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EMERY COUNTY
PERSONNEL POLICIES AND PROCEDURES
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EMERY COUNTY
PERSONNEL POLICIES AND PROCEDURES

SECTION 1 - ADMINISTRATION

1.1 Applicability

1.1.a These rules apply to all departments and employees of Emery County.

1.2 Establish Office of Personnel Management and Career Service Council

1.2.a Within Emery County, there shall be created an Office of Personnel Management administered by a Director of Personnel Management appointed by the County Commission. The County Commission may designate a current career service employee as the Director. The Director shall be accountable to the governing body for his/her performance in office. The position of Director shall be a career service position.

1.3 Role of Office of Personnel Management

1.3.a As staff support to the County Commission in the management of human resources, the office of Personnel Management is responsible for the following:

1.3.a.a Establishment of, and monitoring compliance with policies, rules, standards and procedures governing employment with Emery County.

1.3.a.b Comprehensive personnel support to all departments of Emery County.

1.3.a.c Approval of all personnel actions taken by departments

1.3.a.d Duties as outlined in the County Personnel Management Act (Chapter 33 of Title 17 UCA 1953).

1.4 Role of Career Service Council

1.4.a There shall be in Emery County a three-member bipartisan Career Service Council appointed by the County Commission. The members of the Council shall be persons in sympathy with the application of merit principles to public employment. The Council shall hear appeals not resolved at lower levels in the cases of employees suspended, transferred, demoted or dismissed as well as other grievances not resolved by the grievance procedure at the departmental level; it shall review written appeals in cases of applicants rejected for examination; and shall report final binding appeals decisions, in writing, to the County

Commission. However, a right of appeal to the district court under the provisions of the Utah rules of Civil Procedure shall not be abridged.

1.4.b Each Council member shall serve a term of three years to expire on June 30, three years after the date of his/her appointment. An appointment to fill a vacancy on the Council shall be for only the unexpired term of the appointee's successor. Each member of the Council shall hold office until his/her successor is appointed and confirmed. A member of the Council may be removed by the County Commission for cause, after having been given a copy of the charges against him/her and an opportunity to be heard publicly on the charges before the County Commission. Adequate annual appropriations and clerical assistance from the Office of Personnel Management shall be made available to enable the Council to effectively carry out its duties under these rules and regulations.

1.4.c Members of the Council shall be United States Citizens and be actual bona fide residents of the State of Utah and Emery County for a period of not less than one (1) year preceding the date of appointment and a member may not hold another government office or be employed by the County.

1.4.d The Council shall elect one of its members as chairperson, and two or more members of the Council shall constitute a quorum necessary for carrying on the business and activity of the Council.

1.4.e The Council shall have subpoena power to compel attendance of witnesses, and to authorize witnesses fees where it deems appropriate, to be paid at the same rate as in justice courts.

1.4.f Council members shall receive compensation at the rate of \$50 per diem for each day or part thereof they are in session.

1.5 Compliance Responsibility

1.5.a Individuals are employed by Emery County but directed in their assignments by departments, which have the responsibility to manage their own human resources in compliance with these rules.

1.5.b The County Commission may authorize special exceptions to provisions of these rules when permitted by Law and when justified by unique and compelling circumstances in a department.

1.5.c Department personnel records, practices, policies and procedures are subject to audit by the Office of Personnel Management.

1.5.d In cases of serious non-compliance, the County Commission may find the responsible Department Head ineligible for salary payment until such non-compliance has been corrected.

1.6 Records

1.6.a The official personnel record of each employee shall be kept in the Office of Personnel Management and shall contain, as appropriate:

1.6.a.a Record of application for employment and/or resume.

1.6.a.b Reference to transcripts of academic preparation.

1.6.a.c Performance evaluation ratings.

1.6.a.d References to any formal reprimand, corrective action or commendation filed in the individual's personnel record (any relevant background information may be kept by the department).

1.6.a.e Records of action affecting employee salary, status or standing. Records shall be kept three (3) years. Following the 3-year period, these records may be discarded.

1.6.b An individual personnel record may be kept in the department to contain originals of items recorded in the official record and other materials as required by department management. Any such individual record shall be considered a supplement to the official record and shall be subject to the rules governing personnel records.

1.6.c The department, upon request, will supply the employee with a copy of any document it places in the employee's file.

1.6.d An employee has the right to review the contents of his/her personnel record in the Office of Personnel Director of the department as governed by law and may correct, amend, or challenge any information in the official personnel record.

1.6.e If a disciplinary action is rescinded or disapproved upon appeal, forms, documents and records pertaining to the case shall be removed from the personnel record.

1.6.f Personnel records shall be private data and available for review only to the employee and users authorized by law or as determined by the Personnel Director to have a legitimate "need to know". A record of those reviewing personnel records and information shall be maintained together with the reasons for access to the records.

1.6.g Requests for confirmation of employment, dates of employment, position, salary range (other than withholding information) and directory information will be treated as public data.

1.7 Violations of County Rules and Regulations

1.7.a Any person who willfully violates any provision of Section 17-33-1 through 17-33-14 of the Utah Code Annotated of any of the Emery County Personnel Policies and Procedures promulgated under it shall be guilty of a Class B misdemeanor and shall be referred to the Emery County Attorney for prosecution.

1.7.b Any person who has been adjudged guilty of violating any of the provisions of the County Personnel Management Act (17-33-1 through 17-33-14 UCA) of the Emery County Personnel Policies and Procedures promulgated under it shall, in addition to the sanctions of paragraph 1.7.a above, for a period of five (5) years shall be ineligible for appointment to or employment in a position in the County service, and if he/she is an officer or employee of the County, shall forfeit his/her office position.

1.7.c If any provision of these Policies and Procedures or the application thereof is found to be in conflict with any state or federal law, the conflicting part is hereby declared inoperative to the extent of the conflict, but such conflict shall not affect the operation of the remainder of these Policies and Procedures or any of its applications.

1.8 Intent of Policy

1.8.a These policies and procedures do not constitute a contract between Emery County and its employees, and should not be construed as such. Said policies and procedures, any working conditions, any compensation plan, wages and benefits, may be changed or amended at any time by the Board of County Commissioners without having to consult employees and without employee agreement.

1.8.b Employment by the county is not for a definite term unless the Board of County Commissioners enters into a written agreement for a specified period of employment.

1.8.c Employment by the county is subject to and shall be governed by these policies and procedures and by all subsequent amendments hereto as deemed necessary by the Board of County Commissioners. The Board of Commissioners may authorize exceptions to these policies when determined to be in the best interests of the county.

1.8.d Employment of any exempt employee by the County can be terminated at any time, with or without cause, and for any non-exempt employee with or without cause while working under probationary status. (Res. 11-15-89C)

SECTION 2 - EQUAL EMPLOYMENT OPPORTUNITY STATEMENT

- 2.1 It is the policy of Emery County to comply with the guidance set forth in Title VII of the Civil Rights Act of 1964 according to Public Law 92-261 approved March 24, 1972.
- 2.2 Emery County will assure that no discrimination will take place against any person in job classification, career or employment development, upward mobility, job specifications, recruitment, selection, or placement on the basis of race, color, religion, national origin, disability, sex, or age. Other elements of equal employment opportunities include training and education, personnel actions, and work environment. Emery County will continue to recruit the best qualified applicant for the job while never wavering from its responsibility to be fair and equitable in keeping with the spirit of equal employment opportunities.
- 2.3 Personnel will be compensated on the basis of equal pay for equal work. No individual will receive reduced compensation for equal work on the basis of race, color, religion, sex, or national origin.

SECTION 3 - ANTI-NEPOTISM

- 3.1 It shall be the policy of Emery County to comply entirely with the anti-nepotism section as set forth in UCA 52-3-1, et seq., as amended from time to time. (Res. 4-3-91A)

SECTION 4 - CLASSIFICATION/RECLASSIFICATION

- 4.1 Classification
 - 4.1.a All County positions are comparatively evaluated on a set of common factors and assigned a classification and grade encompassing a specific salary range on the compensation plan. All career service employees hired on a regular basis will receive compensation according to the classification of the position for which they are hired.
- 4.2 Reclassification
 - 4.2.a If the duties and responsibilities of a position change significantly, the Department Head should submit a request for reclassification to the Personnel Director. The Personnel Director shall perform an analysis of the position and make the final recommendation for reclassification to the County Commission.
- 4.3 No employee shall be removed from employment by means of reclassification or transfer of the job function where this action is primarily for the purpose of dismissing the employee.
- 4.4 If the circumstance should arise requiring the abolition of a position, this shall be treated as a reduction-in-force.

- 4.5 In cases of inadequate performance, Section 14 - Disciplinary Procedures shall apply.

SECTION 5 - HIRING/REHIRING FOR NEW AND VACANT POSITIONS

- 5.1 Recruiting, selection and advancing employees in the County career service shall be on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment, subject to the procedures set forth herein. Nothing herein shall be construed to prevent a Department Head from recruiting a person with higher skills than specified in the "class specification" section of the Emery County Personnel Policy. Department Heads shall not, however, be allowed to accept a person with lower skills than provided in said specification section.
- 5.2 The Personnel Director is available to assist departments learn appropriate recruiting, screening and examination techniques. Department Heads may participate as subject matter experts and shall make final selection and appointments from ranked lists of applicants for the career service.
- 5.3 Procedures

5.3.a When a career service position opens in a department the Department Head or Elected Official shall obtain concurrence from the supervising County Commission to conduct a recruitment effort). (This does not require approval in a public commission meeting.) Following approval for a career service position a personnel requisition shall be submitted to the Office of the Personnel Director. Notification shall be accompanied by the position title and a description of the duties, responsibilities and required knowledge and skills, as contained in the "class specifications" section of the personnel policy. Minimum qualifications of education and experience shall be outlined for new positions in the same format as exists in the "class specifications" section of the Emery County Personnel Policy. (Res.5-10-87 However when the need arises to create a new career service position the approval to start the recruitment process will be presented by the Personnel Director in a public commission meeting. A personnel requisition form shall be submitted to the Office of the Personnel Director prior to the commission meeting the recruitment effort is approved.

5.3.b The Personnel Director shall post, in house, the opening for a period of not less than five (5) days. The posting may be directed to Emery County Employees only; placement of the posting where all employees will be made aware of the vacancy. However, posting of the vacancy may be directed to both Emery County Employees and the public concurrently.

5.3.c The appointing authority shall provide, in all cases where practicable, that vacancies shall be filled by promotion on the basis of the ascertained merit and qualifications, thus enhancing the County Career Service by providing upward mobility. Vacancies resulting from promotion, in relation to an approved

recruitment, shall be filled in the same manner as any other vacancy. Promotions are subject to requirement as stated in Section 7.3.

5.3.d An "interview panel" made up of the Personnel Director, Commissioner of the applicable department, and the responsible Department Head shall review no less than three (3) applicants and rate them in order of preference. Preference shall be determined by a consistent method of rating criteria: Education, experience, knowledge, skills and abilities. No less than three applicants shall be selected by preference for interview; unless recruitment for a vacancy is conducted "in-house", only, and less than three applicants apply. Upon completion of the selection of applicants, the Personnel Director shall schedule interviews. Resumes will only be accepted when there is a job opening.

5.3.e If the interview panel is justifiably unwilling to select an applicant from the initial applications, the Personnel Director may, at the discretion of the interview panel, proceed with a second recruitment process.

5.3.f The County Commissioner shall be deemed the "appropriate Department Head" for the hiring of all non-elected Department Heads.

5.3.g After the selection is made by the interview panel, the Personnel Director shall deliver the name of the recommended successful applicant to the Board of County Commissioners for final approval.

5.3.h At no time shall the successful applicant be informed of said decision until the Commission has given approval of the recommendation.

5.3.i Upon approval by the Commission, the Personnel Director shall contact the prospective employee and make a "job offer". If the job offer is accepted, the Personnel Director will request the new employee to contact the Department Head who will advise the new employee when to report for work.

5.3.j Each applicant selected for hiring shall be given a drug test prior to hiring. Any prospective employee who is found to be a user of an illegal drug or controlled substance, who uses a prescription drug without an authorized prescription, or who refuses drug screening test shall be disqualified.

5.3.k As a condition of hiring into a position requiring driving of either a County or personal motor vehicle, the candidate shall have had a valid drivers license for at least two years. The Personnel Office will verify their driving record with the Utah Drivers License Division. The job offer is contingent upon an acceptable driving record as set forth in the Subsection 5.3.k.a

5.3.k.a Driving Record Grading Criteria (most recent two year):

Number Violations	Number of at-fault accidents			
	0	1	2	3
0	Acceptable	Acceptable	Borderline	Poor
1	Acceptable	Acceptable	Poor	Poor
2	Acceptable	Borderline	Poor	Poor
3	Borderline	Poor	Poor	Poor
4	Poor	Poor	Poor	Poor
Any major violation	Poor	Poor	Poor	Poor

5.3.k.b Major violations include:

- (1) driving under the influence of alcohol or drugs;
- (2) failure to stop or report an accident;
- (3) reckless driving or engaging in a speed contest;
- (4) making a false accident report;
- (5) homicide, manslaughter or assault arising out of the use of a vehicle;
- (6) driving while license is denied, suspended or revoked; and
- (7) evading a police officer.

5.3.l In accordance with the American With Disabilities Act, a physical examination may be requested only after a job offer has been made. At that time, if the prospective employee fails to pass the physical examination based on the essential functions of the position, reasonable accommodation shall be made by the County. If reasonable accommodation is unreasonable, the prospective employee may be disqualified to fill the position. It is, however, the County's intent to make every effort to reasonably accommodate the disabled applicant. (Res. 2-2-94A)

5.3.m A position may be filled by transferring an employee from another position unless it is a new position then it must be advertised. Interdepartmental transfers must be approved by both departments affected as well as by the employee being considered for transfer. The director of personnel management and the Commissioners must be notified of such transfers

5.3.n On the first day of employment, the new employee shall report to the Office of Personnel Management. The Personnel Director shall conduct an orientation where policies, procedures, and forms required by law shall be reviewed and completed.

5.3.o In conformance with the Immigration Reform and Control Act of 1986, the Director of Personnel Management shall verify that all applicants for vacant positions or persons hired to fill vacant positions are authorized to work within the boundaries of the United States. The Director of Personnel Management shall verify employment eligibility and the identity of all new hires by examining documents such as a U.S. Passport, birth certificate, social security card, driver license, or alien identification. Employees must also attest in writing that they are authorized to work in the United States. Section 1 of the I-9 Form must be filled out the first day the new employee reports to work. Section 2 of the form must be completed within three business days after new employees begin work. I-9 Forms shall be kept separate from other personnel records and shall be made available to the Immigration and Naturalization Service or the Department of Labor as requested.

5.3.p The Personnel Director shall deliver to the Clerk/Auditor's Office the appropriate documentation required to place the new employee on payroll and to receive benefits.

5.3.q Preference in employment shall be given to **residents** and their dependents. Therefore, a duly qualified applicant for career service employment must be willing to relocate to Emery County for employment purposes unless there is no available pool of qualified applicants within the County from which to choose. The career service employee shall be required to remain an Emery County resident for the entire term of his/her employment. (Res. 8-7-91B)

5.4 Rehiring applicants who have previously been employed by the County

5.4.a An individual previously employed by the County may be considered for rehire and will reenter the County workforce at the entry grade and step for the position to be filled as specified in the County compensation plan. (Res. 2-2-94A)

5.4.b The rehired employee shall be subject to the same terms and conditions as the newly hired employee who has never worked for the County before. (Res. 2-2-94A)

5.4.c Prior years of service do not count for seniority but do count for experience when applying for a promotion. (Res. 2-2-94A)

SECTION 6 - EMPLOYMENT STATUS

6.1 All employees, officers, and other personnel not exempted here, who, prior to the effective date of these policies and procedures, have successfully completed the orientation period, shall be deemed to be fully qualified employees under the career service.

- 6.2 All employees, officers, and other personnel not exempted herein, who prior to the effective date of this act, have served continuously for a period of less than six (6) months shall be required to meet such standards as are prescribed by the policies and procedures before obtaining career service status and being deemed fully qualified employees under Emery County service.
- 6.3 Exempted Positions: The following types of positions have been designated as being exempt from the career service:
- 6.3.a Elected Officials.
 - 6.3.b Members of policy, advisory, review, and appeal boards, or similar bodies who do not perform administrative duties as individuals.
 - 6.3.c Attorneys serving as legal counsel.
 - 6.3.d Part-time professional health and related personnel.
 - 6.3.e Time-limited positions established for the purpose of conducting special projects.
- 6.4 The County Commission will, in conjunction with the Personnel Director, specify in writing these positions which fall under the exempt categories listed above. Exempt positions should be reviewed annually to determine whether or not their exempt status should be withdrawn based on changes of duties and related factors.
- 6.5 Employees Appointed Up To 90 Days:
- 6.5.a Appointments of up to 90 days may be made by the Elected Official/Department Head. Within one (1) month the County Commission shall approve the appointment in an open meeting.
 - 6.5.b Employees appointed under this section shall not qualify for regular benefits.
 - 6.5.c Employees appointed under this section shall not be eligible to make application for career service vacancies as County employees.
 - 6.5.d Employees appointed for up to 90 days will be sent to the Personnel Office to complete enrollment forms. (Res.7-6-94A)
- 6.6 Employees Hired Up To Nine (9) Months:
- 6.6.a The initial hiring of employees under this section shall follow the same procedure as outlined in Section 5 - Hiring/Rehiring for New and Vacant

Positions, Paragraph 5.3 - Procedures. The recommended successful applicant shall be presented to the County Commission for approval

6.6.b Employees initially hired or reappointed under this section shall be made within one budget year and shall not exceed nine-(9) months within that year.

6.6.c Reappointments under this section may be made by the Elected Official/Department Head in agreement with the Commissioner assigned to the department. Said reappointment shall be approved at the next Commission Meeting by the County Commission.

6.6.d Reappointments under this section shall be preceded by at least a 30-day break in assignment before another reappointment may occur.

6.6.e Employees hired and reappointed under this section shall not qualify for regular benefits.

6.6.f Newly hired and reappointed employees will be sent to the Personnel Office to complete enrollment forms. (Res. 7-6-94A)

6.7 Career Service

6.7.a If an employee has satisfactorily met the requirements for employment and successfully completed the orientation period, he/she becomes a career service employee and is eligible for all of the benefits of career service County employees.

6.8 Orientation Employees

6.8.a All new employees are required to serve a six-month orientation period. This period is designed to acquaint the new employee with his/her position and allow the supervisor to measure fairly the employee's ability and aptitude for the job. If an employee's performance is inadequate, he/she may be terminated at any time during this period. (Res. 2-2-94A)

6.8.b All promoted employees are required to serve a three month orientation period. This period is designed to acquaint the promoted employee with his/her new responsibilities and allow the supervisor to measure fairly the employee's ability and aptitude for the new position. If an employee's performance is inadequate, he/she may be demoted to his/her former position any time during this period. Nothing herein shall be deemed to delay the promoted employee's receiving the higher compensation for the promoted position at the beginning of the orientation period. In the event the employee is found to perform inadequately, and is demoted to his/her former position, the employee's compensation shall return to the former level immediately upon the demotion. (Res. 12-18-87)

6.9 Part-time Employees

6.9.a Employees who work less than twenty (20) hours each week shall be considered part-time employees and shall not qualify for regular benefits.

6.10 Regular Part-time Employees

6.10.a Employees working 20-39 hours each week on a continuous basis shall be considered regular part-time. Subject to other limiting provisions in this policy, such employees shall receive all other benefits on a prorated basis. Such employees shall have a career service status. (Res. 11-21-00A)

6.11 All employees of the County, regardless of status, will be covered under the Workers' Compensation program.

6.12 Project with Time Limited Funding

6.12.a When projects with time limited funding have provisions to hire employees, it is the responsibility of the Elected Official/Department Head to coordinate the proposal with the Commissioner responsible for the department and the Personnel Director.

6.12.b Appointments to projects with time limited funding may be made by the Elected Official/Department Head.

6.12.c The County Commission shall approve the hiring prior to the individual beginning work.

6.12.d Employees appointed under this section shall not qualify for regular benefits.

6.12.e Employees appointed under this section shall not be eligible to make application for career service vacancies as a county employee.

6.12.f Employees working on projects with time limited funding are "at will" as described in Section 1, paragraph 1.8.d of the Emery County Personnel Policies and Procedures.

6.12.g Employment depends on available funding.

6.12.h If new funding sources are found to continue work on an original project, the review and approval process to hire new employees or extend employment of the incumbent employees shall begin again.

SECTION 7 - TRANSFER, REASSIGNMENT AND PROMOTION

7.1 Transfers

7.1.a A transfer is defined as a move from one department to another, and should not be confused with the managerial function of moving personnel from one division or office to another within the same department by promotion, demotion, or reassignment.

7.1.b Transfers must be cleared with both involved Department Heads and coordinated by the Personnel Director's Office. A transferring employee must qualify for the job to which he/she is transferring. Department Heads are not to solicit career employees from another department for any reason other than to mutually benefit both the employee and the County. A transferred employee shall be required to serve a six-month orientation period; shall retain all accumulated sick and annual leave and will be allowed to use such accumulated time during the six-month orientation period. (Res. 2-15-89)

7.2 Reassignment

7.2.a A reassignment is defined as moving an employee for proper classification, for administrative or reasons other than demotion or reclassification, from a position in one class to a position in another class having a lower entrance salary.

7.2.b Employees who are reassigned shall be paid at the same salary that they receive prior to reassignment if such salary coincides with the range of the class to which they are assigned. If such salary exceeds the maximum for the range for the class to which they are reassigned, they shall receive the maximum for the class, or the "red circle rate" may apply.

7.3 Promotion

7.3.a A promotion is defined as a change in job title and/or grade recognizing increased capacity and responsibility of an employee from a position in one class to a position in another class having a higher entrance salary.

7.3.b An employee receiving a promotion shall be placed on the new grade in the classification and shall receive at least a three (3%) increase.

7.3.c Selection will be based on knowledge, skills, and abilities. Seniority will not be the primary factor in promotion, but will be equally considered with other qualifications. This section is subject to the rehire policy, Section 5.4.

7.3.d Promotions are deemed an enhancement to county career service by providing upward mobility. It is the prerogative of a Department Head to determine when a promotion is in the best interest of the department and to

identify the employee to receive the promotion. It is then the responsibility of the Department Head to coordinate the proposed promotion with the Commissioner responsible for the department and the Personnel Director. The County Commission will approve or disapprove the promotion.

SECTION 8 - COMPENSATION

8.1 Policy

Compensation for county employees shall be equitable and competitive with the market and in accord with the county's ability to pay. The compensation plan and assignment of employees to positions and pay rates shall be recommended by the Personnel Director for approval by the Board of County Commissioners.

The County Commission shall make the final determination as to the number and types of positions allocated to each department. (Res. 3-18-92C)

8.1.a. Employees exempt from Fair Labor Standards Act (FLSA) requirements will be paid a salary based upon a monthly rate which is assigned to the county pay plan according to approved job classifications. (Res. 3-18-92C)

8.1.b. Employees not exempt from Fair Labor Standards Act (FLSA) requirements will be paid an hourly rate which is assigned to the county pay plan according to approved job classifications. (Res. 3-18-92C)

8.2 General Wage/Salary Adjustments:

It is the intent of the county to consider prevailing practices related to cost of living and market trends in establishing wages and salaries which constitute the formal pay schedule. On all occasions the amount of the rate changes will ultimately be based upon the anticipated effect(s) upon the county budget. Final determination and any changes to the salary scale will be made by the Personnel Director based upon final commission approval. Where general, across-the-board adjustments are approved, the change will be effective on a date determined and approved by the County Commission. General adjustments are separate and distinct from performance recognition bonuses and longevity increases. General adjustments may affect the pay scale only, thus shifting the pay of all employees in relation to the midpoint.

8.2.a Cost of living vs. market: Adjustments to the salary schedule may be determined periodically through analysis of market trends in comparison to cost-of-living. This may be done once per year and the county may utilize either market survey results or cost-of-living index data (federal) or a combination of both. All employees, regardless of employment status, except those being red circled (frozen) or in their orientation period, shall receive the benefits of such general COLA adjustments to the pay plan. If an employee successfully

completes their six (6) month orientation period any COLA adjustments given during that time frame will be awarded to the employee upon completion, along with 3% wage increase.

8.2.b. In determining the total compensation value of the position, benefits must be considered. Base salary plus cost of benefits equals' total compensation. In comparing benefit packages provided in the labor market, the county may evaluate both level and cost of benefits or other factors as deemed appropriate.

8.3 Hourly Rates

Temporary full time and all part time, seasonal and emergency employees shall be paid at an hourly rate no higher than that which is established for the position classification and may be paid at a lesser rate as recommended by the Department Head or Elected Official.

8.4. Initial Appointment:

All initial appointments to positions assigned to salary ranges on the compensation plan shall normally be 3% below the minimum rate of the salary range. Exceptions may be allowed if: (1) an employee cannot be recruited for the position at the beginning rate, or (2) the qualifications of the individual selected for the position exceed the minimum requirements and the individual can be expected to perform at a level equal to that of other individuals currently being paid at the same rate. In determining placement on the pay plan under exception two, a newly hired employee may receive one half of one percent for every two years of directly related experience which exceeds the number of years required to meet the minimum qualifications, except that initial placement may not exceed the midpoint of the pay range. Current county employees who are awarded new jobs through the recruitment process may receive one half of one percent for each year of directly related experience which exceeds the number of years required to meet the minimum qualifications, except that initial placement may exceed the midpoint of the pay range if the employee has over five years of experience with the county. The Personnel Director shall monitor recommended starting rates for compliance to policy and must inform the County Commissioners of appointments which are recommended to be made at rates higher than the midpoint.

8.5. Orientation Period

All newly hired employees of the county are required to complete a six month orientation period. During the six month period the supervisor shall conduct a formal performance appraisal towards the end of the six months. At the conclusion of this orientation period the employee will be eligible for up to a three percent (3%) increase, which will bring them up to the minimum, provided he/she is retained as an employee and has satisfactory performance reviews from the

immediate supervisor, Department Head, or Elected Official. Successful completion of the orientation period results in the award of "Career Service" status to the employee.

8.5.a Newly hired employees shall accrue sick and vacation time; however, only sick time is available for use during the orientation period. Vacation time will not be available until after the orientation period.

8.5.b. Newly hired employees shall be routinely advised of performance. If it appears to be unsatisfactory, the Department Head shall advise the Personnel Director and together they will attempt to assist the orienting employee to improve the poor performance. If improvement does not occur during this orientation period, termination shall occur; a terminated newly hired employee will have no vested interest in sick or vacation time accrued and will not receive compensation for said time.

8.6 Promotion Orientation Period

Upon being promoted to a position in a higher classification, regular employees are assigned a review date not to exceed six months from the date of promotion. On the date of promotion the employee will be eligible for a three percent (3%) increase on the salary range. The employee shall retain the increase and the promotion, provided he/she demonstrates the expected level of competence required to perform the higher level position and receives a satisfactory performance review from the immediate supervisor, Department Head, or Elected Official. The amount of the pay increase may exceed 3% if adjusting to the minimum for the new pay range exceeds the 3% rule.

8.7 Pay Progression

Progression through the various pay grades within the salary and wage scale shall be based upon the recommendation of the Department Head, Elected Official, and Personnel Director with final approval given by the Board of Commissioners. In making recommendations for pay progression, the Department Head shall consider compliance with county policies and procedures, performance, level of competence and job knowledge.

8.7.a. Minimum to Midpoint Progression: Upon completion of the orientation period and receiving regular status with a pay adjustment, employees shall be assigned a new annual performance review date. It is the objective of the county that employees acquire job skills which are considered full performance level within their job classification by the time they arrive at midpoint of the pay range of the job classification in which they are hired to perform. It is the responsibility of the Department Head and immediate supervisor to identify the essential skills, competence, and quality of work which will satisfy the "full performance"

requirement. "Full performance" is generally achieved when the employee can perform virtually all aspects of the position's essential functions without supervision and with minimal errors. Employees, in conjunction with supervisors shall develop a performance plan based upon achieving full performance competence. Full performance (or journey level for trades and crafts) should be achievable in four to five years. Therefore, employees who progress at a normal rate **may be recommended** for increases of up to 3%. Employees who progress more slowly **may be recommended** for increases of less than 3%. Employees who progress more rapidly **may be recommended** for increases of up to 6%. Prior to the annual review date the supervisor shall conduct a performance review and prepare a written recommendation to the Personnel Director. Initiation of a request to increase pay lies solely within the discretion of the Department Head or Elected Official and is not a vested right of any employee. Such requests are normally considered annually in conjunction with the budget process.

8.7.b. Midpoint to maximum Progression: Compensation at the midpoint is considered market competitive. In order to be considered for increases beyond the midpoint, two conditions must be met: First, the employee must have completed ten years of employment with the county; and second, the employee must receive at least a standard rating on their annual performance evaluation. Each employee who meets this requirement may receive a longevity increase, up to the maximum of the pay range based upon the scale below. Upon achieving the maximum, the employee shall still be eligible for any general increase or adjustment to the pay plan (i.e., market, COLA, etc.) and for consideration for performance incentives.

26 plus full years	3% increase
21 – 25 full years	3% increase
16 – 20 full years	3% increase
11 – 15 full years	1.5 % increase

8.8 Performance/Incentive Awards

In order to promote exceptional or outstanding services and recognize those occasions where services are rendered, emergencies responded to, or proficiencies demonstrated which are beyond the normal occurrence or expectation of the job; it is the position of the county to reward such individual or group contributions. These awards shall be a one-time recognition, in that they are not added to the regular or base pay of the recipient(s).

8.8.a. Criteria

Monetary and non-monetary awards may be given for:

8.8.a.a. Ways to increase office efficiencies. If there is a process in the normal routine of the work place that is time consuming, a waste of one's time, repetitive, or a burden on the budget, there may be a means for improvement. This is a criterion where creative ideas improve

departmental efficiency or effectiveness or eliminate difficulties.

8.8.a.b. Exemplary performance on special projects. An employee may be given a special project. A great deal of effort and research may go into the project. The project may benefit the department or county in some way.

8.8.a.c. Exemplary performance on special group projects. A group of individuals may be given a difficult task to perform. The team may work together to complete the difficult task in a timely and effective manner which benefits the department, county or general public.

8.8.a.d. Cost Savings. An employee may suggest a procedure that will save costs to the department or county. Similarly, an employee may suggest a procedure for generating revenue.

8.8.a.e. The exercise of leadership and/or initiative beyond that normally expected in the individuals regular assignments. An employee may be required to meet unusual deadlines or perform in emergency situations. An employee may demonstrate a willingness to accept and perform new assignments on a short term basis.

8.8.a.f. Performance which averts legal actions by or against the county.

8.8.a.g. Actions which brings favorable attention or recognition to the department or county.

8.8.a.h. Independent research and analysis initiated by an employee resulting in a contribution to the specific objectives or improved methods for delivering county services or conducting county operations.

8.8.b. Administrative Provisions

8.8.b.a. The commission may set aside annual award funds from the county budget.

8.8.b.b. The Department Head, Elected Official, Commissioner, may award an administrative day(s) off for exceptional performance.

8.8.c. Award Restrictions

8.8.c.a. The most recent performance evaluation must be at least standard in order for the Department Head, Elected Official, Commissioner, to award monetary recognition or paid administrative day(s) off.

8.8.c.b. Normally, no more than one incentive award may be given for the same or substantially similar act.

8.8.c.c. Incentive awards may be shared by a team of employees, provided all of the employees contribute to the project or act.

8.8.c.d. Employees shall not be considered for an incentive award for performance which is routinely expected for any duty or responsibility.

8.9. Red Circle Rate:

This provision refers to the rate of pay for an employee whose pay falls above the current maximum salary for the pay grade to which assigned, reclassified or transferred. Such employee(s) shall be placed on a salary freeze for a period not to exceed two (2) years and shall not be eligible for any general adjustment (COLA) given during the same period of time. During the two year period, if the employee's rate of pay falls back within the assigned pay range, the freeze shall be lifted. If at the end of two years, the employee's pay rate still falls above the maximum of the pay range, that employee's pay rate shall be reduced to the maximum of the assigned position. Employees affected by the red circle rate will be notified this possibility exists.

8.10 Demotion

When it becomes necessary to demote an employee for their inability or unwillingness to perform the assigned duties and essential functions of their position; that employee may also suffer a loss of pay. The amount of the pay reduction shall be determined on a case-by-case basis.

8.11. Termination Pay

When employees terminate, they shall be required to return all equipment and to clear all financial obligations involving their employment with the county prior to receiving their final paycheck. Any such obligation not cleared may be itemized and deducted from their final paycheck. Final paycheck, including compensation for all uncompensated hours worked, unused sick leave (prorated), annual leave, and overtime will be issued on the next regularly scheduled pay period following termination. (See 9.4.h.a.c.)

8.12. Pay Advancement

The county will not make pay advances to employees.

8.13 Severance Pay

When it becomes necessary to separate an employee from employment, and it is in the best interest of both the employee and the County to expedite such action;

that employee may be issued severance pay not to exceed four (4) weeks, in lieu of four weeks notice. Employees separated for cause shall not be eligible for severance pay.

8.14 Overtime

8.14.a It is Emery County's Policy to discourage the need to work overtime. Supervisory personnel should organize their department workload to avoid overtime hours as much as possible. Generally, overtime work must have proper approval of the Department Head. The administration and payment of overtime hours will be according to the provisions of the Fair Labor Standards Act (FLSA) as follows: (Res.3-18-92D)

8.14.b County law enforcement (Patrol, Dispatch, and Correctional) and other emergency service personnel (not including clerical) shall be paid at an hourly rate for 160 hours of work per twenty-eight (28) day work period. Hours worked beyond the 160, up to and including 171 shall be paid at the rate of straight time. All hours worked within a 28 day work period which exceed 171 hours shall be paid at the rate of one-and-one-half hours worked (1-1/2). Hours in excess of the 171 shall be paid the next regularly scheduled pay period. (Res. 3-18-92D)

8.14.c All other county employees shall be eligible for overtime payment for all hours worked in excess of the 40 hour work week (any consecutive 7 day work period) at the rate of one-and-one-half hours worked (1-1/2). Hours in excess of 40 shall be paid the next regularly scheduled pay period. (Res. 3-18-92D)

8.14.d The following hours will be used for the purpose of calculating overtime at time and one half for hourly employees: (Res. 3-18-92D)

8.14.d.a All hours worked within a 28 day work period which exceed 171 hours for law enforcement employees as defined in paragraph 8.3.b above;

8.14.d.b All hours worked in excess of the 40 hour work week (any consecutive 7 day work period) for other county employees.

8.14.d.c For all employees, hours taken off work for sick leave and hours taken off work for vacation leave shall be calculated as hours worked for the purpose of this section. (Res. 02-02-99)

8.14.d.d Overtime hours shall be recorded on the time card for the pay period in which they accrued.

8.15 Employees are encouraged to examine personal time accounting records periodically (examination will be permitted ten days after any pay period) to assure that personal records agree with those of the County Clerk/Auditor. The records of the County Clerk/Auditor shall stand as the official records of the County. (Res.3-18-92D)

8.16 It shall be the policy of Emery County to distribute overtime as equally as possible among eligible employees.

8.17 Education or Training

8.17.a When an employee voluntarily terminates his/her employment with the County within one year after receiving education or training paid for by the County, including tuition, transportation, lodging, meals, etc., he/she shall repay the County for the cost of such education or training. (Res. 1-5-88)

8.18 Emery County is not responsible for the loss of or damage to employees' personal properties brought into the work place or onto its premises unless said personal properties are considered essential to the performance of an employee's job functions and approval is given by the Department Head to do so.

8.18.a At the time the Department Head approves an employee's use of personal property, a description and an estimated replacement cost of the property shall be documented to be used in the event loss occurs. Upgrades and/or enhancement costs will be borne by the employee.

SECTION 9 - FRINGE BENEFITS

9.1 Group Hospital and Medical Plan and Life Insurance

9.1.a The County pays 100 percent of the premium for hospitalization, medical, dental, and surgical insurance for full time career service employees and shall pay a prorated portion of the premium for career service employees working 20 - 39 hours per week or more. Coverage shall be provided to employees' dependents whom such employees desire to be covered under said group policy. Life insurance for these employees and their dependents shall also be provided on the above described basis. (Res. 5-20-87)

9.2 Death Benefit

9.2.a In the event a county employee dies while on the job and that employee is covered by the county's health insurance benefit at the time of his/her death, the county will pay the premium for coverage under COBRA for a period not to exceed six (6) months from the date of death. COBRA requirements will prevail.

9.2.b In the event a county employee dies while off duty and that employee is covered by the county's health insurance benefit at the time of his/her death, the county will pay the premium for coverage under COBRA for a period not to exceed six (6) months from the date of death. COBRA requirements will prevail. (Res.12-15-98A)

9.3 Social Security, O.A.S.I.

9.3.a All paid employees of the County contribute to O.A.S.I., or Social Security program, as administered by the Federal Government. This is a system of retirement benefits based on equal employer and employee contributions to public insurance reserves.

9.4 Employment Retirement System

9.4.a All employees of the County, except part-time and temporary shall participate in the Utah State Retirement System.

9.4.b This retirement system provides a number of benefits to the employee. Due to the complexities of the plan, employees should refer to the Informational Handbook regarding any questions concerning the plan or contact the Utah Retirement office.

9.5 Leave

9.5.a Annual Leave

9.5.a.a Annual leave is intended to benefit the employee, and employees are encouraged to take annual leave in the year in which it is earned.

9.5.a.b Annual leave will accrue during an employee's orientation period of six (6) months, but may not be used during this period.

9.5.a.c All full time career service employees will accrue one (1) day annual leave per month of satisfactory service, periods of suspension excluded. Part time career service employees shall accrue prorated annual leave, subject to other limiting provisions in this policy.

9.5.a.d Longevity employees (those with over ten (10) cumulative years of County service) shall earn and accrue 1.25 days and (Those with over twenty (20) cumulative years of County service) shall earn and accrue 1.50 days of annual leave per month of satisfactory service, periods of suspension excluded. Part time longevity career service employees shall earn and accrue prorated longevity annual leave.

9.5.a.e For employees continuing in the County career service at the beginning of the first pay period of each calendar year, any unused, accrued annual leave time in excess of fifteen (15) days or 120 hours will be cashed out and paid the first pay period of the new year.

9.5.a.f Vacation time will be scheduled at least five (5) working days in advance so as to meet the operating requirements of each department and,

insofar as possible, at the preference of employees. Seniority, within the various departments shall apply in case of conflict of leave schedules.

9.5.a.g An authorized County holiday shall not constitute a day of annual leave. When an authorized holiday falls within the time period of an employee's annual leave, he/she will be entitled to one (1) additional day beyond the specified annual leave period.

9.5.a.i Employees who have terminated or who give notice of intent to terminate their employment and who will not actually work after giving such notice shall not be allowed to continue or retain their status as an employee by electing to take accrued annual or sick leave. Employee's terminating or retiring will be cashed out in a lump sum for all annual leave and sick leave which is owed.

9.5.a.j Payment of accumulated earned annual leave shall be made by the employing department when an employee separates from county service, except in the case where an employee terminates during the orientation period.

9.5.b Emergency Leave

9.5.b.a Sick leave may be used for deaths, personal illness or in case of illness within the immediate family. No more than twenty-four (24) working hours in any calendar year may be taken as sick leave because of illness within the immediate family, except when illness is determined as grave by a physician and absence subsequently is approved by the Department Head.

9.5.b.b "Immediate family" shall be defined as follows: wife, husband, child, parents, brother, sister, father-in-law, mother-in-law, grandmother, grandfather, grandchild or other relative living in the same household. (Res. 2-3-93A)

9.5.b.c Sixteen (16) hours from sick leave may be designated by the employee as personal leave. Personal leave may be taken for whatever reason, provided scheduling is approved by the supervisor. Any time taken which cannot be justified as sick leave or annual leave will be treated as the taking of personal leave. This provision does not change the policy of Emery County that sick leave is a privilege and not a right of employment. (Res. 12-2-92B)

9.5.c Holiday Leave

9.5.c.a The following days have been designated by the County to be paid holidays:

New Year's Day	January 1 st
Human Rights Day	3 rd Monday of January
President's Day	3 rd Monday of February
Memorial Day	Last Monday of May
Independence Day	July 4 th
Pioneer Day	July 24 th
Labor Day	1 st Monday of September
Columbus Day	2 nd Monday of October
Veteran's Day	November 11 th
Thanksgiving Day	4 th Thursday of November
Thanksgiving Day	4 th Friday of November (day after Thanksgiving)
Christmas Eve	December 24 th (1/2 day)
Christmas Day	December 25 th
News Years Eve (Res.12-15-98A)	December 31 st (1/2 day)

9.5.c.b When a holiday falls on a Saturday, it shall be observed on the preceding work day. When it falls on a Sunday, it shall be observed on the following work day.

9.5.c.c All career service employee shall be compensated for work performed on holidays at time and one-half (1-1/2) their regular rate of pay. (Res.12-15-95C)

9.5.c.d Holidays which fall on a regular working day within a period when leave without pay is being taken shall not be compensated, except when leave without pay is the result of an industrial accident (refer to this Section 9.5.h.a.h, Sick Leave).

9.5.d Jury Leave

9.5.d.a A career service employee who, in obedience to a subpoena or direction by proper authority, appears as a witness for the Federal Government, the State of Utah, or a political subdivision thereof, shall be entitled to the difference between his/her regular compensation and the compensation or fees received (in excess of traveling expenses as a witness). (Res. 5-10-87)

9.5.d.b Time absent by reason of subpoena in private litigation or by some party other than the Federal Government, State Government, or a political

subdivision thereof, to testify not in official capacity, but as an individual shall be taken as annual leave without additional pay.

9.5.e Pregnancy-Related Absences

9.5.e.a Pregnancy-related absences are protected by the Family and Medical Leave Act (FMLA) and the Pregnancy Discrimination Act (PDA), but typically not the American with Disabilities Act (ADA). Under the PDA women affected by pregnancy, childbirth, or related medical conditions will be treated the same as employees who are on leave for other temporary medical disabilities. PDA does not allow pregnant employees to miss more work than nonpregnant employees. It merely entitles pregnant employees to the same leave and benefits granted to nonpregnant employees with temporary medical disabilities.

9.5.e.b Pregnant employees are subject to the conditions of FMLA. (Res. 11-16-04)

9.5.f Leave of Absence - Uniformed Service - Based on the Uniformed Services Employment and Reemployment Rights Act (USERRA)

9.5.f.a Definitions

9.5.f.a.a Uniformed services. “Uniformed services” means the Navy, Marines, Army, Air Force, Coast Guard, the Army National Guard, the International Guard, the Commissioned Corps of the Public Health Service, and any other category designated by the President of the United States in time of service or emergency.

9.5.f.a.b Service in the uniformed services. “Service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service and includes active duty, active training duty, National Guard duty, and time for an examination to determine the fitness to perform any such duty.

9.5.f.b Discrimination prohibited. The county policy prohibits discrimination against a person who: is a member of or applies to be a member of the uniformed services; performs or has performed in the uniformed service; applies to perform active duty; or has an obligation to perform service in a uniformed service. In general, these individuals may not be denied employment, reemployment, retention employment, promotion, or any employee benefit. This discrimination policy applies to both regular and temporary employees.

9.5.f.c Reemployment rights. Generally only individuals discharged under honorable conditions who were regular employees (full or part-time) are

eligible for reemployment. Under USERRA, the individual is generally required to give advance notice of the leave, be on leave for no more than five (5) years, and reapply for reemployment within specified time frames. The advance notice may be written or verbal. No prior notice is required if it is precluded by military necessity or such notice is impossible or unreasonable. The five-year limit is the cumulative length of absence from a job.

9.5.f.d Notices. Under this policy, notice is to be given to the Department Head/Elected Official who will advise the personnel office. Generally, notice for the need for leave is to be given as soon as practical. No prior notice is required if it is precluded by military necessity or such notice is impossible or unreasonable. On the basis of the provisions of USERRA, the following notices to return to work are required with respect to the indicated period of service:

<u>Period of Service</u>	<u>Time Required for Return to Work Notice</u>
Less than 31 days	First full regularly scheduled work period following completion of the service (with an 8-hour period for safe transportation).
More than 30 days	Fourteen (14) days after the completion of service (or if impossible or unreasonable through no fault of the person, the next first full calendar day when application becomes possible.)
More than 180 days	Not later than ninety (90) days after the completion of service.
A person who is hospitalized or convalescing, but fewer than 181 days	At the end of the period that is necessary for the person to recover.

9.5.f.e The service member must document the time away and the time of release. However, failure to provide documentation cannot be a basis for denying reinstatement if the documentation does not exist or is not readily available at the time of the request.

9.5.f.f Reemployment. Based on USERRA provision, the county has adopted the following rules for reemployment:

9.5.f.f.a The county will not reemploy an individual when:

9.5.f.f.a.a The county's circumstances have so changed as to make such reemployment impossible or unreasonable.

9.5.f.f.a.b The person is no longer qualified for the prior position as a result of a disability, and reemployment imposes an undue hardship on the county.

9.5.f.f.a.c The employment from which the person leaves to serve in the uniformed services is a temporary job, and there is no reasonable expectation that the job will continue indefinitely or for a significant period.

9.5.f.f.a.d The county must define impossibility or unreasonableness, undue hardship, or temporary nature of the job.

9.5.f.g Discharge. A person who is reemployed pursuant to USERRA cannot be discharged except "for cause" pursuant to the following schedule:

9.5.f.g.a Within one (1) year, if the person's service was more than 180 days.

9.5.f.g.b Within 180 days if the person's period of service was more than thirty (30) days, but less than 181 days.

9.5.f.h Seniority-based benefits. Individuals who are reemployed are entitled to all seniority-based benefits for the time accrued, including their uniformed service time. In general, there must be a reasonable certainty that the benefit would have accrued if the employee had not gone into uniformed service, and the nature of the benefit must be a reward for length of service. Part-time employees working less than twenty (20) hours per week and temporary employees are not eligible for any benefits, and thus this policy does not apply to them.

9.5.f.i Nonseniority-based benefits. An individual returning from uniformed service is entitled to all benefits not based on seniority in the same manner as any employee on a leave of absence would be able to accrue under other county policies. These policies are either those in effect at the time the individual left on uniformed service or those that were implemented while the employee was away.

9.5.f.j Favorable treatment. In general, the most favorable treatment accorded any type of leave must also be accorded to the uniformed service leave.

9.5.f.k Waiver. According to USERRA, an employee may waive his/her rights of nonseniority-based benefits by knowingly providing a written notice of intent not to return. If an employee does seek reemployment even after signing an effective waiver of nonseniority rights, the county must provide the employee with the required seniority-based benefits.

9.5.f.l Use of accrued leave. Employees are permitted to use any accrued leave such as vacation leave or other leave with pay toward uniformed service time. However, the county does not require employees to use paid vacation leave to apply toward a uniformed service leave.

9.5.f.m Compensation. The county will pay the difference between service pay and normal county pay for a maximum of four (4) weeks. This time period may be increased in wartime or during national emergencies.

9.5.f.n Uniformed service, health care, and COBRA.

9.5.f.n.a If an individual was covered under this Plan immediately prior to being called to active duty by any of the uniformed service of the United States of America, coverage may continue for up to eighteen (18) months or the period of uniformed service leave, whichever is shortest. If the leave is less than thirty (30) days, the contribution rate will be the same as for active employees. If the leave is longer than thirty (30) days, the required contribution will not exceed 102% of the cost of coverage.

9.5.f.n.b Whether or not the individual elects continuation coverage under USERRA, coverage will be reinstated on the first day the individual returns to active employment with the county if released under honorable conditions and the individual returns to employment: (a) on the first full business day following completion of the military service for a leave of thirty (30) days or less; or (b) within fourteen (14) days of completing military service for a leave of thirty-one (31) to 180 days; or (c) within ninety (90) days of completing military service for a leave of more than 180 days (a reasonable amount of travel time or recovery time for an illness or injury determined by the VA to be service connected will be allowed).

9.5.f.n.c when coverage under this Plan is reinstated, all provisions and limitations in this Plan will apply to the extent that they would have applied if the military leave had not been taken and coverage had been continuous under this Plan. The eligibility waiting period will be waived and the pre-existing condition limitation will be credited as if an individual had been continuously covered under

this Plan from the original effective date. (This waiver of limitations does not provide coverage for any illness or injury caused or aggravated by the military service, as determined by the VA.) (Excerpt from Emery County's Health Insurance Plan)

9.5.f.o Pension rights. Participation and benefits under retirement plans will be granted in accordance with federal law.

9.5.f.p Reemployment positions. Individuals are to be reemployed according to the following schedule:

9.5.f.p.a If the individual's service was less than 91 days, the individual will be placed in the job that he/she would have had if employment had not been interrupted by service, assuming the person is qualified to perform those job duties (e.g., a person may have to be promoted).

9.5.f.p.b If the person served for less than 91 days and is not qualified to perform the duties of the job he/she would have had if there had not been any service, and the county has made reasonable efforts to qualify the person for that job, then this individual will be reinstated in the job held on the date service began.

9.5.f.p.c If the service was more than 90 days, then the person will be placed in the job the person would have had if employment had not been interrupted (e.g., a promoted position) or a position of like seniority, status, and pay which the person is qualified to perform.

9.5.f.p.d If the person served more than 90 days and is not qualified to perform the job that he/she would have had if not for service, and the county has made reasonable efforts to qualify the person for that job, the person is to be placed in the job which he/she held on the date the service commenced.

9.5.f.p.e In the case of a person with a disability, if after reasonable efforts by the county to accommodate the disability, the person is not qualified to be employed in the positions required by USERRA, the person is to be employed in any other position that is equivalent in seniority and pay and for which the person is qualified.

9.5.f.p.f If an individual is not qualified to hold any of the positions as required by USERRA, the person will be placed in any other position of lesser status and pay that the person is qualified to perform with full seniority.

9.5.f.p.g If two or more persons are entitled to the same job under USERRA, the one who left the position first shall have the prior right to reemployment.

9.5.f.q Temporary employees. Temporary employees are not eligible for reinstatement.

9.5.f.r Disciplined employees. Under USERRA, employees who were about to be discharged for misconduct had they not left for uniformed service are not eligible for reinstatement and will not be rehired. (Res. 11-16-04)

9.5.g Leaves of Absence

9.5.g.a Leave of absence without pay may be granted for periods not to exceed one (1) year to County employees because of illness, for educational purposes, and for other reasons, provided that leaves granted to enable an employee to take an office in the service of the County shall be for the duration of such employee's service therein. Such leaves shall not be regarded as an acquired right by employees and shall be granted only when the service will not be adversely affected thereby. Requests for leave shall be made in writing on a form made available by the County, and if approved by the County Commission, shall be filed with the Personnel Director. Leaves granted to employees who accept regular or full-time employment outside the County's service shall be subject to the approval of the Department Head and shall be denied unless the request thereof is accompanied by satisfactory proof that such employment is temporary and that the experience gained thereby will be for the betterment of the County's service.

9.5.g.b A leave of absence without pay granted to an employee may be terminated prior to the expiration date thereof with the consent of the appointing authority and County Commission. Failure of an employee to report for duty promptly at the expiration of his/her leave or violation of an agreement or understanding entered into by him/her relative thereto, shall be just cause for discharge and the removal of his/her name from any eligible list or lists on which it may appear.

9.5.g.c The policy in the above-stated paragraphs may be subject to Paragraph 9, Family Medical Leave of this section. (Res. 2-2-94A)

9.5.h Sick Leave

9.5.h.a Sick leave is not a right of employment. It is a privilege. Though employees may request to use accrued sick leave and the County offers a

cash reward upon termination of unused sick leave, ownership of the leave time belongs to the County. Sick leave may be requested for use as described in Paragraph 9.5.h.a.c of this section and as follows:

9.5.h.a.a Each career service and/or probationary employee shall accrue sick leave at a rate of eight (8) hours for each month of service.

9.5.h.a.b Sick leave shall be available for use one month after the employee's starting date. (Res. 2-18-98B)

9.5.h.a.c Total annual accrual of sick leave shall be ninety-six (96) hours. Accumulated sick leave shall be reimbursed according to the following rates upon termination from County service:

96 hrs - 192 hrs	00%
193 hrs - 288 hrs	20%
289 hrs - 384 hrs	30%
385 hrs - 480 hrs	40%
481 hrs - 576 hrs	50%
577 hrs - 672 hrs	60%
673 hrs - 768 hrs	70%
769 hrs - 864 hrs	80%
865 hrs - 959 hrs	90%
960 hrs plus	100%

9.5.h.a.d Hours over 960 shall accrue without limit and shall be reimbursed upon termination at 100%.

9.5.h.a.e. The beneficiary of the employee shall be reimbursed at 100% of the employee's sick bank if the employee dies while actively employed by the County.

9.5.h.a.f. For the purpose of this section, leaves of absence without pay will not be treated as termination. (Res.12-15-98A)

9.5.h.a.g. Holidays which fall on a regular working day within a period when sick leave is being taken shall be credited as a holiday and not as a day of sick leave.

9.5.h.a.h. The Department Head must use discretion in approving sick leave. He/she must also insist that sick persons stay off the job, which absence shall be deducted from the individual's sick bank. After sick leave is exhausted, annual leave shall be granted; after annual leave is exhausted, leave without pay shall be granted

as medical leave and the procedure for Contributed Leave may be followed.

9.5.h.a.i. Accrued sick leave available to an employee when taking leave of absence without pay shall again become available upon the employee's return from the leave of absence without pay.

9.5.h.a.j. Sick leave shall not be granted to part time (employees working less than 20 hours), temporary, or seasonal employees.

9.5.h.a.k. For purposes of this section, Saturdays, Sundays, and holidays shall not be considered regular working days. Sick leave shall not accrue during time spent on leave of absence without pay, or on annual leave immediately proceeding either leave of absence without pay or termination.

9.5.h.a.l. Sick leave will only be paid when the employee or a member of his/her immediate family notifies his/her supervisor or other designated person(s) of his/her absence prior to or within one-half (½) hour after scheduled reporting time where reasonable.

9.5.h.a.m. Employees abusing sick leave shall be subject to disciplinary action as outlined in Section 14 of the policies and procedures herein.

9.5.h.a.n. Any application for a grant of sick leave to cover an absent which exceeds twenty-four (24) successive working hours shall be supported by a medical certificate.

9.5.h.b Contributed Leave. This is a method by which employees may contribute sick or vacation time to fellow employees who have exhausted all available leave, i.e., sick and vacation. Application for contribution of such time shall be made to the Office of the Personnel Director by the Elected Official/Department Head responsible for the employee's department in conjunction with the employee's request for said contribution. Approval of contributed time shall be granted by the Emery County Board of Commissioners. Upon approval of the application for contributed time, the Office of the Personnel Director will notify county employees regarding the need for such a contribution. Employees may then voluntarily contact the Office of the Personnel Director advising said office of the number of hours which they wish to contribute. An employee may contribute a maximum of forty (40) hours of accrued sick leave in any calendar year. Any contribution would thus reduce the balance of hours in the contributing employee's sick leave bank.

9.5.h.b.a A minimum of 288 hours shall have accrued in the sick leave bank before time may be contributed.

9.5.h.b.b An individual sick leave bank may not be drawn down below 200 hours for the purposes of contributing time.

9.5.i Workers Compensation

9.5.i.a The Family and Medical Leave Act (FMLA) does not distinguish between work-related and nonwork-related injuries, and its regulations indicate that a serious health condition may be the result of a work related or nonwork related injury. Accordingly, whenever an employee is injured on the job and needs time off to recover, the county will immediately determine if the employee also is eligible for leave under the FMLA. If the injured individual is eligible for FMLA leave, the county will notify the employee in writing that the leave is covered under the FMLA so that the leave time may be counted against the employee's 12-week FMLA entitlement.

9.5.i.b. During FMLA/Worker's Compensation, sick leave will be granted in payment to the employee and shall be reduced by the amount of such compensation he/she received from Worker's Compensation. After sick leave is exhausted, annual leave shall be granted. After annual leave is exhausted, leave without pay shall be granted as medical leave. The employee may choose to exchange his/her Worker's Compensation check for his/her regular payroll check. The choice must be identified prior to the first payroll period after the employee sustains injury.

9.5.i.c While on FMLA/Worker's Compensation, sick leave, vacation leave, and holidays will not accrue while the employee is off work. All other benefits which the injured employee enjoyed prior to his/her injury will continue as specified by FMLA.

9.5.i.d Employees on FMLA/Worker's Compensation must submit the attending physician's verification of the injury, expected time of recovery, expected date of return to work and under what conditions he/she may transition back to work under light duty, moderate duty, full duty. The transitional return to work may necessitate reassigning the employee to another job with different job duties without a change in pay. If an employee refuses to accept a transitional assignment he/she will lose workers compensation but will continue under FMLA until FMLA expires. (Res 11-16-04)

9.5.j Family and Medical Leave of Absence (FMLA).

9.5.j.a This policy provides employees with a general description of their

FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

To qualify as FMLA leave, the employee must be requesting leave for one of the following reasons:

9.5. j.a.a The birth of a child and in order to care for that child.

9.5.j.a.b The placement of a child for adoption or foster care and to care for the newly placed child.

9.5.j.a.c To care for a spouse, child or parent with a serious health condition.

9.5.j.a.d The serious health condition of the employee that makes the employee unable to perform his or her job.

9.5.j.a.e Qualifying exigency leave for families of members of the National Guard and Reserves when the covered military member is on active duty or called to active duty in support of a contingency operation.

9.5.j.a.f Military caregiver leave to care for an ill or injured service member.

9.5.j.b Serious Health Condition:

A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment. In general, employees who will be absent for more than three days are required to apply for FMLA leave. Employees with questions about whether a condition is covered by this policy should consult with the Personnel Office.

9.5.j.c Qualifying Exigency Leave for Families of Members of the National Guard and Reserves:

An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reasons

related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:

9.5.j.c.a Short-notice deployment,

9.5.j.c.b Military events and activities,

9.5.j.c.c Child care and school activities,

9.5.j.c.d Financial and legal arrangements,

9.5.j.c.e Counseling,

9.5.j.c.f Rest and recuperation,

9.5.j.c.g Post-deployment activities and

9.5.j.c.h Additional activities that arise out of active duty provided that the employer and employee agree, including agreement on timing and duration of the leave. The leave may commence as soon as the individual receives the callup notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave will be counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.

9.5.j.d Military caregiver leave to care for an ill or injured servicemember: FMLA includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

9.5.j.d.a Eligibility

Employees are eligible for Family and Medical Leave if they have worked for Emery County for a minimum of twelve months, and they have worked at least 1,250 hours during the 12 month period immediately prior to requesting leave.

9.5.j.d.b Amount of Leave

Eligible employees will be allowed up to 12 weeks of FMLA leave within any calendar year for the FMLA circumstances listed in 1

through 6 above. An eligible employee can take up to 26 weeks for the FMLA circumstance 6 above (military caregiver leave) during a calendar year. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available. If spouses are both working for Emery County and leave is taken for the adoption or birth of a healthy child, or to care for a sick parent, the maximum combined leave for both spouses is 12 weeks. If leave is taken to care for an ill child or spouse, each spouse is entitled to 12 total weeks of leave. If both spouses work for the County and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave. The employee must conclude leave for the birth or placement of a child for adoption or foster care within 12 months after the event. Leave may begin prior to birth or placement, as circumstances dictate.

9.5.j.d.c Intermittent Leave

In the case of the employee's own serious health condition or that of a family member, the employee may take leave intermittently or on a reduced work schedule if medically necessary. Leave due to qualifying exigencies may also be taken on an intermittent basis.

When the leave is for the adoption or birth of a child, the employee may not take leave intermittently or on a reduced work schedule unless approved by the Department Head or Elected Official as being for the benefit of the County. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. If the employee is on intermittent or reduced leave status, Emery County may temporarily transfer the employee to another position of equivalent pay and benefits in order to better accommodate the leave.

9.5.j.d.d Use of Paid Leave

An employee who is taking FMLA leave must use all paid vacation and sick leave prior to being eligible for unpaid FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the County's normal paid leave policies, such as call-in requirements. FMLA leave will run concurrently with Worker's Compensation leave if the reason for absence meets the definition of a serious health condition. Using paid time off benefits does not add to the total length of the leave. Unless paid time off benefits are available, pay will be reduced for all full day of unpaid leave taken or for all hours of leave taken in a single day. Reducing pay for partial days off will not impact the exempt status of exempt employees under the Fair Labor Standards Act.

9.5.j.d.e Employee Status and Benefits during Leave Coverage under all group health and life insurance plans will continue during FMLA leave. If the employee chooses not to return from leave, the employee may be required to repay Emery County's portion of the premiums paid. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of the employee's leave.

9.5.j.d.f Job Restoration.

Employees who are granted leave may be asked to provide a fitness for duty release from the health care provider. Employees will generally be returned to the same position held prior to the leave, or one that is equivalent in pay, benefits, and other terms and conditions of employment.

9.5.j.d.g Procedure for Requesting FMLA Leave

Employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the Personnel Office. When the need for leave is foreseeable, the employee must provide at least 30 days' advance notice. When 30 days notice is not possible, the employee must provide notice as soon as practicable and explain why advance notice was not given. Generally, the employee must also comply with the department's normal call-in procedures. Within five business days of receiving this notice, Personnel will provide the employee with the required Notice of Eligibility and Rights. Employees must provide sufficient information for the County to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave.

Employees also must inform the County if the requested leave is for a reason for which FMLA leave was previously taken or certified. The County will require complete and sufficient certification for the employee's serious health condition, or that of family member, or for military family leave. The employee must respond to such a request for information within 15 days of the request or provide a reasonable explanation for the delay. Recertification's supporting the need for leave and the employee's intent to return to work may be requested periodically as allowed by law. Failure to provide complete and sufficient certification may result in a denial of continuation of leave. Medical and other certifications will be provided using the Department of Labor's

certification forms.

If there is a dispute about the medical opinion provided by any physician, Emery County may require a second opinion by a physician of its choice, at its expense. If a third opinion is necessary, a third doctor may be selected, also at Emery County's expense. The third doctor must be agreed upon by both the employee and Emery County, and the doctor may not be employed on a regular basis by Emery County.

9.5.j.d.h Designation of FMLA Leave

After the employee has submitted the appropriate certification forms, the Personnel Office will provide the employee with a written response to the employee's request for FMLA, indicating whether or not they are eligible for FMLA leave. Employees will be informed if the leave will be designated as FMLA-protected and the amount of leave counted against the employee's FMLA entitlement. If eligible, the notice will specify any additional information required as well the employee's rights and responsibilities. If the employee is not eligible, the County will provide a reason for the ineligibility.

9.5.j.d.i Unlawful Acts

FMLA makes it unlawful for the County to interfere with, restrain, or deny the exercise of any right provided under FMLA, or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

9.5.j.d.j If circumstances prohibit the employee from returning to work from Family and Medical Leave (FML), the employee may seek approval from his/her Department Head to take up to one (1) year Leave of Absence Without Pay (LWOP, see Section 9, paragraph 9.5.g.a.)

9.5.j.d.j.a Request for this type of leave must be made, in writing, and directed to the employee's Department Head and may be approved only by the Department Head.

9.5.j.d.j.b The request must specify the intended date of return.

9.5.j.d.j.c It is the responsibility of the employee to maintain regular communication with the Department Head during the LWOP and advising of any change in condition and/or date of return to work.

9.5.j.d.j.d If the employee does not return to work on the date specified and has made no prior arrangements, his/her employment will be terminated.

9.5.j.d.j.e During LWOP the employee is responsible to pay the monthly health insurance premium.

9.5.j.j.g.f At the end of LWOP the COBRA benefit may be elected if employment is terminated. (See the Employee Benefit Booklet).

9.5.j.e Health Insurance

9.5.j.e.a Emery County shall provide coverage under the health plan to employees on family leave. The conditions of coverage shall be the same as if the employee had not taken family leave.

9.5.j.e.b If an employee fails to return from family leave, Emery County can recover the premium that has been paid by the County on behalf of the employee to maintain health care coverage. However, employees who fail to return to work will not be liable for the premiums if their return is due to the continuation, recurrence, or onset of a serious health condition or other circumstances beyond their control. In such cases, Emery County may require certification issued by a health care provider.

9.5.j.e.c Leave taken under the Act is not a COBRA qualifying event because it mandates that health benefits continue.

9.5.j.e.d A form requesting said leave may be obtained by contacting the Personnel Director. (Res. 2-2-94A)

9.5.k Extended Health Insurance Coverage for Retired/Terminated Employees

9.5.k.a. An employee or dependent's coverage shall terminate at the earliest time indicated below:

9.5.k.a.a. Upon termination of employment or retirement, benefits will cease on the day the employee terminated. Cessation of active work by an employee shall be deemed termination of employment, except as follows:

9.5.k.a.a.a In the event an employee is absent on account of illness or injury, employment shall be deemed to continue for the purpose of benefits hereunder until the date

contributions received from the Employer for such employee's benefits are discontinued.

9.5.k.a.a.b. A public employee who retires: (a) at age sixty-five (65) with four (4) or more years of service; (b) at age sixty-two (62) with ten (10) or more years of service; (c) at age sixty (60) with twenty (20) or more years of service; or (d) any age with at thirty (30) years of service with the County may continue coverage under the Plan until the date the retiree becomes eligible for Medicare. This extension also applies to the retiree's dependents.

9.5.k.a.a.c. A public safety employee who retires: (a) at age sixty-five (65) with four (4) or more years of service; (b) at age sixty (60) with ten (10) or more years of service; or (c) any age with at least twenty (20) years of service with the County may continue coverage under the Plan until the date the retiree becomes eligible for Medicare. This extension also applies to the retiree's dependents.

9.5.k.a.a.d. An Elected Official who ceases to be elected at any age with eight (8) or more accumulated years of service with the County may continue coverage under the Plan until the date the he/she becomes eligible for Medicare. This extension also applies to the retiree's dependents.

9.5.k.a.b. In the event an employee fails to make any required contributions when due.

9.5.k.a.c. The date the employee or dependent ceases to be eligible for coverage or ceases to be in a class eligible for coverage.

9.5.k.a.d. When coverage is terminated, either by request, non-payment, or other reason, reinstatement will not be allowed.

9.5.k.a.e. When maximum benefits of this Plan have been exhausted.

9.5.k.a.f. When the employee or dependent enters the military service on a full-time active duty basis.

9.5.k.a.g. The date the Plan is terminated.

9.5.k.b. Method of Payment for Extended Health Insurance Coverage

9.5.k.b.a. Extended Health Insurance Coverage premiums may be paid by the plan participant either by converting sick leave to equal, dollar for dollar, the insurance premium or by paying the full cash insurance premium.

9.5.k.b.b. If cash premium payments are made the payment is due on the first of each month. Benefits will be terminated if the current month's premium is not received within 30 days of the first of the month.

9.5.k.b.c. If converted sick leave is used, upon termination and/or retirement the plan participant may consign the balance of his/her sick bank to the county. When the balance of sick leave is used, the participant has the option to terminate coverage or continue coverage by making cash payments.

9.5. k.b.d. Those eligible for extended coverage are employees and Elected Officials and their dependents who are covered by the county's plan at the time of termination and/or retirement.

9.5.k.b.e. Participation is voluntary. If a covered participant does not elect extended coverage he/she may convert the sick bank to cash as prescribed in the personnel policy and procedures.

9.5.k.b.f. An employee may elect extended coverage at the time of retirement/termination and is put on notice as to the following:

9.5.k.b.f.a. If extended health insurance coverage is elected, the value of premium payments will equal 100% of the accrued sick leave.

9.5.k.b.f.b. If, at any time, a plan participant elects to cancel coverage the remaining cash value will equal the percentage as outlined in Section 9, paragraph 9.5.h.a.c., minus the insurance premiums paid.

9.5.k.b.f.c. If cash out is elected, the cash value will equal the percentage as outlined in Section 9, paragraph 9.5.h.a.c.

9.5.k.b.f.d. No interest will accrue on any sick leave balance. (Res. 02-02-99)

9.6 Cellular Telephones:

9.6.a. Elected Officials, Department Heads, and other employees, if required by their Elected Official or Department Head, shall have a cellular telephone which is owned by the employee, not the county.

9.6.b. Elected Officials, Department Heads, and employees required by their Elected Official or Department Head to possess a cellular telephone shall receive a monthly allowance for cellular telephone use.

9.6.c. The amount of the allowance shall be set by the County Commission. The amount of the allowance may be considered taxable income under Internal Revenue Service guidelines.

SECTION 10 - VEHICLE POLICY

10.9 Vehicle General Purpose:

10.9.a. Employees may be assigned County vehicles in the course of their normal duties or to fulfill standby or other assignments. These vehicles shall only be used for the purpose of County business and shall not be used for personal business unless stated differently in this policy. With the exception of law enforcement, **County vehicles shall not be used to transport persons who are not County employees unless such transportation is in the course of the duties of the employee.**

10.9.b. County employees who drive a private vehicle in the normal course of their duties shall receive payment for mileage driven on authorized County business but shall not be paid to cover commuting mileage between an employee's residence and their customary work site.

10.10 County Vehicle Assignment:

10.10.a. County vehicles may be assigned to employees requiring vehicles of specialized function, for example, emergency vehicles, building inspectors, maintenance personnel, etc. Approval shall be obtained from an Elected Official or Department Head and the County Commission for assignments of vehicles and the designation of which employees are assigned County vehicles.

10.10.a.a. All employees or volunteers who drive County vehicles shall have a current Utah driver's license

10.10.a.b. To assure proper vehicle maintenance, each employee assigned a vehicle will be accountable for its service and repair.

10.10.b. Except for incidental, emergency, or for authorized commuting, personal use of any County vehicle is prohibited. This does not apply to any County

department; i.e. law enforcement or Emergency Management, which has a separate policy related to the personal use of vehicles owned or managed by that department. The policy must be in writing and approved by an Elected Official or Department Head and the County Commission.

10.10.c. Unless authorized by the County Commission, and with the exception of a designated law enforcement vehicle or as noted differently in this policy, no County vehicle may be taken home or used for normal commuting between home and work.

10.10.d. No person may provide authorization to him/herself to take home a County vehicle.

10.10.e. Employees shall be reimbursed mileage at the IRS standard mileage rate when mileage is incurred for "call-out" time. Mileage shall begin at the employee's residence for any emergency call-out.

10.10.f. Employees may use a County vehicle outside the County only to the extent they have received prior authorization from an Elected Official or Department Head.

10.10.g. Authorization to use a County vehicle outside the State must be approved by an Elected Official or Department Head and the County Commission. The request must be documented with the following information and kept in the department personnel file:

10.10.g.a. The name of the person authorized to use a County vehicle;

10.10.g.b. The time frame during which the authorization is effective;

10.10.g.c. The purpose of the use;

10.10.g.d. Any other terms relevant to the authorization; and,

10.10.g.e. Signatures of the authorizing Elected Official or Department Head and the County Commissioner assigned to that department.

10.10.h. Incidental personal use of a County vehicle is permitted when such use is a de minimus distance from the route of official use of the vehicle and when such use does not adversely affect the vehicle or the public perception of the County.

10.10.i. Authorization to take home a County vehicle may be considered under certain circumstances. The request must be in writing, approved by the County Commission, and placed in the employee's personnel file. Said circumstances may include:

10.10.i.a. The user has demonstrated, and continues to demonstrate, a need to respond to an average of five (5) emergency situations or call-outs to work per month. This must be documented on an "On-Call Form." This form must be submitted to their supervisor with a copy to the County Commission.

10.10.i.b. The user's nature of work requires immediate response to situations that require a vehicle with specific capabilities or specific safety or emergency equipment that cannot reasonably be carried in the user's personal vehicle.

10.10.i.c. The user may be called or sent to locations other than where his/her County vehicle is normally parked.

Authorized users under this Section who use the County vehicle to commute to and from work will be assessed \$1.50 each way (\$720.00 per year) for 48 weeks out of the year. This takes into consideration two weeks of vacation and two weeks of holiday time away from work.

10.11 Exceptions:

10.11.a. County vehicles may be used for personal use in emergency situations related to serious medical problems or property damage where the user of the County vehicle must respond quickly. Any emergency personal use of a County vehicle must be reported to the user's supervisor within two business days, or as soon as practical, following the emergency use.

10.11.b. Situations may arise when it is impractical or uneconomical for a user to acquire or return a vehicle the same day of the authorized use due to the time or distance required to do so. Permission may be given in such circumstances for the user to take the vehicle home prior to or immediately following the authorized use.

SECTION 11 - WORK HOURS

11.1 The normal work day for full-time employees shall be eight (8) hours and the normal work week shall be (40) hours, Monday through Friday, unless prior approval is made with the appropriate Elected Official, or with Department Head permission and commission approval. Part-time employees shall be paid at an hourly rate and will be paid only for hours worked.

11.2 Attendance

11.2.a An employee unable to report for duty on a work day shall notify the Department Head of that fact not later than one (1) hour before the beginning of work.

11.3 The normal work day will be eight (8) hours. Employees will have one (1) hour for lunch which will be taken at a time determined by the Department Head in conjunction with the

employees, preferably between the hours of 12:00 noon and 2:00 p.m. The lunch break will be taken on the employees' own time and will therefore, not be compensated for by Emery County.

11.3.a The lunch break may be set optionally by the employee and the Department Head to be one-half (1/2) or three quarters (3/4) hour, but shall not be compensated for. If an employee wishes to have a shorter lunch break, he/she should consult his/her Department Head in order to reach a mutually agreeable outcome.

- 11.4 The employees will be allowed to take two (2) fifteen (15) minute breaks during the work day. The first break should be scheduled in the morning preferably between 9:30 a.m. and 10:30 a.m. The second break should be scheduled during the afternoon, preferably between 2:30 p.m. and 3:30 p.m.

SECTION 12 - EMPLOYEE CONDUCT

12.1 Outside Employment

12.1.a No employee may engage in additional employment which in any manner interferes with the proper and effective performance of official duties, or which results in conflict of interest. It is necessary that an employee give priority to his/her job with Emery County, and outside employment should only be undertaken with the knowledge and consent of the supervisor. The County shall not be held liable to grant sick leave in any cases of injury to an employee while that employee is engaged in outside employment.

12.2 Prohibition Against Political Activity

12.2.a No person shall be denied the opportunity to become an applicant for a position under the career service system in any County department by virtue of political opinion or affiliation.

12.2.b No person employed by the County under the career service system may be dismissed from service as a result of political opinion or affiliation.

12.2.c No officer or employee covered by the career service system shall be an elected or paid officer of any political party or club at the state-wide or county-wide level, or take an active part in the management of any partisan or nonpartisan political campaign. A County career service employee may voluntarily contribute funding to political groups and become a candidate for public office. The intent of this provision is to allow career service employees to serve as voting district officers and as state or county delegates without jeopardizing public programs for which he/she is responsible.

12.2.d No County officer or employee, whether elected or appointed, may directly or indirectly coerce, command, advise or solicit any officer or employee covered under the career service system to pay, lend or contribute part of his/her salary of compensation or

anything else of value to any party, committee, organization, agency or person for political purposes. No County officer or employee, whether elected or appointed, may attempt to make any officer's or employee's personnel status dependent upon the employee's committee, organization, agency or person engaged in a political activity.

12.2.e If a career service employee becomes a candidate for an elected public office against an elected public official seeking reelection who is the said employee's department supervisor, that career service employee shall automatically be placed on a temporary leave of absence from his/her department. Said leave of absence shall be for a period of sixty (60) consecutive calendar days immediately preceding the primary or general election date, as applicable. The employee may elect to continue to work for the County in a different department during this leave of absence or may take the leave without pay.

12.2.e.a The employee shall be reinstated to his or her temporarily vacated position immediately after the primary or general election, as applicable. (Res. 5-1-91C)

12.2.f Nothing contained in this section shall be construed to permit partisan political activity of any County employee who is prevented or restricted from engaging in such political activity by the provision of the Federal Hatch Act.

12.3 Productive Work Environment

12.3.a It is the policy of the county to promote a productive work environment and not to tolerate verbal or physical conduct by any employee that harasses, disrupts, or interferes with another's work performance or that creates an intimidating, offensive, or hostile environment.

12.3.b Employees are expected to maintain a productive work environment that is free from harassing or disruptive activity. No form of harassment will be tolerated, including harassment for the following reasons: race, national origin, religion, disability, pregnancy, age, military status, or sex. Special attention should be paid to the prohibition of sexual harassment.

12.3.c Each Elected Official/Department Head and supervisor has a responsibility to keep the workplace free of any form of harassment, and in particular, sexual harassment. No Elected Official/Department Head or supervisor is to threaten or insinuate, either explicitly or implicitly, that an employee's refusal or willingness to submit to sexual advances will affect the employee's employment.

12.3.d Other sexually harassing or offensive conduct in the workplace, whether committed by Elected Officials/Department Heads, supervisors, nonsupervisory employees, or nonemployees, is also prohibited. This conduct includes but is not limited to:

12.3.d.a Unwanted physical contact or conduct of any kind, including sexual flirtation, touching, advances, or propositions;

12.3.d.b Verbal harassment of a sexual nature, such as lewd comments, sexual jokes or references, and offensive personal references;

12.3.d.c Demeaning, insulting, intimidating, or sexually suggestive comments about an individual;

12.3.d.d The display in the workplace of demeaning, insulting, intimidating, or sexually suggestive objects, pictures, or photographs;

12.3.d.e Demeaning, insulting, intimidating, or sexually suggestive written, recorded, or electronically transmitted messages.

12.3.e Any of the above conduct, or other offensive conduct, directed at individuals because of their race, sex, national origin, religion, disability, pregnancy, age, or military status is also prohibited.

12.3.f Any employee who believes that a Elected Official's/Department Heads, manager's, other employee's, or nonemployee's actions or words constitute unwelcome harassment has a responsibility to report or complain about the situation as soon as possible. The report or complaint should be made to the employee's supervisor or to the Elected Official/Department Head or Personnel Director if the complaint involves the Elected Official/Department Head or supervisor.

12.3.g All complaints of harassment will be investigated promptly and in as impartial and confidential a manner as possible. Employees are required to cooperate in any investigation. A timely resolution of each complaint should be reached and communicated to the parties involved.

12.3.h Any employee, Department Head, supervisor who is found to have violated the harassment policy will be subject to appropriate disciplinary action, up to and including termination. The county prohibits any form of retaliation against employees for bringing bona fide complaints or providing information about harassment. However, if an investigation of a complaint shows that the complaint or information was false, the individual who provided the false information will be subject to disciplinary action, up to and including termination. (Res 11-16-04)

12.4 Employee Ethics

12.4.a The purpose of this policy is to comply with the Utah Employee Ethics Act, Utah Code 67-16-1 through 14 as it applies to employees covered under the Emery County Personnel Policies and Procedures.

12.4.a.a Code of Ethics

Emery County is committed to the highest standard of conduct by and among Career Service or contract employees, whether full- or part-time, and each Elected Official employed by the County (hereinafter “Employee”) in the performance of their public duties. Individual and collective adherence to high ethical standards by employees is central to the maintenance of public trust and confidence in government.

While employees employed by the County agree on the need for proper conduct, they may experience personal conflict or differing view of values or loyalties.

In such cases the principles contained in this Code of Ethics provide valuable guidance in reaching decisions which are governed, ultimately, by the dictates of the individual conscience of the employee and his or her commitment to the good of the public.

Certain of these ethical principles are best expressed as positive statements: actions which should be taken; courses which should be followed; goals which should permeate both public and private conduct. Other principles are expressed as negative statements: actions to be avoided and conduct to be condemned.

Emery County recognizes that this Code of Ethics should serve as a valuable reference guide for all those in whom the public has placed its trust.

12.4.a.b. Ethical Principles

The ethical Emery County employee should:

1. Properly administer the affairs of Emery County.
2. Promote decisions which only benefit the public interest.
3. Actively promote public confidence in Emery County government.
4. Keep safe all funds and other properties of Emery County.
5. If evidence of fraud and/or dishonesty, report it immediately.
6. Conduct and perform the duties of the office diligently and promptly dispose of the business of Emery County.
7. Maintain a positive image to pass constant public scrutiny.
8. Evaluate all decisions so that the best service or product is obtained at a minimal cost without sacrificing quality and fiscal responsibility.
9. Inject the prestige of the office into everyday dealings with the public, employees and associates.

10. Maintain a respectful attitude toward employees, other public officials, colleagues and associates.
11. Effectively and efficiently work with governmental agencies, political subdivisions and other organizations in order to further the interest of Emery County.
12. Faithfully comply with all laws and regulations applicable to Emery County and impartially apply them to everyone.

12.4.a.c. The ethical county employee should not:

1. Engage in outside interests that are not compatible with the impartial and objective performance of his or her duties.
2. Improperly influence or attempt to influence other employees to act in his or her own benefit.
3. Accept anything of value from any source which is offered to influence his or her action as an employee.
4. Use your position for personal gain, to secure privileges and exemptions.

Failure to adhere to this policy may result in disciplinary action up to and including termination.

The ethical county employee accepts the responsibility that his or her mission is that of servant and steward to the public.

12.5 Confidential Information

Emery County possesses information that has been created, discovered, developed, and stored by, or on behalf of, Emery County and includes, without limitation, financial data and information, personnel files, customer/citizen lists, technological know-how, vendor lists and other information of a similar nature (hereinafter referred to as “Confidential Information”). Much of the Confidential Information is created, developed and stored on the County’s computers. The County is concerned about the maintenance, preservation, and protection of the County’s Confidential Information, particularly, when the Confidential Information is maintained in an electronic format.

The County has determined that it is good public policy for each Career Service or contract employee, whether full- or part-time, and each Elected Official employed by the County (hereinafter “Employee”) to acknowledge and agree to the following requirements with respect to Confidential Information:

1. **Confidential Information** – Employee acknowledges that, in the course of employment with the County, Employee will have access to Confidential Information. Employee agrees not to disclose such information during the course of employment or at any time thereafter, without the written consent of

the County, nor make any use of such confidential information, except as expressly permitted by the County.

2. **Protection of Confidential Information** – All Confidential Information including, without limitation, all data, records, files, manuals, lists of citizens, computer programs and other materials furnished to the Employee by the County, used by Employee on their behalf or generated or obtained by them during the course of employment, shall be and remain the property of the County. Employee shall be deemed the custodian thereof exclusively for the use and benefit of the County and shall safely keep and preserve such Confidential Information. Employee acknowledges that this property is confidential. No Confidential Information should be transported off County premises, or provided to third parties, except in connection with its County-approved use.
3. **Off-Site Confidential Information** – Employee represents that Employee does not currently store, or otherwise possess, any Confidential Information off County premises. In the event that Employee has any Confidential Information stored, or otherwise possesses, Confidential Information off site, then Employee shall immediately return such confidential Information to the County's premises.

12.6 Conflict of Interest

12.6.a Employees are expected to represent the county in a positive and ethical manner. Thus, employees have an obligation to avoid conflicts of interest and to refer questions and concerns about potential conflicts to their supervisor.

12.6.b Employees may not engage in, directly or indirectly either on or off the job, any conduct which is disloyal, disruptive, competitive, or damaging to the county or the department in which they work.

12.6.c Employees must disclose any financial interest they or their immediate family have in any firm that does business with the county.

12.6.d Employees are prohibited from misusing inside information for their own benefit or for the benefit of members of their immediate family.

12.6.e Any conflict or potential conflict of interest must be disclosed to the county. Failure to do so will result in discipline, up to an including termination. (Res 11-16-04)

12.7 Smoking

12.7.a The purpose of this policy is to promote health and to comply with the Utah Indoor Clean Air Act, Utah (Criminal Code 76-10-101 through 112).

12.7.a.a Emery County is committed to providing a safe and healthful working environment for employees and the general public. In doing so, smoking indoors is prohibited. Employees failing to comply will be subject to discipline up to and including termination.

12.7.a.b The success of this Act will depend upon the thoughtfulness, consideration, and cooperation of smokers and nonsmokers. All employees share in the responsibility for adhering to and enforcing this policy. Conflicts should be brought to the attention of immediate supervisors, and, if necessary, referred to the Department Head involved for consideration and, if necessary, application of appropriate disciplinary action. In all cases, the right of the nonsmoker to protect his/her health will take precedence over an employee's desire to smoke. (Res. 2-2-94A)

SECTION 13 - PERFORMANCE APPRAISALS

13.1 It is the policy of Emery County that all employees will be periodically evaluated on their job performance. Department Heads will ensure that the performance evaluation is as objective as possible and conducted in accordance with the procedures and on forms prescribed by the Personnel Director.

13.2 Performance appraisals in Emery County will be governed by the following conditions

13.2.a Performance Standards will be articulated for each employee at the beginning of the appraisal period and must be in place at least two months before an employee can be rated against them. New employees will be made aware of their performance standards upon their appointment.

13.2.b Orientating employees will receive at least two performance evaluations during their orientation period. Career service employees will be evaluated at least once annually.

13.2.c Additional performance evaluations may be conducted by the immediate supervisor at his/her discretion. If noteworthy incidents occur, either good or bad, in the employee's performance that should be recorded for future reference, the supervisor will discuss this with the employee and inform him/her that the incident is being recorded in the employee file.

13.2.d Each employee has a right to submit written comments to accompany his/her performance evaluation.

13.2.e Performance appraisals will be used only for the purpose of employee development and will not be attached to pay increases except during the six-month orientation period. (Res. 2-18-98B)

SECTION 14 - DISCIPLINARY PROCEDURES

14.1 Disciplinary Action

14.1.a It is the responsibility of all employees to observe regulations necessary for the proper operation of County government functions. Administrative procedures have been established for the handling of disciplinary measures such as dismissal, reprimand, suspension, and demotion.

14.1.b The County reserves the right to make any changes at any time in the policies and procedures herein by adding to, deleting, or changing. The policies and procedures set out below are as complete as we can reasonably make them. However, they are not necessarily all inclusive, because unanticipated circumstances may arise. Some currently unanticipated circumstances may warrant the application of discipline, including discharge. The County may vary from the policies and procedures herein if, in its opinion, the circumstances require.

14.1.c The employment relationship is terminable at-will of either the employee or the County, at any time, with or without cause, and with or without notice. No employee, officer, agent or other representative of the County has any authority to enter into any agreement for employment for any specified period of time or to make any agreement or representation, verbally or in writing, which alters, amends, or contradicts the foregoing provisions. Any exceptions to this policy of "at-will" employment must be expressly authorized in writing by the Emery County Board of Commissioners.

14.2 The type and severity of any disciplinary action taken shall be governed by principles of due process which include:

14.2.a Consistent application

14.2.b Prior knowledge of rules and standards

14.2.c Determination of fact

14.2.d Timely notice of noncompliance

14.2.e Opportunity to respond and rebut as defined herein

14.3 Emery County uses the Progressive Disciplinary procedure when discipline is necessary. Following are six (6) steps involved in this type of procedures:

14.3.a Informal discussions.

14.3.a.a The Department Head and employee communicate relative to the work problem. The Department Head will be able to see if the employee understands the performance standard and work rules and the opportunity is available to

reinforce those standards and rules, as well as advising the employee of the consequences if violation of the rules and standards continues.

14.3.b Oral warnings

14.3.b.a Whenever grounds for disciplinary action exist and the supervisor determines that more severe action is not required, the supervisor should verbally communicate to the employee the observed deficiency. Written documentation of the reprimand will be recorded for future reference. Sufficient time for improvement should be given before more formal disciplinary action is taken unless extenuating circumstances dictate otherwise.

14.3.c Written warnings

14.3.c.a A Department Head may reprimand an employee in writing. Such reprimand should be addressed to the employee and a signed copy should be placed in the employee's personnel file. Except for special circumstances, as determined by the Department Head, written reprimands should be removed from the employee's file two years from the date of issuance. The employee should be notified if the reprimand will stay in his/her file for longer than two years.

14.3.d Suspensions

14.3.d.a A Department Head, with notification to the Personnel Director, may suspend, without pay, a career service employee for up to, but not exceeding, thirty (30) calendar days as a disciplinary measure. On or before the effective date, both the employee and the Personnel Director shall be furnished with a written statement setting forth reasons for the suspension.

14.3.e Demotion

14.3.e.a A Department Head, with verification to the Personnel Director and the County Commission, may demote or reduce in salary any career service employee for the good of the service or for disciplinary reasons. The salary adjustment should be effective at the beginning of the next pay period.

14.3.f Dismissal

14.3.f.a For the purpose of this section, listed herein are several violations for which the employee may be subjected to immediate dismissal. This is not an all inclusive list. Other violations may occur which were unanticipated. In the event a situation occurs which calls for dismissal of an employee, the Department Head shall notify the Personnel Director immediately after the violation is committed. A written letter stating reasons for dismissal must be sent to the employee, County Commission, the Personnel Director and the County Attorney. The Department

Head shall schedule and conduct a hearing with the employee within five (5) days of such action.

14.3.f.a.a Refusal to comply with a lawful instruction.

14.3.f.a.b Insubordination.

14.3.f.a.c Conviction of a misdemeanor or felony while an employee of the County, other than minor traffic violations or minor wildlife violation.

14.3.f.a.d Indulging in offensive conduct unbecoming a County employee: Verbal and/or physical abuse of the public, County officials, or co-workers.

14.3.f.a.e Deliberate or careless conduct endangering the safety of the employee or other employees.

14.3.f.a.f Inducing or attempting to induce any employee in the service to commit an unlawful act in violation of County regulations, official policy, or departmental orders.

14.3.f.a.g Using, threatening, or attempting to use personal or political influence in an effort to secure special consideration as a County employee.

14.3.f.a.h Incompetence and inefficiency in the performance of job duties which have not been corrected resulting in two (2) consecutive unsatisfactory ratings on performance evaluations.

14.3.f.a.i Carelessness or negligence with County monies or property.

14.3.f.a.j Theft or intentional destruction of County property.

14.3.f.a.k Intentional falsification of personnel records, time reports, or other County records.

14.3.f.a.l Being under the influence of alcohol or illegal drugs while on duty.

14.3.f.a.m Selling, possessing, transferring, or purchasing illegal drugs while on duty.

14.3.f.a.n Sleeping on duty except as provided for in official County regulations.

14.3.f.a.o Willful acts of sexual discrimination or sexual harassment.

14.3.f.a.p Acts of immoral or indecent conduct adverse to the employer's rightful interest or to the lawful rights of any employee.

14.3.f.a.q Refusal to comply with Section 5.3.0, of the Emery County Personnel Policy. Said section mandates residency in Emery County of all career service employees for the entire term of employment unless there is no alternative locally qualified applicant.

14.4 Corrective Action

14.4.a When an employee's performance does not meet established standards for reasons other than willful misconduct, Department Head shall take appropriate documented, clearly stated, corrective action in accordance with the following:

14.4.a.a The Department Head shall discuss the substandard performance with the employee in an attempt to discover the reasons therefore and set forth an appropriate written plan.

14.4.a.b Corrective actions shall include one or more of the following:

14.4.a.b.a Closer supervision

14.4.a.b.b Training

14.4.a.b.c Referral for personal counseling

14.4.a.b.d Reassignment or transfer

14.4.a.b.e Use of appropriate leave

14.4.a.b.f Career counseling and out-placement

14.4.a.b.g Period of constant review

14.4.a.b.h Opportunity for remediation

14.4.a.b.i Written warnings

14.4.a.c During the implementation of the written corrective action, the Department Head shall frequently evaluate and document the employee's progress.

14.5 Appeal

14.5.a Any career service employee subject to disciplinary action or dismissal under the provision of the above policies may appeal through formal grievance procedures described in Section 15.

14.6 The Department Head will advise the Personnel Director whenever a disciplinary action progresses to written warnings. (Res. 2-2-94A)

14.7 Auto Liability - Specific Conditions

14.7.a For the purpose of this section, *person(s)* will hereinafter mean elected and appointed officials, trustees, directors, officers, employees, agents and volunteers, or others who have been authorized by Emery County and are acting within the scope of their official duties for and on behalf of Emery County.

14.7.a.a. Driving Records

14.7.a.a.a The Personnel Director shall, once each year, obtain from the Driver License Division of the Utah Department of Public Safety the Motor Vehicle Record (MVR) of every *person* pursuant to Administrative Rule R708-36.

14.7.a.b. Defensive Driving Training

14.7.a.b.a Every *person* shall complete a defensive driving course provided by the personnel department at least once every five years or as dictated by our general liability insurance provider.

14.7.a.c Actions Resulting in Revocation of Driving Privileges

14.7.a.c.a The following *persons* shall be prohibited from driving any county motor vehicle:

14.7.a.c.a.a Any *person* whose driving record shows 180 points or more.

14.7.a.c.a.b Any *person* who has been involved in two or more accidents within a twelve-month period which were determined to be that *person's* fault and for which the County's insurer has incurred loss.

14.7.a.c.a.c Any *person* cited or arrested for any of the following offenses occurring after January 1, 2000, unless and until the charge is dismissed:

14.7.a.c.a.c.a Driving under the Influence of Alcohol or Drugs under UCA 41-6-44.

14.7.a.c.a.c.b Driving with any measurable controlled substance in the body under UCA 41-6-44.6.

14.7.a.c.a.c.c Drinking an alcoholic beverage while driving or having an open container with alcoholic beverage therein in a motor vehicle under UCA 41-6-44.20.

14.7.a.c.a.d Any *person* pleading guilty to a charge of Alcohol or Drug Related Reckless Driving under UCA 41-6-44(9) committed since January 1, 2000.

14.7.a.c.a.e Any *person* refusing to allow a chemical test or tests of his breath, blood, or urine pursuant to UCA 41-6-44.10.

SECTION 15 - EMPLOYEE GRIEVANCE PROCEDURE

- 15.1 It shall be the policy of Emery County, insofar as possible to prevent the occurrence of grievances and to deal promptly with those which occur.
- 15.2 Whenever a grievance arises or is directed to the attention of the proper supervisor, the immediate supervisor shall promptly discuss all relevant circumstances with the employee and remove the cause of the grievance to the extent said supervisor deems advisable and possesses authority. This must be done within seven (7) calendar days of the notice of grievance.
- 15.3 If the supervisor fails to settle the grievance in a satisfactory manner within the seven (7) calendar days, the employee shall refer the grievance in writing to the Department Head. (Res. 6-3-87)
- 15.4 The Department Head shall lend assistance, and either settle the grievance or provide a written response within seven (7) calendar days from the day the written grievance was received.
- 15.5 If the employee disagrees with the Department Head's response, he/she may submit the written grievance and the written response to the Personnel Director for consideration. This shall be done no later than seven (7) calendar days after the receipt of the Department Head's response.
- 15.6 The Personnel Director shall respond in writing within seven (7) calendar days. If the Personnel Director fails to respond or settle the grievance, the employee may submit the written grievance and the Personnel Director's decision to the Career Service Council for consideration. The Career Service Council shall schedule a hearing with the party(ies) within thirty (30) calendar days after the receipt of the grievance and shall give the

employee notice thereof. The Career Service Council shall render a decision to the Department Head involved, with a copy of the decision being sent to the Personnel Director within ten (10) working days after conclusion of the hearing. The decision reached by the Career Service Council shall be final and binding. (Res. 6-3-87) The Career Service Council has the alternative option to recommend the appointment of an Administrative Law Judge to hear the case and recommend resolution.

- 15.7 Grievance proceedings are available to career service employees only. Temporary, seasonal and non-regular part time employees are "at-will" employees, and except as otherwise specifically provided herein, or as provided by law, are not entitled to additional benefits. (Res. 6-3-87)

SECTION 16 - SEPARATION

16.1 Immunity

16.1.a Career service employees are not subject to separation or suspension except for cause, or reasons of curtailment of work, or lack of funds. Employees will be retained on the basis of the adequacy of their performance and separated if inadequate performance cannot be corrected. Career service employees have the right to a department hearing within five (5) days of the separation notice and to appeal their separation through the process outlined in Section 15.

16.2 Reduction-in-Force

16.2.a At such time when circumstances (such as lack of funds or lack of work) dictate that there needs to be a reduction in force, the Department Head shall layoff the necessary number of employees according to the affected class(es) while considering length of service and performance. A reduction-in-force shall be made only after considering other cost saving measures.

16.3 Resignation

16.3.a Excessive turnover is costly and, therefore, should be avoided. Competent employees who resign voluntarily should be interviewed by the supervisor and the Department Head. In such instances the employee should be encouraged to reconsider. If the reason for the resignation is a misunderstanding or mistake by the County, an effort shall be made to correct the situation.

16.3.b Whenever an employee resigns, an exit interview should be conducted by the Department Head.

16.3.c Employees who resign and desire to leave the County in good standing should give a minimum of two (2) weeks' notice if they are to be considered for re-employment at a future date.

16.3.d An employee may withdraw a resignation on the next working day after its submission. After the close of the next working day following submission, withdrawal of a resignation may occur only with the consent of the appointing commission.

SECTION 17 - GARNISHMENTS

- 17.1 Emery County is opposed to employees receiving garnishments. Department Heads should discuss the matter with such employees and arrange for improvement of the situation. Utah Code (1985 add., 70C-7-104) states No employer may discharge any employee because his earnings have been subject to garnishment in connection with any one judgment

SECTION 18 - OCCUPATIONAL SAFETY AND HEALTH

- 18.1 It is the intent and purpose of Emery County to comply with all applicable rules and regulations pertaining to the Occupation Safety and Health Act as established under Federal Law or Utah State Law.
- 18.2 Emery County shall furnish each of its employee's employment safe from recognized hazards that cause or are likely to cause death or physical harm to such employees and does hereby require that each full-time employee comply with the occupation safety and health standards, orders, rules, and regulations promulgated under the Occupational Safety and Health Act. Compliance with this Act shall be accomplished through the establishment of an occupational safety and health program as outlined herein.
- 18.3 In accordance with State Law, Emery County provides Workman's Compensation Insurance for each employee. (Utah Workman's Compensation Act as Amended 1970, required that every employer with one or more employee carry Workman's Compensation Insurance.)
- 18.4 In accordance with law, each Department Head shall inspect or designate a competent person or persons to inspect frequently for unsafe conditions and practices, defective equipment and materials, and where such conditions are found, to take appropriate action to correct such conditions immediately. Supervisory personnel shall enforce safety regulations and issue such rules as may be necessary to safeguard the health and lives of employees. They shall warn all employees of any dangerous conditions and permit no one to work in an unsafe place, except for the purpose of making it safe.
- 18.5 An accurate record shall be kept of all accidents involving an injury to an employee while on duty, whether or not time is lost. These records shall at all reasonable times be available to the Industrial Commission or its representatives upon request. Other records shall be kept as requested by the Industrial Commission or its representatives upon request. Other records shall be kept as requested by the Industrial Commission.

- 18.6 Each Department Head or supervisor shall post, in a conspicuous place, listing of telephone numbers or addresses as may be applicable so that necessary help can be obtained in case of an emergency. Such a list shall include:
- 18.6.a Responsible supervision (superintendent or equivalent)
 - 18.6.b Doctor
 - 18.6.c Hospital
 - 18.6.d Ambulance
 - 18.6.e Fire Department
 - 18.6.f Sheriff or Police
- 18.7 All supervisors and employees shall be required to insure clean work areas. An excessively littered or dirty work area constitutes an unsafe, hazardous condition of employment and should be remedied within a reasonable amount of time. When no other method or combination of remedies exist to minimize hazards due to toxic dusts, fumes, gasses, flying objects, dangerous rays, or burns from heat, acid, caustics or any hazard of a similar nature, the County shall provide each worker with the necessary personal protection equipment, such as respirators, goggles, gas masks, certain types of protective clothing, etc. Provision shall also be made to keep all such equipment in good, sanitary working conditions at all times.
- 18.8 A report of any on-the-job injury resulting in disability or compensable lost time must be submitted to the Department Head or other designated official who will notify the personnel office within three (3) calendar days of the injury.
- 18.9 All fatal, potentially fatal, loss of consciousness or other serious accidents shall be reported immediately to the Sheriff's Office (911) and to the Department Head who shall contact the personnel office, who shall contact the county's Worker's Compensation Fund by telephone to file the First Report of Injury.
- 18.10 No person shall remove, displace, destroy, or carry away any safety device or safeguard provided for use in any place of County employment or interfere with the use of any method or process adopted for the protection of employees. No employee shall refuse or neglect to follow and obey reasonable orders that are issued for the protection of health, life, safety, or welfare of employees.
- 18.11 In addition to the rules and regulations specified above, the following shall apply:
- 18.11.a Employees who do not understand or speak the English language shall not be assigned to any duty or place where the lack of or partial lack of understanding or speaking English might adversely affect their safety or that of other employees.

- 18.11.b Where there is a risk of injury from hair entanglement in moving parts of machinery, employees shall confine their hair to eliminate the hazard.
- 18.11.c Loose sleeves, tails, ties, lapels, cuffs, or similar garments which can become entangled in moving machinery shall not be worn where an entanglement hazard exists.
- 18.11.d Wrist watches, rings, or other jewelry shall not be worn on the job where they constitute a safety hazard.
- 18.11.e No employee shall carry liquor into a place of employment, except that the place of employment shall be engaged in liquor business and this is part of the assigned duties.
- 18.11.f No intoxicated person shall be allowed to go into or loiter around any operation where workers are employed.
- 18.12 Persons operating motor vehicles while on county business shall possess a current driver's license appropriate to the type of vehicle and driving involved, and shall comply with all driving rules and regulations of the State and those of counties and municipalities as may apply.
- 18.13 Drivers authorized by the county to operate county vehicles, but who are not county employees will be subject to the same rules and regulations as if they were employed by the county. Emery County reserves the right to disapprove or restrict non-employee drivers.
- 18.14 It shall be the policy of Emery County that those who are authorized to operate county vehicles shall wear seat belts according to Utah State statute. Violators of this policy will be subject to conditions specified in Section 14 - Disciplinary Procedures. Exceptions to the policy are individuals with health conditions as outlined in the State statute. Drivers with special health conditions which do not allow them to use seat belts should advise the county so that, if possible, reasonable accommodation may be made.
- 18.15 It is the policy of Emery County to encourage the use of OSHA approved helmets while operating off road vehicles in the performance of job duties. Any employee who chooses not to use recommended safety devices accepts responsibility for their own injuries caused as a result of an accident. Equipment is available for employee use.
- 18.16 Establishment of an Accident Review Committee
- 18.16.a The Emery County Loss Prevention and Accident Review Committee, established by Resolution 10-02-07, shall review potential risk which could result in loss of life, injury or property damage and make recommendations to the designated department and the County Commission for corrective measures addressing losses due to safety violations, accidents, health hazards, or other injuries to persons or property for which the county may be liable.

18.16.b Additionally, it shall be the responsibility of the committee to determine fault and liability resulting from employee involvement in accidents and to make a recommendation to the individual Department Head and to the Emery County Board of Commissioners as to punitive measures to be taken. This recommendation will be based upon the degree of liability or loss the employee may have created.

18.16.c The Loss Prevention and Accident Review Committee will consist of a Commissioner designated by the County Commission, the Loss Prevention Representative who shall be designated by the County Commission from time to time and shall be a person who is familiar with the county's insurance policies and losses incurred, the Personnel Director, one member from the County Attorney's Office, one member of the Sheriff's Office, the County Clerk/Auditor, and one member from the Road Department. (For more specific information on the functions of the committee refer to the separate document entitled Bylaws.)

18.17 Establishment of Department Safety Committees

18.17.a Each county department shall establish a safety committee which will review accidents and potential for liability within their own department and will work in cooperation with the Loss prevention and Accident Review Committee. Recognizing that many departments are small and a committee of several members is not reasonable, then the Department Head shall conduct the same activities for their department as a safety committee would conduct in larger departments. The Department Head shall participate with the Loss Prevention and Accident Review Committee on investigations of accidents involving their particular department. (Paragraphs 18.12 through 18.18.a by Resolution 11-30-99A)

18.18 Return to Work – Transitional Duty Program:

18.18.a. This Return To Work – Transitional Duty Program is designed to support employee recovery, protect employee income, reduce workers' compensation costs, and promote employee good will.

18.18.b. Employees recovering from a work-related injury or illness who are unable to return to work and fully perform the essential functions of their jobs, with or without reasonable accommodation, may still be able to undertake an alternative, temporary, transitional position with the county until recovery is complete. This transitional position will be carefully designed to be appropriate for the skills, knowledge, and capabilities of the recovering employee so that the work can be accomplished safely. An employee able to perform transitional duty will work in a temporary transitional duty position until either he or she has the necessary capacity to perform his or her normal position, or until the transitional duty job is terminated.

18.18.c The Return To Work – Transitional Duty Program covers all compensable disabling conditions insured under workers' compensation and is limited to employees

with temporary impairments. Transitional duty positions, when available, are always temporary and are assigned for a finite period of time.

18.18.d While the goal of this program is to return all employees to gainful employment as quickly as possible, the workload needs of the county must be considered. As a result, temporary transitional duty work may not always be available to all employees. A transitional duty position may entail doing some of the duties of the injured employee's normal job, or it may involve undertaking a special project or projects previously left unaccomplished by the department. Transitional duty work may also be found outside the employee's own department. At the time of the work-related illness or injury, the Director of Personnel Management shall contact supervisors for assistance to determine whether an appropriate transitional duty position is possible.

18.18.e After a reported illness or injury resulting in transitional duty, the employee's supervisor or the Director of Personnel Management will contact the employee to determine when the employee may be available to return to work, to either full duty in the normal position, or to a new temporary transitional duty position. If the employee is unable to resume the full set of duties, supervisors will first attempt to provide the employee a temporary transitional duty position based on the employee's job skills and capacities at the time of return to work.

18.18.f With appropriate medical documentation indicating an employee is able to perform all temporary transitional duty tasks, a Return to Work – Transitional Duty Agreement will be signed by the employee, supervisor, and Department of Personnel Management, defining the transitional duties and the duration of the agreement based on the operational needs of the institution. The employee needs to communicate to both the supervisor and the Department of Personnel Management any changes in medical condition, concerns about transitional duty tasks, and other concerns related to the workplace injury or the transitional duty work.

SECTION 19 - WORKERS' COMPENSATION

- 19.1 Emery County operates under the provisions of the State of Utah Workman's Compensation Act which provides that--"any employee injured or killed during the course of his duty shall receive compensation for loss sustained on account of such injury or death, and for medical, nurse, and hospital services, medicines, and funeral expenses."
- 19.2 The size of the awards and the conditions connected with these claims are contained in the State Laws covering Workman's Compensation cases. Any injury occurring on the job must be reported to the supervisor immediately, and forms prescribed by the State Industrial Commission must be completed and submitted to the Personnel Director within seven (7) days of injury.

SECTION 20 - AMENDMENT

- 20.1 Amendments to this Personnel Policy may be done by resolution properly enacted by majority vote of the Commission in a duly called Commission Meeting, and need not be done by ordinance. (Res. 1-15-86B)

SECTION 21 - DRUG-FREE WORKPLACE STATEMENT

- 21.1 The purpose of this section is to implement the Federal Drug-Free Workplace Act of 1988. In compliance with the Act, Emery County employees are prohibited from unlawfully manufacturing, dispensing, possessing, distribution or using any controlled substance or alcohol during working hours, or on County property.
- 21.1.a Any violation described above which occurs outside of work is prohibited if it directly affects the eligibility of the County to receive federal grants of any amount or to qualify for federal contracts of \$25,000 or more.
- 21.1.b Employees who violate this policy will be subject to disciplinary actions up to and including termination in accordance with Section 14 Disciplinary Procedures.
- 21.1.c All employees shall be required to attend an annual drug-free awareness seminar which will be provided by the Office of the Emery County Personnel Director. The goal of Emery County is to establish a "Drug Awareness Program" for the purpose of providing employees with the most current information relative to the dangers of substance abuse in the workplace, clarification of Emery County's policy on the drug-free workplace, information regarding the employee assistance program, information regarding the penalties for violation of the County's policy.
- 21.1.d Emery County is committed to making good faith efforts to maintain a drug-free workplace by implementing all the Act's requirements. (Res. 5-5-93A)

SECTION 22 - SUBSTANCE ABUSE POLICY

- 22.1 The purpose of this policy is to improve job performance; help employees who experience problems; provide safety and protection to employees and the public; and to comply with federal and state laws.
- 22.1.a Definitions of Terms in Policy
- 22.1.a.a Drug Paraphernalia: Objects used to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, re-pack, store, contain, conceal drugs or inject, ingest, inhale, or otherwise introduce a drug into the human body.
- 22.1.a.b Drugs (Unauthorized/Illegal): Narcotics, marijuana, hashish, cocaine, alcohol, and controlled substances or medications other than those sold to the

public on a non-prescription basis or those prescribed to an employee by a duly licensed physician.

22.1.a.c Prescription Drugs: Those medications (containing drugs or other controlled substances) that are prescribed to an individual by an authorized physician, carried in its original container that is labeled by a licensed pharmacist, and taken as directed.

22.1.b All employees are prohibited from being under the influence of alcohol or illegal drugs during working hours.

22.1.c The use, sale, or possession of an illegal drug or controlled substance while on duty is cause for termination.

22.1.d The sale, possession, transfer, or purchase of illegal drugs on Emery County property or while performing business for Emery County is strictly prohibited and is also cause for termination. Such action will be reported to law enforcement officials.

22.1.e No alcoholic beverage will be brought or consumed on Emery County properties or in Emery County equipment and/or vehicles of any type.

22.1.f No prescription drug will be brought on Emery County premises by a person other than the one for whom it is prescribed. Such drugs will be used only in the manner, combination, and quantity prescribed.

22.1.g Any employee whose off-duty abuse of alcohol or illegal use of prescription drugs results in excessive absenteeism or tardiness or is the cause of accidents or poor work will be subject to discipline, including termination.

22.1.h Employees with substance abuse problems may voluntarily seek rehabilitation through employee assistance programs prior to incidents which require discipline.

22.1.h.a Supervisors who detect substance abuse exhibited by poor job performance, excessive absenteeism, or errors in judgment, shall document said observations and shall assist employees in seeking help.

22.1.h.b Employees who reject offers of assistance or do not satisfactorily achieve rehabilitation are subject to termination.

22.1.h.c An employee undergoing rehabilitation shall be granted sick, annual or leave without pay for inpatient treatment.

22.1.i Discipline procedures for substance abuse may include probation contingent upon successful rehabilitation or immediate termination. Application of discipline procedures shall be applied as outlined in Section 14 - Disciplinary Procedures.

22.1.j Any employee who is convicted under a federal or state criminal statute regulating the manufacture, distribution, dispensing, possessing or use of a controlled substance for a violation occurring in the workplace is to notify his/her Department Head of the conviction no later than five calendar days after the conviction. Upon said notification, the Department Head shall immediately notify the Office of the Personnel Director.

22.1.k The Office of the Personnel Director shall notify the Emery County Board of Commissioners and the federal grantor or agency for which a contract is being performed within ten (10) calendar days after receiving notice from the judicial system or actual notice from affected employee(s).

22.1.l Employer must take appropriate "personnel action" and report such action to the federal contracting agency within thirty (30) days after receiving notice of workplace drug convictions.

22.1.m This policy is a term and condition of employment with Emery County pursuant to Section 14.

22.2 Pre-employment Testing: All persons selected for hire by Emery County shall be given a conditional job offer, then they must submit to a drug test. Any such persons found to be using an illegal drug or controlled substance, or using a prescription drug without an authorized prescription, or who refuses to take the drug test shall be disqualified from employment.

22.3 Reasonable Suspicion Testing:

22.3.a Employees having a reasonable suspicion that an employee is under the influence of alcohol or drugs in violation of this policy shall notify the immediate supervisor or Department Head and provide the information in writing which justifies their suspicion.

22.3.b Circumstances which may constitute a basis for determining a reasonable suspicion include, but are not limited to:

22.3.b.a. pattern of abnormal or erratic behavior such as a significant change in the quantity or quality of work, unusual mistakes or errors of judgment or unusual absenteeism;

22.3.b.b. a work-related accident, in combination with other factors;

22.3.b.c. the direct observation of the employee using drugs or alcohol;

22.3.b.d. the employee's possession of alcohol or drugs at a county work site;

22.3.b.e. the noticeable presence of physical symptoms of drug or alcohol use such as glassy, blurry or bloodshot eyes, dilated or pinpoint pupils, hand tremors, flushed or swollen face, the odor of alcohol on the breath, slurred speech, needle marks, hallucinations, unusual euphoria, unusual, aggressive or bizarre acts, or poor coordination or reflexes; or

22.3.b.f. being informed by an employee that another employee is believed to be using or under the influence of drugs or alcohol.

22.3.b.g. In the event that a supervisor has a reasonable suspicion that an employee is impaired by the use of alcohol or drugs in violation of this section, the following steps shall be taken:

22.3.b.h. The employee shall be immediately removed from assigned duties and informed by the supervisor that an impairment due to drug or alcohol use is suspected.

22.3.b.i. The employee shall be given an opportunity to explain the behavior giving rise to the suspicion.

22.3.b.j. The reporting supervisor shall immediately notify the Department Head or Elected Official of the supervisor's actions and request advice as to steps to be followed.

22.3.b.k. The Department Head or Elected Official, after counsel with and in the presence of the supervisor, shall inform the employee that impairment due to the use of drugs or alcohol is suspected.

22.3.b.l. The Department Head or Elected Official may direct the employee to submit to a drug and alcohol test by a qualified provider to determine whether drugs or alcohol is present in the employee's system. The employee's refusal to submit to the test may be subject to separate appropriate disciplinary action which may include termination.

22.3.b.m. If the determination is made by the Department Head or Elected Official that alcohol or drug use impairment is involved to the extent that the performance of job duties is adversely affected, the employee shall be relieved from duty.

22.3.b.n. An employee, upon being confronted by the reasonable suspicion that he or she is under the influence of drugs or alcohol, may request that a drug or alcohol test be conducted by a qualified provider to determine whether drugs or alcohol are present in his or her system if such a test has not already been directed.

22.3.b.o. Upon being relieved of duty, appropriate steps shall be taken to discourage the employee from operating a motor vehicle. Reasonable efforts shall be taken to protect the public safety as well as the employee's safety.

22.4 Post-Accident Testing: Employees operating a vehicle who are in an accident where they are cited, where there is an injury, where a vehicle is towed or which results in the loss of human life must be tested for misuse or abuse of drugs and alcohol.

22.4.a. Alcohol tests must be conducted within two hours of an accident. If alcohol tests cannot be conducted within two hours, a written report must be prepared by the

employee's supervisor and kept on file stating the reasons the tests were not administered within the two hour time limit. The alcohol test must then be conducted within eight hours. After eight hours all attempts to test for alcohol must cease.

22.4.b Drug tests must be conducted within 32 hours of an accident. If drug tests cannot be conducted within 32 hours, a written report must be prepared by the employee's supervisor and kept on file stating the reasons the tests were not administered within the allowed time limits.

22.4.c. Any driver subject to post accident testing who leaves the scene of an accident before a test is administered or fails to remain readily available for testing may be deemed to have refused to submit to testing.

22.5 Requirements for Commercial Driver License Licensees and Public Safety Personnel:

22.5.a. All commercial driver licensees and public safety personnel must be tested for alcohol and the following drugs:

- a. marijuana (THC);
- b. cocaine;
- c. opiates;
- d. phencyclidine (PCP); and
- e. amphetamines, including methamphetamines.

22.5.b. No commercial driver licensees or public safety personnel shall report for duty or remain on duty requiring the performance of safety-sensitive functions when such person uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle or perform public safety functions. Emery County shall not permit the employee to perform or continue to perform a safety-sensitive function if the county has actual knowledge that a such person has used a controlled substance.

22.5.c. Notwithstanding the absence of a reasonable suspicion alcohol test, CDL drivers and public safety personnel are prohibited from reporting or remaining on duty requiring the performance of safety-sensitive functions if they have an alcohol concentration of .04 or greater. Such persons are not permitted to use alcohol while driving or for four hours prior to driving. Emery County, if it has actual knowledge of such alcohol concentration or use, shall not permit such persons to perform safety-sensitive functions. No such persons shall be on duty or operate a commercial vehicle while such persons possess alcohol, unless the alcohol is manifested and transported as part of a shipment. Such persons with a blood alcohol concentration of .04 or greater will be removed from safety-sensitive functions and not allowed to return until successfully completing return-to-duty testing. An alcohol test with results between .02 and .04 will also cause the employee to be removed from safety-sensitive functions, but will allow the employee to return for

their next scheduled shift if at least eight hours have elapsed or 24 hours have passed for drivers.

22.5.d. Emery County has the right to require a commercial driver licensees and public safety personnel to report the use of any therapeutic drug they are taking.

22.5.e. Commercial driver licensees and public safety personnel may be allowed to perform job duties while using prescribed medication containing a controlled substance if a physician advises in writing that the substance will not adversely affect their ability to operate a commercial vehicle or perform a safety-sensitive function.

22.5.f. The misuse of any over-the-counter drug which is labeled that it may cause drowsiness or a warning to users not to operate heavy machinery is prohibited while driving a commercial or public safety vehicle.

22.5.g. The unauthorized use of another employee's prescription drugs while driving a commercial vehicle or performing public safety functions is prohibited.

22.5.h. All prospective employees who will be driving a commercial vehicle while on duty or who will be employed in public safety must be tested for misuse or abuse of the drugs listed in Subsection 22.a. and alcohol before starting work. In lieu of this requirement, Emery County may request detailed written documentation from a previous employer of a prospective employee's drug and alcohol history. Pre-employment testing will occur after a conditional offer of employment. In order to begin work, the test must indicate less than .04 alcohol concentration and negative drug test results.

22.5.i. Random testing is required of commercial driver licensees and public safety personnel and will be administered by Intermountain Drug Free Workplace:

22.5.j. If employees selected for random testing are off work due to illness, injury, vacation, or similar leave, the Department Head or Elected Official will document it and keep that information in a permanent record.

22.6 Reasonable suspicion testing of commercial driver licensees and public safety personnel will be conducted pursuant to the following:

22.6.a. Such employees must be tested for drugs or alcohol when a Department Head or elected official has reasonable suspicion that they are under the influence of either alcohol or drugs. The supervisor's determination that a reasonable suspicion exists to require the employee to undergo an alcohol or drug test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.

22.6.b. The required tests shall not be performed by the same Department Head or Elected Official who determined that reasonable suspicion existed.

22.6.c. The Department Head or elected official shall document the specific facts and observations or symptoms which formed the basis for determination that reasonable suspicion existed.

22.6.d. Alcohol testing is authorized only when the observations are made just before, during or just after the employee operates a commercial vehicle or when the employee is working in a public safety function. An employee may be directed by the supervisor to only undergo reasonable suspicion testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

22.6.e. Alcohol tests must be conducted within two hours of an accident. If alcohol tests cannot be conducted within two hours, a written report must be prepared by the employee's supervisor and kept on file stating the reasons the tests were not administered within the two-hour time limit. The alcohol test must then be conducted within eight hours. After eight hours all attempts to test must cease.

22.6.f. Drug tests must be conducted within 32 hours. If drug tests cannot be conducted within 32 hours, a written report must be prepared by the employee's supervisor and kept on file stating the reasons the tests were not administered within the allowed time limits. A written record shall be made of the observations leading to a controlled substance reasonable suspicion test, and signed by the supervisor who made the observations, within 24 hours of the observed behavior or before the result of the controlled substance test is released, whichever is earlier.

22.7 Before an employee returns to duty requiring the performance of a safety-sensitive or public safety function after engaging in conduct prohibited by Subsection 22 regarding alcohol, the employee shall be evaluated by a substance abuse professional, receive proper treatment, if necessary, and undergo an alcohol test with a result indicating an alcohol concentration of less than .02. If the conduct regarded drugs, the employee must receive the evaluation, treatment and complete a drug test with a verified negative result.

22.8 Following a return-to-duty test, employees must be tested for drugs and alcohol a minimum of six times in the next twelve months or as many as 30 times in a total of 60 months pursuant to the recommendations of a substance abuse professional.

22.9 All supervisors who may be involved in determining if reasonable suspicion exists to require an employee to be tested must undergo 60 minutes of training on drug use and 60 minutes of training on alcohol misuse. This training must include physical, behavioral, speech, and performance indicators of probable alcohol misuse and drug abuse.

22.10 All commercial driver licensees and public safety personnel must undergo 60 minutes of training on drug and alcohol misuse and abuse prior to their participation in the alcohol and drug testing program.

22.11 Refusing to submit to testing will prohibit the employee from performing safety-sensitive functions. Refusal is constituted by failure to provide adequate breath without explanation, obscuring testing, failing to sign a test form, leaving the accident scene before testing, and activities which are similar forms of set-back. The consequences for refusal are congruent to testing at .04 grams of alcohol concentration or violating rules.

22.12 All employees performing in safety-sensitive positions who are subject to drug and alcohol testing shall be given a copy of this policy along with any department or division policy on drug and alcohol testing before any testing is initiated.

22.13 Testing Procedures:

22.13.a. Drug testing is performed using a urine collection method. Each department whose employee is being tested may send another trusted employee in company with the first to the collection site to minimize the opportunity for sample adulteration. Testing will be conducted under controlled procedures by a qualified technician. Samples collected will be sent for analysis to a drug testing laboratory that follows guidelines set forth by the National Institute of Drug Abuse (NIDA). Split sample testing will be followed. A medical review officer must review and verify all positive drug tests and notify the director of personnel management. An employee whose test result is positive may submit a written request within ten days to the contracted testing facility for further, independent testing of the original specimen. This independent testing must be done at a NIDA certified laboratory and will be done at the employee's own expense.

22.13.b. Alcohol testing will be conducted by a certified breath alcohol technician (BAT), using an evidential breath testing device. It may be done at the scene of an accident providing Emery County can obtain the results of that testing. The BAT must conduct an initial screening test. If the results are .02 or greater, a confirmation test must be administered. The confirmation test must be conducted at least 15, but no more than 20 minutes following the screening test. The BAT shall transmit all test results to the employee's supervisor and the director of personnel management. Use of a urine sample for both the drug testing and alcohol testing is not allowed.

22.13.c. Positive test results of alcohol or drug abuse will not be reported until after a confirmatory test has been administered.

22.13.d. Time spent participating in drug and alcohol testing procedures covered in this policy will be considered compensable time, whether the employee is on or off duty.

22.13.e. All drug or alcohol test sample collection, handling, transportation and testing under of this policy shall be conducted in accordance with the requirements of the Act and other applicable provisions of state or federal statutes or regulations.

22.13.f. Any person required to submit to a drug test under this policy may, at such individual's option and expense, submit a second drug test sample for further testing in accordance with the provisions of the Act and within six hours after the first drug test.

22.13.g. All drug and alcohol testing and sample collection procedures under this policy shall be performed under reasonable and sanitary conditions and in such a manner as to ensure the privacy of the individual being tested.

22.13.h. In all drug testing and sample collection procedures, any transmittal or reporting of test results shall be conducted with due respect for confidentiality. Drug and alcohol test activities and result reports may be made available only to supervisors and management personnel with an immediate need to know. Testing procedures and results

may be made available and communicated as needed for the purposes of any disciplinary action or criminal investigation or prosecution.

22.14 Record Keeping:

22.14.a. Records regarding test results are generally considered protected documents under the provisions of the Government Records Access and Management Act, Utah Code Ann. 63-2-304(8), 1953, as amended.

22.14.b. All records related to drug and alcohol testing must be maintained in a secured, confidential file and shall not be made part of the personnel file unless the record is used as basis for an involuntary termination of employment or other disciplinary action. Record keeping will be in the office personnel management.

22.14.c. Drug and alcohol related testing records for their employees who hold a CDL shall be maintained in accordance with the Omnibus Transportation Employee Testing Act of 1991. Alcohol results indicating an alcohol concentration of 0.02 or greater, documentation of refusals for testing, evidential breath testing calibration documentation, and substance abuse professional's evaluation of employees and referral documents all must be maintained for five years. Records relating to the collection process and training must be maintained for two years. Negative test results must be kept for one year.

22.14.d. Applicants subject to pre-employment drug and alcohol testing may request and receive a copy of the test results within 60 days of hiring.

22.14.e. Employees must be notified by the office of personnel management as soon as possible by telephone and in writing to their last known address of positive test results for random, post accident, and reasonable suspicion testing, including the drug for which they tested positive.

22.14.f. The director of personnel management will, upon request, submit to the Federal Highway Administration an annual report summarizing the test results under Subsection 22.

22.15 Discipline and Rehabilitation:

22.15.a. If a confirmed positive drug or alcohol test result indicates a violation of this policy or if an individual refuses to provide a sample in accordance with this policy, or otherwise violates this policy, that test result, refusal, or violation may be used as a basis for imposing disciplinary action, including termination.

22.15.b. Whenever appropriate, rehabilitation of employees who suffer from drug or alcohol use or abuse problems should be pursued. The determination of whether to proceed with discipline, rehabilitation in addition to discipline, or rehabilitation in lieu of discipline for violations of this policy shall be within the discretion of the Department Head and the County Commission. Consultation with the director of personnel management or an outside service provider is encouraged in making that decision.

22.15.c. Alcohol or drug abuse which can be determined through a medical or other recognized professional diagnosis to be a disabling condition will be subject to state and federal disability regulations. Drug or alcohol abuse conditions which can be treated through rehabilitation must be referred to a recognized rehabilitation center. The referral may be voluntary or mandatory at management's discretion and depending on the severity of the abuse.

22.15.d. Any rehabilitation in lieu of or in addition to disciplinary action should be undertaken in accordance with the terms of a written memorandum of understanding or agreement between the Department Head and the employee. The memorandum should set out the expectations which the employee must satisfy, including successful completion within one year of a rehabilitation program at the employee's expense; an appropriate waiver of confidentiality to permit communication between supervisors and rehabilitation service providers, as needed; rehabilitation drug and alcohol testing as determined appropriate which is paid for by the employee; an acknowledgment that failure to successfully complete rehabilitation will lead to appropriate disciplinary action; and such further conditions as may be necessary and appropriate.

22.15.e. An employee undergoing rehabilitation may be granted no more than 30 working days of sick leave, annual leave, or leave without pay for inpatient treatment.

22.15.f. Nothing in this policy shall be construed as granting a county employee immunity from disciplinary action under other policies or arrest or prosecution by appropriate law enforcement authorities for activities involving drugs or alcohol, which are in violation of state law or city or county ordinance. County employees convicted of the use or possession of illegal drugs in the workplace must report that conviction to their supervisor.

22.16 Self-referral: Employees are encouraged to refer themselves for drug rehabilitation services to be provided by a certified rehabilitation service provider. Employees who enter drug rehabilitation as a self-referral are encouraged to communicate this fact to the supervisor and the Department Head to determine whether drug use or rehabilitation activities will adversely affect job performance. Supervisors are encouraged to cooperate and work with employees who are undergoing a self-referral rehabilitation in order to assist in a successful completion of that rehabilitation. The status of employees in safety-sensitive positions must be carefully screened in order to determine that their rehabilitation activity shall have no potential adverse effect on job duties.

22.17 Federal Act Compliance:

22.17.a. As a condition of employment on any federal contract or grant of a value of \$25,000 or more, each employee shall:

22.17.b. abide by the terms of this policy; and

22.17.c. notify the Department Head or Elected Official of any criminal or drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

22.17.d. The Department Head will notify the federal grantor or agency for which a contract is being performed within ten calendar days after receiving notice from the judicial system, through other means or from an employee performing work under the grant or contract that the employee has so been convicted.

22.18 Policy Distribution:

22.18.a. Each department will distribute this policy to its employees. It must be given to each new employee at the time of hire.

22.18.b. Department Heads will assure that each employee engaged in the performance of federal contract or grant of a value of \$25,000 or more is given a copy of this policy.

22.18.c. Each person receiving this policy must sign a statement certifying they received it.

22.18.d. The policy is to be updated as necessary to conform to state and federal regulations and as the County requires.

22.19 Policy Exceptions

22.19.a The Board of County Commissioners may approve special exceptions to the provisions of this policy when it is not contrary to the Federal Drug-Free Workplace Act and state law, and when justified by compelling individual and county circumstances. (Res. 5-5-93A)

DEFINITIONS

- a. **"Controlled Substance"** - any substance including those assigned by 21 U.S.C. 802 and includes all substances listed on Schedule I, through Schedule V., as they may be revised from time to time (21 CFR 1308).
- b. **"Drug Testing"** or **"Drug Test"** - scientific analysis for the presence of drugs or their metabolites in the human body.
- c. **"Employee"** - individual or officer in the service of the employer for compensation.
- d. **"Prospective Employee"** - any individual who has made a written or oral application to become an employee of the County.
- e. **"Reasonable Suspicion"** or **"For Cause Testing"** - an articulated belief, based on recorded specific facts and reasonable inference drawn from those facts that an employee is in violation of this policy.
- f. **"Random Testing"** - unannounced drug testing of an employee who was selected by using a method uninfluenced by any personal characteristic other than job category.

- g. **"Sample"** - any sample of urine, blood, breath, saliva or hair used for drug and/or alcohol testing.
- h. **"Safety Sensitive Positions"** - all employees who possess Commercial Driver's Licenses (CDL's) and who operate a vehicle with the following characteristics:
 - A gross vehicle weight of rating over 26,000 pounds
 - Vehicle contains 16 passengers, including the driver
 - The vehicle contains hazardous material including placards
- i. **"On Duty"** - any employee waiting to be dispatched, inspecting equipment, driving in a vehicle, loading or unloading, on a vehicle and attending a disabled vehicle.
- j. **"Medical Review Officer (MRO)"** - a licensed physician with a knowledge of drug abuse disorders that is employed or contracted by the County to conduct review of drug-test results.
- k. **"Alcohol Testing"** - testing conducted by a Department of Transportation (DOT) certified breath-alcohol technician using a DOT approved breath testing device.

SECTION 23
COMPUTERS, INTERNET, AND ELECTRONIC COMMUNICATIONS

23.1 General

23.1.a. Any county department eligible for and having funding for the Internet will be provided with access under the terms and conditions of this policy. Violation of this policy may be grounds for having access to Internet or other electronic communications services revoked.

23.1.b. The objective of this policy is to minimize the risks to business functions and government-owned assets, and to assure adherence to regulatory and legal requirements and enterprise policies when county resources are used to access public networks.

23.1.c. The scope of this policy applies to electronic communications on public networks such as:

- a. electronic mail;
- b. file transfer;
- c. remote login;
- d. remote control software;
- e. discussion groups;
- f. World Wide Web, Gopher, Web Servers, Wide Area Information Servers;
- g. Internet;
- h. America Online, CompuServe, Prodigy and similar services;
- i. online search services such as Dialog or Paperchase; and
- j. chat.

23.2 Privacy Clause

23.2.a. The contents of an employee's computers and electronic mail are subject to search without the employee's consent. An employee shall have no expectation of privacy to electronic communications sent or received by that employee. Electronic media, specifically the Internet and e-mail, is not a secure communication network and personal or privileged information sent via these media could potentially be read or disclosed by anyone.

23.2.b. The county may access, monitor and disclose the contents of employee electronic messages, Internet contacts and communications, and other information received or transmitted by electronic media. Circumstances in which access, monitoring, and disclosure will occur may include, but are not limited to:

- a. suspected misuse of electronic media;
- b. investigation related to pending or anticipated litigation;
- c. ensuring compliance with this policy, applicable laws, ordinances, or court orders;
- d. ensuring appropriate use for county business; and
- e. accessing information in the employee's computer system when the employee is unavailable.

23.3 Internet Issues: Internet access can provide significant business benefits for county government. However, there are also significant legal, securities, and productivity issues related to how the Internet is used. Examples of such issues are the potential:

23.3.a. to receive computer viruses from Internet information sources;

23.3.b. for someone to eavesdrop on data or correspondence which is exchanged via the Internet;

23.3.c. for a county employee, through the content of their Internet exchanges, to impugn the reputation of local government officials and thereby invite civil liabilities;

23.3.d. for county employees to be enticed by the vast social and informational forums of the Internet into spending significant work time on nonproductive activities;

23.3.e. for county employees or any person using an Internet connection to sufficiently upset other Internet users, causing the connection to be flooded with traffic in protest, thus negatively impacting the availability of the service for true business purposes; and

23.3.f. for outside access to local databases to overwhelm the processing power of the local network.

23.4 Guidelines: The following procedures shall be followed while accessing public networks through county resources. These guidelines govern both county employees, contractors, and anyone working under county direction.

23.4.a. Use of county resources for accessing public networks is for work related purposes only.

23.4.b. Act responsibly when participating in discussions over a public network. Be polite and do not get abusive in your messages to others. Defamation can occur due to malicious use of the Internet.

23.4.c. Do not use public networks inappropriately. Use may be monitored and access may be revoked at any time for inappropriate conduct.

23.4.d. Determine and abide by the policies and procedures of any external network you access. You are expected to be a "responsible network citizen".

23.4.e. Downloading of any software programs or applications including shareware, freeware and demo's is strictly prohibited. All such requests must go through Information Services.

23.4.f. When downloading non-application software, check for copyright or licensing agreements. If there is any doubt, do not copy. If a licensing agreement exists or you must pay for the information, it must first be approved by Information Services.

23.4.g. There should be no automatic requests for information on the Internet.

23.4.h. Avoid the generation of excessive electronic mail.

23.4.i. Do not use software which attempts to discover properties about the public network or computing resources connected to that network.

23.4.j. Any data transferred via the Internet is prone to be monitored and intercepted by unintended destinations.

23.4.k. All electronic mail is a public record and may be subject to public inspection.

23.5 Roles and Responsibilities

23.5.a. Information Services shall:

- a. provide updates and suggestions for this policy;
- b. apprise Elected Officials and Department Heads of any continued abuse;
- c. not act as the "Net Police";
- d. not be held responsible for non-professional usage, improper humor, or the moderation and monitoring of electronic mail or Usenet groups. Disciplinary actions for sexual harassment and hostile work environment violations and for use of county property for personal purposes are defined by other county policies.
- e. review and approve the Internet Acceptable Use Guidelines; and
- f. advocate adherence to the policy.

23.5.b. County departments shall:

- a. act as the authorizing agent that allows access to the Internet;
- b. ensure that the acceptable use guidelines are followed;
- c. provide for training of employees who need access;
- d. budget for service and associated training, if needed; and
- e. establish their own data sensitivity policy.

23.6 Protecting Proprietary Information

23.6.a. Persons transmitting county government data over public networks should ensure that the data is processed according to its level of sensitivity by using the definitions and guidelines which follow. After having read the following sections, if you are unsure of how to properly handle specific data, contact the Information Services for guidance.

23.6.b. Data Sensitivity Definitions:

- a. "Confidential Data" means information that shows specific strategies and major directions; information so defined by local, state or federal laws, rules or regulations; or data of other business or persons with respect to which the county is under an obligation of confidentiality.
- b. "Protected Data" means working files not completed for public dissemination; data which is of such a nature that unauthorized disclosure would be against the best interest of the county; or is personnel data with restricted use or access per local, state or federal laws, rules or regulations such as criminal justice data.
- c. "Private Data" means all county-related information requiring baseline security protection but failing to meet specified criteria for higher classifications including organizational policies and procedures that are internal by nature, and internal announcements.
- d. "Public Data" means information which requires no security protection such as public information, public announcements, and internal correspondence and documentation which do not merit a security classification.

23.6.c. Security: There are hundreds of millions of pages of Internet information and billions of publicly available files. It is impossible to monitor every site in the world to determine if the site has material available which violates policy. Even if a specific item is in violation of county standards, blocking access will not prevent access to the material, as many sites are either mirrored at other locations, or change their name and Internet protocol number regularly to avoid prosecution.

23.6.d. Internet Acceptable Use Guidelines:

23.6.d.a. This subsection represents a guide to the acceptable use of the Internet for county employees. This subsection intends only to address the issue of

Internet use. In cases where data communications are carried across other regional networks, acceptable use policies of those other networks apply and may limit use.

23.6.d.b. Participating agencies assume the responsibility for providing reasonable publicity and enforcement for this policy. Ultimate responsibility for traffic that does not conform to this policy lies with the individual end user. Each county department shall monitor and rectify the behavior of its users who disregard this policy.

23.6.d.c. Departments shall provide adequate training for their users to ensure appropriate network use.

23.6.d.d. Information Services and the county accepts no responsibility for the traffic which it transports and which violates the acceptable use policy of any connected networks, beyond informing the county department if and when a violation is brought to the attention of the County Commission.

23.6.d.e. All use of the Internet must be consistent with the goals and purposes of the Internet and within the spirit of this policy. The guidelines listed herein are provided to make clear the categories of use which are consistent with the purposes of the Internet. The intent is not to exhaustively enumerate all such possible uses or misuses.

23.6.d.f. Internet computing resources are world-wide, and all users are urged to exercise common sense and decency with regard to these shared resources. Particular attention should be paid to policies developed for various Internet services by Internet users, such as Usenet policies.

23.6.d.g. Because of the diversity of resources on the Internet, an even moderately complete listing of do's and don'ts would be quite large. In general, common sense should be used to judge situations. The following guidelines are given as a starting point.

23.6.d.h. Computing resources should be used only in the support of the administrative, instructional, and research objectives of the county.

23.6.d.i. Appropriate use of resources is limited to the official work of the departments.

23.6.d.i.a. Examples of inappropriate use of resources include:

- 1) any traffic that violates state, local or federal laws;
- 2) any traffic that is unethical in nature;
- 3) distribution of unsolicited advertising;
- 4) propagation of computer worms or viruses;

- 5) distribution of chain letters;
- 6) attempts to make unauthorized entry to another network node;
- 7) use for recreational games;
- 8) personal use; or
- 9) sexually offensive material.

23.6.d.j. Respect the privacy of others. Do not seek information about, obtain copies of, or modify electronic information belonging to other users unless explicitly authorized to do so by those users.

23.6.d.k. Do not share passwords with others or use passwords not belonging to you.

23.6.d.l. Respect appropriate laws and copyrights. The distribution of programs, databases, and other electronic information resources is controlled by the laws of copyright, licensing agreements, and trade secret laws. These should be observed.

23.6.d.m. All departments must follow these guidelines and understand that network traffic originating from their location is to be consistent with this policy. Information Services cannot police the network but may refer to the appropriate office holder for disciplinary action any department or employee that appears to be in persistent or serious abuse of this policy.

23.6.d.n. Information Services may at any time make a determination that particular uses are not consistent with the purposes of the Internet connection. Such determinations will be reported to the Department Head, as appropriate, for information and possible imposition of sanctions. Persistent or serious violations of the policy may result in withdrawal of approval to use the Internet or other penalties.

23.6.e. Participation in Discussion Groups

23.6.e.a. There should be a good business reason for participating in any discussion group over the Internet.

23.6.e.b. Even in a discussion but not limited to a discussion, the user must be aware that the information he or she puts out on the Internet will be perceived as the official Emery County position unless specifically identified as personal opinion. If you are offering your own opinion, be sure it is clearly identified as such. Also, a good rule of thumb is: "If you would be embarrassed to have someone read it on a postcard, don't say it on the Internet."

23.6.e.c. All the rules which apply to other forms of written correspondence apply here, even though the style is more casual.

23.6.f. Classes of Mail Allowed: Setting the standards for both casual and official correspondence is the responsibility of the individual department and would be the same for the Internet as for other forms of written correspondence.

23.6.g. Qualifications for Access Authority: Before Information Services approves a user for Internet access, a Emery County Computer Security Request Form must be properly filled out and according to the normal procurement process.

23.6.h. Web Server Guidelines:

23.6.h.a. Information Services will review all Web access proposals to ensure the project adheres to all guidelines set forth in this section. Any proposed Web access must be submitted to the Information Services for initial approval of the proposed project.

23.6.h.b. The following information must be provided to Information Services for them to review and assist in submitting the initial request to the commission:

23.6.h.b.a. the project's general purpose and how it relates to Emery County business;

23.6.h.b.b. the scope of the project, including what information is going to be made available and to whom and who is the targeted user of the project;

23.6.h.b.c. initial design documentation, which includes a rough page layout, applets, links, images, etc.;

23.6.h.b.d. Identification of Emery County data accessed that is not located on the web server and indicate how the data will be used;

23.6.h.b.e. the designated contact person within the department for this project and who will be responsible for maintaining current information; and

23.6.h.b.f. the security requirements of the project.

23.6.h.c. If initial approval is granted for the project, the following guidelines shall be followed during the development:

23.6.h.c.a. Information Services will oversee and maintain a fully functioning firewall for web access projects to be operating in production.

23.6.h.c.b. Information Services will monitor applications and network activity and set restrictions as needed to prevent problems with Emery County data or internal network processing.

23.6.h.c.c. Appropriate security levels will be maintained by Information Services.

23.6.h.c.d. Information Services will approve and allocate resource requirements.

23.6.h.c.e. Information Services must first review and approve the proposed location of the data and Web page access, Web server, and network access points.

23.6.h.c.f. Information Services' main priority is to maintain the integrity of the Emery County data and in-house network processing capabilities. If at any time, the web page or associated links or controls do not adhere to the set standards or cause a problem for whatever reason, the web page may be terminated without notification.

23.6.h.c.g. Contents of web pages should be approved by the Department Head or Elected Official or his or her designee.

23.7 Use of Electronic Mail

23.7.a. Electronic mail ("e-mail") is any message that is transmitted electronically between two or more computers or terminals, whether stored digitally or converted to hard copy. All computer-related information, including e-mail messages, are the property of Emery County and are considered the county's records.

23.7.b. Elected Officials, Department Heads, and those employees who are approved by their supervisor, may request an e-mail address that is Internet-accessible. At the request of the Department Head or Elected Official, employees will be provided Internet-accessible e-mail addresses for conducting county business. Employees will be provided such e-mail addresses, pending county technology capabilities and availability. Continued access to Internet-accessible e-mail will be contingent upon the employee's conduct.

23.7.c. As with any county property or equipment, e-mail should be used for official county business only. However, strictly forbidden e-mail usage includes use for personal profit or gain; transmission of political messages; solicitation of funds for political or other purposes; or sending of harassing messages.

23.7.d. Because e-mail is county property, the county has the right to inspect and review any e-mail or other data stored on county computers or equipment. Information Services is responsible for monitoring electronic mail through regular computer and network maintenance. Additionally, county officials may inspect and copy e-mail and computer records when there are indications of impropriety by an employee, when substantive information must be located and no other means are readily available, or when necessary for conducting county business. Supervisors may review the contents of an employee's electronic mail without the employee's consent.

23.7.e. E-mail messages that concern policies, decision-making, specific case files, contracts or other information that should be kept as part of the official records of county business should be retained by the recipients of such e-mail. Therefore, employees are responsible for retaining and archiving electronic mail messages as official records of county business.

23.7.f. The director of Information Services is the official custodian of electronically and digitally stored information, including electronic mail. Information Services is responsible for monitoring and retrieving archived data.

23.7.g. Employees are responsible for archiving e-mail messages. Employees should delete e-mail messages to minimize storage requirements. Each department is responsible for long-term storage of e-mail and will retain and destroy e-mail records in accordance with the records retention schedules established for records by the State.

23.7.h. Public requests for electronic mail that is a public record should be handled in compliance with the Government Records Access and Management Act. If a request is made to inspect e-mail, county staff shall prior to release consult with the Elected Official or Department Head for the purpose of determining whether the correspondence is a public record.