



## Personnel Management Plan Culpeper County, Virginia

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## SECTION I. INTRODUCTION

### I. Purpose

The following personnel policies have been prepared and established for the information and guidance of the County Administrator, the Department of Human Resources, County employees, the County Attorney, and other interested persons. It is the intention of the Board of Supervisors that an orderly system of personnel administration be provided, which aids in the achievement of better public service for Culpeper County.

The administration and enforcement of the Personnel Management Plan is the responsibility of the County Administrator. The County Attorney shall provide legal support to the County Administrator with regard to matters of employment law.

The personnel policies articulated in this Personnel Management Plan (hereinafter may be referred to as "PMP") are developed and adopted to provide for the recruitment, development, and retention of the best available employee for each position. The principles herein are established to ensure that:

1. Employment with the County shall be made attractive as a career.
2. Appointments and promotions shall be on the basis of merit and fitness, which, as far as is practicable, shall be determined by means of job-related, fair, and competitive standards.
3. The Pay and Classification Plan will be conducted and managed in accordance with all federal and state wage and hour laws and attendant regulations.
4. Each employee subject to the PMP shall be encouraged to render their best service by providing a merit plan of employee evaluation and compensation.
5. Each employee subject to the PMP will be knowledgeable as to the standards of conduct and performance expected for success in their position.
6. Each employee will receive fair and equitable treatment in accordance with all state and federal employment laws, including but not limited to, the Fair Labor Standards Act (FLSA), the Age Discrimination in Employment Act of 1967 (ADEA), Title VII of the Civil Rights Act of 1964, the Pregnancy Discrimination Act (PDA), the Civil Rights Act of 1991, the Americans with Disabilities Act of 1991 (ADA), ADA Amendments Act of 2008 (ADAA), the Family and Medical Leave Act of 1993 (FMLA), all as last amended, supplemented, or implemented.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### II. Scope

Generally, the PMP applies to all regular full-time, part-time, and probationary employees of the County, or as otherwise expressly indicated herein, or pursuant to a Memorandum of Understanding (MOU). Employees of Constitutional Officers and other separate and distinct legal entities and/or divisions of government may be covered by the PMP if there is a written mutual agreement, commonly referred to as an MOU, between a Constitutional Officer or other division of government, and the Board of Supervisors, or as otherwise expressly indicated herein. With the adoption of the Unified Pay and Classification Plan, the employees of the Constitutional Officers participate in the procedures associated with it as described in Exhibit "A", Unified County Pay and Classification Plan.



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Individuals and/or positions within the County organization generally exempt from the Personnel Management Plan, or to whom and which it does not apply, except to the extent as may be explicitly provided herein and/or agreed upon by contract or an MOU, if any, shall include the following:

1. All elected County officials.
2. Members of County boards and commissions.
3. Volunteer personnel and personnel who serve without pay.
4. Contract consultants and non-employees rendering professional services.
5. Positions involving seasonal and/or temporary employment, except as otherwise expressly provided herein. For example, election officials are exempt.
6. Positions having a direct, contractual arrangement with the Board of Supervisors, except as provided in the specific contractual arrangement, including but not limited to the County Administrator and the County Attorney.
7. Employees under the purview of the Culpeper Library Board.
8. Student interns and work-study employees of the County; and
9. Such other positions as may be designated by the Culpeper County Board of Supervisors.

Separate and distinct legal entities from the County and their employees are not subject to the Personnel Management Plan, except to the extent as may be agreed upon by written contract or MOU. Some of the separate and distinct legal entities which are not subject to the PMP, unless specifically provided for pursuant to a written contract or MOU are, as follows: the Sheriff, Commissioner of Revenue, Treasurer, Clerk of the Circuit Court, Commonwealth's Attorney, Culpeper Human Services, Culpeper County Schools, and Culpeper County School Board.

### **III. Interpretation and Legal Advice**

The County Administrator is authorized to make any necessary interpretations and clarifications of these policies. They may also issue administrative regulations, directives, or supplement the Appendix with working/operating forms not inconsistent with these policies. The County Attorney shall provide legal advice in response to legal questions concerning the policies articulated herein.

### **IV. Smoke/Vape Free Policy**

All owned or leased County buildings and vehicles shall be smoke-free. Vaping is also prohibited therein. The County Administrator may designate outside smoking/vaping areas regarding County buildings and property.

## V. Definitions

1. *Administrative Leave (two types).*

Administrative Leave with pay: An employee's absence from the job with pay, which is not charged to annual leave. Administrative leave with pay may be utilized in a number of instances but is most commonly utilized as a means of removing an employee from the workplace during the pendency of a work-related investigation.

Administrative Leave without pay: An employee's absence from the job without pay. Administrative Leave without pay may be utilized in a number of instances but is most commonly utilized as a means of allowing an employee to remain employed,

who has exhausted all paid leave options (including annual leave, short-term disability, etc.) during the pendency of a temporary absence from the workplace for protected and/or permissible medical leave and/or as other special circumstances may justify. Administrative leave without pay is not to be confused with Suspension. Please see the below.

2. *Administrative Termination.* Employees who are hired by appointing authorities to fill positions that are later not funded by the Board.

3. *Amended Position Description.* In classifying an Amended Position Description (i.e., changes to existing position description), these represent those positions in which the position's essential functions have not been significantly changed in either type or degree, as identified in their Position Descriptions.

4. *Anniversary Date.* Anniversary date shall be the first date of employment with the County.

5. *Authorized Closing.* An authorized closing is when County operations are suspended officially, as determined by the County Administrator. An authorized closing may be for a business day, a portion of a business day, an entire shift, or for a partial shift, such as in the case of late openings or early closings, as directed by the County Administrator. Authorized closings are reported on the inclement weather line, 540-727-3444, option 9. Employees may also request to be notified via the RAVE Alert system.

6. *Base Index Adjustment (BIA).* A percentage based on a rolling 24-month average of the Consumer Price Index (CPI), as of the month of December in each year. The BIA will be applied to the grade midpoint of the salary structure each year and will be granted to all employees who meet acceptable standards of the position

7. *Classification Scale.* The grouping of positions. Considerations with regard to classification grouping include: (a) kinds of duties performed and responsibilities; (b) level of duties performed; (c) requirements as to education, knowledge and experience, and abilities; and (d) other indicators of performance.

8. *Compensatory (Comp) Time.* Type of work schedule arrangement that allows limited non-exempt public safety employees only to take time off instead of receiving overtime pay. See the Virginia Overtime Wage Act.

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9. *Counseling.* A discussion between or writing in which the Department Head or designee discusses with the employee deficient or unsatisfactory performance, in order to correct the performance. Counseling is an informal action.

10. *County Property* – Any tangible or intangible item that the County has ownership and/or over which it exercises control.

11. *Demotion.* An employee's movement from one position to another that is at least one grade lower or a reduction in the pay grade of an employee in conjunction with a change in position duties and responsibilities. When an employee is reduced to a lower pay grade, the step within the new pay grade shall be determined by the County Administrator.

12. *Disciplinary Action.* A formal action taken in response to an employee's improper behavior and/or violation of the Standards of Conduct.

13. *Documentation Pages.* A form used to thoroughly document the types of acceptable and unacceptable behaviors and/or work performance that are listed in the performance indicator section of the performance evaluation form.

14. *Essential Employee.* An employee, designated by the County Administrator, who shall be required to work any given hours during an authorized closing.

Essential employee positions generally include General Properties (Building Maintenance) staff; Transfer Station Gate Attendant and Convenience Site Attendants for the Laurel Valley site; Emergency Medical Technicians/Firefighters; Animal Shelter caretakers for feeding and cleaning duties only; E911 Emergency Communications Center employees (dispatchers); and any other positions deemed essential by the County Administrator, as they may add to the list.

15. *Exempt employee.* An employee who, because of his qualifications, duties, and responsibilities, and level of decision-making authority is not entitled to overtime compensation or compensatory leave under the provisions of the Fair Labor Standards Act (FLSA).

16. *Extended family.* Shall be defined as aunts, uncles, nieces, nephews and cousins.

17. *Full Time Employee.* Any employee who is generally scheduled to work at least 2,080 hours in 12 consecutive months or (40) hours in a week, unless a different time is required or authorized by federal or Virginia law regulations. Full time employees are eligible for all County benefit programs.

18. *Grading Scale.* Positions are assigned to grades listed in the salary structure containing salary ranges expressed in terms of minimum, midpoint, and maximum salaries.

19. *Hours Worked.* All time spent in physical or mental exertion authorized and required by the employer. Such time includes assigned work as well as work that an employee is authorized and permitted or required by the employer to perform. Employees shall be compensated for all authorized hours worked, unless such time performed is *de minimis*

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(meaning seven minutes or less) or in small amounts which are administratively difficult to record.

20. *Immediate family.* Shall be defined as the employee's spouse, children, including stepchildren and foster children; parents, including step-parents; parents-in-law; grandparents; grandparents-in-law; sons-in-law; daughters-in-law; grandchildren; brothers, including stepbrothers; brothers-in-law; sisters, including stepsisters; sisters-in-law; and any relative either by blood or marriage living in the employee's household.

21. *New Position.* In classifying positions, newly created positions represent those:  
a. Which did not previously exist; or  
b. Which the essential functions of an existing position have been significantly changed in type or degree, as identified in their position descriptions.

22. *Non-Essential Employee.* An employee who is not required or expected to work during an authorized closing. Non-essential employees may become essential employees and should be notified of any such change in status as soon as practicable by the County Administrator and/or their designee.

23. *Non-exempt employee.* An employee who is subject to all provisions of the Fair Labor Standards Act (FLSA) and must be paid compensation for overtime at the rate of time and one-half for hours worked in excess of 40 hours in any given week, unless working under another schedule authorized by the FLSA.

24. *Normal Starting Salary.* A candidate for hire may be offered a starting salary up to the midpoint but no less than the minimum of the pay range for the position. All offers shall be based on the candidate's knowledge and experience as indicated and verified through the selection process. Potential starting salary above midpoint must be approved by the County Administrator.

25. *Official Personnel File.* The employment file containing personal information relevant to the individual's employment, which is maintained and housed in the Human Resources Department, is the Official Personnel File. Consistent with federal and state law, including but not limited to HIPPA, a separate file is maintained for medical information and documents concerning an identifiable employee.

26. *Overtime.* Hours worked beyond the normally applicable hours of the standard work week which are compensated, by payment to the employee or as may be designated as compensatory time (for limited public safety employees only), usually at the rate of one and one-half times an employee's regular rate of pay pursuant to the FLSA, unless the FLSA authorizes otherwise. See also the Virginia Overtime Wage Act.

27. *Part Time Employee.* Any employee who is assigned to a workday of less than eight (8) hours or a work week of less than forty (40) hours, unless otherwise required by Virginia or federal law. Regular part time employees may be eligible for non-County paid benefit programs, as may be required by law or permitted by the County.

28. *Performance Evaluation.* A form is used to assess the employee's performance of the requirements of the position listed in the position description. Salary increases are tied to overall performance levels, as determined by the performance evaluation.

29. *Performance Improvement Plan.* A written plan of action composed to improve employee deficient performance based on attitude or inability to perform according to the Standards of Conduct and/or Position Description (or Amended Position Description).

30. *Position Analysis Questionnaire* This document, herein referred to as the PAQ, is a form on which the essential functions, secondary ("marginal") functions, percentages of time

involved in performing these functions, frequency of performing the functions and other information are delineated in specific detail. These documents are used to evaluate each position within the salary structure, including the location within the salary range, based on compensable factors. The PAQ is also used to create the position description (or amended position description) itself.

31. *Position Description* This document is used to list the essential and secondary ("marginal") functions of a particular position, its minimum requirements in terms of education, experience and other knowledge, skills and abilities, as well as other indicators of performance. It describes the physical and mental traits necessary for performing the position at its fully proficient level. The description is a dynamic document, requiring alteration as functions are added and deleted.

32. *Probationary Employee.* An individual who is in the initial employment probationary period for the position in which they are assigned.

33. *Pre-Approved Leave.* Leave which has been *previously authorized in writing prior to the commencement of the absence*, whether for vacation or medical purposes.

34. *Probationary Period.* The initial employment period of time during which an employee is carefully supervised to see if the new employee is compatible with the job. All applicants that are hired, transferred, or promoted in a full or part time position shall serve, at least a six-month probationary period. The probationary period may begin on the date of hire, once training has been completed, or as stated in the offer letter, but must be completed within the first year of employment for new hires. New hire probationary employees do not have grievance rights under the PMP.

35. *Promotion.* Employee's movement from one position to another that is at least one grade higher because of the employee's knowledge, skills and abilities, and business needs. When an employee is promoted, their salary shall be increased to the minimum for the assigned grade, or up to the midpoint for the assigned grade, unless otherwise approved by the County Administrator.

36. *"QUILS" Awards.* A one-time, lump sum award granted to employees for *Quality, Innovation, Leadership, and Savings*. The award is not to exceed 10% of the employee's salary, and nominations for QUILS must be approved by the Board of Supervisors Personnel Committee.

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37. *Reclassification.* An evaluation of the duties and responsibilities of a position to determine the appropriateness of the present grade which results in a change of classification. Reclassification will only be considered if additional duties have been added to or removed from an existing position.

38. *Re-employment.* The status of an employee returning to County employment following a separation from County employment of more than thirty (30) consecutive calendar days. The re-employed employee's starting salary and a new anniversary date shall be determined according to the provisions of the Unified Pay and Classification Plan. Only time earned following actual reemployment is counted toward the probationary period, annual leave, or most other longevity-based County employee conditions or benefits.

39. *Regular Employee.* This term refers to the status of an employee having successfully completed their probationary period. The employee does not have a set duration for the employment relationship, but instead is assigned to a regular, ongoing position included in the County's complement of positions.

40. *Reinstatement.* The status of an employee returning to County employment within thirty (30) calendar days from the date of separation. The reinstated employee's anniversary date remains the same, and all time earned prior to reinstatement shall be counted towards annual leave, etc., with actual time missed being deducted from leave accrual.

41. *Resignation.* Voluntary separation from employment through written notification initiated by the employee to the employing department. Written notification shall indicate the actual date the resignation is to become effective and shall be signed by the employee.

42. *Retaliation.* Overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or group exercising rights under this policy.

43. *Retirement.* The separation of a full-time employee who is qualified and scheduled to begin receiving retirement benefits.

44. *Separation.* The severance of the employment relationship between the County and an employee. This severance occurs through resignation, retirement, termination, lay-off, permanent disability or death.

45. *Standards of Conduct.* Examples of behavior that is considered acceptable and unacceptable in and out the workplace.

46. *Suspension.* An employee's absence from work, without pay, that a department imposes as a part of a disciplinary action and/or to remove the employee from the workplace pending (a) an investigation related to their conduct, or (b) a court action based upon the employee's conduct that violates the standards of conduct set forth in section VIII, Standards of Conduct in the Personnel Management Plan.

47. *Temporary Employee.* This term refers to an individual whose term of employment is for a fixed period of time – usually limited to a year or less. Frequently, these employees

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are in positions that are not included in the County's complement of positions and are not eligible to participate in County benefit programs.

48. *Termination.* An involuntary separation from employment initiated by the employing department or the appropriate authority under the Personnel Management Plan or applicable law as a result of the employee's unsatisfactory work performance or misconduct.

49. *Third Parties.* Individuals who are not County employees, but who may have business interactions with the County and its employees. Such individuals include, but are not limited to customers, vendors, contractors, and volunteers.

50. *Transfers.* Employees' movement from one position to another in the same salary grade. Generally, transfers do not affect salary or anniversary date.

51. *Written Notice of Disciplinary Action Form.* A form used to provide formal written documentation to the employee from the supervisor wherein the employee is advised and cautioned with reference to misconduct and/or unsatisfactory performance.



# Personnel Management Plan Culpeper County, Virginia



## SECTION II: RECRUITMENT & SELECTION

### I. Purpose

The County of Culpeper is committed to employing, in its judgment, the best-qualified candidates for approved positions while engaging in recruitment and selection practices that are in compliance with all applicable employment laws.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### II. Scope

This policy applies to all County employees.

### III. Procedures

#### A. Equal Opportunity Employer

1. The County of Culpeper is an Equal Opportunity Employer (EOE). All applicants for employment will be considered without regard to race, sex, creed, religion, national origin, age, disability, veteran status, or other protected status. See also the County's EEOP at Appendix Form CC 28.

#### B. Employment At Will

1. All County employees are considered employees-at-will, under Virginia law and this policy.
2. In the event of voluntary resignation and separation from employment, employees are requested to provide the County at least two (2) weeks' advance notice.
3. During the initial probationary period (including during any period for which initial probation has been extended herein under Section II, Recruitment and Selection, subdivision H, Probationary Period, subpara. (3)(b)), an employee has no grievance rights under the Personnel Management Plan. Thereafter, only eligible employees may exercise grievance rights under Section X of the Personnel Management Plan.

#### C. Authority to Hire

1. The Board of Supervisors under Virginia law is granted the authority to make appointments for all positions covered by these policies. However, the Board hereby delegates this authority and responsibility to the County Administrator for all positions other than as required by law. The County Administrator, accordingly, may delegate hiring authority to Department Heads for available positions within their respective departments.
2. **Informational Note Only:** Each Constitutional Officer has the authority to hire for positions in their charge (provided that funding has been approved) as Constitutional Officers and their offices are separate and distinct legal entities from the County.

D. Recruitment

1. The Department Head or designee shall notify the Human Resources Department when a position becomes vacant and is to be filled. It is the responsibility of the Department Head to ensure that the position description accurately reflects the essential functions of the position before recruitment begins.
2. Department Heads or designees must choose to utilize one of the following recruitment options when filling a vacancy. The option chosen would be based on a variety of factors such as the availability of qualified applicants.
  - a) *Internal recruitment* – only regular, current employees may apply
  - b) *External recruitment* – only the general public may apply
  - c) *Internal and External recruitment* – enables the general public and regular, current employees to apply
3. Vacancy announcements shall be created by the Human Resources Department with the assistance of the Department Head to reflect a summary of the position's duties, minimum qualifications, special requirements, and any other necessary, lawful information.
4. Vacancy announcements shall be posted for a minimum of five (5) consecutive workdays. Department Heads may choose to utilize the following posting options based on the availability of qualified applicants, the number of positions to be filled, and department needs.
  - a) *Fixed recruitment period* – announcements are posted for a fixed period of time. All applications submitted before the closing date shall be considered and any applications received after the closing date shall not be considered. A closing date must be specified.
  - b) *Open until filled recruitment* – announcements are posted for an open period of time but no less than the required five (5) workdays. All applications shall be accepted and reviewed until the position is filled.
  - c) *Continuous recruitment* – announcements are posted continuously whether or not a vacancy is available due to high turnover within a department, difficulty in attracting qualified candidates, etc. Continuous recruitment may be terminated at any time, but all applications shall be considered based on the vacancy occurrence and application submittal.
5. For internal and external recruitment, and other job announcements, the County utilizes a third-party web provider, which may be accessed from the Human Resources webpage on the County's website. All applications will be submitted through this system.
6. Other recruitment sources such as local newspapers, job specific websites, County circulars, etc. may also be used to recruit candidates.
  - a) Departments must notify Human Resources of their desire to use other sources, and if a fee is required for posting, the department will pay the fee.

7. If initial recruitment does not result in an adequate applicant pool, Department Heads may reopen recruitment, as necessary, after consultation with Human Resources.

*Deviation from this policy for any type of recruitment requires the approval of the Human Resources Director and/or County Administrator, as is appropriate.*

**E. Selection**

1. All applications shall be reviewed by the Human Resources Department and/or Department Head or designee. The County of Culpeper may accept resumes in addition to an application form, if received by the closing date.
  - a) An initial telephone conversation with applicant(s) may be had to clarify qualifications and expectations of the job. It is recommended that initial telephone discussions take place with the Human Resources Department, and not with the Department Head directly.
2. All candidates who meet the position's minimum qualifications shall then be reviewed based on the individual's knowledge, experience, and skills.
3. At least the topmost qualified candidates shall be interviewed for the position. No person shall be hired without being interviewed for the position.
4. A set of interview questions shall be developed and asked of each applicant during the formal interview process. Questions shall seek relevant information related to the essential functions, minimum qualifications, behavior, etc. required to perform the job, and shall not violate equal employment opportunity standards.
  - a) All baseline questions must be reviewed and approved by Human Resources.
5. Formal interviews may be conducted by the Department Head or designee(s). Any members participating in the interview process shall:
  - a) Be familiar with the essential functions of the position.
  - b) Receive appropriate training, instruction, or guidance on lawful interviewing practices and candidate recommendation and selection before participating;
  - c) Hold confidential all information related to the interviewed applicants' selections, and recommendations.
6. Interviewers shall document each applicant's responses to interview questions to assist with the interviewer's evaluation of each candidate's qualifications. The candidate who exhibits more strength in the most important areas of the position shall be offered the job first.
7. All individuals, if selected for a position, including new hires, and employees who are transferred, demoted, or promoted to a new position, shall sign an acceptance letter outlining employment expectations, which shall be placed in their personnel files.
8. An employee may be required to sign, as a condition of employment, a contract to reimburse expenses related to County paid sponsored training and/or County issued property, if an employee leaves employment before completing a reasonable period

of service as described in the reimbursement contract. In the event that separation, voluntary or involuntary, occurs prior to satisfactory completion of the contract period, the employee:

- a) Shall authorize the County to withhold the reimbursement amount owed from the employee's final paycheck as allowable under federal and state law; and
- b) Shall be personally liable for any remaining balance that is or cannot be deducted from the employee's final paycheck until the entire amount owed is paid in full.

*Deviation from this policy for any type of recruitment or selection requires the approval of the Human Resources Director and/or County Administrator, as is appropriate.*

**F. Background Checks**

*Prior to employment, the County of Culpeper may require an applicant consent to the performance of various background checks based on the functions of the position for which an applicant applies. The results of a criminal background check may be considered in the hiring process given its relation to the relevant position, as permitted by law. The following is not to be deemed as all inclusive:*

1. The Department Head or designee shall check references of the applicant who is the final candidate for the position, and should attempt to obtain the following information:
  - a) Names and titles of the persons giving references
  - b) Verification of former employment dates, and position title and duties
  - c) Verification of beginning and ending salaries
  - d) Applicants rehire status
  - e) Verification of any licenses, certifications, and/or degrees the applicant claims to possess
2. The following criteria shall be used for conducting background checks:
  - a) Criminal history background checks shall be performed for every position.
  - a) Driving Records checks shall be performed for every position where driving is an essential function of its duties or any position that could potentially drive a County or personal vehicle for County business.
  - b) Child Protective Services and Sex Offender Registry checks shall be performed for positions that directly work with youth under the age of eighteen (18) or other at-risk individuals, as may be required and/or permitted under law; and
  - c) Other lawfully permitted background checks may be performed based on the essential functions of the position.
3. Employees applying for a transfer, promotion, and/or demotion shall be subject to background checks, as deemed lawful and appropriate for the vacant position.
4. All information obtained during background checks shall be documented and retained in an appropriate file consistent with the laws on confidentiality and document retention.

G. E-Verify

The County of Culpeper participates in E-Verify. E-Verify, as authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), is a web-based system through which employers electronically may confirm the employment eligibility of their employees.

All new hires must complete the Form I-9 and have the information submitted to the E-Verify system, as a condition of employment. New hires may choose documents for use in completing Form I-9; however, as a participant in E-Verify, the County must obtain the requisite documents and information which appear on the Form I-9, which shall contain a photo, except to the extent limited or excused by law. The Human Resources Department retains copies of I-9's and accompanying documentation, as permitted by and consistent with law.

H. Probationary Period

All, new hires, transferred, demoted, or promoted employees, when hired in a regular part or full-time position, shall serve at least a six-month probationary period, and performance shall be reviewed no later than two weeks before the end of the probationary period.

1. The probationary period may begin on the date of hire, once training has been completed, or as stated in the offer letter, but must be completed within the first year of employment, except to the extent as articulated immediately below in subpara. (3).
2. If, at any time during the probationary period, there are any concerns about the employee's capability or willingness to perform satisfactorily:
  - a) A Performance Improvement Plan (PIP) may be developed to outline areas of improvement;
  - b) The probationary period may be extended to a maximum of an additional active six (6) months; or
  - c) The at-will employment relationship may be terminated at any time with or without cause.
3. During initial training and in the initial probationary period, an employee enjoys no grievance rights under the Personnel Management Plan.

I. Normal Starting Salary

1. The starting salary shall be based on the individual's knowledge, experience, and skills.
2. All starting salaries shall be no less than the minimum and should not exceed the mid-point of the position's pay scale in order to provide sufficient opportunity for future growth.

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First Quartile of Pay Scale	Second Quartile of Pay Scale (up to midpoint)	Third Quartile of Pay Scale	Fourth Quartile of Pay Scale
Individual Meets the Minimum Requirements of the Position.	Individual Exceeds the Minimum Requirements of the Position by Offering Additional Experience, Knowledge or Skill Levels.	Individual is an Expert in All Criteria of the Job and has Broad Knowledge of Related Areas.	Shall not be offered

3. A Department Head or designee may request that the starting salary exceed the midpoint of the position if they feel that the candidate is an expert in all criteria of the job. All written requests must be accompanied with justification for the starting pay, as well as identification of the source of funding for the proposed adjustment to the Director of Human Resources.
4. The proposed salary information will be forwarded to the County Administrator for approval.
5. Once approval has been obtained, the Director of Human Resources will advise the Department Head or designee of this determination

**J. Benefits**

1. Only part- and full-time employees may participate in County benefit programs.
  - a) Regular full-time employees generally are eligible for all County benefit programs;
  - b) Regular part-time employees, who consistently work between twenty (20) and twenty-nine (29) hours per week, may be eligible for non-County paid/contributed benefit programs, including non-County paid/contributed health insurance benefits.
  - c) Regular part-time employees, who consistently work more than twenty- nine (29) hours per week, may also be eligible for non-County paid benefit programs, but these part-time employees may also be eligible for County contributed health insurance benefits consistent with the mandates of current federal law.
2. Normally the effective date of benefits shall be the first day of the month following the date of eligibility. The effective date of benefits may be different based on the situation. For example, a new hire’s benefits shall begin the first day of the month following the date of hire but the effective date of enrolling a newborn shall be the day the child is born.
3. Employees may make changes to the benefits listed below only during open enrollment or in the instance of a qualifying event or family status change, as specifically articulated within the benefits manual and documents.

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- a) Employees have 30 calendar days from the date of the aforementioned qualifying event/family status change to contact HR to make changes to their benefit(s).
- b) Other benefit(s) not listed below may be changed at any time throughout the year

<i>Medical Insurance</i>	<i>Dental Insurance</i>
<i>Voluntary Insurance</i>	<i>Flexible Spending Accounts</i>
<i>Health Savings Account</i>	

- 4. Normally benefits will terminate and be cancelled on the last day of the month following the change/separation.
- 5. Employees who retire through the Virginia Retirement System (VRS) and who have at least five (5) years of continuous service with the County are eligible to remain on the County's health, dental, and vision insurance plan, including their dependents and other household members in continuity of coverage, until such time the retiree becomes Medicare eligible.

An employee who retires through VRS due to a line of duty injury is eligible to remain on the County's health, dental, and vision insurance, including their dependents and other household members in continuity of coverage, until the retiree becomes Medicare eligible regardless of their tenure with the County.

Part-time employees who retire (consistent with the parameters established by the Social Security Administration) and who have at least five (5) years of continuance service with the County are eligible to remain on the County's health, dental, and vision insurance plan, including their dependents and other household members in continuity of coverage, until such time the retiree becomes Medicare eligible.

Any retired employee, eligible to remain on the County's insurance, as discussed above, who subsequently terminates coverage under the County's health, dental, and/or vision insurance plan, shall not be permitted respectively to re-enroll.

- 6. Uniforms: Depending upon the Department into which an employee is hired, an employee may be required to wear uniforms. In these cases, employees will be given uniforms at the expense of the County. Employees are required to clean and care for such uniforms. Employees may from time to time, as is reasonable request new uniforms. At the end of employment, uniforms should be turned into the Department Head, as is reasonably directed by the Department Head. All uniforms rented by the County from a third-party vendor shall be requested to be returned by the Department Head and returned by the employee. In the event there are uniforms that are directed to be returned that are not returned by the employee, they may have the value of the uniforms reported as income to the employee to the IRS and applicable taxes withheld consistent with federal law. Further, County employees shall only wear County uniforms for carrying out County business (uniforms are not for personal attire) and/or as may be otherwise approved by the Department Head.

K. Nepotism

1. No employee shall hire, supervise, or otherwise have control or influence over work activities or salary matters for a person with whom they have a significant personal relationship. For purposes of the Personnel Management Plan, "significant personal relationship" is defined as a parent, child, spouse, sibling, cohabitating, and/or sexual partner, or anyone else whom the employee dates, or with whom the employee has a romantic relationship.

L. Recordkeeping

1. All records related to a position's recruitment and selection process shall be forwarded to Human Resources to be maintained confidentially and consistently with the Virginia Public Records Act and all other applicable state and federal laws.
2. Applicants shall have access to documents related to the recruitment and selection process consistent with any legal requirement of the Virginia Freedom of Information Act and other applicable state and federal laws.
3. Requests for Personnel Information by Outside Sources.
  - a) All requests made by outside sources for information pertaining to verification of employment for current and previous employees shall be forwarded to and answered by the Human Resources Department.
  - b) The Human Resources Department shall verify employment and release information pertaining only to dates of service, position held, and final or current salary for persons who are currently or no longer employed with the County.
  - c) Additional information may be released by the County as authorized by the current or former employee on the appropriate form or as indicated on the Interagency Employee Departure Information Form, or as otherwise may be required by law.





# Personnel Management Plan Culpeper County, Virginia

## SECTION III: UNIFIED PAY & CLASSIFICATION SYSTEM

### A. POLICY STATEMENT

The Board of Supervisors has long recognized that it can best accomplish its goals and objectives with employees that are paid fairly and treated appropriately. The Board finds that the matters described herein are important and shall be used as guidelines for the ongoing administration of Culpeper County's Unified Pay and Classification System. However, the Board reserves the right to eliminate, amend, or supplement these guidelines in whole, or in part, if it deems it in the County's best interest to do so. Further, the Board of Supervisors has the right to appropriate money consistent with its overall responsibility to appropriate funds for the Unified Pay and Classification System.

Nothing contained herein may be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### B. BACKGROUND

County employment positions are assigned to grades containing salary ranges expressed in terms of minimum, midpoint, and maximum salaries. This type of salary plan is called an "open range" plan. For each position, the County maintains a position description. The position descriptions are revised as necessary. The position descriptions are regularly reviewed so as to be inclusive of new position duties, as well as to determine if compensable position factors have changed sufficiently to warrant a reclassification of the positions. It is the endeavor of the County to keep wages competitive and consistent with market conditions.

#### I. Purpose

The Unified Pay and Classification System (UPCS) categorizes or groups each position based upon the knowledge, skills, and abilities found in the position description. These positions are then assigned to grades containing salary ranges. The UPCS is intended to serve as an aid in recruitment, selection, budgeting, wage/salary administration, and retention.

#### II. Scope

This policy applies to all County employees

#### III. Procedures

##### A. Development of Position Descriptions

1. A Department Head must draft a position description to submit to Human Resources for review.
2. The Director of Human Resources will ensure that the information on the draft description is consistent with the expectations for the position.
3. Once a Position Description is prepared, a grade assignment will be recommended, and the package will be forwarded to the County Administrator, with a copy sent to the Director of Finance.

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4. Once the County Administrator has reviewed the package and considered any recommendations of the Director of Finance, they will forward it to the Personnel Committee of the Board of Supervisors for approval.
5. Once approval has been obtained from the Personnel Committee, the Director of Human Resources will provide a copy of the position description to the Department Head, along with the proper grade and position number information.
6. The Director of Human Resources will ensure that a copy of the Position Description is retained in the Human Resources Department.

### B. Amending a Current Position Description

1. The Department Head will meet with the Director of Human Resources and verify whether the current Position Description does or does not reflect the positions' essential functions and responsibilities.
2. If determined that the essential functions of the position have changed significantly in type or degree, then a revised Position Description must go through the same process as a new position.
3. If determined that the essential functions of the position have changed, but not significantly in type or degree, then the Director of Human Resources will ensure that the Position Description is amended to accurately reflect the position's essential functions and responsibilities.
4. The Director of Human Resources will provide a copy of the Position Description to the Department Head and will ensure that a copy of the position description is retained in the Human Resources Department.

### C. Reclassification

1. If determined that the essential functions of the position have not significantly changed in type or degree, and the position description has been updated using the guidelines described in *Amending a Current Position Description*, a Department Head may request that a position be reviewed to determine the appropriateness of the present grade.
2. All requests must be accompanied by the amended Position Description as well as a memorandum to the Director of Human Resources containing complete justification for the proposed reclassification, and a list of additional duties that has been assigned to the position.
3. Upon completion of a review of the request and accompanying justification, a grade assignment will be recommended by the Director of Human Resources, and the package will be forwarded to the County Administrator with a copy to the Director of Finance for subsequent approval by the Personnel Committee.
4. Once approval has been obtained, the Director of Human Resources will advise the Department Head of this determination.

D. Salary Structure

In order to maintain competitiveness of Culpeper County's salary grades, the salary structure will be adjusted annually to reflect labor market movement. Culpeper County shall:

1. Use an open range pay plan, which has a series for employee positions marked "general government" positions, and for employee positions marked "public safety" positions, and a structure consisting of minimum, midpoint, and maximum salary figures that reflects the labor market at the time of the market survey, with market rate being defined as the grade midpoint.
2. Increase the salary structure by a percentage figure each year that will be applied to the grade midpoint to reflect the Base Index Adjustment (BIA) adjustment. The referenced percentage shall be the rolling 24-month average of the Consumer Price Index (CPI), as of the month of December in each year.
3. Every fifth year, subject to appropriation, the Director of Human Resources will conduct a market-based salary study to evaluate the link between the County's structure and the labor market data.
4. The Director of Human Resources shall forward a copy of the completed study to the County Administrator and to the Director of Finance for comparison to the current budget and any possible budget amendments.

*It is important to note that adjustments in salary grade values do not necessarily imply or guarantee changes to base pay and are always subject to budgetary restrictions.*

E. Pay Administration Guidelines.

This Section III: Unified Pay and Classification System incorporates and is supplemented by the Pay Administration Guidelines found in the Appendix at Form CC 01.



# Personnel Management Plan Culpeper County, Virginia

## SECTION IV: EMPLOYEE EVALUATION & SALARY INCREASES

### A. POLICY STATEMENT

The Board of Supervisors is committed to the goals and objectives of the Unified Pay and Classification System (UPCS) as described in preceding Section III of the Personnel Management Plan. As part of this system, a Pay for Performance Plan is herein implemented to set performance requirements for all positions, to ensure that each employee is aware of the performance requirements for their position, and to facilitate the formal evaluation of each employee's performance, at least annually.

The Board intends this Policy to guide the ongoing administration of Culpeper County's Unified Pay and Classification System and the Pay for Performance Plan. However, the Board reserves the right to eliminate or amend these guidelines, in whole or in part, if it deems it is in the County's best interest to do so. Further, it must be noted that all expenditures of County funds, including salary expenditures, are subject to monetary appropriation by the Board of Supervisors. Accordingly, a change in appropriation may result in the reduction or elimination of the Board's appropriation called for under the Unified Pay and Classification System.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### B. BACKGROUND INFORMATION

Generally, there are three (3) components to rewarding quality performance, as implemented by the County:

- (1) a Base Index Adjustment (BIA) similar to a cost-of-living adjustment for employees who meet the standards of the position and to the pay scale;
- (2) additional increases based upon performance on the part of the employee; and
- (3) a one time "QuLLS Awards" for Quality, Innovation, Leadership and Savings.

#### I. Purpose

Pay for Performance evaluates employees' performance on an annual basis for the hours the employee performs the requirements of their position. Salary increases are based upon performance levels, as listed in the respective evaluation forms. This merit-based plan ensures that each employee is fully informed of County expectations regarding the performance of their position, motivated to perform at the highest possible level, and encouraged to set personal goals for professional development and performance improvement; and contributes to higher retention levels and lower turnover rates of quality employees.

#### II. Scope

This policy applies to all County employees.

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### III. Procedures

#### A. Evaluation & Standards of Performance

1. Although coaching and counseling of employees concerning position performance should and may occur throughout the year, formal written performance evaluations must be conducted at times listed in this section, and at least annually.
2. It is the Department Head's responsibility to ensure each employee is aware of performance standards and expectations and to apply objective performance requirements in supervising and evaluating employee performance. See e.g., Form CC 24 in the Appendix.
3. All recommendations for performance improvement must be based on a clear description of duties to be performed consistent with the position description. For this reason, each Department Head should periodically review and recommend changes to position descriptions for each position in the department.

#### B. Performance Evaluations

1. All formal, written evaluations shall include an employee progress report, an evaluation, and documentation pages to support performance scores, and to list recommendation/goals for the upcoming year.
2. All employees shall be evaluated based on the following schedule:
  - a. In November of each year, non-probationary or regular employees shall be formally evaluated on performance that was exhibited from the preceding November through October.
  - b. Probationary employees shall be formally evaluated no later than two (2) weeks before the end of the probationary period.
3. An employee is eligible to receive a total weighted score of 0-5. The score indicates whether an individual's performance is unacceptable, needs improvement, proficient, very proficient or exceptional.
4. Generally, a probationary employee, or an employee who has only had enough time to become acclimated to the duties of the position, is expected to be proficient, or fully meeting the standards of the position.
  - a. Any evaluation for a probationary employee that indicates a score that would grant more than a BIA salary increase must be approved by the County Administrator or designee.
5. All evaluations, probationary or non-probationary, with a rating in excess of 4.5 must be approved by the Personnel Committee in order to receive a BIA +++ pay increase, at a percentage or amount, as determined is appropriate by the Personnel Committee.
  - a. Only performance evaluations that portray that the employee has clearly exceeded all the requirements of the position and demonstrates sustained performance at the highest possible level over the entire course of the assessment period shall be approved.

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6. Each completed performance evaluation shall be reviewed by the Department of Human Resources and/or the Personnel Committee, as may be the case, before being discussed by the Department Head with the employee.
7. Thereafter, the Department Head shall then show it to and discuss it with the employee.
8. A copy of the completed performance evaluation form shall be given to the employee, and an additional copy shall be sent to the Human Resources Department for permanent retention in the employee's personnel file.

### B. Unsatisfactory Performance Evaluations

1. Employees whose overall ratings do not reach 2.5 are not performing up to standards for their positions and will not be eligible for a pay increase.
2. Such employee shall be placed on a Performance Improvement Plan (PIP). The PIP shall be in writing and shall state the objectionable behavior, strategy for improving performance, and outline expectations in behavior to obtain a performance rating that would qualify the employee for a salary increase.
3. Such employee will then be evaluated no later than two weeks before the end of timeframe specified within the PIP.
4. If the performance has sufficiently improved, the employee may be retained, and without salary adjustment.
5. If the performance has not improved, further steps may be taken as outlined in the PIP, and/or the at-will employment relationship terminated.

### C. Salary Increases

1. Salary increases are granted in July of each year, if funding is available, and are based upon overall performance levels as documented in the performance evaluation.
2. An employee who fully meets acceptable standards of the position as indicated on the performance evaluation will receive a Base Index Adjustment (BIA) increase. An employee may be eligible for an additional pay increase, in a percentage or amount as determined and approved by the Personnel Committee, depending upon the overall score of the performance evaluation.
  - a. An employee who is less than proficient will not receive a salary increase.
3. Salary increases are calculated by applying the BIA to the grade midpoint of the salary range.
  - a. The BIA is a percentage based upon a rolling 24-month average of the Consumer Price Index (CPI), as of the month of December in each year.



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4. Any percentage increases resulting from exceeding the standards for fully successful work performance, will be calculated once the BIA increase has been added to the employee's gross salary.
  5. Individuals, who are hired, promoted, demoted, or transferred between July 1<sup>st</sup> and December 31<sup>st</sup> of any given fiscal year, will receive a BIA increase during the annual evaluation period. Individuals who are hired, promoted, demoted or transferred between January 1<sup>st</sup> and June 30<sup>th</sup> of any given fiscal year, will not receive the increase scheduled in July, but will receive it, if they are fully meeting the standards of the position, upon the completion of the six (6) month performance evaluation.
  6. Any employee's salary, who at the time of a performance evaluation is at the maximum of the employee's paygrade/salary range, shall be eligible to receive pay increases resulting from COLA only, and shall not be eligible to and is otherwise prohibited from receipt of salary increases attributable to BIA or for any other basis.
- D. Quality, Innovation, Leadership, Savings (QuILS) Awards
1. Employees may be nominated in February of each year to receive a one-time QuILS Award for quality, innovation, leadership, and savings. The award shall be no greater than five thousand dollars (\$5,000).
  2. All nominations must state why the individual should receive such an award, and the savings achieved by such accomplishment, project, or performance.
  3. Nominations for QUILS awards must be approved by the Personnel Committee and the Board of Supervisors.
- E. This Section IV: Employee Evaluation and Salary Increases incorporates and is supplemented by the Pay Administration Guidelines found in the Appendix at Form CC 01.



# Personnel Management Plan Culpeper County, Virginia

## SECTION V: COMPENSATION AND WORK HOURS

### I. Purpose

It is the County's objective to compensate employees in a fair and reasonable manner, and in accordance with all federal and state requirements.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### II. Scope

This policy applies to all County employees

### III. Procedures

#### A. Pay

1. Employees are paid on a monthly basis with pay day being assigned as the 30<sup>th</sup> of each month, or the Friday before if the 30<sup>th</sup> falls on a weekend or a County designated holiday.
2. Timesheets shall be submitted no later than the indicated due date listed on the control sheet for payroll processing. Pay processing and pay for time worked may be delayed as may be permitted by law for any employee who fails timely to submit a timesheet.
3. An employee hired before January 1, 2010, may be paid by check or direct deposit.
4. An employee hired on or after January 1, 2010, shall be paid by direct deposit, if at all possible and with limited exception.
5. All employees shall access to their pay information (wages, deductions, etc.) through the County's ESTUB system. Only employees hired before January 1, 2010, may opt to continue to receive a paper stub.

#### B. Work Hours

1. The standard work week for all full-time employees, excluding sworn law enforcement, emergency services, and dispatch personnel, is forty (40) hours, Sunday thru Saturday. Individual employee schedules may vary as determined by the Department Head or Constitutional Officer.
2. The standard work period for all sworn law enforcement and emergency services personnel shall be 28 consecutive calendar days, with the number of hours worked varying depending upon shift schedules as determined by the Department Head
3. The standard work week for dispatch personnel is Sunday thru Saturday with alternating weekly schedules between 36 hours per week and 48 hours per week. Shift schedules and individual employee schedules shall be determined by the Department Head.

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### C. Alternative Work Schedule/Location - Flex Time & Telecommuting

1. Department Heads or designee may approve alternative schedules for eligible employees within their departments to meet operational and customer needs, and to help employees balance their career and family lives.
  - a. Flexible work schedules (flex time) - work hours that are not identical to the department's normal operating hours or the designated schedule for the position. Examples of flex time may include varying start and end times, compressed work week, etc.
  - b. Telecommuting – opportunity to work at home or at an alternate work site on a specified day, or days, and/or for specified hours
2. Employees may request an alternative work schedule/location on the appropriate form to be reviewed by the Department Head or designee. The alternative arrangement may be temporary or permanent.
3. Department Head or designee should consider alternative schedules/locations requests on a case-by-case basis. While it is not required that alternative work schedules/locations be uniformly available to all positions within a department, the Department head or designee is responsible for ensuring fair and equitable administration of this policy to all eligible employees.
4. The approval of alternative work schedules/locations are at the discretion of the Department Head or designee. When reviewing and approving requests, the following circumstances should be considered:
  - a. Employee's past and present performance;
  - b. Essential functions of the position;
  - c. Customer interaction with the position;
  - d. Minimum, on-site, departmental staffing levels; and
  - e. Effect on departmental and/or organizational productivity.
5. Employees shall not be eligible to work an alternative workschedule/location:
  - a. When high levels of performance and productivity are not demonstrated regularly;
  - b. During any probationary period; or
  - c. Within the first six months following the date of a change in status such as a transfer, demotion, or promotion.
6. Employees who are granted alternative work schedules/locations will be held to the same terms of employment as all other employees and will be required to:
  - a. Perform the essential functions of their positions;
  - b. Maintain performance and productivity levels;
  - c. Keep accurate account of work hours, and utilize leave as needed;
  - d. Act in a professional manner at all times while performing duties, adhere to the Standards of Conduct as outlined in Section VIII of the PMP, regardless of work location and hours;
  - e. Maintain a safe work area;
  - f. Engage in only governmental activities while in official duty status;
  - g. Adhere to all other policies outlined in the Personnel Management Plan and any and all departmental policies, if applicable.

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7. Alternative work schedule/location shall not:
  - a. Result in an employee working less than their prescribed hours within a pay period;
  - b. Cause or contribute to the need for additional staff or for existing staff to work overtime hours;
  - c. Change the department's regular operating hours, or diminish a Department Head or designee's authority to create, or adjust work schedules/locations;
  
8. An employee with a telecommuting work arrangement:
  - a. May be required to supply, maintain, repair, replace, transport, install, and secure equipment such as computer, printer, etc. needed to perform duties at the alternate work location;
  - b. May be liable for damages to County-provided equipment caused by improper use, damage, theft or unauthorized use;
  - c. Shall be responsible for operating costs, home maintenance, and any other incidental costs, (e.g., utilities) associated with the use of the alternate work location;
  - d. Shall not conduct business meetings with third parties at the alternate work location;
  - e. Shall receive Department head or designee approval before removing sensitive or confidential records/information from County offices;
    - \*Employees are put on notice that pursuant to Va. Code Ann., Sec. 2.2-3815, the Social Security Number Protection Act, the first five digits of a social security number contained in a public record shall be confidential and any inadvertent or intentional release by an employee is a violation of state law for which there is personal accountability.
  
    - \*\*Employees are put on notice that pursuant to HIPPA and Va. Code Ann., Sec. 32.1-127.1:03, health care records in the possession of the County shall be confidential and any improper release is a violation of law.
  - f. Upon reasonable notice shall permit County representatives, if needed, to inspect the alternate work location (1) after any on the job accident or injury has been reported, and (2) to ensure compliance with the County's Safe and Healthful Workplace Policy.
  
9. An employee is covered by workers' compensation for injuries arising out of and in the course of performing official duties (i) while at the alternate work location and (ii) where the injury/condition sustained has met the definition of a compensable claim under the Workers Compensation Act. The employee shall immediately notify the Department head of designee of any accident or injury that occurs at the alternate work location.
  
10. The employee agrees to defend, indemnify and hold harmless the County, and its employees from and against all claims, demands or liability resulting from or arising in connection with any injury to persons or damage to property, caused directly or indirectly, by the services provided by the employee where the injury or damage results from the employee's intentional or willful misconduct or acts of gross negligence or omissions in the performance of official duties and obligations, except

## COUNTY OF CULPEPER, VIRGINIA

where such claims, demands or liability arise solely from the gross negligence or willful misconduct of the County.

11. Employees are put on notice that homeowners'/tenants' policies normally do not automatically cover injuries or property damage arising out of or relating to the business use of residential property. For the employee's protection, an employee should secure a homeowners'/tenants' liability policy to cover property damage and bodily injury to third parties arising out of or relating to the business use of their home.
12. Department Heads or designee may discontinue, temporarily suspend, and/or modify alternate work schedules/locations if operational needs change, service is impaired, or the employee's performance declines.

Please see the Appendix at Forms CC 02 through 03 for all forms related to alternative workplace requests, telecommuting, and safety certifications and checklists that must be completed attendant to such requests.

### D. Overtime

Non-exempt employees shall be compensated for overtime in accordance with the following provisions:

1. Non-exempt employees, excluding sworn law enforcement, emergency services, and dispatch personnel, shall be compensated at one and one-half times their regular rate of pay for all hours worked in excess of 40 hours during the work week. Only limited public safety employees may accrue compensatory time as may be permitted by their supervisors, in lieu of overtime pay. Compensatory (comp) time shall be paid out in accordance with Section XII of the Personnel Management Plan. See the FLSA and the Virginia Overtime Wage Act.
2. Non-exempt emergency services personnel:
  - a. Shall earn straight time at their hourly rate of pay for hours worked in excess of their scheduled work hours wherein the hours worked are more than 151 hours but less than 213 hours in a 28-day work period.
  - b. Shall be compensated at one and one-half times their regular rate of pay for all hours worked in excess of 212 hours during the 28-day work period.
3. Non-exempt dispatch personnel (36 hour / 48-hour weekly schedule):
  - a. Shall be compensated consistent with the Fair Labor Standards Act (FLSA) and the Virginia Overtime Wage Act.
4. Non-exempt sworn law enforcement personnel:
  - a. Shall earn straight time at their hourly rate of pay for hours worked in excess of their scheduled work hours wherein the hours actually worked are more than 159 hours but less than 172 hours in a 28-day work period.
  - b. Shall be compensated at one and one-half times their regular rate of pay for all hours worked in excess of 171 hours during the 28-day work period.

**COUNTY OF CULPEPER, VIRGINIA**

- 5. Overtime work must be approved in advance and in writing, except in an emergency, prior to being performed.
- 6. Exempt employees are not entitled to overtime or compensatory leave under the provisions of the Fair Labor Standards Act

**E. Holiday Pay**

Culpeper County closes its offices in observance of holidays as directed by the Board of Supervisors. Holidays generally include:

- New Year's Day
- Martin Luther King Day
- President's Day
- Memorial Day
- Independence Day
- Juneteenth
- Labor Day
- Columbus Day
- Election Day
- Veteran's Day
- Thanksgiving
- Christmas Day

In observance of a holiday, employees are compensated in accordance with the following provisions:

- 1. All non-essential full-time employees do not report to work, but receive compensation based on their regular salaries as if they reported to work as usual. Non-exempt full-time employees who are required to work or are defined as essential shall be compensated as follows:
  - a. Shall receive regular hourly pay for all hours actually worked on the holiday and hours will be included in the calculation of any overtime for the work week.  
The hours may be marked for compensatory time, at the option of the employee (for limited public safety employees only); and
  - b. Shall receive a holiday benefit up to 8 hours at the regular hourly rate to be paid as straight time pay.
- 2. In the event that a holiday falls on a non-exempt full-time employee's regular scheduled day off, the employee shall accrue an 8-hour holiday benefit to be paid as straight time pay. The hours may be marked for compensatory time, at the option of the employee (for limited public safety employees only).
- 3. All non-essential part-time employees do not report to work and do not receive compensation for any closing in observance of a holiday. Non-exempt part-time employees required to work on a holiday or defined as essential shall be compensated as follows: Shall receive one and one half their regular hourly rate for all hours actually worked on the holiday, and hours will be included in the calculation of any overtime for the work week.

Holidays falling on Saturdays and Sundays may be observed, i.e., the buildings closed, on Fridays and Mondays, respectively at the direction of the Board of Supervisors.

## COUNTY OF CULPEPER, VIRGINIA

### F. Inclement Weather Pay

During an authorized closing determined by the County Administrator, employees are compensated in accordance with the following provisions:

1. All non-essential full-time employees do not report to work but shall receive compensation as if they reported to work as usual. No additional compensation will be granted to employees who do report to work and perform their regular duties. Non-exempt full-time employees who are required to work or are defined as essential shall be compensated as follows:
  - a. Shall receive regular hourly pay for all hours actually worked that fall within the authorized closing and hours will be included in the calculation of any overtime for the work week.
  - b. Shall receive a weather benefit up to 8 hours to be paid at the regular hourly rate for the portion of the shift that falls within the authorized closing. The hours may be marked for compensatory time, at the option of the employee (for limited public safety employees only).
2. All non-essential part-time employees do not report to work, and do not receive compensation for any closing due to inclement weather. Non-exempt part-time employees who are required to work or are defined as essential shall be compensated as follows:
  - a. Shall receive one and one-half their regularly hourly rate for all hours actually worked that fall within the authorized closing and hours will be included in the calculation of overtime for the work week. The hours may be marked for compensatory time, at the option of the employee (for limited public safety employees only).
3. Employees who are on pre-approved leave as defined herein when an authorized closing is announced shall have the hours within the authorized closing attributed to the weather event, and not applied against annual leave balances. Any leave approved that falls outside the authorizing closing shall be applied against annual leave as previously arranged.
4. Employees who are unable to report work because of the weather when the County is running on a normal schedule may utilize leave or leave without pay, as may be appropriate.

If an essential employee does not work the authorized closing, and is not on pre-approved leave, the essential employee may be subject to disciplinary action, as outlined in the Section VIII of the PMP.

### G. On call

1. On-call time is defined as the time that an employee is required to remain on call on the employer's premises or so close thereto that he cannot use the time effectively for his own purposes. An employee who is not required to remain on the employer's premises but is merely required to leave word at his home or with company officials where he may be reached is **not** on call.



## COUNTY OF CULPEPER, VIRGINIA

2. All on-call situations will be handled on a case-by-case basis. Factors that will be considered to determine if on-call is compensable are:
  - Whether there are excessive geographical restrictions on the employee's movements;
  
  - Whether the frequency of calls unduly restricts the employee's movements;
  - Whether a fixed time limit for response is unduly restrictive;
  - Whether using electronic devices and/or remote computer equipment eases restrictions on the employee's activities; and
  - Whether the employee has actually engaged in personal activities during on call time.
  
3. This Section V: Compensation and Work Hours incorporates and is supplemented by the Pay Administration Guidelines found in the Appendix at Form CC 01.

**RECITAL OF THE RESOLUTION OF THE  
BOARD OF SUPERVISORS AND  
THE COUNTY'S SAFETY POLICY STATEMENT FOR A  
SAFE AND HEALTHFUL WORKPLACE**

**RESOLUTION RECITAL**

WHEREAS the Occupational Safety and Health Act of 1970 (OSHA) requires employers to provide a safe place to work, a place free from hazards that might cause injury, disability or even death; and

WHEREAS, the personal safety of our employees, as well as the general public, is a primary and continuing concern of Culpeper County; and

WHEREAS, it is the policy of County of Culpeper, that every employee is entitled to work under the safest conditions possible. Every reasonable effort will be made to promote accident prevention for protection and health preservation to the employees and general public; and

WHEREAS it is our belief that accidents that injure people, damage equipment or property, or destroy materials cause needless personal suffering, inconvenience and expense. We believe that taking common sense precautions can prevent practically all accidents; now therefore, be it

RESOLVED, that the County of Culpeper, through its employees, will endeavor to maintain a safe and healthful workplace; and

BE IF FURTHER RESOLVED, that the County of Culpeper will provide a safe and healthy environment for all County employees, contractor employees, visitors, clients, customers, and the public.

**SAFETY POLICY STATEMENT**

The personal safety and welfare of our employees, as well as the general public, is a primary and continuing concern of Culpeper County.

It is our goal to provide every employee a place of employment free from recognized hazards which are a potential cause for serious physical harm or health impairment.

Occupational Safety and Health Act of 1970, as amended, requires employers to provide a safe place to work, a place free from hazards that might cause injury, disability or even death.

It is the policy of Culpeper County that every employee is entitled to work under the safest conditions possible. To this end, every reasonable effort will be made to promote accident prevention for protection and health preservation.

## COUNTY OF CULPEPER, VIRGINIA

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It is our belief that accidents which injure people, damage equipment or property, or destroy materials cause needless personal suffering, inconvenience and expense. We believe that practically all accidents can be prevented by taking common sense precautions.

Culpeper County, through its appointed constitutional officers, department heads, and managers, will endeavor to maintain a safe and healthful workplace.

Safe operations in all activities are a condition of any individual's employment with Culpeper County.

No activity is so important that it cannot be performed in a safe manner. Employees will advise management about inherently unsafe work without fear of retaliation or intimidation.

Management will work with employees to ensure they have the proper training and equipment to perform work in a safe manner. Culpeper County contracts will include provisions that require work to be performed in a safe manner.

Culpeper County employees will comply with Culpeper County policies and all applicable laws, standards, and regulations at the State and Federal level.

Due to the large number of activities in progress at one time, the varied nature of the work and the widespread location of such activities, we must "formalize" our safety program, utilizing written reports and records, to achieve the maximum use and effectiveness of loss control information.

The Human Resources and Finance Departments will head the County loss control and safety program and will communicate pertinent information to all departments. The Human Resources and Finance Departments, along with the support of the County Attorney, will undertake such duties as may be required in the day-to-day operation of the safety program.

Department Directors are responsible for integrating safety performance and adherence to this policy into departmental objectives, goals, and performance evaluations.

We believe that accidents are avoidable and can be prevented. In order to achieve a safe working environment all members of this organization must be committed to safety through good attitudes and involvement.

Safety and loss control is a tremendous responsibility and one that must be shared by all.

*Everyone is responsible for Safety!*



# Personnel Management Plan Culpeper County, Virginia

## SECTION VI. SERVICE AWARD POLICY

### I. Purpose

The purpose of the Service Awards Program is to commend faithful service performed by County employees; to emphasize that each individual plays a key role in the County's progress; to recognize that an employee's contribution grows with each additional year of service; and to encourage career employment with the County.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### II. Scope

This policy applies to all County employees.

### III. Procedures

#### A. Administration

1. Service awards shall be granted to regular full-time and part-time employees for 5, 10, 15, 20, 25, 30, or 35 years of service.
2. All awards shall be presented near or about the month of March of every year and will recognize employee service achieved in the previous year.

#### B. Service Credit

1. Each employee shall accrue one (1) month of service for each month employed to be computed on an annual basis.
2. Service credit shall be granted for authorized paid or unpaid leave of absences to include, but is not limited to:
  - military leave; sick leave;
  - vacation leave;
  - workers compensation leave;
  - and protected leave under the FMLA and/or the ADA.
3. Any break in employment for a period of thirty-one (31) or more consecutive calendar days shall destroy the continuity of service, except as provided above in (B)(2).
4. An employee who is reinstated as a result of a grievance shall not have a break in service.

#### C. Funding

Service Awards, including any discretionary monetary awards associated with years of service, are subject to monetary appropriation, and a change in appropriation may result in a reduction or elimination of this benefit.



## Personnel Management Plan Culpeper County, Virginia

## SECTION VII, TRAINING/TUITION REIMBURSEMENT POLICY

### I. Purpose

The County of Culpeper supports and funds continuous job-related skills training and lifelong learning for personal development in order to assist employees in providing the highest level of customer service possible.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### II. Scope

This policy applies to all County employees

### III. Procedures

#### A. Types

1. Job-related training and development shall be separated into two categories:
  - a. Training and professional development – training needs which are identified as a means of an employee being enabled to improve their performance, their development as a professional within the organization, or as a means of retaining and developing key skills.
  - b. Personal development – a course of study which an individual undertakes, normally in their own time, which may improve their academic qualification or give them additional skills and/or improve their future employment prospects with the County.

#### B. Job-Related Training and Professional Development

1. All opportunities shall be made available in an equitable manner without regard to race, color, religion, national origin, disability, age, sex, or other protected class, as may be required by law.
2. Job-related training and professional development may be in the form of on-the-job training, in-house training provided at the organizational or departmental level, workshops, seminars, conferences, etc.
3. All job-related training and professional development must be directly related to the employee's job or advancement within the department or County government.
4. All training and development shall be approved by the Department Head or designee.
5. At a minimum, employees shall be provided on-the-job training, and work-related instruction that assists employees to perform their current jobs (includes new hire orientation, instruction necessary to accommodate technological changes, etc.)
6. Other training and development may be identified by the Department Head, or designee at the recruitment stage, during the performance appraisal process, or during the course of employment.

7. Training that is mandated by the department/organization and is not required for a license/certification shall be paid by the County. The time that an employee spends at such training during normal work hours shall be considered time worked and paid in accordance with the Fair Labor Standards Act (FLSA).
8. Under the FLSA, the County is not obligated to pay for any expenses related to training and development to maintain a license/certification that is required by law in order to perform a specific job; however, a department may pay for such training, if funding is available.

C. Personal Development

1. Personal development needs should be identified by the employee, and it shall be the responsibility of the employee to notify the Department Head or designee of interest, the opportunity, and anticipated expenses associated therewith.
2. The County in its discretion may contribute to an employee's personal development by contributing to the cost and/or essential materials required for the course, in whole or in part, contingent upon available funding and consideration of the budget priorities for the Department and the County.
  - a. The employee will be responsible for paying for all expenses related to the course or training, if pre-approved, until completion of the course.
  - b. An employee shall only qualify for reimbursement if:
    - i. The employee achieves a satisfactory rating or a minimum grade of C, and
    - ii. Itemized receipts for the pre-approved course and/or course expenses are submitted to the Department Head or designee.
3. All personal development must be directly related to the employee's job or advancement within the Department and again must be pre-approved by the Department Head or designee.
4. Employees who participate and receive reimbursement for personal development shall be required to execute a contract in which the employee agrees to continue employment thereafter with the County for a period of at least 30 days per academic credit hour or unit earned. Moreover, the contract will provide that in the event the employee resigns or is terminated for cause before such period expires, the employee shall be required to reimburse the County for some or all of the money they received for personal development, as is reasonable. Please see the sample contract in the Appendix Form at CC 04.
  - a. The 30 days shall commence at the end of each semester/term.

D. Recordkeeping

1. A copy of all training and development courses completed by the employee shall be kept in the employee's personnel file consistent with the Virginia Public Records Act and/or as otherwise required by law.

***Training and Development opportunities are subject to available funding and monetary appropriation. A change in appropriation or a reduction in funding may result in a reduction or elimination of the program(s).***





## Personnel Management Plan Culpeper County, Virginia

## SECTION VIII. STANDARDS OF CONDUCT

### I. Purpose

It is the County's objective to promote the well-being of its employees in the workplace and to maintain high standards of professional conduct and work performance. Accordingly, this policy sets forth (1) standards for professional conduct, (2) behavior that is unacceptable, and (3) actions that departments may impose to address behavior and employment problems.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### II. Scope

This policy applies to all County employees.

### III. Procedures

#### A. Employment At Will

1. All County employees are employees-at-will under Virginia law.

#### B. Standards of Conduct

Each employee is responsible for promoting an image of professionalism at all times and is expected to adhere to the following Standards of Conduct:

1. Provide the highest level of customer service possible;
2. Treat individuals, including subordinates, fellow employees and management alike, and those whom they serve, with respect, courtesy, and tact regardless of age, race, color, religion, sex, national origin, marital status, pregnancy, childbirth or related medical conditions, certain veteran status, or retaliation for a claim made under any of the above.
3. Provide satisfactory work performance. Notify the Department head or designee of any conditions or circumstances and/or unclear instructions or procedures that prevent satisfactory work performance;
4. Report to work, serve the appropriate time as scheduled, and conduct coming on duty procedures and being released of duty procedures, as required by Department policies;
5. Comply with all rules and regulations prescribed in the Personnel Management Plan;
6. Comply with proper order of a department head, supervisor or their designees;
7. Give written notice to the Department Head or designee for any employment outside County employment, and obtain prior approval before engaging in any other employment in other agencies, outside of County service, in any private businesses, or in the conduct of professions, when such other employment or work may conflict with the County, the employee's duties for the County, or may put the County in an

adverse light in the eyes of the public;

8. Promote safe operations and comply with all appropriate safety and health regulations. Report hazards in order to be corrected;
9. Dress in appropriate attire, uniform, and safety equipment as specified by the department and position and present a clean and neat appearance and dress according to the requirements of their positions.

C. Prohibited Conduct

The County operates under at-will employment principles. All County employees are employees-at-will under Virginia law. Nonetheless, the following conduct is expressly prohibited. Employees who engage in any of the following may be subject to termination, or other disciplinary action, as may be determined appropriate in the administration and enforcement of the Personnel Management Plan. This list is neither all-inclusive nor in order of severity but is intended to assist Department Heads with administering discipline in a fair and consistent manner.

1. Performing inadequate or unsatisfactory work performance and/or customer service; failure to carry out reasonable assignments;
2. Use of obscene, offensive, abusive, or threatening language in person, on the telephone, radio, and all other communication devices (e-mails, texts, etc.) toward other employees, supervisors, or members of the public;
3. Insubordination; direct refusal and failure to follow a department head, supervisor, or their designee's direct, lawful instruction; refusal to work overtime hours as required, or working unauthorized overtime hours;
4. Arriving late, starting work, or stopping work before the specified end of a working day without prior approval;
5. Absent an emergency, failure to provide two (2) days' advance notice before commencement of leave;
6. Any absence in excess of one day without proper authorization or satisfactory explanation thereafter;
7. Any absence in excess of three (3) days without proper notification to the pertinent Department head shall be deemed a resignation to the County without notice, barring exceptional circumstance;
8. Using County property for other than officially approved activities such as for outside employment or frequent personal activities;
9. Theft or unauthorized removal of County property, or the property of other persons from the workplace. Willfully or carelessly damaging or defacing County property or the property of other persons, including but not limited to employees, supervisors or members of the public;

## COUNTY OF CULPEPER, VIRGINIA

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10. Falsifying any statement made to the County in verbal or written form. (e.g., employment application, time records, time and attendance records, vehicle accident claims, worker's compensation claims, etc.);
11. Falsifying County records or statements made on behalf of the County in the course of duties;
12. Supervising or otherwise having control or influence over work activities or salary matters for a person with whom the employee has a significant personal relationship. For purposes of the Personnel Management Plan, "significant personal relationship" is defined as a parent, child, spouse, sibling, cohabitating and/or sexual partner, or anyone else whom the employee dates, or with whom the employee has a romantic relationship;
13. Abuse of authority by a department head, such as gross favoritism or mistreatment of employees; condoning illegal or improper actions of subordinates toward supervisors, other employees or members of the public;
14. Engaging in outside employment without prior approval from the Department head or designee;
15. Unauthorized sleeping during work hours;
16. Failure to report any accident, injury, or auto/equipment damage to the Department head or designee; Creating or contributing to unsanitary or unsafe conditions in the workplace;
17. Operating a county vehicle in excess of posted speed limits; reckless driving of County vehicles;
18. Being convicted of a moving traffic violation while using a County-owned or other public-use vehicle; knowingly operating a vehicle on County business with a revoked or suspended driver's license;
19. Transporting unauthorized passengers in County vehicles or use of County vehicles for unauthorized personal business;
20. Possession or use of an illegal substance while on duty or on County property;
21. Unlawful possession of a firearm while on duty; Misuse or abuse of a firearm while on duty. Unauthorized possession or use of dangerous weapons or explosives while on duty;
22. Disruptive or distracting behavior which interferes with work being performed;
23. Sexually harassing a fellow employee, supervisor, or subordinate; sexually harassing a member of the public on County property or while on duty; displaying of obscene, pornographic, or other similarly offensive pictures on County property or while on County duty;

## COUNTY OF CULPEPER, VIRGINIA

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24. Fighting, threatening, assaulting, and/or other acts of physical violence on County property or while on duty;
25. Secretly tape-recording conversations with other employees, including supervisors, without the mutual consent of all parties to the conversation; tape recording members of the public absent Department Head written authorization. Divulging information obtained by secretly listening to or eavesdropping upon private conversations between other employees, supervisors, and/or members of the public. Divulging confidential personal or work-related information;
26. Participating in any kind of work slowdown or similar concerted interference with County operations;
27. Commission of any act deemed to be illegal under the Code of Virginia while on County time or on County property;
28. Engaging in criminal, dishonest, immoral, disgraceful conduct harmful to the legitimate business interest of the County; conviction of a crime which reflects negatively on the County;
29. Careless or negligent maintenance, handling, or use of County property.
30. Excessive absences or tardiness;
31. Horseplay, pranks, or non-work related activity during working hours.
32. Violation of safety rules;
33. Reporting to work under the influence of alcohol or being impaired by controlled, prescribed, or unlawful controlled substances;
34. Threatening or otherwise interfering with the work of fellow employees or supervisors;
35. Failure to report known work-related illegal activity of any employee;
36. Harassment of an employee or a member of the general public;
37. Falsification of County records, including, but not limited to, vouchers, time records, leave records, insurance claims, or the application for employment.
38. Gambling on County property or during working hours;
39. Possession of unauthorized firearms or other weapons within a County vehicle or within an unlocked private vehicle on County property;
40. Unauthorized use or sharing of County documents, records, or confidential information;

## COUNTY OF CULPEPER, VIRGINIA

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41. Job-related lying, stealing, or cheating, including lying on one's County employment application;
42. Any criminal conviction for an act occurring on or off the job which is related to job performance or is of such a nature that to continue the employee in the assigned position constitutes negligence in regard to the County's duties to the public or other employees, or which adversely affects the reputation of the County, or is conduct unbecoming of an employee;
43. Engaging in sexual activity or sexually explicit conversations while on duty and/or on County property;
44. Administrative loss, suspension or revocation of driving privilege when maintenance of a driver's license is a requirement for County employment;
45. Inappropriate use of County computers, cell phones, tablets, or any other devices issued to the employee for use in conducting County business to which the employee has been assigned;
46. Violating any policy or procedure prescribed in the Personnel Management Plan not described in this section.

*This list is to be considered illustrative and not all-inclusive. All County employees are employees-at-will under Virginia law.*

### D. Counseling

1. Counseling may be a discussion or writing in which the Department Head or designee discusses areas of improvement related to the employee's work performance or behavior. Counseling is not to be used as formal disciplinary action.
2. Counseling may be verbal or documented on the counseling notice form. The counseling notice form shall include the following:
  - (1) a description and specific examples related to the employee's conduct as well as any supporting documentation
  - (2) expectations of appropriate conduct
  - (3) an explanation of how the conduct impacts the work environment and
  - (4) consequences if the employee fails to meet expectations as outlined in the counseling notice.
3. Documentation regarding counseling will normally be retained in Department Head or designee's files except when directly related to performance evaluations or to support subsequent formal disciplinary action.
4. Counseling is not a prerequisite to disciplinary action. *All County employees are employees-at-will under Virginia law.*
5. Counseling is not grievable.

E. Disciplinary Action

When determined appropriate by a Department head or designee, a formal policy of progressive employee discipline should generally be followed by a Department head or designee depending upon the seriousness of the offense. The following steps are encouraged to be used for a series of minor offenses. A first offense, minor or serious, may result in termination, as all County employees are employees at-will. It is appreciated that a serious first offense should warrant suspension or termination and should result in such disciplinary actions without the preliminary steps. Steps in the process include:

- Verbal warning
- Written Warning
- Suspension
- Termination

1. The organization reserves the right to alter the progressive discipline order described above, to skip or eliminate disciplinary steps, or to create new and/or additional steps.
2. The Human Resources Director will advise the Department Head or designee of the policies and procedures related to the use of progressive discipline, ensure equitable interpretation and application of the provisions of this section, and recommend appropriate action if necessary.
3. (a) Prior to any formal disciplinary action, including suspension, or termination, the Department head or designee shall notify the employee in writing of the offense. Notification should include (1) time, date and nature of the offense (2) potential disciplinary action, and (3) a time to meet to discuss the circumstances of the offense. A meeting shall be held with the employee to discuss the offense and allow the employee an opportunity to explain their actions including mitigating circumstances.  
  
(b) The County Administrator prior to initiating any formal disciplinary action, including but not limited to suspension, or termination, against a Department head or other employee, shall brief the Board of Supervisors on the matter. Thereafter, prior to any formal disciplinary action, including but not limited to suspension, or termination, the County Administrator shall notify the employee in writing of the offense. Notification should include (1) time, date and nature of the offense (2) potential disciplinary action, and (3) a time to meet to discuss the circumstances of the offense. A meeting shall be held with the employee to discuss the offense and allow the employee an opportunity to explain their actions including mitigating circumstances.
4. Should, following the informal hearing, the Department Head or designee decide to impose formal discipline, a Written Notice of Disciplinary Action shall be prepared, and copies provided to the employee and the Human Resources Department. The Written Notice of Disciplinary Action will include (1) the nature and evidence of the offense (2) any disciplinary action taken in addition to the issuing of the form (3) any extenuating circumstances that were considered, (4) consequences if the employee fails to correct behavior, and (5) the employee's right to grieve the action, if any. The Notice shall be signed by the employee and in the event the employee is unable to sign, it shall be

initialed by the Department Head or designee.

5. An employee may be removed from the work area, without providing advance notice, when the employee's continued presence may be harmful to the employee, their fellow employees, or to the work environment or makes it impossible for the department to conduct business. In this event, the Department Head or designee shall provide Written Notice of Offense after the employee has been removed.
6. *All County employees are employees-at-will under Virginia law.*

F. Mitigating Circumstances

1. In choosing the appropriate disciplinary action, the Department Head or designee should consider mitigating circumstances, to include, but not limited to:
  - a. the seriousness of the offense
  - b. past performance
  - c. the length of employment with the County
  - d. an employee's ability and willingness to correct the offense
  - e. disciplinary actions taken for similar offenses of that employee and other employees
  - f. any other circumstances related to the nature of the offense, an employee's employment with the County, and the effect the offense may have on the organization.

*All County employees are employees-at-will under Virginia law.*

G. Other Circumstances which prevent employees from performing their jobs

1. An employee unable to perform the essential functions of the position in which he is assigned may be removed, or terminated from employment, under this section. Reasons include, but are not limited to:
  - a. Loss of driver's license, if required for the position held;
  - b. Incarceration for more than a minimal period of time;
  - c. Loss of license or certification required for position;
  - d. Criminal convictions and/or conduct occurring on or off the job that are related to job performance.

*All County employees are employees-at-will under Virginia law.*

H. Administrative Leave

1. Administrative leave, with pay, may be used when the asserted offense makes it operationally desirable to separate the employee from the workplace while an investigation is conducted; the responsibility of the employee is not clear; and there is no potential for extreme adverse public reaction to the nature of the offense.
2. The length of an administrative leave shall be limited to (30) thirty calendar days.



I. Suspension

1. Administrative suspension, without pay, may be used when the asserted offense makes it operationally desirable to separate the employee from the workplace while an investigation is conducted. There must exist a good faith basis to believe that the responsibility of the employee as to the offense is more likely than not; and there is a potential for extreme adverse public reaction to allow the employee to return to their position and be paid during the pendency of the investigation.
2. As a disciplinary action, suspension, without pay, may be imposed by a Department Head or designee when it is determined that an employee has committed a serious offense or repeated minor offenses.
3. The length of an unpaid suspension shall be limited to (30) thirty calendar days.
4. If suspension is imposed, an employee may use accrued leave during the suspension period.
5. Suspensions for fourteen (14) calendar days or more may affect an employee's annual leave accrual, retirement contributions, health insurance coverage, and other benefits.
6. Suspensions imposed on an exempt employee for disciplinary actions must be made on a full-day basis.

*Absent an emergency, prior to imposing administrative leave or suspension for investigation purposes, a Department Head or designee should contact the Human Resources Department and the County Attorney.*

J. Administrative Leave/Suspension pending Investigation

1. Written notification of administrative leave or suspension shall be by memorandum or letter, not by the Written Notice of Disciplinary Action form. (Any suspension imposed as a disciplinary action may be made by the Written Notice of Disciplinary Action form).
2. Employees on administrative leave or suspension normally shall not be allowed on the department's premises, nor shall they be allowed to perform any work on or using County property except to fulfill previously scheduled court obligations or to file/process a grievance.
3. When administrative leave or suspension is imposed, and if, following the conclusion of the investigation the Department Head or designee:
  - a. Determines that a disciplinary action is not appropriate, the employee shall return to work.
  - b. Determines that the offense violates Standards of Conduct, a Written Notice of Disciplinary Action form shall be completed, and the disciplinary action shall begin immediately.
4. When suspension is imposed, and if, following the conclusion of the investigation the Department Head or designee:
  - a. Determines that a disciplinary action is not appropriate, the employee shall return to work. Any leave, and other benefits shall be reinstated, and the employee shall

- receive back pay for the suspension period.
  - b. Determines that the offense violates Standards of Conduct a Written Notice of Disciplinary Action form shall be completed, and the disciplinary action shall begin immediately.
  - c. If suspension is imposed as a formal disciplinary action, the employee shall only begin the suspension period if the period is longer than the investigation suspension. If the disciplinary suspension is less than the investigation suspension, the employee shall be reimbursed the difference in lost pay and benefits.
5. The Department Head or designee shall have thirty (30) calendar days to complete an investigation. If the department does not make a decision regarding disciplinary action within thirty (30) calendar days, the employee shall either (1) be terminated (for example, a law enforcement investigation which may take months to complete, and the potential offense is such as may cause an extreme public reaction) or (2) be permitted to return to work pending completion of the investigation.

K. Separation from employment

- 1. In the event of resignation, retirement, termination, lay-off, permanent disability or death, an employee may be entitled to the following benefits:
  - a. Payment for accrued annual leave, compensatory, and/or overtime.
  - b. Continuation of health insurance under the provisions of Consolidated Omnibus Budget Reconciliation Act (COBRA).
- 2. Benefits shall be cancelled on the last day of the month following the separation.
- 3. The separation date shall be recorded as the last day worked or the notification date in the event the employee is on a leave of absence.
- 4. Payment for hours worked, and entitlement of benefits shall be mailed to the employee.

L. Grievance

An eligible employee may challenge a disciplinary action through the grievance process. Please see Section X, Grievance Policy/Procedure of the Personnel Management Plan.

Please consult the Appendix at Forms 5 through 7 and 24 for all HR and personnel forms related to the standards of conduct, and employee counseling, discipline, and termination.

Please consult the Appendix at Forms 09 through 16 for all Grievance related forms.



# Personnel Management Plan Culpeper County, Virginia

## Section IX, Workplace Harassment

### I. Purpose

The County of Culpeper shall provide an environment free from unlawful discrimination. All forms of discrimination related to race, color, religion, sex, age, national origin, disability, or other protected classes, as well as retaliation for engaging in protected activity, are violations of this policy.

This purpose of this policy is to educate employees and other individuals subject to the policy in the recognition and prevention of illegal workplace harassment and to provide an effective means of eliminating such harassment from the workplace.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### II. Scope

This policy applies to all County employees

### III. Prohibited Conduct

#### A. Harassment

1. The County strictly forbids harassment of any employee, applicant for employment, vendor, contractor, volunteer, or customer on the basis of an individual's race, color, national original, religion, age, sex, or disability.
2. The County will not tolerate the use of racial, religious, sexual, gender, age- related, ethnic, or disability related comments, innuendos, slurs, or jokes. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are also prohibited, as well as all forms of verbal, non-verbal, and physical harassment based on a protected class.

#### B. Retaliation

1. The County will not tolerate any form of retaliation directed against an employee or third party who either complains about harassment or who participates in any investigation concerning harassment.

### IV. Responsibilities

1. The Human Resources Department or designee shall communicate and publish this policy to all employees and will explain the procedures for filing a workplace harassment complaint.
2. Department Heads or designees are required to:
  - a. Stop any workplace harassment of which they are aware, whether or not a complaint has been made;
  - b. Express written disapproval of all forms of workplace harassment;
  - c. Intervene when they observe any acts that may be considered workplace harassment;
  - d. Take immediate action to prevent retaliation towards complaining party(ies) or

- any participant in an investigation;
  - e. Take immediate action to eliminate any hostile work environment where there has been a complaint of workplace harassment.
3. Employees are required to conduct themselves in a manner that will ensure proper performance of County business and maintenance of public trust and confidence.
  4. Victims are strongly encouraged to make a formal complaint regarding perceived harassment and to participate in the complaint process, so that illegal behavior may be addressed in accordance with law.

## **V. Policy Violations**

### **A. Engaging in Harassment**

1. An employee who engages in conduct determined to constitute harassment, retaliation, or otherwise encourages such conduct by others shall be subject to disciplinary action, up to and including, termination.

### **B. Definitions**

1. Retaliation – overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or group exercising rights under this policy.
2. Sexual Harassment – any unwelcome sexual advance, request for sexual favors, or verbal, written or physical conduct of a sexual nature by a manager, supervisor, co-workers, or non-employee (third party).
  - a. Quid pro quo – a form of sexual harassment when a manager/supervisor or a person of authority gives or withholds a work-related benefit in exchange for sexual favors. Typically, the harasser requires sexual favors from the victim, either rewarding or punishing the victim in some way.
  - b. Hostile environment – a form of sexual harassment when a victim is subjected to unwelcome and severe or pervasive repeated sexual comments, innuendoes, touches, or other conduct of a sexual nature which creates an intimidating or offensive place for employees to work.
3. Third parties – Individuals who are not County employees, but who have business interactions with County employees. Such individuals include but are not limited to customers, vendors and volunteers.
4. Workplace Harassment – Any unwelcome verbal, written or physical conduct that either denigrates or shows hostility or aversion towards a person on the basis of race, sex, color, national origin, religion, age, or disability that; (1) has the purpose or effect of creating an intimidating hostile or offensive work environment; (2) has the purpose or effect of unreasonably interfering with an employee's work performance; or (3) affects an employee's employment opportunities or compensation.

### **C. Allowing Harassment to Continue and/or Failing to Respond**

1. Department heads and/or supervisors who allow workplace harassment to continue or fail to take appropriate corrective action upon becoming aware of the harassment may be considered parties to the offense, even though they may not have engaged in the harassing behavior.

2. Department heads and/or supervisors who allow workplace harassment to continue or who fail to take appropriate action shall be subject to disciplinary action, up to and including termination.

## **VI. Complaint Options**

1. Employees may use the following options to file a complaint:
  - a. Grievance procedure
  - b. Workplace Harassment procedure
2. In the event that the employee elects to pursue a complaint under the Workplace Harassment procedure, the employee shall not be permitted to pursue such complaint through the County's grievance procedure.
3. In the event that the employee has previously filed a grievance as a result of an incident, the employee shall not be permitted to pursue a duplicative complaint regarding the same incident under this procedure.

## **VII. Confidentiality**

1. The confidentiality of harassment allegations will be protected to the extent possible; unfortunately, it cannot be guaranteed due to the fact that certain information must be revealed to the alleged harasser and potential witness(s) in order to conduct an effective investigation, and/or may have to be revealed to certain governmental administrative or judicial tribunals.
2. Information about the allegation will only be shared with individuals on a need-to-know basis, and records relating to complaints will be kept confidential.
3. The County recognizes it has a legal duty to prevent and correct known harassment or retaliation in the workplace.

## **VIII. Workplace Harassment Procedure**

1. Employees and third parties should report incidents of workplace harassment and retaliation as soon as possible after the incident occurs.
2. Employees and applicants of employment seeking to remedy workplace harassment may file a written complaint with the Human Resources Director, the Department Head or designee, or any other person designated to receive such reports.
  - a. Under no circumstances shall the individual alleging harassment be required to file a complaint with the alleged harasser.
  - b. Charges of harassment against the County Administrator shall be referred to the Board of Supervisors.
  - c. In the event that a third party is responsible for the harassment, the County Administrator or designee will determine the appropriate action to take.
3. An initial investigation should be initiated as promptly as practical after receipt of a complaint to determine whether a detailed fact-finding investigation should be conducted. This may include reviewing the complaint, speaking with the alleged harasser, etc.

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4. If a detailed fact-finding investigation is **not** warranted, the person conducting the initial investigation shall notify the appropriate parties in a timely fashion.
5. If a detailed fact-finding investigation **is** warranted, it will be launched immediately. The amount of time to complete the investigation will depend upon the particular circumstances.
6. An individual will be designated to conduct the investigation and to objectively gather and consider all relevant facts.
  - a. The alleged offender must not have supervisory authority over the individual who conducts the investigation and must not have any direct or indirect control over the investigation.
7. Intermediate measures may be taken before completing the investigation to ensure that further harassment does not occur. This may include scheduling changes to avoid contact between the parties; transferring the alleged offender; or placing the alleged offender on leave pending the conclusion of the investigation.
  - a. The complainant should not be involuntarily transferred or otherwise burdened, since such measures could constitute unlawful retaliation.
8. The investigator shall interview the complainant, the victim (if not the complainant), the accused, witnesses who have direct, personal knowledge of the harassment, and others who may have relevant information. The alleged harasser may be given the opportunity to provide a written response during the interview process.
9. The investigation may include a review of the personnel files of the complainant and alleged harasser for information potentially related to the complaint.
10. Once the investigation is completed, the County will make a determination as to whether harassment occurred. The determination could be made by the investigator, or by the County Administrator or designee who reviews the investigator's report.
  - a. In some circumstances, it may be difficult to reach a determination because of evidence contradictions, lack of documentary, or eye-witness corroboration. In such cases, a credibility assessment may form the basis for the determination.
11. The complainant, the victim, and the alleged harasser shall be informed of the determination, any appropriate disciplinary action taken, or other relief granted, if any, and any other action to be taken as a result of the complaint.
12. Any complainant, victim, or alleged harasser may request that the Personnel Committee review the County Administrator's, or designee's decision.
  - a. Such request must be made in writing to the HR Director or designee within ten (10) calendar days after being informed of the determination.
13. The Personnel Committee shall review the decision, and may (a) take additional evidence, (b) remand that the HR Director or designee conduct an additional investigation; and/or (c) take any other action that it deems appropriate within the limitations of this policy and law.

14. The Personnel Committee shall make a recommendation to the Board of Supervisors to affirm or modify the decision.
15. To the extent that the decision is modified, the Personnel Committee shall make written findings supporting such modifications. The decision of the Board of Supervisors, upon review of the proceedings carried out in accordance with the procedures established herein, shall be final.

**IX. Assurance of Immediate and Appropriate Corrective action.**

1. Any remedial measures shall be designed to stop the harassment, correct its effects on the employee, and ensure that the harassment does not recur. These remedial measures need not be those that the victim and/or complainant requests or prefers, as long as they are effective.
2. Remedial measures should not adversely affect the complainant. If it is necessary to separate the parties, the offender should be transferred (unless the complainant prefers otherwise). Other forms of remedial measures might include oral or written warning or reprimand; demotion; reduction of wages; suspension; training or counseling; and monitoring of the harasser to ensure that discrimination stops.
3. Remedial measures also should correct the effects of the discrimination on the victim. Such measures should be designed to put the employee in the position they would have been in had the misconduct not occurred. Such measures might include: restoration of leave taken because of the discrimination; reinstatement; apology by the harasser; monitoring treatment to ensure that the employee is not subjected to retaliation; and correction of any other harm caused by the discrimination (e.g., compensation for losses).

Please see the Appendix at Form CC 08 for the HR form related to the processing of complaints of workplace discrimination and/or harassment.





# Personnel Management Plan Culpeper County, Virginia

## Section X, Grievance Policy

### I. Purpose

It is the policy of the Board of Supervisors to provide fair, equitable, and satisfactory working arrangements for its employees. This policy provides a process where employees may voice complaints concerning issues related to their employment with the County.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### II. Scope

This policy applies to all local government full and part-time employees who are not listed as exempt under Section 15.2-1507 of the Code of Virginia, as amended. Exempt positions include:

- Keys officials of the County, such as the County Administrator, County Attorney, and Department Heads;
- Employees serving their initial probationary periods, including any permitted extensions thereof, unless their complaint includes allegations of discrimination or workplace harassment;
- Members of boards and commissions;
- Officials, appointees, and employees who serve at the will or pleasure of an appointing authority;
- Temporary, limited, and seasonal employees;

The County Administrator or their designee shall maintain an up-to-date list of the key officials' positions that are excluded from the grievance procedure, which shall be included herein and in the Appendix.

### III. Procedure

#### A. Types of Complaints

An eligible employee may grieve (complain or dispute) any grievable action relating to their employment. However, the County retains the right to manage the affairs and operations of the organization consistent with the below; therefore, not all actions are grievable.

#### 1. Examples of grievable actions:

- a. Disciplinary actions, including dismissals; disciplinary demotions and suspensions;
- b. Application of personnel policies, procedures, rules and regulations;
- c. Complaints of discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, or sex;
- d. Acts of retaliation taken as a result of utilization of this grievance procedure or for participation in the formal grievance of another County employee; and
- e. Acts of retaliation because the employee has complied with any law of the US or the Commonwealth of Virginia; has reported any violation of such law to a governmental authority or has sought any change in law before the United States Congress or the General Assembly of Virginia.

2. Examples of non-grievable actions:

- a. Establishment or revision of wages, salaries, position classifications, or general benefits
- b. Work activity accepted by an employee as a condition of employment, or which reasonably may be expected to be part of the content of the job;
- c. Direction and evaluation of the work of County employees (performance evaluations shall not be grievable except where the employee can show that the evaluation was arbitrary or capricious);
- d. Means, methods and personnel by which work activities are undertaken
  - i. The provision of equipment, tools, and facilities necessary to accomplish tasks;
  - ii. The scheduling and distribution of manpower/personnel resources
  - iii. Training and career development; and
  - iv. Hiring, promotion, transfer, assignment, and retention of employees;
- e. Failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly;
- f. Termination, layoff, demotion or suspension from duties because of lack of work, reduction in workforce or job abolition except where such actions affect an employee who has been reinstated within the previous six months as the result of the final determination of a grievance. In any grievance brought under the exception to this paragraph, the action of the County shall be upheld upon a showing by the County that:
  - i. There was a valid business reason for the action, and
  - ii. The employee was notified of the reason in writing prior to the effective date of the action;
- g. Contents of statues, ordinances, personnel policies, procedures, rules and regulations
- h. Relief of employees from duties in emergencies, or;
- i. Informal supervisory action – for example, counseling.

B. Time Periods

1. Within this policy, “days” shall be defined as calendar days unless otherwise noted.
2. Time periods shall begin to run on the day following the action, without regard to weekends or County-observed holidays.
3. If a specified time period in this procedure ends on a weekend or holiday, the last day of the time period shall be the end of the first business day following the weekend or holiday.
4. The time periods are intended to be strictly construed and enforced. However, in the interests of fairness, such time limits may be extended if both parties agree to such extensions in writing.

C. Grievability and Determination Appeals

1. The issue of grievability may be raised by the grievant or Department Head at any step of the grievance procedure prior to panel hearing, or it shall be deemed waived by all parties. The issue shall be resolved before further processing of the grievance.

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2. Determinations of grievability and access shall be made by the County Administrator, or designee.
  - a. The question of grievability is solely within the purview of the County Administrator, but the County Administrator is authorized to seek legal guidance on the question from the County Attorney.
3. The County Administrator shall have fifteen (15) calendar days from the date of the request to render a decision of grievability. A copy of the decision shall be sent to the grievant, Department Head or designee, and Human Resources.
4. If the grievant does not agree with the County Administrator's decision, they may file a notice of appeal. The appeal must be received by the County Administrator or the County Attorney within ten (10) calendar days from the date the decision was rendered. Copies shall be sent to the grievant, Department Head or designee, and Human Resources.
5. All appeals shall be heard in the Culpeper County Circuit Court.
6. Within fifteen (15) calendar days after the filing of the notice of appeal, the County Attorney shall transmit to the Clerk of the Circuit Court the following:
  - a. Copy of the County Administrator's decision on grievability or access to the procedure;
  - b. Copy of the notice of appeal; and
  - c. Copies of exhibits.

A list of the evidence furnished to the Court shall also be furnished to the grievant.

7. The failure of the County Attorney to transmit the record shall not prejudice the rights of the grievant. The Court, on motion of the grievant, may issue a Writ of Mandamus requiring the County Attorney to transmit the record on or before a certain date.
  8. Within 30 days of receipt of such records by the Clerk, the Court, sitting without a jury, shall hear the appeal on the record transmitted by the County Attorney and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The Court, in its discretion, may receive such other evidence as the ends of justice require.
  9. The decision of the Court shall be rendered no later than the fifteenth day (15) from the date of the conclusion of the hearing.
    - a. The court may affirm the decision of the County Administrator or his designee or may reverse or modify the decision.
    - b. The decision of the court is final and is not appealable.
- D. The County Administrator prior to their initiating formal disciplinary action, including but not limited to suspension, or termination, against a Department Head or other employee, shall brief the Board of Supervisors on the matter. Notwithstanding such requisite briefing, Department Heads do not enjoy grievance rights. Please see the list of positions excluded from the Grievance Procedure detailed in the Appendix at Form CC 16.

#### **IV. Grievance Procedure Process**

##### Steps of the Grievance Procedure

*The grievance procedure contains phases:*

*Step 1 – Informal Discussion Management Steps*

*Step 2 – Department Head Hearing*

*Step 3 - County Administrator or designee Hearing*

*Step 4 – Panel Hearing or Hearing Officer*

##### A. Step 1 - Informal Discussion

1. Prior to the initiation of the Management Steps, an employee should discuss the dispute with their immediate supervisor as an attempt to resolve the problem informally.
2. Even when informal discussions are ongoing, however, the employee must initiate the Management Steps within twenty (20) calendar days as stated in the Initiating a Grievance section of this policy.
3. The timeframe may be extended if both parties agree, but to be enforceable, such mutual agreement must be in writing.

##### B. Initiating a Grievance

1. An employee shall initiate the Management steps by completing the Grievance Complaint Form and must be presented to the appropriate respondent within twenty (20) calendar days from the date the employee knew or should have known of the event that forms the basis of the grievance.
2. The grievance must be presented to the department in which the employee works and pertain directly and personally to the employee's own employment in a position with access to the grievance procedure.
3. The form must state the claim, the facts in support of the claim, and the relief requested, or the grievance may be administratively closed due to non-compliance.
4. The employee may not add additional claims/relief to the grievance once initiated.

##### C. Step 2 – Department Head Hearing

1. An employee shall submit the written grievance to their Department Head. In the event that an employee alleges retaliation or discrimination by the Department Head the employee may:
  - a. Request that the County Administrator designate another third step respondent or;
  - b. Has the option to proceed directly to step 3 of the grievance.
2. The Department Head must:
  - a. Accept the grievance
  - b. Enter the date of receipt on the form
  - c. Notify the Human Resources Department that the grievance has advanced

## COUNTY OF CULPEPER, VIRGINIA

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3. The Department Head shall identify the issues, gather information and review the facts. A face-to-face meeting shall be held to discuss the issues in the dispute.
4. The persons that may be present at this meeting include:
  - a. Employee;
  - b. Department Head;
  - c. Any relevant witnesses.
5. The employee and Department Head may call relevant witnesses, but the witnesses shall only be present at the meeting while they are being questioned.
6. Both parties are encouraged to present information relevant to the grievance and may question one another regarding disputed facts and issues at the meeting.
7. Within fifteen (15) calendar days of receiving the grievance, the Department Head must provide written response on the grievance form.
  - a. The response must address the issues and the relief requested and should notify the employee of their procedural options.
8. Within fifteen (15) calendar days of receiving the second step response, the employee must:
  - a. Indicate on the grievance form their intention to continue to the third step resolution and submit the form to the third step respondent or;
  - b. Indicate on the grievance form their intention to conclude the grievance and submit the form to the Human Resources Department.

### D. Step 3 – County Administrator Hearing

1. An employee shall submit the written grievance to the County Administrator or designee.
2. The County Administrator or his designee must:
  - a. Accept the grievance
  - b. Enter the date of receipt on the form
  - c. Notify the Human Resources Department that the grievance has advanced.
3. Within fifteen (15) calendar days of the third-step respondent's receipt of the grievance, a meeting shall be held.
4. The persons who may be present at this meeting include:
  - a. Employee and an individual selected by the employee;
  - b. The County Administrator or his designee;
  - c. Department Head;
  - d. Human Resources representative;
  - e. If the grievant is represented by legal counsel, the organization also has the option of being represented by counsel.
5. The County Administrator or designee is charged with presiding over the meeting and

must be so in an even handed manner. For example, while the County Administrator

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or designee could limit the introduction of repetitive information, they should not prohibit an employee from disclosing relevant information not previously provided.

6. The employee and Department Head are encouraged to present information relevant to the grievance and may question one another regarding disputed facts and issues at the meeting.
7. The employee and the Department Head may call relevant witnesses, but the witnesses shall only be present at the meeting while they are providing information.
8. The Human Resources Director is responsible for recording the meeting and maintaining the record in their possession for a period of twelve (12) months. Both parties may request and receive a copy of the record; a reasonable fee may be charged.
9. Within fifteen (15) calendar days of receiving the grievance, the County Administrator, or designee must provide written response on the grievance form.
  - a. The response must address the issues and the relief requested and should notify the employee of their procedural options.
10. Within fifteen (15) calendar days of receiving the third step response, the employee must:
  - a. Request on the grievance form that their grievance continue to the fourth step resolution and submit the form to the County Administrator, or designee or;
  - b. Indicate on the grievance form their intention to conclude the grievance and submit the form to the Human Resources Department.

#### E. Step 4 – Panel Hearing or Hearing Officer

1. The final step in the grievance procedure may be a hearing before an impartial three-member panel or a hearing officer at the election of the County Administrator or designee.
2. Within fifteen (15) calendar days of receipt of request for the grievance to proceed to step 4, the County Administrator, or designee shall notify the employee if the grievance shall be heard by a panel or a hearing officer.

#### **F1. Hearing Officer**

1. If the County Administrator elects for the grievance to be heard by a hearing officer, they may request that the hearing officer be appointed by:
  - a. The Virginia Department of Employment Dispute Resolution, or;
  - b. The Executive Secretary of the Supreme Court of Virginia.
    1. The officer shall be chosen by from a list maintained by the Executive

Secretary and from the appropriate geographical region on a rotating basis.

2. Within fifteen (15) calendar days of designating a hearing officer for Step 4 of the

grievance, the County Administrator or designee shall request that the hearing officer

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be appointed by the elected agency.

a. The County Attorney shall notify the employee that the request has been made.

3. All parties shall be notified when the hearing officer has been selected by the elected agency.

## **F2. Panel Hearing**

1. The County Administrator or designee shall appoint a panel member within fifteen (15) calendar days after deciding that a panel will hear the grievance.
2. Within fifteen (15) calendar days following the County's Administrator's appointment to the panel, the employee shall appoint a panel member.
3. The third member of the panel shall be selected by the first two panel members. They shall accomplish this selection within twenty (20) calendar days following the employee's appointment to the panel.
  - a. In the event that an agreement cannot be reached as to a final panel member, the Chief Judge of the Culpeper County Circuit Court or their Designee, shall select the third member.
  - b. In all cases, the third panel member shall be chairperson of the panel.
4. The following persons may not serve on the Panel:
  - a. Persons involved in an earlier step of the particular grievance or with the complaint or dispute that gave rise to the grievance;
  - b. Supervisors who are in a direct line of supervision of the grievant;
  - c. Persons residing in the same household as the grievant and the following relatives of a participant in the grievance process:
    1. Spouse
    2. Parent
    3. Child
    4. Descendants of child
    5. Sibling
    6. Niece
    7. Nephew
    8. First cousin.
  - d. An attorney having direct involvement with the subject matter of the grievance nor a partner, associate, employee, or co-employee of the attorney.

## **F3. Guidelines**

1. The Panel Chairman or Hearing Officer shall promptly set the date, time and location for the grievance and shall notify the parties.
2. The Human Resources Director shall provide the panel or hearing officer with copies of the grievance record prior to the hearing and shall provide the employee with a list of the documents furnished to the panel.
3. At least fifteen (15) calendar days prior to the scheduled hearing, the County and



- list of witnesses that will be used by either party at the panel hearing.
- a. Witness lists shall include name, address, telephone number of each witness and a brief statement of the substance of the expected testimony;
  - b. All parties shall be present when evidence is presented unless otherwise agreed upon in writing.
  - c. The panel or hearing officer has the authority to determine the admissibility of evidence without regard to burden of proof.
  - d. The panel or hearing officer has the authority to determine the order in which the evidence will be presented as long as all parties are afforded the opportunity to present their evidence.
4. Relevant documents, files, exhibits and witnesses shall not be presented as evidence or permitted to testify at the hearing if the documents are requested, but not provided to the opposing party within fifteen (15) calendar days prior to the scheduled hearing, absent showing good cause.
  5. The panel or hearing officer has the authority to limit attendance at the hearing to persons having a direct interest in the case and shall conduct the hearing in private if it is requested by either party.
  6. The employee shall present their case first; and the County shall present its case second.
  7. Both the employee and the County may be represented by legal counsel or other representative at the hearing.
  8. Both parties may call upon appropriate witnesses; examine, cross examine, question and present evidence on behalf of the grievant or County before the panel without being in violation of the provisions of the Virginia Code, as amended, Section 54.1-3904.
    - a. Witnesses shall only be present at the meeting while they are providing information.
  9. The decision of the panel or hearing officer should be rendered as soon as possible, but in any case, not later than fifteen (15) calendar days following the conclusion of the hearing.
  10. The majority decision of the panel or the decision of the hearing officer, acting within the scope of its authority, shall be final, subject to existing policies and procedures.
  11. The panel or hearing officer shall not have the authority to do any of the following:
    - a. Formulate policies and procedures;
    - b. Alter existing policies and procedures;
    - c. Circumscribe or modify the rights of the County as outlined in this procedure;
    - d. Exonerate an employee from all discipline when the guilt of the employee is admitted or beyond question in the view of the panel or hearing officer;
    - e. Grant relief greater than which the grievant has requested in the appropriate form.

12. The question of whether the relief granted by the panel or hearing officer is consistent with written policy shall be determined by the County Administrator or designee unless they have direct personal involvement with the event(s) that gave rise to the grievance.
  - a. In this case the decision shall be made by the Commonwealth's Attorney of Culpeper County.
13. Either party may petition the Circuit Court of Culpeper County for an order requiring implementation of the panel or hearing officer's decision.

G. Expenses/Miscellaneous

1. The grievant shall bear all cost involved in employing representation or in preparing and/or presenting their case.
2. No person shall receive any compensation, whether monetary or otherwise, for their time serving as a member of the grievance panel.
3. The County shall bear all costs if it selects a hearing officer at step 4 of the grievance proceedings.
4. Whenever possible, grievances will be handled during the regularly scheduled workdays of the parties involved.
5. The grievant or witness(es) that are employees of the County shall not receive pay for time worked for participating in any step of the grievance process unless the grievance occurs during the individuals regular scheduled workday.

H. Relief

1. The employee shall not be entitled to recover more than that which they have requested and, in any event, no more than that which they have lost.
2. The relief shall be directly related to the employee, and the issue surrounding the grievance.
3. The employee shall forfeit any partial relief that may be obtained at one level of the grievance process if they decide to appeal the grievance to the next higher level.
4. Examples of relief which may be available include:
  - a. Reinstatement to the employees' former position or, if occupied, to an objectively similar position;
  - b. An award of full, partial or no back pay;
  - c. The restoration of full benefits and seniority;
  - d. An order that the agency comply with applicable law and policy;
5. Example of relief that are not available include:
  - a. Damages;
  - b. Hiring, promotion, transfer, assignment, or retention of any employee;
  - c. Establishing or revising compensation, classification or benefits;

d. Establishing or revising policies, procedures, rules or regulation;

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- e. Taking adverse action against an employee;
  - f. Directing methods, means or personnel by which work activities are to be carried out, or;
  - g. Any other relief that is inconsistent with the grievance status or procedure.
6. Back pay shall be computed on the basis of the employee's regularly scheduled hours of work and shall not be entitled to any overtime that the employee might have earned.

I. Compliance

- 1. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure, including the panel, without just cause, shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within ten (10) workdays of receipt of written notification by the other party of the compliance violation.
  - a. Such written notification by the grievant shall be made to the County Administrator, or designee.
- 2. The County Administrator, or his designee, at his option, may require a clear written explanation of the basis for just cause extensions or exceptions, and shall determine compliance issues. Compliance determinations made by the County Administrator shall be subject to judicial review by filing petition with the Culpeper County Circuit Court within 30 days of the compliance determination.

All forms that shall be used by staff related to and carrying out the Grievance Process and Procedures are found in the Appendix at Forms CC 09 through 16.



# Personnel Management Plan Culpeper County, Virginia

## Section XI, Personnel Records

### I. Purpose

It is the policy of the County of Culpeper to maintain personnel records for applicants, employees, and former employees in order to document employment-related decisions, evaluate and assess policies, and comply with governmental record keeping and reporting requirements.

The County strives to balance its need to obtain, use, and retain employment information with each individual's right to privacy.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### II. Scope

This policy applies to all County employees.

### III. Procedures

#### A. Storage

1. Personnel files for each employee are maintained by the Human Resources (HR) Department and contain documents that have been used to determine employment, promotion, compensation, transfer, disciplinary action, or termination.
  - a. Files may be maintained electronically, in hard copy, or both.
  - b. The information shall be kept electronically for all personnel information received after October 1, 2022.
  - c. For all personnel information received before October 1, 2022, the information shall be kept in hard copy until HR can enter all information in the electronic file management system.
2. The Human Resources Department is responsible for the maintenance of all personnel files for employees that are governed by the Board of Supervisors.
  - a. If a Department maintains a separate file on their employees, the information must also be submitted to HR for inclusion in their official personnel file.
  - b. Upon separation of employment, any files contained in the Department must be sent to HR for retention and/or destruction under the Library of Virginia Records Retention guidelines.
3. Personnel files shall not be removed from the HR Department or electronic file management system.

#### B. Collection of Information

1. Employees are responsible for notifying the Human Resources Department of any changes that may affect the accuracy of personnel records. This includes but is not limited to:
  - a. Name,
  - b. Contact information, and
  - c. Beneficiary designations.

## COUNTY OF CULPEPER, VIRGINIA

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2. Department Heads or designee are responsible for notifying the Human Resources Department of any changes that may (1) affect the status of an employee or (2) the accuracy of the personnel records. This includes but is not limited to:
  - a. New hire paperwork,
  - b. Salary changes,
  - c. Performance evaluations, and
  - d. Departure forms.

### C. Access

1. Department Heads may have access to an employee's personnel file that is located within their department. Requests to review an employee's personnel file that is not located within their department must be approved by the Human Resources Director.
  - a. With the implementation of the County's electronic file management system, Department Heads with access to FEITH will have view-only access to certain information in their employees' electronic files.
2. Employees may inspect their own hard-copy personnel files consistent with the Virginia Freedom of Information Act and as may otherwise be mandated under state and federal law.
  - a. A request may be verbal or written;
  - b. All inspections shall be conducted in the presence of a human resources staff member;
  - c. Records deemed to contain sensitive or confidential information may be excluded from the inspection consistent with the Virginia Freedom of Information Act;
  - d. An employee may copy, but not remove, documents consistent with the Virginia Freedom of Information Act.
3. With the implementation of the County's electronic file management system, employees with access to FETH will have view-only access to their personnel files maintained in the County's electronic file management system.
  - a. Records deemed to contain sensitive or confidential information may be excluded from the inspection consistent with the Virginia Freedom of Information Act;
  - b. An employee may request a copy, but not remove, of documents consistent with the Virginia Freedom of Information Act.

### D. Medical Information

1. The County shall use its best efforts to maintain the confidentiality of the diagnosis and medical records of employees, unless otherwise required by law.
2. All medical records shall be kept in a separate file and the information contained therein shall only be released consistent with state and federal law.

### E. Incomplete, Inaccurate or Irrelevant Information.

1. Employees who feel that any file material is incomplete, inaccurate, or irrelevant may submit a written request to the Human Resources Director that the file be revised accordingly.
2. If such a request is not granted, the employee may place a written statement of disagreement in the file and pursue the matter further using the County's grievance

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procedure outlined in Section X of the Personnel Management Plan and/or other applicable law.

F. Requests for Personnel Information by Outside Sources.

1. All requests made by outside sources for information pertaining to applicants, and current and previous employees shall be forwarded and answered by the Human Resources Department.
  - a. The County of Culpeper shall release information pertaining to only dates of service, position held, and final or current salary for persons who are currently or no longer employed with the County.
  - b. Additional information may be released as authorized, which release is encouraged to be memorialized in writing, by the current or former employee, or otherwise required by law.



# Personnel Management Plan Culpeper County, Virginia



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**SECTION XII: LEAVE**

**I. Purpose**

It is the County’s objective to establish uniform policies by which employees are permitted to take time off from work.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

**II. Scope**

This policy applies to all County employees.

**III. Procedures**

**A. Approval of Leave**

1. Employees should request leave no later than two (2) days before the commencement of leave using a leave request form, whether time off is with or without pay, and should receive the Department Head’s or designee’s approval before taking leave.
2. As long as an agency’s operations are not seriously adversely affected, a Department Head or designee should attempt to approve an employee’s request for leave. If the time requested conflicts with the department’s operations, the Department Head has the discretion to approve the employee’s request for an alternate date/time.
3. If an employee could not have anticipated the need for leave, he must notify his Department Head or designee and request approval for the leave within one workday, or as soon as possible in emergency or special circumstances. Notification must be made as soon as the need for leave is apparent.
4. A Department Head or designee may require written documentation for leave in excess of three (3) days, whether time off is consecutive or intermittent, if the leave is related to the same illness.
5. Any absence in excess of three (3) days without proper notification to the pertinent Department head shall be deemed a resignation to the County without notice, barring exceptional circumstance
6. An employee who is absent from duty without approval of their Department Head or designee shall receive no pay for the duration of the absence and shall be subject to disciplinary action as described in the Standards of Conduct section. It is recognized that there may be extenuating circumstances for unauthorized absence and due consideration shall be given to each case.

**B. Annual Leave**

1. Full-time regular employees will accrue leave in accordance with the following schedule:

Less than five (5) years of service	12 hours per month
Five (5) but less than fifteen (15) years of service	16 hours per month
Fifteen (15) or more years of service	20 hours per month

*\*Leave accrual may differ from the schedule above for employees of governmental offices and agencies that are not subject to the PMP. As the County acts as the fiscal agent for certain legally separate and distinct government offices and agencies that are not subject to the PMP, their accrual tables are included herein the Appendix at Form CC 26 merely as a courtesy.*

2. Employees must be on a paid status for a least half of the month to accrue leave for that month; employees who are on a paid status for less than half of the month do not accrue leave in that month.
3. Employees are eligible to accrue up to 720 hours of annual leave. Once the 720 hours figure is reached, annual leave will no longer accumulate, but will be lost, until sufficient leave is taken to bring the employees accumulated balance below the maximum allowable amount.

C. Cashing out Accrued Leave

1. All regular full-time employees may request to cash out a portion of their accrued leave each year.
2. Each employee must have a minimum of 400 hours accrued in their leave bank at the time of request, and at the time of payout in order to cash out leave.
  - a) As to the other separate and distinct offices and agencies which have a different leave accrual maximum than the County's plan must have at least a balance of 56% of their accrued leave maximum in order to request cash out of leave.
  - b) Sick time is not eligible to be cashed out.
3. The amount of leave eligible to be cashed out depends upon years of service at the time of the request, and is as follows:

Years of Service	Hours eligible to cash out
<5	<b>0</b>
5 - <10	<b>40</b>
10 - <15	<b>80</b>
15 - <20	<b>120</b>
20 - <25	<b>160</b>
25 - <30	<b>200</b>
30 and over	<b>240</b>

4. Such requests must be submitted to the Department Head or designee between November 1<sup>st</sup> - November 30<sup>th</sup> of each year. Any requests submitted after November 30<sup>th</sup> will not be considered.
5. An employee will receive payment in July of each year, and leave will be cashed out

at the employee's hourly rate as of July 1<sup>st</sup> of each year.

6. All funding for the cash out program will be included in the department budget requests for the upcoming fiscal year and are subject to approval by the Board of Supervisors during the budget process.
7. An employee may request to have money deposited into a 457 account, into a health savings account, or used to buyback VRS service.
8. Other cash out requests may be considered during the year if an unforeseen emergency occurs, such as potential foreclosing of house, etc. Such requests must be submitted in writing to the Human Resources Department and must be approved by the County Administrator.

D. Bereavement Leave.

1. Bereavement leave is defined as an approved employee absence during regularly scheduled work hours due to the death of a member of the employee's immediate or extended family as defined in Section 1, Subsection V.
2. For any one incident, bereavement leave shall be limited to four (4) work days for any regular full-time employee for the death of an employee's immediate family member.
  - a) Bereavement leave for Emergency Services personnel shall be defined as two (2) twenty-four-hour shifts.
3. For any one incident, bereavement leave shall be limited to two (2) work days for any regular full-time employee for the death of an employee's extended family member.
  - a) Bereavement leave for Emergency Services personnel shall be defined as two (2) twenty-four-hour shifts.
4. Bereavement leave shall be taken within a reasonable time frame after the death of the family member and can be taken consecutively or intermittently but must be taken in full-day increments.

E. Civil Leave (Jury Duty)

1. A regular full-time employee shall be given time off without charge to other leave or decrease of pay when performing jury duty, limited in part by the jury service fees paid through the County or otherwise received by the employee from the court; when subpoenaed as a witness on County business, or in a proceeding in which the employee is not a party. The period of such leave shall be only as necessary for the performance of the activity, plus the necessary travel time.

F. Compensatory (Comp) Leave

1. The County desires that each employee permitted to accrue compensatory time request to use accrued compensatory time within a reasonable time. The County defines a reasonable time to be not more than 60 days from the date the compensatory time is earned. See the Virginia Overtime Wage Act.

## COUNTY OF CULPEPER, VIRGINIA

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2. Any request by an employee within a reasonable time to use permitted accrued compensatory leave, shall be granted by the appropriate supervisor unless, leave would unduly disrupt the operations of the department.
3. Should an employee be permitted to accrue (limited to certain public safety personnel), but not request compensatory leave under these circumstances, the appropriate supervisor, in their sole discretion, may require the employee to take compensatory leave. Since compensatory time when permitted is accrued at one and one-half the regular rate of pay, permitted compensatory leave that remains on the books for 60 days may be paid out at the regular rate of pay. See the Virginia Overtime Wage Act.
4. Compensatory time shall be exhausted before annual leave is utilized.
5. This paragraph applies only to limited public safety employees. No County employee that is permitted to accrue compensatory leave, shall be permitted to accrue any more than 240 compensatory hours, except those described below in para. 6. Since compensatory time when permitted is accrued at one and one-half the regular rate of pay, permitted compensatory leave accrued in excess of 240 hours shall be paid out to the employee at their regular rate of pay. See the Virginia Overtime Wage Act.
6. While the employees of the Sheriff are not subject to the PMP and the Office is a separate and distinct legal entity from the County, in prudence, it is recited here, as a matter for budget accountability, that those who are engaged in public safety/law enforcement activities under their auspices shall not accrue more than 480 compensatory hours. Since compensatory time is accrued at one and one-half the regular rate of pay, compensatory leave accrued in excess of 480 hours shall be paid out to the employee at their regular rate of pay.

### G. Family Medical Leave (FMLA)

1. FMLA requires covered employers to provide several weeks of job-protected leave consistent with the below to eligible employees for:
  - a) Birth & care of a newborn (12 weeks per 12 months rolling backwards)
  - b) Placement of a child for adoption or foster care (12 weeks per 12 months rolling backwards)
  - c) Care for a family member with a serious health condition (12 weeks per 12 months rolling backwards)
  - d) Employee's own serious health condition (12 weeks per 12 months rolling backwards)
  - e) Qualifying exigency because of active duty (12 weeks per 12 months rolling backwards)
  - f) Care for an injured and/or ill covered service member (26 weeks per 12 months rolling backwards)
2. A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves one of the following:
  - a) Inpatient care
  - b) A period of incapacity lasting more than three (3) full consecutive calendar days
  - c) Pregnancy or prenatal care

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- d) Chronic condition requiring multiple or continuing treatment
  - e) Permanent/long term conditions requiring medical supervision
  - f) Any period of absence to receive multiple treatments.
3. Employees are eligible for FMLA if they have been employed with the County for at least one year and worked 1,250 hours in the previous 12 months.
  4. Requests for FMLA must be submitted thirty (30) calendar days in advance when the necessity for leave is foreseeable. To the greatest extent possible, if the necessity for leave is unforeseeable, an employee must request FMLA as soon as practicable. Foreseeable leave should be scheduled so as to minimize disruption to the department's operations.
  5. The employee shall be required to provide medical certification from a health care provider in connection with a request for medical leave. Additionally, an employee may be required to provide medical updates from the health care provider during period(s) of incapacity.
  6. FMLA may be taken on an intermittent or reduced schedule basis, if certified as necessary by the health care provider, and scheduled, if possible, to minimize disruption to the department's operations. All leave designated as FMLA by the employee or employer shall be counted toward the twelve (12) weeks of job protected leave.
  7. An employee may elect during protected leave to use accrued leave so as to be paid during protected leave. The employee may take protected leave without pay. It is the responsibility of the Department Head or designee to track FMLA usage.
  8. For the duration of FMLA, the County will maintain the employee's coverage under the group health insurance, and employee is responsible for paying the employee's portion of the health insurance premium.
  9. An employee may be required by the Department head or designee to submit a doctor's note to be able to return to work, and failure to submit a doctor's note in a timely manner may delay reinstatement.
  10. No employee shall be prevented from returning to work prior to the expiration of the twelve (12) week period. Requests for leave beyond the twelve weeks are subject to regular leave policies with approval determined by the Department head or designee.

*The Human Resources Department should be contacted by the Department Head or employee in the event that FMLA is needed in order to confer with the employee on their ability to continue working and ability to return to work.*

### H. Long Term Disability (LTD)

Please see the appropriate Summary Plan Description that applies in the individual case. Please contact the Human Resources Department for more detailed information.

## COUNTY OF CULPEPER, VIRGINIA

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### I. Military Training Leave

1. A regular full-time employee who is a member of a reserve force of the United States or the Commonwealth of Virginia and who is ordered by the appropriate authorities *to attend a training program or who is called to emergency duty shall be granted a leave of absence without charge to their personal leave account.* Such leave is not to exceed 15 consecutive calendar days within a calendar year for training and five working days for emergency duty.
2. If the employee's military pay is less than what would have been received by the County the difference shall be paid by the County. If the military pay is greater than the County pay, the County will provide no payment during the period of Military Training leave.
3. An employee who voluntarily or involuntarily leaves employment to undertake military service or certain types of service in the National Disaster Medical System may be re-employed and have health insurance protection in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). Please see USERRA for more information.

### J. On the job injury

1. In accordance with Section 65.2-509 of the Virginia Workers' Compensation Act, generally, no compensation shall be allowed for the first seven (7) calendar days (including Saturday, Sunday, holidays and does not need to be consecutive) of incapacity resulting from a job-related injury or illness.
2. During this seven (7) day period, the employee may use accrued annual, sick, or permitted compensatory leave. If the employee has no leave balance, the employee will be placed in a leave without pay status for the seven (7) day period.
3. If the incapacity extends beyond the initial seven (7) day period, Workers' Compensation benefits (compensation) shall commence with the eighth (8th) day of disability. If such incapacity continues for a period of more than twenty-one (21) calendar days, not including the day of injury, compensation shall be allowed from the first day of such incapacity.
4. Workers' Compensation benefits are provided at the rate of sixty-six and two-thirds ( $66\frac{2}{3}$ ) of the average weekly, pre-tax wage of the employee, subject to weekly maximums as approved by the Virginia Workers' Compensation Commission. This amount is not subject to payroll taxes.

Employees may supplement the workers' compensation benefit by thirty-three and one-third ( $33\frac{1}{3}$ ) using accrued annual, sick, or permitted compensatory leave. This supplement will continue until the injured employee's accrued annual, sick, or permitted compensatory leave is depleted.

### K. Short Term Disability (STD)

1. The County participates in a group short term disability program afforded all employees, in the event of a disability resulting from a physical disease, injury,

pregnancy, or mental disorder.

2. Provides basic income protection while disabled for a finite and limited time period as outlined in the policy. A waiting period may be required under the plan before STD benefits become payable and may differ by plan employee.

Please contact the Human Resources Department for more detailed information.

L. Leave Donations

1. An employee may be permitted to donate existing accrued leave to another employee, as specifically identified by the employee.
2. These requests will be evaluated on a case-by-case basis.
3. It shall be a discretionary decision of the County Administrator and/or his designee after consultation with the pertinent Department Head(s) taking into consideration the best interest and the legitimate business interest of the County.
4. In the event a donation of leave is authorized, the County Administrator and/or his designee may limit the number of hours permitted to be donated in light of the best interest and the legitimate business interest of the County.



# Personnel Management Plan Culpeper County, Virginia



## Section XIII, ORGAN DONATION LEAVE

### I. Purpose

It is the County's objective to provide eligible employees with unpaid leave in accordance with the Code of Virginia's Title 40.1, Chapter 3, Article 2.2, Organ Donation Leave

### II. Scope

This policy applies to all County employees.

### III. Definitions

#### A. Eligible Employees

An individual who has requested Organ Donation Leave and who has been employed by the county for at least 12 months and worked at least 1250 hours during the 12 months before the start of leave. 1. Employment prior to a continuous break in services of seven years or more will not be included when determining eligibility. 2. The required 1,250 hours do not have to be worked during consecutive months; however, the 1,250 hours of work requirement applies to the 12 months immediately preceding the start of leave.

#### B. Employment Benefits

Employment benefits, for the purposes of this policy, shall be defined as benefits provided by the county to eligible employees including group life insurance, health insurance, education benefits, pensions, annual and sick leave

#### C. Organ Donation Leave

Unpaid leave of an eligible employee for the purpose of donating one or more of such employee's human organs, including bone marrow, to be medically transplanted into the body of another individual. Year

#### D. Year

A rolling 12-month period measured backward from the start date of an employee's request for use of Organ Donation Leave.

### IV. Procedures

#### A. Leave

The County shall provide an eligible employee:

1. Up to 60 business days of unpaid Organ Donation Leave in any 12-month period to

serve as an organ donor and;

2. Up to 30 business days of unpaid Organ Donation Leave in any 12-month period to serve as a bone marrow donor.

B. Certification of Leave

1 . To receive Organ Donation Leave, the eligible employee shall provide written physician verification to the employer that the eligible employee is an organ donor and there is a medical necessity for the donation of the organ or bone marrow.

- a. If incomplete or insufficient medical certification is received, employee has 7 days to cure deficiencies. Failure to do this may result in denial of leave.

C. Family Medical Leave Act

Organ Donation leave shall not run concurrently with leave taken under the Family Medical Leave Act.

D. Notice of Leave

1. If possible, an employee must submit a written request for organ donation leave at least 30 days before the anticipated beginning of the leave. If an emergency or unforeseen event precludes such advance notice, the employee must give notice as soon as possible.
2. Any leave taken by an employee that may be covered under the Organ Donation Leave must be designated as Organ Donation Leave.

E. Notice to Employees

The Human Resources Department or its designee will give the employee written notice of whether the leave will be designated, and it will be counted as Organ Donation Leave within five (5) business days of receipt of the employee's request.

F. Paid Leave

Nothing in this policy shall be construed to except as provided in subsection C, prohibit an employee from taking paid leave to which the employee is otherwise entitled to in addition to or in lieu of organ donation leave.

G. Status of Benefits

1. Health Insurance

The County will continue to contribute to the health insurance premiums of employees covered under the Organ Donation Leave as discussed below:

- a. When an employee is using paid leave, the payroll deductions for the employee portion of the health insurance premiums continue.
- b. When an employee is on leave without pay, the employee must arrange with Payroll for the payment of the employee portion of the health insurance premiums.

2. Life Insurance

The County will continue to pay life insurance premiums while an employee is on organ donation leave.

3. Leave Accrual

An employee will not accrue leave during any period of leave without pay.

H. Returning from Leave

An employee who takes Organ Donation Leave will be required to provide medical certification that they are fit to resume work. Failure to submit certification in a timely manner may delay reinstatement.

I. Restoration to Position

An eligible employee who returns to work after taking organ donation leave shall be entitled to restoration to employment as follows:

- a. The position of employment held by the eligible employee when the Organ Donation Leave began.
- b. An equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.



# Personnel Management Plan Culpeper County, Virginia

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## SECTION XIV: TRAVEL REIMBURSEMENT

### A. Policy Statement

The County recognizes that there will be occasions when employees will have to travel on County business and does not wish to have these trips be a financial burden to employees. Culpeper County (County) will reimburse individuals traveling on official County business for reasonable and necessary expenses incurred according to the provisions articulated herein.

Travel expense records and information are open to the public and must be able to sustain the test of public review. It is the policy of the County to limit travel costs to only those expenses that are necessary for providing essential services to the County's citizens. Further, travelers and travel planners must seek ways to reduce the cost of travel.

Persons traveling on official County business will exercise care in incurring expenses to **minimize** the cost to the County. Excess costs resulting from circuitous routes, delays, or luxury accommodations or services unnecessary or unjustified in the performance of official business will not be reimbursed. Department Heads are responsible for being mindful that preference shall be given to choosing local sites and sites within the Commonwealth in carrying out County business, including training courses.

### B. Applicability

This policy shall apply to all County employees.

### C. Purpose

It is the intent of this Policy and its procedures to provide fair, reasonable and systematic means to properly administer, document and reimburse County travel costs, consistent with state and federal law.

### D. Authority

Authority for this Policy is established by the BOS. Delegation of authority to implement all provisions of this Policy and authorize exceptions, *unless otherwise delegated within this Policy*, is provided to the County Administrator. Administration of the Policy is managed by the Finance Director, and the employees of the Finance Department.

### E. Responsibility

Departments Heads must communicate County travel policies, regulations and procedures to all employees in their charge who travel on County business. Department Heads are responsible for ensuring that all employee travel expenses are reasonable and conform to the County's Travel Policy. This authority may be delegated, **at a minimum**, to direct supervisors or managers with appropriate knowledge of the traveling employee's job responsibilities to adequately review and determine the necessity and reasonableness of travel related costs.

The Finance Department is responsible for the administration of this Policy, review of all payment requests for compliance, issuance of accurate and timely payments, and

## COUNTY OF CULPEPER, VIRGINIA

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maintenance of all applicable records in keeping with the Commonwealth's record retention regulations as issued by the Library of Virginia with the assistance of the County Records Management Division of IT.

Travelers are the employees responsible for the legitimacy and supporting documentation of reimbursable expenses. The County relies on the honesty and integrity of those traveling to prevent excessive expenditures and reimbursements. Any falsification of expenditures constitutes fraud. Possible penalties include, but are not limited to, termination of employment and/or criminal prosecution.

### F. Definitions

Base Point – The primary place, office, or building where the traveler performs their duties on a routine basis. Multiple base points are not allowed.

Commuting Mileage – Round-trip mileage traveled routinely by the employee between his residence and base point.

Continental United States (CONUS) – The 48 contiguous States and the District of Columbia.

Department – Any department of the County of Culpeper operating from County funds.

Department Head – The highest-ranking individual within a department as defined in this Policy.

Furnished Meal – A meal provided to an employee either directly from the County or as a result of the County paying a registration fee or other cost which allows the employee to attend a conference or other event. If the County has already paid for a meal, including any complimentary or continental breakfasts, the employee must deduct the allocated amount when filing their travel claim.

International Travel – All travel to areas outside of the 48 contiguous State and the District of Columbia.

Official Station – The area within a 50-mile radius of an employee's designated base point.

Official Travel – Travel under an official travel authorization from an employee's official station or other authorized point of departure to an employee's authorization travel destination.

Per Diem Allowance – The per diem allowance (also referred to as subsistence allowance) is a daily payment instead of reimbursement for actual expenses for lodging, meals, and related incidental expenses. The per diem allowance is separate from transportation expenses and other miscellaneous expenses. Lodging taxes in the United States are excluded from the per diem allowance and are reimbursed as a miscellaneous expense. In foreign locations, lodging taxes are part of the per diem allowance. The per diem allowance covers the following:

- a) *Lodging* – Includes expenses, except lodging taxes in the United States, for overnight sleeping facilities, telephone access fee, and other service charges when not included in the room rate (i.e., fans, extra bedding, etc.) unless otherwise deemed unallowable per Policy (i.e., recreational or entertainment expenses like in-room movies).
- b) *Meals* – Expenses for breakfast, lunch, dinner and related tips and taxes (specifically excluded are alcoholic beverage and entertainment expenses, and any expenses incurred for other persons).

c) *Incidentals* – Fees and tips given to porters, baggage carriers, and hotel staff.

Special Needs – Physical characteristics of a traveler not necessarily defined under disability. Such characteristics could include, but are not limited to, special dietary restrictions, weight and height of the traveler.

Subsistence Expenses – Expenses such as lodging, meals, and incidentals. See per diem definition for greater detail of each type.

Travel Authorization – Written permission to travel on official business. Travel must be properly budgeted and funds available before travel may begin.

Travel Claim – Original authorized documentation for requesting reimbursement of expenses incurred by an individual while traveling on official County business.

Travel Status – Time employee is actively on travel away from official station.

G. Allowable Travel Expenses

All approved, reimbursable expenses must be turned into the Finance Department within 30 days of the occurrence. It is the employee's responsibility to report travel expenses in a responsible and ethical manner, and in accordance with the regulations set forth in the Policy

A. Department Travel Cards Departmental: Travel cards may be issued to employees who travel on official County business.

- (1) Any employee issued such a card should use the card to pay for all expenses related to official business travel, including lodging and subsistence, except where the card is not accepted.
- (2) In the event that the departmental travel card is not accepted, an employee may request that the County be billed directly, if appropriate, or may pay for expenses.
- (3) All travel expenses, whether paid with departmental travel card or by employee, must be submitted to the Finance Department using the appropriate form.
- (4) Receipts must be attached to the form and are required for justification of expenses for which receipts are customarily provided.
- (5) An employee may be liable for all expenses for which receipts cannot be produced, or for expenses which are deemed as uncommon, unnecessary or unreasonable.

B. Lodging

Lodging may be reimbursed when an individual is traveling overnight on official business outside their official station. Employees may be reimbursed for overnight hotel accommodations, including applicable tax, when traveling at least fifty (50) miles from Culpeper County. Overnight stays generally will not be approved for meetings occurring in Charlottesville, or Fredericksburg, absent rare and limited exception.

Lodging expense reimbursement varies with the travel destination, but all expenditures must be necessary and reasonable to accomplish the County's business. It is the Department Head's discretion as to what constitutes a

legitimate need for overnight lodging.

(1) Accommodations

- a. Accommodations will be arranged on a single occupancy basis only.
- b. If there is more than one County employee traveling to the same site/event, a room may be shared upon the agreement of the employees. When sharing, the traveler's reimbursement is limited to one-half of the double occupancy rate.
- c. Travelers are expected to arrange accommodations at (or closest to) the site of business, unless a more cost-effective option is available with limited exception and one for which a sound business purpose exists.
- d. Employees will communicate travel plan changes to the hotel as soon as possible when a confirmed reservation is being held.

(2) Reimbursable Amount

- a. Reimbursable amounts for lodging, supported by original, **itemized** hotel bills obtained at time of checkout, shall be no greater than the room charge and applicable taxes for a single room per employee traveling. The total lodging cost, excluding taxes, may not exceed the Federal Government's (GSA) prescribed per diem rate that may be found at <http://www.gsa.gov/perdiem>.
  - b. Whenever possible, every effort should be made to secure a government or corporate rate. The maximum nightly reimbursable amount will be based in accordance with the Internal Revenue Service (IRS) publication 1542. Any overnight hotel accommodations above the allowable amount shall be the responsibility of the employee.
  - c. The Director of Finance has the discretion to authorize payment above the maximum reimbursable amount as designated in the IRS Publication 1542 based upon the activity and its location. Prior approval must be obtained in order for additional payment to be granted.
  - d. Any unnecessary additional expenses associated with the room (i.e., room service, movies) are not reimbursable. Any unusual charges must be fully documented.
- (3) Lodging Exceptions: Department Heads are responsible for ensuring that travelers understand their responsibilities for making good faith efforts to secure lodging within policy guidelines **before** requesting exceptions. For justifiable situations (i.e., additional travel costs between the conference hotel and a less expensive non-conference hotel) the Department Head may authorize **in advance** for lodging up to 150% of the GSA per diem rate. The traveler must notate on the travel claim form because the exception is justified. Any exceptions above the 150% allowance must be approved by the County Administrator **in advance** of travel. No exception will be granted above 300%.

C. Meals and Incidental Travel Expenses (M&IE)



Generally, meals and certain incidental travel expenses are reimbursable on a per diem basis. The per diem is provided in lieu of a detailed submission of expenses (receipts). Incidentals include fees and tips given to porters, baggage carriers, and hotel staff, consistent with state and federal law and regulatory limitations.

- (1) Applicability: Employees are eligible for a per diem allowance when:
  - a. The employee performs official travel away from their official station;
  - b. Per diem expenses are incurred while performing official travel; and
  - c. The employee is in a travel status for more than 12 hours.
- (2) Per diem rates: M&IE rates are updated annually and may be found at <http://www.gsa.gov/perdiem> and must correspond to the location of the meal or overnight lodging as applicable. Direct billing of meal expenses incurred, including charging meals to hotel rooms, is not permitted. Travelers are limited to the prescribed rates; no exceptions will be authorized.
- (3) Gratuity: Maximum meal gratuity should be no more than eighteen to twenty (18-20%) percent and shall be included as part of the meal and incidental allowance.
- (4) Reductions: When meals are provided at no cost in conjunction with travel, the applicable M&IE per diem reimbursement shall be reduced by the amount shown for the applicable meal(s) as illustrated below.

Non-reimbursable provided meals are defined as:

- a. Any meal included in a registration or conference fee ultimately paid by the County.
- b. Any other meal furnished at no cost to the employee while in travel status (i.e., vendor, friends or family).
- c. A continental breakfast or reception that is offered as part of the travel event and the food/timing is sufficient to serve as a meal.
- d. Individuals with special dietary needs may be exempted from meal reductions.

#### D. Mileage

1. Employees may be reimbursed for mileage when using their own vehicle for official County business when traveling from Culpeper County. Mileage will be reimbursed consistent with the IRS regulations and is subject to approval by the Finance Department. When appropriate, please note that the reimbursement equation takes into consideration the travel distance from home or work, whichever is less, to and from the travel destination.
2. The mileage rate shall be determined by the Finance Department consistent with the IRS regulations. Any expenses incurred above the allowable charge, or for uncommon, unnecessary, or unreasonable mileage shall be the responsibility of the employee.

#### E. Transportation

- (1) It is expected that the most direct, practical, and economical mode and route of travel is arranged and used.

- (2) Transportation is paid only if it is reasonable and necessary to accomplish the County's business.
- (3) As a guideline, for those employees traveling greater than 500 miles round-trip, additional documentation is required to illustrate the rationale for the manner of transportation being used (e.g., why was personal vehicle chosen versus other methods of transportation which may be more cost efficient). If the employee chooses to drive his or her personal vehicle to an out of state conference when common carrier is more expeditious, he or she will be reimbursed for the lesser of the round-trip ticket or the mileage. Any costs related to the extra traveling time will be at the expense of the employee.
- (4) Airline travel. Employees may be reimbursed for coach fare when airline travel is necessary for official County business. All efforts shall be made to secure the most reasonable, economical option available for air travel.
- (5) Spouse/Dependent Travel. In the event that spouses or dependents accompany employees on official County business, all expenses incurred that are related to the accompaniment (meals, incidentals, airline travel) shall be the responsibility of the employee.
- (6) Itemized receipts are required.

F. Miscellaneous Expenses

Lodging taxes/surcharges, tolls, and parking fees are not covered under per diem and are an allowable reimbursable expense. Receipts are required.

H. Travel Planning and Approval

All travel must be approved in advance by the appropriate Department Head. Department Heads and employees are encouraged to contact the Finance Office when preparing arrangements with unusual travel conditions.

I. International Travel

All international travel must be approved in advance by the County Administrator. The request for approval must be accompanied by a detailed account of expected expenditures and an assessment of the adequacy of funding available and the benefits to the County of such travel.

J. Emergency Travel

Classified as travel that results from an employee becoming incapacitated by illness or injury (not from misconduct), or death or serious illness of a member of the employee's family, or a catastrophic occurrence or impending disaster that affects the employee's home.

Emergency travel costs should be communicated in advance to the Department Head when feasible. All emergency costs must be approved by the County Administrator or the Department Head prior to reimbursement. No delegation of authority is allowed.

K. Grant or Other Sponsored Funds Exception

All travel reimbursements for meals, lodging, airfare, etc. funded solely from sponsored funds are governed by the terms and conditions of the individual grant or contract. If the grant or contract is silent the County's travel policy shall apply. Employees or their supervisors are encouraged to contact the sponsored program manager or the Finance Department's Grant Manager prior to travel using sponsored funds. "Grant (orSponsored) Program" must be clearly stated on the travel claim form.

L. Non-reimbursable Expenses

The following items, though not all-inclusive, are not reimbursable under this Policy:

- Non-business-related expenses including phone calls
- Alcoholic beverages
- Spouse or family member's travel costs
- Lost/stolen cash or personal property
- Personal items and services, e.g., toiletries, luggage, clothes, etc.
- Laundry, cleaning or pressing costs
- Traffic citations, parking tickets and other fines
- Locksmith charges on either fleet, rental or personal vehicle
- Excess cost of circuitous or side trips for personal reasons.
- Repairs, towing service, etc. for personal vehicles
- Meals included in the cost of airfare, registration fees, lodging, etc.
- Movies in hotel/motel room
- Personal entertainment
- Charges for late checkout or non-cancelled guaranteed reservations (unless justified)
- Flight or rental vehicle insurance (exceptions for international travel apply)
- Airline, car, hotel, corporate card club membership dues
- Childcare or costs for pet care while on travel
- Costs in excess of allowable per diem rates unless a cited exception is allowed.



# Personnel Management Plan Culpeper County, Virginia

## SECTION XV: WORKERS' COMPENSATION

### I. PURPOSE

It is the objective of the Board of Supervisors that all County employees receive benefits provided by the Virginia Workers' Compensation Act upon suffering a compensable work-related injury or illness (occupational disease).

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### II. SCOPE

This policy applies to County all employees.

### III. DEFINITIONS

A. Injury - An injury is defined as an injury by accident arising out of and in the course of employment.

B. Occupational Disease - An occupational disease is defined as a disease arising out of and in the course of employment, but, unless otherwise provided by the Virginia Workers' Compensation Act, not an ordinary disease of life to which the general public is exposed outside of employment.

C. Workers' Compensation - Workers' Compensation is defined as a type of leave from employment which results from an employee's incapacity to work, and which has been determined to have resulted from an injury or occupational disease such that the employee is entitled to benefits required by the Virginia Workers' Compensation Act.

### IV. PROCEDURES

#### A. Responsibilities

1. Employees - Employee responsibilities are as follows:
  - a. Report any job-related injury or illness to the supervisor immediately and complete the required forms.
  - b. If medical treatment is needed, select a physician from the County approved list of designated physicians. In the event of an emergency requiring immediate medical treatment employees should obtain treatment at the nearest medical facility.
  - c. Notify the physician selected that all reports and bills are to be sent to the attention of the County's worker's compensation insurance carrier.
  - d. Cooperate with the insurance carrier's claims representative during the investigation of the claim.
  - e. Cooperate with the insurance carrier's claims representative during the continued handling of the claim, including supplying additional information as necessary and keeping appointments for scheduled medical evaluations.
  - f. Keep the department supervisor advised of disability status while out on injury leave
  - g. Cooperate with the Patient Advocate and return to work efforts.
  - h. No settlement with third parties should be accepted by an employee unless and

until (i) the employee confers with the insurance carrier's claims representative and (ii) the employee documents in writing with Human Resources that such report of the third party settlement offer received by the employee has been communicated by the employee to the claim representative and that meaningful discussions with the claims representative regarding the proposed third party settlement offer have taken place.

2. Department Head or Designee - Department responsibilities are as follows:
  - a. Ensure all employees within the department are aware of procedures, changes, and regulations regarding Workers' Compensation.
  - b. Submit required and completed forms to the Human Resources Department.
  - c. Forward all medical bills or other correspondence received from an employee, physician, or medical care facility to the Human Resources Department.
  - d. Notify the Human Resources Department immediately when an employee is able to return to work either in a light duty or full duty capacity.
  - e. Cooperate with the insurance carrier during investigation of claims and assist in back-to-work, light duty and vocational rehabilitation programs.
3. Human Resources Department responsibilities with regard to processing Workers' Compensation claims are as follows:
  - a. Develop and manage the County Workers' Compensation Claims program.
  - b. Maintain records of all Workers' Compensation claims sent to the claims service company.
  - c. Monitor the progress of all Workers' Compensation claims handled by specific insurance companies and, where necessary, provides status reports to departments.
  - d. Assist departments with Workers' Compensation claims processing and coordination of the employee's timely return to light, restrictive, or regular duty.
  - e. Answer questions and respond to inquiries regarding Workers' Compensation claims.
  - f. Human Resources does not approve or deny employee claims. The County's Workers' Compensation insurance carrier makes the determination, as to approval or denial of claims.

B. County Designated Physicians

1. Section 65.2-603 of the Virginia Workers' Compensation Act requires that injured employees chose a physician from a panel selected by the employer.
2. Employer authorized physicians and medical treatment facilities must be used at all times by employees receiving treatment for job-related injury/illness.
3. Exception to employer authorized physicians and medical treatment facilities may be made in the case of an emergency requiring immediate medical treatment that occurs outside of normal working hours.
4. Failure to secure treatment from an authorized physician could result in a denial of benefits.
5. Any change in treating physician shall be made in accordance with the Workers' Compensation Act regulations and may require approval of the Workers' Compensation insurance carrier prior to treatment.

C. Second Opinions and Changes of Physicians

1. Employees receiving medical treatment for a compensable injury or illness may request a second medical opinion or a change in treating physician by contacting the Workers' Compensation insurance carrier and requesting and receiving prior approval.
2. If an employee obtains a second medical opinion or seeks treatment from a physician not on the County's Panel and without prior approval of the Workers' Compensation insurance carrier, the employee will be responsible for the cost of such treatment.

D. Salary/Wage Benefits

1. In accordance with Section 65.2-509 of the Virginia Workers' Compensation Act, no compensation shall be allowed for the first seven (7) calendar days (including Saturday, Sunday, holidays and does not need to be consecutive) of incapacity resulting from a job-related injury or illness.
2. During this seven (7) day period, the employee may use accrued annual, sick, or permitted compensatory leave. If the employee has no leave balance, the employee will be placed in a leave without pay status for the seven (7) day period.
3. If the incapacity extends beyond the initial seven (7) day period, Workers' Compensation benefits (compensation) shall commence with the eighth (8th) day of disability. If such incapacity continues for a period of more than twenty-one (21) calendar days, not including the day of injury, compensation shall be allowed from the first day of such incapacity.
4. Workers' Compensation benefits are provided at the rate of sixty-six and two-thirds (66-2/3) of the average weekly, pre-tax wage of the employee, subject to weekly maximums as approved by the Virginia Workers' Compensation Commission. This amount is not subject to payroll taxes.
5. Employees may supplement the workers' compensation benefit by thirty-three and one-third (33-1/3) using accrued annual, sick, or permitted compensatory leave. This supplement will continue until the lesser of the following:
  - a) The injured employee's accrued annual, sick or permitted compensatory leave is depleted.

E. Return to Work/Modified Duty

1. An injured employee must return to work as soon as they is released for regular, restrictive, or light duty by the treating physician.
2. A Physical Capacities Form must be completed by the treating physician and submitted to the Human Resources Department prior to the employee returning to regular, restrictive or light duty.
3. If the return to work is restrictive or light duty, then the Human Resources Department has the option to submit to the attending physician a copy of a proposed light duty job description for approval.
4. The employee shall not be permitted to perform light duty unless approved by the attending physician.
5. Employees on light duty assignment may return to their regular duties upon receipt of a Physical Capabilities Form signed by the employee's attending physician attesting to the employee's physical and mental fitness to resume regular duties.

F. Light Duty Assignment

To minimize the County's losses and bring a productive employee who has been injured on-the-job back to work as soon as possible. The County will benefit directly by decreasing time-loss compensation to out of work employees. Thus, by paying an employee to do light duty, the County can immediately reduce the cost of that employee's time-loss by 50% or more.

1. Whenever an injured or ill employee is temporarily unable to return to their regular duty but is considered medically fit to perform less strenuous tasks, efforts shall be made by the Human Resources Department in consultation with the employee's department head or designee to find a light duty assignment for that employee.
2. The modified/light duty position for the employee may offer modified duty at a reduced rate and modified duty at a reduced number of hours.
3. Such an assignment may not necessarily be in the employee's regular department.
4. Fitness for light duty assignment shall be coordinated with the treating physician and shall be such that accommodates identified restrictions.
5. During the period of light duty assignment, no employee shall be permitted to work more than their normal working hours.
6. A light duty assignment shall not be made in any case where there is no possibility of full recovery. Proper medical certification shall be utilized in arriving at this decision.
7. If an employee expresses a desire to return to light duty or if a supervisor has any information that the employee may be able to return to work and has not, and has not expressed a willingness to do so, they should contact the Department of Human Resources at once. The Human Resources Department, if felt warranted, will request an investigation be made by the claims representative and/or rehabilitation nurse.
8. If the investigation by the claims representative and/or rehabilitation nurse indicates that a return to light duty appears to be warranted, then the Department of Human Resources shall submit to the attending physician a copy of the proposed light duty job description for approval. The employee shall not be permitted to perform light duty unless approved by the attending physician. Light duty may be a reduction in hours spent performing those duties typically associated with the employee's regular classification, or the employee may be assigned to a completely different job classification with no adjustment in salary or benefits during this time.
9. Light housekeeping, stock reorganization, inventory, operating the mail machine, filing, answering the telephone, typing, and other jobs of this sort can be accomplished by most light duty employees. If the employee is offered a job and the job is approved by the attending physician, that employee must accept light duty work.
10. If an employee has a decreased average weekly wage after returning to work in a modified, light duty or part-time job, the employee is entitled to workers compensation benefits. The amount payable is 66-2/3 percent of the difference between the pre-injury average weekly wage at the time of the accident/injury and the gross wage they earn after the accident/injury.
11. The employee who returns to light duty is monitored closely by a supervisor. The supervisor should take time to reinstruct the employee on safety procedures and good work practices.
12. Employees on light duty assignment can return to their regular duties upon receipt of a report signed by the employee's attending physician attesting to the employee's physical and mental fitness to resume regular duties. The report will be submitted to the Human Resources Department before the employee resumes regular duties.



G. Family and Medical Leave Act (FMLA)

1. Injuries or illnesses approved by workers' compensation generally meet the eligibility for FMLA.
2. An absence due to workers' compensation will be charged to the employee's annual 12-week entitlement to FMLA benefits, providing the employee meets the definition of eligibility as listed in the current version of Regulation 4835, Family Medical Leave.

H. Claim Denials

1. Leave Time

- a. If a claim is denied, the employee shall be charged accrued leave for all work time for which the employee was absent.
- b. Compensatory leave, annual leave, or leave without pay shall be used if permitted accrued leave is exhausted.
- c. If the employee has no accumulated leave, the Human Resources Department shall make arrangements with the employee to repay any compensation advanced.

2. Letter of Denial

If an employee receives a letter of denial from the insurance carrier, there are two courses of action that may be pursued:

- a. Forward the letter along with the proper forms to the employee's health insurance carrier.
- b. File a request for a hearing with the Virginia Workers' Compensation Commission.

The Commission's address will be provided in the letter of denial.

I. Workers' Compensation Appeal

An employee has the right to appeal denial of workers' compensation coverage to the Virginia Workers' Compensation Commission. It is important to that appellant follow all appeal procedures and time constraints as dictated by Virginia law and the rules and regulation of the Commission.

J. Limitations and Exclusions

1. Not all injuries that occur during work hours are compensable under the Act and/or the definitions provided by the Virginia Workers' Compensation Commission.
2. An employee receiving workers' compensation wages is prohibited from engaging in activities that may impair their recovery, such as strenuous recreational or other physical activities, without approval of the authorized treating physician and notification to the insurance carrier's claims representative.
3. Failure to report such activities may affect benefits from workers' compensation.



# Personnel Management Plan Culpeper County, Virginia

## SECTION XVI: VEHICLE POLICY

### I. COUNTY OF CULPEPER VEHICLE POLICY STATEMENT

The County of Culpeper is dedicated to the safety of its citizens and employees and seeks to establish uniform procedures governing the use of all County-owned or leased vehicles and establish requirements for employees using their own vehicles to conduct County business. Vehicles are defined as passenger vehicles, trucks, vans, as well as all tractors, construction, service, or maintenance vehicles, golf carts and off-road vehicles. The goal of the County is to ensure that people who are driving in some capacity for the County of Culpeper have the legal ability to do so, and that the County of Culpeper is protected from any legal liability.

Each employee is a representative of the County to the citizens. As such, the County desires that County vehicles be well maintained, be kept clean and in good working order, and that the drivers shall comply with all traffic laws and ordinances.

Employees and volunteers shall operate their vehicles with the utmost safety and shall drive defensively to prevent accidents, regardless of the incorrect actions of others.

The County of Culpeper attaches herein a set of procedures to be followed. While the Vehicle Policy herein at Section XV of the PMP is adopted by the Board of Supervisors and may only be substantively changed by a vote of said Supervisors, the procedures established are administrative, and may be amended as necessary in the judgment and discretion of the County Administrator, or their designee.

Additionally, this Vehicle Policy and the attendant procedures apply to all drivers of County-owned, leased vehicles, and use of personal vehicle being used in the conduct of County business, whether governed by the County's Personnel Management Plan or not. Individuals who are not subject to the PMP shall be informed of and required by a separate writing to acknowledge and agree to adhere to the Vehicle Policy.

### II. PURPOSE

To provide general guidelines for the operation of vehicles being used in the conduct of County business. This procedure shall apply to all who operate or may operate motor vehicles owned or leased by the County of Culpeper, and/or who drive their personal vehicles when conducting County business.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### III. PROCEDURE

1. Authorized and Unauthorized Use: The following examples are for general guidance only and should not be considered as an attempt to cover all circumstances or conditions of use:

- a. Authorized Use.

- i. County vehicles are authorized "For Official Use Only." Such vehicles are to be utilized to perform the functions and conduct the operations and programs of the

Department or Agency which is using the vehicle. When such official use includes the transport of non-employees, such transport is approved. County vehicles may be utilized both within and outside of the County for official use. Anyone may be reimbursed for the use of their private vehicle when such vehicle is used in the conduct of County business; such reimbursement shall be made in compliance with the policy of the County.

- ii. County vehicles may be taken home overnight by designated personnel who serve on call to provide emergency services or other employees, as may be authorized by the Department Heads, for official County business, subject to adherence to all of the provisions detailed herein subsection II, Procedure.
- iii. Absent the express approval of the County Administrator, employees authorized for assignment of a "take home" vehicle are limited to commutes solely/wholly within Culpeper County.
- iv. Only properly licensed County employees shall operate County vehicles. Properly licensed volunteer workers subject to prior approval of the County Administrator, may be permitted to operate County vehicles while acting within the scope of their duties. Such authorization shall be requested in writing by the appropriate Department Director or through the Human Resources Director.

b. Unauthorized Use.

- i. County employees may not operate a County-owned or County-insured vehicle without having a valid, properly classified operator's or commercial driver's license as set out herein these procedures.
- ii. County vehicles may not be utilized for personal purposes. Additionally, personnel authorized for overnight use of a county vehicle may use such vehicle for transportation to meals or for personal purposes, including the transporting of non- employees, when traveling in a direct route to and from work.
- iii. Seat belt use is mandatory in all County vehicles. This applies to the driver and all passengers.
- iv. It is absolutely prohibited for County-owned or County-insured vehicles to be utilized if the operator is impaired by, or under the influence of alcohol, intoxicants, or drugs (legal or illegal). The possession of alcohol, intoxicants, or illegal drugs that can impair a driver's ability to operate a motor vehicle is prohibited in a county vehicle. The consumption of alcohol, or - legal or illegal drugs and intoxicants - that can impair and/or impair a driver's ability to operate a motor vehicle is prohibited in a County-owned or leased and/or County-insured vehicle.

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- v. Smoking is generally prohibited in County-owned or leased vehicles, including but not limited to lawful tobacco products, legal or illegal intoxicants, or otherwise, and/or vaping.
- vi. County vehicles are not to be driven in violation of the motor vehicle laws of Virginia. All citations are to be reported in writing immediately to a supervisor. Failure of an authorized user immediately to report traffic citations received in a county vehicle is cause for discipline, including termination, and loss of privileges to drive, operate, or take home a county vehicle.

### 2. Care and Maintenance of Vehicles.

- a) Operator Responsibilities. Operators of County-supplied vehicles shall be responsible for making visible inspection/observation and checking dash instrumentation regarding correct engine oil levels; proper levels of coolant in the radiator; ensuring proper operation of headlights, taillights, and turn signals; tire pressure (including spare) and tire condition; proper braking action; and general appearance of the vehicles (interior and exterior), - and making report of concerns or maintenance needs to the Department Head and the person administering the Motor Pool. The vehicle shall be taken in for service in accordance with the instruction of the person administering the Motor Pool.
- b) Routine Maintenance Each County vehicle shall be taken to the County's designated automotive center for preventive maintenance such as oil changes, tire rotation, brake checks, etc., on a schedule promulgated by and as instructed by the person administering the Motor Pool.
- c) Vehicle Alterations. Employees shall not alter or add any equipment to a County vehicle (including AM/FM radios, bumper stickers, racks, toolboxes, etc.) without
- d) Department Head/Agency Head/Constitutional Officer approval. Damages resulting from unauthorized modifications may be assessed against the person(s) making such modification.
- e) Additional contact information and instruction shall be provided in supplement to employees regarding repair and maintenance when assigned a County vehicle, and also may be found inside the glove compartment of each County vehicle.

### 3. Emergency Repairs / Road Service

- a) Regular Workday When a vehicle becomes inoperable in the local area, the driver, after seeing that the vehicle is removed from the roadway, is to contact the County's designated automotive repair and towing center for assistance, as instructed. When a vehicle becomes inoperable out of the local area, the driver may arrange, as necessary, for assistance from County's designated roadside assistance company. Employees are encouraged to contact the person administering the Motor Pool.
- b) Non-Work Hours / Workday In the event that a breakdown occurs within a 25- mile radius of Culpeper County and outside of normal working hours, the driver shall contact the County's designated Towing Company, or the nearest available towing service for

assistance. All such contact information shall be made available inside the vehicles for the employees to access. If a breakdown occurs beyond the 25-mile radius, the driver is to contact the County's designated roadside assistance company for assistance for towing to the County parking lot, or the service facility, whichever is more practical. The driver shall then determine the nature of the problem or cost for repairs. If the vehicle can be repaired for \$250 or less, and it is not feasible to delay repairs until the County can be contacted during normal working hours for guidance, the driver is authorized to have repairs accomplished. If repair estimates are in excess of \$250, the vehicle should be secured at the service facility until repairs can be coordinated with the County. Alternate transportation (i.e., rental cars, taxi) should be utilized until repairs are made or another County vehicle is provided.

4. Vehicle Security: Security of a County vehicle is the operator's responsibility. Unattended County vehicles shall be locked at all times by the operator. Operators may be responsible for loss of County property from an unsecured County vehicle. Park vehicles in safe, well lighted area if at all possible.

5. Accidents

- a) Driving Practices Operators should practice defensive driving and anticipate and observe the actions of other drivers and control their own vehicles in such a manner as to avoid involvement in an accident. An operator of a County vehicle and all passengers therein shall properly use seat belts. Injury resulting from failure to wear seat belts may constitute gross negligence on the part of the individual/operator and upon case review may jeopardize an employee's eligibility for relief normally provided under Worker's Compensation and other potential disability claims.

- b) Accident Involving County Vehicle In the event an accident should occur involving a County-owned or County-insured vehicle, the Automobile Loss Procedures should be followed:

- i. Notify the police/fire department of the accident.
- ii. Get the names, phone numbers and addresses of all persons in the other vehicle(s), the driver's license data of other operators, the license number of other vehicle(s) and the name of the insurance carrier(s) for the other vehicle(s) involved.
- iii. Complete the data on the incident report form located in the glove compartment of the vehicle and submit this form to the Finance Department within 48 hours.
- iv. DO NOT ADMIT RESPONSIBILITY and make no statement regarding fault as to the accident, except to authorized claims representatives of the County's insurance carrier or the County Attorney. Please cooperate with your supervisor, Human Resources, the Finance Department, the County Attorney, and law enforcement and first responders with regard to accidents.

- c) Accident Involving Personal Vehicle In the event of an accident the employee's insurance will be sole and primary. The County will reimburse the employee's deductible up to \$500.00, if the employee was not at fault.

## COUNTY OF CULPEPER, VIRGINIA

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- d) Rendering Assistance Upon reaching the scene of an accident, the operator of a County vehicle is authorized to render such assistance as they can by caring for the injured first, calling or sending for the fire, rescue or police and taking measures to prevent other vehicles from becoming involved in the accident. When stopping at the scene of an accident, the driver should ensure that the vehicle is parked in a safe location so as to not interfere with traffic.
- e) Case Review the Human Resources and Finance Departments with the assistance of the County Attorney shall conduct an investigation of the facts and circumstances of accidents involving County-owned vehicles, which have resulted in a reported injury or property damage. The Department Heads of the Human Resources and Finance Departments, and the County Attorney, are authorized to gather evidence, relevant documents and solicit written statements from County employees. The Department Heads of the Human Resources and Finance Departments with the assistance of the County Attorney shall review the accident as soon as practicable and render an opinion as to whether negligence or operating practices were a probable contributing factor to the accident. Corrective action may be required. Corrective action may be administrative in nature, such as additional driver training or may include disciplinary measures. Corrective action may be required after consultation with the Department Head and Human Resources.
- f) Cooperation with County Insurance Carrier. At all times the employee shall cooperate and provide timely response and complete and accurate information to the County's Insurance Carrier, as may be requested.

### 6. Driver Qualifications and Training

- a) Licensing Department Heads are responsible for ensuring that their employees are properly licensed and trained to operate County vehicles. This requires coordination and communication with Human Resources. A valid Virginia driver's license is required to operate County vehicles. The basic license requirements for passenger vehicles apply, with the following additional requirement for heavy vehicles operated on the highway:

Those persons required to operate or maintain a vehicle weighing 26,001 pounds or more, gross vehicle weight rating (GVWR); or designed to carry 16 or more passengers, including the driver; or used to transport hazardous materials required to be placarded by federal law, must have a Virginia Commercial Motor Driver's License (CDL). Such license is required for volunteer drivers, heavy vehicle mechanics and public-school bus operators. Commercial license requirements do not apply to operators of emergency vehicles, such as fire fighters. However, all operators of emergency vehicles must fully meet the special state and federal skill requirements for driving certifications.

### 7. Driving Records.

- a) A valid Virginia Driver's license for the appropriate class of vehicle or equipment which will be operated is required. Employees and volunteers who will be required to operate a County vehicle and/or personal vehicle during the course of their employment shall

complete a DMV Information Request Form, CRD-93. This will give the County authority to access an individual's Virginia driving record. To the extent the individual's most recent driving history is out-of-state, Human Resources shall require the individual to provide it with a certified driving record of recent driving history from such state(s).

- b) A Virginia driver's license for current and prospective employees and volunteers may not have DMV restriction codes which limit the driving privilege to the extent that requirements of the jobs applied for or occupied cannot be met.
  - c) Any and all DMV records shall be maintained in confidential files and updated annually, as may be required by the DMV. Virginia driving records and history for County employees may be obtained from the Division of Motor Vehicles at no expense to the County or individual concerned. There may be the incurrence of a fee to the employee for out of state driving records and history. The Human Resources officer shall notify the appropriate Department Director and County Administrator when an employee's or volunteer's record does not meet the minimum standards described herein this Vehicle Policy.
8. Driving Standards. A DMV record check of current employees and volunteers will occur, at a minimum, on an annual basis. Drivers must meet minimum standards as determined by the County. In addition to the annual DMV records check, all employees and volunteers must immediately report any change in their license status with the Commonwealth of Virginia to their Department Head through their immediate supervisor.

They must also report, as soon as practicable, but not later than their next immediate workday, any charge of or arrest for the following violations: driving under the influence of drugs or intoxicants; driving while intoxicated; refusal to submit to a blood or breath test for determination of drug or alcohol content; reckless driving; leaving the scene of an accident; or vehicular manslaughter or homicide; eluding police; committing a drug offense, regardless of whether or not a motor vehicle is involved; and committing a felony involving the use of a motor vehicle.

They must also report any conviction, as soon as practicable, but not later than their next immediate workday following conviction or plea of guilt, of the following violations: driving under the influence of drugs or intoxicants; driving while intoxicated, refusal to submit to a blood or breath test for determination of drug or alcohol content; reckless driving; leaving the scene of an accident; or vehicular manslaughter or homicide, eluding police, committing a drug offense, regardless of whether or not a motor vehicle is involved, committing a felony involving the use of a motor vehicle.

Employee or volunteer must inform Department Heads, through their immediate supervisors, by the next scheduled workday, of any license suspensions, or revocations, or charges being placed for any of the offenses listed in subparagraph (c) below, and the final disposition of the case. Failure to do so may be grounds for immediate dismissal.

Department Heads shall be responsible for sharing any and all reports regarding the above to Human Resources.

- a) Moreover, drivers must meet minimum standards as determined by the County to use



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County vehicles. Culpeper County standards are as follows:

- b) No more than two (2) moving violations within the previous twenty-four (24) months (e.g., speeding, failure to yield, violating a traffic signal, failure to stop, improper turn, improper lane change, following too close, reckless driving, etc.)
- c) No more than three (3) moving violations within the previous thirty-six (36) months.
- d) No record of convictions associated with driving under the influence (DUI), driving
- e) while intoxicated (DWI), reckless driving, eluding police, leaving the scene of an accident, or manslaughter (voluntary or involuntary) within the previous sixty (60) months.
- f) No record of current revocations or suspensions, and no record of previous revocations or suspensions associated with moving violations within the last sixty
- g) (60) months.
- h) If an employee or volunteer fails to meet driving standards and is in a position where operating a vehicle is essential to the County, appropriate action will be taken depending on the severity and number of the convictions(s). Failure to comply with the standards shall be considered cause for dismissal, or other disciplinary measures as deemed appropriate in the Personnel Management Plan or by the County Administrator.
- i) This Vehicle Policy and the procedures set forth herein does not prohibit or preclude Department Directors from issuing reasonable standard operating procedures with more stringent requirements, as may be appropriate.
- j) Driver Training Operators of County vehicles may be required to participate in a County approved Defensive Driving Program. Department Heads whose employees operate County-provided vehicles shall support the program by ensuring that employees participate in Defensive Driving classes when scheduled and as otherwise required.

### 9. Miscellaneous

- a) Monitoring Vehicle Use Department Heads shall carefully monitor and take necessary action to preclude operations that are contrary to the policies and procedures herein.
- b) Citizen Complaints. The department receiving the complaint regarding the use or operation of County vehicles shall complete a Complaint Form found in the Appendix at Form CC 25 and forward the completed copy of the form to the appropriate Department Head and to the County Administrator. Upon receipt, the appropriate Department Head shall investigate the complaint and report to the County Administrator the results of the investigation and any corrective action taken regarding the complaint.
- c) Approved Departmental Rules Any departmental rules, regulations or procedures approved by the County Administrator governing the use or operation of County- owned

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or County-insured vehicles, which are not in conflict with this policy, shall be considered a part of this policy and shall be enforced as such.

- d) Action to be Taken Violations of this policy will be reviewed by the County Administrator's office, and may result in loss of County driving privilege or loss of department's vehicle allocations.
- e) Supervisory Responsibilities Department Heads shall ensure that before their employees are permitted to operate a County vehicle, drivers are properly trained in its use; in procedures to be followed should they be involved in an accident with a County vehicle; in basic maintenance responsibilities of the operator (checking tires, oil level, lights, etc.) and in preventive maintenance services. In addition, each authorized driver, whether full-time County employee or volunteer worker, will be fully briefed on County and departmental personnel policies pertaining to operator negligence and damage to County property. Please see Form CC 27 in the Appendix for the Vehicle, Equipment, and Property Claims Procedures.
- f) Reimbursement for Use of Personal Vehicles From time-to-time it may be necessary for employees to use personal vehicles for official County business. Personal vehicles should only be used with the approval of the employee's supervisor. The employee must maintain insurance on their own vehicle. Employees are encouraged to contact their individual insurance agent for advisement for their personal vehicle policy conditions. Refer to the County Travel policy for reimbursement details.
- g) Tax Consequences Employees must be mindful of potential federal tax consequences that may be triggered, where vehicles permitted to be taken home are utilized in a manner by the employee that does not qualify for tax exemption. Please take notice of IRS Publication 5137, as may be amended from time to time.

The payment and/or defense of parking and moving violations are the sole responsibility of the driver of the County vehicle and/or the personal vehicle being driven when such summons or citations are issued.



# Personnel Management Plan Culpeper County, Virginia

## Section XVII: Drug & Alcohol Policy

It is the goal of Culpeper County to establish and maintain a safe and healthy workplace for its employees, free from drug and alcohol abuse, and to protect the safety of the public by providing the highest quality service.

While the County is concerned about the health and welfare of employees who may be experiencing problems with drugs or alcohol, we are not relieved of our responsibility to maintain a drug-free workplace. The use of alcohol, similar legal, or illegal intoxicants, illegal drugs, or the misuse of prescription drugs is not acceptable and will not be tolerated in the County workplace. As a condition of employment, each employee shall abide by the terms of this County policy.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### A. Regulations

All County work sites shall be maintained as drug-free workplaces.

Under the *Federal Controlled Substance Act of 1970*, marijuana is classified as a Schedule I (one) substance and remains an illegal drug. Further, under the *Drug Free Workplace Act of 1988*, as a federal grant recipient, the County is required to maintain a drug-free workplace with drug and alcohol-free workplace policies.

Culpeper County employees are prohibited from manufacturing, distributing, possessing, or using controlled substances such as marijuana. A positive drug test result, confirmed use, or impairment can be subject to disciplinary action, up to and including termination in accordance with our personnel policies. A pre-employment positive drug test will also disqualify a candidate for hire.

No employee shall unlawfully manufacture, distribute, dispense, possess or use on or in the workplace any narcotic, hallucinogenic, amphetamine, barbiturate, marijuana or any other controlled substance as defined in Schedule I through V of Section 202 of the Controlled Substances Act (21 U.S.C. §812) and further defined by federal regulation in 21 CFR §§1308.11 through 1308.15.

“Workplace” is defined to mean any site for the performance of work by an employee including but not limited to any County building or premise; any County-owned vehicle; any building or premise used by the County for County business; and any non-County property during any County-sponsored or County-approved activity, event or function. “Workplace” also includes all County-owned property such as but not limited to offices, desks, lockers, safes, file cabinets, and toolboxes.

As a condition of employment, each employee shall notify their supervisor of their conviction of any criminal drug law no later than five (5) days after such conviction.

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As a condition of employment, each employee shall abide by the terms of this County policy and regulations respecting a drug-free workplace.

All County work sites and all County-owned properties are subject to drug detection inspection at the discretion of the County Administrator or their designee.

The possession and/or consumption of illegal drugs or alcoholic beverages in the workplace is prohibited.

Violations of this policy will result in appropriate disciplinary action up to and including termination, as indicated in Section VIII of the Personnel Management Plan.

### B. Drug and Alcohol Testing.

The County will contract with a laboratory which employs an individual eligible to be a Medical Review Officer under federal regulations, to perform the collection and testing services. Tests may be required in the following cases:

- a) Applicants who have been offered employment, contingent upon the receipt of satisfactory references, background checks and drug screens.
- b) Employees in safety sensitive positions, as defined in the Administrative Procedures, who have been selected for a random test.
- c) Any employee who exhibits behavior constituting a reasonable suspicion of impairment.
- d) Employees who drive County vehicles may be required to be tested following a reportable vehicle accident.
- e) Any employee who has been authorized to return to duty following a positive drug screen for which the employee was not terminated and following completion of an authorized treatment program. This testing may be done on an unannounced basis a minimum of six times during the twelve-month period immediately following the return to work.
- f) Any employee in and post-offer applicants for positions which require a commercial driver's license as a condition of employment. These tests will occur on a pre-employment, post offer basis; randomly after hiring; following a reportable vehicle accident; and on a return-to-work basis after testing positive, if not terminated.

In all cases, a refusal to submit immediately to the drug test will result in disciplinary action, up to and including termination.

### C. Consequences of a Confirmed Positive Test Result

If the test result is positive, the employee will be subject to disciplinary action, up to and including termination. In the event the employee is not terminated, it shall be necessary for

the employee to be evaluated by a substance abuse professional, and possibly complete a treatment program at their own expense prior to being allowed to resume duties. In any case, a return-to-work agreement must be signed, and a return-to-work drug test must be administered prior to the individual returning to work. Thereafter, the employee will be subjected to a minimum of six unannounced tests in the next twelve months.

All information pertaining to employees and applicants with respect to drug testing is confidential and maintained in a secured file. It will be disseminated only on a confirmed "need to know" basis.

D. Guidelines for Reasonable Suspicion Testing

An employee may be required to submit to drug or alcohol tests when there is reasonable suspicion of impairment. A trained supervisor will make this decision according to the Administrative Procedures. Generally, the following examples, alone or in combination, may comprise reasonable suspicion:

- a) Unexplained inability to perform normal job functions.
- b) Slurred speech.
- c) Smell of alcohol or drugs on the breath.
- d) Any unusual lack of physical coordination or loss of equilibrium.
- e) Unexplained inability to think, reason, or perform at the employee's normal level.
- f) Unusual or bizarre behavior.
- g) Unexplained hyperactivity or depression and withdrawal.

If the employee refuses to be tested, the supervisor shall document the refusal and the employee shall be immediately suspended from duty and transported home. Further, such refusal shall be the basis for discipline, up to and including dismissal.

E. Delegation of Authority.

Authority is hereby delegated to the County Administrator to approve and issue any administrative policies and procedures necessary to properly implement this policy. All such policies and procedures must be consistent with this policy and any applicable laws.



# Personnel Management Plan Culpeper County, Virginia

## Section XVIII: Reduction in Force

### I. Purpose

It is the County's objective to provide a fair and objective administrative process for the implementation of a reduction in force (RIF) and to ensure that employees are released in a nondiscriminatory manner should a reduction in force become necessary due to lack of funding, changes in workload, reorganization of functions, and a decrease in services.

The following RIF policy and process shall only be followed if there are sufficient available funds to cover the costs of carrying out the RIF, as determined by the Board of Supervisors.

Nothing contained herein shall be considered a contract between Culpeper County and any of its employees for any specific or general period of time.

### II. Scope

This policy applies to all full and part time County employees only.

### III. Procedures

#### A. Guidelines

1. A reduction in force may be implemented on a County-wide, department, or position specific basis.
2. A reduction in force may be voluntary or involuntary. Generally, a voluntary RIF will be offered before an involuntary reduction in force is implemented.
3. A reduction in force may require the separation, transfer, demotion, or reduction in work hours.
4. All employees within non-covered categories (e.g., probationary employees, temporary employees, seasonal employees) may be separated from employment at any time in the order deemed appropriate by the County Administrator or their designee. It is generally preferred that all employees within non-covered categories shall be released from employment before employees in covered categories are affected by a voluntary or involuntary reduction in force. There may be merited exceptions to this preference.

#### B. Pre-Implementation

1. When a reduction in force is necessary, the County or specific department shall:
  - a) Determine whether the entire organization, or a department(s) are to be affected.
  - b) Designate position(s) to be affected as appropriate, and
  - c) Review all vacant positions to identify vacancies that can be used as placement options for employees that will be impacted by the reduction in force.
2. Vacancies that have been identified as placement options may be filled after the organization determines that no employees affected by the layoff are eligible for or interested in the positions.



3. *The RIF policy is contingent upon funding being available in current year budget. To the extent that funds are available, severance payments shall be paid in order of precedence: annual leave payout and other eligible employee benefits shall be paid first. These payments shall be paid at time of the RIF. Only if there are remaining available funds shall RIF payments as described above be paid to employees that are subject to the RIF.*

### **Voluntary Reduction in Force Procedures**

C. Eligibility

1. All regular full and part employees are eligible to volunteer to participate in this program if it is offered in their department and/or position. Options under the voluntary RIF include:
  - a) Separating/terminating employment
  - b) Transfer or demotion
  - c) Reduction in hours
2. Generally, employees who occupy critical or hard to fill positions, or employees who possess critical knowledge or skills, will not be allowed to participate, except with the approval of the County Administrator or designee.

D. Transfer/Demotion/Reduction in Hours

1. An employee may request to be transferred or demoted to another position within the organization or request a reduction in hours. If the request is accepted, an employee shall be paid at the rate of the new position and/or the status (full or part time).
2. Employees are not guaranteed employment if they are transferred or demoted. An employee must be able to demonstrate that they meet the minimum qualifications of the new position after being employed in the position for a period of six months. Training may be provided during the first six months to assist the employee in meeting the minimum requirements.

E. Severance

1. Employees who volunteer to participate in the voluntary RIF shall be eligible for a severance.
2. Severance shall be based on length of service and salary at separation based on the following chart.

<b>Years of Service</b>	<b>Payment</b>
Less than 1 Year	1-month base salary
1 but less than 5 years	2 months base salary
5 but less than 10 years	3 months base salary
10 but less than 20 years	4 months base salary
20 or more years	5 months base salary

**COUNTY OF CULPEPER, VIRGINIA**

3. Each employee’s length of service shall be calculated using each month worked; therefore, one (1) month worked equals one (1) month of service OR twelve (12) months worked equals one (1) year of service.
4. A part time employee’s base salary will be the average of the employee’s pay over the previous twelve (12) calendar months prior to the effective date of the voluntary RIF.
5. An employee may also receive, in addition to the above, up to five (5) percent of their current base salary if the average of the last three (3) performance evaluations states that the employee is more than proficient in their job.

<b>Overall Performance Score Payment</b>	
Less than BIA	0%
BIA	1.25%
BIA +	2.5%
BIA ++	3.75%
BIA +++	5%

6. An employee may also receive, in addition to the above, a contribution toward the County’s group health insurance if the employee is enrolled in the County’s group health plan on the effective date of the voluntary RIF. Payment for health insurance may be distributed to the (1) employee or (2) appropriate carrier to ensure payment of insurance.

<b>Years of Service</b>	<b>Health insurance contribution</b>
Less than 1 Year	1 month of premium
1 but less than 5 years	2 months of premiums
5 but less than 10 years	3 months of premiums
10 but less than 20 years	4 months of premiums
20 or more years	5 months of premiums

(One month of premiums shall be the equivalent/average of the total premium for the employee only option(s))

7. Severance payments shall be dispersed on a monthly basis, equally over at least a three (3) month period.

**F. Unemployment Compensation**

1. Decisions regarding eligibility for unemployment compensation are made by the Virginia Employment Commission.

G. Recall

1. An employee shall have recall right as outlined in Subsection *Recall* of this policy.

*This program is strictly a voluntary action on the part of any employee to whom this option is offered. An employee shall not be forced or coerced in any way to volunteer to participate in the program.*

**Involuntary Reduction in Force Procedures**

H. Reduction in Force Criteria

1. Regular employees shall be selected for a reduction in force based on the following criteria:
  - a) Demonstrated current and past performance; and
  - b) Length of service with the organization.
2. Other factors that may be considered during a reduction in force and when two employees have the same value rating:
  - a) Promotional potential and transferability of skills to others positions within the organization; and
  - b) The needs of the organization and specific projects.

I. Rating Value

1. Each regular employee in an affected position shall be assigned a rating value which will be a combination of creditable service and the total weighted score of the last three (3) performance evaluations.
2. An employee shall receive one (1) point for each full month of service.
  - a) Only time actually worked during the course of employment shall be included in the calculation of creditable service. Breaks in service greater than 30 days may be included in the service credit if required by law.
  - b) The creditable service points shall equal ten (10) percent of the rating value.
3. The total weighted score of the last three (3) performance evaluations shall equal ninety (90) percent of the rating value.
4. Calculation of the rating value shall be as follows:

$(\text{Number of months of creditable service} / \text{number of months within a year}) \times .1$   
 $+ (\text{sum of performance evaluation points} / \text{number of evaluations}) \times .9$

5. Employees with the lowest rating value shall be separated from employment first.
6. Employees affected by the reduction in force shall be given as much notice as is required by law or as much as is reasonable under the circumstances.

J. Job-Sharing and/or Reduced Hours in lieu of separation

1. Department Heads should consider job-sharing or reduced working hours in an effort to reduce the number of employees who would otherwise be separated from employment.
2. A recommendation on the feasibility of job sharing and/or reduced working hours shall be forwarded to the Human Resources Director with an analysis of the impact on services, fiscal cost comparisons and other pertinent data. The County Administrator or designee shall approve or deny the recommendation.
3. Employees who have been identified to be affected by the reduction in force, and who have the highest rating value of the affected group may be offered job sharing and/or reduction in hours first depending on job qualifications.
4. After being offered job-sharing and/or reduced hours, and employee shall have five (5) working days to accept the offer or otherwise be considered for guidelines outlined in Subsection *Transfer/Demotion in Lieu of Separation* of this policy.
5. An employee working less than forty (40) hours in a workweek shall be placed in a part time status.

K. Transfer/Demotion in lieu of separation

1. Regular employees affected by a reduction in force shall be considered for transfers to a comparable position within the department or organization if performance is at least proficient in their current position.
2. An employee shall first be considered for a position in the same classification and status (full or part time). After being offered the lateral transfer, they shall have five (5) working days to accept the offer or otherwise be separated from employment.
3. If no vacancies exist in the same classification, an employee may be considered for a demotion and/or reduced status (full or part time). After being offered the demotion and/or reduced status, he shall have five (5) working days to accept the offer or otherwise be separated from employment.
  - a) An employee shall be paid at the rate of the new position and/or the status (full or part time).

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4. Employees are not guaranteed employment if they are transferred or demoted. An employee must be able to demonstrate that they meet the minimum qualifications of the new position after being employed in the position for a period of six months. Training may be provided during the first six months to assist the employee in meeting the minimum requirements.
5. At any time during the reduction in force an affected employee may apply for a promotion and/or an increase in status (full or part time), but he or shall be subject to the organization's selection procedures as outlined in Section II, *Recruitment & Selection* of the Personnel Management Plan.

**L. Severance**

1. The County Administrator shall authorize to provide severance pay to affected employees who are at least proficient in their current position. Only regular employees are eligible for severance pay.
2. Severance shall be based on length of service and salary at separation based on the following chart.

<b>Years of Service</b>	<b>Payment</b>
Less than 1 Year	2 weeks base salary
1 but less than 5 years	1-month base salary
5 but less than 10 years	1.5 months base salary
10 but less than 20 years	2 months base salary
20 or more years	3 months base salary

3. Each employee's length of service shall be calculated using each month worked; therefore, one (1) month worked equals one (1) month of service OR twelve (12) months worked equals one (1) year of service.
4. A part time employee's base salary will be the average of the employee's pay over the previous twelve (12) calendar months prior to the effective date of the RIF.
5. Severance payments shall be dispersed on a monthly basis, equally over at least a three (3) month period.
6. Severance pay shall be forfeited by an employee:
  - a) who declines a lateral transfer where the general terms and conditions of employment are identical to those, which the employee enjoyed in the position held prior to the reduction in force or.
  - b) who accepts a demotion where the general terms and conditions of employment (including pay) are identical to those, which the employee enjoyed in the position held prior to the reduction in force.

M. Recall

1. A regular employee who is demoted, reduced in hours, or separated from employment during a reduction in force, and whose performance was at least proficient in their former position shall have the opportunity to be re-employed with the County for a period of two (2) years from the effective date of the reduction in force.
2. Employees with the highest rating value shall be recalled first.
3. An employee may be offered a position within the same classification and status (full or part time) as their former position.
  - a) An employee who accepts the offer shall be reinstated with at least the same rate of pay and annual leave accrual prior to the reduction in force.
  - b) An employee who rejects the offer shall be removed from the active recall list.
4. An employee may be offered a position in a lower classification, in a non- covered category, or in a reduced status (full or part time) as their former position.
  - a) An employee who accepts the offer shall be reinstated within the pay scale and hours for the position.
    - i. Annual leave may be reinstated and at least at the same accrual prior to the reduction in force depending upon the position.
    - ii. The employee shall also retain recall rights to a position within their former classification and status (full or part time) during the one-year period.
  - b) An employee who rejects the offer shall retain recall rights within the same classification as their former position.
5. Employees shall be contacted for recall via mail with delivery confirmation using the employee's current contact information on file in the Human Resources department.
  - a) An employee shall have ten (10) business days following receipt of the notice to notify the Human Resources Department of the acceptance or rejection of the recall.
  - b) In the event the employee does not respond, he shall be removed from the recall list.
  - c) It is the responsibility of the employee to notify the Human Resources Department of any changes in contact information.

# APPENDIX\*

\*Forms CC 01 through 19 may be amended, as may be necessary to better effectuate personnel matters and County operations, as deemed by the County Administrator without necessity of bringing this type of administrative matter before the Personnel Committee or the Board of Supervisors, where there are no substantial changes. Changes to Form CC 04 must be approved by the County Attorney.

# FORM CC 01





# **Culpeper County Pay Administration Guidelines**

**(FORM CC 01)**

## Pay Philosophy

Culpeper County seeks to establish a position that aligns with the current market and rewards employees for their individual performance. It is committed to attracting and retaining highly qualified and citizen centered individuals.

Culpeper County's Pay Administration Guidelines are designed to:

- Pay employees below the market who are not meeting performance expectations
- Pay employees at the market average if they are fully meeting performing expectations, and
- Pay employees above the market if they are consistently performing above performance expectations.

## Employment Value Proposition

In return for employee's hard work, Culpeper County seeks to provide every employee with:

- ▲ fair and equitable pay system despite multiple funding sources, locations, and policies
- ▲ secure and respectful environment that fosters teamwork, and personal and professional growth
  - Meaningful and rewarding work
- ▲ clear understanding of what's expected of each employee in his/her respective roles
  - Honest feedback about performing; and
- ▲ Recognition for excellent work

## Roles & Responsibilities

### Employee's Role

Each employee is responsible for his or her job performance, personal development and growth. While Culpeper County encourages growth, it cannot guarantee advancement for every person.

### Department Head

Each Department Head is responsible for making and applying consistent compensation decisions in accordance with Culpeper County's Pay Guidelines. There is no substitute for a Department Heads good judgment concerning pay. No policy, structure, process is intended to prevent Department Heads from using good judgment; instead policies and procedures are designed to ensure equity and to provide a framework for making consistent decisions throughout the organization.

### Human Resources

The Human Resources Department is responsible for monitoring the application of Culpeper County Pay Guidelines. It is also responsible for maintaining the organization's pay plan to include but not limited to creating/revising job descriptions, job evaluation, monitoring the market, and monitoring compliance.

### Personnel Committee

The Personnel Committee is responsible for overseeing the County's pay plan. It is responsible for approving new job descriptions, job value, and placement of each job into the play scale. It is also responsible for approving requests that may result in a job being moved from one pay grade to another.

## Pay Plan

Culpeper County uses a combination of generally accepted methods of market pricing and job evaluation methods to determine job value.

### Design

Culpeper County uses an open pay plan system that consists of two pay scales. One scale is maintained for general government which consists of 15 pay grades. Each grade has a minimum, midpoint and maximum. The scale also has an 11% pay progression, and a 55% pay range. The second scale is maintained for public safety with consists of 15 pay grades. Each grade has a minimum, midpoint and maximum with an 8% progression and a 55% pay range.

Jobs of similar value are grouped together into grades and each individual will receive a base pay that is commensurate with his/her education, experience, skills and contribution and is in line with the market.

### Job Description

To provide a basis for job evaluation, written job descriptions are prepared and maintained for all jobs. Each description will document the essential functions; knowledge, skills and abilities; and working conditions for the job. Job descriptions are prepared by the Department of Human Resources based on input from employees, supervisors, and generally accepted human resource management principles and practices.

A job description is not required for seasonal/temporary jobs, but a Department Head should have an understanding of the duties that will be assigned before any recruitment begins.

### Job Titling

Each job is assigned a job title that is reflective of the duties and responsibilities of the job. Periodically job titles may change. A title change does not necessarily signify a grade change.

### Job Evaluation

To ensure the assignment of jobs to salary grades that are equitable and competitive, Culpeper County utilizes a job evaluation system which focuses on **job content** as it relates to the market and comparable jobs within the organization. Assigning a grade to a job does not consider an individual's characteristics or qualifications.

The job evaluation methods include point factor method and classification.

#### Point Factor Method

Point factor job evaluation is a procedure to establish quantitative value using points in order to determine the size of a job for comparative and ranking purposes. For each factor a number of levels are defined and a point value is assigned. Each job is then scored for every factor; the points are determined and summed for each job. The total point values are then converted and a job grade is established.

### Classification

Concurrently with the point factor method all administrative jobs have been classified or grouped into various levels based on a criterion for each level. All administrative jobs will be placed in the appropriate class that best describes its duties. A class title will be assigned to each administrative job, but the department may want to have a working title that may be more job specific.

### Market Pricing

Market pricing is a process that involves measuring the value of a job in the labor market. Benchmark jobs, or jobs commonly found in the market place, are identified and a market value is determined.

### Determining job value

The value of a job is determined after market pricing and the point factor method is completed. Careful examination of results at every step will be used to ensure internal and external equity and fairness.

### Scale adjustments

To continue to align with the market, or maintain competitive with other localities, Culpeper County's general government and public safety pay scales will be adjusted based on a rolling three year average of the consumer price index. Other adjustments may be needed based on yearly evaluation of the market.

Any adjustments will be made, normally, in July of every year. If adjustments are made, it will normally increase the minimum, midpoint and maximum of each pay grade. Adjustments will not affect an employee's pay, but will be used in the calculation of merit increases. Adjustments will affect the hiring/starting salary guidelines.

### Maintenance

Human Resources will conduct an informal review of the pay scales each year. Human Resources will strive to use the same benchmark jobs and list of competitors. Culpeper County will compare its pay plan mainly to the following counties: Orange, Spotsylvania, Fauquier, Albemarle, Stafford, Madison, and Prince William. Other localities may be used as it is deemed necessary.

Yearly changes may be recommended to the pay scales after the informal review is completed, and after adjustment of the CPI. A formal review must be completed every five years.

## **Base Salary/Hourly Rate**

Each employee will be paid a base salary or hourly rate. This does not include shift differentials, overtime, benefits, incentives, uniform allowance or any other pay element.

The base salary/hourly rate will be a reflection of the person's performance and some reflection of how long the person has been employed in a job. Employees who are new to a job, who are learning and those who are not yet performing at an acceptable level will generally be paid in the lower portion of the pay range. Conversely, those who are consistently outstanding performers and who are very experienced in their role should normally be paid in the upper portion of their pay range. These descriptions provide a general guideline and indicate a concept of where people should be paid over time.

In all cases, an individual will not be paid below the minimum of the pay grade. An individual who is employed in a seasonal/temporary job will not be paid below the federal minimum wage. A pay adjustment will be made immediately, or at the next budget cycle if it is discovered that an employee is paid below the minimum.

Normally, employees will not be paid above the maximum range of a pay grade. Salaries above the maximum of a pay range must be approved by the County Administrator or designee.

## **Starting Salaries/Rate of Pay**

An individual's base starting salary/rate of pay will be determined by the pay range for the job that has been accepted. The starting salary will be based on the individual's knowledge, experience and skills. All Department Heads should refer to the Starting Salary Guidelines and Scale to determine a starting salary or rate of pay for all new hires, and for any employee who is moving from one job to another.

When negotiating a starting salary, each Department Head must follow the guidelines and scale. A Department Head should also take into consideration the current salaries of the employees within the department so that equity and fairness is maintained. Any request above the 1<sup>st</sup> quartile must be submitted to the Human Resources Department for review and compliance before offering the salary to the potential new hire, or current employee.

Starting Salary Guidelines:

First Quartile of Pay Scale	Second Quartile of Pay Scale (up to midpoint)	Third Quartile of Pay Scale	Fourth Quartile of Pay Scale
Individual <b>Meets</b> the Minimum Requirements of the Position.	Individual <b>Exceeds</b> the Minimum Requirements of the Position by Offering Additional Experience, Knowledge or Skill Levels.	Individual is an <b>Expert</b> in All Criteria of the Job, and has Broad Knowledge of Related Areas.	Will not be offered

### Merit Increases

Employees are eligible to receive a pay increase based on their individual performance. Pay increases are granted, if earned and if funding is available, normally in July of every year and as determined by the Personnel Management Plan.

Culpeper County does not award a pay increase to employees who are not meeting the performance expectations of their job. Culpeper County does not award a pay increase to employees who are new to a job. An employee must be employed in a job (new hire, demotion, promotion, transfer) for at least 6 months before being granted a pay increase. This time period may be longer for new hires if the probationary period is longer. Exceptions may be made if an employee who has moved (demoted, promoted, or transferred) from one job to another that is very similar to their former job and is requested by the Department Head.

All merit increases will be based on the outcome of a completed performance evaluation that is submitted to the Human Resources Department. An employee will not receive a pay increase if a performance evaluation is not submitted.

Individuals who are employed in a temporary/seasonal job will not receive merit increases. Instead they may receive a pay increase, if any, based on Department Heads judgment.

### Potential Pay and/or Job Duty Changes

This list of potential pay changes is a general list and may be updated periodically.

Job Evolution

Jobs can evolve over time. Changes in tools and technology, or departmental policies can affect the way employees perform their jobs. These types of changes affect everyone and will normally not result in a change in compensation.

Job Growth within current position

Job growth can occur when a supervisor asks an employee to take on additional tasks or increase his/her scope of responsibility. This may be a permanent or temporary change to the job. Such change and/or growth can occur – to an extent – without a change to the grade of a job.

If the position’s duties have grown to the point where a Department Head feels that job should be re-graded, then the Department Head should contact the Human Resources Department. Depending on the nature of the changes, and the result of the point factor evaluation, a Department Head may request that the Personnel Committee approve the request. Jobs will not be re-graded for the purpose of rewarding employees for performance or to correct perceived salary inequities. Jobs that are re-graded will affect each person employed in the job and will receive an increase up to at least the minimum of the new pay scale, but no more than 1<sup>st</sup> quartile of the pay scale.

If the additional tasks and/or responsibilities (temporary or permanent) do not significantly affect the essential functions of a job and/or a significant change in the point factor evaluation score, a Department Head cannot request that a job be re-graded. Instead, a Department Head may request that an employee be offered a pay increase in increments of \$500.00 up to \$5,000.00. The amount of the increase will depend on the additional tasks and/or responsibilities assigned. Small additional tasks will not warrant a pay increase, but the following actions will be considered:

- \*Temporary assignment of additional job duties due to a vacancy within the department
- \*Assignment of additional duties and or responsibilities due to a department reorganization
- \*Additional tasks assigned to a job and/or department as a result of an organization and/or department Initiative
- \*All increases must be within the Department's budget and may be requested during the budget process.

### Lateral Transfer

A lateral transfer occurs when an employee moves from one job into another job in the same pay grade. An employee's starting salary in the new job will be based on the new hire salary guidelines. For example if an employee is currently paid in the 1<sup>st</sup> quartile of the grade, and meets the minimum qualifications of the job, then the employee will not receive a pay increase.

### Promotion

A promotion occurs when an employee moves from a job in one grade to a job in a higher grade. An employee's starting salary in the new job will be based on the new hire salary guidelines. For example, if the employee exceeds the minimum qualifications of the job, then the employees may receive an increase up to the midpoint of the new pay scale. If the employee is paid higher than the midpoint of the new pay scale, then the employee may receive up to a 5% increase.

### Demotion

A demotion occurs when an employee moves from a job in one grade to a job in a lower grade. An employee's starting salary in the new job will be based on the new hire salary guidelines and may result in a pay reduction.

### Acting/Interim Appointments

In order to promptly cover supervisory positions within the organization, an employee may be appointed to fill the position on a temporary basis. Employees who are given an appointment to a higher grade may receive a temporary increase in pay for the new assigned responsibilities. The pay increase will be no less than the minimum of the pay grade for the job. If the employee is currently making more than the minimum of the pay range, he/she may receive an adjustment of no more than 20% of current salary. When the acting/interim period is completed, the salary adjustment will be removed.

### Other Adjustments

There may be rare cases when, after an objective examination, shows that an employee is paid inappropriately low. This may occur when a job description is seriously out of date, a job has been incorrectly evaluated, pay compression or inequity is identified, or an employee's pay is not relative to others in similar jobs, performance and tenure. In these rare instances, a Department Head must work with Human Resources to determine the necessary adjustment. Adjustments are special additions, and are to be used when normal merit increases will not bring the employee up to the proper pay level within a reasonable timeframe.

## **Organizational and/or Departmental Pay Initiatives**

### Information Technology (IT) Liaison

Culpeper County may, after testing and careful selection, identify employees within the organization that may act as an IT Liaison, or a first point of contact for a department or departments to assist in resolving any IT problems before contacting the IT Department. IT Liaisons will receive a yearly pay increase up to \$2000.00 depending on the number of departments he/she assists and his/her IT knowledge.

An employee's ability to assist the IT Department will be reviewed at least annually, but the Director of Information Technology may strip an employee from the designation at anytime.

### Personal Growth

While the County encourages personal and professional growth, all jobs are graded and paid based on job content or the essential functions of the job. Employees do not receive a pay increase for acquiring additional certifications, education, etc during the course of their employment. The required certification or education is considered when the job is evaluated and placed in a pay grade. During the course of employment, the county will pay for employees to acquire personal growth opportunities through department's budget or the tuition reimbursement program.

### Emergency Services

The EMS Department currently has ~~4~~ classifications of ~~08^3 @!~~ Emergency Medical Technician; Basic, Advanced, Intermediate, Paramedic and Critical Care Paramedic. All individuals who are employed in a FF/EMT position will be paid based on the salary scale for each position once the certification level is obtained, and the employee is released by the OMD to practice under the new level. An employee will receive a pay increase based upon the new hire salary guidelines, and all future pay increases will be based on the midpoint of the new salary range. If the employee is paid higher than the midpoint of the new pay scale, then the employee may receive up to a 5% increase.

If an employee obtains and is released to practice at an enhanced certification, they will be promoted to the next grade level and receive a 5% increase or be brought to the new pay grade minimum.

### Environmental Services

The Environmental Services Department currently has several levels of Water/Wastewater Treatment Plant Operators. All individuals who are employed in a W/WW Operator position will be paid based on the salary scale for each position once at least one certification level is obtained at the higher level. An employee will receive a pay increase based upon the new hire salary guidelines, and all future pay increases will be based on the midpoint of the new salary range. If the employee is paid higher than the midpoint of the new pay scale, then the employee may receive up to a 5% increase.

## Helpful Information Regarding the County's Responsibilities for Employee Travel Time, On-call time, etc.

Type of work	Example	Explanation	Paid	Unpaid
Preliminary and Postliminary Work	Clothes changing	If required by the nature of the work	x	
Preliminary and Postliminary Work	Caring for tools	Part of principal activities	x	
	Medical attention	During working hours at the employer's direction	x	
	Washing up or showering	If it is required due to the nature of the work	x	
	Cleaning and laundering uniforms or other distinctive clothing	Required by the employer	x	
Waiting Time	On duty	Of short duration and the employee cannot use the time for their own benefit	x	
	Off duty	<ul style="list-style-type: none"> <li>▪ Completely relieved from duty and allowed to leave the job</li> <li>▪ Relieved until a definite or specified time</li> <li>▪ Relieved long enough for employee to use the time effectively for his/her own purpose</li> </ul>		x
	Required to remain on call on the employer's premises or so close that he/she cannot use the time effectively for his own purposes	Predominantly for the employer's benefit	x	
On-Call Time	Required to leave word at his home or with company officials where he may be reached	<ul style="list-style-type: none"> <li>▪ Few geographic restrictions</li> <li>▪ Did not specify a response time requirement where he may be</li> <li>▪ Actual call-backs were infrequent</li> </ul>		x
Show up, Call-in, or Reporting Time	Required to wait 10 to 15 minutes before being advised no work is available	Engaged to wait	x	
Stand by Time	Machinery breakdown	Stand by ready for duty	x	



Type of work	Example	Explanation	Paid	Unpaid	
Break Periods	Meal periods	30 minutes or more completely relieved from duty		X	
	Rest periods	20 minutes or less	X		
Sleeping Time	Less than 24-hour "tour of duty"		X		
	24 hours or longer "tour of duty"	Up to eight hours can be excluded		X	
	Residing on employer's premises	Reasonable agreement		X	
Travel Time	Commute	Home-to-work travel		X	
	Travel during the workday	Part of the employer's principal activity	X		
	Call back or emergency calls	Travel a substantial distance			
	Out-of-town travel for the day	Traveling for employee's home to public transportation site (home-to-work travel)			X
		Traveling for employee's home or from public transportation site (not ordinary home-to-work travel)		X	
	Overnight Travel	Occurs during the employee's regular working hours (even if travel is on a non-work day)		X	
Time Spent in Court or Other Legal Proceedings	Related to the principal duties of the worker's job	Suffered or permitted Benefit of the employer	X		

## HELPFUL INFORMATION REGARDING: ON CALL – OVERTIME

1. ON CALL- FOR E911 Schedule- For each Day scheduled for On-Call: Employees receive 2 hours of straight time. If an employee is called into work for a portion or full shift, they will be paid time and half (1.5) for the hours actually worked on the shift for which they were called to report.

EX. Employee is on call on Sunday will receive 2 hours of straight time for the Sunday they are on call. If called into work on that Sunday for 6 hours they will receive 6 hours of pay at their 1.5 hourly rate.

### 2. OVERTIME -ON CALL/ HALF TIME

A. ON CALL- FOR ENVIRONMENTAL SERVICES Schedule- For each Day scheduled for On-Call –employees receive one half hour for the 8-hr Shift on which they are On Call - If called into work they will be paid time and half (1.5) for the hours actually worked on the shift for which they were called to report.

B. ON CALL- FOR ANIMAL SERVICES Schedule- For each Day scheduled for On-Call –employees receive one half hour for the 8-hr Shift on which they are On Call - If called into work they will be paid time and half (1.5) for the hours actually worked on the shift for which they were called to report.

EX. Employee is on call on Monday and will receive 2 hours of half- time or one hour for the Monday they are on call (2 8-hr shifts – from 4pm to 12pm; and 12pm to 8am). If called into work on that Monday for 6 hours they will receive 6 hours of pay at their 1.5 hourly rate.

C. ON CALL - FOR E911/PUBLIC SAFETY AND COMMUNICATIONS-  
In the event that on call time is considered compensable under the most current legal standards, he/she shall be compensated as follows:

a. All non-exempt full time eligible employees shall receive two (2) hours of time for each day on call, which is to be paid at the rate of one and one-half times an employee's regular rate of pay when it constitutes overtime pursuant to the FLSA, unless the FLSA authorizes otherwise. See also the Virginia Overtime Wage Act.

b. All non-exempt part time eligible employees shall receive two (2) hours of pay at the straight time rate.

c. Employees who are required to report to work will be compensated in accordance with the Fair Labor Standards Act (FLSA).

## **HELPFUL INFORMATION REGARDING HOLIDAY AND INCLEMENT WEATHER PAY**

### **A. Holiday on a Regularly Scheduled Day to Work**

Non-exempt/essential: The employees generally will receive regular holiday pay as if reported to work as usual, plus any hours actually hours worked on the Holiday, if they did in fact report to work. This situation usually arises in the case of employees with the following departments: E911, EMS, ANIMAL SVCS., and ENV.SVCS.

Ex. 8 hrs. Holiday - had to report to work from 12 noon to 5pm: The employee would receive the normal 8 hrs. of Holiday pay plus an additional 5 hrs. of straight time pay or comp time.

Ex. 12 hrs. Holiday : The employee would receive the normal 8hrs. of Holiday plus an additional 12 hrs. of straight time pay or comp time.

Only the actual hours worked in the week are included in the calculation for overtime in the workweek.

### **B. Holiday on a Regularly Scheduled Day Off**

Holiday on a regularly scheduled day off: These employees would receive 8 hours of straight time pay or comp time.

Ex. For an E911 employee who works a 12 hour shift, and when his/her day off falls on a Holiday, the employee would receive 8 hours of Holiday Pay at the straight time rate. This situation usually only arises in the case of E911.

Ex. For an an employee who works an 8 hour shift, and when his/her day off falls on a Holiday, the employee would receive 8 hours of Holiday Pay at the straight time rate or straight time comp time. This situation usually only arises in the case of ANIMAL SVCS., and ENV.SVCS.

### **C. Part-Time Employees Working on a Holiday**

Part-time employees working on a holiday: These employees generally receive their actual hours worked at 1.5 times their regular hourly rate. This situation usually only arises in the case of AIRPORT and ENV.SVCS.

**D. Working in Inclement Weather-** Follows the same procedures as Holiday.

Please see Forms CC 17 through 19 for the:

County Pay Scales

(Form CC 17)

General County Government Starting Salary

Guidelines (Form CC 18)

Taxable Fringe Benefit Information

(Form CC 19)

# FORM CC 02

**Alternative Work Schedule/Location Request  
(FORM CC 02)**

Name: \_\_\_\_\_ Date of Request: \_\_\_\_\_  
 Department: \_\_\_\_\_ Job Title: \_\_\_\_\_

- New Request
- Cancellation
- Change

Requested Start Date: \_\_\_\_\_ Requested End Date: \_\_\_\_\_

**Requested Work Schedule/Location: (please complete all applicable sections)**

Current workplace:

\_\_\_\_\_

Current work schedule:

\_\_\_\_\_

Requested alternate location:

\_\_\_\_\_

Describe in detail the designated work area at the alternate work location:

\_\_\_\_\_

\_\_\_\_\_

Requested Work Schedule/Location:

	Work Location (if applicable)	Starting Time	Meal/Other Break	Ending Time	Total Work Hours
<b>Monday</b>					
<b>Tuesday</b>					
<b>Wednesday</b>					
<b>Thursday</b>					
<b>Friday</b>					
<b>Saturday</b>					
<b>Sunday</b>					
Total Weekly Hours					

Benefits of proposed alternate work schedule/location:

\_\_\_\_\_

\_\_\_\_\_

Potential problems/suggested solutions of proposed alternate work schedule/location:

\_\_\_\_\_

\_\_\_\_\_

**Certification:**

1. I understand that I am normally expected to work between the hours selected and/or at the location(s) selected, and that I must maintain a high level of performance and productivity.
2. I agree to limit performance of officially assigned duties within the hours and/or location(s) selected. Failure to comply with this provision may result in a loss of pay, termination of alternate work schedule/location agreement, and/or appropriate disciplinary action.
3. I understand that I may not work unauthorized overtime unless in emergency situations. By signing the form, I agree that failing to obtain proper approval for overtime may result in removal from alternate work schedule/location, and/or appropriate action.
4. I understand that I must keep accurate records of work hours and leave used, and must continue to obtain approval of leave requests in accordance with the Personnel Management Plan.
5. I understand that my Department Head or designee has the authority to discontinue, temporarily suspend, and/or modify this schedule at any time.
6. I have received a copy, read, understand, and am in agreement with the Alternate Work Schedule/Location Policy.

**Telecommuting Work Request:**

1. I agree to protect County borrowed agency equipment and understand that I may be financially liable for any damage caused by improper use of equipment. I understand that the County shall not be liable for any damages caused to non-County, or personal equipment.
2. All County borrowed equipment shall be serviced and maintained by the County at its offices, and I am responsible for servicing and maintaining personal, non-County equipment.
3. I have read the County's Safe & Healthful Workplace Safety Policy, and certify that the alternate work location is safe and free from hazards.
4. I agree to bring to the immediate attention of my Department Head or designee any accident or injury caused to or by the employee occurring at the alternate work location while performing the official duties of my position.
5. I understand that I am liable for injuries to third persons that occur at the alternate work location.
6. I have completed the Safety Checklist form and returned it to my Department Head or designee before the commencement of telecommuting.

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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Approved as requested  
Approved with modification  
Disapproved (state reason)

Comments: \_\_\_\_\_

Department Head or Designee: \_\_\_\_\_ Date: \_\_\_\_\_



**County issued equipment:**

Equipment (include model/make and asset tag numbers)	Value of equipment	Date Issued	Expected Return Date	Actual Return Date

Notes:

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Employee: \_\_\_\_\_ Date: \_\_\_\_\_

Department Head or Designee: \_\_\_\_\_ Date: \_\_\_\_\_

# FORM CC 03



**Safety Checklist**  
**(FORM CC 03)**

**(EMPLOYEE CHECKLIST AND CERTIFICATION FORM)**

Employee name: \_\_\_\_\_  
 Department/Agency: \_\_\_\_\_  
 Supervisor Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

The following checklist is designed to assess the overall safety of the alternate work location. Each participant should read and complete the self-certification safety checklist. Upon completion, the checklist should be returned to the Department head or designee, and a copy provided to the Department of Risk Management.

The alternate work location is located (check one): in home  
not in home

Describe the designated work area:  
 \_\_\_\_\_  
 \_\_\_\_\_

To the best of one's knowledge:

Question	YES	NO
1. Is the space free of slip/trip/fall hazards?		
2. Are all stairs with four or more steps equipped with handrails?		
3. Is all electrical equipment free of recognized hazards that would cause physical harm (frayed wires, bare conductors, loose wires, flexible wires running through walls)?		
4. Will the building's electrical system permit the grounding of electrical equipment? Including surge protection for electronic equipment.		
5. Are aisles, doorways, and corners free of obstructions to permit visibility and movement?		
6. Are file cabinets and storage closets arranged so drawers and doors do not open into walkways?		
7. Do chairs have any loose casters (wheels)? Are the rungs and legs of chairs sturdy?		
8. Are the phone lines, electrical cords, and extension wires secured under a desk or alongside a baseboard?		
9. Is the office space neat, clean and free of excessive amounts of combustibles?		
10. Are floor surfaces kept clean, dry, level, and free of worn or frayed seams?		

11. Is your office chair ergonomically correct and have adjustable height, armrest and seat?		
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\_\_\_\_\_  
Employee's Signature

Date \_\_\_\_\_

Acknowledgement of Receipt:

\_\_\_\_\_  
Supervisor or Designated Agency Representative

Date \_\_\_\_\_

Risk Management Review/Comments/Corrective Action

\_\_\_\_\_  
\_\_\_\_\_

# FORM CC 04



## PERSONAL DEVELOPMENT AGREEMENT ( FORM CC 04)

THIS AGREEMENT, executed in the dates as found below, by and between the COUNTY OF CULPEPER, VIRGINIA, (hereinafter "Employer") and \_\_\_\_\_, an employee of the aforementioned Employer, (hereinafter referred to as "Employee"):

### WITNESSETH:

THAT in accordance with the terms and conditions herein contained, Employer agrees to reimburse Employee for certain expenses incurred for the course of study identified herein and Employee agrees not to resign from employment for a period of \_\_\_\_\_ days, said days being equivalent to thirty (30) days per credit hours of the course expenses being reimbursed. The reimbursement and the time agreement are contingent upon the following:

1. Employee will achieve a rating of satisfactory or a letter grade of "C" or higher, in order to qualify for reimbursement of tuition, books and other training aids required by the course of study.
2. All books, training aids, or other course material reimbursed by the Employer become property of Employer. Employee may use them in the course of employment with Employer, but may not remove them from Employer's premises upon the severance of the employment relationship.
3. If Employee breaches this Agreement by resigning prior to the above-mentioned days, Employee will repay to Employer the total amount of the reimbursement. Employee agrees that Employer may, at its Employer's option, withhold said repayment from Employee's final paycheck. Employee, by signing this Agreement and accepting the reimbursement monies, represents that he or she authorizes said deduction voluntarily and that it has not been made as a condition of continued employment.
4. Employer reserves the right to manage and discipline Employee and may, at its option, terminate the employment relationship with Employee regardless of the terms of this Agreement. **Nothing contained herein shall be construed to change the terms of employment from employment at will.** Nothing contained herein shall be construed to change the terms of employment from employment at **will** to terminable for cause or employment any fixed term or duration.

WITNESS the following signatures and seals:

EMPLOYER:  
COUNTY OF CULPEPER, VIRGINIA

EMPLOYEE:

By \_\_\_\_\_  
Department Head or Designee

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
County Attorney

# FORM CC 05





**County of Culpeper**  
**PERFORMANCE IMPROVEMENT PLAN**  
**(FORM CC 05)**

Employee name: \_\_\_\_\_

Department/Agency: \_\_\_\_\_

Date of Issuance: \_\_\_\_\_

Issued by: \_\_\_\_\_

Name

Title

Signature

1. Observations of employee's conduct. Provide dates, times, etc. (Attach any supporting documentation).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Following standards that will be expected of employee in the future.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. How conduct impacts the work environment.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Consequences if the employee fails to meet expectations.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Matter will be reviewed within \_\_\_\_\_ or upon next occurrence.

Employee comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I have read and received a copy of the above statement

Employee's Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

# FORM CC 06



**REVIEW OF PROGRESS**  
**(FORM CC 06)**

Employee has achieved the required improvement described above and will be re-evaluated again at any point in the future in which performance begins to decline.

Employee has not achieved the required improvement described above. The employee has problems in the following areas:

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Suggested Action:

Conduct another review within \_\_\_\_\_ days/weeks

Progress into formal disciplinary action. Written notice of Disciplinary Action form issued.

Follow up review signatures:

\_\_\_\_\_  
Department Head of Designee  
Date: \_\_\_\_\_

\_\_\_\_\_  
Employee  
Date: \_\_\_\_\_

# FORM CC 07



**County of Culpeper**  
**WRITTEN NOTICE OF DISCIPLINARY ACTION**  
**(FORM CC 07)**

Employee name: \_\_\_\_\_

Department/Agency: \_\_\_\_\_

Date of Offense(s): \_\_\_\_\_

Date of Issuance: \_\_\_\_\_

Inactive Date: \_\_\_\_\_

Issued by: \_\_\_\_\_

Name

Title

Signature

**Section I – Offense**

Nature of Offense and Evidence: Briefly describe the offense and give an explanation of the evidence. Clear outline of expectations for future performance.  
Documentation attached?    No    Yes #of pages: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Section II – Disciplinary Action**

Verbal Warning

Written Warning

Suspension from \_\_\_\_\_ to \_\_\_\_\_ Return to work: \_\_\_\_\_  
(Date) (Date) (Date)

Number of days suspended: \_\_\_\_\_

Termination \_\_\_\_\_  
(Date)

**Section III – Circumstances Considered**

Describe any circumstances or background information used to reduce or support the disciplinary action.

Documentation attached?    No    Yes #of pages: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### **Section IV Notice to Employee**

(Sample) It is expected that the situation described above will be corrected immediately. In the event this situation is not corrected, or another offense occurs, you may be subject to further disciplinary action as outlined in the Standards of Conduct Policy.

**If you wish to appeal the corrective action noted above, and are eligible, you may do so under the provisions of the County Grievance Procedures.**

#### **Section V – Employee Signature**

I acknowledge that prior to this disciplinary action I was notified of the offense and was given an opportunity to explain my actions including any mitigating circumstances. I also understand that my signature **does not** imply agreement or disagreement with this disciplinary action, but only acknowledges that I have received this notice.

If you refuse to sign, the Department Head or designee within the department will be asked to initial the form indicating that you were given an opportunity to explain your actions, and that you have received a copy of this form:

Employee refused to sign/unavailable to sign Initials: \_\_\_\_\_

# FORM CC 08

**WORKPLACE HARASSMENT COMPLAINT FORM  
(FORM CC 08)**

Employee name: \_\_\_\_\_

Department/Agency: \_\_\_\_\_

Position: \_\_\_\_\_

Name of person(s) committing the harassment, and their positions with the County, if known:

\_\_\_\_\_

\_\_\_\_\_

Describe the specific nature of the harassment, including helpful details such as dates and times, locations, etc.:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

When did the harassment begin?

\_\_\_\_\_

Has the harassment stopped?

\_\_\_\_\_

Has any employment action (demotion, failure to promote, dismissal, refusal to transfer, etc) been taken against you, or threatened, as a result of the harassment? If so, please describe the action taken:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Have any employment opportunities (promotion, increase in salary, potential transfers, perquisites) been offered or denied as a result of the harassment? If so, please describe:

\_\_\_\_\_

\_\_\_\_\_

Have any threats been made against you as a result of the harassment? If so, please describe the threats:

\_\_\_\_\_



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List all witnesses, if any, to the harassment. Please share their positions with the County, if known. If any witnesses were members of the public or individuals not employed with the County, please provide their contact information, if known:

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Have you previously reported this harassment? If so, when and to whom? Please attach any copies of any reports of harassment you may have made in writing or via email.

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\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

# FORM CC 09



**GRIEVANCE COMPLAINT FORM  
(FORM CC 09)**

**Step 1 - COMPLAINT**

Employee name: \_\_\_\_\_

Last four SSN: \_\_\_\_\_

Date of Hire: \_\_\_\_\_

Department/Agency: \_\_\_\_\_

Job Title/Position: \_\_\_\_\_

Date Grievance Occurred: \_\_\_\_\_

The issues are (use attachments if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The facts supporting this are (use attachments if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The relief I want is (use attachments if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

***Grievances must be presented or mailed to the immediate supervisor within 20 calendar days from the date the employee knew or should have known of the event that forms that basis of the grievance.***

# FORM CC 10



**Step 2 –  
DEPARTMENT HEAD  
(FORM CC 10)**

I am alleging retaliation and/or discrimination; therefore I am requesting (check one):

- The County designate someone else to be the second step
- respondent. The grievance proceed to step 3.

Date of Meeting: \_\_\_\_\_

Third Step Respondent (if requested by the employee): \_\_\_\_\_

Response (use attachments if necessary):

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\_\_\_\_\_  
Department's Head's Signature

Date: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ (\_\_\_\_\_) - ext.

Date Received: \_\_\_\_\_

Employee's response (check one):

- I conclude my grievance and am returning it to the Human
- Resources Office. I advance my grievance to the third step.

Employee/Immediate Supervisor Response:

I want the County Administrator to determine if the complaint/relief is grievable (use attachments if necessary).

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Employee's comments (optional - use attachments if necessary):

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\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

# FORM CC 11



**Step 3 – COUNTY ADMINISTRATOR OR DESIGNEE  
(FORM CC 11)**

Date Received: \_\_\_\_\_

Third Step Respondent (as designated by County Administrator): \_\_\_\_\_

Response (use attachments if necessary):

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\_\_\_\_\_  
County Administrator's or designees Signature

Date: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ (\_\_\_\_\_) - ext.

Date Received: \_\_\_\_\_

Employee's response (check one):

- I conclude my grievance and am returning it to the Human Resources Office.
- I advance my grievance to a panel hearing or hearing officer.

Employee's comments (optional - use attachments if necessary):

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\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

NOTE: The employee is responsible for having the grievance delivered to the proper person within fifteen calendar days.

# FORM CC 12





**DESIGNATION OF STEP 4 PROCEEDING  
PANEL or HEARING OFFICER  
(FORM CC 12)**

Date Received: \_\_\_\_\_

This is to notify you that the Step 4 grievance shall be heard by:

Panel

Hearing Officer

\_\_\_\_\_  
County Administrator's or designee's Signature

Date: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ (\_\_\_\_\_) - ext.

NOTE: County Administrator must elect designation within 10 calendar days of request for grievance to proceed to step 4.

**HEARING OFFICER**

Date Received: \_\_\_\_\_

Hearing Officer's Name: \_\_\_\_\_

Decision of Hearing Officer & Relief Granted (use attachments if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Hearing Officer's Signature

Date: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ (\_\_\_\_\_) - ext.

NOTE: The hearing officer's decision shall be rendered no later 10 calendar days following conclusion of the hearing

# FORM CC 13



**PANEL HEARING  
(FORM CC 13)**

Date Received: \_\_\_\_\_

Decision of Panel & Relief Granted (use attachments if necessary):

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Panel Member response (check one):

- I agree with the findings
- I DO NOT agree with the findings

\_\_\_\_\_  
Panel Member's Signature

\_\_\_\_\_  
Date

Panel Member response (check one):

- I agree with the findings
- I DO NOT agree with the findings

\_\_\_\_\_  
Panel Member's Signature

\_\_\_\_\_  
Date

Panel Member response (check one):

- I agree with the findings
- I DO NOT agree with the findings

\_\_\_\_\_  
Panel Member's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Signature:

\_\_\_\_\_  
Date

NOTE: The panel's decision shall be rendered no later 10 calendar days following conclusion of the hearing

# FORM CC 14



**DETERMINATION OF  
GRIEVABILITY (FORM CC 14)**

The  Complaint  Relief you requested  is  is NOT grievable under the County's Grievance Policy.

Reasons (use attachments if necessary):

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\_\_\_\_\_  
County Administrator's Signature

Date: \_\_\_\_\_

Date Received: \_\_\_\_\_

Employee's response (check one):

- I conclude my grievance and am returning it to the Human Resources Office.
- I appeal the decision and request the Human Resources Office to forward the grievance record to the Culpeper County Circuit Court.

Employee's comments (optional - use attachments if necessary):

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\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

NOTE: Determination of grievability must be rendered within 15 calendar days from date of request.

# FORM CC 15



**APPOINTMENTS TO GRIEVANCE PANEL  
(FORM CC 15)**

**County Administrator Panel Member**

Name of Panel Member: \_\_\_\_\_

Contact Information: \_\_\_\_\_

\_\_\_\_\_  
County Administrator or designee signature

\_\_\_\_\_  
Date

NOTE: The first panel member must be chosen within **10** calendar days of receipt of request for a hearing.

**Grievant Panel Member**

Name of Panel Member: \_\_\_\_\_

Contact Information: \_\_\_\_\_

\_\_\_\_\_  
Grievant's signature

\_\_\_\_\_  
Date

NOTE: The second panel member must be chosen within 7 calendar days following the County's Administrator's appointment to the panel.

**Third Panel Member**

Name of Panel Member: \_\_\_\_\_

Contact Information: \_\_\_\_\_

An agreement cannot be reached on the Third Panel member; therefore, we request that the Chief Judge of Culpeper Circuit Court select the third panel member.

\_\_\_\_\_  
1st Panel Member signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
2nd Panel Member signature

\_\_\_\_\_  
Date

NOTE: The third panel member must be chosen within 20 calendar days following the employee's appointment to the panel.

**Chief Judge of Culpeper County Circuit Court**

Name of Panel Member: \_\_\_\_\_

Contact Information: \_\_\_\_\_

\_\_\_\_\_  
Chief Judge's signature  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Date



# FORM CC 16

LIST OF POSITIONS  
EXCLUDED FROM THE GRIEVANCE  
PROCEDURE (FORM CC 16)

1. County Administrator

2. County Attorney

3. Department Heads, to include but not limited to:

Airport Manager

Building Official

Finance Director

Human Resources Director

Director of Animal Services

Economic Development Director

Director of Procurement & Communications

Director of Information Technology Emergency Services Director

E911 Director

Director of Crime Victims

Options Director

Director of Parks & Recreation

Environmental Services Director

Director of Planning & Zoning

Director of Criminal Justice Services

Youth Network Director

Real Estate Assessor

Temporary, limited term or seasonal positions

Grant funded positions to the extent the grievance is not related to grant funding,  
grant terms and conditions, and/or appropriation

# FORM CC 17

**General Government**

Grade	Minimum	Midpoint	Maximum	Grade	Hourly Minimum	Hourly Midpoint	Hourly Maximum
101	\$ 31,200.00	\$ 41,340.00	\$ 51,480.00	101	\$ 15.00	\$ 19.88	\$ 24.75
102	\$ 33,384.00	\$ 44,233.80	\$ 55,083.60	102	\$ 16.05	\$ 21.27	\$ 26.48
103	\$ 35,720.88	\$ 47,330.17	\$ 58,939.45	103	\$ 17.17	\$ 22.75	\$ 28.34
104	\$ 38,221.34	\$ 50,643.28	\$ 63,065.21	104	\$ 18.38	\$ 24.35	\$ 30.32
105	\$ 40,896.84	\$ 54,188.31	\$ 67,479.78	105	\$ 19.66	\$ 26.05	\$ 32.44
106	\$ 43,759.61	\$ 57,981.49	\$ 72,203.36	106	\$ 21.04	\$ 27.88	\$ 34.71
107	\$ 46,822.79	\$ 62,040.19	\$ 77,257.60	107	\$ 22.51	\$ 29.83	\$ 37.14
108	\$ 50,100.38	\$ 66,383.01	\$ 82,665.63	108	\$ 24.09	\$ 31.91	\$ 39.74
109	\$ 53,607.41	\$ 71,029.82	\$ 88,452.22	109	\$ 25.77	\$ 34.15	\$ 42.53
110	\$ 57,359.93	\$ 76,001.90	\$ 94,643.88	110	\$ 27.58	\$ 36.54	\$ 45.50
111	\$ 61,375.12	\$ 81,322.04	\$ 101,268.95	111	\$ 29.51	\$ 39.10	\$ 48.69
112	\$ 65,671.38	\$ 87,014.58	\$ 108,357.78	112	\$ 31.57	\$ 41.83	\$ 52.10
113	\$ 70,268.38	\$ 93,105.60	\$ 115,942.82	113	\$ 33.78	\$ 44.76	\$ 55.74
114	\$ 75,187.16	\$ 99,622.99	\$ 124,058.82	114	\$ 36.15	\$ 47.90	\$ 59.64
115	\$ 80,450.27	\$ 106,596.60	\$ 132,742.94	115	\$ 38.68	\$ 51.25	\$ 63.82
116	\$ 86,081.78	\$ 114,058.36	\$ 142,034.94	116	\$ 41.39	\$ 54.84	\$ 68.29
117	\$ 92,107.51	\$ 122,042.45	\$ 151,977.39	117	\$ 44.28	\$ 58.67	\$ 73.07
118	\$ 98,555.03	\$ 130,585.42	\$ 162,615.81	118	\$ 47.38	\$ 62.78	\$ 78.18
119	\$ 105,453.89	\$ 139,726.40	\$ 173,998.91	119	\$ 50.70	\$ 67.18	\$ 83.65
120	\$ 112,835.66	\$ 149,507.25	\$ 186,178.84	120	\$ 54.25	\$ 71.88	\$ 89.51
121	\$ 120,734.16	\$ 159,972.76	\$ 199,211.36	121	\$ 58.05	\$ 76.91	\$ 95.77
122	\$ 129,185.55	\$ 171,170.85	\$ 213,156.15	122	\$ 62.11	\$ 82.29	\$ 102.48

**Sheriff's Office**

Grade	Minimum	Midpoint	Maximum	Grade	Hourly Minimum	Hourly Midpoint	Hourly Maximum
PS1	\$ 49,439.89	\$ 65,507.85	\$ 81,575.82	PS1	\$ 23.77	\$ 31.49	\$ 39.22
PS2	\$ 51,911.88	\$ 68,783.25	\$ 85,654.61	PS2	\$ 24.96	\$ 33.07	\$ 41.18
PS3	\$ 54,507.48	\$ 72,222.41	\$ 89,937.34	PS3	\$ 26.21	\$ 34.72	\$ 43.24
PS4	\$ 57,232.85	\$ 75,833.53	\$ 94,434.21	PS4	\$ 27.52	\$ 36.46	\$ 45.40
PS5	\$ 60,094.50	\$ 79,625.21	\$ 99,155.92	PS5	\$ 28.89	\$ 38.28	\$ 47.67
PS6	\$ 63,099.22	\$ 83,606.47	\$ 104,113.71	PS6	\$ 30.34	\$ 40.20	\$ 50.05
PS7	\$ 66,254.18	\$ 87,786.79	\$ 109,319.40	PS7	\$ 31.85	\$ 42.21	\$ 52.56
PS8	\$ 69,566.89	\$ 92,176.13	\$ 114,785.37	PS8	\$ 33.45	\$ 44.32	\$ 55.19
PS9	\$ 73,045.23	\$ 96,784.94	\$ 120,524.64	PS9	\$ 35.12	\$ 46.53	\$ 57.94
PS10	\$ 76,697.50	\$ 101,624.18	\$ 126,550.87	PS10	\$ 36.87	\$ 48.86	\$ 60.84
PS11	\$ 80,532.37	\$ 106,705.39	\$ 132,878.41	PS11	\$ 38.72	\$ 51.30	\$ 63.88
PS12	\$ 84,558.99	\$ 112,040.66	\$ 139,522.33	PS12	\$ 40.65	\$ 53.87	\$ 67.08
PS13	\$ 88,786.94	\$ 117,642.69	\$ 146,498.45	PS13	\$ 42.69	\$ 56.56	\$ 70.43
PS14	\$ 93,226.29	\$ 123,524.83	\$ 153,823.37	PS14	\$ 44.82	\$ 59.39	\$ 73.95
PS15	\$ 97,887.60	\$ 129,701.07	\$ 161,514.54	PS15	\$ 47.06	\$ 62.36	\$ 77.65
PS16	\$ 102,781.98	\$ 136,186.12	\$ 169,590.27	PS16	\$ 49.41	\$ 65.47	\$ 81.53
PS17	\$ 107,921.08	\$ 142,995.43	\$ 178,069.78	PS17	\$ 51.89	\$ 68.75	\$ 85.61
PS18	\$ 113,317.13	\$ 150,145.20	\$ 186,973.27	PS18	\$ 54.48	\$ 72.19	\$ 89.89

**Emergency Services**

Grade	Minimum	Midpoint	Maximum	Grade	Hourly Minimum	Hourly Midpoint	Hourly Maximum
EM1	\$ 48,060.00	\$ 63,679.50	\$ 79,299.00	EM1	\$ 23.11	\$ 30.62	\$ 38.12
EM2	\$ 51,424.20	\$ 68,137.07	\$ 84,849.93	EM2	\$ 24.72	\$ 32.76	\$ 40.79
EM3	\$ 55,023.89	\$ 72,906.66	\$ 90,789.43	EM3	\$ 26.45	\$ 35.05	\$ 43.65
EM4	\$ 58,875.57	\$ 78,010.13	\$ 97,144.68	EM4	\$ 28.31	\$ 37.50	\$ 46.70
EM5	\$ 62,996.86	\$ 83,470.83	\$ 103,944.81	EM5	\$ 30.29	\$ 40.13	\$ 49.97
EM6	\$ 67,406.64	\$ 89,313.79	\$ 111,220.95	EM6	\$ 32.41	\$ 42.94	\$ 53.47
EM7	\$ 72,125.10	\$ 95,565.76	\$ 119,006.42	EM7	\$ 34.68	\$ 45.95	\$ 57.21
EM8	\$ 77,173.86	\$ 102,255.36	\$ 127,336.87	EM8	\$ 37.10	\$ 49.16	\$ 61.22
EM9	\$ 82,576.03	\$ 109,413.24	\$ 136,250.45	EM9	\$ 39.70	\$ 52.60	\$ 65.51
EM10	\$ 88,356.35	\$ 117,072.16	\$ 145,787.98	EM10	\$ 42.48	\$ 56.28	\$ 70.09
EM11	\$ 94,541.29	\$ 125,267.21	\$ 155,993.14	EM11	\$ 45.45	\$ 60.22	\$ 75.00
EM12	\$ 101,159.18	\$ 134,035.92	\$ 166,912.65	EM12	\$ 48.63	\$ 64.44	\$ 80.25
EM13	\$ 108,240.33	\$ 143,418.43	\$ 178,596.54	EM13	\$ 52.04	\$ 68.95	\$ 85.86

**Emergency Communications**

Grade	Minimum	Midpoint	Maximum	Grade	Hourly Minimum	Hourly Midpoint	Hourly Maximum
EC1	\$ 39,520.00	\$ 52,364.00	\$ 65,208.00	EC1	\$ 19.00	\$ 25.18	\$ 31.35
EC2	\$ 42,286.40	\$ 56,029.48	\$ 69,772.56	EC2	\$ 20.33	\$ 26.94	\$ 33.54
EC3	\$ 45,246.45	\$ 59,951.54	\$ 74,656.64	EC3	\$ 21.75	\$ 28.82	\$ 35.89
EC4	\$ 48,413.70	\$ 64,148.15	\$ 79,882.60	EC4	\$ 23.28	\$ 30.84	\$ 38.41
EC5	\$ 51,802.66	\$ 68,638.52	\$ 85,474.39	EC5	\$ 24.91	\$ 33.00	\$ 41.09
EC6	\$ 55,428.84	\$ 73,443.22	\$ 91,457.59	EC6	\$ 26.65	\$ 35.31	\$ 43.97
EC7	\$ 59,308.86	\$ 78,584.24	\$ 97,859.62	EC7	\$ 28.51	\$ 37.78	\$ 47.05
EC8	\$ 63,460.48	\$ 84,085.14	\$ 104,709.80	EC8	\$ 30.51	\$ 40.43	\$ 50.34
EC9	\$ 67,902.72	\$ 89,971.10	\$ 112,039.48	EC9	\$ 32.65	\$ 43.26	\$ 53.87
EC10	\$ 72,655.91	\$ 96,269.08	\$ 119,882.25	EC10	\$ 34.93	\$ 46.28	\$ 57.64
EC11	\$ 77,741.82	\$ 103,007.91	\$ 128,274.01	EC11	\$ 37.38	\$ 49.52	\$ 61.67
EC12	\$ 83,183.75	\$ 110,218.47	\$ 137,253.19	EC12	\$ 39.99	\$ 52.99	\$ 65.99
EC13	\$ 89,006.61	\$ 117,933.76	\$ 146,860.91	EC13	\$ 42.79	\$ 56.70	\$ 70.61

# FORM CC 18

# FORM CC 18

## Starting Salaries/Rate of Pay

An individual's base starting salary/rate of pay will be determined by the pay range for the job that has been accepted. The starting salary will be based on the individual's knowledge, experience and skills. All Department Heads should refer to the Starting Salary Guidelines and Scale to determine a starting salary or rate of pay for all new hires, and for any employee who is moving from one job to another.

When negotiating a starting salary, each Department Head must follow the guidelines and scale. A Department Head should also take into consideration the current salaries of the employees within the department so that equity and fairness is maintained.

Any request above the 1st quartile must be submitted to the Human Resources Department for review and compliance before offering the salary to the potential new hire, or current employee.

### Starting Salary Guidelines:

First Quartile of Pay Scale	Second Quartile of Pay Scale (up to midpoint)	Third Quartile of Pay Scale	Fourth Quartile of Pay Scale
Individual <b>Meets</b> the Minimum Requirements of the Position.	Individual <b>Exceeds</b> the Minimum Requirements of the Position by Offering Additional Experience, Knowledge or Skill Levels.	Individual is an <b>Expert</b> in All Criteria of the Job, and has Broad Knowledge of Related Areas.	Will not be offered

# FORM CC 19





Tax Exempt & Government Entities  
OFFICE OF FEDERAL, STATE  
& LOCAL GOVERNMENTS

## Fringe Benefit Guide



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## Introduction

The Internal Revenue Service (IRS) created this publication to help government entities determine the correct tax treatment of employee fringe benefits, including using the appropriate withholding and reporting procedures.

This publication covers:

- How to determine whether specific types of benefits or compensation are taxable.
- Procedures for computing the taxable value of fringe benefits.
- Rules for withholding federal income, Social Security and Medicare taxes from taxable fringe benefits.
- Reporting of the taxable value of fringe benefits on Forms W-2, Wage and Tax Statement, and 1099-MISC, Miscellaneous Income.
- How to contact the IRS with questions on taxation and reporting requirements.

### What Is a Fringe Benefit?

A fringe benefit is a form of pay (including property, services, cash or cash equivalent) in addition to stated pay for the performance of services. Under Internal Revenue Code (IRC) Section 61, all income is taxable unless an exclusion applies. Some forms of additional compensation are specifically designated as “fringe benefits” in the IRC; others, such as moving expenses or awards, are addressed by statutory provisions providing for special tax treatment but are not designated as fringe benefits by the IRC. This publication uses the term “fringe benefit” broadly to refer to all remuneration other than stated pay for which special tax treatment is available. The definition of fringe benefits for this purpose generally applies to services of independent contractors and employees; however, unless otherwise indicated, this guide applies to fringe benefits provided by an employer to an employee. (For a discussion of whether a worker is an employee or independent contractor, see [Publication 15-A, Employer’s Supplemental Tax Guide](#).) Fringe benefits for employees are taxable wages unless specifically excluded by a section of the IRC. IRC Sections 61, 61(a)(1), 3121, 3401

More than one IRC section may apply to the same benefit. For example, education expenses up to \$5,250 may be excluded from tax under IRC Section 127. Amounts for additional education expenses exceeding \$5,250 may be excluded from tax under IRC Section 132(d).

A benefit an employer provides on behalf of an employee is taxable to the employee even if someone other than the employee, such as a spouse or a child, receives the benefit. Treasury Regulation (Treas. Reg.) Section 1.61-21(a)(4)

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#### NOTICE

This publication provides basic information on the tax treatment of fringe benefits. It reflects the IRS interpretation of tax laws, regulations and court decisions. The explanations in the publication are for general guidance only and are not intended to provide a legal determination for a particular circumstance. The text includes citations to legal authority you can use to research an issue. You may also want to consult a tax advisor for your situation.

## Types of Tax Treatment of Fringe Benefits

The IRC may provide that a fringe benefit is taxable, nontaxable, partially taxable or tax-deferred. These terms are defined below.

**Taxable** – Includible in gross income, not excluded under any IRC section. If the recipient is an employee, this amount is includible as wages and reported by the employer on Form W-2 and generally is subject to federal income tax withholding, Social Security and Medicare taxes. For example, bonuses are always taxable because they are income under Section 61 and no IRC section excludes them from taxation.

Fringe benefits that do not meet any statutory requirements for exclusion are fully taxable. Although there are special rules and elections for certain benefits, in general, employers report taxable fringe benefits as wages on Form W-2 for the year in which the employee received them. No tax reporting is required for benefits that meet the accountable plan rules. IRC Section 451(a); Announcement (Ann.) 85-113, 1985-31 I.R.B. 31

If an employee's wages are not normally subject to Social Security or Medicare taxes (for example, because the employee is covered by a qualifying public retirement system), these taxes would not apply to fringe benefits the employee received. However, the value of the benefits must still be reported for income tax withholding purposes.

**Nontaxable (excludable)** – Excluded from wages by a specific IRC section; for example, qualified health plan benefits are excludable under IRC Section 105.

**Partially taxable** – Part is excluded by an IRC section and part is taxable. Benefits may be excludable up to dollar limits, such as the public transportation subsidy under IRC Section 132.

**Tax-deferred** – Benefit is not taxable when received, but subject to tax later. For example, employer contributions to an employee's retirement plan may not be taxable when made but may be taxed when the employee receives a distribution.

## General Valuation Rule

Generally, taxable fringe benefits are included in wages at their fair market value (FMV). FMV is the amount a willing buyer would pay an unrelated willing seller, neither one forced to conduct the transaction and both having reasonable knowledge of the facts. In many cases, the cost and FMV are the same; however, there are situations in which FMV and cost differ, such as when the cost an employer incurs to provide the benefit is less than the value of the benefit to the employee. Treas. Reg. Section 1.61-21(b)

The taxable amount of a benefit is reduced by any amount paid by or for the employee. For example, an employee has a taxable fringe benefit with a FMV of \$300. If the employee pays \$100 for the benefit, the taxable fringe benefit is \$200.

Special valuation rules apply for certain fringe benefits. These rules are covered in other sections of this publication.

## IRC Sections Excluding Fringe Benefits

The following IRC Sections provide a statutory basis for specific benefits that may apply to public employees. Each of these IRC Sections is discussed later in the publication.

- 105 - Benefits received through employer health or accident insurance
- 106 - Health insurance premiums paid by employer
- 117(d) - Qualified tuition reductions
- 119 - Meals or lodging provided for the employer's convenience

- 125 - Cafeteria plans
- 127 - Educational assistance program
- 129 - Dependent care assistance program
- 132(b) - No-additional-cost service
- 132(c) - Qualified employee discounts
- 132(d) - Working condition fringe
- 132(e) - De minimis benefit
- 132(f) - Qualified transportation fringe
- 132(g) - Qualified moving expense reimbursements
- 132(j)(4) - On-premises athletic facilities
- 132(m) - Qualified retirement planning services
- 132(n) - Qualified military base realignment and closure fringe
- 137 - Adoption assistance programs

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## Reporting and Withholding on Fringe Benefits

In general, taxable fringe benefits are subject to withholding when they are made available. The employer may elect to treat taxable noncash fringe benefits as paid in a pay period, or on a quarterly, semiannual or annual basis, but no less frequently than annually. Ann. 85-113

### Alternative Rule for Income Tax Withholding

The employer may elect to add taxable fringe benefits to employee regular wages and withhold on the total or may withhold on the benefit at the supplemental wage flat rate of 22% (for tax years beginning after 2017 and before 2026). Treas. Regs. 31.3402(g)-1 and 31.3501(a)-1T

### Special Accounting Period

Under a special rule, benefits provided in November and December, or a shorter period in the last two months of the year, may be treated as paid in the following year. You may only treat the value of benefits provided during the last two months as paid in the subsequent year. You don't have to notify the IRS that you're using this special accounting rule. Ann. 85-113; Treas. Reg. 1.61-21(c)(7)

An employer may use this rule for some fringe benefits and not others. The special accounting period doesn't need to be the same for each fringe benefit. However, if an employer uses the special accounting period rule for a particular benefit, it must use the rule for all employees who receive that benefit.

### Employer's Election not to Withhold Income Tax on Vehicle Use

In general, an employer does not have a choice whether to withhold on taxable fringe benefits. However, an employer may elect not to withhold income taxes on the employee's taxable use of an employer's vehicle that is includible in wages if the employer:

- Notifies the employee, and
- Includes the benefit in the employee's wages on Form W -2 and withholds Social Security and Medicare tax.

**Note:** This election is available only for employer-provided vehicles. IRC Section 3402(s)(1)

## Nontaxable Benefits Provided Under an Accountable Plan

Under an accountable plan, allowances or reimbursements paid to employees for job-related expenses are excluded from wages and are not subject to withholding. An allowance or reimbursement policy (not necessarily a written plan) is considered an accountable plan if:

- There is a business connection to the expenditure.
- There is adequate accounting by the recipient within a reasonable period of time.
- Excess reimbursements or advances are returned within a reasonable period of time. IRC Section 62(c); Treas. Reg. Section 1.62-2(c)(2)

### Business Connection

“Business connection” means the employee must have paid or incurred allowable business expenses while performing services as an employee. The reimbursement or advance must be payment for the expenses and must not be an amount that would have otherwise been paid to the employee as wages. Treas. Reg. Section 1.62-2(d)

### Wage Recharacterization

Generally, wage recharacterization occurs when the employer structures compensation so that the employee receives the same or a substantially similar amount whether or not the employee has incurred deductible business expenses related to the employer’s business. If an employer reduces wages by a designated amount for expenses, but all employees receive the same amount as reimbursement, regardless of whether expenses are incurred or are expected to be incurred, this is wage recharacterization. If wage recharacterization is present, the accountable plan rules have not been met, even if the actual expenses are later substantiated. In this case, all amounts paid are taxable as wages. For more information, see [Revenue Ruling 2012-25](#).

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**Example:** A government entity employs workers who occasionally incur expenses for travel. The employees receive the same total hourly compensation regardless of whether they incur travel expenses. When an employee incurs travel expenses, the employer will treat a portion of the hourly compensation paid to the employee as a nontaxable per diem allowance for travel expenses and treat the remainder as wages. If the employee doesn’t incur any travel expenses, the employee will receive the same total amount of hourly compensation, but the employer will instead treat the whole amount as wages. This is not an accountable plan because the amount of the reimbursements is not based on actual expenses incurred and substantiated. Treas. Reg. Section 1.62-2(d)(3)(i); Rev. Rul. 2012-25

### Adequate Accounting

The employee must verify the date, time, place, amount and business purpose of expenses. Receipts are required unless the reimbursement is made using per diem rates (per diem rates are only available for certain expenses). Treas. Reg. 1.62-2(e), IRC Section 274(d) and Revenue Procedure (Rev. Proc.) 2011-47

Employees generally should have documentary evidence, such as bills, receipts, canceled checks or similar items to support their claimed expenses. This rule does not apply to:

- Meal or lodging expenses that you reimburse on a per diem basis (discussed later), at a rate at or below the allowable maximum, under an accountable plan.
- Individual expenditures (except for lodging) of less than \$75.
- Expenditures for transportation expense for which a receipt is not readily available. IRC Section 274(d)

## Timely Return of Excess Reimbursements

The employee must return any excess reimbursement within a reasonable period of time. The determination of the length of a reasonable period of time will depend on the facts and circumstances. The regulations provide “safe harbors” for meeting the test of timeliness. Treas. Reg. 1.62-2(f)(1) and 1.62-2(g)

## Nonaccountable Plan

A nonaccountable plan is an allowance or reimbursement program or policy that does not meet all three requirements for an accountable plan. Treas. Reg. Section 1.62-2(c)(3)

Payments, including advances, reimbursements, allowances and so on, made under a **nonaccountable** plan are taxable wages subject to all withholding when paid or constructively received by an employee. Treas. Reg. Section 1.62-2(c)(5)

Employers may have multiple expense allowance policies and may have both accountable and nonaccountable plans for different types of reimbursements. Employers may establish more restrictive conditions for the plan than imposed by the IRS accountable plan requirements. Employees cannot compel the employer to treat nonaccountable plan payments as if they were paid under an accountable plan. Treas. Reg. Section 1.62-2(c)(3)

## Travel Advances

To prevent a financial hardship to employees traveling away from home on business, employers often provide advance payments to cover the costs incurred while traveling. Travel advances may be excludable from employee wages if they are paid under an accountable plan. (Allowable travel expenses are discussed in [Transportation Expenses](#)) There must be a reasonable timing relationship between when the advance is given to the employee, when the travel occurs and when it is substantiated. The advance must also be reasonably calculated not to exceed the estimated expenses the employee will incur. Treas. Reg. Section 1.62-2(f)(1)

## Accountable Plan Advances

Travel advances made under an accountable plan are not treated as wages and are not subject to income and employment taxes when they're paid. The advances must be paid for travel expenses related to the employer's business, substantiated by the employee, and any excess returned in a reasonable period of time. Treas. Reg. Section 1.62-2(c)

If an employee does not substantiate expenses or timely return excess advances, the advance is includible in wages and subject to income and employment taxes no later than the first payroll period following the end of the reasonable period. Treas. Reg. Section 1.62-2(c)(3)(ii), (h)(2)

## Nonaccountable Plan Advances

Advances from nonaccountable plans to the employee are subject to withholding when the advances are made to the employee. Treas. Reg. Section 1.62-2(h)(2)(ii)

## When Advances are Included in Income

Advances become taxable, to the extent they are not substantiated by the employee, no later than the first payroll period following the end of the reasonable period of time. A reasonable period may end in the year after the advance was made. After the end of the calendar year, any amounts previously reported in wages cannot be reversed unless the amount was erroneously treated as wages at the time it was included. Treas. Reg. Section 1.62-2(h)(2)

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**Example:** A small state agency pays a monthly mileage allowance of \$200 to certain employees. The agency does not require the employees to substantiate their expenses or return any excess. The mileage allowance does not meet the rules for an accountable plan and therefore is a nonaccountable plan. The \$200 allowances are taxable wages to the employees when paid to them; therefore, the employer should withhold Social Security, Medicare and income taxes, and pay employer shares of these taxes.

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**Example:** An agency has an accountable plan that requires employees to account for their business mileage and return any excess allowance. Two of the employees account for their mileage but fail to return the excess. The mileage allowance meets the requirements of an accountable plan; however, because the excess allowance was not returned, the excess is wages to the two employees and is subject to withholding for income, Social Security and Medicare taxes. The withholding is required no later than the first payroll period following the end of the reasonable period.

### Late Substantiation or Return of Excess

If an employee substantiates expenses and returns excess advances after the employer has treated amounts as wages, the employer is not required to return any withholding or treat amounts as nontaxable. Treas. Reg. Section 1.62-2(c)(3)

### Safe Harbors for Substantiating Expenses and Excess Reimbursements

If an employer uses either the fixed date method or periodic statement method, the requirements of timely substantiation and return of excess advances/reimbursements will be considered met. Treas. Reg. Section 1.62-2(g)

#### Fixed Date Method

If the fixed date method is elected:

- The advance must be made within 30 days of when an expense is paid or incurred,
- The expense must be substantiated within 60 days after it is paid or incurred, and
- Any excess amount must be returned to the employer within 120 days after the expense is paid or incurred. Treas. Reg. Section 1.62-2(g)(2)(i)

Under this method, the maximum number of days for repayment of an advance is 150 (up to 30 days in advance plus 120 days maximum for settlement).

#### Periodic Statement Method

If this method is used, substantiation and the return of excess must be made within 120 days after the employer provides the employee with a periodic statement (at least quarterly) stating that any excess amounts must be returned. Treas. Reg. Section 1.62-2(g)(2)(ii)

Under this method, the maximum number of days for repayment of an advance is 210 (90 days for the calendar quarter plus 120 days maximum for settlement).

#### Other Reasonable Method

An arrangement that does not conform to one of the safe-harbor methods may still be considered timely if it is reasonable based on the facts and circumstances. Treas. Reg. Section 1.62-2(g)(1)

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**Example:** An employee on an extended travel assignment might have a longer period to substantiate expenses and return any excess allowance than an employee on a brief overnight trip.



## Form W-2 Reporting

Payments an employer made under an accountable plan may be excluded from the employee's gross income and are not reported on Form W-2. However, cash advances, allowances and reimbursements that do not fall under the accountable plan rules become wages subject to the reporting rules. If the employer pays a per diem or mileage allowance and the amount paid exceeds the amount the employee substantiated under IRS rules, you must report the excess as wages on Form W-2. The excess amount is subject to income tax withholding and Social Security and Medicare taxes. Report the amount substantiated (the nontaxable portion) in box 12 using code L. (See the Forms W-2 and W-3 [Instructions](#).)

**Note:** This chart refers to the 2019 Form W-2. If you are considering another year, check the instructions for that year. The box numbers and codes are subject to change.

Type of Reimbursement Employer W-2 Reporting*	
<b>Under an Accountable Plan</b>	
<b>Actual expense reimbursement:</b> Excess returned	No amount reported.
<b>Actual expense reimbursement:</b> Excess not returned	The <b>excess</b> amount is reported as wages in boxes 1, 3 and 5. Taxes withheld are reported in boxes 2, 4 and 6.
<b>Per diem or mileage allowance up to the federal rate:</b> Excess returned	No amount reported.
<b>Per diem or mileage allowance up to the federal rate:</b> Excess not returned	The <b>excess</b> amount is reported as wages in boxes 1, 3 and 5. Taxes withheld are reported in boxes 2, 4 and 6. The allowance <b>up to the federal rate</b> is treated as substantiated and reported only in box 12, Code L - it is not reported in boxes 1, 3 and 5.
<b>Per diem or mileage allowance exceeds the federal rate:</b> Excess reimbursement over federal rate not returned	The <b>excess</b> amount is reported as wages in boxes 1, 3 and 5. Taxes withheld are reported in boxes 2, 4 and 6. The allowance <b>amount up to the federal rate</b> is reported only in box 12, Code L - it is not reported in boxes 1, 3 and 5.
<b>Under a Nonaccountable Plan</b>	
Either adequate accounting or return of excess, or both, not required by plan	The entire amount reported as wages in boxes 1, 3 and 5. Taxes withheld are reported in boxes 2, 4 and 6.
<b>No Reimbursement Plan</b>	The entire amount reported as wages in boxes 1, 3 and 5. Taxes withheld are reported in boxes 2, 4 and 6.

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## Working Condition Fringe Benefits

Working condition fringe benefits include property or services that, if the employee had paid for the property or service, the cost would have been allowable as a business expense deduction to the employee. That is, if the cost of an item is an allowable business expense deduction for the employee, it may be excludable from the employee's wages as a working condition fringe benefit if provided by the employer. IRC Section 132(d)

If the Internal Revenue Code provides an exclusion from income for a specific benefit, the rules regarding working condition fringe benefits under Section 132 do not apply to that benefit. Treas. Reg. Section 1.132-1(f)(1)

### General Rules for Working Condition Fringe Benefits

To be excludable as a working condition fringe benefit, all the following must apply:

- The benefit must relate to the employer's business,
- The expense would have been an allowable business expense deduction to the employee if the expense had been paid personally, and
- The business use must be substantiated with records.

Any expense that meets these tests can be a working condition fringe benefit. It is not necessary that a specific statute addresses that type of expense.

### Definition of Employee

All the following are considered employees for purposes of working condition fringe benefits:

- Current employees
- Partners
- Board of directors of the employer
- Independent contractors

Treas. Reg. Section 1.132-1(b)(2)

Although not employees for most employment tax purposes, independent contractors are treated as employees for this purpose and are, therefore, eligible to receive nontaxable reimbursements as working condition fringe benefits. Taxable fringe benefits for independent contractors are generally reported on Form 1099-MISC.

Cash payments or cash equivalents are not working condition fringe benefits; however, they may be excludable if they represent reimbursements paid under an accountable plan.

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## De Minimis Fringe Benefits

De minimis fringe benefits include any property or service, provided by an employer for an employee, the value of which is so small in relation to the frequency with which it is provided, that accounting for it is unreasonable or administratively impracticable. The value of the benefit is determined by the frequency it's provided to each employee, or, if this is not administratively practical, by the frequency provided by the employer to the workforce as a whole. IRC Section 132(e); Treas. Reg. Section 1.132-6(b)

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**Example:** An employer provides an employee daily taxi fare valued at \$5 for travel to and from work (and the taxi isn't provided for safety reasons). Although small in amount, the benefit is provided on a regular basis and is, therefore, taxable as wages.

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**Example:** An employer provides a meal daily to one employee, but not to any other employee. The benefit is “frequent” for that employee and is, therefore, not de minimis even though the benefit may be “infrequent” with respect to the entire workforce. Treas. Reg. Section 1.132-6(b)(2)

The law does not specify a value threshold for benefits to qualify as de minimis. The determination will always depend on facts and circumstances. The IRS has given advice at least once, in 2001, that a benefit valued at \$100 did not qualify as de minimis. However, this technical advice addresses a specific situation and cannot be relied upon in addressing another specific situation. Chief Counsel Advice 200108042

### **Definition of Employee for De Minimis Fringe Benefits**

Any individual receiving a de minimis fringe benefit is treated as an employee for purposes of applying these rules. Treas. Reg. Section 1.132-1(b)(4)

### **Examples of Excludable De Minimis Fringe Benefits**

All the following may be excludable de minimis fringe benefits if they are occasional or infrequent, **not routine**:

- Personal use of photocopier (no more than 15% of total use)
- Group meals, employee picnics
- Theater or sporting event tickets
- Occasional coffee, doughnuts or soft drinks
- Flowers or fruit for special circumstances
- Local telephone calls
- Traditional birthday or holiday gifts (not cash) with a low FMV
- Commuting use of employer’s car if no more than once per month
- Employer-provided local transportation
- Personal use of cell phone provided by employer primarily for a business purpose

Treas. Reg. Section 1.132-6(e)(1); Notice 2011-72

Special rules apply to occasional meals and local transportation.

### **Benefits That Do Not Qualify as De Minimis**

Common examples of benefits that do not qualify as de minimis:

- Cash - except for infrequent meal money to allow overtime work
- Cash equivalent (for example, savings bond, gift certificate)
- Certain transportation passes or costs
- Use of employer’s apartment, vacation home, boat
- Commuting use of employer’s vehicle more than once a month
- Membership in a country club or athletic facility

Private Letter Ruling (PLR) 200437030; Treas. Reg. Section 1.132-6(e)(2)

Some of these benefits may be excludable under other provisions of the law. For example, the use of athletic facilities on the premises of the employer by current or former employees, or their family members, may be excludable from wages under section IRC Section 132(j)(4). See

[Publication 15-B, Employer’s Tax Guide to Fringe Benefits.](#)

## De Minimis Exclusion for Occasional Meal Reimbursements

Regularly provided meal money does not qualify for the exclusion for employer provided de minimis fringe benefits. Occasional meal money can meet an exception and be excludable if three conditions are met:

- 1. Occasional basis** - Meal is reasonable in value and is not provided regularly or frequently.
- 2. Provided for overtime work** - Overtime work necessitates an extension of the employee's normal work schedule.
- 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. Treas. Reg. Section 1.132-6(d)(2)

If meal reimbursements are provided as part of a company policy or union contract, they are not excludable as de minimis benefits because the benefit is required and is not occasional. The employer would normally have the opportunity to set up the administrative procedures for reporting the benefit, so accounting for it does not meet the "administratively impracticable" standard for de minimis benefits.

Meal money calculated based on number of hours worked (for example, \$5 per hour for each hour worked over 8 hours) is never excludable as a de minimis fringe benefit. Treas. Reg. Section 1.132-6(d)(2)(i)

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**Example:** A commuter ferry breaks down and engineers are required to work overtime to make repairs. After working 8 hours, the engineers break for dinner because they will be working for an additional 3 hours. The supervisor gives each employee \$10 for a meal. The meal is not taxable to the engineers because it was provided to permit them to work overtime in a situation that is not routine.

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**Example:** An employer has a policy of reimbursing employees for breakfast or dinner when they are required to work an extra hour before or after their normal work schedule. The reimbursements are taxable because the employer has a policy that indicates the benefit is provided routinely. In addition, the meal reimbursement does not enable the employee to work overtime but is an incentive to do so.

**Note:** Meals provided by the employer on the business premises and for the convenience of the employer may be excludable under IRC Section 119. See [Meals and Lodging](#).

## De Minimis Transportation Benefits

Local commuting transportation fare an employer provides to an employee on an occasional basis and to enable the employee to work overtime may be excluded as a de minimis fringe benefit. Whether the transportation provided is "occasional" depends on the frequency it's provided to the employee. Overtime work must be an extension of the employee's normal work schedule. Treas. Reg. Section 1.132-6(d)(2)(i)

## Special Valuation Rule for Unusual Circumstances and Unsafe Conditions

Local transportation for commuting an employer provides to an employee because of unusual circumstances and unsafe conditions is taxable to the employee as wages at a rate of \$1.50 each way; any additional value is excludable. Treas. Reg. Section 1.132-6(d)(2)(iii)(A)

Determining if “unusual circumstances” exist with respect to the employee receiving the transportation is based on all facts and circumstances. Treas. Reg. Section 1.132-6(d)(2)(iii)(B)

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**Example:** Unusual circumstances include an employee temporarily working outside their normal work hours or an employee temporarily making a shift change.

“Unsafe conditions” is determined by a history of crime in the geographic area surrounding the employee’s workplace or residence and the time of day during which the employee must commute. Treas. Reg. Section 1.132-6(d)(2)(iii)(C)

### Special Valuation Rule for Commuting – Unsafe Conditions

Under a special rule, transportation provided for commuting (occasionally or regularly) to a qualified employee solely because of unsafe conditions, may be valued and included in wages at \$1.50 per trip, with the remainder excludable. For this purpose, “unsafe conditions” exist if a reasonable person would, under the facts and circumstances, consider it unsafe for the employee to walk to or from home, or to walk or use public transportation at the time of day the employee must commute. Treas. Reg. Section 1.61-21(k)

A “qualified employee” for this purpose is one who:

- Performs services during the year;
- Is paid on an hourly basis;
- Is not exempt under the Fair Labor Standards Act (FLSA) of 1938;
- Is within a classification to which the employer actually pays, or has specified in writing that it will pay, overtime pay of at least 1 ½ times the regular rate provided in FLSA Section 207; and
- Received pay of not more than a specified dollar amount for the year (\$130,000 for 2020

Treas. Reg. Section 1.61-21(k)(6)

To use this rule, the following conditions must be met:

- The employee would ordinarily walk or use public transportation for commuting;
- A written policy is in place under which transportation is not provided for personal purposes other than commuting because of unsafe conditions; and
- The employee does not use the transportation for personal purposes other than commuting because of unsafe conditions. Treas. Reg. Section 1.61-21(k)(1)

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**Example:** Alison is a qualified employee under the requirements for the commuting valuation rule and works as a data-entry clerk for the state revenue department. Her normal hours of work are 11 p.m. to 7 a.m. Public transportation, the only means of transportation available to her, is considered unsafe by a reasonable person at the time she is required to commute from home to her workplace. The employer hires a car service to pick her up at her home each evening to transport her to work and to return her to home each morning when she finishes her shift. The amount includible in Alison’s income is \$1.50 for the one-way commute from home to work each evening, because public transportation is considered unsafe at that time of day. However, the fair market value of the commute from work to home each morning is includible in Alison’s income, because unsafe conditions do not exist for this trip.

This benefit is not available to individuals considered control employees.

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## No-Additional-Cost Services

A service provided to employees that does not impose any substantial additional cost on the employer may be excludable as a no-additional-cost fringe benefit. A “no-additional-cost service” is a service the employer offers to its customers in the ordinary course of the line of business in which the employee performs substantial services, and the employer incurs no substantial additional cost (including foregone revenue) in providing the service to the employee. IRC Section 132(b)

No-additional-cost services occur frequently in industries with excess capacity services. Examples include transportation tickets, hotel rooms, entertainment facilities and so on; they may also occur with governmental facilities (for example, a municipal golf course or recreation center). Treas. Reg. Section 1.132-2(a)(2)

To determine whether the employer incurs any substantial additional cost, include lost or foregone revenue as a cost. An employer is considered to incur substantial additional costs if the employer or employees spend a substantial amount of time in providing the service to the employee receiving the service, even if their time spent would otherwise be idle or if the service is provided outside normal business hours. Determine whether an employer incurs substantial additional cost without regard to any amounts paid by the employee for the service. Treas. Reg. Section 1.132-2(a)(5)

### Employee

For purposes of this exclusion, an “employee” may be a current employee; a former employee who retired or left on disability; a widow or widower of an individual who died while an employee, or who retired or left on disability; or certain leased employees. Treas. Reg. Section 1.132-1(b)(1)

### Reciprocal Agreements

A no-additional-cost service provided to your employee by an unrelated employer (for example, another government entity) may qualify as a no-additional-cost service if all the following apply:

- You and the employer providing the service have a written reciprocal agreement under which a group of employees of each employer, all of whom perform substantial services in the same line of business, may receive no-additional-cost services from the other employer.
- The service is the same type of service generally provided to customers in both the line of business in which the employee works and the line of business in which the service is provided.
- Neither you nor the other employer incur any substantial cost either in providing the service or because of the written agreement. Treas. Reg. Section 1.132-2(b)

### Highly Compensated Employees

No-additional-cost benefits made available only to highly compensated employees are not excludable. Treas. Reg. Section 1.132-8

For more information on no-additional-cost benefits and restrictions that apply to them, see [Publication 15-B](#).

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## Qualified Employee Discounts

An employee discount allows employees to obtain property or services from their employer at a price below that available to the general public. When these amenities are offered to the public for a fee and the same amenities are offered to an employee at a reduced price, the benefit may be taxable to the employee. However, the benefit is excludable if it meets the requirements of a qualified employee discount.

For the benefit to be excludable, the property or service must be offered to the public in the ordinary course of business.

An employee, for this purpose, includes individuals that qualify for no-additional-cost fringe benefits.

An excludable “qualified employee discount” generally cannot exceed:

- For merchandise or other property, the employer’s gross profit percentage times the price charged to the public for the property. IRC Section 132(c)(1)(A)
- For services, no more than 20% of the price charged to the general public for the service. For this purpose, the price charged to the general public at the time of the employee’s purchase is controlling. IRC Section 132(c)(1)(B); Treas. Reg. Section 1.132-3(b)(2)(iii)

The exclusion for a qualified employee discount applies whether the property or service is provided at no charge (in which case, only a portion will be excludable as a qualified employee discount) or at a reduced price. The exclusion also applies if the benefit is provided through a partial or total cash rebate of an amount paid for the property or service. Treas. Reg. Section 1.132-3(a)(4)

The exclusion is not available for discounts on real property or personal property of a kind commonly held for investment. Treas. Reg. Section 1.132-3(a)(2)(ii)

Unlike no-additional-cost services, the exclusion for a qualified employee discount does not apply to property or services provided by another employer under a reciprocal agreement. Treas. Reg. Section 1.132-3(a)(3)

You cannot exclude from the wages of a highly compensated employee any part of the value of a discount that is not available on the same terms to all your employees, or a group of employees defined under a reasonable classification that does not favor highly compensated employees. Treas. Reg. Section 1.132-3(a)(6)

For more information on qualified employee discounts, see [Publication 15-B](#).

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## Qualified Transportation Fringe Benefits

The Tax Cuts and Jobs Act, Section 11047, suspends the exclusion of qualified bicycle commuting reimbursements from your employee’s income for any tax year beginning after December 31, 2017, and before January 1, 2026.

This section discusses rules that apply to benefits provided to an employee for the employee’s personal transportation for commuting to and from work. IRC Section 132(f)(1); Treas. Reg. Section 1.132-9(b)

### Qualified Transportation Fringe (QTF) benefits include:

- Commuter transportation in a commuter highway vehicle
- Transit passes
- Qualified parking

- Qualified bicycle commuting reimbursements (not an exclusion for tax years beginning after December 31, 2017, and before January 1, 2026)

Employers may provide an employee with any one or more of these benefits at the same time. Employer-provided QTFs with FMV that does not exceed monthly excludable limits, set annually, are:

- Exempt from withholding and payment of employment taxes,
- Not reported as taxable wages on the employee's Form W -2, and
- Not included in gross income.

The exclusion from income for this benefit applies only to employees; former employees and independent contractors are not eligible to receive this benefit. IRC Section 132(f)(5); Notice 94-3; Treasury Decision 8933; Treas. Reg. Section 1.132-9(b)

### **Valuation**

Generally, transportation benefits, under the general rule for fringe benefits, are valued at FMV; exceptions are noted where applicable.

### **Cash Reimbursements for Transportation Expenses**

Cash reimbursements for qualified transportation expenses can be excludable if the employer establishes a bona fide reimbursement plan (but see special rule for transit passes). This means there must be reasonable procedures to verify reimbursements and the employees must substantiate the expenses. IRC Section 132(f)(3)

### **Cash Advances**

Cash advances for transportation benefits are not considered reimbursements and are treated as taxable wages. Treas. Reg. Section 1.132-9(b) Q-16

### **Nondiscrimination Rules**

Nondiscrimination rules that apply to other benefits do not apply to QTFs – these benefits are exempt even if provided exclusively to highly compensated employees. Treas. Reg. Section 1.132-8

### **Dollar Limitations**

The exclusion is available whether an employer provides only one, or a combination, of these benefits to employees. The total benefits cannot exceed the statutory dollar limitations, or the excess is taxable as wages to the employee. The benefit may also be offered in the form of a pre-tax payroll deduction for employees. See “Salary Reduction Agreements” below. IRC Section 132(f)(4)

For 2020, the maximum nontaxable value per person is limited to:

- \$270 per month for combined commuter highway vehicle transportation and transit passes.
- \$270 per month for qualified parking.

IRC Section 132(f)(2) (annual limits can change each year due to cost of living adjustments; see [Publication 15-B](#) for annual limits).

### **Salary Reduction Agreements**

A salary reduction agreement is a way to provide QTF benefits pre-tax to employees, without additional cost to the employer. An employee can choose between receiving a fixed amount of taxable cash or QTF for a specified future period. A QTF salary reduction plan need not be in



writing; but the election by the employee must be in writing or another permanent form, such as electronically. IRC Section 132(f)(4); Treas. Reg. Section 1.132-9 Q&A 11-15

**Note:** QTFs are prohibited benefits under cafeteria plan rules. You cannot include these benefits as part of a cafeteria plan. IRC Section 125

The election under a salary reduction agreement must contain the:

- Date of the election
- Amount of compensation to be reduced
- Period for which the election is valid

The salary reduction may not exceed the statutory monthly dollar limits for QTFs.

This election may not be revoked after the employee is able to receive the cash or after the beginning of the period for which the QTF is to be provided. Any unused QTF may not be refunded. However, the unused portion may be carried over to subsequent periods and used to provide QTFs if the amount expended does not exceed annual limits.

### **Negative Election**

An employer may allow for an employee to make a negative election to decline participation in a salary reduction plan, if the employee receives adequate notice that a salary reduction will be made and is given adequate opportunity to choose to receive cash compensation instead of the QTF. A negative election means that no response is treated as a “Yes” vote; that is, the employee is presumed to want the QTF and does not choose the cash. Treas. Reg. Section 1.132-9(b) Q-12

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**Example:** Agency Y maintains a QTF benefit arrangement. Y’s employees are paid twice per month, on the 10th and 25th day of the month. Employee Q elects, before the first day of the month, to reduce his compensation in return for QTFs totaling \$200 per month through the year (for qualified parking). Because the election was made before he could receive the cash and the election is for a specific period, the arrangement satisfies the requirements for a valid salary reduction.

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**Example:** In the above example, if employee Q revoked his election on the 10th of the month, it would be effective for the second pay period, since the revocation cannot be effective during a current pay period. It must be for a future period.

### **Effect on Deferred Compensation Plans**

Employees participating in a deferred compensation plan are limited to a percentage of their compensation that they may contribute annually. In computing what is considered compensation for purposes of the limitation, an employer may exclude certain fringe benefits, including QTFs. IRC 314(e); IRC 403(b)(3); IRC 414(s)(2)&(3); IRC 415(c)(3); IRC 125

### **Transportation in a Commuter Highway Vehicle**

To exclude the value of transportation in a commuter highway vehicle, the following must apply to the vehicle:

- It is provided by an employer, or by a third party for the employer;
- It is used for travel between an employee residence (or parking lot) and the workplace;
- It has seating capacity for at least six adults (excluding the driver);
- Half of the seating capacity (excluding the driver) is occupied by employees; and
- The employer must reasonably expect that at least 80% of the mileage is used for transporting employees between residences, the workplace or parking area.

IRC Section 132(f)(5)(B); Treas. Reg. Section 1.132-9(b)

Commuter transportation may include vanpools, and the vehicles may be owned and operated by transit authorities or employees.

### **Valuation**

Automobile lease valuation, vehicle cents-per-mile rule, or commuting valuation rules (discussed in [Equipment and Allowances](#)) may be used in lieu of FMV. If one of these methods is used, the employer must use the same valuation rule to value the use of the commuter vehicle by each employee who shares the use. Treas. Reg. Section 1.132-9(b), Q&A-21, and 1.61-21(d), (e) & (f)

### **Substantiation Requirements**

Only cash reimbursements by employers for use of a commuter vehicle need to be substantiated with actual proof of the commuter vehicle use by the employee. Treas. Reg. Section 1.132-9(b) Q&A 16(c)

### **Transit Passes**

A transit pass is any pass, token, fare card, voucher or similar item (including an item exchangeable for fare media) entitling a person to transportation. The pass must be used for transportation on a public or privately-owned mass transit system, or on transportation provided by a person in the business of transporting people in a vehicle, seating at least six adults, excluding the driver.

### **Valuation**

For transit passes sold at a discount, the discounted price rather than the face amount of the transit pass can be used to figure the exclusion if the discount is available to the general public. Treas. Reg. Section 1.132-9(b) Q&A 9

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**Example:** 10 tickets cost \$17.50 if purchased separately, but a packet of 10 tickets is available to the public for \$15, or \$1.50 each. Only \$15 counts against the annual maximum exclusion.

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**Example:** Each month during 2020, the state health department distributes transit passes with a face amount of \$300 to all employees. These same passes can be purchased from the transit system by any individual for \$250. Because the value does not exceed the statutory monthly limit of \$270 for 2020, no portion of the transit pass is includible as compensation.

### **Substantiation Requirements**

If the employer distributes the transit passes, there are no substantiation requirements. Treas. Reg. Section 1.132-9(b) Q&A 18

### **Cash Reimbursements - Special Rule**

Cash reimbursements for transit passes are nontaxable only if no voucher or similar item is readily available for direct distribution to employees. A voucher is readily available for direct distribution only if an employee can obtain it from a voucher provider that does not impose fare media charges or other restrictions that effectively prevent the employer from obtaining vouchers. IRC Section 132(f)(3); Treas. Reg. Section 1.132-9(b), Q-16-19

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**Example:** Maddy buys a transit pass for \$200 each month in 2020. At the end of each month, she presents her used transit pass to her employer and certifies that she purchased and used it during the month. The employer reimburses her \$200. Lulu also purchases a monthly transit pass for \$200 but presents it to her employer at the beginning of the month and certifies that she purchased it and will use it during the month. Her employer reimburses her at the time

she presents the transit pass. In both situations, the employer has established a bona fide reimbursement arrangement for purposes of excluding the \$200 reimbursement from the employee's gross income in 2020.

### **Qualified Parking**

Qualified parking is parking provided to employees on or near the business work premises, or parking on or near a location from which employees commute to work by commuter highway vehicle, mass transit or vanpool. IRC Section 132(f)(5)(C)

### **Qualified Bicycle Commuting Expenses**

The Tax Cuts and Jobs Act, section 11047, suspends the exclusion of qualified bicycle commuting reimbursements from your employee's income for any tax year beginning after December 31, 2017, and before January 1, 2026. See [Publication 15-B](#).

For tax years prior to 2018, employees could exclude reimbursements paid by employers for qualified bicycle commuting expenses. The maximum exclusion was \$20 times the number of months the employee used a bicycle for commuting to work. Allowable expenses included the purchase, maintenance, repair and storage expenses related to bicycle commuting. IRC Section 132(f)(1)(D)

The bicycle commuting expense exclusion could not be claimed for an employee for any period in which that employee claimed either the exclusion for public transit passes or qualified parking. IRC Section 132(f)(1)(F)(iii)(II)

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## **Health and Medical Benefits**

Under IRC Section 106, employer provided accident and health coverage, including insurance, is excluded from the income of an employee, spouse or dependent. Under IRC Section 105, amounts received from employer provided accident and health coverage, including reimbursements, are excluded from the income of the employee, spouse or dependent.

The following are examples of employer provided accident and health coverage:

**Employer contributions to health plans** - Contributions to the cost of accident or health insurance, including qualified long-term care insurance paid by an employer, are excludable from the income of employees. This includes employer contributions to an Archer Medical Savings Account (MSA) or to a health savings account (HSA). See [Publication 969, Health Savings Accounts and Other Tax-Favored Health Plans](#), for more information on these plans. IRC Section 106

**Direct reimbursement or payment** - An employer may pay qualifying employee medical expenses, or reimburse those expenses, without the payment resulting in taxable income to the employee. This includes payments for specific injuries or illness, but not payments based on work missed (for example, sick pay). IRC Section 105

**Health Reimbursement Arrangement (HRA)** - An HRA is a written plan to provide employer payment or reimbursement for qualifying medical or health benefits. It may provide for the carryover of unused benefits from year to year and may specify the types of medical benefits that are covered. An HRA can only be financed by employer contributions and cannot involve an employee election to participate in a cafeteria plan provided under Section 125. These payments are excludable from income. For more information, see [Publication 969](#). IRC Section 105(b); IRC Section 106; Notice 2002-45 and Notice 2007-22

**Flexible Spending Arrangement** - Under a written employer plan, the employee may choose to reduce salary and contribute to an account for medical expenses on a pre-tax basis. Amounts in the account may be used to pay for qualifying medical expenses, generally only within that calendar year. Long-term care benefits are not excludable from income tax but are excludable from Social Security and Medicare taxes. IRC Section 106(c)(2)

**Cafeteria plan** - A cafeteria plan, which may include a flexible spending arrangement, is a written benefit plan that meets the requirements of IRC Section 125. Under Section 125, employees can choose from among cash and any qualified benefits the plan offers, including:

- Accident and health benefits (but not Archer MSA or long-term care insurance)
- Adoption assistance
- Dependent care assistance
- Group-term life insurance coverage
- Health savings accounts

If the employee elects qualified benefits, employer contributions are excluded from wages for income tax and withholding if the benefits elected are excludable from gross income under a specific section of the IRC (other than scholarship and fellowship grants under Section 117 and employee fringe benefits under Section 132). IRC Section 125

For more information, see [Publication 15-B](#), [Publication 963](#), [Federal-State Reference Guide](#), and the [Cafeteria Plans FAQ](#). IRC Section 125

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## Travel Expenses

Reimbursements received by employees who travel on business outside the area of their tax home may be excludable from wages. This section covers key concepts related to determining whether travel-related expenses are excludable, including:

- Tax home
- The definition of “away from home” (overnight/sleep or rest rules)
- Temporary vs. indefinite travel assignments
- Substantiation methods
- Reimbursements for travel expenses

Qualifying expenses for travel are excludable if they are incurred for temporary travel on business away from the general area of the employee’s tax home. To be excludable from wages, the travel must be substantially longer than an ordinary day’s work, require an overnight stay or substantial sleep or rest. IRC Section 162(a)(2); U.S. v Correll, 389 U.S. 299, 302-303 (1967); Rev. Rul. 75-170

Travel expense reimbursements may include:

- Costs to travel to and from the business destination
- Transportation costs while at the business destination
- Lodging, meals and incidental expenses
- Cleaning, laundry and other miscellaneous expenses

Reimbursements for allowable expenses are excludable from wages if the [accountable plan rules](#) are met.

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**Example:** An employee works for an agency in Detroit and travels to Denver to conduct business for an entire week. The employee incurs the cost of travel to and from Denver, as well as lodging and meals while there. Because the employee is traveling away from their tax home on the employer's business for substantially longer than a day, the employee is considered in travel status. Reimbursements for substantiated travel expenses the employee incurs are excludable from the employee's gross income and are not required to be reported as wages on the employee's W-2.

### Tax Home

Identifying the employee's tax home is critical because the employee must be considered away from their tax home for reimbursements of travel expenses to be excludable. In most cases, the employee's tax home is the general vicinity of their principal place of business. The employee may receive excludable travel reimbursements while temporarily away from their tax home for business. Regardless of whether the employee's tax home is the employer's business office or the employee's residence, the tax home includes the entire metropolitan area; therefore, the employee is not away from home unless they leave the metropolitan area. Rev. Rul. 73-529; Rev. Rul. 93-86; Rev. Rul. 56-49; Rev. Rul. 75-432

### One Regular or Main Place of Business

Generally, the tax home is the employee's regular place of business or official duty station, regardless of where the employee maintains a family home.

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**Example:** An employee lives and works in New York. The New York area is considered the employee's tax home.

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**Example:** An employee lives in New York but works permanently in Philadelphia. Even though the employee lives in New York, Philadelphia is considered the employee's tax home.

### More Than One Regular or Main Place of Business

If an employee has more than one regular place of business, the tax home is the employee's main place of business. The main place of business is generally determined by the time worked, degree of business activity and income earned in each location. Rev. Rul. 54-147, 1954-1 C.B. 51

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**Example:** An hourly employee works in his employer's office in Portland three weeks a month and in a satellite office in Seattle for one week a month. Portland is the employee's tax home.

### No Regular or Principal Place of Business

Employees may have a tax home even if they don't have a regular or main place of business. If an employee works in the general area of the residence where they regularly live, the general area of that residence is the tax home. Rev. Rul. 73-529; Rev. Rul. 93-86

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**Example:** A forestry worker has a home in a remote location and works at various forest sites in the general area. Her employer does not have an office where the employee works or reports. The general area of her residence may qualify as the employee's tax home.

## Tax Home Election for State Legislators

IRC Section 162(h) provides that state legislators whose district is more than 50 miles from the capitol building may elect to treat their residence within the legislative district they represent as the tax home. IRC Section 162(h); TD 9481; Technical Advice Memorandum (TAM) 9127009; Treas. Reg. Section 1.162-24

## Away From Tax Home

For a reimbursement of an expense, including meals and lodging, for business travel to be excludable from income, a taxpayer must temporarily travel in the pursuit of business.

The statutory phrase “away from home” has been interpreted by the U.S. Supreme Court to require a taxpayer to travel overnight, or long enough to require substantial “sleep or rest.” Thus, merely working overtime or at a great distance from the taxpayer’s residence does not create an exclusion for reimbursements for travel expenses if the employee returns home without spending the night or stopping for substantial “sleep or rest.” U.S. v Correll, 389 U.S. 299, 302-303 (1967); Rev. Rul. 75-170; Rev. Rul. 75-432

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**Example:** An employee is required to travel from Milwaukee to Madison to work on a project. She leaves home at 11:00 a.m. on Monday, with plans to return home the same day. She is unable to complete the project on Monday, so she spends the night in Madison. After completing the project the next day, she returns to Milwaukee by 10:30 a.m. Even though the employee had not planned to spend the night and is gone for less than 24 hours, she has met the “away from home” rule because she spent the night away from her tax home on business.

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**Example:** An employee is required to travel from Dallas to Austin to work for the day. The employee leaves home at 6:30 a.m. and returns that night at 10:00 p.m. On the trip home the employee stops for dinner and rests in the car for two hours. Even though the employee has been away from home for substantially longer than her normal workday, she is not considered to be in travel status. The courts have ruled that stopping for a meal or a rest in a car does not meet the substantial “sleep or rest” rule.

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**Example:** A government agency supplies office equipment to other agencies within the state. An employee drives a tractor-trailer with equipment from the warehouse in Sacramento to an agency in San Diego. After 10 hours the driver stops and rents a room at a rest stop for a 4-hour nap before completing the round trip. Because the driver rented a room to sleep, he is considered to have met the “sleep and rest” rule. Reimbursements for meals and lodging are not taxable to the employee if the accountable plan rules are met.

Questions concerning the sleep or rest rule have been addressed in numerous court cases and IRS rulings over the years. Each case addresses a specific situation and should not be relied on in another situation, but each provides an illustration of the development of law in this area. Some of the major cases and IRS rulings in this area are listed below, and some of these cases are referred to in the following discussion.

## Sleep/Rest Test Not Met - Reimbursements Taxable

- U.S. v Correll, 389 U.S. 299, 302-303 (1967)
- Barry v. Commissioner, 27 AFTR 2d 71-334, 435 F2d 1290 (CA1 1970)
- Coombs v. Commissioner, 608 F2d 1269, 1276 (1979)
- Fife v. Commissioner, 73 T.C. 621(1980)

- Rev. Rul. 68-663, 1968-2 C.B. 71
- Matteson v. Commissioner, T.C. Memo 1974-96
- Unger v. Commissioner, T.C. Memo 1986-64, 51 TCM 455
- Siragusa v. Commissioner, T.C. Memo 1980-68
- Bissonnette v. Commissioner, 127 T.C. 124 (2006)

### **Sleep/Rest Test Met - Reimbursements Not Taxable**

- Williams v. Patterson, 286 F.2d 333 (5th Cir. 1961)
- Rev. Rul. 75-170, 1975-1 CB 60
- Anderson, David, (1952) 18 TC 649
- Don W. & Sally W. Weaver v. Commissioner, (1953) PH TCM 54001, 12 CCH TCM 1421, 1953 Tax Ct. Memo LEXIS 17 (U.S. Tax Court Memos 1953)
- Rev. Rul. 75-168, 1975-1 CB 58
- Johnson, Mose, (1982) TC Memo 1982-2
- Rev. Rul. 75-432, 1975-2 CB 60
- Bissonnette v. Commissioner, 127 T.C. 124 (2006)

#### **Williams v. Patterson**

A railroad conductor regularly rented a hotel room near a railroad station where he slept and ate during a 5-hour layover as part of an 18-hour workday. He could deduct his meals and lodging costs because his layover was long enough to obtain sleep or rest and he was required by his job to do so.

#### **Barry v. Commissioner**

A consulting engineer worked with clients in a three-state area by making one-day trips to each client. She frequently left home at 6:30 a.m. and did not return until midnight. During the day, she would stop in a rest area and close her eyes for 20 minutes to refresh herself for the drive. She could not deduct the cost of her meals on these trips because she was not away from home long enough to obtain substantial sleep or rest.

#### **Unger v. Commissioner**

A truck driver's "safety breaks" which consisted of resting or sleeping at the wheel of the truck for periods ranging from 45 minutes to 3 ½ hours, were considered by the courts to be mere pauses from his daily work routine and consequently did not constitute a substantial amount of sleep or rest. Therefore, the truck driver was not considered to be away from home.

### **Temporary vs. Indefinite Travel Assignments**

Reimbursements of travel expenses for "temporary" assignments away from the tax home at a single location are generally not taxable to employees. If the assignment is "indefinite," the employees are considered to have moved their tax home to the new work location.

Reimbursements of travel expenses for "indefinite" assignments are taxable.

The employer must determine whether an assignment is realistically expected to last less than one year when the assignment begins.

- An assignment is generally considered temporary if it is realistically expected to be, and does in fact, last one year or less.
- An assignment is generally considered indefinite if it is realistically expected to last for more than one year.

The above are the general rules. All relevant facts must be considered to determine whether the travel assignment was intended to be temporary or indefinite. Rev. Rul. 93-86; Rev. Rul. 99-7

## Return Home From Temporary Work Location

If employees go home on days off from a temporary location while traveling away from their tax home, the allowable expense for those days is the lesser of:

1. Travel expenses home, or
2. The cost of staying at temporary assignment.

Rev. Rul. 54-497, 1954-2 C.B. 75

## “Temporary” Travel Assignment Becomes “Indefinite”

If an assignment away from home at a single location initially is realistically expected to last one year or less, and then later is realistically expected to last longer than one year, the assignment is considered temporary until the date the expectations change. At that time, the travel is considered “indefinite” and any travel reimbursements from that date on are taxable.

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**Example:** Joan accepts a 6-month work assignment away from her tax home, intending to return to her tax home at the finish of the temporary assignment. The assignment lasts for 6 months and Joan returns to her regular job at her tax home. Joan’s reimbursements are excludable because the assignment was intended to last, and did last, less than 1 year.

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**Example:** Joan accepts a 6-month assignment away from her tax home, intending to return to her tax home at the finish of the temporary assignment. After 4 months at the temporary job assignment, Joan agrees to stay for an additional 14 months. Joan is not taxed on employer reimbursements for travel expenses paid or incurred during the first 4 months of her temporary assignment. Joan will be taxed on reimbursements for the additional 14 months because the assignment has now become an indefinite assignment. If there had been a reasonable basis at the start of the assignment to believe that it would be extended, then it would have been considered indefinite from the start. Rev. Rul. 73-578; Rev. Rul. 93-86

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**Example:** Joan accepts an assignment away from her tax home for 15 months. After 7 months, the employer cancels the assignment and Joan returns to work at her tax home. Although Joan’s assignment lasted less than 1 year, it had been realistically expected to last for more than 1 year when the assignment began. Therefore, the assignment was considered “indefinite” and the reimbursements for the 7 months are taxable. Rev. Rul. 93-86

## Reimbursements for Travel Expenses

For reimbursements for ordinary and necessary business expenses incurred while traveling away from the employee’s home overnight to be excludable from taxable wages, the reimbursements must be made under an accountable plan. An [accountable plan](#) requires that expenses have a business connection, adequate documentation of expenses and a timely return of excess reimbursements. An accountable plan may include per diem rates for certain expenses. Rev. Proc. 2011-47; IRC Section 274(d) and (e)(3)

## Per Diem Reimbursement

A per diem is a daily allowance to pay for lodging, meals and incidental expenses while traveling on business. The amount of the expenses reimbursed using per diem rates will be deemed substantiated without receipts, provided the requirements of the regulations are met. Treas. Reg Section 1.62-2(e)(2); Treas. Reg. Section 1.274-5(g)



## Federal Per Diem Rate

Federal per diem rates include separate rates for lodging and for meals and incidental expenses (M&IE). These rates apply to employees of the federal government and establish the maximum amounts for different geographical areas that can be excluded per day for lodging and M&IE. An annual notice provides per diem rates for expenses incurred while traveling away from home. This includes alternate per diem rates, including a special transportation industry rate, an incidental expense only rate and rates for a high-low substantiation method. Current and previous per diem rates may be found on the [GSA per diem rate page](#); see [Rev. Proc. 2011-47](#) and [Notice 2019-55](#) for special rules.

**Lodging** includes only the cost of the lodging itself. Room tax and energy surcharges are not considered part of the lodging cost.

**M&IE** includes meals, tips and fees for food and luggage-handling services.

An employer is not required to reduce the M&IE even if meals are provided in-kind to the employee, if the employer reasonably believes that the M&IE will be incurred.

Employers may use lower per diem rates than the federal rates. The accountable plan rules apply in the same manner in these cases. If a rate higher than the federal rate is used, the excess is taxable as wages.

## Per Diem Allowance Rules

If a per diem allowance is used, employees are deemed to have substantiated the amount of expenses equal to the lesser of the federal per diem rate or the per diem allowance paid by the employer.

- The per diem allowance must be at or less than federal rates to be fully excludable.
- No receipts are required if a per diem allowance is used, but the payments must meet the other substantiation requirements including time (date), place and business purpose.
- An employer's substantiation requirements must, at a minimum, meet the federal requirements. An employer may have more stringent requirements, such as requiring meal and lodging receipts. Treas. Reg. Section 1.62-2(c); IRC Sections 274(d) and (e)(3); Rev. Proc. 2011-47; Rev. Rul. 2006-56

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**Example:** An employee traveling away from home on business is reimbursed by his employer at the federal per diem rate for the city in which he spends the night. In this situation, the employee does not have to provide receipts; however, he must provide adequate substantiation verifying the time, place and business purpose of the trip. The employer may require additional substantiation. Treas. Reg. 1-62-2(c)

## Miscellaneous Expenses

Miscellaneous expenses are not considered part of a per diem reimbursement and, therefore, substantiation is required. Employers may require actual receipts or written certification as substantiation depending on their travel policies.

Miscellaneous expenses include cab fares, fax, telephone, copy charges, room taxes, energy surcharges, laundry, cleaning and pressing of clothes and other business-related expenses.

Miscellaneous expenses are not part of M&IE per diem allowance, and therefore these reimbursements, in addition to the M&IE allowance, may be excludable from wages if properly substantiated.

### Optional Method for Incidental Expenses Only

An employer payment of \$5 per day or partial day may be deemed to be substantiated expenses under the per diem rules if the employee:

- Is traveling away from home on business,
- Does not pay or incur meal expenses, and
- Is not receiving per diem or M&IE expenses.

Rev. Proc. 2011-47; Notice 2019-55

### Travel for Days of Departure and Return

For both the day travel begins and the day travel ends, the per diem meal allowance is to be prorated by one of two methods:

- Allow  $\frac{3}{4}$  of the per diem meal allowance for each of those days, or
- Use any method that is consistently applied and that is in accordance with reasonable business practice, such as the actual hours away from home on the first and last day.

Rev. Proc. 2011-47

### Traveling to More Than One Location

If the employee is traveling to more than one location in one day, use the per diem rate for the area where the employee stops for rest or sleep. Rev. Proc. 2011-47

### Per Diem Paid Under a Nonaccountable Plan

A per diem plan that fails to comply with any of the accountable plan requirements is considered a nonaccountable plan. Treas. Reg. Section 1.62-2(c)(3)

Per diem payments made under a nonaccountable plan are wages subject to federal income tax, and employer and employee Social Security and Medicare taxes. The payments are included in wages in boxes 1, 3 and 5 on Form W-2.

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**Example:** An employee regularly travels as part of her job requirements. The employer provides her with a monthly per diem allowance based on an estimate of the number of days traveled. The employer does not require the employee to return any of the allowance that exceeds substantiated business expenses. Because the employer does not require the employee to return excess advances or allowances, this is not an accountable plan and the entire amount of the allowance is taxable to the employee as wages.

### Other Per Diem Methods

The following are alternative per diem methods that may be applied to travel expenses.

#### Meals-Only Substantiation Method

An employer may reimburse actual lodging expenses and use the M&IE per diem allowance plan for the meals and incidental expenses. Treas. Reg. Section 1.62-2; Rev. Proc. 2011-47; Notice 2019-55

#### High-Low Substantiation Method

“High-low substantiation” is another deemed substantiation method that may be used in place of the per diem method. The IRS designates key cities or localities as “high-cost” areas. All other localities are considered “low-cost” areas. Use of this method eliminates the need to keep records of the current rate for each city. A single per diem rate is assigned to all high-cost areas and all other areas are assigned another rate. An employer that uses the high-low method for an employee must use the high-low method for that employee for all travel in the continental

United States that year, unless an actual expenses method or the meals and incidental expenses method is used. See the [GSA per diem rate page](#) and [Rev. Proc. 2011-47](#) for more information and [Notice 2019-55](#) for current high-low rates.

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## Transportation Expenses

Transportation expenses are costs for **local** business travel that is **not** away from the tax home area overnight, and that is in the general vicinity of the principal place of business. Transportation expenses do not include commuting costs, which are not deductible business expenses and cannot be excluded from wages if provided by the employer. To be excludable, reimbursements for transportation expenses must meet the accountable plan requirements. IRC Section 162(a); IRC Section 62(c); Rev. Rul. 99-7

Reimbursements for transportation expenses between a residence and a work location are excludable from income if they are provided for:

- Daily transportation between one work location and another, neither one being the employee's residence.
- Daily transportation between the employee's residence and a temporary work location outside the metropolitan area where the employee generally works.
- Daily transportation between the employee's residence and a temporary work location in the same business (regardless of distance) if the employee has a regular work location away from the residence.
- Daily transportation between the employee's residence and another work location in the same business (regardless of whether the work location is temporary and regardless of distance), if the residence is the employee's principal place of business (the residence is exclusively used on a regular basis for the convenience of the employer).

If none of these situations apply, the transportation expenses are commuting costs and are taxable if reimbursed to the employee. See Transportation Expenses and Commuting, below. Rev. Rul. 55-109; Rev. Rul. 99-7

### Transportation expenses may include:

- Air, train, bus, shuttle and taxi fares in area of tax home
- Mileage expenses or costs of operating a vehicle
- Tolls and parking fees

### Transportation expenses do not include:

- Meals and lodging
- Commuting costs to regular or principal place of business
- [Travel expenses](#)

## Transportation Expenses and Commuting

It's important to distinguish expenses for transportation from commuting costs. "Commuting" refers to travel between an employee's personal residence and main or regular place of work. Reimbursements for these expenses are never excludable. However, reimbursements of transportation expenses for getting from one workplace to another in the course of the employer's business within the general area of the tax home may be excludable from wages. Treas. Reg. Sections 1.162-2(e) and 1.262-1(b)(5); Rev. Rul. 99-7

The following illustrate commuting situations, for which reimbursements are taxable:

- An employee drives from his residence to his principal or regular workplace (during or after work hours, whether required or not by employer).

- An employee drives from her residence to her regular workplace on the weekend because of an urgent meeting convened by her employer.
- An employee has an office in the home that qualifies as a principal place of business and drives between the home and another work location in a different trade or business.
- An employee with no regular or main place of business drives between his residence and his first business stop, and from last business stop and home.

The rules for commuting are illustrated by the following examples:

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**Example:** An employee drives from her home to her main office in the morning. In the afternoon, she drives to a satellite office in another town and then returns to her residence. The trip between the employee's home and place of business is personal commuting and any reimbursement for this part of the trip is taxable to her as wages. If the accountable plan rules are met, employer reimbursement for the travel from her main office to the satellite work site and the return trip home is excludable.

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**Example:** A fish and game warden lives in a remote area and does not have a regular place of business. He drives daily to various temporary job locations and is reimbursed for his mileage. Reimbursements for the daily travel between the employee's residence and the first work location and last work location and home are taxable as wages because the game warden does not have a regular place of business and he is not driving to a work site outside of the general area of his residence. Reimbursements for travel between the work sites are not taxable.

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**Example:** An employee travels from his residence to a temporary work site for the day, driving past his official duty station on the way. Reimbursements for transportation between the residence and a temporary work site may be excludable to the extent of the actual distance traveled. Rev. Rul. 99-7; Chief Counsel Advice (CCA) 199948018; CCA 200027047

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**Example:** A high school music teacher is permanently assigned to two schools. She works at the first school in the morning and drives from the first to the second school in the afternoon. She is reimbursed for driving between the two locations. The travel is not taxable to the teacher because she is driving between work sites.

### Temporary vs. Indefinite Assignments

For transportation expenses, as with travel expenses, it's important to note the distinction between "temporary" and "indefinite" assignments. Rev. Rul. 99-7; CCA 199948019

**Note:** The distinction between temporary and indefinite work locations only applies to determining whether expenses for transportation between an employee's residence and a work location are taxable. It doesn't apply to expenses for transportation between one work location and another. However, if the employee's residence is their principal place of business, all reimbursements for transportation between the residence and other work sites in the same trade or business are excludable.

### Temporary Assignment - Transportation Expenses

Reimbursements of transportation expenses for temporary assignments in the general area of the tax home are generally taxable to the employee. However, if an employee has one or more regular work locations away from the employee's residence, the employer may reimburse the

employee for expenses for transportation between the employee's residence and a temporary work location in the same trade or business, regardless of distance.

Additionally, if the employee's principal place of business is their residence (the residence is exclusively used on a regular basis for the convenience of the employer), reimbursed expenses (paid under an accountable plan) for transportation between the employee's residence and another work location in the same business (regardless of whether the work location is temporary and regardless of distance) is not a taxable reimbursement. A temporary assignment exists under these circumstances:

- Duration at a single location is realistically expected to last, and does last, one year or less.
- Assignment is away from the main place of work. Rev. Rul. 99-7

### **Indefinite Assignment - Transportation Expenses**

Reimbursements of expenses for indefinite assignment transportation expenses generally are taxable. If an assignment is indefinite, this generally precludes exclusion for reimbursement of transportation expenses. An indefinite assignment exists under these circumstances:

- Duration at a single location is realistically expected to be longer than one year.
- The assignment location is away from the main place of work.

A break in service of seven months at an assignment location generally results in the beginning of a new assignment for purposes of determining whether an assignment is temporary or indefinite. Rev. Rul. 99-7; CCA 200026025; CCA 200025052

### **“Temporary” Transportation Assignment Becomes “Indefinite”**

If an assignment at a single location, initially is realistically expected to last one year or less, and then later is realistically expected to last longer than one year, the assignment is considered temporary until the date the expectations change. At that time, the transportation is considered “indefinite” and any reimbursements from this date are taxable.

The decision of whether an assignment is realistically expected to last more than one year is made when the assignment begins.

The IRS considers all the facts to determine whether the travel assignment was truly intended to be temporary.

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**Example:** Tom, a state auditor, is assigned to an audit of another agency that is expected to take, and does take, 18 months to complete. The agency he is auditing is in the same town as his regular place of business. Tom travels daily from his residence to the office of the agency he is auditing and is reimbursed for his mileage by his employer.

The travel is considered “indefinite” because the audit is expected to take more than one year, Tom is not traveling away from his tax home area and, therefore, the transportation is considered commuting. The reimbursements for mileage are taxable wages to Tom.

If Tom had traveled from his main place of business rather than from his residence, the reimbursements could be excludable because he was not traveling from his residence, so the “temporary vs. indefinite” rules do not apply.

## Substantiation of Transportation Expenses

Transportation expenses are subject to the same accountable plan rules as those for travel expenses. Excludable transportation expense reimbursements can only be excluded when paid under an accountable plan. The following requirements must be met:

- Business connection
- Substantiation
- Excess returned within a reasonable time

Treas. Reg. Section 1.62-2(c)

Substantiation requires that the employees be able to prove amount, date and time, place and business purpose of expenses, and keep contemporaneous records such as receipts. Expenses must not be lavish but must be reasonable based on circumstances. Treas. Reg. Section 1.62-2; IRC Section 274(d)

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## Moving Expenses

Payments or reimbursements for moving expenses are generally not considered fringe benefits; however, many employers provide compensation or reimbursement for these expenses and a brief discussion is included here. For more information, see [Publication 521, Moving Expenses](#).

Section 11048 of the Tax Cuts and Jobs Act suspends the exclusion for qualified moving expense reimbursements from employees' income for tax years beginning after December 31, 2017, and before January 1, 2026. However, the exclusion is still available in the case of a member of the U.S. Armed Forces on active duty who moves because of a permanent change of station. The exclusion applies only to reimbursement of moving expenses that the member could deduct if they had paid or incurred them without reimbursement. See Moving Expenses in [Publication 3, Armed Forces' Tax Guide](#), for the definition of what constitutes a permanent change of station and to learn which moving expenses are deductible; see Nondeductible Expenses in [Publication 521](#) for a list of expenses that are not deductible as moving expenses.

For payments or reimbursements made in 2018 in connection with a move that occurred prior to January 1, 2018, the suspension does not apply if the payments would have otherwise satisfied the requirements under IRC Section 217 for qualified moving expense reimbursements. Notice 2018-75

Accordingly, the following discussion only applies for tax years prior to 2018, or for members of the U.S. Armed Forces on active duty who move because of a permanent change of station. In all other cases, until 2026, reimbursements received by an employee for moving expenses are included in the employee's wages.

Generally, moving expenses incurred to change residences are personal expenses. Reimbursements or payments to cover them are included in wages, unless the move is directly related to work and the expenses meet the criteria under IRC Section 217. Personal expenses for moving are not deductible under IRC Section 262. If the moving expenses qualify under IRC Section 217, they may be taken as a deduction on the individual's federal income tax return. If the expenses are paid or reimbursed by an employer, the moving expense payment can be treated as an excludable fringe benefit to the employee under IRC Section 132(g).

### General Rule for Employees

A moving expense reimbursement received directly or indirectly from an employer (under an accountable plan) is excludable to the employee if the following tests of IRC Section 217 are met (IRC Sections 82 and 217):

- Individual must be an employee.
- Employee must actually incur or pay the expenses.
- Expenses are in connection with the commencement of work at a new principal place of work.
- Move must bear a reasonable proximity both in time and location to starting work at the new job location (generally moving expenses incurred within one year of the date the employee first reports to work at the new location qualify; moving expenses incurred after this one-year period may be considered reasonable proximate if it can be shown circumstances prevented these costs from being incurred within the one-year period).
- The move must meet the time and distance tests (however, see note below):
  - **Time test** - The employee must work at least 39 weeks full-time in the first year after arriving in the new location.
  - **Distance test** - The new job is at least 50 miles farther from the former home than the old job location was from the former home.

**Note:** Members of the U.S. Armed Forces on active duty who move because of a permanent change of station are not required to meet the time and distance tests.

### Allowable Expenses

Moving expenses are the reasonable expenses for:

- Moving household goods and personal effects from the former to the new residence;
- The travel costs between the former and the new residence by the shortest and most direct route; and
- Certain in-transit storage expenses incurred within a period of 30 consecutive days after the day the goods and effects are moved from the former residence and prior to delivery at the new residence.

IRC Section 217(b); Treas. Reg. Section 1.217-2(b)(3)

Moving expense payments can be direct or indirect. Direct payments are made directly to the employee for moving expenses. Indirect payments are made to a third party on behalf of the employee (for example, a moving and storage company, an airline or travel agency). Treas. Reg. Section 1.82-1(a)(3)

### Period for Traveling Expenses

Employees can be reimbursed for the cost of transportation and lodging for themselves and members of their household while traveling from their former home to their new home. This includes expenses for the day they arrive. Employees can include any lodging expenses they had in the area of their former home within one day after they could not live in their former home (the furniture had been moved). Employees can be reimbursed for traveling expenses for only one trip to their new home for themselves and members of their household. However, all family members do not have to travel together or at the same time.

The period for travel begins one day after former residence is no longer suitable for occupancy and includes one-night lodging at prior residence and ends on the date the employee secures lodging at the new place of residence. The qualified expenses are deductible only for the first day the employee arrives at the new location.

Any relocation allowances paying for more days than established by the guidelines above are taxable as wages to the employee. Treas. Reg. Section 1.217-2(b)(4)

## Delayed Moving

There is no fixed time limit for incurring or reimbursing excludable moving expenses. As noted above, generally moving expenses incurred within one year of the date the employee first reports to work at the new location are considered to be reasonably proximate in time; moving expenses incurred after this one-year period may be considered reasonably proximate if it can be shown circumstances prevented these costs from being incurred within the one-year period). For example, the employee may be waiting for dependents to finish school. Rev. Rul.78-200; Treas. Reg. Section 1.217-2(a)(3)

These rules are further illustrated in [Publication 521](#).

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## Meals and Lodging

The fair market value of meals or lodging furnished by an employer may be nontaxable to the employee. IRC Section 119 provides an exclusion for the value of meals and lodging provided by the employer under certain circumstances. Cash provided for meals is not excludable under this IRC Section. However, under certain circumstances cash for meals can be excluded as a [de minimis fringe benefit](#).

### In-Kind Requirement

“In-kind” refers to payments made in something other than cash. Meals or lodging paid in the form of cash equivalent, do not qualify for this exclusion.

Meals are excludable from wages of the employee if they are provided:

- On the employer’s business premises, and
- For the employer’s convenience.

Lodging is excludable from the employee’s wages if it is provided:

- On the employer’s business premises,
- For the employer’s convenience, and
- As a condition of employment.

Federal law takes precedence over a state statute or an employment or union contract in determining the federal tax liability for furnished meals or lodging. The facts and circumstances and the requirements of IRC Section 119 determine the liability for federal income, Social Security and Medicare taxes. IRC Section 119(b)(1)

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**Example:** An employee of a state institution is required by his employer to reside at the institution to be available for duty at all times. Under the state statute, the employee’s lodging is regarded as part of the employee’s compensation. Although the amount may be subject to state tax, for federal tax purposes, the amounts are excludable.

If an employee has an option to receive additional compensation in place of actual meals or lodging, then the meals and lodging, if chosen, are taxable. Treas. Reg. Section 1.119-1(e)

## Meals

To be excludable, meals must be provided on the business premises and for the convenience of the employer.

### Meals on the Business Premises of the Employer

“On the business premises of the employer” means that the meals must be provided either at:

- A place where the employee performs a significant portion of duties, or



- The premises where the employer conducts a significant portion of his or her business.
- Treas. Reg. Section 1.119-1(c)

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**Example:** Meals are provided at no cost to employees on a state ferry. The ferry qualifies as the employer's business premises and the employee performs a significant portion of duties there. If the meals are furnished for the employer's convenience (because the employer cannot stop the ferry to allow the employees to go to lunch) the meals are not taxable.

### Meals for the Convenience of the Employer

Meals are provided for the convenience of the employer if they are provided for a substantial noncompensatory business reason; that is, the intention is not to provide additional pay for the employee. This determination depends on the facts and circumstances of the case.

Meals provided in the following situations are furnished for substantial noncompensatory business reasons:

- Workers need to be on call for emergencies during the lunch period.
- The nature of the business (not merely a preference) requires short lunch periods.
- Eating facilities are not available in the area of work.
- Meals are furnished to restaurant employees before, during or after work hours.

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**Example:** Meals are furnished during working hours so that the employee is available for emergency calls during the meal; for example, firefighters at the firehouse. You must have evidence that emergencies occur.

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**Example:** Meals are furnished to employees in a remote site because there are insufficient eating facilities in the area, such as at a remote logging camp.

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**Example:** Meals are furnished by a bank that experiences highest customer demand during the lunch hour and, therefore, establishes a short meal period to meet this need (not to allow the employee to leave earlier).

Meals provided to improve general morale or goodwill, or to attract prospective employees, are not provided for a substantial noncompensatory business reason and are taxable. Treas. Reg. Section 1.119-1(a)(2)

If meals are furnished to over half an employer's employees for the convenience of the employer, then meals furnished to all employees will be considered furnished for the convenience of the employer. IRC Section 119(b)(4)

### Meals Provided Before or After Working Hours

Meals provided before or after working hours are not for the employer's convenience, unless:

- They are provided for a restaurant or cafeteria employee, or
- Duties prevent the employee from taking a meal until immediately after working hours. Treas. Reg. Section 1.119-1(a)(2)(ii)(f)

### Meals Furnished With a Charge

The fact that an employer charges for meals and employees may accept or decline the meals isn't taken into account in determining whether or not meals are furnished for the convenience of the employer. IRC Section 119(b)(2)

If an employer periodically charges an employee a fixed amount for meals, regardless of whether the employee takes the meal, the employee's regular taxable wages are reduced by the amount of the charge, if the meals are furnished for the convenience of the employer. If not provided for the convenience of the employer, the FMV of the meals is included in the employee's wages. Generally, the FMV of the meal will be the amount charged for the meal to the employee. IRC Section 119(b)(3)

### **De Minimis Meals**

Infrequent meals of minimal value may be excludable as a [de minimis fringe benefit](#), regardless of the tests above.

### **Meals and Lodging While Traveling**

Reimbursements for meals and lodging expenses incurred while traveling away from home overnight for business reasons may be excludable. These expenses generally fall under the rule for [travel expenses](#).

The taxability of these reimbursements or allowances depends on whether the meals and lodging expenses are connected to the business travel and whether the expenses are substantiated. Reimbursements or allowances must meet the accountable plan rules to be excludable. For travel meals and lodging reimbursements to be excludable from wages, employees must be traveling away from their tax home on their employer's business. As with other travel-related expenses, the general area of work, not the employee's residence, determines the tax home.

The requirements of "traveling away from home" are met when:

- The employee must be traveling away from the general area of the tax home substantially longer than an ordinary day's work, and
- The employee requires an overnight stay or substantial sleep or rest to meet the demands of the work while away from home. IRC Section 162(a)(2); U.S. v. Correll, 389 U.S. 299, 302-303 (1967); Rev. Rul. 75-170; Rev. Rul. 75-432 (See [Transportation Expenses](#))

### **Meals Away From Tax Home But Not Overnight**

Generally, these meals are taxable as wages to the employee because travel expenses must be away from home overnight to be excludable.

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**Example:** An employee is required to travel out of town to work for the day. The employer agrees to pay for the employee's meals while away. The employee leaves home at 7:00 a.m. and returns home at 9:00 p.m. Before the employee returns in the evening, the employee takes a nap in his car for an hour.

Although the employee is away from his tax home for substantially longer than a normal work day and even stops for rest, the rest is not considered to be substantial. The employee is not considered to be away from home overnight. Any meal money that the employee receives is taxable as wages.

For more information, see [Transportation Expenses](#).

## Business Meals

Reimbursements or allowances provided to employees for business meals may be excludable if the expenses are ordinary and necessary, the expense is not lavish or extravagant under the circumstances, and the taxpayer, or an employee of the taxpayer, is present at the furnishing of the food or beverages. IRC Section 274(k)

## Substantiating Employee Meal Expense Reimbursements

Meal expense reimbursements or allowances must meet the [accountable plan rules](#) to be excludable from wages. There must be a business connection, expense documentation and a requirement to return excess advances or reimbursements to qualify as an accountable plan. An employer may reimburse employees using an actual expense or per diem method.

Meals **while not traveling**, such as meals with meetings or overtime meals, must be substantiated using the actual expense method.

## Lodging

For lodging to be excludable from wages, it must be for the convenience of the employer, on the employer's premises and furnished as a condition of employment. Treas. Reg. Section 1.119-1(b)

Lodging provided to a state governor is considered to be for the convenience of the employer. Rev. Rul. 75-540

Rent-subsidized living quarters provided to state legislators do not satisfy the convenience of the employer or condition of employment tests where the legislator is not required to accept them.

However, legislators may make an election to have their personal residence within the legislative district which they represent to be treated as their tax home, allowing the value of the lodging to be excludable as a [qualified travel expense](#). IRC Section 162(h); Treas. Reg. 1.162-24; TAM 9127009

## Lodging Required as Condition of Employment

Lodging is required as a condition of employment if the employer requires the employee to live on the premises to be able to perform the job duties. Common examples may include park rangers, firefighters or apartment managers. For the exclusion to apply, the employee must be required to accept lodging. Where lodging is provided as a condition of employment, meals, if provided, may qualify as excludable. Treas. Reg. Section 1.119-1(f)-Example 5

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**Example:** An employee of a state is employed at an institution. The employer requires the employee to be available for duty at all times. The employer furnishes the employee with meals and lodging at the institution without charge. Under the state statute, his meals and lodging are regarded as part of the employee's compensation. The employee would nevertheless be entitled to exclude the value of the meals and lodging from his gross federal income.

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**Example:** An employee at a prison is given the choice of residing at the institution free of charge, or residing elsewhere and receiving a cash allowance in addition to the employee's regular salary. If the employee elects to reside at the prison, the value of the lodging is taxable as wages to the employee because the employee is not required as a condition of employment to reside on the premises.

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**Example:** A full-time executive works for a city but lives in another community. The city provides a rented apartment locally to help defray the executive's personal commuting costs. The requirements for lodging to be excluded from income have not been met. The lodging is not on the business premises of the employer, and therefore, does not qualify for an exclusion.

### Lodging Furnished by Certain Educational Institutions

Employees of an educational institution or an academic health center provided with lodging that isn't furnished for the convenience of the employer, as a condition of employment and on the employer's premises may still be able to exclude the value of the lodging from income if the lodging is qualified campus lodging and the employee pays an adequate rent.

#### Qualified Campus Lodging

Qualified campus lodging is lodging furnished to the employee by an educational institution for use as a home. The benefit applies to employees of an educational institution and their spouses and dependents. The lodging must be located on or near a campus of the educational institution or an academic health center.

#### Adequate Rent

The amount of rent the employee pays for the year for qualified campus lodging is considered adequate if it is at least equal to the lesser of:

- 5% of the appraised value of the lodging, or
- The average of rentals paid by individuals (other than employees or students) for comparable lodging held for rent by the educational institution.

If the employee pays annual rent that is less than the lesser of these amounts, the difference is included in wages. IRC Section 119(d)

Appraised value is the value determined as of the close of the calendar year and must be reviewed annually.

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**Example:** Carl Johnson, a professor for State University, rents a home from the university that is qualified campus lodging. The house is appraised at \$200,000. The average rent paid for comparable university lodging by persons other than employees or students is \$14,000 a year. Carl pays an annual rent of \$11,000. Carl does not include in his income any rental value because the rent he pays equals at least 5% of the appraised value of the house ( $5\% \times \$200,000 = \$10,000$ ). If Carl paid annual rent of only \$8,000, he would have to include \$2,000 in his income ( $\$10,000 - \$8,000$ ).

See [Publication 525, Taxable and Nontaxable Income](#), for more information.

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## Reimbursements for Use of Employee-Owned Vehicles

Government employees often use their personal automobiles for official use. An employee can deduct the costs of operating a vehicle for work as an employee, using either actual expenses or a standard mileage rate. If an employer reimburses these expenses under an accountable plan, they are not deductible by the employee, but may be excludable from the employee's income. If reimbursements are not consistent with accountable plan rules, or exceed the allowable amounts, they may be taxable as wages. See [Publication 463, Travel, Gift, and Car Expenses](#), for more information.

## Standard Federal Mileage Rate

In most situations, an employer can choose to reimburse the employees through a standard mileage rate allowance in lieu of actual automobile expenses and meet the accountable plan rules. A standard mileage rate is considered to cover all expenses of operating a vehicle, including insurance, maintenance, tires, oil and so on. It does not include parking or toll charges.

Mileage-rate reimbursements for allowable business travel are excludable from the wages of the employee if equal to or less than the standard federal mileage rate and the employee accounts for the business miles driven. IRC Section 274(d)

As of January 1, 2020, the standard mileage rate is 57.5 cents per mile. The rate for the current year can be found on [IRS.gov](https://www.irs.gov). Notice 2020-05

Reimbursements for **non-business travel**, including commuting, are always taxable even if paid at or below the federal mileage rate and are to be included in regular wages and subject to all income and employment taxes. (But see De Minimis Nontaxable Personal Use, later.)

[Personal commuting](#) between the residence and the principal place of business is considered non-business travel or personal use.

## Employer Reimbursements in Excess of Federal Mileage Rate

Reimbursements in excess of the federal mileage rate are taxable as regular wages to the employee. When there is an excess reimbursement, both the nontaxable and taxable amounts are reported on Form W-2:

- Amounts up to federal mileage rate: box 12, code L.
- Amounts in excess of federal mileage rate (taxable): boxes 1, 3 and 5 (withholding reported in boxes 2, 4 and 6).

## Employer Reimbursement Paid at or Less than the Federal Rate

If an employer reimburses an employee's business mileage under an accountable plan, at or below the federal mileage rate and the employee substantiates the business mileage, then:

- The reimbursement is not taxable to the employee.
- No income tax is withheld.
- No reporting is required on Form W-2.

## Reimbursement for Actual Expenses

If the employer reimburses the employee for actual expenses, such as fuel purchased in connection with the performance of work, including repairs, depreciation and parking, those expenses are excludable if made under an accountable plan. The employee must be able to document the amount of the expenses and their connection to the business. Any expenses that are personal in nature (for example, commuting) are never excludable and reimbursements for these must be included in taxable wages. Reimbursement for actual expenses cannot be excluded from wages if a standard mileage rate reimbursement is being provided.

See [Publication 463](#) for more information on allowable vehicle expenses.

## Employee Deduction

The Tax Cuts and Jobs Act P.L. 115-97 suspended all miscellaneous itemized deductions that are subject to the 2% of adjusted gross income floor under Section 67, including unreimbursed employee travel expenses. The suspension applies to tax years beginning after December 31, 2017, and before January 1, 2026. Therefore, the business standard mileage rate listed in Notice 2018-3 cannot be used to claim an itemized deduction for unreimbursed employee travel expenses during the suspension.

## Substantiation Requirements

The employee is required to provide substantiation to the employer. Substantiation rules require the employee to record the date, business purpose and place of each trip. IRC Section 274(d) Mileage should be recorded at or near the time incurred. Monthly expense reports generally meet this requirement.

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**Example:** In 2020, a state agency paid automobile mileage reimbursements at the federal rate of 57.5 cents per mile to employees for business use of their personal vehicles. The employees verified their expenses on monthly expense reports. Because the reimbursement does not exceed the federal mileage rate and the business use has been verified, the reimbursements are not included in employee wages. No reporting is required on Form W-2.

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## Employer-Provided Vehicles

If an employer provides a vehicle that an employee uses exclusively for business purposes and the substantiation requirements are met, there are no tax consequences or reporting required for that use. The use is treated as a working condition fringe benefit. Business use does not include commuting. Employees should maintain records to substantiate that all vehicle use was for business.

## Employer Vehicle Used for Both Business and Personal Purposes

If an employer-provided vehicle is used for both business and personal purposes, substantiated business use is not taxable to the employee (see Substantiation Requirements, below). Personal use is taxable to the employee as wages. The employer can choose to include all use as wages; in this case, the employee may reimburse the employer for personal use rather than having it treated as wages. Treas. Reg. Section 1.61-21(c)(2)

## What is Personal Use?

Examples of taxable personal use of an employer-provided vehicle include:

- Commuting between residence and work station
- Vacation or weekend use
- Use by spouse or dependents

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**Example:** An employee goes into his office on the weekend. This is personal commuting, regardless of whether it's required by the employer. Any reimbursement for the transportation is taxable wages. Treas. Reg. Section 1.162-2(e)

## De Minimis Nontaxable Personal Use

An exception to the limitation on personal use applies for use that qualifies as [de minimis](#).

Examples of excludable de minimis use of an employer-provided vehicle include:

- Small personal detour while on business, such as driving to lunch while out of the office on business.
- Infrequent (not more than one day per month) commuting in employer vehicle. This does not mean that an employee can receive excludable reimbursements for commuting 12 days a year. The rule is available to cover infrequent, occasional situations.

Treas. Reg. Section 1.132-6(e)(2) and 1.132-6(d)(3)

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**Example:** An employee uses a motor pool vehicle for a business meeting. The employer requires that motor pool vehicles be returned at the end of the business day, but the employee is delayed, and the motor pool is closed when the employee arrives back at the office. The employee takes the vehicle home and returns it the next morning.

If this is an infrequent occurrence for that employee (generally happening no more than once a month) the commuting value of the trip is a nontaxable de minimis fringe benefit. If this is a frequent or routine occurrence, the commuting is taxable to the employee.

## Substantiation Requirements

Under IRC Section 280F, vehicles are considered “[listed property](#)” and, therefore, to support an exclusion or deduction, separate records for business and personal mileage are required.

IRC Section 274(d)

If the employee **does not provide** records documenting business and personal mileage separately, the value of **all** use of the automobile is wages to the employee. Treas. Reg. Section 1.132-5(b)

If the employee **provides** to the employer records documenting business and personal use separately, **only** the personal use of the automobile is wages to the employee.

Exceptions to the recordkeeping requirements apply in certain situations discussed later in this section.

## Valuation of Personal Use of Employer-Provided Vehicle

Personal use of an employer’s vehicle that does not qualify for an exclusion creates taxable wages to the employee. The following procedures should be used to determine how much to include in wages on the employee’s Form W-2.

Under the general valuation rule for fringe benefits, the amount to include in income is FMV, which is generally the lease value of the vehicle, but other rules may apply in certain circumstances. Treas. Reg. Section 1.132-5(b)

## Three Automobile Valuation Rules

- Automobile Lease Valuation Rule -Treas. Reg. Section 1.61-21(d)
- Vehicle Cents-Per-Mile Valuation Rule -Treas. Reg. Section 1.61-21(e)
- Commuting Valuation Rule -Treas. Reg. Section 1.61-21(f)

## General Requirements for Using These Special Valuation Rules

To use one of the special valuation rules, the employer and employee must timely report personal use as wages. Generally, the rules are applied on a vehicle-by-vehicle basis; the employer may use different rules for different vehicles.

### Automobile Lease Valuation Rule

Compute the value for purposes of the lease valuation rule as follows:

1. Determine the fair market value of the vehicle on the first day it is made available to employee.
2. Use the table in Treas. Reg. Section 1.61-21(d)(2)(iii) or [Publication 15-B](#) to compute the annual lease value.
3. Multiply the annual lease value by the percentage of personal use computed in Step 1.
4. If fuel is provided, add 5.5 cents per mile driven by the employee to the table lease value.

Maintenance and insurance costs are included in the standard mileage rate. Treas. Reg. Section 1.61-21(d)(3)(i)

The employer's cost, including tax, title and so on, may be used to determine the FMV. See Treas. Reg. Section 1.61-21(d)(5) for information on the valuation of leased vehicles.

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**Example:** Joe, an employee of Agency XYZ, uses an agency-provided car, for which fuel is provided. In 2020, Joe drives the car 20,000 miles, of which 4,000, or 20%, were personal miles. The FMV of the car is \$24,500, for an annual lease value of \$6,600. Personal use is valued at \$1,320: ( $\$6,600 \times 20\%$ ) plus \$220 ( $5.5\text{¢} \times 4,000$  miles) for fuel costs. \$1,540 ( $\$1,320 + \$220$ ) is included in Joe's wages.

### Recalculation of Value after Four-Year Lease Term

Once computed, the annual lease value remains in effect through December 31 of the 4th full calendar year after the rule is first applied. Treas. Reg. Section 1.61-21(d)(2)(iv)

### Transfer to Another Employee

If the vehicle is transferred to another employee, the employer may recalculate the annual lease value based on the FMV as of January 1 of the year of transfer. This recalculation is not allowed if the primary purpose of the transfer is to reduce federal tax liability. Treas. Reg. Section 1.61-21(d)(2)(v)

### Daily Lease Value

This method is required if the vehicle is available for less than 30 days. Figure the daily lease value by multiplying the annual lease value by a fraction, using four times the number of days of availability as the numerator, and 365 as the denominator.

You can apply a prorated annual lease value for a period of continuous availability of less than 30 days by treating the automobile as if it had been available for 30 days. Use a prorated annual lease value if it would result in a lower valuation than applying the daily lease value to the shorter period of availability. Treas. Reg. Section 1.61-21(d)(4)

### Fleet Average Valuation Rule

If the employer has 20 or more cars used for business and personal use by employees, a "fleet-average value" may be used to calculate the annual lease valuation. For 2020, each car must be valued at less than \$50,400. (For 2018, 2019 and 2020, there is no separate maximum amount for trucks and vans.) See [Notice 2020-05](#); Treas. Reg. Section 1.61-21(d)(5)(v)



## Vehicle Cents-Per-Mile Rule

To use the vehicle cents-per-mile rule, one of the following tests must be met:

- The employer reasonably expects the vehicle to be regularly used in the trade or business throughout the calendar year.
- The mileage test is met. Treas. Section 1.61-1(e)(1)(i)

A vehicle is considered “regularly used in the business” if:

- At least 50% or more of the total annual mileage each year is in the employer’s business; or
- It is generally used each workday to transport at least three employees to and from work, in an employer-sponsored commuting vehicle pool. Treas. Reg. Section 1.61-21(e)(1)(iv)

The mileage test is met if the vehicle is:

- Driven by employees at least 10,000 miles (personal and business) per year; and
- Used primarily by employees. Treas. Reg. Section 1.61-21(e)(1)(ii)

## Continued Usage Rule

You must continue using the cents-per-mile rule for the vehicle for all later years, except that the employer can use the commuting rule for any year during which use of the vehicle qualifies under that rule. If the vehicle does not qualify for the cents-per-mile rule during a later year, you can use, for that year and thereafter, any other rule for which the vehicle then qualifies.

Treas. Reg. Section 1.61-21(e)(5)(ii)

## Limitation on Value

For 2019, the maximum value for use of the vehicle-cents-per mile rule is \$50,400, on the first day of use. [Notice 2020-05](#); Treas. Reg. Section 1.61-21(e)(1) and 1.280F

Multiply the standard mileage rate by the number of personal miles driven. If fuel is not provided by the employer, the standard mileage rate can be reduced by up to 5.5 cents (57.5 cents - 5.5 cents = 52 cents per mile in 2020). Treas. Reg. Section 1.61-21(e)(3)(ii); Notice 2020-05.

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**Example:** Joe drives his agency-provided car for 2,000 personal miles in 2020. The amount included as wages is \$1,150 (57.5 cents x 2,000 personal miles) or, if no fuel is provided by his employer, the amount would be \$1,040 (52 cents x 2,000 miles).

## Commuting Valuation Rule

Personal use for commuting can be valued at \$1.50 each way if all the following conditions are met:

- The vehicle is owned or leased by the employer.
- The vehicle is provided to the employee for use in the business.
- The employer requires the employee to commute in the vehicle for a bona fide noncompensatory business reason:
  - The employer has a written policy prohibiting personal use other than commuting.
  - The employee does not use the vehicle for other than de minimis personal use.
  - The employee who uses the vehicle is not a control employee (defined below).

If more than one employee commutes in the vehicle, the \$1.50 each-way rule applies to each employee. Reg. Section 1.61-21(f)

**Note:** The employer must require the employee to use the vehicle for a business purpose; it cannot be voluntary on the employee’s part. For example, a transportation employee, who is on call 24 hours a day to respond to road emergencies, is required by the employer to commute in

a vehicle outfitted with communications or other equipment the employee would need if called out at night.

### **Commuting Rule Not Available for Control Employee**

Personal use of a vehicle by a “control employee” cannot be valued using the commuting valuation rule (\$1.50 rule). A control employee in a governmental organization is either an:

- Elected official; or
- Employee whose compensation is at least as great as a federal government employee at Executive Level V (Beginning January 1, 2020, this is \$160,100).  
Treas. Reg. Section 1.61-21(f)(6)

Instead of the above definition of control employee, the employer may treat all employees who are “highly compensated” (generally, for 2020, those exceeding \$130,000 compensation) as their only control employees. Treas. Reg. Section 1.132-8(f); [Notice 2019-59](#)

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**Example:** An agency in a rural area doesn’t have secure parking and has a history of vandalism to its vehicles. The employer requires employees using the vehicles for the day on business to take the vehicles home overnight. The trip home and to the office the next day is considered taxable personal commuting. The commuting may be valued at \$1.50 each way, because the employee had a valid noncompensatory business reason for commuting in the employer’s vehicle. If this was an unusual situation for the employee, that is, generally occurring no more than once a month, the commuting could also be considered a nontaxable de minimis fringe benefit.

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**Example:** An agency requires an employee to take home a van to carry displays and equipment to a trade show the next day. In this situation, the commuting could be valued at \$1.50 for the trip from the office to home, because the agency is requiring the employee to use a specific vehicle for valid business reasons (assuming the other rules listed above are met). If this was an unusual situation for the employee, that is, generally occurring no more than once a month, the commuting could be considered a nontaxable de minimis fringe benefit, even if the commuting valuation rule is not met.

### **Qualified Nonpersonal Use Vehicles**

Use of a qualified nonpersonal use vehicle, including commuting, is excludable to the employee as a working condition fringe benefit if the specific requirements for the type of vehicle are met. Recordkeeping and substantiation by the employee are not required by the IRS. IRC Sections 274(d) and (i); Treas. Reg. Section 1.132-5(h)

### **Eligible Vehicles**

A qualified nonpersonal use vehicle is any vehicle that the employee is not likely to use more than minimally for personal purposes because of its design. Qualified nonpersonal use vehicles generally include:

- Clearly marked police, fire or public safety officer vehicles (discussed below).
- Unmarked vehicles used by law enforcement officers if the use is officially authorized (discussed below).
- Qualified specialized utility repair truck (discussed below).
- An ambulance or hearse used for its specific purpose.
- Any vehicle designed to carry cargo with a loaded gross vehicle weight over 4,000 pounds.
- Delivery trucks with seating for the driver only, or the driver plus a folding jump seat.

- A passenger bus with a capacity of at least 20 passengers used for its specific purpose.
- Construction or specially designed work vehicles (for example, bucket trucks, dump trucks, cement mixers, forklifts, garbage trucks).
- School buses.
- Tractors, combines and other special-purpose farm vehicles. Treas. Reg. Section 1.274-5(k)(2)

### **Clearly Marked Police, Fire or Public Safety Officer Vehicles**

A clearly marked police, fire or public safety officer vehicle is a qualified nonpersonal use vehicle only if the following apply:

- The employee must always be on call.
- The employee must be required by the employer to use the vehicle for commuting.
- The employer must prohibit personal use (other than commuting) for travel outside of the officer or firefighter's jurisdiction.
- It is readily apparent, by words or painted insignia, that the vehicle is a public safety vehicle. A marking on a license plate isn't a clear marking for this purpose. Treas. Reg. Section 1.274-5(k)(3)

### **Public Safety Officer**

A public safety officer is an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as described above, or a firefighter, chaplain or member of a rescue squad or ambulance crew. TD 9483; Treas. Reg. Section 1.274-5

### **Unmarked Law Enforcement Vehicles**

Unmarked law enforcement vehicles are qualified nonpersonal use vehicles only if:

- The employer must officially authorize personal use.
- Personal use must be incident to use for law-enforcement purposes; that is, no vacation or recreational use.
- The employer must be a governmental unit responsible for crime prevention or investigation.
- The vehicle must be used by a full-time law enforcement officer authorized to carry firearms, execute warrants and make arrests. The officer must regularly carry firearms, except when it is not possible to do so because of the requirements of undercover work. Treas. Reg. Section 1.274-5(k)(6)(ii)

### **Qualified Specialized Utility Repair Truck**

A specialized utility repair truck qualifies as a qualified nonpersonal use vehicle if:

- The truck (not a van or pickup) is designed to carry tools and equipment,
- The truck has permanent interior construction, including shelves and racks, and
- The employer must require the employee to commute for emergency call-outs to restore or maintain utility services (for example, gas, water and sewer). Treas. Reg. Section 1.274-5(k)(5)

Vans and pickup trucks do not qualify as qualified nonpersonal use vehicles unless specifically modified to be unlikely to allow more than minimal personal use. For a van or pickup truck with a loaded gross vehicle weight of 14,000 pounds or less, the vehicle must be clearly marked with permanently affixed decals, special painting or other advertising associated with the trade, business or function.

Vans must have a seat for the driver only (or the driver and one other person) and either:

- Permanent shelving that fills most of the cargo area, or
- An open cargo area, and the van always carries merchandise, material or equipment used in your trade, business or function. Rev. Rul. 86-97; Private Letter Ruling 200236022

Pickup trucks must be equipped with **at least one** of the following:

- A hydraulic lift gate.
- Permanent tanks or drums.
- Permanent side boards or panels that materially raise the level of the sides of the truck bed.

Otherwise, they must be used primarily to transport a particular type of load (other than over the public highways) in a construction, manufacturing, processing, arming, mining, drilling, timbering or other similar operation for which it was specially designed or significantly modified.

### **Safe Harbor Substantiation Rules for Vehicles**

If certain conditions are met, a safe harbor rule relieves employees of the requirement to keep detailed records of employee use of vehicles. How the safe harbor rule applies depends on whether the vehicles are used for any personal purposes, or for vehicles with no personal use other than commuting. Treas. Reg. Section 1.274-6T(a)(1)

Employees using employer vehicles are **not** required to keep detailed records of vehicle use if all the tests below are met:

For vehicles not used for personal purposes:

- The vehicle is owned or leased by the employer and is provided to the employee for use in the employer's business.
- When not in use, the vehicle is kept on the employer's premises (for example, motor pool cars).
- No employee using the vehicle lives at the employer's business premises.
- The employer has a written policy prohibiting personal use, except de minimis use (such as driving to lunch while away from the office).
- The employer reasonably believes the vehicle is not used for any personal use (other than de minimis). Treas. Reg. Section 1.132-5(e) and (f); Treas. Reg. Section 1.274-6T(a)(2)

For vehicles not used for personal purposes other than commuting:

- The vehicle is owned or leased by the employer and is provided for use in the employer's business.
- For bona fide noncompensatory reasons, the employer requires the employee to commute to and/or from work in the vehicle.
- The employer has established a written policy prohibiting personal use other than commuting and de minimis use.
- The employer reasonably believes that, except for commuting and de minimis use, no individual uses the vehicle for personal purposes.
- The employee is not a control employee (for the definition, see "Commuting Rule Not Available for Control Employee" earlier).
- The employer accounts for the commuting use by including the commuting value in the employee's wages. Treas. Reg. Section 1.274-6T(a)(3)

### **Written Policy Statements**

The employer must maintain a written policy statement that implements a policy restricting personal use of employer-provided vehicles. The Conference Report to P.L. 99-44, Contemporaneous Recordkeeping Requirements Repeal Act, states that a resolution of a city council, or a provision of state law or the state constitution qualifies as a written policy statement for the safe harbor provisions.

## Employer Monitoring Required

Although detailed recordkeeping is not required, the employer must have some way to prove that the vehicles are being used in accordance with the rules. For example, the employer may use internal controls such as requiring employees using motor pools to sign vehicles out, and signed statements by the employees agreeing to no personal use, or (if applicable) no personal use other than commuting.

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## Equipment and Allowances

This section discusses some common situations involving employee use of equipment and supplies, as well as cash allowances provided by an employer to pay for them. In general, any equipment the employer provides that represents ordinary and necessary business expenses, are excludable from income. Allowances paid or reimbursements made by an employer under an accountable plan to an employee are excludable. IRC Section 162

The [accountable plan rules](#) require:

- Business connection – the expenses must qualify as a business expense to the employer.
- Substantiation of amount, date and time, place and business purpose.
- Excess returned within a reasonable time. Treas. Reg. Section 1.62-2(c)(1); IRC Section 274(d)

Except where the law provides a specific exception (for example, the standard mileage rate) any allowance or reimbursement based on hours worked, units produced or other system that does not involve accounting for actual expenses, is treated as wages subject to withholding of income, Social Security and Medicare taxes. Rev. Rul. 2004-1; Rev. Rul. 2012-25

## Wage Recharacterization

If an employer arranges to pay an amount to an employee, whether called an allowance, reimbursement or some other term, regardless of whether the employee incurs, or is reasonably expected to incur, deductible business expenses, the business connection requirement is not met for these payments. This constitutes “wage recharacterization” and all amounts paid are considered taxable wages for income, Social Security and Medicare tax purposes. See the discussion of accountable plans. Treas. Reg. 1.62-2(d)(3)(i); Rev. Rul. 2012-25

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**Example:** An employer pays a premium per working hour (sometimes called a “tool allowance”) for employees who provide their own tools. The employees retain ownership and control of their tools and there is no requirement to account to the employer. The employees are not required to substantiate the cost of each item. The premium is not specifically determined by the employees’ actual expenses. Reimbursements based on the hours worked cannot meet the accountable plan requirements. Payments of this type do not meet the accountable plan rules and, therefore, are additional compensation includible in income and fully taxable as wages.

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**Example:** An employer’s mileage reimbursement plan operates to routinely pay an amount as a mileage reimbursement to workers who have not incurred (and are not reasonably expected to incur) deductible business expenses in connection with the employer’s business. The purported mileage reimbursement is merely recharacterized wages because all workers receive an amount as a mileage reimbursement regardless of whether they incur (or are reasonably expected to incur) mileage expenses. The arrangement fails to satisfy the business connection requirement of Treas. Reg. Section 1.62-2(d) and does not meet the accountable plan rules.

## Work Clothes and Uniform Allowances and Reimbursements

Clothing or uniforms are excluded from wages of an employee if they are:

- Specifically required as a condition of employment, and
- Are not worn or adaptable to general use as ordinary clothing.

The accountable plan rules must be met for reimbursements or clothing allowances. IRC Section 162; Treas. Reg. Section 1.62-2(c)(1)

**Note:** If the clothing qualifies as excludable, then reimbursements for the cleaning costs are also excludable.

Periodic allowance payments made to employees for the purchase and maintenance of specific articles of **employer-required** uniforms are not taxable to the employees to the extent that the allowances are used to pay for uniforms that are not adaptable to general use and are not worn for general use, and the employees substantiate the expenses. If the employer does not require substantiation, the allowance is taxable as wages and subject to withholding when paid.

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**Example:** An agency is required to reimburse certain employees for shoes under a union contract. The shoes are not safety shoes. Because the shoes are adaptable for general wear, the reimbursements are included as wages to the employees even if the employer is required to make the payment.

## Safety Equipment

Safety equipment is excludable from employee wages if the equipment is provided to help the employees perform their job in a safer environment. To be excludable, it is not necessary that the equipment be required by the employer. However, the accountable plan rules must be met for reimbursements for safety equipment. IRC Section 162; Treas. Reg. Section 1.62-2(c)(1)

Common examples include a hardhat, an anti-glare screen for computer and safety shoes.

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**Example:** A government entity pays employees annually for part of the cost of safety equipment not required by the employer. The payments may be excludable even though the safety equipment is not required by the employer. If the equipment helps the employee perform their job in a safer environment, it may qualify as an employee business expense. If the expenses are substantiated, the reimbursement is excludable for the employee.

## Mileage Allowances

Reimbursements for expenses of operating employee-owned vehicles are discussed in [Employer-Provided Vehicles](#). The tax treatment of cash allowances or reimbursements for automobile use is governed by the accountable plan rules.

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**Example:** An employer provides an employee with a car or mileage allowance and does not require substantiation. The accountable plan rules have not been met; the car allowance is fully taxable as wages to the employee.

## Listed Property

Employers often provide employees with certain equipment for use in the performance of their duties, outside of the employer's premises. Items listed in IRC Section 280F are considered "listed property" because the property by its nature lends itself to personal use. Strict substantiation requirements apply to property in this category. Employees are required to

account for business and personal use. IRC Sections 274(d), 280F(d)(4) and 132(d)

Examples include automobiles and property used for recreation.

The following rules apply to listed property:

- Business use is excludable from the wages of the employee as a working condition fringe benefit.
- Personal use is included in the wages of the employee.
- If substantiation requirements are not met, all use is included in the wages of the employee. IRC Section 280F(d)(4)

### Substantiation Requirements

The employee must keep records of business and personal use of listed property to determine whether the value of any of the use is included in the employee's wages. IRC Section 274(d)

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## Awards and Prizes

Unless specifically excluded, prizes or awards given to employees are taxable. The following awards are **always** taxable as wages to an employee (regardless of the cost or FMV):

- Cash or cash equivalent awards, such as savings bonds or gift certificates.
- Recognition awards, cash or non-cash, for job performance, unless they are qualifying de minimis fringe benefits.
- Non-cash prizes (unless de minimis) won by employees from random drawings at employer sponsored events.
- Awards for performance, such as outstanding customer service, employee of the month or awards based on productivity.
- Achievement awards, cash or non-cash, that do not meet specific qualified plan award rules, discussed below.
- Awards for length of service or safety achievement that do not meet specific requirements, discussed below. IRC Section 274(j)

Cash awards to employees are always taxable. Generally, the value of an award or prize given by an employer is taxable to an employee as wages, includable on Form W-2, and subject to federal income tax withholding, Social Security and Medicare. IRC Sections 74 and 3121(a)(20)

If the employer pays the employee's share of taxes on an award, the amount of taxes paid are additional wages to the employee (except for agricultural and domestic services) and are subject to all payroll taxes. For information on calculating the tax on employee taxes paid by the employer, see [Publication 15-A](#), Rev. Rul. 86-14

### Excludable Awards

There are three types of non-cash awards that may be excluded from income (subject to dollar limitations, discussed later). Each category has specific requirements that must be met to be excludable. These categories are:

1. Certain employee achievement awards
2. Certain prizes or awards transferred to charities
3. De minimis awards and prizes

### Employee Achievement Awards

An employee achievement award is an item of tangible personal property (not cash) for **length-of-service** or **safety**. To be excludable the achievement:

- Must be given for length-of-service or safety,

- Must be awarded as part of a meaningful presentation, and
- Cannot be disguised wages or made under conditions and circumstances that create a significant likelihood that it is disguised wages.

The amount of an award that is excludable depends on whether it is considered qualified. A plan is a **qualified plan award** if:

- The award is made under an established written plan,
- The plan does not discriminate in favor of highly compensated employees (generally, for 2020, those whose compensation exceeds \$130,000), and
- The average cost of all employee achievement awards (both qualified and nonqualified awards for length-of-service and safety) made by the employer during a single year does not exceed \$1,600 (\$400 for awards that aren't qualified plan awards). IRC Section 274(j)

### Safety Achievement Awards

An award will qualify as an excludable safety achievement award unless one of the following applies:

- It is given to a manager, administrator, clerical employee or other professional employee.
- During the tax year, more than 10% of the employees, excluding those listed above, have already received a safety achievement award (other than one of very small value). Eligible employees must have worked full-time for a minimum of one year prior to the award. IRC Section 274(j)

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**Example:** If an agency has 50 eligible employees and six receive safety awards, the sixth award is taxable because 10% of the eligible employees have already received it.

### Length-of-Service Achievement Awards

An award made for length-of-service may be excludable. However, it does not qualify if either of the following applies:

- The employee received the award during his or her first five years of employment.
- The employee received another length-of-service award (other than one of very small value) during the same year or in any of the prior four years.

**Note:** A traditional retirement award is an exception to the five-year rule. IRC 274(j)

Awards other than for safety or for length-of-service are always nonqualified awards, unless they are qualifying de minimis fringe benefits.

### Dollar Limitation

The maximum amount of excludable awards to a single employee during a calendar year is limited to:

- \$400 for awards made under a nonqualified plan, or
- \$1,600 in total for awards made under both qualified and nonqualified plans.

An award is not a qualified plan award if the average cost of all the employee achievement awards given during the tax year (that would be qualified plan awards except for this limit) is more than \$400. To figure this average cost, ignore de minimis awards. IRC 274(j)

Generally, if an award is taxable to an employee, it is valued at its FMV. The taxable amount of an award to an employee depends on whether the award is made under a qualified plan, whether the cost of the award to the employer exceeds the dollar limitations and the FMV of the award. A length-of-service or safety achievement award may be a qualified plan award. IRC Section 274(j)



**Example:** An employer only makes awards to employees that are non-cash, qualifying length-of-service or safety awards. To avoid the extensive recordkeeping and tracking required for determining the taxability of awards, the employer has a policy of not making awards that exceed \$400 per employee annually. In this situation, none of the awards would be taxable to the employees.

**Example:** An employee receives two employee achievement awards during the year. For both awards, the cost and FMV of the awards were the same.

**Cost and FMV**

Nonqualified plan award of a watch	\$400
Qualified plan award of a stereo	+ 1,350
Total awards	1,750
Less: annual limitation	- 1,600
Taxable portion of awards	\$150

**Cost Exceeds Dollar Limitations**

Generally, if an award is taxable to an employee, it is valued at FMV. If the cost to an employer for an award exceeds the plan dollar limitations, either \$400 (nonqualified plan) or \$1,600 (qualified plan), then the amount included in wages is the greater of:

- The part of the employer’s cost that is more than the plan dollar limitation (but not more than the FMV), or
- The amount by which the FMV exceeds the amount of the plan dollar limitation.

**Example:** An employer pays \$520 for golf clubs given to an employee as a nonqualified plan employee achievement award. The FMV of the award (golf clubs) at the time it is given to the employee is \$750.

	<b>Cost</b>	<b>FMV</b>
Award	\$520	\$750
Less: Limitation	- 400	- 400
Excess over limitation	\$120	\$350

The amount included in taxable wages to the employee is \$350, the greater of the cost less the limitation or the FMV less the limitation. If the award had been a qualified plan award, the employee would not have been taxed on any of the value of the award.

**Example:** An employer pays \$395 for golf clubs given to an employee as a nonqualified plan employee achievement award. The FMV of the clubs at the time the award is given to the employee is \$450.

	<b>Cost</b>	<b>FMV</b>
Award	\$395	\$450
Less: Limitation	- 400	- 400
Excess over limitation	\$0	\$50

Because the employer’s cost of the award does not exceed the \$400 limitation for nonqualified awards, the employee is not taxed on the value of the award. Treas. Reg. Section 1.74-2(b)

**Example:** An agency presents employee length-of-service awards to six employees for a total cost to the employer of \$1,800. The average cost of all awards is \$300 (\$1,800/6). Since the average cost of all awards does not exceed \$400, the awards are considered qualified plan awards provided there is a written plan that does not discriminate in favor of highly paid employees.

## Prizes or Awards Transferred to Charities

Certain prizes and awards given in recognition of charitable, scientific, artistic or educational achievement are not taxable if the recipient transfers them to a charitable organization. IRC Section 74(b)

The following requirements must apply for a transferred award to be excludable from wages:

- Award is for achievement.
- Recipient is selected without entering any contest.
- No substantial future services are required.
- Recipient transfers the award to a charitable organization recognized under IRC 170(c) prior to receiving the benefit.

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**Example:** A college instructor is chosen as teacher of the year by a national education association. He is awarded \$5,000, which, before accepting the award, he directs the education association to transfer it to a college scholarship fund at the institution where he teaches. The award is not taxable to the college instructor.

## De Minimis Awards and Prizes

A prize or award that is not cash or cash equivalent, of nominal value and provided infrequently is excludable from an employee's wages. Prizes or awards that are given frequently to an employee do not qualify as an excludable de minimis award, even if each award is small in value. IRC Section 132(e)

### Examples of Excludable De Minimis Awards

- Nominal gifts for birthdays, holidays
- Holiday turkey and hams
- Flowers, plaques, coffee mugs for special occasions
- Gold watch on retirement
- Parking for employee of the month, if value is less than statutory limit for [qualified transportation fringe benefits](#)

"Nominal" for this purpose means small in value, relative to the value of total compensation. There is no set dollar amount in the law for nominal prizes or awards. (The IRS gave advice at least once, in 2001, that a benefit of \$100 did not qualify as de minimis.) CCA 200108042

"Cash equivalent" means readily convertible to cash, for example, a voucher for merchandise, a savings bond or a gift certificate.

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**Example:** An employer provides dinner at an annual awards banquet for employees. The regulations specifically indicate that occasional group meals are considered nontaxable fringe benefits. Treas. Reg. Section 1.132-6(e)(1)

### Cliff Provision

If an employer provides an award that exceeds either the value or frequency limitations for de minimis fringes, the entire award is included in the employee's wages, not just the portion that exceeds the de minimis limits. Treas. Reg. Section 1.132-6(d)(4)

## Awards Funded by Third Party

If funds for awards or prizes are provided by an outside party, the award is taxable in the same way as if provided directly by the employer. If the funds are turned over to the employer to select and distribute the awards, the employer is responsible for all applicable payroll taxes and withholding. IRC Section 3402(d)

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**Example:** A bank provides funds to a state agency to support a special performance award program. The agency chooses the recipients and distributes the awards. The value of the awards is additional compensation to these employees and reportable on their Forms W-2, subject to payroll taxes and withholding. The treatment would be the same if the outside party were a nonprofit organization or an educational foundation.

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**Example:** A television set, donated by a business to a state agency, is awarded through a random drawing to an employee. The FMV of the television is considered taxable wages to the employee. Prizes in a random drawing of employees are considered wages. A television set is not considered a de minimis benefit.

In the case where the outside party selects and distributes the award directly to an agency employee without any direction or decision making from agency personnel, then the award is income to the recipient and must be reported. The outside party is required to furnish a Form 1099-MISC to the recipient for a calendar year if the total awarded to that individual in that year has a value of \$600 or more.

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**Example:** Special duck prints donated by artists are given away as awards to employees. For purposes of determining the taxable value, the FMV can be determined by an appraisal, by establishing the sales price of similar prints by the artist or by any other reasonable method. The taxability of the value of the prints to the employees depends on the type of award, dollar limitations and other specific requirements.

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## Professional Licenses and Dues

Employer reimbursements to employees for the cost of their professional licenses and professional organization dues may be excludable if they are directly related to the employee's job.

Once an employee has completed the education or experience required for a professional license, the expenses necessary to maintain a license or status are considered ordinary and necessary business expenses. If paid or reimbursed by an employer for an employee, the fees are a working condition fringe benefit. If paid under an accountable plan, they are excludable from the income of the employee. If paid under a nonaccountable plan, they are included in the income of the employee and are subject to federal income, Social Security and Medicare taxes. The employee may deduct the expenses on their income tax return. IRC Section 132(d); Treas. Reg. Section 1.132-5(a)(1)(v); IRC Section 62(a)(2)(A); Treas. Reg. Section 1.62-2(c)(2); IRC Section 62(c)(1)&(2); Treas. Reg. Section 1.62-2(c)(3)

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**Example:** An employer pays the professional dues for an employee, who is a financial officer, to a national association of finance officers. If the accountable plan rules are met, this is an excludable reimbursement to the employee.

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**Example:** A state agency requires an employee to be a notary. The employee submits the paid receipt for the annual fee to maintain this professional license to the agency, and the agency reimburses the employee. The reimbursement is not taxable to the employee because it is an ordinary and necessary business expense under IRC Section 162 and paid by the employer under an accountable plan.

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**Example:** A state agency pays the annual CPA license fee for the chief game warden each year. The warden does not use his CPA expertise on the job for the agency. Because the game warden does not use his CPA expertise in his capacity as game warden with this state agency, it is not a working condition fringe benefit. The reimbursement to the game warden is taxable to him and is subject to federal income, Social Security and Medicare taxes.

### **Business and Professional Organizations**

Payment or reimbursement of dues to clubs organized for business purposes are excludable from income if:

- The organization is related to the employer's business, and
- The employee is performing duties for the employer that are related to the professional organization's focus or mission.

Examples of these organizations include business leagues, professional organizations, and trade associations such as medical, legal and accounting associations including state associations of CPAs, school officers or similar professional groups. Treas. Reg. Section 1.162-15(c); IRC Section 162(a); Treas. Reg. Section 1.132-5(a)

### **Entertainment and Recreational Organizations**

Club dues and memberships are not allowed as business deductions. If an employer provides these benefits to an employee, they are taxable to the employee and subject to withholding for income tax, Social Security and Medicare.

Similarly, the payment of club dues by the employer is a taxable fringe benefit. No business deduction is allowed for club dues. If an employer pays or reimburses an employee for club dues, the amount is taxable to the employee and subject to income tax withholding, Social Security and Medicare taxes. IRC Section 274(a)(3)

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## **Educational Reimbursements and Allowances**

Employers frequently pay educational expenses on behalf of employees or reimburse them for educational expenses they incur. In addition, many educational institutions provide a benefit in the form of free or reduced-cost education to employees. To determine whether the reimbursement or value of the education is excludable from wages, it is first necessary to determine which provisions of the Internal Revenue Code apply. There are three sections of the IRC that permit the payments or reimbursements to be excludable from wages under certain circumstances.

The following IRC Sections apply to tuition reductions:

**For all employers:**

IRC 132(d) – Education as Working Condition Fringe Benefit

IRC 127 – Qualified Educational Assistance Program

**For certain other employers:**

IRC 117(b) – Qualified Scholarships

IRC 117(d) – Qualified Tuition Reductions

An educational payment that is not exempt from tax under one IRC section may be exempt under a different section. An educational benefit under IRC Section 132(d) (working condition fringe benefit) can be excludable only if benefits under any other IRC sections do not apply. A chart at the end of this section provides help in determining whether specific payments or reimbursements for education expenses are excludable.

This section summarizes these provisions for employer-paid education. For more detailed information, see [Publication 970, Tax Benefits for Education](#).

**Education as a Working Condition Fringe Benefit (Section 132(d))**

Job-related educational expenses may be excludable from an employee's income as a [working condition fringe benefit](#), which is an excludable benefit of property or services provided by an employer to an employee so that the employee can perform his or her job. It applies to the extent the cost of the property or services would be allowable as a business expense to the employee if the employee had paid for it. The exclusion is generally available for any form of educational instruction or training that maintains or improves the job-related capabilities of an employee, or meets certain express requirements of the employer, or of applicable law or regulations. IRC Section 132(d); Treas. Reg. Section 1.162-5

For governmental entities, working condition fringe benefits for education may be available to current employees or independent contractors. For purposes of working condition fringe benefits, independent contractors, directors and partners, and volunteers are considered employees. Treas. Reg. Section 1.132-5(r) and 1.132-1(b)

For educational reimbursement to qualify as a working condition fringe benefit, the education must be job-related. It is not required that the employer have a written plan or dollar limitations, and the employer may discriminate in favor of highly compensated employees. IRC Section 132(d); Treas. Reg. Section 1.132-1(f)(1)

**Job-Related**

The educational course must be job-related, and either maintain or improve job skills, or be expressly required by the employer or by law.

Examples of qualifying (excludable) courses include work toward an advanced degree necessary to retain the job or pay level. IRC Section 132(d); Treas. Reg. Section 1.162-5(a)(1)

To be excludable, the educational course must not:

- Be needed to meet the minimum educational requirements of the current job, or
  - Qualify the employee for a new trade or business.
- Treas. Reg. Section 1.162-5(b)(2) and 1.162-5(b)(3)

**Substantiation Requirements for Cash Payments to Employees**

If an employee receives cash, the employer must require the employee to:

- Use the amount provided for payment of education expenses that qualify as a working condition fringe benefit,
- Verify that the payment was used for the expenses, and
- Return to the employer any unused portion of the payment.

Treas. Reg. Section 1.132-5(a)(1)(v)

## Qualifying Educational Expenses

The following may qualify for exclusion as working condition fringe benefits:

- Tuition, books, supplies, equipment -Treas. Reg. Section 1.162-5(a)
- Certain travel and transportation costs -Treas. Reg. Section 1.162-5(d)
- Graduate or undergraduate level courses -Treas. Reg. Section 1.162-5(a)

## Courses Qualifying Employee for New Position

Generally, education courses that qualify an employee for a new position or specialty within their existing trade or business are not excludable as a working condition fringe benefit. These are considered to be qualifying an employee for a new trade or business. Examples of excludable courses that qualify employees for a new position rather than a new trade or business include:

- Teacher to principal
- Elementary school teacher to secondary school teacher
- Teacher in one subject area to teacher in another subject area
- Teacher to guidance counselor  
Treas. Reg. Section 1.162-5(b)(3)

Often, courses needed for acquiring a license or certificate are considered to be leading to a new trade or business. Examples include the following:

- Accountant to CPA
- CPA to lawyer
- Mechanic to engineer

## Minimum Job Requirements

You cannot exclude payments for education to meet the minimum requirements of a job. Even if an employee is already performing service, this does not establish that the employee has met the minimum requirements of the job. Treas. Reg. Section 1.162-5(b)(2)

---

**Example:** Veronica is a computer technician at a state agency. The agency pays for her to take a graduate computer course at STU University to enhance her current job skills. The class is excludable as a working condition fringe because it is job-related and maintains or improves Veronica's skills, and it does not prepare her for a new trade or business.

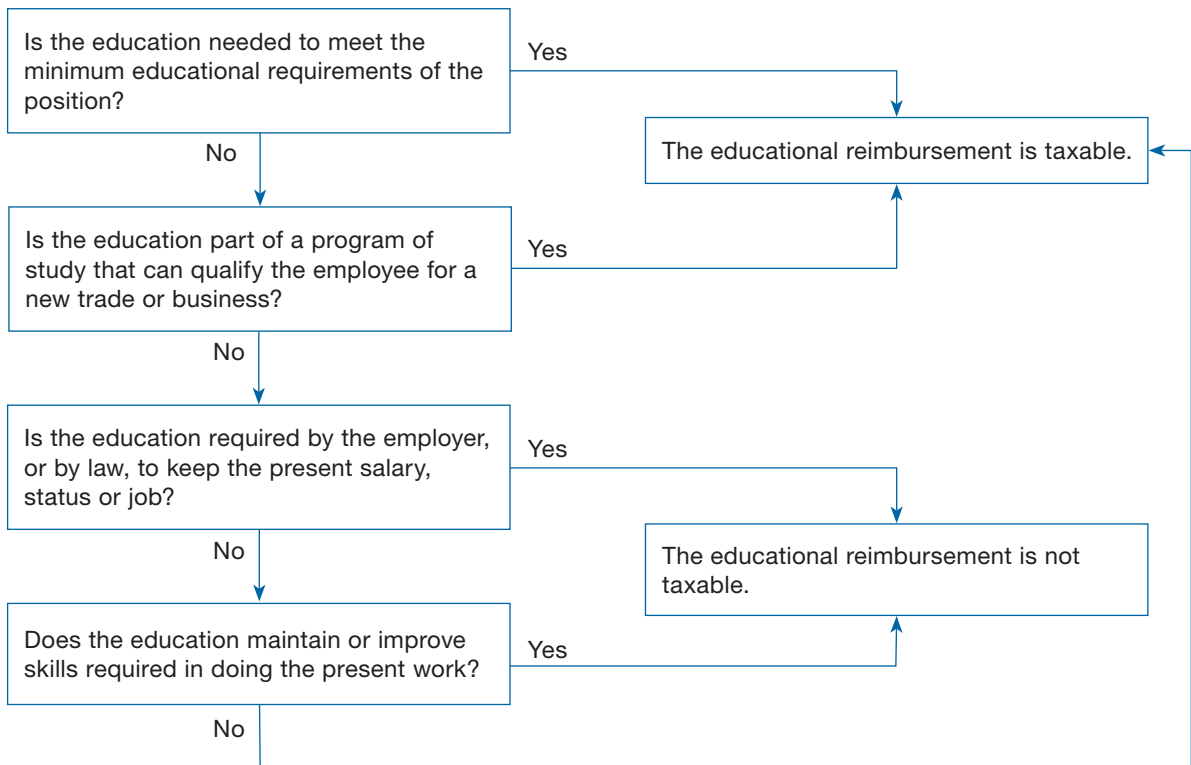
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**Example:** Due to a teacher shortage, Doug, who has 80 hours of college credits, is given a position as a teacher although the job normally requires 120 hours of credits. Doug is reimbursed by his employer for the expenses of completing the 40 credits at night school while he is teaching. The reimbursement is not excludable as a working condition fringe benefit because the courses are needed to meet the minimum requirements of his present job. (This amount may be excludable under another IRC section, for example, Section 127. See Qualified Educational Assistance, later.)

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**Example 3:** Peter, a fiscal technician hired into an Accountant I position, does not have all the accounting credits he needs for the job. He registers for and takes the courses required for the position. The courses may improve his job performance, but the primary purpose of taking them is to acquire the minimum requirements for the position. The reimbursement for Peter's classes is not excludable under IRC Section 132(d) because the education is needed to meet the minimum educational requirements of his position. The reimbursement is included in Peter's wages, unless it is excludable under another IRC Section, such as Section 127. (See Qualified Educational Assistance, later.)

## Working Condition Educational Fringe Benefit - General Guide



### Qualified Educational Assistance (Section 127)

Under an educational assistance plan, an employer may exclude up to \$5,250 paid or incurred on behalf of an employee from the wages of each employee, if certain requirements are met. The education may be at undergraduate or graduate level and is not required to be job-related. IRC Section 127

The following requirements apply for a qualified educational assistance plan:

- The employer must have a written plan.
- The plan may not offer other benefits that can be selected instead of education.
- Assistance does not exceed \$5,250 per calendar year for all employers of the employee combined.
- The plan must not discriminate in favor of highly compensated employees (generally, for 2020, those receiving \$130,000 or more). IRC Sections 127(a)(2) and 127(b)(2); Notice 2019-59 for 2020

### Eligible Employees

Individuals who may qualify for the Section 127 benefit include current and laid off employees, employees retired or on disability, and certain self-employed individuals. Spouses or dependents of employees are not eligible. Treas. Reg. Section 1.127-2(h)

### Educational Expenses

Educational expenses include tuition, books, supplies and equipment necessary for class.

Educational expenses do not include tools or supplies that the employee may keep after the course is completed; education involving sports, games, hobbies (unless job-related), meals, lodging or transportation. IRC Section 127(c)(1)

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**Example:** Karen is a secretary at a state agency. She wants to take an undergraduate psychology class at MNO Community College. The state agency has a written educational assistance plan. The state agency pays \$250 for the tuition to the community college for the course. Karen receives no taxable income from this benefit because the requirements for an educational assistance plan have been met under IRC 127.

---

**Example:** Joe, a janitor at a state agency, wants to take a math class toward his bachelor's degree. The state agency has a qualified educational assistance plan and reimburses Joe \$300 for the course after he verifies the cost. Joe does not have taxable wages from this reimbursement.

---

**Example:** Tom is a recreation specialist for a municipality. His employer pays for him to take courses toward a license as a soccer referee. If the employer has a qualified plan, Tom does not have taxable income from this benefit, even though the courses he is taking are sports-related. The courses have a reasonable relationship to the business of the employer, and this meets an exception to the rule that sports, games and hobby classes are not permitted under educational assistance programs.

### Qualified Tuition Reduction (Section 117)

Free or reduced tuition provided by educational institutions to its employees may be excludable from their wages. At the undergraduate level, the education need not be at the same institution where the employee works. Whether a tuition reduction is a qualified tuition reduction, and therefore excludable from income, depends on whether it's for education below or at the graduate level, and whether the tuition reduction represents payment for services. IRC Section 117(d)

An "educational organization" for this purpose must:

- Maintain a faculty and curriculum, and
- Normally have a regularly enrolled student body on site. IRC Section 170(b)(1)(A)(ii)

### Nondiscrimination

Generally, a qualified tuition reduction cannot discriminate in favor of highly compensated employees (for 2020, employees with total compensation exceeding \$130,000). IRC Section 117(d)(3); IRC Section 414(q)(1)(B)(i); Treas. Reg. Section 1.132-8(f); Notice 2019-59 for 2020

### Qualified Tuition Below Graduate Level

A tuition reduction for education below the graduate level is excludable only if the student is associated with the educational institution as a:

- Current employee
  - Former employee who retired or left on disability
  - Widow or widower of an individual who died while an employee
  - Widow or widower of a former employee who retired or left on disability
  - Dependent child or spouse of one of the above
- IRC Section 117(d)(2)(A); IRC Section 132(h)

The tuition reduction cannot represent payment for services.



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**Example:** Carl works for ABC Community College, a division of the State University, as a physics teacher. His two children attend the State University undergraduate program at a reduced tuition. This situation meets the requirements for qualified tuition reduction and does not result in any taxable income for Carl.

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**Example:** The facts are the same as in the above example, but in addition to reduced tuition, Carl's children are receiving free room and board. The tuition reduction remains excludable, but the value of the free room and board will be taxed as wages to Carl.

### Qualified Tuition Reduction at Graduate Level

Tuition reductions for graduate education are considered "qualified" and are excludable only if they are provided by an eligible educational institution to a graduate student performing teaching or research activities for the educational institution. The courses must be taken at the school where the employee is working. The employee must include in income any other tuition reductions received for graduate education. IRC Section 117(d)(5); Section 170(b)(1)(A)(ii)

### Officers, Owners and Highly Compensated Employees

Qualified tuition reductions apply to officers, owners or highly compensated employees only if benefits are available to employees on a nondiscriminatory basis. This means that the tuition reduction benefits must be available on substantially the same basis to each member of a group of employees. The group must be defined under a reasonable classification set up by the employer. The classification must not discriminate in favor of owners, officers or highly compensated employees.

### Tuition Waiver for State Employees

Some state laws permit state colleges and universities to waive all or a portion of tuition, services and activities fees for state employees. For example, the benefit is made available to those employed half-time or more in certain classifications for permanent employees.

If a tuition waiver or reduction does not meet the requirements for a qualified tuition reduction, it may still qualify for an exclusion as an educational assistance plan or as a working condition fringe benefit. IRC Sections 117(d), 127 and 132(d)

### Qualified Tuition Reductions and IRC 132

If the tax treatment of an educational expense is expressly provided for in a specific IRC section, then it is not covered by IRC Section 132 (except for Section 132(e), de minimis fringe benefits). Because Section 117(d) applies specifically to tuition reductions, the exclusions under Section 132, such as no-additional-cost benefits or working condition fringe benefits do not apply to **free or discounted tuition** provided to employees of an educational institution. Treas. Reg. Section 1.132-1(f)(1)

If the amounts paid (not the value of reduced or free tuition) by the employer for education relating to the employee's trade or business as an employee of the employer is such that, if the employee had paid for the education, the amount paid would be allowable as an employee business expense deduction, the costs of the education may be eligible for exclusion as a working condition fringe benefit under Section 132. Field Service Advice 200231016

## Scholarships and Fellowships

Individuals pursuing a course of study or research often receive awards or funds to pay for their educational costs in the form of scholarships, fellowships, stipends or grants. Regardless of the name given the benefit, the taxability of the award depends on whether the provisions of IRC Section 117 are met.

**The amount is excludable if** it is a “qualified” scholarship or fellowship, discussed below, and the recipient is a candidate for degree at a qualified educational organization. IRC Section 117(a)

**The amount is taxable if** it represents payment for, or requires, past, present or future services, or is a payment that funds study or research primarily for the benefit of the grantor. Treas. Reg. Section 1.117-4(c)

### Candidate for Degree

A candidate for degree, for this purpose, is:

- A primary or secondary school student, or
- An undergraduate or graduate student pursuing studies or conducting research toward a degree at a college or university, or
- A full- or part-time student at an accredited educational institution.

Treas. Reg. Section 1.117-6(c)(4)

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**Example:** Jeff, a professor of anthropology, is awarded a fellowship by the college that allows him to devote 100% of his time to a research project of his choice. The fellowship is designed to award faculty for present or past services. The fellowship is taxable wages to Jeff.

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**Example:** Tracy is granted a stipend by the city of Riverdale to attend a paramedic training program. She is required to accept employment with the grantor at the conclusion of the training. The stipend is taxable wages to Tracy.

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**Example:** Mona is a candidate for an advanced medical degree at a university. She receives a fellowship grant of \$4,000 per month for performing surgery in a residency program at the university’s hospital and a one-time payment of \$3,000 for independent research of Mona’s choosing. The \$3,000 for research is excludable from income. The \$4,000 per month grant to perform surgery represents payment for services and is taxable as wages.

### Qualified Scholarship or Fellowship

A qualified scholarship or fellowship is excludable to the extent the amounts are used for qualified tuition and related expenses. This includes fees, books, supplies and equipment required for a class. Qualified expenses do not include travel, meals or lodging. IRC Section 117(b)

**An educational institution** is an organization that exists for an educational purpose, maintains a regular faculty and curriculum, and has a regularly enrolled body of students on site. IRC Section 170(b)(1)(A)(ii)

## Comparison of Code Sections Covering Educational Assistance

The following table is for quick reference. For more information, see the relevant IRC Sections or [Publication 970](#).

Feature	Section 127 Qualified Educational Assistance	Section 132(d) Working Condition Fringe	Section 117(d) Qualified Tuition Reduction
Written plan required	Yes	No	No
Undergraduate courses covered	Yes	Yes	Yes
Graduate courses covered	Yes	Yes	No*
Must be job-related	No	Yes	No
Courses qualifying employee for new trade or business covered	Yes	No	Yes
Courses needed to meet minimum job requirements covered	Yes	No	Yes
Can discriminate in favor of highly compensated employees	No	Yes	No
Dollar limitation	\$5,250	No	No
<b>Definition of employee includes:</b>			
Current employees	Yes	Yes	Yes
Family members	No	No	Yes
Laid-off employees	Yes	No	No
Employees retired or on disability	Yes	No	Yes
Independent contractors	No	Yes	No
<b>Educational expenses covered:</b>			
Tuition	Yes	Yes	Yes
Books, supplies, equipment	Yes	Yes	No
Tools or supplies employee may keep	No	No	No
Education involving sports, games, hobbies	No**	No**	Yes
Meals, lodging or transportation	No	Yes	No

\* See text for exceptions

\*\* Yes, if specifically job related

**Note:** These are general rules.

## Dependent Care Assistance

Under Section 129, an exclusion is provided for household and dependent care services provided by an employer for a qualifying person's care and provided to allow the employee to work. The employer can exclude the value of these benefits from employee wages if the employer reasonably believes that the employee can exclude the benefits from gross income.

An employee can generally exclude from gross income up to \$5,000 (\$10,000 in 2021) of benefits received under a dependent care assistance program each year. However, the exclusion cannot be more than the smaller of the earned income of either:

- The employee, or
  - The employee's spouse.
- IRC Section 129(b)(2)

## **Nondiscrimination Rule**

You cannot exclude dependent care assistance from the wages of a highly compensated employee unless the benefits provided under the program do not favor highly compensated employees (generally, for 2020, those earning \$130,000 or more). For more information, see [Publication 15-B](#). IRC Section 129(d)(2)

## **Reporting**

Amounts that the employer does not believe will qualify for exclusion are reported as wages on Form W-2, subject to income tax, Social Security and Medicare withholding. Amounts that are excluded are shown in box 10 of Form W-2.

Dependent care assistance may be offered as part of a cafeteria plan. For more information, see Publication 15-B and [Publication 503, Child and Dependent Care Expenses](#).

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## **Group-Term Life Insurance**

An employer may exclude the imputed cost of up to \$50,000 of employer-provided coverage under a group-term life insurance plan, if the plan:

- Provides a general death benefit that is not included in income;
- Is provided to a group of employees (generally, at least 10 full-time employees at some time during the year). Certain exceptions apply to this rule (see the discussion in [Publication 15-B](#) and Treas. Reg. Section 1.79-1(b) and (c));
- Provides an amount of insurance to each employee based on a formula that prevents individual selection. This formula must use factors such as the employee's age, years of service, pay or position; and
- Benefit is provided under a policy carried directly or indirectly by the employer. Even if the employer does not pay any of the policy's cost, the employer is considered to carry it if it arranges for payment of its cost by its employees and charges at least one employee less than, and at least one employee more than, the cost of their insurance. IRC Section 79

## **Coverage of More Than \$50,000**

The employer must include in employee's wages the imputed cost of group-term life insurance for more than \$50,000 worth of coverage, reduced by the amount the employee paid toward the insurance. To determine the amount to include in employee wages, do not use the actual cost; you must use a table designated by the Regulations. This table provides a monthly cost per \$1,000 of coverage, and may be found as Table 2-2 in [Publication 15-B](#) or Table 1 in Treas. Reg. Section 1.79-3(d)(2). Use this table to determine the value of additional coverage to include in wages.

## **Dependent Coverage**

Group-term life insurance coverage paid by the employer for the spouse or dependents of an employee may be excludable from income as a de minimis fringe benefit if the face amount is not more than \$2,000. If the face amount is greater than \$2,000, the entire amount of the dependent coverage must be included in income unless the amount over \$2,000 is purchased with employee contributions on an after-tax basis. Notice 89-110

## **Former Employees**

When group-term life insurance coverage of more than \$50,000 is provided to an employee or former employee (including retirees) after their termination, the employee share of Social

Security and Medicare taxes on that period of coverage is paid by the former employee with their tax return on Form 8919, Uncollected Social Security and Medicare Tax on Wages, and is not collected by the employer. The employer is not required to collect those taxes. The value of the insurance coverage is computed in the same way as with current employees, as discussed above.

Use the table providing monthly cost per \$1,000 of coverage to determine the amount of Social Security and Medicare taxes owed by the former employee for coverage provided after separation from service. Report those uncollected amounts separately in box 12 on Form W-2 using codes “M” and “N.” See the [Instructions for Form W-2 and W-3](#) and the [Instructions for Form 941](#).

See [Publication 15-B](#) for more information on how to apply the nondiscrimination tests, and other eligibility rules and reporting requirements for group-term life insurance benefits.

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## Fringe Benefits for Volunteers

Individuals designated as “volunteers” perform significant services for many governmental entities. Although not providing fixed salaries or wages, the entities may provide the volunteers with various reimbursements, stipends, property or other benefits. The general rules for employment tax apply to any compensation received, regardless of the title given to or used by the worker. Reimbursements made under the accountable plan rules for employees, discussed earlier, are excludable from income. In addition, volunteers may be able to deduct business-related expenses against compensation they receive.

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**Example:** Volunteer workers for County X receive no cash payments for their services but are entitled to a reduction in their personal property taxes based on the number of hours of volunteer work provided. The value of the tax reduction constitutes taxable wages to the volunteers.

As is the case with employees generally, the treatment of the payments or reimbursements for federal payroll purposes depends on whether the volunteer is an employee or nonemployee, and on the form of payment. The same tests that are used to determine whether other workers are common-law employees apply to workers who are considered volunteers. The common-law tests are discussed in detail in [Publication 15-A](#). The discussion below illustrates how the common-law rules may apply to volunteers.

Bona fide volunteers who perform services for a government entity are covered by the rules generally applied to employees for [working condition fringe benefits](#). An individual is considered a bona fide volunteer if the volunteer does not have a profit motive. In general, if the value of the services the volunteer provides is substantially greater than the benefit received, this indicates an absence of a profit motive. Treas. Reg. Section 1.132-5(r)(3)

### Right to Control

A volunteer is an employee under common law if an entity has the right to direct and control the volunteer’s performance, not only as to the results to be accomplished, but also as to the methods by which the results are accomplished. It is the right to control, even if the entity does not exercise the right, that is important. Many factors in an employment relationship may have to be considered before a decision can be made as to whether the entity has the right to direct and control. If an entity does not retain the right to direct and control the details and means of performing the work, the volunteer worker is not an employee.

## Evidence of the Right to Control

In determining whether an entity retains the right to control a worker, the IRS generally looks at facts that fall into three main categories of evidence: behavioral control, financial control and relationship of the parties. The facts considered in these categories include whether the agency provides training or instructions, whether the worker can earn a profit or incur a loss, or whether benefits are provided. All these elements do not apply in every situation and the degree of importance varies depending on circumstances.

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**Example:** An agency is required to build a watershed in a state forest. Volunteers who are experienced in forestry work have offered their services. The agency asks the volunteers to build the watershed in accordance with environmental laws to the best of their abilities and experience. The agency does not provide other instructions or supervision. These individuals are not employees.

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**Example:** The circumstances are the same as above, except an agency employee oversees the project. The agency gives instructions, provides the tools and materials, and sets the hours of operation. In this case, the volunteers are common-law employees for tax purposes. See [Publication 15-A](#) for more information on the tests for common-law employees.

## Volunteer Firefighters

Generally, “volunteer” firefighters are employees of the fire department or district for which they perform services. The usual common-law tests apply to determine their employment status. For example, the relationship between the firefighter and the fire department will generally indicate that the department provides training and direction in how the work will be performed and provides the equipment to perform the work.

Many jurisdictions provide some kind of compensation to volunteer firefighters, or emergency responders, other than payments designated as wages. For instance, in some cases, volunteer firefighters receive no amounts designated as salaries, but receive amounts intended to reimburse them for expenses. They may also receive other cash or in-kind benefits, including reductions in property or other local taxes that may be includible in gross income for federal tax purposes. They may receive no regular payment but receive a certain amount of reimbursement per call. None of these payments are automatically excluded from income. Volunteer firefighters who are employees can receive tax-free reimbursements for their expenses provided the [accountable plan rules](#) are met; any reimbursements that are provided without an accountable plan are includible in income.

## Payments under Domestic Volunteer Service Act (Title II and III)

Payments for supportive services or reimbursements of out-of-pocket expenses of volunteers under Title II and III of the Domestic Volunteer Service Act are not wages or compensation and no withholding or reporting is required by the payer. Rev. Rul. 74-322; Rev. Rul. 78-80

Programs under Title II and III include:

- Retired Senior Volunteer Program (RSVP)
- Foster Grandparent Program and other older volunteer programs
- SCORE Association
- Active Corps of Executives (ACE)

## Liability Insurance for Volunteers

Liability insurance provided for volunteers by an entity qualifies as a tax-free working condition fringe benefit. Treas. Reg. Section 1.132-5(r)(3)(ii)

## Reporting Payments to Volunteers

If a volunteer meets the definition of an employee, the reporting rules are the same as for other employees. Therefore:

- Stipends and other payments for services are wages,
- Reimbursements paid under an accountable plan are not taxable and not reportable, and
- Reimbursements not paid under an accountable plan are taxable and reportable on Form W-2 as wages subject to withholding.

No reporting for these types of payments is necessary if the only payments are reimbursements for substantiated expenses. However, if the reimbursements are greater than the expenses, the excess is gross income (unless some other exclusion applies), and is reportable on Form 1099-MISC. Treas. Reg Section 1.6041-1; Rev. Rul. 67-30

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## Fringe Benefits for Independent Contractors

Generally, the taxability of fringe benefits or reimbursements paid to independent contractors is similar to that for employees. However, different withholding and reporting requirements apply to these workers. Treas. Reg. Section 1.132-1(b)(2)(iv)

**Note:** Independent contractors are not eligible for qualified transportation fringe benefits. Treas. Reg. Section 1.132-9(b) Q-5

## Reimbursements for Travel, Transportation and Other Out-of-Pocket Expenses

Expense reimbursements or advances must meet the accountable plan rules to be excluded from reporting and income. In general, all compensation for services for an independent contractor must be reported on Form 1099-MISC when the amount (excluding reimbursements under an accountable plan) is \$600 or more in a calendar year. The amounts are not subject to income or employment tax withholding.

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**Example:** An independent contractor is hired to perform specific services for a set fee, plus out-of-pocket expenses. If the contractor provides adequate substantiation for the out-of-pocket expenses, reimbursements for these expenses will not be reported as income by the payer on Form 1099-MISC, or by the contractor on their individual income tax return. The contractor may not deduct the expenses if they are reimbursed by the payer. If the contractor is not reimbursed, adequate substantiation of the expenses should be retained to claim expenses on the contractor's individual income tax return.

If the individual is considered an independent contractor and does not properly account to the payer for reimbursed expenses, then any advances or reimbursements are to be included on a Form 1099-MISC as taxable nonemployee compensation, along with other payments for their services.

## Substantiation Requirements

[Publication 463](#) provides information on records, substantiation and reporting requirements for independent contractors.

Independent contractors are treated in the same manner as are employees for purposes of working condition fringe benefits.

## Board and Commission Members

Some of the independent contractor rules and reporting requirements may also apply for board or commission members. Board or commission members of a government entity are generally considered public officials, and therefore are considered employees; however, under some circumstances, and based on local statutes, they may be independent contractors. Officers, employees and elected officials of states and their political subdivisions and instrumentalities are employees for purposes of federal income tax withholding. But for FICA (Social Security and Medicare) purposes, the common-law rules apply to determine whether an individual is an employee.

Public officials are usually subject to a degree of control that is characteristic of an employer-employee relationship. If you are not sure of the employment status of a board or commission member, it may be necessary to consult the statutes or ordinances establishing a position to determine whether that position is a public office.

In the case of school boards, the statutes or ordinances usually provide ample evidence that the school board members are public officials. Elected public officials serve a term designated by the voters and are subject to control by a supervisor, and should generally be classified as employees. Appointed public officials are generally employees, but under some circumstances may be independent contractors. See [Publication 963](#) and [CCA 200113024](#).

## IRS Publications

Publication number	Title
<a href="#">15</a>	(Circular E), Employer's Tax Guide
<a href="#">15-A</a>	Employer's Supplemental Tax Guide
<a href="#">15-B</a>	Employer's Tax Guide to Fringe Benefits
<a href="#">463</a>	Travel, Gift, and Car Expenses
<a href="#">521</a>	Moving Expenses
<a href="#">525</a>	Taxable and Nontaxable Income
<a href="#">535</a>	Business Expenses
<a href="#">963</a>	Federal-State Reference Guide
<a href="#">970</a>	Tax Benefits for Education
<a href="#">1542</a>	Per Diem Rates

New revisions of the publications are generally available after the first of the year. Forms and publications may also be ordered by calling 800-829-3676.



## Legend for Reading the Citations in this Publication

Citation Source	Example
Internal Revenue Code	IRC Section 132(a)(1)
Treasury Regulation	Treas. Reg. Section 1.162-2(a)(2)
Revenue Procedure	Rev. Proc. 2007-1
Publication	Pub. 15-B
Revenue Ruling	Rev. Rul. 2006-36
Notice	Notice 98-03
Field Service Advice	FSA 200132035
IRS News Release	IR 2007-171
Tax Court Memorandum	1986-64, 51 TCM 455

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## De Minimis Fringe Benefits

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In general, a de minimis benefit is one for which, considering its value and the frequency with which it is provided, is so small as to make accounting for it unreasonable or impractical. De minimis benefits are excluded under Internal Revenue Code section 132(a)(4) and include items which are not specifically excluded under other sections of the Code. These include such items as:

- Controlled, occasional employee use of photocopier
- Occasional snacks, coffee, doughnuts, etc.
- Occasional tickets for entertainment events
- Holiday gifts
- Occasional meal money or transportation expense for working overtime
- Group-term life insurance for employee spouse or dependent with face value not more than \$2,000
- Flowers, fruit, books, etc., provided under special circumstances
- Personal use of a cell phone provided by an employer primarily for business purposes

In determining whether a benefit is de minimis, you should always consider its frequency and its value. An essential element of a de minimis benefit is that it is occasional or unusual in frequency. It also must not be a form of disguised compensation.

Whether an item or service is de minimis depends on all the facts and circumstances. In addition, if a benefit is too large to be considered de minimis, the entire value of the benefit is taxable to the employee, not just the excess over a designated de minimis amount. The IRS has ruled previously in a particular case that items with a value exceeding \$100 could not be considered de minimis, even under unusual circumstances.

### Cash Benefits

Cash is generally intended as a wage, and usually provides no administrative burden to account for. Cash therefore cannot be a de minimis fringe benefit. An exception is provided for occasional meal or transportation money to enable an employee to work overtime. The benefit must be provided so that employee can work an unusual, extended schedule. The benefit is not excludable for any regular scheduled hours, even if they include overtime. The employee must actually work the overtime.

Meal money calculated on the basis of number of hours worked is not de minimis and is taxable wages.

### Gift certificates

Cash or cash equivalent items provided by the employer are never excludable from income. An exception applies for occasional meal money or transportation fare to allow an employee to work beyond normal hours. Gift certificates that are redeemable for general merchandise or have a cash equivalent value are not de minimis benefits and are taxable.

A certificate that allows an employee to receive a specific item of personal property that is minimal in value, provided infrequently, and is administratively impractical to account for, may be excludable as a de minimis benefit, depending on facts and circumstances.

## Achievement awards

Special rules apply to allow exclusion from employee wages of certain employee achievement awards of tangible personal property given for length of service or safety. These awards

- Cannot be disguised wages
- Must be awarded as part of a meaningful presentation
- Cannot be cash, cash equivalent, vacation, meals, lodging, theater or sports tickets, or securities.

In addition, there are other requirements specific to achievement and safety awards and there are dollar limitations that must be met. See [Publication 5137, Fringe Benefit Guide](#) or [Publication 535](#) for more information.

## How are de minimis fringe benefits reported?

If the benefits qualify for exclusion, no reporting is necessary. If they are taxable, they should be included in wages on Form W-2 and subject to income tax withholding. If the employees are covered for social security and Medicare, the value of the benefits are also subject to withholding for these taxes. You may optionally report any information in box 14 of Form W-2.

*Page Last Reviewed or Updated: 01-May-2019*

## FAQs for government entities regarding meal and vehicle expenses

1. A county pays meal money allowances, including lunch and dinner, for its ballot clerks. They are not required to eat their meals on the premises and usually go to a local restaurant. Are these payments taxable?
2. A town has a public safety director who is a retired police chief. He carries a firearm and has arrest powers. He drives a regular unmarked vehicle and commutes in this vehicle from home to the office. Is he entitled to exclude the value of the use of the car from his income?
3. For purposes of defining a qualified nonpersonal use vehicle, what qualifies as a clearly marked police or fire vehicle?
4. A town provides cars which its officials and other employees use during the workday for business purposes. These employees also use the cars for commuting to and from work. Is the use of these vehicles for commuting taxable income to the employees?
5. Can an appointed executive or official have a portion of his salary paid to him as reimbursement for mileage, phone calls, etc., and the balance as salary subject to FICA and withholding?
6. A fire chief uses his own pickup truck for work. He accounts for the business use of his truck and is reimbursed for his mileage. He sometimes travels to and from the fire station outside of his regular work schedule. Is this considered commuting and would reimbursement be taxable?

---

**A county pays meal money allowances, including lunch and dinner, for its ballot clerks. They are not required to eat their meals on the premises and usually go to a local restaurant. Are these payments taxable?**

The facts indicate that the allowances are taxable. Section 62(a) of the Code provides that gross income means all income from whatever source derived, including fringe benefits. There is no exclusion that applies to a fringe benefit of this type. There is no indication that the meals are provided on the business premises for the convenience of the employer. Cash cannot be excludable, except as a de minimis benefit under very limited circumstances as outlined in Regulation 1.132-6(d)(2). Regular meal money does not qualify for the exclusion. The exclusion for meal money must meet three criteria: it is provided (1) on an occasional basis, (2) because overtime work necessitates the extension of the employee's normal work schedule, and (3) to enable the employee to work overtime.

The meal money in this case is provided on a routine basis and is not excludable from income.

[Return to List of FAQs](#)

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**A town has a public safety director who is a retired police chief. He carries a firearm and has arrest powers. He drives an unmarked vehicle and commutes in this vehicle from home to the office. Is he entitled to exclude the value of the use of the car from his income?**

The value of a "qualified nonpersonal use vehicle" can be excluded from income as a working condition fringe if the use of the vehicle conforms to the requirements of paragraphs (k)(3) through (7) of section 1.274-5T of the regulations. An employee does not have to substantiate the business use of a qualified nonpersonal use vehicle in order to exclude its value from wages.

A qualified nonpersonal use vehicle means any vehicle that is not likely to be used more than a minimal amount for personal purposes. Common examples include a fire engine, a clearly marked police or fire vehicle, a public safety officer vehicle, a flatbed truck, school bus, ambulance, etc. There are limited circumstances under which an unmarked police car qualifies as a nonpersonal use vehicle.

First, the driver must be a "law enforcement officer." A law enforcement officer must satisfy all of the following requirements: He or she must be a full-time employee of a governmental unit that is responsible for preventing or investigating crimes involving injury to persons or property (including catching or detaining persons for these crimes). The officer must be authorized by law to carry firearms, execute search warrants, and to make arrests. The officer must regularly carry firearms, except when it is not possible to do so because of the requirements of undercover work. A "public safety director," or any employee, regardless of title, must meet these tests to qualify under this exclusion.

Second, any personal use of the vehicle must be authorized by the government agency or department that owns or leases the vehicle and employs the officer, and, third, the use must be incident to law-enforcement functions, such as being able to report directly from home to a stakeout or surveillance site, or to an emergency situation. Use of an unmarked vehicle for vacation or recreation trips cannot qualify as an authorized use.

Whether the individual's use of the vehicle is authorized by the governmental agency which employs him or is incident to law-enforcement functions depends on the facts and circumstances. If the individual is allowed to use the vehicle as a courtesy and for commuting purposes, it does not qualify as a nonpersonal use vehicle, and the commuting value is income subject to FICA and income tax withholding.

[Return to List of FAQs](#)

## FAQs for government entities regarding meal and vehicle expenses

**For purposes of defining a qualified nonpersonal use vehicle, what qualifies as a clearly marked police or fire vehicle?**

A police, fire, or public safety vehicle is clearly marked if it has insignia or words which make it clear that it is a police, fire, or public safety vehicle. A marking on a license plate is not a clear marking for this purpose.

According to the regulations, the exclusion for a clearly marked police, fire, or public safety vehicle applies only to a vehicle that is required to be used for commuting by a police officer, firefighter, or public safety officer who, when not on a regular shift, is on call at all times.

Other than commuting, personal use of the vehicle, outside the limit of the police officer's arrest powers or the obligation of a firefighter or public safety officer to respond to an emergency, must be prohibited by the governmental unit.

A public safety officer is an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as described above, or a firefighter, chaplain, or member of a rescue squad or ambulance crew.

[Return to List of FAQs](#)

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**A town provides cars that its officials and other employees use during the workday for business purposes. These employees also use the cars for commuting to and from work. Is the use of these vehicles for commuting taxable income to the employees?**

The value of noncash fringe benefits is taxable income to the recipient. Thus the commuting value of a vehicle owned or leased by a public entity usually represents taxable income to the employee.

One exception is for the qualified nonpersonal use vehicle, described above. Thus, for example, when a law enforcement officer drives a clearly marked police car to his or her residence when off duty and otherwise satisfies the requirements described above, the commuting value of that vehicle is not income to the employee.

There are several ways to value the commuting use of a car for income and FICA tax purposes; these are discussed in [Publication 15-B, Employer's Tax Guide to Fringe Benefits](#).

[Return to List of FAQs](#)

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**Can an appointed executive or official have a portion of his salary paid to him as reimbursement for mileage, phone calls, etc., and the balance as salary subject to FICA and withholding?**

To be excluded from wages, reimbursements must be for actual documented expenses under an accountable plan, i.e., a reimbursement or other expense allowance arrangement set up by the employer. Code section 62(c) and section 1.62-2.

To qualify as a reimbursement or other expense allowance arrangement, the arrangement must require (1) that the employee substantiate all expenses to the employer, and (2) that the employee return any amount in excess of substantiated expenses. An expense should be substantiated within 60 days after it is paid. If the individual receives an advance, any money not accounted for must be returned within 120 days. See section 1.62-2(g) of the Income Tax Regulations, defining a "reasonable period" for purpose of this section.

To substantiate the expense, the employee must document the amount, time and place of travel, the business purpose, and the business relationship to the taxpayer of the people involved if the expense is for entertainment. Miscellaneous expenses must also be documented.

[Return to List of FAQs](#)

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**A fire chief uses his own pickup truck for work. He accounts for the business use of his truck and is reimbursed for his mileage. He sometimes travels to and from the fire station outside of his regular work schedule. Is this considered commuting and would reimbursement be taxable?**

This travel is commuting and is a personal expense. It does not matter whether the fire chief is commuting outside of his regular work schedule. Any reimbursement for commuting in his own vehicle is taxable to the employee.

[Return to List of FAQs](#)

# FORM CC 20





**COMPLAINT RECEIVED  
REGARDING USE/OPERATION OF  
CULPEPER COUNTY VEHICLE  
(FORM CC 20)**

**I. TO BE COMPLETED BY PERSON RECEIVING THE CALL:**

1. Name and phone number of citizen making complaint:

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Caller expressed desire to remain anonymous.

2. Date of Occurrence: \_\_\_\_\_

3. Vehicle Number: \_\_\_\_\_

4. License Plate Number: \_\_\_\_\_

5. Vehicle Description: \_\_\_\_\_

6. Department/Division Vehicle Assigned to: \_\_\_\_\_

7. Description of Driver (if given):

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8. Location of Occurrence:

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9. Nature of Occurrence:

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**II. TO BE FILLED OUT BY DEPARTMENT HEAD AND RETURNED TO COUNTY ADMINISTRATOR:**

1. Name of Employee: \_\_\_\_\_

2. Position: \_\_\_\_\_

3. Summary of Findings: \_\_\_\_\_

4. Action Taken (if any) by Department Director:

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Signature of Department Director: \_\_\_\_\_

Date: \_\_\_\_\_

# FORM CC 21

## Leave Accrual Tables

Departments who do not utilize the County's leave accrual system

Sheriff's Office				
<u>Years Service</u>	<u>Vacation Accrual</u> (hours per month)	<u>Max Vac Accrual</u> (hours)	<u>Sick Accrual</u> (hours per month)	<u>Max sick Accrual</u>
0 – 5	8.00	192	8.00	No limits
5 – 10	10.00	240	8.00	No limits
10 – 20	12.00	240	8.00	No limits
Over 20	14.00	240	8.00	No limits

Library				
<u>Years Service</u>	<u>Vacation Accrual</u> (hours per month)	<u>Max Vac Accrual</u> (hours)	<u>Sick Accrual</u> (hours per month)	<u>Max sick Accrual</u>
0 – 5	8.00	192	8.00	No limits
5 – 10	8.50	204	8.00	No limits
10 - 20	10.00	240	8.00	No limits
Over 20	14.00	336	8.00	No limits
Director only	13.33	320	8.00	No limits

Department of Human Services (1.00 FTE)					
<u>Years Service</u>	<u>Vacation Accrual</u> (hours per month)	<u>Max Vac Accrual</u> (hours)	<u>Max Vac Yearly rollover</u> (hours)	<u>Sick Accrual</u> (hours per month)	<u>Max sick Accrual</u>
0 – 5	7.50	180	45	9.40	No limits
5 – 10	9.40	225	45	9.40	No limits
10 – 15	11.25	270	45	9.40	No limits
15 – 20	13.13	315	45	9.40	No limits
20 – 25	15.00	360	45	9.40	No limits
Over 25	16.90	405	45	9.40	No limits

Department of Human Services (.80 FTE)				
<u>Years Service</u>	<u>Vacation Accrual</u> (Hrs per month)	<u>Max Vac Accrual</u> (Hours)	<u>Sick Accrual</u> (Hrs per month)	<u>Max sick Accrual</u>
0 – 5	6.00	180	7.52	No limits
5 – 10	7.52	225	7.52	No limits
10 – 15	9.00	270	7.52	No limits
15 - 20	10.5	315	7.52	No limits
20 – 25	12.00	360	7.52	No limits
Over 25	13.52	405	7.52	No limits

Department of Human Services Headstart Teachers & Teacher Assistants			
<u>1.00 FTE</u>		<u>.80 FTE</u>	
<u>Years Service</u>	<u>Annual Leave</u> (hours)	<u>Years Service</u>	<u>Annual Leave</u> (hours)
0 – 5	7.50	0 – 5	6.00
5 – 10	9.40	5 – 10	7.50
10 – 15	11.25	10 – 15	9.00
15 - 20	13.13	15 – 20	10.50
20 – 25	15.0	20 – 25	12.00
Over 15	16.9	Over 25	13.50

# FORM CC 22

## VEHICLE, EQUIPMENT, AND PROPERTY CLAIMS PROCEDURES (Form CC 22)

Where an incident occurs whereby a County vehicle, piece of equipment, other property etc. is damaged or destroyed, the following is a general summary of the claims procedures to which employees and other users of County-property must take notice.

The County employee or user in actual or constructive possession of the vehicle, equipment, or other property should immediately, or as soon is practicably possible, notify his chain of command and the Department Head of the damage or loss.

The Department Head should immediately notify the Finance Department.

Once the Finance Department receives notice of the incident, it will request information and documents in the form of a package for submission to insurance company. It is best for the Department Head, and/or his/her designee, to submit the claim, as a package to the Finance Department, rather than rolling submissions of individual pieces of information or documents. Informational note: There are some departments that inherently have more exposure to the claims process, and know the documents and information that are likely needed to complete the claims package before notifying the Finance Department. Understandably, there are departments that are unfamiliar with the process and/or experience the process very infrequently. It is important to reach out to the Finance Department to determine what information and documents are pertinent to the claim process. Where damages related to an incident exceed \$2,500, it is likely it will be necessary to start the process by getting an appraiser on the scene. Please see the below.

Claims packages should include:

- Accident Report/Statement from employee/user – this includes as much information as possible.  
Date; location; time; VIN; make & model of vehicle or equipment; employee's/user's information; third party(ies) information, including witness information; etc.
- Photographs of damages
- Estimates – depending on amount of damage,
  - o Our present insurer carrier requires only one(1) estimate, if damages are under \$1,000
  - o If damages are over \$1,000 and under \$3,500 – two (2) estimates are required.
  - o If damages are over \$3,500, no estimates are required. VaCorp, the County's insurance carrier, will assign an appraiser to go to the location of the vehicle, inspect the damages, and assign a value to the work needed for reimbursement payment to the County. Note: The department may then likely be able to choose an auto repair shop (adhering to the County's Purchasing Resolution) as long as the auto repair shop is able to meet the scope of work to be completed at the

dollar amount indicated within the appraiser's paperwork. If additional work/damage is identified during the course of repair or otherwise, the appraiser needs to be notified and the additional work approved before being completed.

- After a claims package is completed by the department, it must promptly be sent to Finance Department to submit to the insurance company.
- Thereafter, the insurance company will then notify the Finance Department, if it accepts the claim and the amount that will be reimbursed to the County (which is normally the lowest estimate less the deductible).
- After this notification from the insurance company, the Finance Department will then notify the department to proceed with having the work completed, and the body shop to use, if necessary.
- The Finance Department will also notify the department to submit the invoice as normal through the department's A/P or to pay with County Credit Card and **ALSO** send a copy of this information to Finance.
- Upon receipt of the copy of the invoice, the Finance Department reconciles to make sure the invoice matches the estimate, less any deductible, and will code the check to the departments GL line to offset the invoice.
- The reimbursement check is given to A/P to match the invoice and for processing on the Transmittal to the Treasurer's Office for depositing.
- If the invoice and the check, less the deductible, do not match, the necessary steps are taken to investigate and find out why, e.g., was additional work found, completed and not approved, or maybe the invoice was less than anticipated in which case a check for the difference is cut for the overpayment and returned to the insurance company noting the claim number.
- Thereafter, the claim is likely to be closed.

# Incident Report



**Attention:** Use this report to notify the Director of the Finance Office of an injury or incident to residents, visitors, and other third parties that ARE NOT County employees.

**Attention:** Do not use this form to make a report with regard to County Employees who are injured or involved in an incident/accident. In the instance of injury or an accident involving a County employee, please immediately contact the Human Resources Director to report the injury or accident and to receive the necessary information, procedures, and forms. See also the Personnel Management Plan, Section 14: Workers' Compensation.

## Section I: To be Completed by Person Who is Knowledgeable of Incident:

Name of Person Completing Report: \_\_\_\_\_ Department: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Title: \_\_\_\_\_

Date of Occurrence: \_\_\_\_\_ Time of Occurrence: \_\_\_\_\_

Location of Occurrence: *Include street address and building, exact location in or out of building etc.*

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Narrative/Description of Occurrence – What Happened?

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WITNESSES: (1) \_\_\_\_\_ (2) \_\_\_\_\_  
*Name & Address* \_\_\_\_\_  
*& Telephone* \_\_\_\_\_

Was anyone Injured? Yes  No  Were the Local Authorities Notified? Yes  No

First Aid Given? (YES/NO) By whom? What?:

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Sent to Medical Facility? (YES/NO) Who, Medical Facility Location & Address:

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List Name(s) of Injured and the description of injury:

1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_

Injured(s) Address and Telephone Number:

1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_

If Applicable, Description of Vehicle, Equipment, or Other Property Involved (year, make, model, vehicle identification number, serial number):

Estimated Repair Cost: \$\_\_\_\_\_ Where can property/vehicle be seen? \_\_\_\_\_

**How, in your opinion, could this incident/accident been prevented?**

Was Property or Vehicle Belonging to Others Damaged? Yes \_\_\_\_ No \_\_\_\_ If yes, complete the information below:

Provide brief description of what property belonging to others was damaged, i.e. fence, mailbox, vehicle:

Property Owner's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Estimated Cost for Repair: \_\_\_\_\_

**In Your Opinion was this Preventable/Non-Preventable?**  
(Circle One)

\_\_\_\_\_  
Person Completing Form, Signature

\_\_\_\_\_  
Date

**Provide Photo's If Available**

You must complete this form and send to the Finance Office within 48 hours of incident.

Attn: Director of Finance  
302 N. Main Street  
Culpeper, VA 22701  
vlamb@culpepercounty.gov  
fax: 540-727-3460



WITNESS - INCIDENT STATEMENT

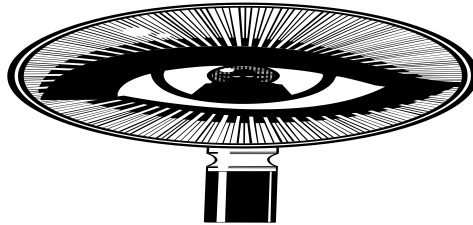
GENERAL INFORMATION

Person Giving Statement:

Date: Address

City: State: Zip: Telephone ( ):

Location of Incident: Date and Time of Incident:



Please describe what occurred

NARRATIVE OF INCIDENT

Multiple horizontal lines provided for writing the narrative of the incident.

I Give This Statement Of My Own Free Will:

Signature: Name: Date: Time:

Return to the Finance Office, 302 N. Main Street, Culpeper, VA 22701

E-mail: [vlamb@culpepercounty.gov](mailto:vlamb@culpepercounty.gov) fax: 540-727-3460

# FORM CC 23

EQUAL EMPLOYMENT OPPORTUNITY PLAN  
OF  
CULPEPER COUNTY, VIRGINIA

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### **Article 1 – General Provisions**

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- 1-2 Effective Date
- 1-3 Authority
- 1-4 Application

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- 2-1 Commitment Goals of the Policy
- 2-2 Actions to be taken to accomplish Commitment
- 2-3 Equal Employment Opportunity Plan Details
  - A. Commitment
  - B. Communication of the Plan
    - 1. Internally
    - 2. Externally
  - C. Employment Opportunity Strategies
    - 1. Goals
    - 2. Actions
      - a. Recruitment
      - b. Internal Assessment Process
      - c. Publishing the Equal Employment Opportunity Plan
      - d. Training

## ARTICLE 1 – GENERAL PROVISIONS

The County of Culpeper, Virginia is an Equal Opportunity Employer (EOE), as stated in its Personnel Management Plan. The County of Culpeper does not discriminate in employment on the basis of race, sex, creed, religion, national origin, age, disability, veteran status, or other protected status. Further, the County of Culpeper desires to set forth its Equal Employment Opportunity Plan in order to further its goal of offering employment opportunities in a nondiscriminatory manner.

### **1-1 Purpose**

The purpose of this Equal Employment Opportunity Plan is to promote fair and equitable hiring processes within the County of Culpeper. Further, hiring processes should and will be conducted in a manner in which there is no regard to race, sex, creed, religion, national origin, age, disability, veteran status, genetic information, pregnancy, or other protected status when making a hiring decision, except where such characteristic is a bona fide occupational qualification or disqualification.

### **1-2 Effective Date**

The effective date of this plan shall be \_\_\_\_\_.

### **1-3 Authority**

The authority to adopt this Equal Employment Opportunity Plan is found in several federal and state laws, including but not limited to the following:

Title VII of the Civil Rights Act of 1964 (Title VII)  
The Pregnancy Discrimination Act  
The Equal Pay Act of 1963 (Vol. 29 of the US Code, Section 206(d))  
The Age Discrimination in Employment Act of 1967  
Title I of the Americans with Disabilities Act of 1990  
Section 102 and 103 of the Civil Rights Act of 1991  
Sections 501 and 505 of the Rehabilitation Act of 1973  
Genetic Information Nondiscrimination Act of 2008  
Virginia Code § 2.2-203.2:3  
Virginia Code § 15.2-965

### **1-4 Application**

This policy applies to all employment-related activities; including but not limited to, recruiting, hiring, promotion, compensation, benefits, transfer, layoff, discipline, demotion, termination, County-sponsored training, leave, training, tuition assistance, social programs, recreational programs, and the use of County property. Any local

government employee of Culpeper County who fails to comply with the policy shall be subject to disciplinary action, up to and including dismissal, if deemed warranted.

## **ARTICLE 2 – EQUAL EMPLOYMENT OPPORTUNITY PLAN**

### **2-1 Commitment Goals of the Policy**

- A. To ensure equal opportunity in all personnel policies and procedures through identification and elimination of policy and procedural areas that may have previously unlawfully discriminated on the basis of race, color, sex, religion, national origin, age or disability.
- B. To use recruitment and advertising methods intended to maintain a diverse workforce.
- C. To encourage promotion of qualified individuals.
- D. To ensure compliance throughout the organization.

### **2-2 Actions to be Taken to Accomplish Commitment Goals**

All personnel actions, including but not limited to recruitment, hiring, promotion, transfer, demotion, discipline, termination, and the administration of compensation, benefits, training, tuition assistance, social and recreational programs, and use of County property shall be managed to further this policy. Personnel actions are subject to bona fide occupational job qualifications. The following actions will be taken into consideration, in addition to others, as may be appropriate to further the Commitment Goals:

- A. In recruiting and hiring applicants for employment, advertising shall be conducted in a nondiscriminatory manner. In addition, media may be utilized to target segments of the general population that are underrepresented in the workforce.
- B. An on-going internal assessment process will be implemented to monitor and report hiring and promotional practices.
- C. The County of Culpeper will continuously reinforce and publish its policy of equal employment opportunity to its workforce and to the public at large.
- D. Training designed to assist employees and supervisors in complying with this policy will be provided.

### **2-3 Equal Employment Opportunity Plan Details**

- A. Commitment – The County of Culpeper is committed to the following:
  - 1. Ensuring equal employment opportunity to employees and applicants for employment, without regard to race, color, sex, religion, national origin, age, disability, genetic information, pregnancy, or other protected status.
  - 2. Recruiting, hiring promoting, and training personnel in all job titles, without regard to race, color, religion, sex, national origin, age, disability, genetic information, pregnancy, or other protected status.

3. Basing hiring and promotion decisions on the individual's qualifications for the position.
4. Ensuring that all personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, discipline, termination, County-sponsored training, education, tuition assistance, social and recreational programs, are administered, without regard to race, color, religion, national origin, age, disability genetic information, pregnancy or other protected status.
5. Complying with all State and Federal laws pertaining to equal employment opportunity in the workplace.

B. Communication of the Plan

1. Internally:

- a. The Equal Employment Opportunity Plan shall be included in the Appendix of the Personnel Management Plan, which is available to all employees via the County Intranet site, in the Human Resources Office, and in each department.
- b. The County's EEO policy statement shall be discussed in New Employee Orientation.
- c. Equal Employment Opportunity posters shall be located in the Human Resources Office and County-wide in the offices of the departments.
- d. Periodic training shall be provided to employees on equal employment opportunity and diversity.
- e. The plan shall be posted on the County's internal shared drive.

2. Externally:

- a. Applications for employment and all recruiting advertisements shall state that the County of Culpeper is an EEO employer.
- b. Equal Employment Opportunity posters shall be posted in the Human Resources Office and in other public areas of the County.
- c. All requests for Proposals and Invitations for Bids for County procurement shall contain the following nondiscriminatory statement: The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, age, disability, pregnancy, status as a service disabled veteran, or any other protected status except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

C. Employment Opportunity Strategies – The following actions shall be taken by the County to assist in achieving the County’s commitment to equal employment opportunity.

1. Goals

- a. Use recruitment and advertising methods intended to maintain a diverse workforce
- b. Encourage the promotion of qualified individuals.
- c. Ensure compliance throughout the organization.

2. Actions

a. Recruitment – Human Resources shall:

- i. Advertise for recruitment and hiring in a nondiscriminatory manner. Additional efforts shall be implemented to target segments of the general population that are underrepresented in the workplace such as the use of publications and websites to advertise employment opportunities to protected class members.
- ii. Work with Departments to identify and eliminate barriers to equal employment opportunity and identify methods by which to maintain a diverse applicant pool.
- iii. Provide reasonable accommodation to applicants requesting assistance in the application process.
- iv. Ensure equal access to job information, availability and opportunities.
- v. Regularly review job descriptions to ensure that they accurately reflect position duties and responsibilities.
- vi. Screen and test applications and job applicants consistently, in a fair and equitable manner, using valid requirements of the job.
- vii. Use records of criminal convictions in making employment decisions only when they indicate, given the nature of the crime and the duties of the job, that employment of the individual in a particular job could affect job performance.

b. Internal Assessment Process

- i. The Human Resources Department shall implement an on-going internal assessment process to monitor hiring and promotional practices.
- ii. Staffing data from the internal assessment process shall be compared to the County’s population as it represents members of protected classes. This data shall be compiled on a fiscal year basis.



- iii. Salary ranges for each classified position shall be assigned based upon the County's established pay system, without regard to the incumbent.
  - iv. Benefits and other terms of employment shall be offered to eligible employees based upon their employment status without regard to race, color, religion, sex, national origin, age, disability, pregnancy, or genetic information.
  - v. Tuition assistance shall be provided to eligible employees without regard to race, color, religion, sex, national origin, age, disability, pregnancy, or genetic information.
  - vi. Training and educational programs and opportunities shall be available to all employees, appropriate to the employee's position, without regard to race, color, religion, sex, national origin, age, disability, pregnancy, or genetic information.
- c. Publishing the Equal Employment Opportunity Policy
- i. The County shall continuously publicize its policy of equal employment opportunity to its workforce and to the public at large.
  - ii. The Equal Employment Opportunity Plan shall be included in the Personnel Management Plan, which is available to all employees via the County Intranet site, in the Human Resources Office, and in each department.
  - iii. Equal Employment Opportunity posters shall be located in the Human Resources Office, County-wide in the departments and public areas of the County.
  - iv. Applications for employment and all recruiting advertisements shall state that the County of Culpeper is an EEO employer.
- d. Training
- i. Training designed to assist employees and supervisors in complying with this policy shall be provided.
  - ii. Training opportunities shall be publicized through various methods to include the County intranet, flyers, and emails to employees and managers.
  - iii. Training shall be offered to employees involved in interviewing to develop skills necessary to interview, evaluate, and document interviews in a nondiscriminatory manner.
  - iv. Training shall be provided by the Human Resources staff and Legal staff on HR/Legal issues as it pertains to all Title VII protected classes and EEO concerns. The Human Resources Department shall also sponsor periodic training on diversity.

# FORM CC 24

**County of Culpeper**  
**Employee Counseling Form**  
**(FORM CC 24)**

Name:

Dept:

Date:

Date of occurrence:

Date of Counseling:

Supervisor Name:

**DESCRIPTION OF ISSUE:**

Attendance

Conduct

Safety violation

Policy and/or procedure violation

Unsatisfactory job performance

Other:

**EXPLANATION (Attach supporting documentation if necessary):**

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**EMPLOYEE COMMENTS:**

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I have read and received a copy of the above counseling notice.

Employee:

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Date:

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Supervisor:

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Date:

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