based upon the past performance, financial responsibility and reputation of the organization requesting or receiving such deduction, whether or not the administration of the program would prove to be unduly burdensome to the County, and whether interest is expressed by a sufficient number of employees representative of all the departments of the County. Human Resources shall maintain a current list and description of all benefits available to employees and shall make said list and all updates available to employees.

Section 11. 401(k) and 457(b) Employer Paid Contributions

Pender County is committed to helping its employees save for retirement. In doing so, the county has partnered with a NC Retirement System sponsored provider to offer 401K and 457(b) options, featuring both pre-tax and Roth. Full-time, Sworn Law Enforcement Officers (LEO) receive 5% of gross income contribution from the County into a 401(K) plan. All other full-time employees receive 2.5% of gross income contribution from the County into a 401(K) plan. Pender County's employer paid 401(k) contributions are based on full-time budgeted base salaries, overtime hours paid and Comp Payouts. This excludes longevity and any payouts of accruals upon termination. This benefit may be changed or eliminated at any time in the sole discretion of the governing board.

Note: Current permanent part-time employees currently receive the 401(K) 2.5% contributions pro-rated based on their budgeted scheduled work hours and will be grandfathered into the policy. However, all future new permanent part-time employees hired July 1, 2025, and after will not be eligible for the 2.5% county contribution. The permanent part-time employees will still be eligible to participate in either 401(K) or the 457(b) plan with their own contributions.

House Bill 1020 became effective January 1, 2025, and among other things, the NC 401(K) Plan expanded its eligibility requirements where both full-time and part-time employees and rehired retirees can participate in the NC 401(K) Plan.

The NC457 Plan is a deferred compensation plan administered by the North Carolina Department of State Treasurer. This plan is available to full-time, part-time and temporary employees, elected and appointed officials, rehired retired employees and North Carolina Local Government employees. The Pender County Board of Commissioners receive 2.5% of gross income contribution from the County into their 457(b) plans.

Section 12. Law Enforcement Officers Additional Benefits

North Carolina recognizes Law Enforcement Officers with special benefits that Pender County contributes to on behalf of our qualified Pender County Sheriff's Department law enforcement officers (LEO) employees.

- A. The County provides in accordance with NC GS 143-166.42 **Law Enforcement Special separation allowance (LESSA)** for law officers as defined by G.S. 128-21 (11d) or G.S.143-166.50(a)(3) employed by a local government employer (Pender County) who qualifies under

this section shall receive, beginning in the month in which the officer retires on a basic service retirement under the provisions of G.S. 128-27(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall:

- Qualify for retirement (not disability) under the Local Governmental Employees' Retirement System (LGERS)
- The officer must have completed thirty (30) years or more of creditable service or have attained fifty-five (55) years of age and completed five (5) or more years of creditable service prior to retirement, and
- The officer must not yet be age sixty-two (62); and
- The officer must have completed at least five (5) years of continuous service as a law enforcement officer immediately before service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

B. As used in this section, "creditable service" means the service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein defined.

- C. Payment to a retired officer under the provisions of this section shall cease at the first of:
- The death of the officer.
 - The last day of the month in which the officer attains 62 years of age; or
 - The first day of reemployment by a local government employer in any capacity with the exception of C1.

Notwithstanding the provisions of subdivision (3) of subsection (c) of this section, **payments to a retired officer shall not cease** when a local government employer employs a retired officer for any of the following:

1. In a public safety position in a capacity not requiring participation in the Local Governmental Employees Retirement System
(Note: Pender County positions that fit this exception are Part-Time Temporary positions working less than 1,000 hours per calendar year. Re-hired retirees will earn

the minimum hourly rate for the position and not return to work at the rate of pay they were earning upon retiring.)

2. In service to a county board of elections on an election day or during the hours for early voting under Part 5 of Article 14A of Chapter 163 of the General Statutes in a capacity that complies with G.S. 128-21(19) and does not result in cessation or suspension of the retiree's benefit from the Local Government Employee's Retirement System.

Effective July 1, 2025, Session Law 2025-8(HB 50) amends G.S. 143-166.42, to allow eligible local law enforcement officers (LEOs) an alternative benefit calculation method that may impact their retirement decision.

Option 1 – Traditional Plan - Eligible LEOs would be entitled to an annual benefit equal to 0.85% of their most recent annual base rate of compensation before retirement, multiplied by the officer's total years of creditable service.

Example: An officer with a final salary of \$65,000 and 32 years of creditable service would receive an annual LESSA of $0.0085 \times 65,000 \times 32 = \$17,680$ (or approximately \$1,473.33 per month).

Option 2 – The New 30-Year Fixed Benefit Option allows eligible LEOs with 30 or more years of creditable service to elect an alternative LESSA calculation. Instead of using the officer's final salary and total years of service, the new formula fixes both variables:

- The benefit is calculated using the officer's base rate of compensation at the time they reach 30 years of creditable service; and
- The benefit is based on exactly 30 years of service, regardless of how many years the officer ultimately works.

The resulting annual allowance is $0.85\% \times \text{annual equivalent of base salary at 30 years} \times 30 = 25.5\%$ of salary at 30 years.

Example: If an officer's annual equivalent base salary at the 30-year mark of creditable service is \$60,000, the annual LESSA under the fixed option would be $0.0085 \times 60,000 \times 30 = \$15,300$ per year (or \$1,275 per month).

Officers who select this option will receive this fixed monthly amount upon retirement. Unlike the traditional LESSA, the benefit under the fixed option does not automatically end at age 62. Instead, it continues until the officer has received the allowance for a period equal to the difference between age 62 and the age at which they completed 30 years of creditable service.

Example: If an officer reached 30 years at age 52 and retired them, the allowance would be payable for 10 years, with payments ending at age 62. If the officer waited and retired at age 55, they would still receive the benefit for 10 years, with payments ending at age 65. As with the traditional LESSA, benefits cease earlier if the officer dies or becomes re-employed in a position requiring participation in LGERS.

Since LGERS tracks service time and retirement eligibility in months, the Fixed Benefit is calculated in years and months.

If the law enforcement officer meets all eligibility criteria under G.S. 143-166.42, the officer must elect which calculation method to use – the traditional LESSA based on final salary and total service, or the new 30-year fixed option based on the salary at 30 years. This election is a one-time, irrevocable choice that must be made before the first LESSA payment is issued. If the officer fails to make an election, the law mandates that the county use the calculation method under the new 30-year fixed option by default. An LEO who retired before July 1, 2025, may not change to the new calculation method.

Supplemental Retirement Income for Law Enforcement Officers. As a law enforcement officer, you are automatically a member of the NC 401(k) Plan. The County pays an amount equal to 5 percent of your salary into your account in the Plan, and you may elect to make additional contributions.

For more information about Local Governmental Employees' Retirement System for Law Enforcement Officers (LEO), you can visit www.myNCRetirement.com.

Section 13. Employee Assistance Program (EAP)

The County recognizes that a wide range of personal, family and work-related problems may impair an employee's work performance and may also impact their fellow employees. The County also realizes that with early intervention and proper support, employees can be assisted with overcoming their problems and become able to fully function at work and at home. As a result, the County has established an Employee Assistance Program (EAP) for its employees.

The EAP is a voluntary and confidential program designed to assist with employee problems including, but not limited to, depression, substance abuse, emotional distress, coping with major life events, healthcare concerns, financial or legal concerns, personal or work-related relationship issues, concerns about aging parents.

- A. **Eligibility:** Full-time employees, spouses, and dependents are eligible to participate in the EAP.
- B. **Program Benefits:** The EAP program includes a variety of benefits at no cost to eligible employees such as:
 - 1. Up to six (6) visits to an EAP counselor and if an employee needs further counseling services, the visits would be paid through the County's health insurance plan with a co-pay.
 - 2. A 24-hour, 7 days per week, 365 information line.

3. Management support for supervisors and Department Directors.
 4. Web-based work-life balance online seminars and resources.
- C. **Self-Referral to the EAP:** Employees and their eligible family members are encouraged to call the EAP directly and arrange an appointment with a counselor. Time off and sick leave for EAP consultation and treatment may be granted in accordance with [Article VIII Section 3](#) Employee Leave Benefits. Sick Leave as it relates to doctor's appointments.
- D. **Management Referral to the EAP:** Employees may be referred to the EAP by their supervisor, Department Director or Human Resources if a decline in job performance or conduct seems to be affected by job-related problems. The employee may choose to consult EAP or not. No discipline may be imposed for a failure to consult EAP after a management referral. Compliance with a management referral to EAP shall not delay or prevent appropriate disciplinary action from being taken.
- E. **Confidentiality:** Services will be provided off-site, and appointments will be scheduled by the provider to ensure anonymity. All communications between the employee and the EAP will be strictly confidential and will not be released without an employee's written consent unless otherwise specified by law. In the event of a management referral, information other than whether the employee attended the appointment and whether the employee accepted the assistance that was offered will not be released without the employee's written permission.
- F. **Disclaimer:** Voluntary participation in the EAP does not affect an employee's job security or career advancement with the County nor does it prevent employee disciplinary actions, including discharge.

ARTICLE X - EMPLOYEE EDUCATION AND TRAINING

Employees are encouraged to enhance their knowledge through education and training experiences, so the public is served at an ever-increasing level of excellence.

Section 1. Education and Training Requirements

It is the policy of Pender County to provide training and development opportunities to all employees, within the availability of funds, in support of effective and efficient service provision to the citizens of the County. Training and development opportunities should be focused on the needs of the employee and the County.

It is the County's goal to promote learning opportunities that support life-long learning and assist individuals in working effectively together within their departments and throughout the county government. Training and development will assist the County in adapting to change, increasing productivity, and improving the quality of the work environment and the employees' interactions with each other and with citizens.

All employees, except those employed by the Sheriff's Department, are required to comply with the following training requirements:

Employee Type	Training	Frequency	Completion Requirement
New Employee	Safety Training	Once	60 days after hiring
	Workplace/Sexual Harassment	Once	60 days after hiring
	Customer Service	Once	60 days after hiring
	Workplace Violence	Once	60 days after hiring
	Professionalism/Ethics	Once	60 days after hiring
	ICS-100, 200, 700 & 800	Once	6 Months after hiring

All Employees	Workplace/Sexual Harassment	Every 2 years	Hire date anniversary
	Safety Training	Every 2 years	Hire date anniversary
	Customer Service	Every 2 years	Hire date anniversary
	Professionalism/Ethics	Every 2 years	Hire date anniversary
	ICS-100, 200, 700 & 800		After Hire Date or ASAP

Supervisors and Department Directors	Supervisor Training	1 year after hire/promotion
	Communication & Behavioral Styles	First year as Supervisor
	Workplace/Sexual Harassment	2 years
	Managing Difficult Situations & People	First year as Supervisor
	Meeting Management	First year as Supervisor

This training and development policy lists minimum training requirements. Additional training requirements may be imposed by departments or professional credentialing bodies as necessary. Human Resources, Department Directors, supervisors, and employees are to ensure strict compliance with this procedure. Failure to complete training requirements may subject the employee to disciplinary action and may be addressed in performance evaluation.

Section 2. Education Enhancements

Education Reimbursement

If the County assists with funding an advanced degree either technical or regular college, the employee will be required to enter into a contractual agreement ensuring continued employment with the County. An Education Reimbursement Agreement does not alter or modify the employment at will relationship between Pender County and its employees. If the employee is reimbursed for education expenses and fails to continue employment whether voluntary or involuntary, at the agreed duration, the employee will repay the County for those education expenses as agreed. Any reimbursement by the County is intended to supplement and not take the place of other financial resources or to duplicate payment for educational expenses.

To be eligible for reimbursement, the employee must:

1. Have successfully completed their probationary period and not had a disciplinary procedure in the last year.
2. The employee must have enrolled and attended a nationally accredited educational institution after hire date.
3. The classes must enhance the employee's knowledge and/or skills directly relating to Employee's current responsibilities, in part of a succession plan within the department or be transferrable and benefit another county department .
4. The employee must maintain a "C" average or higher in the course to be eligible to apply for reimbursement.
5. Employee must be in an active, payable status (i.e. not on LWOP or Worker's Comp) to be eligible for reimbursement.

If an employee would like to apply for reimbursement while obtaining their degree, the employee needs to complete an Education Reimbursement Agreement (found on My Pender or from Human Resources). The County may reimburse the employee for the costs of tuition, additional course fees, expenses for books, and other course materials up to a total reimbursement of \$7,500 per year during the time that the employee is employed with the County in any applicable full-time position.

Once the Agreement is completed and approved by the Department Director, the completed and signed form needs to be sent to Human Resources for review and once reviewed, the Agreement will be forwarded to the County Manager for approval. This policy is subject to funding availability.

Salary Increase

The County will recognize employees' achievements by awarding the employee with step increases as below:

- Associate's and/or Technical degree – 4 steps (approximately 5%) from the employee's current step
- Bachelor's Degree – 6 steps (approximately 7.5%) from the employee's current step
- Master's degree – 8 steps (approximately 10%) from the employee's current step

To be eligible for a step increase, the employee must:

- Have successfully completed their probationary period and not had a disciplinary procedure in the last year.
- The employee must have enrolled and attended a nationally accredited educational institution after hire date
- The degree must enhance the employee's knowledge and/or skills directly relating to Employee's current responsibilities, a part of a succession plan within the department or be transferrable and benefit another county department.
- The employee must provide an official transcript showing successful completion of the degree.
- Employee must be in an active, payable status (i.e. not on LWOP or Worker's Comp) to be eligible for reimbursement.

Career Development Plans

Pender County recognizes that in certain county positions, employees are required to hold or maintain certain licensures and/or certifications to perform their job duties. Administration also understands that to obtain or maintain these special credentials, the employee must attend classes, study vigorously and pass often, difficult exams.

The Department Director, in coordination with the Human Resources Director, may develop a Career Development Plan approved by the County Manager after review of the Career Development committee. A Career Development Plan rewards employees for improving their proficiency with essential job skills by acquiring the specialized expertise required licensure and/or certifications.

Certifications and/or Licensure recognition is not retroactive from the date obtained. However, certain career development plans may be complex because they encompass years of classes, exams, certifications that may eventually prepare the employee for a supervisory and/or director position as part of a succession plan. Complex career developments such as these will offer incentives comparable to the time and effort expected by the employee to put forth whereas appropriate grade and/or step increase may be awarded at different phases of the multi-year plan. This incentive only applies to those certifications and/or licensures awarded or earned during the employee's tenure at Pender County.

If the employee's current job description requires a certain degree and/or certification(s) to perform the job, that degree/certification(s) will not be considered part of the career development plan as it is already built into the salary grade of that position. Any subsequent degree(s) and/or certification(s) obtained thereafter, may be eligible for inclusion in a career development plan as long as the degree/certification(s) are relevant to the current position or part of a departmental succession plan.

If the employee fails to maintain continuing education requirements or pass renewal exams and subsequently loses a certification or license that resulted in a salary increase or the employee transfers, is demoted from the position where the training and/or certification is required or beneficial, the employee may be subject to a reduction in pay.

Please also refer to Article III Transportation & Travel, Section 5. Credentials. If the employee is unable to obtain, maintain or renew the required licenses or certifications for their position, the employee may be transferred, demoted or terminated from the position.

Also, reference Article VII Employee Education & Training, Education Reimbursement, whereas if an employee fails in passing the certification/licensure exam after two (2) attempts, the County will not pay or reimburse further attempts for class, certification or licensure. Any further attempts of the certification or licensure will be the responsibility of the employee (all costs & time required).

Under the Fair Labor Standards Act (FLSA), employee training time is considered within the "hours worked" definition and is therefore compensable. Attendance at lectures, meetings, training programs, and other similar activities is considered "hours worked" if it is intended to increase the employees' efficiency or is otherwise required by Pender County. If an employee voluntarily attends school or other training outside their regular working hours and the training is not directly related to their job, the training time is not compensable.

ARTICLE XI – SEPARATION FROM EMPLOYMENT

Section 1. Types of Separation

Separation from County service occurs when:

- A. **Resignation:** A minimum of a two (2) week written notice is expected of all resigning employees. Department Directors are required to provide a minimum of a four (4) week written notice. Such notice should be given to the employee's immediate supervisor, to be forwarded to the Department Director and Human Resources. In the case of Department Directors, the resignation should be given to the County Manager. Once notice has been given, employees are not eligible to use leave unless approved by the Department Director and/or County Manager, typically for emergencies and sick leave. Any sick leave requested must be substantiated by a doctor's note. The last day worked is interpreted as the employee's last day. The separating employee shall contact Human Resources as soon as notice is given to schedule an exit interview and discuss benefit closures. Employees are expected to work the termination notice per their regular work schedule or shift. Holidays are not counted towards fulfilling the termination week requirement. Employees who do not work a termination notice are not eligible for re-hire with the County except if working as a precinct worker. *(Refer to Article II – Employment, Section 16. Re-employment for more information.)*
- B. **Voluntary Resignation without Notice:** An employee who is absent from work and does not contact the employer for three (3) consecutive scheduled workdays may be separated from employment as a voluntary resignation without notice. Separation pursuant to this policy should not occur until the employing department has undertaken reasonable efforts to establish that the employee was able to give or have someone else give notice during the period of days in question. This provision also applies when the employee is absent for at least three (3) consecutive scheduled workdays, has been instructed verbally or in writing of a specific manner of reporting by management, and does not report to the appropriate supervisory personnel on a regular basis satisfactory to the appropriate supervisory personnel.
- C. **Separation Due to Unavailability:** An employee may be separated on the basis of unavailability when the employee becomes or remains unavailable for work after all applicable leave credits have been exhausted and the County does not grant or extend a leave without pay. The County will make an effort to notify the employee in writing of the proposed separation date, the efforts taken to avoid separation, and why the efforts were unsuccessful.
- D. **Retirement:** An employee may retire when he or she is eligible and applies for retirement benefits from the North Carolina Local Government Employees Retirement System or Law Enforcement Officers Retirement System. In

compliance with the Age Discrimination in Employment Act amendment (29 U.S.C. 621-634), there shall be no mandatory retirement age for employees except in positions where bona fide occupational qualification exists.

- E. **Disability.** Employees may be separated for disability when they cannot perform the required (essential) duties due to a physical or mental impairment or safety of the employee and/or co-workers. Action may be initiated by the employee or the County; but in all cases it must be supported by medical evidence, as certified by a competent physician. The County may require an examination at its expense and performed by a physician of its choice. Before any employee is separated for disability, a reasonable effort shall be made to provide a reasonable accommodation as recommended by the employee's physician after review of the job description or locate alternative positions within the County's service for which the employee may be suited.
- F. **Reduction-in-Force:** An employee may be reduced in force and separated from County service for reasons of a shortage of funds or work, elimination of a position, reorganization, or other changes in duties. Retention of employees shall be based upon the needs of the County in the reduced workforce or with the changes in duties. Employees who are separated from the County because of a reduction-in-force will be given at least thirty (30) days written notice of the anticipated separation.
- G. **Dismissal:** Dismissal is an involuntary separation in accordance with [Article XII](#)
- H. **Disciplinary Actions:** Employees who are involuntarily terminated will be paid through their termination date. Separation due to dismissal may be grieved in accordance with [Article XIII](#)- Grievance Process.
- I. **Probationary Dismissal:** as described in Article II, Section 12.

Probationary Period of Employment. The County may dismiss any employee with or without cause at any time during the probationary period.
- J. **Death:** Payment for unpaid salary, eligible accruals and reimbursement for travel or other County expenses will be made, upon the establishment of a valid claim, to the deceased employee's administrator or executor.

ARTICLE XII – DISCIPLINARY ACTIONS

Department Directors and supervisors are responsible for maintaining the proper conduct of employees under their supervision. When an employee's performance or conduct is determined by a supervisor or Department Director to be unacceptable, disciplinary action may be taken. Disciplinary action is not to be considered as limiting or restrictive in nature, and application may vary based upon the circumstances. It is the policy of the County to administer discipline without discrimination. The supervisor or Department Director, with the assistance of Human Resources, shall investigate any allegation on which disciplinary action might be based before any disciplinary action is taken. The County Manager or his/her designee has the authority to deviate from this procedure when it is in the best interest of the County.

The provisions of this Article are advisory only to popularly elected Department Directors.

Section 1. Reason for Disciplinary Action

- A. Any employee regardless of occupation, position, or profession may be warned, demoted, suspended or dismissed by the either the County Manager and/or Assistant County Manager, and the Department Director. The degree and type of action taken shall be based upon the sound and considered judgment of the County Manager and/or Assistant County Manager and the Department Director, or their designee in accordance with the provisions of this policy.
- B. Exceptions to this policy:
 - Employees of the Sheriff and Register of Deeds serve at the will of those officials and therefore those elected Department Heads may or may not choose to follow the policies and procedures of this Article. The Sheriff and Register of Deeds shall have the right to hire and terminate employees in their respective departments under the authority of N.C.G.S. 153A-103.
 - Employees of the Board of Elections are subject to these policies except the County Board of Elections shall appoint and remove election clerks, assistant clerks, and other Election employees under the authority of N.C.G.S. 163-33 (10). The Executive Secretary-Director of the State Board of Elections appoints the Director of Elections. The Executive Secretary-Director can make a decision to terminate the County Director of Elections following procedures set out in N.C.G.S. 163-35 (b).

When just cause exists, the only disciplinary actions provided for under this Article are:

1. Verbal Counseling or Coaching
2. Written warning and/or Corrective Action (Performance Improvement Plan – PIP)
3. Disciplinary suspension without pay.
4. Demotion; and
5. Dismissal.

C. There are two (2) bases for the discipline or dismissal of employees. These two bases are:

1. Discipline or dismissal imposed on the basis of unsatisfactory job performance including grossly inefficient job performance
2. Discipline or dismissal imposed on the basis of unacceptable personal conduct.

D. Either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct constitutes just cause for discipline or dismissal. The categories are not mutually exclusive, as certain actions by employees may fall into both categories, depending upon the facts of each case. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

E. The imposition of any disciplinary action shall comply with the procedural requirements of this Section for equity and consistency during the disciplinary process with all employees.

Section 2. Unsatisfactory Performance of Duties

A. Unsatisfactory job performance is work-related performance that fails to satisfactorily meet job requirements as specified in the relevant class description or position description, work plan or as directed by the management of the work unit or agency.

B. Unsatisfactory performance of duties, depending upon the circumstances, includes, but is not limited to:

1. Quality of work
2. Quantity of work
3. Work habits

4. Promptness
 5. Timely performance of work-related analysis, decisions, or judgment
 6. Accuracy of work
 7. Ability to follow instructions, directions or procedures
 8. Regular and timely attendance
- C. It is the County's intent to assist and promote improved employee job performance, rather than to punish. This policy covers all types of performance-related deficiencies and does not require that successive disciplinary actions all concern the same type of unsatisfactory job performance.
- D. In order to be dismissed for a current incident of unsatisfactory job performance, an employee must first have received at least one (1) prior disciplinary action. The prior disciplinary action must contain a corrective action plan or performance improvement plan (PIP) up to 90 days in duration designed to assist the employee in attaining acceptable job performance and notified the employee that failure to make the required performance improvements may result in dismissal.
- E. Prior to the decision to dismiss an employee for unsatisfactory performance of duties, the Assistant County Manager or his/her designee shall conduct a pre-disciplinary conference with the employee in accordance with the procedural requirements of this Article. At the request of the Assistant County Manager or his/her designee, Human Resources may assist in this process.

An employee who is dismissed for unsatisfactory performance of duties shall receive written notice citing the policy(ies) violated for the dismissal as well as notice of any applicable appeal rights. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights and must be filed within fifteen (15) days.

Section 3. Grossly Inefficient Job Performance

- A. Grossly Inefficient Job Performance occurs in instances in which the employee fails to perform job requirements satisfactorily as specified in the job description, work plans, or as directed by the management of the work unit or the County and that failure results in:

- The creation of the potential for death or serious harm to a client(s), an employee(s), members of the public or to a person(s) over whom the employee has responsibility; or
 - The loss of or damage to any County property or funds that result in a serious impact on the County and/or department.
- B. Actions that could rise to the level of gross inefficient job performance, depending upon the circumstances, include, but are not limited to:
1. Careless, negligent, or improper use of County vehicles and equipment
 2. Negligence in the performance of duties
 3. Negligence in the performance of duties outside the scope of employment
 4. Physical or mental incapacity to perform essential job duties with reasonable accommodation
 5. Discourteous treatment of the public or other employees
 6. Absence without approved leave, habitual pattern of failure to report for duty at the assigned time and place or habitual improper use of leave privileges
 7. Dismissal on the basis of grossly inefficient job performance is administered in the same manner as for unacceptable personal conduct. Employees may be dismissed on the basis of a current incident of grossly inefficient job performance without any prior disciplinary action.
 8. Prior to dismissal of an employee on the basis of grossly inefficient job performance, there shall be a pre-disciplinary conference between the employee and the Department Director, or his designee held in accordance with Section 8. Procedural Requirements.
 9. Dismissals for grossly inefficient job performance require written notification to the employee of policy(ices) violated for the dismissal and notice of the employee's right of appeal. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights and must be filed within fifteen (15) days.

Section 4. Personal Conduct and Inappropriate Behavior

Employees may be disciplined up to and including dismissal for a current incident of unacceptable personal conduct without prior warning or disciplinary action having been given to the employee if the offense is of such a grievous nature as determined by the Department Director and/or Assistant County Manager.

- A. Unacceptable Personal Conduct includes, but is not limited to:
1. Conduct for which no reasonable person should expect to receive prior warning.

2. Job-related conduct which constitutes a violation of state or federal law.
3. Misappropriation of County funds or property; or causing misappropriation of County funds or property.
4. Falsification of County records, including time sheets
5. Reporting to work under the influence of alcohol or illegal drugs or partaking of alcohol or illegal drugs while on duty or while on public property, except that prescribed medication may be taken within the limits set by the physician so long as medically necessary and not disruptive to the employee's performance of job duties.
6. Willful or negligent damage or destruction of County property, improper use of County property or acts that would endanger the lives and property of others.
7. Acceptance of gifts in exchange for "favors" or "influence".
8. The willful violation of known or written work rules or policies.
9. Fraud in securing appointment, falsification of an employment application or other employment documentation or failure to disclose relevant work history.
10. Failure to maintain credentials.
11. Insubordination which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning.
12. Absence from work after all authorized leave credits and benefits have been exhausted; absence without approved leave, habitual pattern of failure to report for duty at the assigned time and place or habitual improper use of leave privileges.
13. Conduct unbecoming an employee that is detrimental to the County's service. (This also covers discourteous treatment of the public or other employees).
14. The abuse of client(s), patient(s), or a person(s) over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the County. The creation of the potential for death or serious harm to a client(s), an employee(s), members of the public or to a person(s) over whom the employee has responsibility.

15. Physical or mental incapacity to perform essential job duties with reasonable accommodation.
- B. Prior to dismissal of a non-probationary County employee on the basis of unacceptable personal conduct, there shall be a pre-disciplinary conference between the employee and the Department Director. This conference shall be held in accordance with the provisions of [Article XII Section 7](#) - Procedural Requirements. Human Resources may be involved at the request of the Department Director.
- C. Dismissals for unacceptable personal conduct require written notification to the employee. Such notification must include Pender County personnel policies violated for the dismissal and notice of the employee's right of appeal. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights and must be filed within fifteen (15) days from receipt of the notice of dismissal with the appeal rights.

Section 5. Written Warnings

It is the responsibility of every supervisor to monitor the satisfactory performance of work assignments and acceptable standards of conduct.

Coaching or Counseling Sessions

Typically, a supervisor will hold not more than three (3) counseling or coaching sessions with an employee to casually discuss and correct job performance or behavior issues and provide suggestions or recommendations for improvement. Usually, these sessions are summarized in an e-mail/memo to the employee to document the conversation, recommendations for improvement, and follow-up, if needed in 30 or 60 days.

Written Warning

- A. Once the counseling or coaching sessions fail to correct the job performance or inappropriate behavior, the Supervisor should move to the next step – written warning. When the supervisor determines that disciplinary action is appropriate for unsatisfactory job performance or inappropriate behavior, a written warning is the first type of disciplinary action that an employee must receive. The supervisor may elect to issue a written warning for unacceptable personal conduct. Written warnings will remain active in the employee's official personnel file for a period of twenty-four (24) months. The written warning must:
 1. Inform the employee that this is a written warning and not some other non-disciplinary process such as counseling.
 2. Inform the employee of the specific issues that are the basis for the warning.

3. Tell the employee what specific improvements, if applicable, must be made to address these specific issues.
 4. Tell the employee the time frame allowed for making the required improvements/corrections. Immediate correction is required for unacceptable personal conduct.
 5. Tell the employee the consequences of failing to make the required improvements/corrections.
 6. A written warning shall include a statement, "that failure to make the required improvements may result in further disciplinary action, up to and including termination."
- B. Written warnings may be issued to correct behavior for minor infractions or repeated violations of policy, procedure, or work rules, including conduct, depending on the severity of the incident.
- C. A written warning must be issued in accordance with [Article XII Section 7](#) - Procedural Requirements.
- D. Written warnings should be signed by the employee acknowledging receipt of the written warning but not necessarily agreeing to it, and the Supervisor and/or Director. Once the meeting is held and the written warning is signed, a copy should be sent to Human Resources to be filed in the employee's personnel record and a copy presented to the employee.
- E. Written warnings are not grievable.

Section 6. Disciplinary Suspension Without Pay

An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance after the receipt of at least one (1) prior disciplinary action or for causes relating to any form of unacceptable personal conduct or grossly inefficient job performance.

- A. A disciplinary suspension without pay for an employee who is subject to the overtime compensation provisions of the Fair Labor Standards Act (FLSA) must be for at least one (1) full workday/shift.
- B. Prior to placing any employee on disciplinary suspension without pay, the Department Director shall conduct a pre-disciplinary conference with the employee in accordance with [Article XII Section 7](#) Procedural Requirements.
- C. Following the pre-disciplinary conference, the Department Director shall provide the employee with a written notice of suspension without pay containing the

following elements:

1. The necessary correction in job performance or conduct for the employee to make.
2. The time frame for correction of the problem. Personal conduct will require immediate corrective action.
3. Identify the specific consequences for the failure of the employee to take appropriate corrective action within the specified time frame.
4. The specific acts or omissions that are the reasons for the suspension and the employee's appeal rights

Section 7. Demotion

The Department Director has the discretion, upon review and in consultation with the Human Resources Director and Assistant County Manager, to retain an employee in a lesser capacity when the employee's performance or conduct is sufficient to satisfy grounds for dismissal but the employee shows promise of acceptable performance or conduct in a lesser position. Employees may be demoted if they have been found unsuited for the present position but may be expected to perform satisfactorily in a lesser position. An employee may be demoted subsequent to a promotion if the employee fails to perform at a satisfactory level in the promoted position.

- A. Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory job performance or unacceptable personal conduct.
- B. **Unsatisfactory Job Performance:** An employee may be demoted for unsatisfactory job performance after the employee has received at least one (1) prior disciplinary action.
- C. **Grossly Inefficient Job Performance.** An employee may be demoted for grossly inefficient job performance without any prior disciplinary action.
- D. **Personal Conduct:** An employee may be demoted for unacceptable personal conduct without any prior disciplinary action.
- E. An employee who is demoted must receive written notice of the specific reasons for the demotion, as well as notice of any applicable appeal rights.
- F. Prior to the decision to demote an employee for disciplinary reasons, the Department Director must conduct a pre-disciplinary conference with the employee in accordance with Section 7. Procedural Requirements.

Section 8. Procedural Requirements

Department Directors shall consult with the Human Resources Manager and/or Assistant County Manager regarding matters where suspensions without pay, demotion or dismissals are considered for all employees except temporary employees. The following procedural requirements must be followed to issue disciplinary action under this Section:

- A. **Fact-Finding:** Prior to taking any formal disciplinary action, the supervisor should conduct a fact-finding inquiry to gather any and all pertinent details regarding the situation. The supervisor will then discuss the facts of the case with the Department Director. The Department Director will review the information and then shall discuss the facts of the case with the Human Resources Director and the Assistant County Manager or his/her designee.

- B. **Written Warning:** To issue a written warning to an employee, the supervisor must issue the employee a written warning detailing the matters referenced in Section 4. Written Warning.

- C. **Disciplinary Suspension without Pay:** To place an employee on disciplinary suspension without pay, the County Manager or his designee, must comply with the following procedural requirements:
 - 1. In matters of unsatisfactory job performance, ensure that the employee has received at least one (1) prior disciplinary action(s). In matters of grossly inefficient job performance or unacceptable personal conduct, no prior disciplinary actions are required, so an employee may be suspended without pay for a current incident of grossly inefficient job performance or unacceptable personal conduct.

 - 2. Schedule and conduct a pre-disciplinary conference. Advance written notice of the conference must be given to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice should be as much as is practical under the circumstances.

 - 3. Once the pre-disciplinary conference has been held, but no sooner than the next County business day, the County Manager or his/her designee shall furnish the employee a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and any applicable appeal rights.

4. Advise the employee of any applicable appeal rights in the letter of suspension and attach a copy of County grievance policy. A non-probationary employee shall have fifteen calendar days from the date of receipt of written notice of such action to file an appeal.
 5. Inform the employee as to the starting and ending dates of the suspension without pay, and when the suspension will be reflected in his/her paycheck.
- D. **Demotion:** To demote an employee the County Manager or his/her designee must comply with the following procedural requirements:
1. In matters of unsatisfactory job performance, ensure that the employee has received at least one (1) prior disciplinary action.
 2. In matters of grossly inefficient job performance or unacceptable personal conduct, there is no requirement for previous disciplinary action, so an employee may be demoted for a current incident of grossly inefficient job performance or unacceptable personal conduct without any prior disciplinary action.
 3. Give advance written notice of the appropriate pre-disciplinary conference to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice should be as much as is practical under the circumstances.
 4. Once the pre-disciplinary conference has been held, but no sooner than the next County business day, the County Manager or his designee shall give an employee who is demoted written notice of the specific acts or omissions that are the reasons for the demotion and any applicable appeal rights.
 5. Advise the employee of how, when and to what extent the demotion will affect the employee's salary rate or pay grade; and
 6. Advise the employee of any applicable appeal rights in the document affecting the demotion and attach a copy of the County grievance policy. A non-probationary employee shall have fifteen (15) calendar days from the date of receipt of written notice of such action to file an appeal.

E. **Dismissal:** Before an employee may be dismissed, the County Manager or his/her designee shall comply with the following procedural requirements:

1. The supervisor and/or Department Director recommending dismissal shall discuss the recommendation with the Human Resources Director and the County Manager or his/her designee, who shall conduct a pre-disciplinary conference with the employee. The person conducting the pre-disciplinary conference must have the authority to decide what, if any, disciplinary action should be imposed on the employee.
2. The supervisor or designated management representative shall schedule a pre-disciplinary conference with the employee.
3. Advance written notice of the pre-disciplinary conference must be given to the employee of the time, location, and the issue for which dismissal has been recommended. The amount of advance notice should be as much as is practical under the circumstances.
4. The Department Director shall conduct a pre-disciplinary conference with the employee, limiting attendance to the employee, the employee's supervisor, and the person conducting the conference; a second management representative may be present at the Department Directors' discretion. No attorneys representing either side may attend the conference. The purpose of the pre-disciplinary conference is to review the recommendation for dismissal with the affected employee and to listen to and to consider any information put forth by the employee in order to ensure that a dismissal decision is sound and not based on misinformation or mistake. Security personnel may be present when, in the discretion of the person conducting the conference, a need for security exists.
5. In the conference, the Department Director shall give the employee written notice of the recommendation for dismissal, including specific reasons for the proposed dismissal and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal action and to offer information in support of the employee's position. Every effort shall be made to ensure that the employee has a full opportunity during the conference to set forth any available information in opposition to the recommendation to dismiss. This opportunity does not include the option to present witnesses.

6. Following the conference, the Department Director shall review and consider the response of the employee and reach a decision on the proposed recommendation. If the decision is to dismiss the employee, a written letter of dismissal containing the Pender County policies violated, the effective date of the dismissal and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. The notification of dismissal to the employee may not be made before the next business day. Attached to the dismissal letter should be a copy of the County grievance policy. A non-probationary employee shall have fifteen (15) calendar days from the date of receipt of written notice of such action to file an appeal.
7. The effective date of a dismissal for unsatisfactory job performance shall be determined by the Department Director and/or the Assistant County Manager or his/her designee. The effective date of the dismissal shall not be earlier than the letter of dismissal nor more than fourteen (14) calendar days after the notice of dismissal. If the employee is not dismissed, the employee may be disciplined with either a Performance Improvement Plan (PIP), Suspension, Demotion, etc.

Section 9. Recording Hearings

In accordance with N.C. G.S. § 15A-287, North Carolina Wiretapping Law is a “one-party consent” law. North Carolina makes it a crime to intercept or record any “wire, oral, or electronic communication” unless one party to the conversation consents. The County may at its discretion record a pre-disciplinary, disciplinary or appeal hearing. Participants will be informed if a hearing is being recorded, and the County will give the employee the option of getting a copy of the recording.

Employees should not audio or video record or photograph employees or residents at any time without notifying parties affected before the recording or photographing is initiated if the employee is not a party to the conversation. This does not apply to criminal investigations being conducted by the Sheriff’s Office nor does it apply to recording or photographing safety violations or during internal personnel investigations.

Section 10. Time Limits for Active Warnings/Disciplinary Actions

Any disciplinary action is deemed inactive for the purpose of this section in the event that:

- A. The Department Director or supervisor notes in the employee’s personnel file that the reason for the disciplinary action has been resolved or corrected; or

- B. Twenty-four (24) months have passed since the disciplinary action; the employee does not have another active disciplinary action which occurred within the last twenty-four (24) months and the department has not, prior to the expiration of the twenty- four (24) month period, issued to the employee another written notice, including reasons, of the extension of the period.

Section 11. Placement on Investigation/Suspension with Pay

Investigation status is used to temporarily remove an employee from work status. Placement on investigation with pay does not constitute a disciplinary action as defined in this Article and is not an action that may be appealed. The Department Director must notify an employee in writing of the reasons for investigatory placement no later than the second scheduled workday after the beginning of the placement. An investigatory placement with pay may last no longer than thirty (30) calendar days without written notice of extension from the Department Director. When an extension beyond the thirty (30) day period is required, the Department Director must advise the employee in writing of the extension, the length of the extension, and the specific reasons for the extension. If no action has been taken by the County by the end of the thirty (30) day period and no further extension has been imposed, the County must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

It is permissible to place an employee in investigation status with pay only under the following circumstances:

- A. To investigate allegations of performance or conduct deficiencies that would constitute a reason(s) for disciplinary action.
- B. To provide time within which to schedule and conduct a pre-disciplinary conference; or
- C. To avoid disruption of the workplace and/or to protect the safety of persons or property.

Section 12. Delegation of Authority

Immediate supervisors are responsible for initial documentation. The County Manager may delegate authority to Department Directors or a designee, within the County Manager's area of supervision, for the execution of disciplinary actions, up to and including dismissal. The affected employee has the option to appeal a demotion, a suspension without pay or a dismissal to the County Manager for the purpose of affirming, modifying, or reversing the disciplinary action as appropriate, based upon the facts and evidence in each case. The County Manager retains final authority for appeal decisions and will consider any facts presented by the employee and the supervisor or Department Director during the appeals process.

Section 13. Employee Responsibilities

All employees are responsible for conduct and performance of their job duties and assignments in a manner that is consistent with, but not limited to, job expectations, class descriptions, personnel policies, and work rules. Employees are responsible for knowing, understanding, and abiding by the County's existing employment policies and subsequent policies and amendments that are adopted by the County Board of Commissioners.

Section 14. Supervisor Responsibilities

It is the responsibility of all supervisors to address immediately and resolve as quickly as possible situations in which employees do not perform or behave in a manner consistent with, but not limited to, the County's work philosophies, job expectations, known work rules, and employment policies. Supervisors are responsible for documenting incidents where employee behavior, conduct, and performance are not consistent with the County's work philosophies, job expectations, and employment policies as well as the efforts made to take corrective action.

Section 15. Department Directors/Supervisor Responsibilities

Department Directors/Supervisors are responsible for ensuring timely and thorough documentation of all disciplinary actions. Documentation should contain:

- A. A clear description of the behavior or performance that prompted the discipline, together with any work rules, expectations or standards that were not followed or achieved.
- B. The action taken by the supervisor.
- C. How the employee's behavior must change.
- D. The time frame during which the employee must demonstrate a change in behavior and the expectation of a follow-up with the affected employee.
- E. The expectation that the new behavior must be sustained.

- F. All disciplinary documentation should be sent to Human Resources so it can be filed in the employee's personnel file.

Department Directors, in conjunction with the Human Resources Director and County Manager, are also responsible for ensuring that the County applies discipline on a consistent basis in accordance with County policy.

Section 16. Corrective Action

When the supervisor observes or learns of job performance deficiencies, or if an employee's performance evaluation indicates the need for improvement or that the employee's performance is below standards, the supervisor will meet with the employee to discuss the situation and County expectations, and to identify the corrective action to be taken by the employee. The supervisor shall document this meeting in writing. This document is an informal record and is not a disciplinary action. It may not be grieved.

If, despite the supervisor's intervention and assistance, problems of unsatisfactory job performance continue, the supervisor may, after consultation with Human Resources, develop a Performance Improvement Plan (PIP), which outlines the method to assist the employee in improving conduct or performance that is not meeting standards and provides special direction intended to help an employee achieve and sustain satisfactory performance.

If the employee successfully fulfills the conditions of the Performance Improvement Plan (PIP), the supervisor will submit written documentation to the Department Director and Human Resources to file in the employee's personnel record.

The supervisor will also provide written documentation to the Department Director and Human Resources if the employee does not meet the requirements outlined in the Performance Improvement Plan (PIP) in the specified time period or if conduct and/or performance deteriorate while the Performance Improvement Plan (PIP) is in effect. Failure to meet the requirements of a Performance Improvement Plan (PIP) shall lead to disciplinary action as outlined in this Article.

Section 17. Employee Appeal

A non-probationary employee wishing to appeal a demotion, suspension or dismissal may present the matter in accordance with the provisions of the grievance procedure set forth in [Article XIII](#) – Grievance Process.

Exceptions

Employees of the Sheriff and Register of Deeds serve at the will of those officials and therefore those elected Department Heads may or may not choose to follow the policies and procedures of this Article. The Sheriff and Register of Deeds shall have the right to hire and terminate employees in their respective departments under the authority of N.C.G.S. 153A-103.

Employees of the Board of Elections are subject to these policies except the County Board of Elections shall appoint and remove election clerks, assistant clerks, and other Election employees under the authority of N.C.G.S. 163-33 (10). The Executive Secretary-Director of the State Board of Elections appoints the Director of Elections. The Executive Secretary-Director can make a decision to terminate the County Director of Elections following procedures set out in N.C.G.S. 163-35 (b).

ARTICLE XIII – GRIEVANCE PROCESS

Section 1. Policy and Purpose

In order to maintain harmonious and cooperative relationships between the County and its employees, it is the policy of the County to provide for the settlement of complaints through an orderly grievance procedure free from interference, discrimination, or reprisal. Employees shall file all correspondence regarding appeals with the County Manager. Grievances that are not received within the time allowed as prescribed in this section, or which are not filed with the County Manager as prescribed in this section, shall be dismissed. The Sheriff and the Register of Deeds shall have the authority to determine the grievance process used in their offices.

Section 2. Definition

A grievance is as a complaint or dispute of an employee relating to his/her employment, including but not limited to:

- A. Application of policies governing personnel practices.
- B. Working conditions relevant to safety and health.
- C. Acts of retaliation as the result of utilizing the grievance procedure.
- D. Decisions of the County are relative to demotion, disciplinary suspension without pay or dismissal; or
- E. An allegation of prohibited discrimination, including allegations of harassment or retaliation as defined by federal or state equal employment laws. Any other issue shall not be considered a grievance.

All regular employees shall have the right to grieve the following:

- 1. Disciplinary action, dismissals, disciplinary demotions, and suspension without pay.
- 2. Allegations of alleged acts of discrimination based on age (age 40 and older), sex, race, genetic information, religion, disability, including allegations of harassment or retaliation. In such grievances, the burden of proving discrimination is on the employee.

Certain management decisions are not grievable. These decisions involve management discretion and are therefore not subject to the grievance process. Examples of management decisions that are not subject to this grievance process include but are not limited to the following:

1. Any condition of employment accepted at the time of employment and any subsequent change(s) thereto.
2. the employee benefit package.
3. decisions on classification and pay.
4. decisions on types of training and who is eligible for training.
5. scheduling and distribution of personnel.
6. decisions on the methods, means, and personnel to carry out operations.
7. assignment decisions – hiring, promotions, transfers, non-disciplinary demotions
8. placement on investigation status (paid)
9. decisions that maintain the effectiveness and efficiency of governmental operations
10. pay for performance increases
11. FLSA determination

An initial probationary employee as set forth in [Article II Section 12](#) – Employment, Section 12. Probationary Period of Employment may be dismissed at any time during the probationary period for causes relating to the performance of duty or personal conduct without the right of appeal or hearing, except where there are allegations of prohibited discrimination as set out in [Article XII Section 2 Subsection A2](#) in the decision to separate.

While employees cannot bring grievances on the above items, they are encouraged to express any concerns that they have concerning actions taken in these areas.

Section 3. Procedure

Unless specifically provided for in another part of the personnel policies, this grievance procedure will be used for any complaints or disputes arising from these policies. When an employee has a claim or complaint concerning employment with the County, the successive steps described below are to be taken toward resolution of the matter. For employees of the Sheriff's Department or Register of Deeds Office, there shall be no appeal beyond the decision of the Sheriff or Register of Deeds.

The number of days indicated at each step of the grievance procedure should be considered as the maximum number of calendar days allowed for presentation of and response to the

grievance at that level. However, when mutually agreed upon, the time limits given below may be extended by those concerned. Failure on the part of the employee to satisfy the time limitations provided in this Article shall cause the grievance to be denied or dismissed.

Employees who use this procedure will be free from discrimination, coercion, restraint or reprisal. Employees may file grievances or appeal decisions using the procedures listed below. An employee shall have the right to consult legal counsel at the employee's expense; but, no party, neither the County or an employee may be represented by an attorney at any proceeding under this policy. Advisory services pertaining to procedures and regulations are available from the Human Resources Director and may be used by the employee, the supervisor or Department Director to settle grievances and complaints at any level.

In order that all employees may be able to obtain further consideration of their problems, it is essential that two-way communication occur, and the supervisor shall make every effort to resolve the problem or correct the misunderstanding prior to the grievance procedure being initiated.

A. General Requirements:

1. All grievances and appeals must be submitted in writing with appropriate documentation and supporting evidence attached within fifteen days after receiving a disciplinary final decision letter or an act of discrimination.
2. The County official who will conduct the grievance hearing shall contact the employee to set the date, place and time for an oral presentation of the grievance within fifteen (15) days of the receipt of a written grievance request.
3. The County official shall make every possible effort to achieve an equitable solution to the problem at this meeting, but it may take additional time to conduct a fact-finding.
4. In no event shall the County official delay rendering a decision more than five (5) calendar days after the grievance conference unless extenuating circumstances in which case the decision will be rendered as soon as practicable.

B. Documentation:

1. All grievance, complaint and appeal determinations must be issued to the employee in writing. Such decision shall contain the employees' and the County official's statement and the County official's conclusions. The written decision shall also contain notice of further appeal rights, if any, and shall identify the County official responsible for hearing a continuation of the grievance if necessary.
2. Copies of all grievances, determinations, appeals and supporting documentation must be forwarded to Human Resources for inclusion in the employee's personnel file in conformance with State public records laws.

C. Grievance Issues and Timeframes

1. For grievances involving a disciplinary demotion, suspension or dismissal, the employee has 15 (fifteen) calendar days from the date mailed, electronic delivery, or other means of delivery of the disciplinary action notice to appeal to the County Manager. (The Sheriff and Register of Deeds follow their own grievance policy)

NOTE: In no case shall a person alleging harassment or retaliation be required to appeal to the person alleged to have committed harassment or retaliation. In such cases, if the subject of the allegations is the Department Director, the employee may file such a grievance directly with the County Manager. If the subject of the allegation is the County Manager, then the grievance shall be directed to the Chairman of the Board of County Commissioners.

Name Clearing Hearing for Demoted and Terminated Employees

Public employees are entitled to have a name clearing hearing or a chance to dispute public accusations made against them in connection with termination or a serious demotion. The name clearing hearing allows the employee to invite members of the public to the hearing so that they can clear their name publicly regarding the allegations that have been made against them so that they are not stigmatized from obtaining future employment opportunities.

The hearing must be offered prior to the dismissal letter becoming public after the name clearing hearing and all due process is complete, if it contains negative or stigmatizing information that could affect the employee's ability to obtain employment in the future. Since termination notices are public records pursuant to N.C.G.S. 160A-168, the dismissal letter could become available to the public.

If an employee is demoted or terminated related to conduct unbecoming, employees may request a name clearing hearing after the appeal/grievance process has been completed by filing a written request with the Human Resources Director within fifteen (15) days of the date of the final decision letter. At the conclusion of the County's appeal/grievance process, the Human Resources Director will schedule the name clearing hearing and will notify the employee of the hearing's location, date and time. The Human Resources Director will include documentation of the date, location and time of the name clearing hearing in the employee's personnel file.

ARTICLE XIV - WORKPLACE VIOLENCE

Section 1. Purpose

It is the County's intent to provide a safe workplace that is free from violence. Violent acts against employees, whether committed while on-duty or off-duty, have the potential to impact an employee's ability to perform assigned duties. The County will take every reasonable action to protect the life, safety, and health of employees and will provide as rapid and coordinated response as possible to violence or threats of violence at any worksite.

Section 2. Violence

Violence, or the threat of violence, by or against any County employee or another person while at a county workplace, in the course of carrying out County duties or while in a County vehicle is unacceptable and may subject the individual to disciplinary action up to and including termination, and/or criminal charges.

Section 3. Prohibited Conduct

The County will not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities in any format including but not limited to verbal acts, physical acts, written acts or non-verbal acts.

This list of behaviors, while not inclusive, provides examples of conduct that is prohibited:

- A. causing injury to another person,
- B. communication of threats,
- C. aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress,
- D. intentionally damaging County property or the property of another employee,
- E. possession of a weapon while on County property or while on County business unless permitted and authorized to do so in the performance of assigned duties and responsibilities,
- F. making harassing, obscene, or other offensive communications and images in any manner, including through electronic mail systems
- G. using language that would be regarded by reasonable people as likely to provoke violence in others, including threats of bodily harm and violent outbursts of anger, and

- H. committing acts motivated by, or related to, sexual harassment, abuse or domestic violence.

Section 4. Reporting Procedures

All workplace violence or potentially dangerous situations must be reported immediately to a supervisor, the County Manager's office or the Human Resources Director. Reports may be made anonymously, and 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. Retaliation against any employee who, if in good faith, reports a violation of this policy is prohibited. Retaliation, if confirmed, will result in disciplinary action up to and including termination. Every effort will be made to protect the safety and confidentiality of anyone who comes forward with concerns about a threat or act of violence. All parties involved in a situation will be counseled and the results of investigations will be discussed with them to the fullest extent allowed without breaching any confidentiality restrictions. The County will actively intervene at any indication of a possibly hostile or violent situation.

Section 5. Risk Reduction Measures

- A. **Hiring:** The County takes reasonable measures to conduct background investigations to review candidates' backgrounds and reduce the risk of hiring individuals with a history of violent behavior.
- B. **Safety:** The County conducts 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 risks.
- C. **Individual Situations:** While there is no expectation that employees be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and to inform their supervisor if any employee or individual exhibits behavior that could be a sign of a potentially dangerous situation. Such behavior includes:
 - 1. Bringing (unless permitted and authorized to do so in the performance of assigned duties and responsibilities) or threatening to bring weapons 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.

Section 6. Dangerous/Emergency Situations

Employees who encounter an armed or dangerous person should not attempt to challenge or disarm the individual. Employees should remain calm, make constant eye contact and talk to the individual. If a supervisor can be safely notified of the need for assistance without endangering the safety of the employee or others, such notice should be given. Otherwise, cooperate and follow the instructions given.

Section 7. 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 disciplinary action, up to and including dismissal. Non-employees engaged in violent acts on County property will be reported to the proper authorities and fully prosecuted.

ARTICLE XV - DISCRIMINATION, HARASSMENT AND RETALIATION PROHIBITED

Section 1. Purpose

The County prohibits harassment, including but not limited to sexual, racial, disability, national origin, citizenship status, age, veteran, religious, as well as prohibiting all other forms of discrimination or of any employee, whether it is by a co-worker, a supervisor, Department Director, customer or a vendor as described in Title VII of the Civil Rights Act of 1964.

A. Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- Insinuate, propose or demand sexual favors of any kind.
- Unwanted sexual advances or propositions such as request for sexual favors accompanied by implied or overt threats concerning the employee's job performance evaluation, a promotion or other job benefits or detriments
- Invade another person's personal space (e.g. inappropriate touching.)
- Stalk, intimidate, coerce or threaten another person to get them to engage in sexual acts.
- Send or display sexually explicit objects, texts, photos or messages.
- Comment on someone's looks, dress, sexuality or gender in a derogatory or objectifying manner or a manner that makes them uncomfortable.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, etc., such as interfering with, destroying or damaging a person's workstation, tools or equipment or otherwise interfering with the individual's ability to perform their job, sabotaging an individual's work, bullying, yelling or name calling
- Make obscene comments, jokes or gestures that humiliate or offend someone.
- Pursue or flirt with another person persistently without the other person's willing participation. Also, flirting with someone at an inappropriate time (e.g. in a team meeting) is considered sexual harassment, even when these advances would have been welcome in a different setting. This is because such actions can harm a person's professional reputation and expose them to further harassment.

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- The harasser can be the victim's supervisor, a county vendor, a supervisor in another department, a co-worker, etc.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- The harasser's conduct must be unwelcome.

Sexual harassment is about how we make others feel. But, if something an employee does makes your colleagues uncomfortable or makes them feel unsafe, you must stop. Therefore, it is helpful for the victim to inform the harasser directly that the conduct is unwelcome and must stop. However, any employee who is aware of any instances of discrimination, harassment or retaliation should report the alleged behavior immediately to a non-offending supervisor, Department Director, Human Resources or the County Manager.

Supervisors and Department Directors who receive a complaint of discrimination, harassment or retaliation, whether verbally or in writing, must immediately contact Human Resources.

Any employee found to have harassed, discriminated or retaliated against another employee or a customer will be subject to disciplinary action, up to and including dismissal. No employee will be subject to retaliation for reporting harassment or discrimination. Employees are expected to act responsibly to maintain a respectful working environment and must report knowledge of discrimination or harassment.

In accordance with Equal Employment Opportunity Commission (EEOC) guidelines, when investigating allegations of sexual or workplace harassment or discrimination, Human Resources will look at the whole record: the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the allegations is made from the facts on a case-by-case basis.

Suggestions express or implied, of quid pro quo arrangements, sexual or racial jokes, photos, texts, racial, ethnic, national origin, or disability slurs, and other harassing language or conduct have no place in County employment. In addition, physical conduct of a sexual nature will not be tolerated. It is expected that employees will treat one another with mutual respect and dignity. Inappropriate conduct will not be tolerated in the workplace, social media or outside the workplace such as business trips, trainings, meetings, and county social events. Harassment, of any type, by any employee, is grounds for disciplinary action up to and including dismissal. Pender County does not tolerate retaliation against any employee or applicant for raising, verbally or in writing, opposition to what that person believes to be prohibited discrimination. Retaliation by any County employee is grounds for disciplinary action up to and including dismissal.

Employees and applicants are protected from coercion, intimidation, interference, and discrimination for filing a complaint or assisting in an investigation under the laws and County policies covering these individuals.

The County will investigate every complaint of discrimination, harassment or retaliation it receives. While the County will endeavor to treat each complaint, it receives in a respectful and confidential manner any complaint of discrimination, harassment or retaliation, whether oral or written, will be documented. The County's actions in regard to the complaint will be documented, as will the County's resolution of each complaint. Employees determined to have discriminated against, harassed or retaliated against another County employee will be disciplined, up to and including dismissal.

B. Harassment and Discrimination

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

Harassment or Discrimination is unwelcome conduct that is based on race, color, religion, sex (including sexual orientation, transgender status, or pregnancy), national origin, older age (beginning at age 40), disability, or genetic information (including family medical history). Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, texts, photos, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the victim's supervisor, a supervisor in another area, a county vendor, a co-worker, etc.
- The victim does not have to be the person harassed, but anyone can be affected by the offensive conduct.
- Unlawful harassment may occur without economic injury to, or termination of, the victim.

Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent its escalation.

The County will hold a supervisor/Department Director responsible for any known workplace harassment that results in a negative employment action such as termination, failure to promote or hire, and loss of wages unless the supervisor/Department Director can prove that: 1) they reasonably tried to prevent and promptly correct the harassing behavior with Human Resources guidance; and 2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the county.

Section 2. Employee Responsibility

Employees are not only encouraged to report instances of discrimination, harassment, including sexual harassment, but they are obligated to report instances of harassment and discrimination.

It is the duty of all employees, especially supervisory personnel, to be familiar with this Policy. Each employee has a stake in preventing harassment.

No employee shall, in any way, retaliate, harass or discriminate against a person involved as a witness or otherwise in a complaint of harassment or discrimination.

Employees are obligated to cooperate in every investigation of harassment and discrimination. The obligation includes, but is not necessarily limited to:

- A. Coming forward with evidence, both favorable and unfavorable concerning a person accused of harassment or discrimination.
- B. Fully and truthfully making a verbal or written report; and
- C. Answering questions when required to do so by an investigator during the course of an investigation of harassment or discrimination.

Employees are also obligated to refrain from making accusations of sexual harassment in bad faith.

This policy covers all County employees. While the County Manager and County Attorney report to the Chairman Board of Commissioners is not generally subject to this personnel policy, all County employees are protected from discrimination, harassment, or retaliation by or from the County Manager. The procedure for making a complaint against the County Manager is set forth below.

Section 3. How to File a Complaint of Discrimination, Harassment or Retaliation

Employees who believe that they have been discriminated against, harassed or retaliated against for reporting alleged discriminatory behavior or harassed are encouraged to file a written or verbal complaint in accordance with the following complaint procedure. While a written complaint is the preferred procedure, a verbal complaint will also be investigated fully.

An employee may file a complaint of discrimination, harassment or retaliation, with the Human Resources Director or with a supervisor who is not the subject of the complaint. Once in a meeting with the Human Resources personnel, they will:

- Ask for as many details and information as possible from the employee making the complaint and offer EAP
- Make interim actions such as asking possibly separating the two employees or putting the harasser on investigation leave, etc.
- Keep copies of the report with dates, times and details of incidents and any possible evidence in a confidential file (separate from the personnel file) and update with investigation notes such as conversations with the alleged harasser, witnesses, supervisors, co-workers, texts, photos, e-mails, etc.
- HR conducts the investigation with guidance from the County Attorney
- Human Resources will attempt to protect the confidentiality of employees who report discrimination and harassment or participate in an investigation to the greatest possible extent
- Determines if mediation is possible between the two employees (Harasser and perpetrator) to resolve the issue
- Launch a disciplinary process depending on the severity of the harassment.

The investigation will result in a written report with resolution recommendations to the County Manager or his/her designee and the County Attorney. If the subject of the allegation is the County Manager, then the complaint and report will be directed to the Chairman of the Board of County Commissioners and County Attorney.

Once the report is reviewed and the resolution is determined,

- Employees who are found guilty of harassment or discrimination may be disciplined up to and including termination
- A meeting with the complainant to assure them the matter has been resolved and to report any retaliation or repercussions from the matter to Human Resources.
- If the report does not resolve the matter to the complainant's satisfaction, the complainant may request a meeting between the complainant, the County Manager, and anybody the County Manager thinks needs to be at the meeting. The purpose of this meeting is to allow the complainant to discuss his/her complaint and to try to settle the matter. This is the final step of the process.

ARTICLE XVI – DRUG-FREE WORKPLACE AND DRUG AND ALCOHOL POLICY

Section 1. Policy

The County is committed to ensuring the safety, health, and well-being of employees and the general public and recognizes that the abuse of alcohol and other drugs compromises this dedication. Pender County's goal is to provide a working environment free of substance abuse and drugs by establishing this "Zero Tolerance" Drug-Free Workplace policy. The County is concerned with those situations where the use of alcohol and other drugs seriously interferes with an employee's health, job performance, or adversely affects the safety of the public, the employee or other employees.

This policy will comply with the North Carolina Controlled Substance Examination Regulation Act (Chapter 95, Article 20 of the North Carolina General Statutes) and Administrative Rules (Title 13, Chapter 20 of the North Carolina Administrative Code). Employees who are required to have a commercial driver's license or CDL as part of their job requirement must also comply with the current requirements set forth by the Department of Transportation (DOT) and the Federal Motor Carriers Safety Regulations (FMCSR).

This policy covers all County employees including probationary, regular full-time, regular part-time, trainees, temporary, seasonal, contract and volunteers. This policy provides for pre-employment testing, random selection testing, post-accident testing, and reasonable suspicion testing.

Any employee that is reasonably suspected and tested for drugs and/or alcohol, may be placed on paid administrative leave or not allowed to drive a county vehicle until the results of the tests are received.

NOTE: The Pender County Board Elections voted, on September 11, 2018, to waive the Drug Testing and Criminal Background Check of Precinct Election Officials who are hired to work during One-Stop Early Voting and on Election Day.

Section 2. County Responsibilities

The County will:

- A. Assure employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner.
- B. Create a workplace environment free from the adverse effects of drug abuse.
- C. Prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances in the workplace.

- D. Prohibit substances including but not limited to, the use and/or abuse of prescription, over the counter medications and illegal drugs; and
- E. Prohibit the consumption of alcohol in the workplace or while carrying out County duties and responsibilities.
- F. Hold results of tests in the strictest confidence. Applicants and employees who test positive will be provided with a copy of the test results, if requested, and may request a retest of the original sample at the individual's expense.

Section 3. No Expectation of Privacy on County Property or In County Vehicles

The County reserves the right to search employer-owned items used by the employee (i.e., desk, lockers, County vehicles/equipment, etc.) and employees have no expectation of privacy in these areas or containers. Law enforcement officials and Department Directors will be notified in appropriate cases.

Section 4. Controlled Substance and Alcohol Abuse Program

The County will provide a "Controlled Substance and Alcohol Abuse Program" to allow for:

- A. Training of supervisors on the Drug-Free Workplace Policy; training to recognize and deal with employees who have performance problems or behavioral problems that may be related to alcohol and other drugs; training on how to make the determination on reasonable suspicion; how to refer employees to available assistance and the process for taking appropriate action.
- B. Training to employees with the information they need to fully understand, cooperate with and benefit from the County's Drug-Free Workplace Policy.
- C. All regular full and part-time employees receive information during their new employee orientation and refresher training annually or on an as-needed basis on the dangers of a controlled substance and/or alcohol abuse, the County's expectations for employees, testing procedures, rehabilitation, and penalties.
- D. Testing for controlled substances and/or alcohol for pre-employment, post-accident, reasonable suspicion, random, and follow-up testing, were appropriate; to include prescribed requirements and procedures required by the FMCSR.
- E. Referral for treatment and rehabilitation as an alternative to job loss in a rehabilitation program acceptable to the County, for employees who notify their agencies of an abuse problem prior to being discovered.

- F. Any employee violating the prohibitions or any of the specific provisions of this Article to be subject to disciplinary action up to and including termination from County employment.

Section 5. Unacceptable Conduct

Substance abuse and/or alcohol use are strictly prohibited by the County and may result in termination of employment. Prohibited behavior includes, but is not limited to:

- A. The violation of the North Carolina Controlled Substance Act, the North Carolina Toxic Vapors Act or the U.S. Controlled Substance Act; or
- B. A positive alcohol test indicates an alcohol concentration level of .04 or higher; or
- C. A positive test for a controlled substance; or
- D. The refusal to submit to drug and/or alcohol testing; or
- E. The refusal to authorize the release of the test results to the requesting department; or
- F. Evidence of tampering with a substance and/or alcohol test being administered by or for the County.

Section 6. Responsibilities of Managers, Supervisors, and Employees

It is the responsibility of managers, supervisors, and employees to become familiar with the expectations of this policy and to comply with the provisions. Department Directors shall be responsible for administering the Controlled Substance and Alcohol Abuse Program and for holding supervisors accountable for the daily implementation of this program. Department Directors, or designated subordinate supervisors, shall also be responsible for identifying substance abuse-related behavioral and performance problems; documenting performance problems and enforcing the policy; following the proper referral for testing, counseling and/or rehabilitation; and taking appropriate disciplinary measures when necessary.

Section 7. Procedures

- A. **Pre-duty Use:** The County expects employees to report for work and perform their jobs in a sober condition, free of any controlled substances and/or alcohol, or abuse of any legal or prescribed drugs including over the counter medication. No person in a safety-sensitive position shall perform safety-sensitive functions within four (4) hours after using alcohol. No supervisor having actual knowledge that an employee

has used alcohol within four (4) hours shall permit an employee to perform or continue to perform safety-sensitive functions. Should a supervisor continue to allow an employee to work under the influence, the Supervisor may be disciplined up to and including termination.

Employees shall inform their supervisor of the use of prescribed or over the counter medication that may impair their ability to perform work. Failure to do so may result in termination of employment. Employees who have a dependency on prescribed or over the counter medication may seek counseling, treatment or rehabilitation. Supervisors shall safeguard any confidential personal medical information in accordance with the Health Insurance Portability and Accountability Act (HIPAA).

- B. **Notification and Consent:** Employees will be notified if they are suspected of using or having a dependence on a controlled substance, alcohol or the abuse of over-the-counter medication in violation of the County's policy and must submit to testing. Failure to do so, or to violate any other provisions of the County's policy on Controlled Substance and Alcohol Abuse, shall be grounds for dismissal. Any adulteration of a test will be grounds for dismissal. Before an alcohol or drug test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting the release of the test results to those County officials who need to know. Failure to give consent will be grounds for denial of employment or dismissal.

Human Resources will be the point of contact for all drug testing. The Human Resources Director or his/her designated point of contact will receive and maintain records of all drug testing results. Human Resources shall notify Department Directors and employees of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are confirmed positive. Human Resources shall notify an applicant of the results of a pre-employment-controlled substance test conducted under this policy if the applicant requests such results within sixty (60) days of the notification of rescission of the conditional employment offer.

- C. **Follow-up Testing:** The County reserves the right to conduct unannounced follow-up tests on any employee who has been conditionally returned to duty after having previously been approved and successfully completed a rehabilitation program. When the County determines that a follow-up test will be performed, the Department Director will be notified and responsible for notifying the employee without advance notice of the date and time to report to the testing facility designated by the County.

- D. **Off the Job Offense:** Any employee arrested for a drug and/or alcohol-related offense must notify his/her supervisor within five (5) days of the arrest. Such employee may be required to submit to substance testing as defined herein. Failure to notify the supervisor within the required period of time may result in the employee's termination.
- E. **Challenge of Results:** Within five (5) days of notification of a confirmed positive drug test, an employee or applicant may request that the original sample be sent to an approved laboratory for another test, at their expense. The results of this test will be taken into consideration for hiring and disciplinary action decisions. Employees or applicants will be offered the opportunity to discuss confirmed positive test results with the Medical Review Officer (MRO) to determine if there are alternative explanations for the positive test.
- F. **General Testing Procedures:** In all cases of reasonable suspicion testing, the employee must be escorted to the County's medical provider by their supervisor or designee for testing. In the case of a post vehicular accident, the employee shall not be authorized to operate a County vehicle until the test results are received and the results are negative.
- G. **Testing Process:** Under the North Carolina Controlled Substance Examination Regulation Act, North Carolina General Statutes Chapter 95, Article 20 and Administrative Rules, Title 13, Chapter 20:
1. All employees will be afforded the opportunity to read and complete the Initial Notice to Employees/Applicants. According to this document, in the event that an employee/applicant has a positive drug test, the employee will be given the opportunity to have the sample retested. Re-tests must be the same sample and will be paid for by the employee/applicant.
 2. All employees will be afforded the opportunity to read and complete the Post-Test Notice to Employees/Applicants.
 3. The above-listed forms will be returned to Human Resources once completed.
 4. Failure to complete these forms or release the results to the requesting agency may result in dismissal.
- H. **Types of Testing:** Testing may include, but is not limited to, urinalysis, breath-analysis, hair or blood sampling. Positive results for controlled substances and/or alcohol will result in dismissal. The Department Directors, coordinating his/her efforts with Human Resources and complying with the current personnel human

resources policy, may place an employee on administrative leave pending the final results of testing. Assisting or tampering with a testing procedure may result in dismissal of an employee or withdraw of a conditional job offer to an applicant. The results of a confirmation test will be considered final, and a “new” test will not be permitted. An employee/applicant may, however, request to have the original sample re-tested at their expense.

- I. **Controlled Substance:** Any evidence of a positive result will indicate the presence of controlled substances. MRO, provided by the testing facility, will review all positive tests for controlled substances prior to reporting the results to the County. An employee may request, at his/her own expense, a confirmation test of the sample. The County’s contract testing facility will arrange for testing of the split sample.

The County will use the same testing procedures as the Federal Department of Transportation. Non-DOT employees will be tested for, but not limited to, the following drugs: Marijuana metabolites, Cocaine metabolites, Amphetamines, Opiate metabolites, and Phencyclidine (PCP).

- J. **Alcohol Testing:** A negative test for alcohol is an alcohol concentration level of less than .04. A positive test for alcohol is an alcohol concentration of .04 or higher. However, employees governed by DOT regulations who test between .02 and .039 must be sent home for twenty-four (24) hours and will be placed on unpaid leave for that period.

- K. **Classifications for Testing:**

- A. **Pre-Employment Testing:** Prospective employees will be notified through a contingent offer that they are subject to drug and/or alcohol testing. All drug testing must be coordinated through Human Resources, except for the Sheriff’s Department, and will be administered by the County’s chosen medical provider. Human Resources will schedule pre-employment testing with the applicant. A confirmed positive test will result in the rescission of the job offer to the applicant.

A confirmed positive drug test for current safety-sensitive employees applying for a promotion, demotion or transfer may result in a mandatory referral for treatment or evaluation, or possible disciplinary action up to and including termination. Human Resources must receive screening results before an individual is permitted to begin employment.

- B. **Reasonable Suspicion:** All County employees are subject to testing as a result of behavior that leads a supervisor to have reason to suspect controlled substance and/or alcohol usage, or abuse of over-the-counter medication. Such testing will be conducted when a supervisor has reason to suspect that

an employee's ability to perform his/her job safely and efficiently is impaired. Under this condition, an employee's refusal to submit to testing or to allow the County access to the test results will result in dismissal. Supervisors shall remain alert to instances of substandard performance and/or personal conduct. Documentation shall be kept and brought to the attention of the employee, without making any accusations of substance or alcohol abuse. "Reasonable suspicion" is defined as a set of specific facts which, taken together with rational inferences from those facts, leads a supervisor to believe that an employee is on duty under the influence of controlled substances, alcohol, or over-the-counter medication. Such factors may include, but not be limited to, one or more of the following:

1. Direct observation of drug or alcohol abuse and/or the physical symptoms of being under the influence; or
 2. Abnormal or erratic behavior at work, a pattern of absenteeism, tardiness or deterioration in performance; or
 3. A report of substance or alcohol use provided by a reliable and credible source; or
 4. Arrest or conviction for a drug or alcohol related offense or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or distribution; or
 5. Evidence of tampering with a substance or alcohol test administered by or for the County; or
 6. Any employee involved in an on-the-job incident resulting in injury to persons or property damage; or
 7. Evidence an employee is involved in the use, possession, sale, solicitation or transfer of drugs while on the job or while operating County vehicles or other equipment; or
 8. An employee's admission of substance abuse.
- C. Upon determining of "reasonable suspicion," the Department Director or his/her designee shall:
1. Confront the employee privately about the performance/behavioral issues, stating suspicions, and allow the employee to reasonably explain their performance or behavior. A second party, preferably a

supervisor, will be present.

2. If there is “reasonable suspicion” or the employee is currently “under the influence” of a prohibited substance, the Department Director or designee shall notify Human Resources before transporting the employee to the appropriate testing facility designated by the County. A testing sample should be taken as soon as practical from the time the employee is suspected.
3. An employee subject to reasonable suspicion testing will be immediately placed on non-disciplinary suspension pending a final determination. A confirmed positive test result will result in dismissal.
4. If an employee is observed using a suspected substance, the supervisor may demand that the employee surrender the substance and related paraphernalia. If the employee makes a credible claim that the suspected substance is prescribed medicine, the employee will be transported to the appropriate testing facility for confirmation.
5. All employees in need of medical assistance will be transported to a medical facility by their supervisor or Emergency Medical Services as appropriate.
6. All drug testing must be coordinated through Human Resources.

- L. **Post-Accident Testing:** The County will send employees to be tested for the presence of drugs and alcohol following an on-the-job accident under the following circumstances:
- A. A fatality
 - B. An injury to another individual requiring immediate medical treatment away from the scene of the accident
 - C. The employee is cited for a moving violation or is found to be at fault
 - D. The employee’s vehicle is disabled and removed from the scene by other than its own power.
 - E. An accident that would necessitate the need to file a claim with the County’s Property and Liability Insurance and/or workers comp.

- F. A sequence of minor accidents or injuries where medical treatment may not have been required.
- G. Reasonable suspicion based on facts that conclude the accident was due to the employee's drug or alcohol impairment.
- H. Employee holds a CDL or safety sensitive position
- M. Following an accident as defined above, the employee will be tested as soon as possible but not to exceed eight (8) hours for alcohol testing and thirty-two (32) hours for drug testing. If the test is not administered within two (2) hours following the accident, the County shall prepare and maintain a record stating the reasons the test was not promptly administered.
- N. If the employee is unconscious or unable to give permission for a post-accident drug test within 8 hours for alcohol testing and 32 hours for drug testing, the post-accident testing will be waived.
- O. In the case of positions requiring a commercial driver's license, if a test required by this section is not administered within eight (8) hours for alcohol and thirty-two (32) hours for drugs, following the accident, the employer shall cease attempts to administer an alcohol test and shall prepare a record for the personnel, medical or workers comp file. Records shall be submitted to the Associate Administrator of the Federal Highway Administration (FHWA) upon request.
- P. The Department Director or supervisor will ensure that the testing will be completed by the County's chosen medical provider and the results be forwarded to Human Resources.
- Q. A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the County to have refused to submit to testing. If an employee refuses to submit to required post-accident drug and alcohol testing, they will be considered positive for drugs and alcohol and will be subject to immediate dismissal. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care. No driver required to take a post-accident test shall use alcohol or controlled substances for eight (8) hours following the accident or until he/she undergoes post-accident testing, whichever occurs first.

R. **Random Testing DOT Governed Employees:** In accordance with the Code of Federal Regulations Part 49: Transportation; Part 49: Procedures for Transportation Workplace Drug and Alcohol Testing Programs, unannounced random testing shall be completed on employees who are required by the County to have a commercial driver license to perform one or more of their job duties.

1. The County shall periodically throughout the year, randomly select employees covered by this classification for testing. Human Resources will be responsible for ensuring the County medical provider maintains a current list of employees. The respective Department Director will be notified and responsible for notifying their selected employees the date and time to report to the testing facility designated by the County.

In June 2021, the Federal Motor Carrier Safety Administration (FMCSA) issued a new Drug and Alcohol Clearinghouse and in accordance with 49 CFR 382.701, the county is required to:

- Register employed CDL drivers
- Conduct annual queries at least once a year
- Report drug and alcohol violations on CDL drivers
- Medical Review Officers (MRO's) are required to report positive, adulterated or substituted controlled substance test results as well as refusals

2. **Controlled Substances:** Random testing will be conducted throughout the year on an unannounced basis. Employees in job classifications covered by the FMCSR and DOT regulations will follow applicable test guidelines. Employees will only be tested for the following drugs: Marijuana metabolites, Cocaine metabolites, Amphetamines, Opiate metabolites, and Phencyclidine (PCP).
3. The Medical Review Officer (MRO) will review a positive test for controlled substances prior to reporting to the County. An employee may request, at his/her own expense, a retest of the original sample. The County's medical provider will arrange for the retesting of the split sample.
4. **Alcohol:** Random testing will be conducted throughout the year on an unannounced basis. Employees in job classifications covered by the FMCSR and DOT regulations will follow applicable test guidelines. Employees will be tested on approved test equipment. A negative test for alcohol will indicate an alcohol concentration level of less than .04. A confirmed positive test will indicate an alcohol concentration level of .04 or higher. Should the employee

request a retest, this must be completed at his/her expense through the County medical provider within one hour of the original confirmed positive test.

Section 8. Safety-Sensitive Positions

A safety-sensitive position is a position where the duties involve such a great risk of injury to others that even a momentary lapse of attention can have disastrous consequences or a position where a single slip-up may have “irremediable consequences; the employee themselves will have no chance to recognize and rectify his/her mistake, nor will other government personnel have an opportunity to intervene before harm occurs.

By definition from the U.S. Supreme Court, the below-listed positions are classified as “Safety Sensitive”. This list includes, but is not limited to the following:

- A. Sworn Law Enforcement Officers
- B. Fire Fighters
- C. Rescue Personnel
- D. Medical Responders
- E. E911 Telecommunicators
- F. Emergency Management Director
- G. Assistant Emergency Management Director
- H. Fire Marshal
- I. Deputy Fire Marshals
- J. Registered Nurses
- K. Licensed Practical Nurses
- L. Physicians
- M. Certified Nurse Aides
- N. Vehicle Mechanics

- O. Social Workers who are required to drive and/or transport clients as a regular part of their job duties.
- P. Employees who drive to carry out their regular duties on a regular basis are considered safety sensitive.

Random Testing for Safety-Sensitive Positions: Random testing will be conducted throughout the year on an unannounced basis for employees covered by this classification. The respective Department Directors will be notified by the County Human Resources Department of the selected employees. The Department Director will be responsible for notifying their employees the date and time to report to the testing facility designated by the County. Supervisors will be responsible for ensuring employees are notified on a specific date of the testing period to go to the County's medical provider for their random test.

- **Controlled Substances:** Random testing will be conducted throughout the year on an unannounced basis. Employees occupying positions designated as safety-sensitive will follow the same applicable test guidelines as set forth in the DOT guidelines. Employees will be tested for but not limited to the following drugs: Marijuana metabolites, Cocaine metabolites, Amphetamines, Opiate metabolites, Phencyclidine (PCP).
- The Medical Review Officer (MRO) will review a positive test for controlled substances prior to reporting to the County. An employee may request, at his/her own expense, a retest of the original sample. The County's medical provider will arrange for the retesting of the split sample.

Section 9. Employee Rehabilitation

The County maintains a treatment attitude towards problems associated with substance abuse and will use professionally trained resources for testing and counseling. However, the possession of drugs and alcohol in the workplace or the influences of these substances on employees during working hours are grounds for immediate dismissal. Prosecution may also result. Any full or part-time employee, who voluntarily notifies his or her supervisor of a dependency prior to being discovered by the County, will be treated as follow:

- A. The County's responsibility for the costs of any evaluation, treatment, counseling, or rehabilitation will be limited to the employer-paid benefits under the County's benefit plans including the Employee Assistance Program.
- B. The employee will be considered for a leave of absence in accordance with the County's current leave policy.

- C. Return to employment will be authorized upon certification to Human Resources of successful completion of a treatment program.

Reinstatement will be in accordance with the County's current policy and conditioned upon consent for random follow-up-controlled substance or alcohol re-testing for a period of two (2) years.

- D. Reinstatement will take into consideration the best interest of public safety, of other employees, the overall best interest of the County and the interest of the employee in rehabilitation. Positive results on a re-test may result in immediate dismissal.

Negative Dilute Specimen Drug Tests Results

Negative Dilute Drug tests are a result when a urine specimen has a higher water concentration than the average specimen. Typically, the Medical Review Officer (MRO) will note on the drug test results that the creatinine is greater than 5 mg/dl or less than 20 g/dl and a specific gravity is less than 1.0010. This result is when the donor may drink lots of water or water may have been added to the sample reducing the temperature. Once the MRO notifies the county the drug test result is a negative dilute, the county will

1. Require the donor to return to the medical provider where another specimen will be collected as soon as possible with minimum advance notice.
2. The donor's second collection will be under direct observation of a nurse or medical personnel
3. For employees, a supervisor should escort the employee to the test
4. Failure of the employee or applicant to submit for a recollection is considered a refusal to test with consequences of terminating or rescinding employment

CBD Products – Gummies, Lotions, etc.

Although you may purchase CBD gummies, lotions, etc. in stores legally. It has been determined that CBD products may be misleading because the products could contain higher levels of THC than what the product label states. The Food and Drug Administration (FDA) does not currently certify the levels of THC in CBD products. **North Carolina has not legalized marijuana use.** CBD use is not a legitimate medical explanation for a laboratory confirmed marijuana positive result. Therefore, Medical Review Officers (MROs) will verify a drug test confirmed at the appropriate cutoffs as positive, even if the employee claims they only used a CBD product.

If the MRO verifies a positive Marijuana drug-screen, the applicant's contingent job offer will be rescinded, and the employee will be terminated in accordance with the guidelines of this policy. It is recommended that all employees should exercise caution when considering whether to use CBD products.

Nothing in this policy prohibits the employee from being disciplined or discharged for other violations and/or performance problems.

ARTICLE XVII - USE OF SOCIAL MEDIA AND INFORMATION TECHNOLOGY USE

Section 1. Social Networking

The County recognizes that employees may choose to express themselves by posting personal information on the Internet through social networking sites, personal websites, blogs, or chat rooms, by uploading content, or by making comments at other websites or blogs. The County respects the rights and interests of employees in engaging in these forms of personal expression on their own time, should they choose to do so.

Employees are expected to follow the guidelines and policies set forth to provide a clear line between the employee as an individual and as a Pender County employee.

The County respects the right of employees to use blogs and social media sites as a medium of self-expression and public conversation and does not discriminate against employees who use these media for personal interests and affiliations or other lawful purposes. Blogging or other forms of social media or technology include but are not limited to: video or wiki postings, sites such as Facebook, Twitter, Tik Tok, chat rooms, YouTube, personal blogs or other similar forms of online journals, diaries or personal newsletters not affiliated with Pender County.

A. **Guidelines:**

1. Employees may not use County resources to conduct personal blogging or social networking activities. Employees are prohibited from using a county email address in connection with any social networking or blog sites.
2. Employees are prohibited from any such activities while on County time while using either County or personal resources (including laptops, cell phones, and other electronic devices).
3. Employees cannot use blogs or social networking sites to harass, threaten, discriminate or disparage against employees or anyone associated with or doing business with Pender County.
4. Employees are legally responsible for the content they post to the Internet, in a blog or otherwise.
5. Employees can be held personally liable for defaming others and/or revealing confidential information, among other things.
6. If employees identify themselves as a Pender County employee, some readers may view the employee as a spokesperson for Pender County. Because of this possibility, employees should state that views expressed in

their blog or social networking area are their own and not those of Pender County, nor of any person or organization affiliated or doing business with Pender County.

7. Employees cannot post on personal blogs or other sites the logo of Pender County or any business with a connection to Pender County.
 8. Employees cannot post privileged information on-line, including County- issued documents.
 9. Employees cannot post on personal blogs or social networking sites photographs of other employees, clients/customers/citizens, vendors, or suppliers, nor can employees post photographs of persons engaged in business with Pender County or at Pender County events without express permission from those individuals.
 10. Employees cannot link from a personal blog or social networking site to Pender County's internal or external web sites.
 11. Employees should be aware that personal postings may be read by not only friends and family, but possibly by co-workers, supervisors, County residents, and the media. Even if posted anonymously or under a pseudonym, identities can be discovered relatively easily. Employees should be careful when deciding what to include in a post or comment.
 12. The County may request removal of material that is disruptive to the workplace or impairs the mission of the County unless such postings are protected by local, state or federal laws.
- B. **Employer Monitoring:** Employees are cautioned that they should have no expectation of privacy while using County technology resources and postings can be reviewed by anyone, including Pender County. The County reserves the right to monitor comments or discussions about Pender County and its employees, posted by anyone, including employees and non-employees, on the Internet. Pender County may use blog-search tools and software to monitor forums such as blogs and other types of personal journals, diaries and personal and business discussion forums.

- C. **Reporting Violations:** Employees shall report any violations of possible or perceived violations of this policy to their supervisor, Department Director or Human Resources. Violations include discussions of Pender County and its employees and vendors, any discussion of proprietary information and any unlawful activity related to blogging.

- D. **Discipline for Violations:** Pender County investigates and responds to all reports of violations of the rules and guidelines set forth in this policy and other related policies. Violation of this policy may result in disciplinary action up to and including termination. Pender County reserves the right to take legal action where necessary against employees who engage in prohibited or unlawful conduct.

Section 2. Information Technology Use and Other Policies

In using County provided technology to carry out the work of the County, all employees shall comply with all County policies including, but not limited to, all policies related to information technology services and use.

Section 3. Use of Personal Cell Phones During Work Time

Employees should be aware that use of a personal cell phone during work time is strongly discouraged. Frequent use of such devices for personal business during work time may result in disciplinary action. Personal calls should be limited to breaks in order to avoid disruption and distraction to other employees. As a matter of professional courtesy, all employees are expected to silence their phones to eliminate distractions to others. Employees working in direct public contact positions should be especially careful not to let personal cell phone calls interfere with providing service to the residents of Pender County.

County Issued Cell Phone or Stipend

Cell phones and smart phones especially have become an integral part of everyday life, including business. A county employee may be offered a county issued cell phone or if the employee chooses to use their personal cell phone instead, the county may issue a monthly stipend to compensate the employee for his/her use of their personal cell phone to conduct county business.

Eligibility: Employees eligible for the county issued phone or stipend must meet one or more of the following criteria:

- The employee's role requires frequent use of a personal cell phone for official duties, including but not limited to calls, texts, emails, and other forms of communication.
- The employee's use of a cell phone is integral to performing job duties efficiently, especially in emergency or remote situations.

The cell phone stipend is intended to offset the costs of business-related cell phone usage and is provided to employees who need mobile communication for job duties.

Amount: The monthly stipend amount will be a fixed sum, as determined by the Finance Director and approved by the County Manager, based on the employee's job function and necessity of mobile communication for work. The stipend amount will be reviewed periodically and adjusted, if necessary, based on changes in technology, usage needs, or public entity budgets.

Tax Implications: Employees receiving a stipend are responsible for the applicable taxes, which may be withheld by the employer in accordance with federal and state tax regulations. The stipend is considered taxable income and will be reported as such.

Public Record Compliance:

1. Public Record Accessibility: As a public entity, all documents and communications relating to the use of a cell phone stipend, including requests, approvals, and the disbursement of funds, are subject to public records laws. Employees must be aware that text messages, emails, or any other communication made using the stipend-funded personal cell phone may be subject to disclosure under public records requests.
2. Record Keeping: Employees must maintain a clear record of business-related communications and expenses. These records may be subject to inspection and/or disclosure under applicable public records laws. The records may include phone bills, logs of business calls, emails, and any other related correspondence.
3. Privacy Considerations: While business-related communications made via the stipend-funded personal cell phone are subject to public records laws, employees are encouraged to maintain a separate line or account for personal communications to preserve privacy where appropriate.

Use of the Stipend: The stipend is intended solely for work-related communication. Personal use of the cell phone is permitted, but it should not interfere with job duties or exceed reasonable personal use. Employees should ensure that their usage remains within the scope of the business needs of their position.

Once an employee is deemed eligible for either a county issued cell phone or monthly stipend, the Department Director will:

For the Monthly Stipend:

- Have the employee sign a Cell Phone Stipend Acknowledgement Form.
- Complete a Personal Action Entry (PAE) in Munis and attach both the Cell Phone Acknowledgement Form and Payroll Change Notice (PCN)

For the County Issued Phone

- Reach out to IT to make the request and set up an account

An employee may not do the following on a county issued cell phone:

- Play Games
- Use the phone while driving a county vehicle
- Make personal calls, e-mails or texts, etc.

Accountability and Monitoring: Employees must adhere to all relevant laws and policies regarding communication and privacy. The county reserves the right to request documentation supporting the business use of the stipend. Any misuse of the stipend or failure to comply with the guidelines of this policy may result in disciplinary action, up to and including termination of the stipend or employment.

Employees also need to be aware there is no privacy with a county issued cell phone. The cell phone logs, phone numbers, texts, e-mails, etc. are the property of the county and may be monitored or reviewed at any time.

Reimbursement for Expenses: Employees will not be reimbursed for any cell phone-related expenses beyond the stipend.

Termination or Modification of the County Issued Phone and Stipend: The county issued phone may be withdrawn and the monthly stipend may be reviewed and terminated or modified at the discretion of the county. If the employee's job function changes or if the use of a cell phone is no longer deemed necessary for the role, the stipend may be adjusted or revoked and/or the county issued phone returned to IT.

Policy Review: This policy will be reviewed annually, or sooner, if necessary, to ensure compliance with public record laws, financial requirements, and employee needs.

ARTICLE XVIII – USE OF COUNTY ELECTRONIC EQUIPMENT AND INTERNET ACCESS

Section 1. Purpose

Pender County's computing resources are vital business assets and the property of Pender County. Pender County reserves the right to monitor employees for compliance with this policy. No employee has an expectation of privacy in any use of his/her county provided computer or other devices. Failure to comply with this procedure may lead to disciplinary action, up to and including termination of employment, and/or legal proceedings.

Section 2. Policy

This policy is intended to ensure that:

- A. The use of systems and equipment including, but not limited to, email, Internet, applications, telephones, tablets, and laptop computers provided by Pender County to its employees, is consistent with County procedures, all applicable laws, and the individual user's job responsibilities, and to establish guidelines for appropriate use.
- B. Pender County's computing and communication resources, data, information and information processes are consistently protected according to approved information security practices and legal requirements.
- C. Access to data and electronic approval of data on computer systems are allowed only by authorized users and only for the business purposes of Pender County, its departments and employees.

Section 3. Scope

This procedure applies to all officials, managers, directors, employees, contractors, and any third party specifically authorized to have access to Pender County's computing resources and information.

Section 4. Procedure - Employee Responsibilities

Employee responsibilities under this policy are as set out below.

- A. Use computer systems only as trained and as authorized. All computer use is for the business purposes of Pender County only. Personal use of Pender County computer systems and electronic equipment is prohibited. Computer use covers any access to all computer and information systems and resources, networks, software, hardware,

Internet, and email of Pender County. All electronic data, including email messages, is the property of Pender County and may be required to be disclosed as public documents under N. C. law.

- B. Notify supervisor when/if unauthorized entry into computer systems occurs.
- C. Protect any computing resources and information within your area of access or responsibility.
- D. Comply with system procedures on data retention of computer files (e.g., retrieval, destruction of files and backups per retention schedules). Failure to keep certain electronic records may violate the law. For North Carolina State retention guidelines: <http://www.ncdcr.gov/archives/ForGovernment/RetentionSchedules/LocalSchedules.aspx>
- E. Comply with this policy and any other County procedures governing information security and appropriate use of computing, electronic resources, and data.

Section 5. Procedure - Management Responsibilities

Management responsibilities under this policy are set out below.

- A. Ensure that all Officials, Managers, Directors, Employees, Contractors, and any third party specifically authorized access are informed of this policy and any other guidelines pertaining to computing resources and information and enforce this procedure and any other applicable guidelines.
- B. Ensure that all Officials', Managers', Directors', Employees', Contractors' and any third parties' privileges to access computing resources, data, information and information processes are limited to those required to perform their current responsibilities, and that the appropriate IT staff are notified when changes to such access privileges are required.
- C. Ensure that known or suspected security issues are promptly and properly reported and resolved.
- D. Ensure that upon the termination or transfer of an employee, the appropriate IT staff are informed of such termination or transfer in order to prevent access of unauthorized users to the County's information systems environment. The IT department should be made aware of the departure as soon as management is informed.

- E. Ensure that employees are educated and follow the data retention guidelines for electronic records.

Section 6. Electronic Messaging

Email is considered to be an official form of communication by the employees of Pender County. Users are expected to comply with normal standards of professional and personal courtesy and conduct. This Section includes text messages sent and received on County-owned telephones issued to County employees or phones included in phone stipend.

Sending Confidential Information through E-mail

When an employee sends confidential information within the Pender County network, the Subject line of the e-mail should begin with "Confidential." If the employee is sending confidential information outside of the Pender County network, the Subject line of the e-mail should begin with "Encrypt."

A. Harassment

Email and any other electronic communications are for work purposes only. Harassment and other offensive communications and images are strictly prohibited. Harassment includes, but is not limited to, any derogatory transmission referencing a person's race, color, religion, sex, age, national origin, sexual orientation, disabilities, or physique. Violation of this Section may result in disciplinary action up to and including dismissal.

B. Offensive Communications

This form of prohibited message (through email, text or any other electronic communication) includes, but is not limited to insulting, defamatory, or sexually explicit messages or images. Also included in this category are messages with obscene language, chain letters, jokes (whether offensive or not), and gossip of any kind. Violation of this Section may result in disciplinary action up to and including dismissal.

C. Other Prohibited Email Practices

1. Email must not be used in a way that may compromise the integrity of Pender County and its business in any way.
2. When sending or forwarding an email, either internally or externally, all employees shall identify themselves clearly and accurately. Anonymous or falsely identified postings are forbidden.
3. Distribution of chain letters is prohibited.

4. Email users should not solicit or address others regarding commercial, religious, or political causes, or for any other solicitations that are not work-related. Personal solicitations sent to all users are prohibited unless expressly authorized by the Department Director. Violation of this Section may result in disciplinary action up to and including dismissal.

Section 7. Use of Pender County-Provided Internet Access

Internet access is provided for county employees to be used for County business only. County-provided internet access is not to be used for personal purposes.

- A. It is important to note that all Internet usage is monitored. In the event of repeated abuse of the County's internet access, disciplinary action up to and including dismissal may be imposed.
- B. Employees should not access non-business-related sites using County internet access.
- C. Employees may not access sexually explicit, racially offensive or other hate-related sites or download music files, video files or pictures. This is prohibited.
- D. Accessing streaming video and audio is also prohibited (i.e., radio, news, and video feeds, etc.) unless it is being used for County business.

ARTICLE XIX - ADVERSE WEATHER/CATASTROPHIC CONDITIONS POLICY

Section 1. Policy

Pender County must ensure the delivery of services to citizens and businesses even during times of adverse weather or other catastrophic conditions. This policy sets out how the County will conduct its operations during such occurrences. It also sets out how employees will account for time when inclement weather or catastrophic conditions prohibit or adversely impact the ability of employees to report to work or to remain at work or necessitate the suspension of non-mandatory County operations and services.

Section 2. Departments, Functions, and Employees Covered

This policy covers all departments, functions, and employees of Pender County unless otherwise exempted.

Section 3. Determination of Adverse Weather

For the purposes of this policy, adverse weather occurs when the National Weather Service issues severe weather warnings for weather conditions that may adversely impact an employee's ability to arrive at and leave work or may adversely impact the County's ability to continue to provide non-mandatory operations to clients, customers, patients, or the general public.

Section 4. Determination of Closing Offices/Suspending County Operations

It may become necessary, due to adverse weather or catastrophic conditions, to suspend some County departments or functions for a limited period of time. Only the County Manager and/or the Chairman of the Board of Commissioners has the ability to suspend operations under their control. Travel advisories by the N. C. State Highway Patrol or a declaration of a "State of Emergency" by the Governor shall not necessarily require closure of County operations.

Section 5. Accounting for Scheduled Work Time Lost Due to Inclement Weather

Whether Pender County offices are open or closed, employees are encouraged to use their judgment in determining their safety needs during severe weather and act accordingly. Employees who are not able to report due to weather conditions are required to notify their supervisor and to report to work when safety permits.

During periods of adverse weather, when offices are reopened, employees who do not report to work shall charge scheduled work time missed to vacation leave (or to

Holiday leave, compensatory time, if available.) Employees who do not have enough accrual balances shall be in a LWOP status for all scheduled work time missed due to adverse weather.

Employees who do not report to work due to closings of schools because of adverse weather shall charge holiday, comp time, and/or vacation accruals, if available) for all scheduled work time missed.

If department operating hours are modified due to adverse weather or other emergencies, employees who are absent from work will be required to take accruals for those hours the department is officially open during their work schedule.

The purpose of the Inclement Weather time is to make up for the time that we were closed, and work was missed. It is not to be used to replace any accruals or other reasons work was not performed or were out of work. It is intended to make you “whole” only for those closure hours.

- If an employee has been pre-approved for an absence (sick and/or vacation) prior to closure date for the hours of the closure, no Inclement Weather hours will be granted.
- If an employee is absent, unavailable to work (example: school closure), or called out prior to this closure notice, no Inclement Weather hours will be granted for those particular closure hours of the employee’s scheduled work time. Other accruals, except Sick, must be used to cover the remainder of the scheduled work shift.
- If an employee was not SCHEDULED to work, no Inclement Weather hours will be granted.
- If working or asked to come in during the closure, employee will get up to number of approved Inclement Weather hours plus the work time for that shift that includes the closure hours
- For those scheduled for 40 hours: If hours worked plus Inclement Weather hours are over your scheduled workweek/shift, then only the amount of Inclement Weather hours are needed to make up the scheduled hours.
- If an employee worked over scheduled hours the week of Inclement Weather closure, no Inclement Weather hours are needed unless the supervisor requested the employee to come in/work during the weather event.
- If the employee normally teleworks (work remotely), no Inclement Weather hours will be granted.
- If an employee chooses to telework during the closure, those telework hours will be counted as work time, therefore, no Inclement Weather hours will be granted.
- If employee works an alternate/modified work schedule, that schedule will not be allowed the week of Inclement Weather closure. The employee will need to work a “normal” office schedule to qualify for Inclement Weather hours.
- If employee worked less than their scheduled hours for the week of Inclement Weather closure and were either not eligible for Inclement Weather or the authorized Inclement Weather hours will not make the employee “whole” for the

week, other accruals (holiday, comp time, vacation leave) must be used.

- If the employee exhausted their holiday, comp time and/or vacation leave, only then can the employee enter a leave without pay status. Sick leave is not an option. Sick leave may only be used if the employee is sick, medical appointments or are caring for an immediate family member that is sick or has a medical appointment.
- If a holiday occurs the same week and before the Inclement Weather hours, Holiday hours must be used before the closure hours if needed to make up time for the workweek/shift. **For example:** The employee was scheduled for 40 hours and worked 30 hours that week. A holiday occurred on Monday of that week and the offices were closed Thursday for 4 hours. The employee needs 10 hours (40-30) to complete the 40 hours. The employee would use the 8 hours of holiday and 2 hours of IW hours.
- Part-time temporary staff are not eligible for Inclement Weather hours.

Section 6. Employees Who Are Required to Report to Work during Adverse Weather/Catastrophic Conditions

Due to operational necessity, some County functions may be required to operate, and some County employees may be required to report to work during adverse weather/catastrophic conditions. It is the responsibility of each Department Director, together with the County Manager, to determine which County operations and which employees supporting those operations shall be required to report during adverse weather. These functions and the employees required to be present to carry out these functions are essential functions and are “essential employees”. Generally, essential employees are full-time employees and part-time employees that work twenty-four (24) hours or more per week.

Employees in essential functions shall be notified of this requirement in writing during the hiring process. Department Directors should list **all positions designated as essential** and file such list with the Human Resources Department.

During an Adverse Weather/Catastrophic event, Emergency Management will reach out to those county employees that would like to work the event first. If Emergency Management is unable to fill those emergency position assignments, Human Resources will begin selecting county employees to fill those positions. Human Resources has split county employees into 4 teams by their last names.

Team A	County Employees with Last Names A-D
Team B	County Employees with Last Names E-K
Team C	County Employees with Last Names L-R
Team D	County Employees with Last Names S-Z

Human Resources will reach out to temporary part-time workers, part-time permanent and non-exempt (hourly) workers first since most exempt – Supervisors and Department Heads will typically already be scheduled in some capacity. Those employees in Team A would be selected first to fill those essential positions, followed by Team B, etc. if additional resources are required for a major event and relief is needed. If essential positions are filled with Team A for the first event and it's not a major, long-term event, Team B County employees will be selected first for the next event, and so on until the rotation returns to Team A again.

Certain county departments are already designated to fill essential roles during an Adverse Weather/Catastrophic event and would not be included in the above teams. Those departments include the Sheriff's Department, Jail, E-911, Health & DSS (Shelter Staff only), Grounds Maintenance, Facilities Maintenance staff only, Public Utilities (does not include admin staff), Fire Marshal, Emergency Management, and IT.

To ensure consistent and fair practices are utilized, all Pender County employees are assigned to emergency situations without regard to family or personal situations. This includes employees who are single parents, employees with elderly parents, employees with young children, employees with spouses who are first responders, employees who both work for the county, etc. Once an Adverse Weather event or catastrophic event appears to be impending, employees should begin to prepare their personal lives before an activation, so they are able to focus their attention on emergency duties and report when needed during an emergency activation. There may be legally required circumstances for which accommodations to assignments must be made. Human Resources will review all the Inclement Weather Exception Sheets and make determinations with the County Manager's approval.

Medical Accommodations

Employees with a qualifying medical condition that impacts their ability to perform work during an emergency situation should request an accommodation prior to an emergency activation, to ensure adequate staffing during the emergency situation. To ensure a reliable response to the citizens of Pender County, it is preferable to modify emergency assignments and/or find ways to provide reasonable accommodations for employees in these situations, rather than to completely excuse them from performing work during an emergency situation. Employees will not be excused from performing emergency duties without documentation from a medical provider certifying that duties cannot be performed with or without a reasonable accommodation.

Employees with a medically related reason seeking an accommodation to perform emergency staffing duties must follow the established process, which includes having the appropriate medical provider complete a form to better understand the accommodation needs. Forms completed by the medical provider must be legible and completed in their entirety. Incomplete or illegible forms will be considered unapproved and returned to the employee until a completed form is received.

Service Animals

Under the Americans with Disabilities Act, a service animal is defined as a dog that is individually trained to do work or perform tasks for a person's disability. As with any accommodation, employees who require the use of a service animal to accommodate a disability must follow the county's accommodation procedure. Employees are responsible for completing this process prior to an emergency activation so planning and documentation may be finalized without disruption to response operations.

Emotional support animals are not considered service animals under the ADA (Americans with Disabilities Act) and are not permitted to accompany an employee to work at their emergency assignment location. As a general rule, if the animal does not need to accompany you to work on a daily basis to accommodate a disability you have, they should not accompany you to your assignment when you work during an emergency.

Accommodations for pets and emotional support animals should be made prior to an emergency activation.

For information on how to seek a medical accommodation for emergency staffing responsibilities, please visit the Human Resources.

Employee Contact Information

In order to ensure the county is able to contact employees during an emergency, all employees must ensure their personnel records reflect accurate contact information at all times. Employees are responsible for ensuring they have a valid, working phone number that is able to receive calls and messages from the county at all times. Employees are responsible for updating their Munis Self Service record with any change to their phone number as soon as possible to allow for successful communication.

Employee Availability

Employees waiting for their position and/or shift to be called to report are expected to be available by phone and ready to report to work when called or notified they have been scheduled. In the event an employee misses a call from Pender County, the employee is expected to return the call immediately. Employees are responsible for keeping their contact information current as specified in the Employee Contact Information section above, and for keeping their voicemail boxes cleared, and their phones on and ready to accept calls.

Employees are responsible for monitoring the Pender County Emergency Management App and the website for important information and updates on the emergency activation and employee reporting requirements. This information includes, but is not limited to, closings and openings of county offices and shelter locations and updates on requirements to report for emergency duty. Employees are also encouraged to monitor the county's various communication channels and social media sites to keep updated on the emergency situation.

While every effort will be made to keep employees reporting only on their assigned shift, it is important to recognize that during an emergency situation, conditions change quickly and there may be a need for employees to report to shifts other than those to which they are assigned. Employees assigned to back-up shifts or those in a reserve role may be called to report if there is a need to increase or alter staffing, due to changes in the emergency situation or to report in place of another employee who is unable to report.

Employees assigned to a backup shift designation may be called to report in place of another employee who is unable to report; or if there is a need to increase or alter staffing, due to changes in the emergency situation. Employees are expected to report as notified.

Employees assigned to a reserve shift designation may be called to work in any position of their assigned branch of the Emergency Operations Center, should there be a need to increase or alter staffing, due to changes in the emergency situation or if there is a shortage of staff available to report.

Essential employees required to report to work during adverse weather/catastrophic conditions who fail to report to work shall be subject to disciplinary action up to and including dismissal.

Section 7. Inclement Weather Pay

If the County Manager has suspended operations of the County due to adverse weather/catastrophic conditions employees may receive a maximum of 16 hours of pay, per weather event, up to your regularly scheduled workweek/shift to compensate for scheduled hours lost during the closure of County operations/shift. Inclement Weather Leave does not count toward overtime or comp time earned. If the closure exceeds two days of scheduled work, the County Manager may extend the hours over 16 hours. Temporary and seasonal employees are not eligible for inclement weather pay. See Article IX, Section 5 for payment details.

Section 8. Emergency Responsibilities - Department Directors

Department Directors are responsible for establishing a list of essential positions and planning for alternate work arrangements for employees to continue County service provisions in times of emergencies. In an emergency situation, Department Directors are required to adjust their routine operations in accordance with the emergency sections of the County's Personnel Policies, Budget Manual, and Purchasing Manual so that the County may maintain orderly and compliant operations. All documentation for procedures and timekeeping in an emergency situation are provided to the employee in real-time in order to potentially file for reimbursement with grants or insurance accurately and on a timely basis.

Section 9. Essential Employee Responsibilities

All county employees are considered essential employees. Essential Employees are expected to report to work in their emergency role during their assigned shift in the event of adverse weather or catastrophic conditions occur. Failure to report may result in disciplinary action up to and including termination. The Department Director may give employees with extenuating circumstances an exception to reporting, on a case-by-case basis by in consultation with Human Resources and the approval of the County Manager.

NOTE: Lack of childcare, transportation issues and conflicts, and living in another County or location which would make it difficult to report, are not considered extenuating circumstances. Employees are expected to make emergency preparedness plans for family members, pets, properties, and personal affairs before an emergency situation occurs, so they are prepared to report as scheduled.

If an employee is assigned to work and there are extenuating circumstances that will prevent him or her from being able to report for emergency duty when an emergency activation has occurred, it is his/her responsibility to contact their supervisor or the designated person for his/her shift as soon as possible. The Department Directors will make the determination whether the circumstances are extenuating and whether an exception will be made.

Section 10. Pay for Essential Employees during County closure

Upon approval of the County Manager and/or the Chairman of the Board of Commissioners based on advice of the Emergency Management Director, comp time and overtime will be applied as follows dependent on the Pender County Emergency Operations Center (EOC) Levels of Activation.

- **Activation Levels 1-2**

- Non-exempt employees will earn overtime
- Exempt employees will earn straight overtime

- **Activation Levels 3-5**

- Non-exempt employees will earn comp time
- Exempt employees may be eligible to earn “bonus” time

All activation level compensation will be in accordance with Pender County Personnel Policy Article VII – Compensation Plan, Section 15, Overtime Pay and Compensatory Time.

If the Emergency Operations Center (EOC) is opened by the Emergency Operations Director, all employees are required to document the dates, hours, location and purpose of the work performed and all equipment used during the event on the appropriate federal form for the purpose of filing for FEMA reimbursement.

All exempt employees designated as essential shall be paid at their hourly rate for all hours required to be worked during the closure over forty in a workweek. During a closure, time worked by essential exempt employees over forty in a workweek shall be considered "exempt overtime." Such employees will also be paid their regular weekly salary. Essential exempt employees required to work during closure shall keep accurate records of their time worked, so that it can be determined when they worked beyond forty hours in a workweek. Inclement weather pay is to be used within the pay period(s) of the closure, unused hours are not carried over or paid out for any reason.

Those nonexempt essential personnel that are required to stay at the Emergency Operations Center or County offices during an emergency or inclement weather event are "engaged to wait" and because they cannot use the time effectively for their own purposes are considered to be working for all time required to be at the Emergency Operations Center or in designated County Offices. To be non-compensable, meal periods must be at least 30 uninterrupted minutes. For sleep time to be non-compensable, it must be at least five uninterrupted hours, up to a maximum of eight hours.

If an **employee voluntarily elects to stay overnight/sleep** at the Sheriff's Department, EOC, county office, **they would NOT be paid for those hours.**

The County Manager has the authority to grant additional compensatory time to individuals required to work when the County is closed due to inclement weather per his/her discretion.

ARTICLE XX - DRESS CODE POLICY

Section 1. Purpose

1. To set out the expectations of Pender County for all employees regarding employee appearance and dress during work hours or at any time the employee is acting as a representative of Pender County.
2. To ensure that each employee dresses in a professional and safe manner that will lend dignity to and respect for the employee and the services he/she provides on behalf of the County.
3. To assist members of the public and persons using County services to identify and recognize County employees.

Section 2. Policy

Pender County will provide services to the public in a professional manner. To project a professional public image during the delivery of County services, each employee will dress in attire that is considered professional and appropriate dress for the job duties of the employee.

Section 3. Coverage

This policy covers all County employees.

Section 4. Individual Departmental Policies

County operations with law enforcement responsibilities (the Sheriff's Department) or clinical responsibilities (Health and Human Services Department) may adopt different policies appropriate to those functions. Such policies shall be filed with the Human Resources Department and shall be communicated to new employees and to all employees on at least an annual basis.

Other departments, with the prior review and approval of the County Manager, may adopt individual departmental policies appropriate to their work and mission. Such policies shall be filed with the Human Resources Department and shall be communicated to new employees and to all employees on at least an annual basis.

Section 5. Appropriate Attire

Maintaining a professional appearance while working for and/or representing Pender County is the responsibility of every employee:

1. All garments are to be neat, clean, correctly sized, pressed (wrinkle-free), and in good repair. Employees wearing uniforms provided by Pender County are expected to turn the uniforms in when they are no longer in good repair.
2. Based upon an employee's job duties, open-toed shoes or sandals may not be appropriate for health and safety reasons.
3. Generally, unless specifically approved by the Department Directors and the County Manager, the following clothing/shoes are not appropriate work attire: Clothing that exposes bare mid-drifts or displays cleavage; visible undergarments; torn, patched or faded clothing; clothing with printed messages or pictures that may be considered offensive, unless it is a logo for a department of Pender County; beach shoes, slippers, flip-flops; bare-back dresses (sundresses), bare-back blouses, tank tops, muscle shirts and tube tops; halter tops, or tops that expose the midriff and umbilicus; spandex or stretch pants, shorts, skorts; t-shirts or sweatshirts; and warm-up suits.

Section 6. Compliance with This Policy

It is the responsibility of all County employees to be in compliance with this policy while working or representing Pender County. Department Directors have the responsibility for administering this policy, including disciplinary action for non-compliance. Employees who do not meet a professional standard may be sent home to change. The employee may use vacation leave or comp time to make up their lost time as needed at the discretion of the Department Director. Should an employee have a question about his/her clothing, he/she should ask their supervisor or Department Directors.

Section 7. Disciplinary Action for Non-Compliance

Employees who do not comply with this policy may be subject to disciplinary action as set out in [Article XII](#).

Section 8. Uniforms

It is Pender County Government's intent to ensure that employees providing specific services to its citizens are provided County uniforms that give the look of a professional appearance and provide identification as a county employee. Generally, uniforms will be supplied by the County, or a clothing allowance may be provided and prorated based upon hire date and after completing probation unless the uniform is needed immediately for work purposes such as a Sheriff's Deputy or Detention Officer, etc.

Per IRS guidelines, uniforms or clothing, provided by the employer or provided through an allowance to the employee are excludable from taxable wages of the employee if they are:

1. Specifically required as a condition of employment and are,
2. Not worn or adaptable to be worn for general use as ordinary clothing.

For a uniform or clothing allowance meeting these requirements to be excludable from the taxable wages of the employee, the accountable plan rules must be met by the employee. To meet the accountable plan rules, the employee must submit the original uniform/clothing purchase receipt for reimbursement, which identifies the uniform/clothing purchased as approved by their respective Department Director. Uniform/clothing allowances will not be reimbursed to the employee without proper documentation of purchase of approved uniform/clothing. If a uniform or clothing allowance qualifies to be excludable from taxable wages, then the cleaning costs are also excludable from taxable wages.

Uniforms or clothing, provided by the employer or provided through an allowance to the employee, are includable in taxable wages of an employee if they do not qualify for the exclusions above. Allowances that are includable in the taxable wages of an employee will be reimbursed/paid through payroll as miscellaneous pay. Request for reimbursement of a uniform allowance must be made within the fiscal year the allowance was expended. Uniform reimbursements will be paid twice a year – payroll that includes December 31st and last payroll in June.

Pender County will allow uniforms or clothing bearing the county name, the department name, imprints, applied badges, County Seal or Emblem, etc.; that are required to be worn while at work and would not be worn or adaptable for use as ordinary clothing. Pender County will not reimburse or pay a vendor for ordinary clothing, such as pants, unless required because of OSHA required material, part of uncover officers clothing, Sheriff uniforms, or part of Health Department uniform as required by OSHA or medical standards.

Example: Sworn Law Enforcement Officer uniform, Maintenance/Housekeeping uniform, Nurse uniform. The County does not pay for or will reimburse for belts (with exception of Sheriff's gun belts), undergarments, socks, suspenders, hats, accessories

Clothing and Shoes adaptable for general wear or non-excludable uniforms. The Internal Revenue Service (IRS) mandates that uniforms which can be considered “street clothing” are taxable as a benefit to employees and are considered “adaptable for general wear is not excludable from the taxable income of the employee. Example: Detective’s ordinary clothing - example – suit, Undercover Detective clothing - clothes an individual not working for law enforcement would be expected to wear to work, work clothes that any citizen would be expected to wear.

Employees are required to sign for the uniforms and/or PPE equipment and gear received. Each employee is responsible for the proper care and handling of these uniforms. In addition, employees shall utilize these uniforms for its intended purpose in accordance with County procedures. Uniforms shall be worn at all times during work hours.

Proper Uniform Issuance

1. An eligible employee shall be entitled to receive uniforms, if either purchased by the County or reimbursed to the employee, upon completion of a 6-month probationary period except where a uniform is needed immediately upon hire such as Sheriff's Office, Detention, Utilities, Facilities & Fleet, Custodial Maintenance and certain Health positions.
2. An employee only serving a portion of the period of uniform reimbursement will receive a pro-rata share for the time served in the clothing allowance designated position. The maximum reimbursement for a fiscal year is \$500.
3. Uniforms will be issued once and upgraded on an as needed basis as determined by the Department Director. Any size change requested by the employee will normally be at the employee's expense.
4. Uniforms will typically consist of five (5) outfits (shirt and pants), jacket for the fall/winter months, safety shoes/boots for those required to wear them, and personal protective equipment (PPE) such as reflective vests, hats, etc. and/or gear required for protection.
5. Typically, an employee is provided no more than five (5) uniforms without written justification from the Department Director to the Finance Officer/County Manager for expenditure approval of additional uniforms.

Footwear

In accordance with Occupational Safety and Health Standards (OSHA) 1910.136 – Foot Protection, the employer shall ensure that each affected employee uses protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, or when the use of protective footwear will protect the affected employee from an electrical hazard, such as a static discharge or electric shock hazard or chemicals/biohazardous materials. In order to qualify for the footwear reimbursement or purchased directly from the vendor, the job description personal protective equipment (PPE) must meet OSHA foot protection requirements. Pender County will reimburse for one pair of approved footwear per fiscal year up to \$200 for those county employees that meet this OSHA requirement and require safety shoes. Pender County will reimburse up to \$300 a year for Public Utilities employees that meet the same OSHA requirements, and the job description personal protective equipment (PPE) list the footwear as required to meet OSHA standards. If an employee purchases footwear that exceeds \$200, the employee will be responsible for the portion that exceeds the allowable amount.

Wear the Uniform

1. Each employee shall be responsible for maintaining his or her uniform in good order by keeping the uniforms clean and providing self-maintenance on those items such as mending missing buttons, patches, etc.
2. Long sleeve shirts will be worn with sleeves down. All shirts shall be tucked into the pants neatly at all times and buttoned appropriately.
3. Excess gear such as gun belts for Sheriff's Deputies and Detention Officers, etc. should all be worn appropriately.

Replacement of Uniforms

1. Each employee is responsible for keeping up with each piece of uniform issued to them. They will be responsible for purchasing replacement items that are lost.
2. Uniforms damaged, destroyed or worn out in the line of duty will be repaired or replaced by the County. Employee will be required to turn in damaged, destroyed or worn-out uniforms to receive replacement uniform.
3. Uniforms damaged or destroyed through negligence or abuse shall be repaired or replaced by the employee responsible.

Uniform Return

1. The uniforms, PPE and gear are considered County property. In the event of an employee termination/resignation, all uniforms, PPE and gear are to be returned as part of the exit process to the employee's supervisor prior to receiving the last paycheck.
2. Any missing, damaged or destroyed uniforms through negligence or abuse shall be deducted at cost from employee's last paycheck in accordance with FLSA regulations.

Departmental T-Shirts or Clothing celebrating an Event, etc.

Pender County recognizes that departments want to celebrate important events or recognize special days to show appreciation to the employees for the work they do for the county. During these special occasions, the Department may offer a meal or purchase clothing such as T-shirts to mark the special occasion. The County must be consistent in its practices so that all departments should be able to celebrate their events in a similar fashion and be conscious of the appropriate use of taxpayer's dollars. Therefore, all recognition event requests should be justified and authorized by the County Manager's office prior to organizing an event.

ARTICLE XXI – TRAVEL POLICY

Section 1. Purpose

The purpose of this policy is to establish procedures for authorization of travel by County employees; County approved drivers, elected officials, and appointed officials for the purpose of conducting County business; and to establish procedures for reimbursement for the cost of authorized travel.

Section 2. Applicability of Policy, Definitions, and Guidelines

All employees, County approved drivers, and officials of the County are subject to this policy.

A. Definitions:

1. **Authorizing Party** – individual authorized by this policy to approve or disapprove travel requests, cash advance requests, and travel reimbursement requests.
2. **Requesting Party** – County employee, approved driver or official who will be reimbursed for travel costs incurred while conducting County business.
3. **Travel** – going from the normal job location to a site located more than ten (10) miles from the normal job location to conduct County business.
4. **Transportation** – costs incurred for travel by automobile, taxi, rental cars, train, or plane. It includes tolls, parking fees, and tips for the handling of baggage.
5. **Subsistence** – costs incurred during travel for lodging and meals, including tips are not available until the employee travels a minimum of 1 hour of travel outside of Pender County.
6. **Documentation** – original invoices, paid bills, attendance certificates, ticket stubs, agendas, etc.
7. **Travel Authorization Form** – to obtain pre-approval of your travel with a general description and/or explanation of your proposed travel
8. **Travel Reimbursement Form** – travel reimbursement request.
9. **Check Request** – Request of funds for accommodations or expenses.

Guidelines:

Travel Authorization

- i. For all in-state, out-of-County travel, other than the travel of the County Manager, County Attorney and elected County officials, the Department Director is the authorizing official, unless otherwise directed by the County Manager, and is responsible for determining that a sufficient unexpended appropriation remains in the department travel budget to reimburse all expected costs of travel. Overnight travel should be no longer than 4 nights per trip unless otherwise authorized by the County Manager.
- ii. Out-of-state travel requests by employees and Department Directors will be authorized by the County Manager in addition to the Department Director.
- iii. The Finance Director is responsible for determining whether funds are available to cover the estimated cost of the approved travel. Travel requests will be submitted a minimum of five (5) working days prior to travel on the Travel Authorization Form. Emergencies will be handled on a case-by-case basis. If a sufficient balance remains in the expenditure item, the estimated travel cost will be approved. If the remaining balance in the expenditure item is insufficient to cover the estimated cost of travel and other monies are not yet available, the authorizing party will be notified by the Finance Director. The Department Director is responsible for ensuring that adequate funds are available for travel.
- iv. Authorization of travel requests will be based upon need and cost/benefit of travel as determined by the authorizing party and funds availability.
- v. Employee travel within Pender County does not require written approval of the authorizing party. However, the authorizing party should be made aware of the travel plans and give verbal approval of the plans. Failure to notify the authorizing party of the travel plans will result in the requesting party receiving no reimbursement for travel costs.
- vi. Use of a County automobile must be approved, prior to use, by the Department Director. The traveler is responsible for securing the County vehicle from the County vehicle pool.
- vii. The County Manager must approve overnight travel for the County vehicle.

- viii. The use of a personally owned vehicle must be approved. After hours emergency use of a personally owned vehicle must be approved on the next working day after the travel occurs.
- ix. All travel which is reimbursed by Federal or State-funded programs must conform to the travel guidelines as set forth in Office of Management and Budget (OMB) Circular A-87 in addition to the County policy.

Arrangements, Accommodations, and Travel Allowances

- x. The authorizing party must approve all arrangements for travel. All travel costs, not paid in advance by the County, will be paid directly by the requesting party, and will not be billed to the County. The requesting party is encouraged to reserve transportation and lodging in advance when possible. Every effort should be made to stay within the estimated costs provided for authorization when making actual reservations and registrations.
- xi. The requesting party is encouraged to travel with other employees and officials of the County and representatives of other government units when possible. The requesting party will be reimbursed for actual costs incurred only subject to the limitations established herein.
- xii. **Travel Limitations:** Attendance at conventions and conferences will be limited to the requesting party authorized to attend the convention or conference. Attendance by additional parties, i.e. spouses, children, family members, friends, and pets must be authorized by the Department Director and County Manager and will be at the employee's own expense.

Section 3. Transportation

All necessary bus, train, and air transportation will be obtained at the most economical rate available. Reimbursements will be made for actual costs that are incurred and receipt supported. The cost of travel to and from the normal job location or the personal residence of the requesting party and the point of departure/arrival is a reimbursable cost based on the shortest distance of travel. This includes the cost of taxi service and parking fees, as long as receipts are submitted.

A. Vehicles:

- 1. **Personally Owned Vehicle (POV):** A requesting party may use his/her personal automobile for travel and be reimbursed at the current Internal Revenue Service approved mileage rate only if one of the following conditions are met:
 - A. No County automobile is available.

- B. The requesting party has a physical handicap that requires use of a specially equipped vehicle or has a physician's statement certifying that use of a personal vehicle is required.
- C. Convenience of departure location such as leaving your home to travel to a conference and/or training
- D. An after-hours emergency situation requires the travel.

Use of a personally owned vehicle should be approved five (5) working days in advance. Elective use of privately-owned vehicles (POV) will be reimbursed on a per-mile basis at the current IRS rate. The traveler must include beginning and ending odometer readings in order to be reimbursed for mileage or provide a MapQuest or other trip documentation of departure and arrival address with mileage. Reasonable mileage will be reimbursed for work-related travel only considering the starting and ending points as the traveler's normal business address. Personal trips must be deducted from the total mileage to be reimbursed.

2. County Funded Vehicles:

- A. **County Vehicles:** County automobiles may be used for any authorized travel. The requesting party must obey all laws of the jurisdiction in which the automobile is being operated. The automobile will be used for the purpose of conducting County business only. A minimal amount of personal use, such as driving the automobile to and from dinner, will be allowed. Non-County employees may accompany County employees if they have a business interest in the travel.
- B. **Rental Vehicles:** A rental automobile will be used when it is determined that no other mode of transportation is economical or practical. A rental automobile should be used for business purposes only. A minimal amount of personal use, such as driving to and from dinner, will be permitted. The use of a rental automobile must be approved in advance.
- C. **Local Transportation:** Local transportation costs (e.g. taxi fare) incurred while on out-of-town business will be reimbursed. The most economical and reasonable form of transportation will be used. Receipts must be obtained and submitted with travel reimbursement requests.

Section 4. Subsistence

A. **Lodging:**

1. Lodging will be reimbursed at the actual amount incurred. The traveler should seek out the lowest priced accommodations that will meet their needs. Employees sharing a room with a non-county individual (including family members) are responsible for all lodging expenses in excess of the single occupancy rate.
2. Itemized receipts for lodging costs must be submitted. The lodging rate is limited to the lowest available single room rate when an employee is traveling with his/her spouse and children.
3. Lodging expenses for locations that are within seventy-five (75) miles of the County seat must be approved in advance by the County Manager.

B. **Meals:**

1. Meals will be reimbursed at a rate not to exceed \$50.00 per day, \$25 per meal, including tips. Reasonable tips will be reimbursed as part of required meals and should range between 15% - 20% of the pre-taxed meal cost, tips in excess of 20% will not be reimbursed. Purchase of alcohol with county funds is strictly prohibited. Cash tips in exchange for alcohol is strictly prohibited. The purchase of grocery items in lieu of meals will be permitted but must be limited to food and beverage items to sustain the traveler for the length of the trip only. Items purchased in bulk will not be reimbursable, such as cases of beverages, etc.
2. Meals served, as part of a convention or conference, will be reimbursed only if they are charged separately from the registration fee. Documentation of actual cost must be attached to the statement of expenses when reimbursement is requested. The cost of meals included in the total registration fee for a convention or conference will not be reimbursed. The County Manager will handle exceptions to the meals' reimbursement policy that exceed the maximum amount allowed on a case-by-case basis.

C. **Lodging and Subsistence** will be reimbursed based on documented (paid itemized receipt) expenditure.

D. **Other Costs:**

1. Long-distance personal telephone calls are not reimbursable except in emergencies. Emergencies would include a significant change in travel plans. Phone calls for Official County business are reimbursable expenses. These calls must be supported by documentation of the circumstances for

the call(s).

2. Receipt supported registration fees for a conference or convention will be reimbursed provided the fee was approved on a Travel Authorization Form. Expenses and attendance at the convention or conference by the requesting party does not violate the specifications set forth within this policy.
3. No reimbursement is allowed for entertainment, snacks, drugs or alcoholic beverages. An exception is made in the case of small items purchased for a child while in protective custody of the County. This exception must be documented by reference to the applicable case number.

Departmental Social Functions and Meals

Pender County recognizes that Department Directors, Supervisors or employees may wish to arrange social functions on county premises during regular business hours to celebrate special events, such as baby showers, retirements, birthdays, holidays and other special occasions. It's encouraged that most celebrations celebrated during business hours, be held during regular lunch break times and if possible, limited to the normal time allowed for lunch. Prior to planning a social event within your department, employees should speak to their supervisor and/or Department Director and the County Manager to get approval for the event. These events cannot be funded with County funds unless they meet the conditions described below.

According to the IRS Taxable Fringe Benefit Guide for De Minimis Fringe Benefits, De Minimis Exclusion for Occasional Meal Reimbursements, "Regularly provided meal money does not qualify for the exclusion for de minimis fringe benefits provided by an employer." Occasional meal money can meet an exception and be excludable from taxes, if one of the following three (3) conditions are met:

1. Occasional Basis – Meal is reasonable in value, and is not provided regularly or frequently, and
2. Provided for Overtime Work – Overtime work necessitates an extension of the employee's normal work schedule, and
3. Enables Overtime Work – Provided to enable the employee to work overtime. Meals provided on the employer's premises that are consumed during the overtime period, or meal money expended for meals consumed during that period, satisfy this condition. Reg. § 1.132-6(d)(2)

Reimbursements or allowances provided to employees for meals in the course of entertaining customers may be tax-excludable if the expenses are ordinary and necessary and meet either a Directly Related Test or an Associated Entertainment Test.

1. Directly Related Test: the main purpose of the combined business and meal is the active conduct of business; business is actually conducted during the meal period and there is more than a general expectation of deriving income or some other specific business benefit at some future time.
2. Associated Entertainment Test: associated with the active conduct of the employer's business and directly before or after a substantial business discussion. There is a clear business reason for incurring the meal and the purpose may be to get new business or to encourage the continuation of an existing relationship.

The County Manager may make exceptions to the meals' reimbursement policy on a case-by-case basis.

Section 5. Reimbursement Procedures

A. Submitting Expense Reports:

A requesting party will complete a Travel Reimbursement Form, attach receipts for expenses requiring them, and submit it to the Finance Department complete with all required signatures and receipts no later than fourteen (14) working days after returning from travel.

Advances will be deducted from reimbursable costs. If the travel claim is not submitted within fourteen (14) days, a garnishment will be submitted to payroll. Cash reimbursements to the County should be given in exact change.

Reimbursements to the employee will be processed as part of typical finance accounts payable procedures.

1. A requesting party will complete a Travel Reimbursement Form in its entirety.
2. A requesting party submitting a falsified Travel Reimbursement Form will be subject to disciplinary action and criminal prosecution. An authorizing party or Finance Officer who approves a Travel Reimbursement Form that he or she knows to be false will be subject to disciplinary action or criminal prosecution (Ref. G.S. 159).

B. Approval and Processing of Reimbursement Requests:

1. Travel Reimbursement Forms will be fully completed, signed and submitted to the authorizing party for approval. After approval by the authorizing party, the original form(s) with its supporting documentation should be forwarded to the County Finance Department.

2. The Finance Officer will determine that Travel Reimbursement Form and/or Travel Authorization Form have been properly approved, that the information provided is mathematically correct, and that requested reimbursements are consistent with submitted receipts and are within the limits set by this policy. If an error in the reimbursement request is found, the requesting party will be informed, and the error will be corrected before payment is made.
3. Reimbursement requests will only be approved when accompanied by a Travel Authorization Form. The Travel Authorization Form is a narrative description of the purpose of the travel and the expected and achieved improvement in job performance as a result of the travel.

ARTICLE XXII – EMPLOYEE RECORDS AND REPORTS

Section 1. Employee Records Maintenance

The personnel records custodian shall be the County Manager, whose responsibility it is to maintain a personnel file for each County employee. The County Manager may designate an individual or individuals to act as Records Custodian. Unless determined otherwise by the County Manager and documented in writing, Human Resources shall serve as Records Custodian and shall maintain the proper records and documentation of personnel records as required by law. These records provide information needed to administer employee payroll and benefits; to comply with federal, state, and local laws and regulations; and to document employee performance. Other departments may keep some relevant personnel records, as long as copies of such personnel records are provided to Human Resources.

Human Resources will maintain employee files in accordance with North Carolina General Statute 121-5, which governs the retention of public records. Employees are responsible for supplying Human Resources with up-to-date information including home address, telephone number, change in marital status, change in the status of dependents, change in visa or citizenship status, and change in military reserve status.

Section 2. Access to Employee Records

Access to employee records is governed by North Carolina General Statutes 153A-98 and, which allows any person to have access to public information as defined in this section for the purpose of inspection, examination, and copying during the County's regular business hours, subject only to such rules and regulations for the safekeeping of public records as the County Board of Commissioners may adopt. Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

- A. **Public Information:** The following information on each County employee is public information:
1. Name.
 2. Age.
 3. Date of original employment or appointment to county service.
 4. The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the county has the written contract or a record of the oral contract in its possession.

5. Current position.
6. Title.
7. Current salary.
8. Date and amount of each increase or decrease in salary with the county.
9. Date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification with the county.
10. Date and general description of the reasons for each promotion with the county.
11. Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the county. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the county setting forth the specific acts or omissions that are the basis of the dismissal.
12. The office to which the employee is currently assigned.

B. **Access Process:** Access to such information shall be made by written application to the Records Custodian and is governed by the following provisions:

1. N.C.G.S. 132-6 Inspection and Examination of Records.
2. Any individual examining a personnel record may obtain copies of the information identified above.
3. If the Records Custodian determines the request for information is for public information, the Custodian shall provide such public information within five (5) working days.

Section 3. Confidential Information

A. All information contained in the County employee's personnel file, other than the information listed in Section 2 of this Article will be maintained as confidential in accordance with the requirements of North Carolina General Statute 153A-98 and will be open to inspection only in the following instances:

1. The employee or a duly authorized agent may examine all portions of his/her personnel file, except (1) letters of reference solicited prior to employment; and, (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
2. A licensed physician designated in writing by the employee may examine the employee's medical record.
3. A County employee having supervisory authority over the employee may examine all material in the employee's personnel file.
4. By order of a court of competent jurisdiction, any person may examine such portion of the employee's personnel file as it may be ordered by the court.
5. An official of an agency of the State or Federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of the personnel records to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability. However, such officials having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
6. An employee may sign a written notarized release, to be placed with his/her personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
7. The County Manager, with the concurrence of the County Board of Commissioners, may inform any person of the employment or non-employment, promotion, reassignment, demotion, suspension, or other disciplinary reasons for that personnel action. Before releasing the information, the County Manager will determine in writing that the release complies with applicable laws and is essential to maintaining public trust and confidence in the administration of services or to maintain the level and quality of County services. This written determination shall be retained in the office of the clerk and is a record available for public inspection and will become part of the employee's personnel file.
8. Even if considered part of an employee's file, the following information may be withheld from an employee:

- i. Testing or examination material used solely to determine qualification when disclosure would compromise testing procedures.
 - ii. Investigative reports concerning possible criminal actions against the employee until the investigation is completed.
 - iii. Information that might identify undercover officers or informers.
 - iv. Notes, preliminary drafts, and internal communications unless used for official personnel decisions.
- B. Only individuals contemplated by G.S. 153A-98 as referenced in this section shall have a standing to receive confidential personnel information. Such requests shall be made in writing by the individual having a standing and shall be made on a standard Pender County Disclosure of Confidential Information form, such form must contain the signature of the requesting party. The requesting party shall not disclose such confidential information. The custodian shall provide such information within five (5) working days.
- C. Any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, may be judged guilty of a misdemeanor and upon conviction be fined in an amount not to exceed \$500 pursuant to G.S. 153A-98(e).

Section 4. Records of Former Employees

The provisions for access to records are applicable to both current and former employees.

Section 5. Records of Applicants

Applications and other information gathered with respect to an applicant will be kept confidential in accordance with North Carolina General Statutes G.S. 153A-98. The County will not release this information without written permission from the applicant.

Section 6. Remedies for Employees Objecting to Material in File

An employee who objects to material in his or her file may place in the file a statement relating to the material being inaccurate or misleading.

Section 7. References

The County does not give references, other than as to employment and last salary, without the express written consent of the employee, which shall release and hold harmless the County from all liability. Only the County Manager, Department Directors, Human Resources Director or designee will provide employment references for current or former County employees.

Section 8. Destruction of Records

No public official may destroy, sell, loan or otherwise dispose of any public record, except in accordance with G.S. 121-5(B), without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys it, will be guilty of a misdemeanor conviction, will be fined not less than \$10 or more than \$500, as provided in G.S. 132-3.

ARTICLE XXIII – IMPLEMENTATION OF POLICIES

Section 1. Conflicting Policies Repealed

All prior policies, ordinances, or resolutions that conflict with the provisions of this personnel policy manual is hereby repealed.

Section 2. Severability

If any provision of these policies or any rule, regulation or order thereunder or the application of such provision to any person or circumstances is held invalid, the remainder of these policies and the application of such remaining provisions of these policies or such rules, regulations or orders to persons or circumstances other than those held invalid will not be affected thereby.

Section 3. Adoption by Resolution and Effective Date

These policies shall be adopted by resolution by the Pender County Board of Commissioners. The effective date of these policies will be designated in the adopted resolution.

Section 4. Administrative Modifications to Comply with Federal or State Changes in Labor and Employment Laws and Regulations

The County Manager may amend provisions of the Pender County Employee Personnel Policies manual where modification is necessary to remain in compliance with federal or state laws and regulations. All other modifications shall be made by resolution of the Pender County Board of Commissioners.

DEFINITIONS

- A. **Alcohol/Substance Abuse:** Consists of any use of illegal drugs or controlled prescription drugs obtained unlawfully; or excessive use of lawfully obtained prescription drugs or over-the-counter drugs or alcohol when such use substantially impairs job performance alters work behavior, and/or creates a risk to the health and/or safety of the employee or others.
- B. **Allocation:** The approval of a position by the appropriate authority based upon the needs of the County.
- C. **Applicant:** One who places himself or herself in competition for a vacant position by virtue of completing and submitting an application for employment regardless of employment status.
- D. **Authorized Absence:** An employee absence approved by the County after proper notification (reason for absence and estimated length of absence).
- E. **Benefit-Earning Status:** Regular employees who are regularly scheduled to work a minimum of forty (40) hours per week are eligible for at least a pro-rated portion of employer-provided benefits. Regular part-time employees who are regularly scheduled to work less than forty (40) hours per week may be eligible for a pro-rated portion of employer-provided benefits depending on their standard hour's classification. Temporary and seasonal employees are not eligible to receive County benefits.
- F. **Board of County Commissioners:** The local government unit charged with the legislative affairs of Pender County.
- G. **Break-in Service:** Any separation from employment with the County for any length of time whether by resignation, retirement, lay-off, disability, unauthorized absence or termination when the employee is subsequently re-employed by the County. An authorized leave without pay will not count as a break in service.
- H. **Classification:** A position or group of positions having similar duties and responsibilities and requiring similar qualifications that can be properly designated by one title indicative of the group of positions having similar ranking groups of classification based on internal comparisons and market surveys of relative duties and responsibilities.
- I. **Compensation Plan:** A plan to compensate employees either annually or hourly, formulated and recommended by the County Manager, and approved by the Board of Commissioners.

- J. **Compensatory Overtime:** Time earned at a rate of time and one-half by a non-exempt employee for hours worked in excess of 40 hours in a workweek or, in case of non-exempt law enforcement officers, in excess of 86 hours in a 14- day period.
- K. **Continuous Service:** The length of employment with the County, from the first date of employment continuing until the employee's separation from employment by retirement, resignation or termination of employment. A break in service ends a period of continuous service.
- L. **Cost of Living Adjustment (COLA):** An adjustment in pay that takes into consideration the impact of inflation on purchasing power.
- M. **Demotion:** Movement of an employee from one job class to another within the County, where the pay grade for the new position is lower than that of the former position. A demotion is typically the result of a disciplinary action.
- N. **Downgrade:** A change that results in a lower pay grade being assigned to the classification of a position based on changes in essential duties, responsibilities, reorganization, or market comparable positions. A downgrade is not a disciplinary action.
- O. **Drug:** A controlled substance as defined in NCGS 90-87(5) or a metabolite thereof. These substances include but are not limited to, marijuana, cocaine, heroin, prescription drugs, alcohol, opiates, amphetamines, and synthetically produced drugs or other impairing substances. Drugs, unless the context indicates otherwise, does not include non-controlled, over-the-counter drugs.
- P. **Exempt Employee:** An employee specifically exempt from the overtime compensation provisions of the Fair Labor Standards Act (FLSA) as defined and limited by administrative rules and regulations; these employees generally have as their primary duty management, administration, or work of a professional nature.
- Q. **FLSA:** Fair Labor Standards Act is a federal statute defining minimum wage and overtime compensation and classifying positions as exempt or non-exempt.
- R. **FMLA:** The Federal Family Medical Leave Act of 1993, with amendments.
- S. **Full-time Equivalent (FTE):** The number of hours worked per annum in relationship to a full-time position. The County uses 2,080 hours to calculate FTE.
- T. **Hostile Work Environment:** A work environment that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive.

- U. **Immediate Family:** Unless otherwise specified, immediate family means spouse, mother, father, guardian, child/ren, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law and adopted relationships that can be derived from these named.
- V. **Merit Increase:** An increase in pay as determined by the applicable compensation plan, based upon performance criteria and market salary comparisons.
- W. **Merit Principle:** A systematic and uniform method of personnel administration designed to provide objective recruitment, employment, retention, and promotion of those persons best qualified, all other factors excluded.
- X. **Non-exempt Employee:** An employee who is entitled to minimum wage and overtime compensation pursuant to the Fair Labor Standards Act.
- Y. **Overtime:** Work performed at the express authorization of the County in excess of forty (40) hours in a seven (7) day period as defined by the Fair Labor Standards Act. Unauthorized work is subject to overtime compensation but may result in disciplinary action to the employee.
- Z. **Pay Grade:** A level within the compensation plan into which job classes with similar job evaluation factors are placed for compensation purposes. Pay grades have a minimum rate, a midpoint rate, and a maximum rate.
- AA. **Position:** A group of duties and responsibilities assigned to a department, based upon the needs of the County that may be performed by one or more employees, not to exceed the full-time equivalent (FTE) of the position annually budgeted.
- BB. **Promotion:** Movement of an employee from one job class or position to another within the County, where the pay grade for the new position is higher than that of the former position.
- CC. **Quid Pro Quo:** Harassment that consists of unwelcome sexual advances, requests for sexual favors, or other verbal, visual, written or physical conduct of a sexual nature when the employee is told or threatened, expressed or implied, that submission to the conduct will influence any personnel decision.
- DD. **Reclassification:** A change in a position from one class to another based on changes in job content such as essential duties, difficulty, required knowledge, skills, or abilities, responsibility of the work performed, reorganization, or market considerations.
- EE. **Reduction in Force (RIF):** The abolishment of or reduction of a position or some portion of a position based on the needs of the organization, workload, and availability of funding.

- FF. **Reorganization:** Due to changes in the organizational needs of the department, the duties and responsibilities or technological requirements of a position may be reclassified, and a position may be abolished in full or in part, or created according to County policy.
- GG. **Resignation:** Voluntary separation of employment from the County initiated by the employee.
- HH. **Reasonable Suspicion:** The belief that an employee or applicant is probably using or has recently used drugs or alcohol in violation of the County's policy. This belief shall be based upon specific, objective facts and reasonable inferences.
- II. **Retaliation:** Adverse treatment which occurs because of opposition to unlawful workplace harassment.
- JJ. **Salary Range:** A minimum rate of pay to a maximum rate of pay assigned to a pay grade within the Compensation Plan.
- KK. **Termination:** An involuntary separation of an individual's employment initiated by the County.
- LL. **Time-Limited Appointment:** A permanent or part-time appointment which is approved for a specific period of time not to exceed 2 years. Time-limited appointments are made but are not limited to, filling vacancies due to an incumbent's leave of absence, in response to unusual workload demands, vacancies in the workforce, or specific to position funding such as grants which expire after a specified time.
- MM. **Trainee:** An employee designated as such, appointed to a position in any class for which the County Manager, Department Directors, and Director of Human Resources has authorized "trainee" appointments. An individual may not be appointed as a trainee if he/she possesses the acceptable training, education and experience for the regular class, and must be appointed to the regular class when he/she gains the acceptable training, education and experience.
- NN. **Transfer:** Movement of an employee from one job class to another within the County where the pay grade remains the same as the former position.
- OO. **Unauthorized Absence:** Any absence during a scheduled work period without authorization from the employee's supervisor or when an employee does not follow established policies and procedures for an absence.

- PP. **Unlawful Workplace Harassment:** Unwelcome and unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color or disability that creates a hostile work environment or upon a quid pro quo.
- QQ. **Upgrade:** A change that results in a higher grade being assigned to a position with the same job responsibilities.
- RR. **Voluntary Reassignment:** A voluntary reassignment is a change in employment to a position in a lower or in the same pay grade that is mutually agreed to by the employee and the employer.
- SS. **Work-against Appointment:** When qualified applicants are unavailable, and there is no training provision for the classification of the vacancy, the County may appoint an employee who does not meet the minimum requirements of the position to a pay grade that is below the pay grade of the regular classification in a work-against appointment. A work-against appointment allows the employee to gain the qualifications needed for the regular job class through on- the-job experience. To advance to the pay grade of the regular job class, the appointee must meet the minimum education and experience requirements of the job class.