



CALDWELL COUNTY

PERSONNEL POLICY



REVISED ON AUGUST 14, 2023

BE IT RESOLVED by the Board of County Commissioners for Caldwell County that the following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment for the employees of the County.

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ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Policy

It is the purpose of this policy and the rules and regulations set forth to establish a fair and uniform system of personnel management for all employees of the County under the administration of the County Manager, Public Health Board, and the Social Services Board. These aforementioned entities are the official appointing authorities covered by this personnel policy. State requirements will supersede these policies for positions subject to the State Human Resources Act whenever there is a conflict. This policy is established under authority of G.S. 153A, Article 5 and G.S. 126 of the General Statutes of North Carolina.

Section 2. Policy of At-Will Employment

Caldwell County does not offer tenured or guaranteed employment. This is merely a policy. This policy does not constitute or create an employment contract or any vested right to employment and employees remain "at will" under North Carolina law. Either the County or the employee can terminate the employment relationship at any time, with or without cause, with or without notice. This at-will employment relationship exists regardless of any other written statements or policies contained in this policy or any verbal statement to the contrary. No entity except the Board of Commissioners can enter into any kind of employment relationship or agreement that is contrary to the previous statement. To be enforceable, the arrangement reflecting such relationship or agreement must be in writing; having been first lawfully adopted by the Board and is lawfully executed by the County.

Section 3. Merit Principles

All appointments and promotions shall be made solely on the basis of merit. Decisions regarding appointments and promotions are within the County's discretion. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual's race, color, religion, sex, national origin, age, disability, or genetic information.

Section 4. Responsibilities of the County Board of Commissioners

The County Board of Commissioners shall be responsible for establishing and approving Personnel Policy, the position classification and pay plan, and it may change the policies and benefits as necessary. The Board also shall make and confirm appointments when so specified by the general statutes.

Section 5. Responsibilities of the County Manager

The County Manager shall be responsible to the County Board of Commissioners for the administration and technical direction of the human resources program. The County Manager or his/her delegate(s) shall appoint, suspend, and remove County officers and employees except those elected by the people or whose appointment is otherwise provided for by law. The County Manager or his/her delegate(s) shall make appointments, dismissals and suspensions in accordance with the state statutes and other policies and procedures spelled out in other Articles in this Policy.

The County Manager shall:

- a) recommend policies and revisions to the personnel system to the County Board of Commissioners for consideration;
- b) make changes as necessary to maintain an up to date and accurate position classification plan;
- c) recommend necessary revisions to the pay plan;
- d) determine which employees shall be subject to the overtime provisions of Fair Labor Standards Act (FLSA);
- e) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the County;
- f) perform such other duties as may be assigned by the County Board of Commissioners not inconsistent with this Policy; and
- g) appoint an employee to the role of Human Resources Director or serve in that role for the County.

Section 6. Responsibilities of the Human Resources Director

The County Manager shall appoint a Human Resources Director or perform this role him/herself. If serving in the role of Human Resources Director, the Manager may delegate any or all of these responsibilities as he or she may deem necessary and proper.

The responsibilities of the Human Resources Director are to make recommendations to the County Manager on the following:

- a) recommend policies and revisions to the personnel system to the County Manager for consideration;
- b) recommend changes as necessary to maintain an up to date and accurate position classification plan;
- c) recommend necessary revisions to the pay plan;
- d) recommend which employees shall be subject to the overtime provisions of FLSA;
- e) maintain a roster of all persons in the County service;
- f) establish and maintain a list of authorized positions in the County service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;

- g) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the County;
- h) develop and coordinate training and educational programs for County employees;
- i) investigate periodically the operation and effect of the personnel provisions of this policy;
- j) ensure that the County complies with various human resources related laws and regulations;
- k) perform such other duties as may be assigned by the County Manager not inconsistent with this Policy;
- l) provide consultation to employees, department heads and elected officials regarding legal and up to date human resources practices, employee relations and morale, equal treatment of employees, and other issues; and
- m) ensure that all employees receive and acknowledge receipt of access to a copy of this personnel policy and any revisions.

In the event there is no Human Resources Office, these duties will be assumed by the County Manager or his/her designee.

Section 7. Responsibilities of Supervisors and Managers

Supervisors shall meet their responsibilities as directed by the Board and/or the County Manager, being guided by this Policy and County ordinances. The County will require all supervisors to meet their responsibilities by:

- a) dealing with all employees in a fair and equitable manner and upholding the principles of equal employment opportunities;
- b) developing and motivating employees to reach their fullest potential through continued education and training;
- c) communicating clear performance expectations and making objective evaluations of individual work performance at least annually and discussing these evaluations with each employee so as to appreciate effective employee performance and bring about needed improvements;
- d) keeping employees informed of their role in accomplishing the work of their unit and of conditions or changes affecting their work;
- e) making every effort to resolve employee problems and grievances and advising employees of their rights and privileges.
- f) appoint, promote, discipline, and dismiss employees.

Section 8. Application of Policies, Plan, Rules, and Regulations

This personnel policy and all rules and regulations adopted pursuant thereto shall apply to all County employees except as provided below.

- a. Employees of the Sheriff's Office and the Register of Deeds Department shall be subject to this policy except that the Sheriff and Register of Deeds shall have the right to hire and discharge their employees subject to GS153A-103.
- b. The County Board of Elections appoints and dismisses all of the board's employees except the Director of Elections, who is appointed and dismissed by the State Board of Elections (G.S. 163-35).
- c. All employees in the competitive service area (Public Health and Social Services) shall be subject to the provisions of this policy, except when those provisions conflict with North Carolina G.S. 126 or rules and regulations as established by the State Human Resources Commission.

An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated. All employees are expected to cooperate with any investigations conducted by the County.

Section 9. Departmental Rules and Regulations

Because of specific personnel and operational requirements of the various departments of the County, each department is authorized to establish supplemental rules and regulations applicable only to the personnel of that department. All such rules and regulations, other than those implemented by the Sheriff and Register of Deeds, shall be approved by the County Manager or designee, and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy.

Section 10. Definitions

For the purposes of this Policy, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Adverse Action: A demotion, dismissal, reduction in pay, layoff, or involuntary transfer or suspension.

Alcohol/Substance Abuse: Consists of any use of illegal drugs or controlled prescription drugs obtained unlawfully; or excessive use of lawfully obtained prescription drugs or over-the-counter drugs or alcohol when such use substantially impairs job performance, alters work behavior, and/or creates a risk to the health and/or safety of the employee or others.

Allocation: The approval of a position by the appropriate authority based upon the needs of the County.

Applicant: One who places himself or herself in competition for a vacant position by virtue of completing and submitting an application for employment regardless of employment status.

Appointing Authority: The County Manager or his/her delegee(s) will be designated as the Appointing Authority with the following exceptions where the board or position has the legal or

delegated authority to make hiring decisions:

- a) The Sheriff shall be the appointing authority for positions in the Sheriff's Office;
- b) The Register of Deeds shall be the appointing authority for positions in the Register of Deeds Department;
- c) The Board of Elections shall be the appointing authority for positions in the Elections Department;
- d) The Public Health Director shall be the appointing authority for positions in the Public Health Department;
- e) The Social Services Director shall be the appointing authority for positions in the Social Services Department; and
- f) The Soil and Water Conservation Board will be the appointing authority for staff in that function.
- g) The Medical Director shall be the appointing authority for staff in Emergency Medical Services.

Authorized Absence: An employee absence approved by the County after proper notification (reason for absence and estimated length of absence).

Board of County Commissioners: The local government unit charged with the legislative affairs of the County.

Break in Service: Any separation from employment with the County whether by resignation, retirement, lay-off, disability, unauthorized absence or termination when the employee is subsequently re-employed by the County. An authorized leave without pay will not count as a break in service.

Class: A position or group of positions having similar duties and responsibilities and requiring similar qualifications that can be properly designated by one title indicative of the group of positions having similar ranking groups of classification based on internal comparisons and market surveys of relative duties and responsibilities.

Classification Plan: A systematic plan of structuring groups of classifications in a formal method to facilitate ranking the classifications or groups of classifications with respect to their individual relationships.

Compensatory Overtime: Time earned at a rate of time and one-half by a non-exempt employee for hours worked in excess of 40 hours in a workweek or, in case of law enforcement, in excess of 171 hours in a 28-day period.

Continuous Service: The length of employment with the County, from the first date of employment continuing until the employee's separation from employment by retirement, resignation or termination of employment.

Cost of Living Adjustment (COLA): An adjustment in pay that takes into consideration the impact of inflation on purchasing power.

Demotion: Movement of an employee from one job class to another within the County, where the pay

grade for the new position is lower than that of the former position.

Department: A major administrative unit of Caldwell County Government led by a department head.

Division: One of the operating sections, parts, or groupings into which a Caldwell County governmental department is divided.

Downgrade: A change that results in a lower pay grade being assigned to the classification of a position based on changes in essential duties, responsibilities, reorganization, or market comparable positions.

Drug: A controlled substance as defined in NCGS 90-87(5) or a metabolite thereof. These substances include, but are not limited to, marijuana, cocaine, heroin, prescription drugs, alcohol, opiates, amphetamines, and synthetically produced drugs or other impairing substances. Drugs, unless the context indicates otherwise, does not include non-controlled, over-the-counter drugs.

Emergency Position: A position in which the duties and responsibilities are required to be attended for a period of time not to exceed thirty (30) calendar days.

Exempt Employee: An employee specifically exempt from the overtime compensation provisions of the Fair Labor Standards Act (FLSA) as defined and limited by administrative rules and regulations; these employees generally have as their primary duty management, administration, or work of a professional nature.

FLSA: Fair Labor Standards Act is a federal statute defining minimum wage and overtime compensation, and classifying positions as exempt or non-exempt.

FMLA: The Federal Family Medical Leave Act of 1993, with amendments.

Full-time employee: An employee who is in a position for which an average work week equals at least 40 hours, and continuous employment of at least 12 months, is required by the County. Such employees are eligible for benefits.

Full-time Equivalent (FTE): The number of hours worked per annum in relationship to a full-time position. The County uses 2,080 hours to calculate FTE.

Grievance: A claim or complaint based upon an event or condition allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions. A grievance may involve alleged safety or health hazards, unsatisfactory physical facilities, surroundings, materials or equipment, unfair or discriminatory supervisory or disciplinary practices, unjust treatment by fellow workers, unreasonable work quotas, or any other inequity relating to conditions of employment. A grievance does not include being turned down for promotion or transfer unless discrimination is alleged to have caused said action.

Hiring Rate: The salary paid an employee when hired into County Service.

Hostile Work Environment: A work environment that both a reasonable person would find hostile or abusive and one that the particular person who is object of the harassment perceives to be hostile or abusive.

Immediate Family: Unless otherwise specified, immediate family means spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half,

step, in-law and adopted relationships that can be derived from these named.

Limited Service: An employee appointed to a position for which either a) the average work week required by the County over the course of a year is less than 20 hours (or 1000 hours per year), or b) continuous employment required by the County is less than 12 months. Such employees are not eligible for benefits other than FICA and workers' compensation except that employees scheduled to work more than 30 hours per week for more than three months are eligible for health insurance under the Affordable Care Act.

Longevity Plan: A plan to reward employees for faithful continuous service, based solely on longevity. Payment made one time per calendar year.

Maximum Salary Rate: The maximum salary authorized for an employee within an assigned salary grade (the last step within a grade.)

Merit Increase: An increase in salary within the same salary grade, based on meritorious service and on performance of duties above the standard for the assigned position.

Merit Principle: A systematic and uniform method of personnel administration designed to provide objective recruiting, employment, retention and promotion of those persons best qualified, all other factors excluded.

Non-exempt Employee: An employee who is entitled to minimum wage and overtime compensation pursuant to the Fair Labor Standards Act.

Overtime: Work performed at the express authorization of the County in excess of forty (40) hours in a seven (7) day period as defined by the Fair Labor Standards Act.

Part-time employee: An employee who is in a position for which an average work week of at least 20 hours and less than 40 hours and continuous employment of at least 12 months are required by the County. Such employees are not eligible for benefits other than FICA and workers' compensation except that employees scheduled to work more than 30 hours per week for more than three months are eligible for health insurance under the Affordable Care Act.

Pay Grade: A level within the compensation plan into which job classes with similar job evaluation factors are placed for compensation purposes. Pay grades have a minimum rate, a midpoint rate, and a maximum rate.

Pay Plan: A schedule of pay ranges systematized into sequential rates including minimum, standard job rate and maximum steps for each class assigned to any given salary range.

Permanent position: A position authorized for the budget year for a full twelve months and budgeted for twenty or more hours per week. All County positions are subject to budget review and approval each year by the Board of Commissioners and all employees' work and conduct must meet County standards. Therefore, reference to "permanent " positions or employment should not be construed as a contract or right to perpetual funding or employment.

Position: A group of duties and responsibilities assigned to a department, based upon the needs of the County that may be performed by one or more employees, not to exceed the full-time equivalent (FTE) of the position.

Position Classification Plan: A plan approved by the Board of County Commissioners that assigns classes (positions) to the appropriate pay grade.

Prior Caldwell County Service: Caldwell County service is defined as prior employment in a regular position in any department or agency of Caldwell County Local Government and shall be recognized, regardless of the length of the break-in-service, for vacation accrual and Longevity calculation. Any ending sick leave balance from the prior Caldwell County period of employment will be recognized upon re-employment.

Prior Service: Prior employment with any North Carolina governmental unit or subdivision thereof. Separation from the prior employment and employment with Caldwell County must not exceed three (3) years and verified within sixty (60) days of employment. Prior service credit will be recognized for vacation and longevity calculation. Any ending sick leave balance from the verified Prior Service will be recognized upon employment. (The 3 year break-in-service limit does not apply to Caldwell County employment).

Probationary employee: An employee appointed to a full or part-time regular position who has not yet successfully completed the designated probationary period. Persons in trainee appointments are probationary employees for the full duration of their appointment in that status.

Probationary Period: The required period of time an employee serves before obtaining regular status when entering County service.

Promotion: The reassignment of an employee to an existing position or classification in the County service having a higher salary range than the position or classification from which the reassignment is made.

Quid Pro Quo: Harassment that consists of unwelcome sexual advances, request for sexual favors, or other verbal, visual, written or physical conduct of a sexual nature when the employee is told or threatened expressed or implied that submission to the conduct will influence any personnel decision.

Range Revision: When one or more salary grades are assigned a different minimum and/or maximum salary range, or when a classification is assigned a new pay grade.

Reclassification: The reassignment of an existing position from one class to another based on changes in job content such as duty, kind, difficulty, required skill and responsibility of the work performed.

Reduction in Force (RIF): The abolishment of or reduction of a position or some portion of a position based on needs of the organization, workload, and availability of funding.

Regular employee: An employee appointed to a full or part-time position who has successfully completed the designated probationary period.

Regular Position: A position which has been approved by the Board of County Commissioners and in which the duties and responsibilities are required to be attained on a continuous and annually recurring basis, normally requiring full-time employment of an individual. Exceptions to full-time employment are where the recurring duties and responsibilities of a permanent position can be attended in less than a regular workday and/or work week.

Reorganization: Due to changes in the organizational needs of the department, the duties and responsibilities or technological requirements of a position may be reclassified, and a position may be

abolished in full or in part, or created according to County policy.

Resignation: Voluntary separation of employment from the County initiated by the employee.

Reasonable Suspicion: The belief that an employee or applicant is probably using or has recently used drugs or alcohol in violation of the County's policy. This belief shall be based upon specific, objective facts and reasonable inferences.

Retaliation: Adverse treatment which occurs because of opposition to unlawful workplace harassment. The law forbids retaliation when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits and any other term or condition of employment.

Safety Officer: Employee who is responsible for the administration of worker's compensation, conducting training on a variety of OSHA and safety related rules and regulations, inspecting work areas to assure compliance with safety policies and procedures, investigating accidents, conducting analysis of workers' compensation claims, and making recommendations for improvement of the work environment and safety practices and policies.

Salary Grade: All positions which are sufficiently comparable to warrant one range of pay rates. For the purpose of this definition, the words "grade," "salary range," "level" and "range" are used interchangeably.

Salary Plan: A schedule of pay ranges systematized into sequential rates including minimum, intermediate and maximum steps for each class assigned to any given salary range.

Salary Plan Revision: The uniform raising and lowering of the salary ranges of every grade within the salary plan.

Salary Range: A minimum rate of pay to a maximum rate of pay assigned to a pay grade within the Compensation Plan.

Salary Range Revision: The raising or lowering of the salary range for one or more specific classes of positions within the classification plan.

Salary Schedule: A listing by grade and step of all the approved hiring, maximum, standard job rate and minimum salary ranges authorized by the Board of County Commissioners for various position classifications of County government.

State Personnel Act: North Carolina General Statute 126, which governs employees covered by State personnel policies. In the event that Caldwell County's Employee Personnel Policies conflict with the state personnel policies for employee's subject to the State Personnel Act, state personnel policies established under the State Personnel Act will prevail.

Termination: An involuntary separation of an individual's employment initiated by the County.

Time Limited Appointment: A permanent or part-time appointment which is approved for a specific period of time not to exceed 12 months or not to exceed the grant timeline. Time-limited appointments are made, but are not limited to, filling vacancies due to an incumbent's leave of absence, in response to unusual workload demands, vacancies in the workforce, or specific to position funding such as grants which expire after a specified time.

Trainee: An employee designated as such, appointed to a position in any class for which the County

Manager, Department Head, Director of Human Resources and Office of State Human Resources (OSHR) formerly Office of State Personnel (OSP) has authorized "trainee" appointments. An individual may not be appointed as a trainee if he/she possesses the acceptable training, education and experience for the regular class, and must be appointed to the regular class when he/she gains the acceptable training, education and experience.

Transfer: Movement of an employee from one job class to another within the County where the pay grade remains the same as the former position.

Unauthorized Absence: Any absence during a scheduled work period without authorization from the employee's supervisor or when an employee does not follow established policies and procedures for an absence.

Unlawful Workplace Harassment: Unwelcome and unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color or disability that creates a hostile work environment or upon a quid pro quo.

Voluntary Reassignment: A voluntary reassignment is a change in employment to a position in a lower pay grade, in a higher pay grade or in the same pay grade that is mutually agreed to by the employee and the employer.

Work Against Appointment: The County will follow the requirements of the State Human Resources Act where required. When qualified applicants are unavailable and there is no trainee provision for the classification of the vacancy, the appointing authority may appoint an employee below the level of the regular classification in a "work against" appointment. This appointment is for the purpose of allowing the employee to gain the qualifications needed for the full class through on the job experience. A work against appointment may not be made when applicants are available who meet the training and experience requirements for the full class in the position being recruited without clear justification.

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose

The position classification plan provides a complete inventory of all Board authorized and permanent positions in the County service, and an accurate description and specification for each class of employment. The plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities. All positions covered by the personnel policy are to be classified according to the assigned duties, responsibilities, qualifications needed, and other required factors. In order to ensure its continuing value as a personnel management tool, the positions classification plan will be maintained to reflect the current work assignments and other conditions and requirements which are factors in proper classification and allocation of regular positions.

Positions in the Department of Public Health and Department of Social Services will be classified by the NC Office of State Personnel in compliance with the rules and regulations under the State Human Resources Act.

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

- a. a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- b. class titles descriptive of the work of the class;
- c. written specifications for each class of positions; and
- d. an allocation list showing the class title of each position in the classified service.

Section 3. Use of the Position Classification Plan

The classification plan is to be used:

- a. as a guide in recruiting and examining applicants for employment;
- b. in determining lines of promotion and in developing employee training programs;
- c. in determining salary to be paid for various types of work;
- d. in determining personnel service items in departmental budgets; and
- e. in providing uniform job terminology.

Section 4. Administration of the Position Classification Plan

The County Manager, assisted by the Human Resources Director, shall allocate each position covered

by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan. The Human Resources Director shall periodically review portions of the classification plan and recommend revisions to the County Manager to ensure that classifications accurately reflect current job duties and responsibilities. The Human Resources Director shall also periodically review the entire classification plan and, when needed, recommend major changes to the County Manager. The Office of State Personnel shall administer the classification plan for employees who are subject to the State Human Resources Act.

Section 5. Authorization of New Positions and the Position Classification Plan

New positions shall be established upon recommendation of the County Manager and approval of the County Board of Commissioners. New positions shall be recommended to the County Board of Commissioners with a recommended class title after which the Human Resource Director, with the approval of the County Manager, shall either allocate the new position(s) into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position(s) may be allocated. The position classification plan, along with any new positions or classifications shall be approved by the County Board of Commissioners and on file with the Human Resources Director. The position classification plan is available on the website.

Section 6. Request for Reclassification

Caldwell County Department Heads shall be responsible for bringing to the attention of the County Manager and/or Human Resources Director material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classifications of any existing positions. Upon receipt of such request, the Human Resources Director shall study the request, determine the merit of the reclassification, and recommend to the County Manager necessary changes to maintain a fair and accurate classification and pay plan.

ARTICLE III. THE PAY PLAN

Section 1. Definition

The pay plan includes the Salary Schedule and the Assignment of Classes to Salary Grades and Ranges adopted by the Board of County Commissioners. The salary schedule consists of beginning and maximum rates of pay for each job classification approved by the Board of County Commissioners. Salary increases within the pay range shall be based on criteria established by the County Manager and approved by the Board of County Commissioners.

Section 2. Administration and Maintenance

The County Manager shall be responsible for the administration and maintenance of the pay plan. All employees covered by the pay plan shall be paid at a rate within the salary range established for the respective position classification, except for employees in trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan.

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in public employment in the area, changes in the cost of living, the financial conditions of the County, and other factors. To this end, from time to time the County Manager, assisted by the Human Resources Director, shall make comparative studies of all factors affecting the level of salary ranges and may make minor adjustments in the allocation of positions to salary grades. When major adjustments encompassing numerous positions are needed, or when a general adjustment is needed to the pay plan, the County Manager shall recommend such changes in salary ranges as appear to be warranted to the Board. The Board may adopt the Salary Schedule and assignment of Job Classes to Salary Grades, including any minor adjustments made by the County Manager during the previous budget year, annually as part of the budget process.

The County Manager may approve in-range adjustments to employee salaries not to exceed five percent (5%) when necessary to accommodate inequities, special performance or achievements, or other issues.

Periodically, the County Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the County Commissioners.

Section 3. Starting Salaries

All persons employed in positions approved in the position classification plan normally shall be employed at the beginning rate for the classification in which they are employed; however, on the recommendation of the Department Head and Human Resources Director and with the approval of the County Manager, employee salaries may be approved above the beginning. Reasons for hiring above the entry rate include exceptional education and experience qualifications of the applicant, a shortage of qualified applicants, and/or the refusal of qualified applicants to accept employment at the beginning rate. The Human Resources Director and Department Heads shall consider internal equity of other

employees in the department when making a recommendation for employment above the beginning.

Elected officials, i.e. the Sheriff and Register of Deeds, shall be paid in accordance with North Carolina § 153A-92. Compensation.

Section 4. Trainee Designation and Provisions

Applicants being considered for employment or County employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the County Manager to a "trainee" status or under the State Human Resources Act job classes as a "work against." In such cases, a plan for training and meeting the minimum qualification for the job classification, including a time schedule, must be prepared by the supervisor. An employee shall remain at the trainee or "work against" salary level until the Department Head certifies that the employee is qualified to assume full responsibilities of the position and the County Manager approves the certifications. The Department Head shall review the progress of each employee in a trainee or "work against" status every six months or more frequently as necessary to determine when the employee is qualified to assume full responsibilities of the position. "Trainee" salaries may be two grades below the beginning rate established for the position for which the person is being trained. (Note: Positions subject to the State Human Resources Act may be assigned no more than two grades below as for trainee purposes.) The actual assignment should be reviewed and approved by the Human Resources Director. A new employee designated as "trainee" appointment shall be in a probationary status until requirements for the full job class are met. In such cases, a plan for training, including a time schedule, must be prepared by the Department Head.

If the training is not successfully completed as planned, the employee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the Hiring rate established for the job class.

Section 5. Probationary Pay Increases

Removed Effective 1-1-2022 by BOC with the implementation of the new pay plan and salary schedule.

Section 6. Performance Pay

Upward movement within the established salary range for an employee is not automatic but rather based upon specific performance criteria. Procedures for determining performance levels and performance pay increases shall be established in procedures approved by the County Manager, consistent with budgets approved by the Board of County Commissioners.

Section 7. Performance Bonus

Employees who are at the maximum amount of the salary range for their position classification will be eligible to be considered for a performance bonus at their regular performance evaluation time when performance pay is authorized and budgeted. Performance bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and shall be the same percentage of annual salary as employees within the salary range with the same performance level. Performance bonuses do not become part of base pay and shall be awarded in a lump sum payment. Employees within the salary range are not eligible for this increase.

Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications

Promotions. The purpose of the promotion pay increase is to recognize and compensate the employee for assuming increased responsibility (See Article IV for definitions of these terms). When an employee is promoted to a position with a higher salary grade, the employee's salary shall normally be advanced to the beginning of the new position, or to a salary which provides an increase of at least approximately five percent (5%) over the employee's salary before the promotion, whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants or for other reasons related to the merit principle of employment, the County Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the County, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the Maximum rate of the new salary range.

The amount of the salary adjustment should be based upon:

- a. the employee's related education, training, and experience;
- b. the nature and magnitude of the change in jobs;
- c. budget availability;
- d. consistency with similar situations in the past;
- e. internal equity within the work unit; and
- f. other relevant issues.

Cost of living (or market adjustment), probationary increases for a previous job, and other in-range increases cannot take the place of a promotional increase. The position of the employee's adjusted salary within the new salary range shall not exceed the position of the employee's salary in the current range.

Demotions. When an employee is demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employee's qualifications to perform the job when the demotion is not the result of discipline. If the current salary is within the new range, the employee's salary may be retained at the previous rate, if appropriate. Consideration should be given to whether the employee is receiving the same pay for decreased workload or responsibility level and action should be appropriate to this consideration along with internal equity consideration of the pay rate of other employees in the same classification. If the demotion is the result of disciplinary action, the salary shall be decreased at least approximately five percent (5%), but may be no greater than the minimum of the new range.

Transfers. The salary of an employee reassigned to a position in the same class or to a position in a different class within the same salary grade shall not be changed by the reassignment.

Reclassifications. An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of approximately five percent (5%) or an increase to the beginning rate of the new pay range, whichever is higher. If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 9. Salary Effect of Salary Range Revisions

When a class of positions is assigned to a higher salary range as a result of labor market conditions, employees in that class shall receive a five percent (5%) increase for each salary grade increase, if such increases do not exceed the midpoint of the new range. The employee shall receive a minimum of five percent (5%) for the range revision, even if such increases takes the employee above the midpoint of the new range. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

Section 10. Transition to a New Salary Plan

The following principles shall govern the transition to a new salary plan:

1. No employee shall receive a salary reduction as a result of the transition to a new salary plan.
2. All employees being paid at a rate lower than the beginning rate established for their respective classes shall have their salaries raised to the new beginning rate for their classes. The only exception will be those employees currently being paid at a trainee rate, or in a "work against" status. These employees will remain in their same relative pay status in the new salary grade assigned.
3. All employees being paid at a rate above the beginning rate and below the maximum rate are considered as being paid at a competitive rate for the job class and may receive any approved salary plan implementation increases as authorized by the Board.
4. All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level with no increase in base pay until such time as the employees' salary range is increased above the employees' current salary. This means no performance/merit pay increases or market adjustment/cost of living increases or any other increases to the base pay of the employee until the employee is within the appropriate salary range.

Section 11. Effective Date of Salary Changes

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period, or at such specific date as may be provided by procedures approved by the County Manager.

Section 12. Overtime Pay Provisions

Employees of the County can be requested and may be required to work overtime hours as necessitated by the needs of the County and determined by the supervisor. All overtime work must be authorized in advance and properly documented on the time sheet.

Supervisors shall attempt to arrange employee work and schedules so as to accomplish the required work within the standard workweek and without incurring overtime.

The County will comply with the Fair Labor Standards Act (FLSA). The County Manager shall determine, based on the recommendation of the Human Resources Director, which jobs are "Non Exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-Exempt Employees:

Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Employees are not to perform work at any time that they are not scheduled to work, unless they receive approval from their Department Head or supervisor, except in cases of emergency.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7-day period; or 171 hours in a 28-day cycle for sworn law enforcement employees). Hours worked beyond the FLSA established limit will be compensated in time or pay at the appropriate overtime rate (1:1.5). In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, holidays or on-call time be included in the computation of hours worked for FLSA purposes.

Whenever practical, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be given in the form of compensatory time off or paid in accordance with the FLSA.

Earned compensatory time may be granted whenever feasible and determined by the County Manager, based on recommendations from the Department Head. Accumulation of more than eighty 80 hours of compensatory time is discouraged and must have the approval of the Department Head followed by the County Manager. Department Heads and Supervisors have the right and obligation to manage compensatory time by scheduling employees to take accrued compensatory time in a timely manner so that compensatory hours will not accrue to excessive levels. However, under If approved by the County Manager, pursuant to FLSA provisions, non-exempt employees may accumulate up to 240 approved hours of compensatory time (sworn law enforcement officers may accumulate up to 480 hours). Nonexempt employees separating from employment shall be paid for their compensatory time balances.

In declared disaster or emergency situations where employees are required to work long and continuous hours as required over multiple days, the County Manager may approve compensation at a rate up to double time for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions. This provision applies to exempt and nonexempt employees including the County Manager.

Exempt Employees:

Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted compensatory leave flex time on an hour-by-hour basis by their supervisor where the convenience of the department allows and in accordance with procedures established by the County Manager. Such compensatory flex time is not guaranteed to be taken and ends without compensation upon separation from the organization.

Section 13. On-Call and Call-Back Compensation

The County provides continuous twenty-four hours a day, seven days a week service to its citizens. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the County is the acceptance of a

share of the responsibility for continuous service in accordance with the nature of each job. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee may be subject to disciplinary action up to and including dismissal by the appointing authority.

On-call. On-call (standby) time consists of scheduled non-work hours in excess of the standard work period when an employee is required to be available to be called back to work on a regularly scheduled or emergency basis and must respond within a reasonable period of time and must be free from the influence of alcohol or narcotics and able to work.

On-call /standby schedules must be approved by the County Manager or designee. Employees eligible for standby compensation are those required to be on standby at least one out of every six weeks or more frequently. The Human Resources Office shall maintain a list of employees who are approved for on-call compensation arrangements.

Compensation for on-call employees shall be determined by the County Manager or designee and shall consist of either compensatory time off or a flat payment for the time period one is on-call in accordance with the department plan.

Call-back. Call-back time consists of actual time spent when called back to work to handle an emergency situation. Non-exempt employees will be guaranteed a minimum payment of two hours of wages for being called back to work outside of normal working hours when not on stand-by. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance) or telecommuting work from home.

Section 14. Payroll Schedule and Deductions

The payroll schedule shall be established by the County Manager and shall be administered by the Finance Department. Deductions shall be made from each employee's salary as required by law. Additional deductions may be made upon the request of the employee on determination by the County Manager as to the capability of payroll equipment and appropriateness of the deduction.

Section 15. Hourly Rate of Pay

Employees working in a part-time or limited service capacity with the same duties as full-time employees will work at a rate in the same salary range as the full-time employees.

The hourly rate for employees working other than 40 hours per week, such as law enforcement officers, emergency services, and telecommunicators working an average 42 hours per week, will be determined by dividing the average number of hours scheduled per year into the annual salary established for the position.

Section 16. Pay for Interim Assignment in a Higher Level Classification

An employee who is formally designated for a period of at least one month to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall receive an increase for the duration of the interim assignment. The employee shall receive a salary adjustment to the entry level (Hiring rate) of the job in which the employee is acting or an increase of five percent (5%). Criteria involved in determining the amount of compensation shall include

- a. the difference between the existing job and that being filled on a temporary basis, and
- b. the degree to which the employee is expected to fulfill all the duties of the temporary assignment.

The salary increase shall be temporary and the employee shall go back to the salary he or she would have had if not assigned to the interim or acting role upon completion of the assignment taking into account any increase the employee would have received if not placed in the interim or acting role.

Section 17. Longevity Pay

Full-time employees of the County are compensated for continuous years of service with the County by payment of a longevity supplement based on continuous years of service as of December 31st of each year. Continuous service is continuous employment including any approved leave or involuntary reduction in force.

Longevity amounts shall be as follows:

<u>Years of Service</u>	<u>Amount</u>
5 years	\$ 400
5– 9 years	\$ 400 plus additional \$50 for each year over 5 years
10 years	\$ 750
11 – 19 years	\$ 750 plus additional \$50 for each year over 10 years
20 years	\$1450
21 + years	\$1450 plus additional \$50 for each year over 20 years

Longevity pay will be issued in November or as designated by the County Manager. The longevity pay supplement will be prorated for eligible retirees and eligible new hires based on the months of service during the longevity pay period. Each month of non-service with Caldwell County will reduce the longevity pay by 1/12 of the total amount. The Human Resources Director will publish administrative procedures for awarding longevity pay.

Eligible employees in a leave status on the pay date for the longevity supplement will receive the longevity supplement upon return to service at the next scheduled payroll.

Section 18. Direct Deposit

Employees will be paid by electronic transfer of funds to their designated back account(s). Employees will receive written or electronic documentation of their wages, deductions and leave balances each pay period.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Policy

It is the policy of the County to foster, maintain and promote equal employment opportunity. The County shall select employees on the basis of the applicant's qualifications for the job and award them, with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to race, color religion, sex, national origin, age, disability, pregnancy, or genetic information. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of essential duties with or without reasonable accommodation.

Section 2. Implementation of Equal Employment Opportunity Policy

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related job requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of race, color religion, sex, national origin, age, disability, pregnancy, or genetic information. Notices with regard to equal employment matters shall be posted in conspicuous places on County premises in places where notices are customarily posted.

Section 3. Recruitment, Selection and Hiring

Recruitment Sources. When position vacancies occur, the Human Resources Office shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings will be published with the North Carolina Division of Employment Security and on the County website as necessary to inform the community and create a quality and diverse pool of applicants. In addition, vacancy announcements will be distributed via County email to the departments and employees. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well- qualified applicants are obtained for County service. In rare situations because of emergency conditions, high turnover, etc., the County may hire or promote without advertising jobs, upon approval of the County Manager.

Job Advertisements. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment. All persons expressing interest in employment with the County shall be given the opportunity to file an application for employment for positions which are currently being recruited.

Application Reserve File. Applications shall be kept in an inactive reserve file (currently for a period of two years) in accordance with Equal Employment Opportunity Commission guidelines.

Selection. Department Heads, with the assistance of the Human Resources Director, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position. All selection devices administered by the County shall be valid measures of job performance.

References and Background Investigations. Before any commitment is made to an applicant the County will conduct reference checks regarding the employee's qualifications and work performance. In addition, physical examinations, drug screening and criminal background investigations may be performed. Conviction of a crime is not automatically disqualifying. The County will consider the severity of the crime, degree to which the crime is job related to the job for which the applicant is being considered, and length of time since the conviction to determine the degree to which there is a business necessity for choosing not to hire the applicant.

Hiring. Before any commitment is made to an applicant either internal or external, the Appointing Authority shall notify the Human Resources Director of the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Human Resources Director and Department Head shall recommend approval of new hires and the starting salary for all applicants to the County Manager. The County Manager will approve the starting salary. All employment offers should be confirmed in writing. The Personnel Action Form, the original application for employment, a copy of the employment offer letter, and any additional supporting documents pertaining to the selected candidate should be submitted to the Human Resources office prior to making a final offer to the candidate. These documents will become part of the new employee's personnel file.

Section 4. Probationary Period

An employee appointed or promoted to a regular position shall serve a probationary period. Employees shall serve a six-month probationary period, except that sworn law enforcement personnel and Department Heads shall serve a twelve-month probationary period. Employees in trainee or "work against" appointments will have specific time frames established for their probationary period.

During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving a twelve-month probation shall have a probationary review at the end of six months, as well as before the end of twelve months.

An important purpose of the probationary period is to provide an opportunity for the appointee to adjust to the new job. Likewise, it serves as a trial period during which the employee demonstrates his or her ability to perform the work, to demonstrate good work habits and to work well with the public and coworkers. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee to determine whether or not the employee is meeting job expectations. The employee's progress (accomplishments, strengths, and areas for improvement) will be discussed with the employee and a summary of this discussion should be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. With approval of the County Manager, Probationary Periods may be extended for three months for a maximum of nine months. The maximum probationary period for law enforcement officers and Department Heads is twelve months and for other County employees is nine months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this Policy for disciplinary action.

A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted employees shall retain all other rights and benefits such as the right to use the grievance procedures.

Section 5. Promotion

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the County's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be promoted to that position. The County will balance three goals in the employment process:

- a. the benefits to employees and the organization of promotion from within;
- b. providing equal employment opportunity and a diversified workforce to the community; and
- c. obtaining the best possible employee who will provide the most productivity in that position.

Therefore, except in rare situations where previous County experience is essential or exceptional qualifications of an internal candidate so indicate, the County will consider external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

Section 6. Demotion

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotions may be voluntary or involuntary. An employee whose work or conduct in the current position is unsatisfactory may be involuntarily demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such demotion shall follow the disciplinary procedures outlined in this Policy. Demoted employees may appeal this decision based on the Grievance Process outlined in this Personnel Policy.

An employee may request a voluntary demotion when a vacant position is available. Employees may request voluntary demotions in order to accept a position with less complex duties and reduced responsibilities, to change career paths, or for other reasons. A voluntary demotion is not a disciplinary action and is made without using the above-referenced disciplinary procedures.

Section 7. Transfer

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. The Department Head wishing to transfer an employee to a different department or classification shall make a recommendation to the County Manager with the consent of the receiving Department Head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this policy. Employees who are transferred to a different department will serve a six-month probationary period.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedule

Department Heads shall establish work schedules, with the approval of the County Manager, which meet the operational needs of the department in the most cost effective manner possible.

Section 2. Dress Code

Employees are expected to dress appropriately with regards to their daily work environment and job duties.

Employees considered professional staff or located in an office environment are expected to dress in business casual. Workplace attire must be neat, clean, fit properly, and be appropriate for the work setting. Business casual includes but is not limited to slacks, dress pants, khakis, knee length skirts, collared shirts, button down shirts, blouses, cardigans, blazers, and knee length dresses.

Depending on current assigned tasks employees may be approved to wear non "Business Casual" wear. If necessary, employees must present with a neat appearance and must not wear excessively ripped, frayed, disheveled clothing, nor inappropriate clothing.

Employees who are issued uniforms must comply with their department's uniform policies and procedures.

Fridays, or another day, as designated by a Department Head, are "casual days", employees must dress appropriately but are allowed to wear jeans, t-shirts, and tennis shoes/sneakers. Jeans must be appropriate, no holes above the knee, no excessive tears/rips, and no sleepwear. T-shirts must have appropriate graphics, no nudity, violence, or foul language will be tolerated.

Department Heads may enforce additional, reasonable, dress code requirements in accordance with an employee's current assigned task. Enforcement of and adherence to this policy is at the discretion of employee's Department Head.

Section 3. Political Activity

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States. However, no employee shall:

- a. Engage in any political or partisan activity while on duty;

- b. Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- c. Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- d. Coerce or compel contributions from another employee of the County for political or partisan purposes;
- e. Use any supplies or equipment of the County for political or partisan purposes; or
- f. Be a candidate for nomination or election to the office of County Commissioner.

Any violation of this section shall be deemed improper conduct and shall subject the employee to disciplinary action under this policy.

Section 4. Expectation of Ethical Conduct

The proper operation of County government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.

As stewards of public resources and holders of the public trust, County employees are expected to uphold the highest standards of ethical conduct while fulfilling their job duties and responsibilities.

No official or employee of the County shall accept any gift, favor, or thing of value (whether in the form of a money, service, loan, or promise) from any person, firm, or corporation that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service or thing of value. Gratuities shall be refused by all County officials and employees. These limitations do not prohibit the acceptance of articles of negligible value which are distributed generally, nor prohibit employees from accepting social courtesies that provide good public relations, and do not prohibit employees from obtaining loans from public lending institutions. It is particularly important that inspectors, contracting officers, and law enforcement officers guard against relationships that might be construed as evidence of favoritism, coercion, unfair advantage, or collusion.

Section 5. Disclosure of Information: Outside Employment

As employees of Caldwell County, we are obligated to serve the public with honor and integrity. Caldwell County's policy states that no officer or employee shall have any interest or engage in any business transaction, professional activity, or obligation that is in conflict with the employees' duties to the interests of the public. County employment must take precedent over any outside employment interests.

It is required that employees submit the Outside Employment Request Form to the County Manager for approval. Employees must not assume outside employment is "approved" until it is signed off by the County Manager. If employees engage in outside employment before prior to approval the employee may be subject to disciplinary action up to and including dismissal.

Conflict may include but not limited to:

- Involvement in outside business or financial activities which would potentially cause a conflict of interest,
- Employment by or having financial interest in any business entity that is in relations with their department,
- Engagement in outside employment during current scheduled work hours,
- Using County property such as facilities, supplies, equipment, and materials. As well as use of other county employees for assistance in outside employment or business interest,
- In accordance with G.S. 14-234.1*, use their employee access to record or obtain information held by the County for personal use or financial gain.

Each year the Human Resources Department will distribute a memorandum to ensure County employees are still engaged in outside employment or have not gained employment that interferes with a county interest. The documentation received from employees will become included in their personnel file.

*G.S. 14-234.1.

Misuse of confidential information.

(a) It is unlawful for any officer or employee of the State or an officer or an employee of any of its political subdivisions, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information which was made known to him in his official capacity and which has not been made public, to commit any of the following acts:

- (1) Acquire a pecuniary interest in any property, transaction, or enterprise or gain any pecuniary benefit which may be affected by such information or official action; or
- (2) Intentionally aid another to do any of the above acts.

(b) Violation of this section is a Class 1 misdemeanor.

Section 6. Dual Employment

The County prohibits any employee from holding more than one position with the County. The County will consult FLSA regulations in any potential dual employment cases to ensure that the regulations are followed.

Section 7. Employment of Relatives

The County prohibits the hiring and employment of immediate family in full or part-time positions within the same division or if such employment would result in one family member supervising another or if one member will occupy a position of influence over another member's employment or any condition of employment. Examples of potential influence include but are not limited to hiring, promotions, salary administration and disciplinary action.

For the purposes of this Article, immediate family shall be defined as spouse, child, parent, sibling, grandparent, and grandchild to include in-law, step and half relationships. The definition for this Article also includes individuals living in the same household who share a relationship comparable to immediate family members.

The County also prohibits the employment of any person into a position who is an immediate family member of individuals holding the following positions: County Board of Commissioners, County

Manager, Assistant County Manager, Human Resources Director, Clerk to the Board, Finance Officer, or County Attorney. Otherwise, the County will consider employing family members or related persons in the service of the County, provided that such employment does not:

- a. result in a relative supervising relatives;
- b. result in a relative auditing the work of a relative;
- c. create a conflict of interest with either relative and the County; or
- d. create the potential or perception of favoritism.

This clause shall not be retroactive concerning any relative currently working.

Section 8. Fraternalization

The County prohibits individuals who are in a close relationship such as dating or otherwise engaged in a romantic, physical, sexual, or otherwise close personal relationship to work in a direct supervisory relationship with each other.

A close relationship between a Department Head and another county employee is strictly prohibited.

All employees must disclose of relationships with fellow coworkers upon employment and/or the commencement of the relationship. Disclosures must be made to the Human Resources Director and applicable Department Head(s). This information will be maintained as confidential, if practicable, upon request.

If the relationship is between:

- coworkers- efforts shall be made to separate employees work responsibilities and if applicable schedule. Department Heads may, when possible, elect to transfer either employee to a different Division or Department. (If the employees live together, refer to the policy on employment of relatives)
- supervisor and subordinate- actions may be taken which include but are not limited to transfer of either employee or termination.

Upon disclosure, both parties must affirm the consensual nature of the relationship and their understanding of an agreement to comply with the County's harassment prevention and non-discrimination policies and other applicable policies. Both parties must affirm their understanding that this relationship should in no way interfere with the productivity of the workplace or operations of the County.

If any such relationship interferes with the County's operations employees may be subject to disciplinary actions which may include termination.

Section 9. Harassment Prevention

The County prohibits harassment on the basis of race, color, religion, sex, national origin, age, disability, pregnancy, and genetic information. Harassment is defined as conduct that culminates in

tangible employment action or is sufficiently severe or pervasive as to create a hostile work environment.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Any employee who believes that he or she may have a complaint of harassment may follow the Grievance Procedure described in this Policy or may file the complaint directly with the County Manager, Human Resources Director or any Department Head who will advise the County Manager or County Attorney. The employee may file the complaint directly with the County Manager if it involves a Department Head. The Human Resources Director will ensure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation.

Employees witnessing harassment shall also report such conduct to an appropriate County official.

Employees making complaints of harassment are protected against retaliation from alleged harassers or others.

Section 10. Use of County Time, Equipment, Supplies, and Vehicles

County equipment, materials, tool and supplies, shall not be available for personal use and are not to be removed from County property except in the conduct of official County business, unless approved by the County Manager. No employee shall purchase for personal use any equipment or supplies through County purchase accounts. During working hours, an employee shall only conduct County business. Use of County time, supplies, or equipment for personal or other purposes not related to the employee's County duties and responsibilities is prohibited and subjects the employee to disciplinary action, up to and including dismissal.

The County shall develop and distribute to employees a separate policy covering the operation of vehicles. All employees who use County vehicles are required to follow motor vehicle laws and the County Vehicle Use Policy. Violation or misuse of County vehicles also subjects the employee to disciplinary action, up to and including dismissal.

The County shall develop and distribute to employees a separate policy covering the use of phones, email, computers, and county cell phones.

Under North Carolina law, email sent or received by the County is considered a public records and is subject to inspection upon request.

Surrender of Property. An employee whose employment is terminated for any reason shall be required to return all County owned property items of equipment.

Section 11. Performance Evaluation

Supervisors and/or Department Heads shall conduct Performance Evaluation conferences with each

employee at least once a year. These performance evaluations shall be documented in writing and placed in the employee's personnel file. Procedures for the performance evaluation program shall be published by the Human Resources Director with the approval of the County Manager.

Section 12. Safety

Safety is the responsibility of both the County and employees. It is the policy of the County to establish a safe work environment for employees. The County shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department Heads and supervisors are responsible for insuring the safe work procedures, including the use of all required personal protective equipment and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

Additional detailed procedures regarding safety, worker's compensation, injury, and infection control may be established by the County Manager.

Section 13. Substance Abuse Policy

The County is committed to maintaining a drug and alcohol free work environment in order to ensure the safety and welfare of the general public and all County employees and to ensure an efficient and effective work force. The County prohibits employees reporting to work with their ability to perform impaired by alcohol, illegal drugs, intentionally and inappropriately used prescriptions, over-the-counter drugs, or other chemicals and substances. A separate Substance Abuse Policy will be maintained by the County and provided to all employees.

Section 14. Credentials and Certifications

Some duties assigned to positions in local government service may be performed only by persons who are duly licensed, registered or certified as required by the relevant law, rule or regulation. Employees in such classifications are responsible for maintaining current, valid credentials as required by law, rule or regulation. Failure to obtain or maintain the required credentials is a basis for immediate dismissal without prior warning. An employee who is dismissed shall be given a written statement of the reason for the action and his/her appeal rights.

Section 15. Use of Tobacco Products

Smoking and the use of tobacco products are prohibited in all county-owned or leased buildings and vehicles. Smoking is not allowed within fifty feet of a public entrance unless a variance is issued by the County Manager. When granted, smoking areas shall be clearly designated. The prohibition against tobacco products includes e-cigarettes or other devices which provide a vapor or nicotine substance and inhaler devices that simulate smoking.

Section 16. Lactation Support for Nursing Mothers

Caldwell County is committed to family-friendly policies and benefits and accommodates breastfeeding mothers who wish to express breast milk during the workday when separated from the new born. The County provides reasonable break times to express breast milk for the child for up to one year after the child's birth.

Breast milk must be labeled with the name of the employee and date of expressing the breast milk when placed in a workplace refrigerator. Non-conforming products stored in the refrigerator may be removed. The employee storing milk in the refrigerator assumes all responsibility for the safety of the milk and the risk of harm for any reason, including improper storage, refrigeration and/or tampering.

Nursing mothers should work with the Human Resources Department to identify a room in the employee's work area where employees may express milk. Employees who work off-site or in other locations will also be accommodated with a private area as necessary.

For more information regarding this issue, see the FLSA guidelines regarding lactation provisions.

Section 17. Driver's License

All employees who are in positions required on the class specification to maintain an active driver's license are required to do so as a condition of employment. Each year, upon completion of the employee's performance review, the human resources office will verify the status of the employee's driver's license. If the driver's license is not in good standing, the employee may be transferred, suspended, demoted or dismissed.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

All full-time employees of the County are eligible for employee benefits as provided for in this Article which are subject to change at the County's discretion and annual budget appropriations.

Section 2. Group Health and Dental Insurance

The County offers group health, dental and visual insurance programs for full-time employees (not limited service or part-time employees) and their families as specified under the terms of the group insurance contract.

The County pays the employer portion of the cost established by the State Health Plan through the approved Caldwell County budget each year for health insurance for full-time employees. The County will comply with the Affordable Care Act by providing health insurance for all employees expected to work 30 or more hours per week for three or more months. Full-time employees may, if they so desire, purchase available group health, dental and/or vision coverage through the County for themselves and their qualified dependents within the stipulations of the insurance contract. Employees will pay the amount stipulated by the health, dental and vision plans for themselves and their qualified dependents.

Information concerning cost and benefits shall be available to all employees from the Human Resources Department.

Retiree Health Insurance

The County pays 50% of medical premiums for employees who retire under the provisions of the NC Local Governmental Employees Retirement System with at least thirty (30) years of employment in an agency or department of Caldwell County. The retired employee must notify Caldwell County of any change in insurance coverage status.

The Board of County Commissioners will review this benefit annually and may, effective July 1 of each year delete, modify, enhance or otherwise make changes to this benefit.

Section 3. Group Life Insurance

The County provides a paid term life insurance policy to its full-time employees. Information on costs, coverage, and benefits are available from Human Resources.

Section 4. Other Optional Group Insurance Plans

The County may make other group insurance plans available to employees upon authorization of the County Manager or County Board. For information about optional group benefit programs, employees may contact the Human Resources Office.

Section 5. Retirement

Each employee in a permanent position who is expected to work for the County more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System when eligible as a condition of employment and make the stipulated contribution.

Supplemental Retirement Benefits

The County may provide supplemental retirement benefits for its full-time employees. As prescribed by North Carolina State Law, the County will contribute a percentage of salary to the State 401-K plan for each sworn law enforcement officer (currently 5%).

All full-time employees may make voluntary contributions to the 401-K plan up to the limits established by law and the 401-K provider.

Section 6. Social Security

The County, to the extent of its lawful authority and power, has extended Social Security benefits to its eligible employees.

Section 7. Worker's Compensation

All employees of the County (full-time, part-time, and limited service) are covered by the North Carolina Worker's Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken. Supervisors should provide records of such injuries to the Safety Officer within twenty-four hours of the injury.

Employees may use available sick leave and/or vacation during the seven-day waiting period before workers' compensation benefits begin. This provision also applies to reactions to small pox vaccinations administered to County employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other worker's compensation claim as regards leave and salary continuation.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee and the supervisor who must report injuries to the Safety Officer within twenty-four hours. Injury claims must be filed with the North Carolina Industrial Commission within two years from date of injury. The Safety Officer will coordinate the filing of such claims.

Section 8. Unemployment Compensation

County employees are covered for unemployment compensation. County employees who are terminated due to a reduction in force or released from County service may apply for benefits through the local Division of Employment Security office, where a determination of eligibility will be made.

Section 9. Law Enforcement Separation Allowance

Every sworn law enforcement officer, as defined by N.C. Gen. Statute 128-21(11b) or N.C. Gen. Statute 143-166.50, shall be eligible for a separation allowance, as provided by N.C. Gen. Statute 143-166.42, in the amount specified in N.C. Gen. Statute 143-166.41(a).

Eligibility and continuation of these benefits are subject to the following conditions:

- a) The officer shall have completed 30 or more years of creditable service, or have attained 55 years of age and completed five or more years of creditable service (as defined in General Statute 143-166.42); and
- b) The officer shall not have attained 62 years of age;
- c) The officer shall have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. Gen. Statute 143-166.41(a)(3) and 143-166.41(b).
- d) The law enforcement officer, after separation from County employment, notifies the County of any new employment involving local law enforcement duties. Such notification shall include the nature and extent of the employment, and any change of employment status.

Payment of separation allowance benefits to a retired officer shall cease at the first of:

- a) The death of the officer;
- b) The last day of the month in which the officer attains 62 years of age; or
- c) The first day of re-employment in any position in any local government in North Carolina where the employee is required to join the local government retirement system (working 1000 hours or more).

Should the separation allowance for law enforcement officers, now required by law, be rescinded, this separation allowance referenced above shall be rescinded at the same time.

The County may employ retired officers in a public safety position in a capacity not requiring participation in the Local Government Employees Retirement System and doing so shall not cause payment to cease to those officers under these benefits. Participation in the retirement system is required by anyone scheduled to work 1000 hours per rolling twelve-month period.

Section 10. Credit Union Membership

Employees of the County are eligible for membership in the North Carolina Local Government Federal Credit Union.

Section 11. Tuition Reimbursement

For training toward a degree in an accredited College or University, for skills that will benefit the County in an existing or planned position, the County will reimburse an employee's tuition, fees, and book costs. This is limited to \$2,500.00 per semester and will be based on the net cost to the employee (i.e. less any scholarships and other reimbursements) during each individual school year and calculated on a semester basis. The school year will begin with the fall semester and end with the last summer session.

The employee must agree through written contract, to be finalized between July-March, to continue working for the County at the end of their completion of degree/program one full year for each school

year or portion of a school year; however, should the employee leave the County before fulfilling the obligation to the County, the employee will be required to repay the County a pro-rated share of funds based upon the months remaining to fulfill the agreement.

In the event the employee is discharged, repayment still applies.

The employee will be reimbursed the expenses as stated above upon review of transcript. The employee shall be required to complete all classes with a minimum grade point average each semester of 2.5 or higher for non-graduate level courses and 3.0 or higher for graduate level courses. The employee shall provide Caldwell County a copy of the official transcript issued by the College or University. In the event the employee does not attain a permissible grade point average (as referenced above) in a semester, withdraws from the class, or does not successfully complete a class, then future reimbursement will potentially be granted upon receipt of a transcript indicating those classes were successfully completed.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the County is to provide vacation leave, sick leave, and holiday leave to all full-time employees (but not part-time or limited service employees) in a regular position with the County and to provide proportionally equivalent amounts to employees having average work weeks of different lengths. Leave balances should accrue with each payroll at a pro-rated amount when employees work or are on a paid leave status.

Section 2. Holidays

The policy of the County is to follow the holiday schedule as published by the State of North Carolina, including one additional "Day of Personal Observance" to be used on any, single, full work-day after appropriate supervisor notification. The schedule for the calendar year will be published by December 1st of the previous calendar year for distribution to County employees.

In order to receive a paid holiday, an employee must be in a pay status and have worked the day before and the day after the holiday(s), or have been given approved paid leave. Employees in a leave without pay status will not receive holiday pay.

Employees wishing to schedule time off for religious observances may request vacation leave from their respective Department Head. The Department Head will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observances may be denied only when granting leave would create an undue hardship for the County.

Departments which have staff working during holidays may designate which days of the week are to be observed using the actual legal holidays when appropriate.

Section 3. Holidays: Effect on Other Types of Leave

Regular holidays which occur during a vacation, sick or other leave period of any employee shall not be considered as vacation, sick, or other leave.

Section 4. Holidays: Compensation When Work is Required

Employees required to perform work on regularly scheduled holidays may receive the proportionally equivalent amount off for the holiday or receive pay in lieu of time off.

If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee will receive the hours for paid the proportionately equivalent holiday leave. Whether holiday time is provided in time or pay for shift employees is determined by the County. Employees shall receive holiday compensation in hours or pay.

Section 5. Vacation Leave

Vacation is a privilege granted by the County. Vacation leave may be used for rest and relaxation, school appointments, and other personal needs. Employees must request vacation leave from their supervisor in advance. Vacation leave may also be used by employees who wish to observe

religious holidays other than those granted by the County, upon request in advance. Supervisors are responsible for insuring proper staff coverage and may refuse vacation requests when they create a hardship for the County.

Section 6. Vacation Leave: Accrual Rate

Each full-time general employee of the County shall earn vacation at the following schedule. Accrual rates for full-time employees will be prorated as shown in Section 15 of this Article. Limited Service and part-time employees are not eligible for pro-rated vacation accrual.

Years of Service	Hours Accrued Per Month	Days Accrued Per Year
0 – 2	10	15
2 – 4	12	18
5 – 9	14	21
10 – 14	16	24
15 – 19	18	27
20 - 30	20	30
30 plus	22	33

Vacation should be accrued in each payroll period

Section 7. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until the last pay period of the calendar year. Any employee with a balance exceeding 30 days (240 hours) shall have the excess accumulation transferred to sick leave so that only a balance of 30 days (240 hours) is carried forward to January 1.

Regardless of accumulated balance if an employee separates from service, the payment for accumulated vacation leave shall not exceed 30 days (240 hours). Employees are not eligible to receive pay for vacation time not taken.

Employees are cautioned not to retain excess accumulated vacation leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation. Employees may not receive pay for excess vacation time.

Section 8. Vacation Leave: Manner of Taking

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the County. Department Heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery.

Section 9. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated annual leave upon separation subject to the 30 days (240 hrs) maximum, provided notice is given to the supervisor at least two weeks in advance of the date of resignation.

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the County Manager when deemed to be in the best interest of the County.

Regular employees who are involuntarily separated shall receive payment for accumulated vacation leave not to exceed 30 days (240 hours). At the discretion of the County Manager, employees dismissed for serious violations of personal or criminal conduct may be determined ineligible to receive vacation pay.

Section 10. Vacation Leave: Payment upon Death

The estate of an employee who dies while employed by the County shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the 30 days (240 hours) maximum.

Section 11. Sick Leave

Sick leave with pay is not a right which an employee may demand, but a privilege granted for the benefit of an employee when sick. Sick leave may be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

Sickness or death in the employee's immediate family, not to exceed four (4) days, for any one occurrence. Additional leave time, under exceptional circumstances, may be authorized by the Department Head. Immediate family is defined as spouse, parent, sibling, children, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

Sick leave may also be used to supplement Workers' Compensation Disability Leave during the seven-day waiting period before Workers' Compensation benefits begin.

"Immediate family" shall be defined as spouse, parent, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named and anyone living in the household.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or not later than the beginning of the scheduled shift/workday. Failure to do so appropriately may result in disciplinary action.

Section 12. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of twelve days per year. Sick leave for full-time employees shall be pro-rated as described in this Article. Limited Service and part-time employees are not eligible for sick leave.

Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

All sick leave accumulated by an employee shall end and terminate without compensation when the

employee resigns or is separated from the County, except as stated above for retirement or upon reinstatement with one year of separation after reduction in force.

Section 13. Transfer of Sick Leave from Previous Employer

Caldwell County recognizes the vested interest an employee has in accumulated sick leave. Therefore, a new employee who was previously employed within the preceding three (3) years by an employer covered by the North Carolina State or Local Government Retirement Systems will be allowed to transfer such sick leave as may have been accumulated during previous employment to be credited to his/her account when documented. The sick leave will be treated as though it were earned with the County and may be used as any other accrued sick leave by the employee. The sick leave must be certified by the previous employer and it is the employee's responsibility to provide documentation from his or her previous employer within sixty (60) days of employment.

Employees who retired from the State or one of its subdivisions and received retirement credit for accumulated sick leave are not allowed to transfer such sick leave from other agencies/entities.

Section 14. Sick Leave: Medical Certification

The employee's supervisor or Department Head may require a physician's certificate stating the existence of the employee or immediate family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the Department Head deems desirable. The Department Head shall be responsible for the application of this provision to the end that:

- a. Employees shall not be on duty when they might endanger their health or the health of other employees; and
- b. There will be no abuse of leave privileges.

Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action.

Section 15. Leave Pro-Rated

Annual and sick leave earned by full-time employees with fewer or more hours than the basic work week (40 hours) shall be determined by the following formula:

1. The number of hours scheduled for work per week by such employees shall be divided by the number of hours in the basic work week (usually 40 hours). This obtains the ratio.
2. The ratio obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week (40 hours).
3. The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned.
4. A "day" for the purposes of leave is defined as the number of hours obtained by multiplying the

ratio by 8 (the number of hours in a 40-hour week “day”).)

Section 16. Bereavement Leave

Sick leave may be granted to an employee absent from work for a death in the employee’s immediate family, not to exceed four (4) days, for any one occurrence. Additional time, under exceptional circumstances, may be authorized by the Department Head. Immediate family is defined as spouse, parent, sibling, children, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

Additional time or time to attend funerals of other family members may be charged to vacation leave, compensatory time or leave without pay. Time may be requested and will be granted based upon needs criteria such as travel time, time needed for making arrangements, etc.

Section 17. Parental Leave

Full time employees will be granted up to 4 weeks of paid leave per calendar year for the birth of their child, adoption of a child, the foster placement of a child, or another legal placement of a child. This leave shall run concurrent with FMLA and all FMLA provisions still apply.

In order to receive this leave, employees must agree, in writing, to continue employment with the County for at least 6 months post-FMLA. An employee must also assert, in writing, their understanding that if an employee separates from employment with the County before the 6-month post-FMLA period, they will be required to repay a pro-rated amount of their 4 weeks of paid parental leave. Exceptions to repayment may be granted by the Human Resource’s Director if an employee separates from employment due to a medical reason arising from pregnancy or another extreme extenuating circumstance.

Employees, whenever possible, should request to use this leave at least ten 10 weeks in advance of its intended use. Supervisors shall require appropriate documentation.

Paid Parental Leave may be used only once for a Qualifying Event within a twelve month period. The fact that a multiple birth, adoption or other legal placement occurs (e.g., the birth of twins or adoption of siblings) does not increase the total amount of paid parental leave granted for that event. Unused Paid Parental Leave is forfeited twelve (12) months from the date of the Qualifying Event. Paid Parental Leave shall not accrue or be donated to another employee.

This policy is based on the paid parental leave statutes of the State of North Carolina for State employees and the Human Resource Director may, in their discretion, reference said language of the State in the County’s interpretation of this section.

Section 18. Family Medical Leave

The County will grant up to 12 weeks of family and medical leave during any rolling 12-month period beginning on the date leave is first used to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). FMLA and Workers’ Compensation will normally run concurrently. Eligible employees must have regular status and must have been employed at least twelve months and worked at least 1,250 hours during the previous twelve months. The leave may be paid (coordinated with the County’s Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Additional time away from the job beyond the 12-week period may be considered in accordance with the County’s Leave Without Pay policy. Employees may be required to exhaust eligible paid leave before going on a leave without pay status.

FMLA leave may be taken for the following reasons:

- (a) to care for the employee's child after birth or placement for adoption or foster care;
- (b) to care for the employee's spouse, child or parent who has a serious health condition; or
- (c) for a serious health condition that makes the employee unable to perform the employee's job.

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider. This policy covers illness of a serious and long-term nature resulting in recurring or lengthy absences. Generally, a chronic or long term health condition which results in a period of incapacity for more than three days would be considered a serious health condition.

If a husband and wife both work for the County and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (not parent in-law) with a serious health condition, the husband and wife together may only take a total of 12 weeks leave under FMLA.

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation, accrued compensatory time and leave without pay for the remainder of the 12-week period.

“Military Exigency” is a qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a military service member (reserve or National Guard) under a call or order to federal active duty in support of a contingency operation. Qualifying events are:

- 1) deployment of service member with seven or fewer days’ notice;
- 2) military ceremonies and events such as family-assistance or informational programs related to the family member’s active duty or call to active duty;
- 3) urgent, immediate childcare or arranging for alternative childcare for the children of service members;
- 4) attending school or daycare
- 5) making financial or legal arrangements related to a family member’s active duty status or call to active duty;
- 6) taking up to five days leave to spend with a covered military member who is on short-term temporary rest and recuperation leave during deployment;
- 7) attending counseling provided by someone other than a health provider for oneself, the covered military member, or the child of the military member, the need for which arises from the active duty service or call to active duty status or the covered military member; or
- 8) post-deployment activities for a period of ninety days after the termination of the service member’s active duty status.

Military Caregiver Leave: An employee whose spouse, son, daughter, parent or next of kin is a current service member who is undergoing treatment, therapy, recuperation or outpatient treatment or has temporary disability retirement for injury or illness sustained in the line of duty, is eligible for 26 weeks of FMLA leave in a single 12-month period. During a single 12-month period, the employee is eligible for a total of 26 weeks of all types of FMLA Leave combined.

The request for the use of leave must be made in writing by the employee and approved by the Department Head or County Manager. The County may also designate qualified leave as FMLA Leave

by notifying the employee of such action.

An employee who takes leave under this policy will return to the same job or a job with equivalent status, pay, benefits, and other employment terms. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

Section 19. Family and Medical Leave: Medical Certification

In order to qualify for leave under this law, the County requires medical certification on a form available on the website. This statement from the employee's or the family member's physician should include the date when the condition began, its expected duration, diagnosis, and brief statement of treatment. For the employee's own health condition, it should state that the employee is unable to perform the essential functions of his/her position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable.

This certification should be furnished at least 30 days prior to the needed leave unless the employee's or family member's condition is a sudden one. The certification should be furnished as soon as possible (no longer than 15 days from the date of the employee's request). The certification and request must be made to the Department Head and filed with the Human Resources Director.

The employee is expected to return to work at the end of the time frame stated in the medical certification, unless he/she has requested additional time in writing under the County's Leave Without Pay policy.

Section 20. Family Medical Leave and Leave Without Pay: Retention and Continuation of Benefits

When an employee is on leave under FMLA, the County will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the County will require the reimbursement of the amount paid for the employee's health insurance premiums during the FMLA leave period.

Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit by the first of each month.

After using all paid leave for which the employee qualifies, the employee on FMLA may use Leave without Pay for the remainder of the FMLA 12/26-week entitlement. An employee ceases to earn holiday or leave credits on the date leave without pay begins.

Section 21. Leave Without Pay

A full-time employee may be granted a leave of absence without pay for a period of up to six months by the County Manager. The leave may be used for reasons of personal disability, sickness or disability of immediate family members (FMLA), continuation of education, special work that will permit the County to benefit by the experience gained or the work performed, or for other reasons deemed justified by the County Manager.

The employee shall apply in writing to the County Manager for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the County Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay.

If the employee decides not to return to work, the Department Head shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and granted, shall be considered a resignation.

An employee shall retain all unused vacation and sick leave while on Leave Without Pay. An employee ceases to earn holiday or leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the County's Group insurance plans at his or her own expense, subject to any regulation adopted by the County Commissioners and the regulations of the insurance carrier. If the Leave Without Pay is for a circumstance that coincides with FMLA or USERRA then the provisions of those policies will apply.

Section 22. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick leave, vacation, or compensatory time during the seven-day waiting period before Workers' Compensation benefits begin. If the employee elects to use accrued payments after they begin with sick leave, vacation, or compensatory time for the initial waiting period, he/she will be placed on leave without pay at the end of the seven days. Once the waiting period is over, workers' compensation covers two thirds of regular pay.

Any workers' compensation disability that qualifies under the requirements of FMLA shall run concurrently with FMLA. An employee on workers' compensation leave without pay will be permitted to continue to be eligible for benefits under the County's Group Insurance plans during the period of worker's compensation leave that is concurrent with FMLA.

Other supplemental benefits, insurance, and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit. Any amounts owed are due and payable by the first of the month.

An employee shall retain all unused vacation and sick leave while on Worker's Compensation Leave Without Pay. An employee ceases to earn holiday or leave credits on the date Worker's Compensation Leave without Pay begins. After the period of FMLA eligibility ends, the employee may continue to be eligible for benefits under the County's group insurance plans at his or her own expense subject to the regulations of the insurance carrier.

Section 23. Military and other USERRA Leave

The County will fully comply with the requirements of the 1994 Uniformed Services Employment and Re-Employment Rights Act (USERRA) and related federal regulations.

For the purposes of USERRA covered employees are the following:

1. Armed Forces Active and Reserve (Army, Navy, Marine Corps, Air Force, Coast Guard)
2. Army National Guard and Air National Guard

3. FEMA's Disaster Assistance Teams
4. Commissioned Corps of the Public Health Service
5. Military Service Academies
6. Reserve Officer's Training Corps (ROTC)

Employees taking leave under USERRA shall be eligible to take accumulated vacation leave, accrued compensatory time or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking USERRA leave, the employee's unused leave balances will be retained and any seniority based benefits such as leave accrual rates will continue to accrue.

Employees performing USERRA duty of more than 30 days may elect to continue the County's health care for up to 24 months but will be responsible for paying the insurance premiums up to 100% of the premium costs. Employees whose USERRA duty is less than 31 days will have their health insurance coverage paid as if they were at work with the County.

Military Training

In addition to complying with the requirements of USERRA, the County provides addition benefits for military training. Full-time employees who are members of an Armed Forces Reserve organization or National Guard shall be granted seventeen (17) calendar days per year for military leave. If the compensation received while on military leave is less than the salary that would have been earned during this same period as a County employee, the employee shall receive partial compensation equal to the difference. The effect will be to maintain the employee's salary at the normal level during this period.

If such duty is required beyond the seventeen (17) calendar days, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While on military leave, seniority-based benefits such as leave accrual rates shall continue to accrue as if the employee was actively at work. Employees on extended military leave will remain eligible for health benefits on a voluntary basis, at the employee's expense for a period of 24 months.

Part-time and limited service employees will be granted time off without pay to meet their military reserve or National Guard training obligations.

Section 24. Reinstatement Following Military Service

An employee who volunteers or is called to active duty with the United States military forces, and who returns to work in less than five years will be returned to the same or like position he or she occupied prior to the active duty enlistment with full seniority, status, leave accrual rates and pay as if there had been no break in employment. A military discharge form "DD214" with an honorable discharge must be submitted with the notification of intent to return to work.

Time limits for employees to reapply for return to work after release from military service are:

- 1) Less than 31 days' absence - employee must report to employer by the next business day.
- 2) 31 days-180 days' absence - notification to the supervisor must be submitted within 14 days.

- 3) More than 180 days' absence - notification to the supervisor must be submitted within 90 days.

All reporting deadlines are extended for two years if the employee is injured during USERRA service.

Section 25. Civil Leave

A full-time County employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the County any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty.

Section 26. School Involvement Leave

In accordance with North Carolina General Statute § 95-28.3, employees are authorized eight (8) hours of paid leave per year to attend various school functions in which their children are involved. Leave not taken is forfeited; it shall not be carried into the next calendar year. Employees shall not be paid for this leave upon separation or retirement.

Section 27. Voluntary Shared Leave

When a medical condition of an employee or a family member of such employee requires an employee's absence from work for a prolonged period of time resulting in possible loss of income because of lack of accumulated leave, fellow employees may voluntarily donate some of their vacation leave to the shared leave pool.

Leave donations may not exceed the donating employee's annual accrual amount. Nor may donations reduce the donor's leave balance below one-half of the annual leave accrual rate.

Employees are eligible to receive shared leave after working for the County for one year and having worked 1250 hours in the preceding year. Shared leave requests should be submitted as prescribed by the Human Resources Department. Shared Leave requests may be denied based on issues such as previous attendance patterns, work performance issues, and operational needs of the County. The County Manager will approve procedures to implement this policy.

Section 28. Adverse Weather and Emergency Conditions

Each fiscal year, beginning in July, regular full time employees will have available eight (8) hours of paid time to be used for inclement weather. These eight (8) hours are to be used only as determined by the County Manager in the event of a closure during times of bad weather, Acts of God, i.e. power outages etc., as determined and authorized by the County Manager. This time is non-transferable from year-to-year and does not accumulate. This time cannot be used for travel purposes to and from work when these situations arise.

This is not a benefit, but an administrative accommodation and does not apply to emergency, safety and maintenance personnel.

It is Caldwell County's policy to remain open for business whenever possible during regularly scheduled hours of operation, to the maximum extent allowable by weather and emergency conditions. In the event of inclement weather, County offices and departments shall remain open for the full scheduled work day unless authorized for early closing or other deviation as decided by the County Manager. All departments and offices will be given sufficient advance notice, when practical, of any authorized closing or delay.

If the County Manager authorizes a closing or delay, working employees will use the designated amount of inclement weather time from the available eight (8) hours for emergency closings. Employees on previously approved leave will remain on that leave, not inclement weather leave.

In the event of an additional closing or delay beyond the eight (8) hours of emergency closing time, employees must use compensatory leave or earned vacation for hours not worked. If the employee has no accrued leave, then the employee will be placed in a leave without pay status for hours not worked.

The County has responsibility for providing emergency services. Adequate staff are required to operate these critical services seven days per week and 24 hours per day in all weather. The County Manager, upon recommendation of department heads, should designate which staff are in critical positions required to report to work regardless of weather or other hazardous conditions. Employees in non-critical positions who leave work before an official early closing time, as well as employees who report for work late or do not report for work because of hazardous conditions may use earned vacation or compensatory leave for days or hours not worked. Employees in designated critical positions may be subject to disciplinary action for failure to report to work as required.

During inclement weather employees should use their discretion on road conditions and their inability to report to work. If local weather conditions make it impossible for an employee to report to work, he/she is expected to notify his/her supervisor in the same manner used for any other absence. All employees will be paid for the time worked, based upon the time they report to and leave from work. Employees may use compensatory leave or earned vacation for days or hours taken. If the employee has no accrued leave, then the employee will be placed in a leave without pay status for hours not worked.

Make up work outside of regular office hours during the same week must be approved in advance by both the department head and the County Manager and must be performed at the employee's place of work.

Section 29. Employee Compensation Policy Related to Pandemic

It is the policy of Caldwell County that in the event a pandemic is declared by the World Health Organization and/or the President of the United States declares a national state of emergency due to the outbreak of a serious communicable disease, any full-time Caldwell County employee who is out of work because they have the disease or who is required to be quarantined by a public health official with lawful authority to require the employee to be quarantined shall be entitled to receive up to ten (10) days of paid sick leave, not to exceed the actual number of work days that the employee is quarantined. The days of paid sick leave granted under this Policy are in addition to any other available sick leave or vacation leave that the employee has earned, and the employee is not required to use other paid sick leave or vacation leave prior to the utilizing these paid sick days.

Provided, however, that in the event the federal and/or North Carolina state governments enact one or more programs to provide direct payments or other benefits that help to offset quarantined County employees' loss of income, this policy may be modified to take into consideration and to avoid duplication of any such relief being provided by federal and/or state programs.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

All separations of employees from positions in the service of the County shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, voluntary retirement, dismissal, or death.

Section 2. Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two calendar weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notification requirement is waived upon recommendation of the Department Head or Human Resource Officer and approved by the County Manager.

Three consecutive days of absence without contacting the immediate supervisor or Department Head may be considered to be a voluntary resignation. Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation.

Such separation is voluntary and creates no right of grievance or appeal.

Section 3. Reduction in Force

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks' notice of the anticipated action. No regular employee shall be separated because of a reduction in force while there are limited service or probationary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the limited service or probationary employee.

Section 4. Disability

The County will comply with the Americans with Disabilities act and will make all responsible efforts to provide reasonable accommodation to employees who may be or become disabled. An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the County. In all cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the Department Head, Human Resource Officer and County Manager. The County may require an examination, at the County's expense, performed by a physician of the County's choice.

Employees who meet the requirements of the North Carolina Local Governmental Employees Retirement System may qualify for a disability retirement. Information about this option is available from the Human Resources Director or the Retirement System.

Section 5. Voluntary Retirement

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System may elect to retire and receive all benefits earned under the retirement plan.

Section 6. Death

Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee.

Section 7. Dismissal

An employee may be dismissed in accordance with the provisions and procedures of Article IX.

Section 8. Reinstatement

An employee who is separated because of a reduction in force or who resigns while in good standing may be reinstated within one year of the date of separation, upon recommendation of Department Head and upon approval of the County Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave.

Section 9. Rehiring

An employee who resigns while in good standing may be rehired with the approval of the appointing authority, and shall be regarded as a new employee, subject to all of the provisions of rules and regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

An employee who resigns from a full-time position while in good standing may be rehired to a part-time position after a bona fide separation of service and absence of 13 weeks or greater with the approval of the appointing authority, and shall be regarded as a new employee, subject to all of the provisions of rules and regulations of this Policy.

Retirees of the Local Government Employees Retirement System (LGERS) who wish to be rehired shall follow the laws governing the return to work for all retirees of the North Carolina Retirement Systems. The return-to-work laws apply to all members of the Local Governmental Employees' Retirement System (LGERS). Retirees who decide to return to work for an employer under the Retirement System, should familiarize themselves with the laws governing return-to-work. Retirees are responsible for knowing and abiding by the return-to-work laws that apply to their particular situation. Retirees should be aware that violation of the return-to-work laws could result in personal financial penalties and possible loss of retirement benefits.

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Section 1. Disciplinary Action for Unsatisfactory Job Performance

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. The Human Resources Director will be available to assist all parties with the procedures in taking or responding to disciplinary actions. All cases of disciplinary suspension, demotion, or dismissal must be approved by the County Manager or Hiring Authority prior to giving final notice to the employee.

Section 2. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Department Head or County Manager.

Examples of unsatisfactory job performance include, but are not limited to, the following:

- a. Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- b. Careless, negligent or improper use of County property or equipment;
- c. Physical or mental incapacity to perform duties after reasonable accommodation;
- d. Discourteous treatment of the public or other employees;
- e. Absence without approved leave;
- f. Improper use of leave privileges;
- g. Pattern of failure to report for duty at the assigned time and place;
- h. Failure to complete work within time frames established in work plan or work standards;
- i. Failure to meet work standards.
- j. Failure to follow the chain of command to address work-related issues or
- k. Failure to maintain certifications required by the job.

Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor should meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions

should be noted in the employee's file by the supervisor. An employee whose job performance is unsatisfactory over a period of time should normally receive at least two documented warnings, one of which may be in the final written warning, from the supervisor before disciplinary action resulting in dismissal is taken by the County Manager or Hiring Authority. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set.

If the employee's performance continues to be unsatisfactory, then the supervisor should use the following disciplinary steps:

- a. A final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
- b. If performance does not improve, a written recommendation should be sent to the Department Head, Human Resource Officer and County Manager or Hiring Authority for disciplinary action such as suspension, demotion, or dismissal. Suspension and/or demotion are not required steps prior to dismissal.

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three days (24 hours) for nonexempt employees. Suspensions for exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status. Under FLSA suspensions of less than a week are authorized for major safety violations or infractions of workplace conduct rules (detrimental personal conduct).

Demotions are appropriate when an employee has demonstrated inability to perform successfully in the current job, but shows promise and commitment to performing successfully in a lower level job. If no other options are available, dismissal is appropriate.

If after suspension or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed. Dismissals are appropriate when the employee has shown he/she is unwilling or unable to perform work in a manner that meets the work and conduct standards of the County.

Section 4. Disciplinary Action for Detrimental Personal Conduct

Normally, the Department Head or County Manager would place the employee on non-disciplinary suspension prior to making a disciplinary determination to allow time to gather facts regarding the detrimental personal conduct and make a determination regarding the severity of the conduct.

With the recommendation of the Human Resources Director and approval of the County Manager or Hiring Authority, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to County service in order to

- a) avoid undue disruption of work;
- b) to protect the safety of persons or property; or
- c) for other serious reasons.

Section 5. Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the County may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of the government may be or have been violated.

Examples of detrimental personal conduct include, but are not limited to, the following:

- a. Fraud or theft;
- b. Conviction of a felony or the entry of a plea of nolo contendere thereto;
- c. Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- d. Willful misuse or gross negligence in the handling of County funds or personal use of equipment or supplies;
- e. Willful or wanton damage or destruction to property;
- f. Willful or wanton acts that endanger the lives and property of others;
- g. Possession of unauthorized firearms or other lethal weapons on the job;
- h. Brutality in the performance of duties;
- i. Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- j. Engaging in incompatible employment or serving a conflicting interest;
- k. Request or acceptance of gifts in exchange for favors or influence;
- l. Engaging in political activity prohibited by this Policy;
- m. Harassment of an employee and/or the public on the basis of sex or any other protected class status; or
- n. Harassment of an employee or the public with threatening or obscene language and/or gestures or any incidence of workplace violence
- o. Stated refusal to perform assigned duties or flagrant violation of work rules and regulations, or serious malfeasance of work.

Section 6. Pre-Dismissal Conference

Before dismissal action is taken, whether for detrimental personal conduct unsatisfactory job performance of duties, the County Manager or Hiring Authority, the Human Resource Officer or a Department Head will conduct a pre-dismissal conference. At this conference, the employee may present any response to the proposed dismissal to the County Manager or Hiring Authority, Human

Resource Officer or Department Head. The County Manager or Hiring Authority, Human Resource Officer or Department Head will consider the employee's response, if any, to the proposed dismissal, and will, within three working days following the pre-dismissal conference, notify the employee in writing of the final decision. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights under the County's grievance procedure.

Section 7. Investigatory Leave

During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, when suspension would, in the opinion of the supervisor, be in the best interest of the County, the County Manager, Department Head or supervisor may suspend the employee for part or all of the duration of the proceedings as a non-disciplinary action. In such cases, the County may:

- a) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or
- b) Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

If the employee is reinstated following the suspension such employee shall not lose any compensation or benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued annual leave and sick leave shall be maintained during the period of suspension.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 1. Policy

It is the policy of the County to provide a just and prompt procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair. The Human Resources Director will be available to assist all parties in all departments with the procedures during the grievance process.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this Policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from County service.

Section 2. Grievance Defined

A grievance is a claim or complaint by an employee based upon an event or condition, which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions. Former employees may appeal their termination from County employment within required time frames.

Section 3. Purposes of the Grievance Procedure

The purposes of the grievance procedure include, but are not limited to:

1. Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
2. Encouraging employees to express themselves about the conditions of work which affect them as employees;
3. Promoting better understanding of policies, practices, and procedures which affect employees;
4. Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
5. Increasing the sense of responsibility exercised by supervisors in dealing with their employees.
6. Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible in the chain of command; and
7. Creating a work environment free of continuing conflicts, disagreements, and negative

feelings about the County or its leaders, thus freeing up employee motivation, productivity, and creativity.

Section 4. Grievance Procedure

When an employee or group of employees has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion or dismissal must be approved by the Department Head or County Manager or Appointing Authority before the decision becomes effective.

Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the Human Resources Office as a resource to help resolve the grievance.

In some instances, if both parties agree, and with the approval of the County Manager, the parties may request mediation assistance from a neutral party to assist in identifying mutually agreeable solutions or understandings. Mediators are typically volunteers or professionals with conflict resolution skills. Mediation may be used at any step in the process if agreed to by the parties and with the approval of the County Manager or Hiring Authority.

Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the supervisor in writing. The grievance must be presented within fifteen calendar days of the event or within fifteen calendar days of learning of the event or condition. The supervisor shall respond to the grievance within ten calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the County in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

The response from each supervisory level for each step in the formal grievance process shall be in writing and signed and dated by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Human Resources Director.

Step 2. If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal, in writing, to the Department Head within ten calendar days after receipt of the response from Step 1. The Department Head shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal.

Step 3. (For general County employees only) If the grievance is not resolved to the satisfaction of the employee by the Department Head, the employee may appeal, in writing, to the County Manager or Hiring Authority within ten calendar days after receipt of the response from Step 2. The County Manager or Hiring Authority shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal. The County Manager's or Hiring Authority's decision is final. However, the County Manager should inform the County Board of Commissioners of any possible legal actions. Any appeal of this decision must be made through the North Carolina Court

System.

Special Note: The Sheriff and Register of Deeds, will carry out the responsibilities designated as the County Manager in their respective offices.

Step 3. (For employees only in the Health and Social Services Departments) If the grievance is not resolved to the satisfaction of the employee by the Department Head, the employee may appeal the decision to the North Carolina Office of Administrative Hearings (OAH) within thirty calendar days of the receipt of the Department Head's decision. The findings of the OAH will be forwarded to the State Personnel Commission. The decision of the State Personnel Commission shall be advisory only and the Department Head shall have the final decision. Discrimination cases may be appealed directly to the OAH.

Department Heads. In the case of Department Heads or other employees where the County Manager or Hiring Authority has been significantly involved in determining disciplinary action, including dismissal, the County may wish to obtain a neutral outside party to either:

- a. provide mediation between the grieving Department Head and the County Manager or Hiring Authority (see definition of mediation in informal resolution above); or
- b. consider the appeal and make recommendations back to the County Manager or Hiring Authority concerning the appeal. Such parties might consist of human resource professionals, attorneys trained in mediation, mediators, or other parties appropriate to the situation.

The County Manager's or Hiring Authority's decision regarding the disposition of the grievance shall be the final. The County Manager will notify the Board of Commissioners of any impending legal action.

Section 5. Role of the Human Resources Director

Throughout the grievance procedure, the roles of the Human Resources Director shall be as follows:

- a. To advise parties (including employee, supervisors, and County Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
- b. To be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents.
- c. To give notices to parties concerning timetables of the process, etc.;
- d. To assist employees and supervisors in drafting statements; and
- e. To facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
- f. To help locate mediation or other resources as needed.

The Human Resources Director shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.

Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or disability, veteran status, or genetic information,) he or she has the right to appeal such action using the grievance procedure outlined in this policy. While such persons are encouraged to use the grievance procedure, they shall have the right to appeal directly to the Human Resource Officer and the County Manager.

Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action.

ARTICLE XI. PERSONNEL RECORDS AND REPORTS

Section 1. Public Information

In compliance with GS 153A-98, the following information with respect to each County employee is a matter of public record:

- 1) name;
- 2) age;
- 3) date of original employment or appointment to the service;
- 4) the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the County has the written contract or a record of the oral contract in its possession;
- 5) current position
- 6) title;
- 7) current salary;
- 8) date and amount of each increase or decrease in salary with the County;
- 9) date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification with the County;
- 10) date and general description of the reasons for each promotion with the County;
- 11) date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the County. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the County setting forth the specific acts or omissions that are the basis of the dismissal;
- 12) and the office to which the employee is currently assigned.

Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the County may adopt. An individual examining a personnel record may copy the information. The cost of photocopying may be assessed to the individual who requests the copies.

For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, deferred and all other forms of compensation paid by the County.

A record will be maintained of all disclosures of personnel records, except for authorized personnel processing personnel actions or supervisors in the line of authority of the employee. Upon request, the records of disclosure will be made available to the employee to whom it pertains.

Section 2. Access to Confidential Records

All information contained in a County employee's personnel file, other than the information mentioned above is confidential and shall be open to inspection only in the following instances:

The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.

- a. A licensed physician designated in writing by the employee may examine the employee's medical record.
- b. A County employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- c. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- d. An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the County Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability.
- e. However, the official having custody of the personnel records may release the name, Address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- f. An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- g. The County Manager, with the concurrence of the County Board, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a County employee, and the reasons for that action. Before releasing that information, the County Manager shall determine that the release is essential to maintaining the level and quality of County services. The written determination shall be retained in the County Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

Section 3. Personnel Actions

The Human Resources Director, with the approval of the County Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. The official personnel files are those which are maintained by the Human Resources Office. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents. Any documents not contained in these files or maintained as designated by the Human Resources Director are not an official part of the personnel file.

Section 4. Records of Former Employees

The provisions for access to records apply to former employees as they apply to present employees.

Section 5. Remedies of Employees Objecting to Material in File

An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. In accordance with established grievance procedures, the employee may seek to have a record of upheld grievances relating to personnel records placed in the file and/or may seek removal of material in the file contingent upon approval of the North Carolina Department of Cultural Resources.

Section 6. Penalties for Permitting Access to Confidential Records

Section 153A-98 of the General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the General Statutes.

Section 7. Examining and/or Copying Confidential Material without Authorization

Section 153A-98 of the General Statutes of North Carolina provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the General Statutes.

Section 8. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with GS 121.5 (b), without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Chapter 132.3 of the General Statutes.

ARTICLE XII. IMPLEMENTATION OF POLICIES

Section 1. Conflicting Policies Repealed

All policies, ordinances, or resolutions that conflict with the provisions of these policies are hereby repealed.

Section 2. Separability

If any provision of these policies or any rule, regulation, or order thereunder of the application of such provision to any person or circumstances is held invalid, the remainder of these policies and the application of such remaining provisions of these policies of such rules, regulations, or orders to persons or circumstances other than those held invalid will not be affected thereby.

Section 3. Effective Date

These policies shall become effective on a date approved by the County Board of Commissioners.

Section 4. Amendments

This policy may be amended by action of the Board of Commissioners and by resolution appropriately approved. Notice of any suggested amendment to the policy, or any portion thereof, shall be provided to employees and opportunities for employee comment and reaction shall be made available prior to the amendments going to the Commissioners for action. Proposed amendments should be posted on bulletin boards in all employee work locations and/or in employee newsletters. Any revisions or amendments adopted in conformance with this procedure shall become effective as of the date of such adoption.



CALDWELL COUNTY

PERSONNEL POLICY

REVISED ON AUGUST 14, 2023