



County of Frederick

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TO: Human Resources Committee and Board of Supervisors
FROM: Paula Nofsinger, HR Director *Paula Nofsinger*
DATE: August 23, 2012
SUBJECT: HR Committee Agenda

The HR Committee will meet in the First Floor Conference Room at 107 North Kent Street on Friday, September 7th, at 8:00a.m. The agenda for the meeting is as follows:

1. The review and approval of four (4) draft HR policies.



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TO: Human Resources Committee and Board of Supervisors

FROM: Paula Nofsinger, HR Director *Paula Nofsinger*

DATE: August 22, 2012

SUBJECT: Summary of Policy Changes

Attached you will find four (4) policies that have been reviewed, updated, and matured to meet the needs of our current organization and employee population.

Even though some policies are essential and may be more complicated to simplify and comprehend, the Committee's objective in reviewing the recommended changes is to determine the level of understanding of the policy from an employee's perspective. The ultimate goal is to recommend to the Board a set of policies that are fundamental, compliant, and comprehensible to the extent possible.

Should you prefer a summary of changes, the following is a list made to each policy by section. In all cases throughout the policy manual, the word "Personnel" has been changed to "Human Resources."

XI. Disciplinary Policy

1. Purpose
 - a. For clarification, changed the purpose of the policy to reflect procedures instead of guidelines.
2. Policy Statement
 - a. For clarification, added or changed the words "full time," "ordinarily," and "any."
 - b. Added "demotion" to the sequential order list for consistency. It is discussed in the policy but not identified on the list.
3. Reprimands
 - a. Replaced "hand delivered and signed "received" or mailed certified mail (return receipt requested)" with the word "provided."
 - b. Deleted section g. entirely. This has not been a practice for several years. Additionally, recommend it be removed because of the potential misrepresentation of information within the file. It is my belief that we should maintain complete and accurate files on our employees.
4. Probation
 - a. Added section to explain procedures for placing an employee on probation. It is an option listed at the beginning of the policy, but there was not a section for the procedures of it.

5. Suspensions

- a. Deleted "leave with pay" after Administrative Leave, it is redundant.
- b. Updated Department Head procedures for clarity.
- c. Eliminated section explaining employee's right to meet with the County Administrator to respond to charges against him before any suspension without pay for three (3) or more days. Disciplinary suspensions (of any length) are eligible for the grievance procedure.
- d. Added a statement that the written documentation will be included in the employee's file maintained in HR department.

6. Demotion

- a. Updated Department Head procedures for clarity.
- b. Eliminated section explaining employee's right to meet with the County Administrator before implementation of demotion. Disciplinary demotions are eligible for the grievance procedure.
- c. Deleted "approval of County Administrator" and added statement about prompt decision by County Administrator.
- d. Moved sentence "The Board of Supervisors shall be notified of dismissals" to paragraph above.

7. Dismissal

- a. Updated Department Head procedures for clarity.
- b. Added statement about prompt decision by County Administrator.

8. Unsatisfactory Work Performance or Misconduct

- a. Updated "Absence without leave" to "Absence without approval." It is the unauthorized absence that is the issue, not if the employee is out of leave.
- b. Updated section (l.) to include "conduct."
- c. Clarified section (q.) for investigations that are connected with employment.

9. Policy on Intoxicants and Drugs

- a. Deleted this entire section as the County has a separate policy XXI. Drug and Alcohol Free Workplace.

10. Absence Without Leave

- a. Clarified section to reflect the issue of unauthorized absence, not absence without leave.
- b. Added words "or notification to" and deleted words "or to request and obtain an extension of time" within the definition of unauthorized absence.

11. County Administrator's Review

- a. Eliminated section as it appears to be redundant. County Administrator's review is included in each of the appropriate sections of the policy.

12. Right of Appeal

- a. Clarified the word "appeal" with "grievance." The appeal process is the grievance procedure.

XII. Grievance Policy and Procedure

1. Definition of Grievance

- a. Updated the language to match that in Virginia Code §15.2-1507(A)(1).

2. Coverage of Personnel

- a. Included part time employees as per Virginia Code §15.2-1507.
- b. Updated the list of exemptions to match Virginia Code §15.2-1507.

- c. Clarified paragraph on employee's access to the grievance procedure upon a voluntary resignation.
- 3. Determination of Grievance
 - a. Changed five (5) working days to ten (10) working days for a consistent and realistic schedule.
- 4. Grievance Procedure
 - a. In all Steps, updated the some wording to clarify the procedure or reduce redundancy.
 - b. Where appropriate, changed five (5) working days or seven (7) working days to ten (10) working days for a consistent and realistic schedule.
 - c. Added a statement within the section of the conduct of the hearing. It states that a copy of the record shall be provided to all parties. As this is a current practice, it should be reflected within the policy.
 - d. Added a statement within the section of the conduct of the hearing. It authorizes the Panel to establish other procedures as are consistent with state law.
- 5. Retention of Records
 - a. Changed "the County of Frederick" to "HR Department."

XIII. Personnel Records

- 1. Official Personnel File Policy
 - a. Updated the fourth paragraph to reflect that access to the personnel files shall be governed by the Freedom of Information Act.
 - b. Under the section of individuals having regular access to files, modified a statement that specifically address the EEOC or any other agency investigating claims of discrimination. The original statement was very vague about releasing files to federal, state, or local agencies only.
 - c. Deleted statement that "all official personnel files shall be viewed in the presence of the County Administrator or the Personnel Department Staff." This is neither practical nor required when the policies about access of the personnel files are followed.
 - d. Replaced statement that "There shall be no dissemination of any personal information contained within the official personnel file to any individual organization not having regular access unless a Voluntary Release of Information Form has been completed both by the employee and the requesting individual agency" with "In the discretion of the County Administrator, however, the County may disclose the contents of any personnel file to such other persons as deemed appropriate." This is an important change for the County, as it eliminates any absolute privacy right in employees' files, as state law does not require us to provide such a right.

XIV. Termination of Employment

- 1. Resignation
 - a. Deleted words "and hour" and "commencement of any terminal leave" as they are not necessary.
 - b. Deleted sentence "Employees who resign shall receive payment for all annual leave and compensatory time for which they are eligible according to the annual leave and compensatory

time policy” as it is not necessary within this policy. It is addressed within the Leave section of policy VIII. Work Hours, Holidays, and Leave.

c. Changed “termination” to “resignation” in last paragraph.

2. Return of County Property

a. Deleted “prescription drug cards.”

3. Lay-Off

a. Deleted “or unsatisfactory completion of the probationary period of employment.” This change limits the provision of this section to lack of work and lack of funds.

b. Deleted sentence “An employee may also be laid off if he or she becomes physically or mentally unable to perform the duties of the position for which hired.” Again, this change limits the provision of this section to lack of work or lack of funds.

4. Retirement

a. Deleted both references to age 65 years with respect to Medicare as the age in which people are eligible can vary.

Thank you for your support and please contact me directly with any questions.

XI. DISCIPLINARY POLICY

11.1 Purpose

The purpose of this policy is to provide ~~a guideline~~procedures to effectively correct an employee's unsatisfactory work performance or misconduct in an effort to promote maximum utilization and productivity of employee potential.

11.2 Applicability

All classified employees shall be covered under this policy.

11.3 Policy Statement

The County of Frederick shall support the practice whereby all part-time, temporary, probationary, and ~~regular-full time~~ employees shall be disciplined by the same process. The discipline of an employee should be a progressive process. Disciplinary actions of lesser severity than dismissal should ordinarily be taken in an attempt to correct an employee's unsatisfactory work performance or misconduct before a dismissal is initiated. A dismissal may be generally considered as appropriate only as a last resort or be undertaken only when an extremely serious ~~policy~~ violation has occurred. Disciplinary action shall normally be taken in the following sequential progressive manner, wherever possible, in order to give the affected employee the maximum opportunity to improve his performance. Disciplinary actions may, however, be taken in a non-sequential manner where the situation warrants and ~~all~~any necessary approvals are obtained.

- a. Reprimand Level I
- b. Reprimand Level II
- c. Probation
- d. Suspension and/or demotion
- e. Dismissal

11.4 Reprimands

The form of reprimand may be either Level I or Level II:

- a. Level I Reprimand - A written reprimand from a supervisor to an employee wherein the employee is cautioned and advised with reference to his unsatisfactory work performance or misconduct.
- b. Level II Reprimand - A written reprimand from a supervisor to an employee, to normally be issued only after a Level I reprimand has been issued, wherein the employee is cautioned and advised with reference to his unsatisfactory work performance or misconduct.
- c. No reprimand shall be relied upon as a basis for further disciplinary action unless it is documented in writing and a copy forwarded to the ~~Personnel~~HR Department for inclusion in the employee's official personnel file.
- d. Once a reprimand is reduced to writing, as provided above, a copy shall be ~~hand delivered and signed "received" or mailed certified mail (return receipt requested)~~ provided to the employee.
- e. Reprimands shall be appealable through the grievance procedure.
- f. Reprimands not appealed within the appropriate time limits specified by the grievance procedure shall become part of the official personnel file until it is purged by the employing authority.
- g. ~~When twelve (12) months have elapsed from the date a written reprimand is filed with an employee's personnel records, without a second reprimand having been given, it shall not be considered in any determination of the propriety of future disciplinary actions and the employing authority shall have~~

~~the right to purge the file of the written reprimand.~~

11.5 Probation

In the instance where a Department Head wishes to place an employee on probation the following action shall be taken:

- a. The Department Head shall prepare an Employee Action form for probation and a memo that includes the items below. This request shall be presented to the County Administrator and a copy provided to the employee.
 1. A statement of the reasons for the probation.
 2. The length of time the probation is to last.
 3. A warning of what further disciplinary action could result, if the situation is not corrected.
 4. A statement of the employee's right to appeal (if any) in accordance with the County's grievance policy.
- b. A copy of such written notice shall be forwarded to the HR Department for inclusion in the employee's official personnel file.

11.56 Suspensions

In the instance where a Department Head wishes to suspend an employee the following action shall be taken:

- a. The employee may be relieved of duty and placed on administrative leave ~~(leave with pay)~~.
- b. The Department Head shall prepare ~~an written request~~Employee Action form for suspension ~~without pay and a memo that including includes~~ the items below. This request shall be presented to the County Administrator and a copy ~~hand delivered and signed "received" or mailed, certified mail (return receipt requested) provided~~ to the employee.
 1. A statement of the reasons for the suspension.
 2. A warning of what further disciplinary action could result, if the situation is not corrected.
 3. ~~A statement of the employee's right to meet with the County Administrator to respond to charges against him before any suspension without pay for three (3) or more days.~~
 4. A statement of the employee's right to appeal (if any) in accordance with the County's grievance policy.
- c. ~~An immediate~~ A prompt decision by the County Administrator shall be made. The date of suspension may be retroactive to the day the employee was placed on administrative leave.
- d. A copy of such written notice shall be forwarded to the HR Department for inclusion in the employee's official personnel file.

11.67 Demotion

a. ~~A written notice of the~~ The Department Head shall prepare an Employee Action Form for demotion and a memo that including includes the items listed below. ~~shall be hand delivered or mailed "certified" mail (return receipt requested)~~ This request shall be presented to the County Administrator and a copy provided to the employee. The Board of Supervisors shall be notified of demotions.

1. A statement of the reasons for the demotion.

2. In cases where the demotion is not voluntary, include a warning of what further disciplinary action could result if the situation is not corrected.

~~3. A statement of the employee's right to meet with the County Administrator before implementation of this demotion.~~

4. A statement of employee rights to appeal (if any) in accordance with the County's grievance policy.

~~5. Approval County Administrator.~~

~~b. An immediate~~ A prompt decision by the County Administrator shall be made.

~~bc.~~ A copy of such written notice shall be forwarded to the ~~Personnel~~ HR Department for inclusion in the employee's official personnel file.

~~ed.~~ A demotion shall not be used as a disciplinary action if the employee involved cannot qualify for the lower ranked position or if the demotion would require the displacement of another employee.

11.78 Dismissal

A dismissal is the most serious form of discipline and must be approved by the County Administrator.

a. ~~A written notice including the items listed below shall be hand delivered or mailed "certified" mail (return receipt requested) to the employee.~~ The Department Head shall prepare an Employee Action Form for dismissal and a memo that includes the items listed below. This request shall be presented to the County Administrator and a copy provided to the employee. The Board of Supervisors shall be notified of dismissals.

1.

1. A statement of the reasons for dismissal.

2. A statement of the employee's rights to a pre-termination hearing with the County Administrator. (Upon receipt of dismissal notification, the employee must notify ~~Personnel~~ HR within five (5) working days to request such meeting.)

3. A statement of employee's rights to appeal (if any) in accordance with the County's grievance policy.

~~b. An immediate~~ A prompt decision by the County Administrator shall be made.

~~bc.~~ A copy of such written notice shall be forwarded to the ~~Personnel~~ HR Department for inclusion in the employee's official personnel file. ~~The Board of Supervisors shall be notified of dismissals.~~

11.89 Unsatisfactory Work Performance or Misconduct

Each need for discipline has varying circumstances and requires the exercise of discretion on the part of the supervisor. Disciplinary action may be taken against an employee for any of the following examples of unsatisfactory work performance and misconduct. These examples are not in any way to be construed as comprehensive listings of possible violations nor are they to be considered as rigid guidelines.

- a. Recurring tardiness.
- b. Absent without ~~leave~~approval.
- c. Violation of policy on intoxicants.
- d. Sleeping on the job.
- e. Neglect of work.
- f. Neglect of duty or refusal to comply with instructions of a supervisor.
- g. Insubordination
- h. Deliberate or careless conduct endangering the safety of oneself or other employees.
- i. Negligence in the care and handling of County property.
- j. Theft of County property or of another employee's property and/or equipment.
- k. Incompetence or inefficiency in the performance of required job duties.
- l. ~~Use of~~Offensive, abusive, threatening, coercive, indecent or discourteous language or conduct toward supervisors, other employees, or members of the public.
- m. Intentional falsification of personnel records, time records, or any other County records or reports.
- n. Provoking, instigating or participating in a fight while on duty or on County property.
- o. Unauthorized carrying of a concealed weapon during work hours or on County property.
- p. Abuse of County policy regarding sick leave, compensatory time, lunch period, vehicle use, etc.
- q. Refusal to cooperate in any internal or criminal investigation in connection with his employment conducted by any law enforcement agency including, but not limited to, taking a polygraph examination when directed by his immediate supervisor. This provision shall not require any employee to surrender any ~~guaranteed~~ constitutional rights.

~~11.9~~ Policy on Intoxicants and Drugs

~~————The purpose of this policy is to prohibit the use of intoxicants or drugs while in a work related capacity.~~

~~Any employee of the County of Frederick may be subject to immediate dismissal for any of the following:~~

- ~~a. Using intoxicants and/or drugs on County premises, in County vehicles, while in County uniform, or during work hours.~~
- ~~b. Coming to work under the influence of intoxicants or drugs.~~

11.10 ~~Absence Without Leave Policy~~Unauthorized Absences

~~Absence without leave~~Unauthorized absences shall be defined as an absence from the job during a scheduled work period without approval of or notification to the employee's supervisor or Department Head. Also the failure to report to work at the expiration of an authorized leave ~~or to request and obtain an extension of time~~, shall be considered an ~~absence without leave~~unauthorized absence. An unauthorized absence from duty during required hours of attendance shall be treated as ~~an absence~~leave without pay. Where there are not adequate reasons for the failure to secure authorization prior to the absence, the employee shall be subject to disciplinary action as may be determined by the Department Head subject to the provisions governing discipline set forth herein. The following disciplinary procedure shall serve as a guide:

- a. The first occurrence of an unauthorized absence ~~without leave~~ shall result in a reprimand with a copy to the official personnel file.
- b. The second occurrence of an unauthorized absence ~~without leave~~ within a twelve (12) month period shall result in at least a suspension without pay.
- c. The third occurrence of an unauthorized absence ~~without leave~~ within a twelve (12) month period shall result in immediate dismissal.
- d. Any employee absent without leave authorization for three (3) consecutive work days shall be subject to immediate dismissal.

11.11 ~~County Administrator's Review~~

~~The County Administrator and/or the Assistant County Administrator and the Personnel HR Director shall review disciplinary actions to insure that they conform to the intent of this policy. All requests for disciplinary actions shall be supported with written documentation from the Department Head and approved by the County Administrator.~~

~~The County Administrator shall review and approve suspensions and dismissals. (Reprimands do not need the County Administrator's approval.)~~

11.12 ~~Right of Appeal~~Grievance

An employee shall be given written notice of any disciplinary action. Appeals resulting from disciplinary action shall follow the procedure set forth in Section XH Grievance Policy. The filing of an appeal a grievance **does not** suspend the disciplinary action. If the grievance's appeal prevails is successful, salary and/or benefits denied under disciplinary action shall be reimbursed.

XII. GRIEVANCE POLICY AND PROCEDURE

12.1 Policy

It shall be the policy of the Board of Supervisors to encourage resolution of employee problems and complaints wherein employees can freely discuss their concerns with immediate supervisors and upper management levels. However, to the extent such concerns cannot be resolved; the grievance procedure shall afford an immediate and fair method for the resolution of disputes which may arise between an agency and its employees. The grievance procedure shall include:

A. Definition of Grievance

A grievance shall be a complaint or dispute by an employee relating to his employment, including but not necessarily limited to (i) disciplinary actions, including dismissals, disciplinary demotions and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance; (ii) the application of personnel policies, procedures, rules and regulations, including the application of policies involving matters referred to in sub-section (B)(iii) below; (iii) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin or sex; and (iv) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement. For the purposes of clause (iv) there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

B. Management Responsibilities

Management reserves the exclusive right to manage the affairs and operations of County government. ~~Accordingly.~~ Accordingly. The following complaints are not grievable: (i) establishment and revision of wages or salaries, position classifications or general benefits; (ii) work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content; (the measurement and assessment of work activity through a performance evaluation shall not be grievable except where the employee can show that the evaluation was arbitrary or capricious); (iii) the contents of ordinances, statutes or established personnel policies, procedures, rules and regulations; (iv) failure to promote except where the employee can show established promotional policies or procedures were not followed or applied fairly; (v) the methods, means and personnel by which such work activities are to be carried on; (vi) except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition; (vii) the hiring, promotion, transfer, assignment and retention of employees within the agency (provided such actions do not constitute disciplinary actions); and (viii) the relief of employees from duties of the agency in emergencies. In any grievance brought under the exception to Section 12.1 B (vi) the action shall be upheld upon a showing by the agency that: (i) there was a valid business reason for the action, and (ii) the employee was notified of such reason in writing prior to the effective date of the action.

C. Coverage of Personnel

All regular, full time and part time County personnel, excluding probationary employees, are eligible to file grievances as provided in this section with the following exceptions:

- a. Appointees of the Board of Supervisors including the County Administrator, and members of the various Boards, Commissions, or Agencies of the Board of Supervisors.
- b. Constitutional Officers, however, the employees of a Constitutional officer shall be included within the County grievance procedure provided that the Constitutional Officer and the County have both agreed that these employees shall be included within the County's personnel system.

- c. ~~Welfare Board, Agency and/or Department Directors.~~
- d. ~~Employees and Deputies of Division Superintendents of Schools.~~ Employees whose terms of employment are limited by law
- e. ~~An employee who has resigned may not have access to the County grievance procedure after the effective date of the resignation.~~ Temporary, limited term and seasonal employees

An employee who has ~~been removed~~ voluntarily resigned shall not have access to the County grievance procedure, except to grieve a ~~removal~~ resignation resulting from formal discipline, ~~or~~ unsatisfactory job performance, or an involuntary resignation. Such grievance must be filed within thirty (30) calendar days of the dismissal date.

Any grievance initiated by a regular, classified County employee prior to separation from County service may, at the employee's option, continue to be processed through the grievance procedure.

After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure without just cause will result in a decision in favor of the other party on any grievable issue provided the party not in compliance fails to correct the non-compliance within five (5) work days of receipt of written notification by the other party of compliance violation. Such written notification by the grievant shall be made to the County Administrator. Failure of either party without just cause to comply with all substantial procedural requirements at the panel hearing shall result in a decision in favor of the other party.

12.2 Determination of Grievability

If some question should exist concerning the grievability of a specific problem and if the question cannot be resolved to the satisfaction of both the employee and his supervisor at the departmental level, the employee may within ~~five (5)~~ ten (10) work days make a request to the County Administrator for a ruling of grievability who shall respond within ~~five (5)~~ ten (10) work days.

In any case, no complaint may be addressed beyond the County Administrator level before grievability has been determined. Only after grievability has been determined shall a grievance be processed through the grievance panel stage. Decisions of the County Administrator may be appealed by the employee within five (5) work days to the Frederick County Circuit Court for a hearing de novo on the issue of whether or not the grievance qualifies for a panel hearing. Proceedings for review of the decision of the County Administrator shall be instituted by filing a notice of appeal with the County Administrator within five (5) work days from the date of receipt of the decision and giving a copy, thereof, to all other parties. Within five (5) work days thereafter, the County Administrator shall transmit to the Clerk of the Court to which the appeal is taken a copy of the decision of the County Administrator, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the court shall also be furnished to the grievant. The failure of the County Administrator to transmit the record within the time allowed shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the County Administrator to transmit the record on or before a certain date. Within thirty (30) days of receipt of such records by the clerk, the court, sitting without a jury, shall hear the appeal on the record transmitted by the County Administrator and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decisions of the County Administrator or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth (15) day from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.

12.3 Grievance Procedure

An employee wishing to file a grievance shall have the right to follow all steps of this procedure as listed below with complete freedom from reprisal. This does not, however, confer the right upon anyone to make slanderous or libelous statements. The use of recorders is not permitted in the management steps.

STEP I An employee, who has a grievance, as defined herein, shall within thirty (30) calendar days of the occurrence of the action or event causing the grievance or of the date when the employee could have reasonably been

expected to have learned of the act or event, contact his immediate supervisor for a discussion of the grievance. The supervisor shall meet with the employee within five (5) work days to discuss the grievance. ~~with the employee and make a careful inquiry into the facts and circumstances of the complaint.~~ The supervisor shall give the employee a reply within five (5) work days following ~~receipt of the complaint.~~ the meeting.

STEP II If the grievance is not resolved as a result of STEP I, the employee may within five (5) work days, thereafter, file a written grievance with their Department Head. Other arrangements for submission of a grievance such as a personal interview or tape recording will be made available for the visually-impaired or those with motor impairments. The employee must be sure that the grievance is complete in all detail at this stage of the procedure. The Department Head will then within five (5) work days meet with the employee to discuss the grievance, ~~to determine if the grievance can be resolved at this step.~~ The Department Head will inform the employee in writing of his decision and the reasons therefore within five (5) calendar days following ~~receipt of the written grievance~~ the meeting.

STEP III If the Department Head's response does not resolve the grievance, the employee may within ~~five-ten~~ (5-10) work days thereafter file a written request for a hearing with the County Administrator containing the employee's explanation of what has occurred. A copy shall also be sent to the employee's Department Head. Upon receipt of the written request for a hearing, and verification that Steps I and II have been exhausted, the County Administrator shall ~~within (5) work days schedule the hearing requested~~ schedule the hearing to occur within ten (10) work days thereafter. The County Administrator may request the presence of the Department Head or any other County official at the hearing and the employee may also have a representative of his choice present. The County Administrator shall give the employee a ~~written reply or a method understood by complainant~~ decision on the grievance within ~~five-ten~~ (5-10) work days after the conclusion of the hearing. A copy of the ~~reply~~ decision shall be sent to the employee's Department Head.

STEP IV If the County Administrator's reply does not resolve the grievance, the employee may within ~~seven~~ ten (7-10) work days, thereafter, request in writing to the County Administrator that his grievance be submitted to a panel hearing.

In submitting this written request it is not necessary that the employee again provide a written explanation of what has occurred as this was contained in his written request submitted at STEP II and III and as part of the record will be made available to the grievance panel.

Within ~~seven-ten~~ (7-10) work days after the date of the written request for a panel hearing, the ~~Personnel-HR~~ Department will ~~supply provide the Department Head with~~ a list of at least five (5) prospective panel members to ~~hear the grievance, none of whom may have been involved in an earlier phase of the grievance.~~ the Department Head and the grievant. To insure an impartial panel, such panel shall not be composed of any persons having direct involvement with the grievance being heard, or with the problem giving rise to the grievance; for example, the grievant, the Department Head, supervisors replying at any management step, representatives of the grievant at the third step and witnesses who have appeared at any management step. In addition, managers who are in a direct line of supervision of a grievant are also excluded from serving as panel members. Also, no attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of such an attorney shall serve as a panel member.

Furthermore, the following relatives of a participant in the grievance process or a participant's spouse shall not serve as panel members, i.e., spouse, parent, child, and descendants of a child, sibling, niece, nephew and first cousin.

Additionally, due to their sensitive relationships to the grievance process, employees in the personnel classification series shall not serve as panel members. Three (3) members who will constitute the panel shall be selected within ~~seven-ten~~ (7-10) work days from this list - one member shall be chosen by the Department Head; one member shall be chosen by the grievant; and the remaining member shall be selected by the first two appointees and shall serve as the chairperson. In the event that agreement cannot be reached as to the third panel member, the Chief Judge of the Circuit Court will select the third member. ~~The County Administrator shall arrange an organizational~~

~~meeting of the grievance panel within five (5) work days from the date established for a panel hearing. This date shall be within ten (10) work days of the organizational meeting. The panel hearing shall be scheduled to occur within 30 calendar days from the date that the third panel member is selected.~~ The panel has the responsibility to interpret the application of appropriate County policies and procedure in the case. It does not have prerogative to formulate or to change policies or procedures.

The employee may have present at the hearing a representative or legal counsel at his own expense. Copies of the written record in the case from STEP II and III shall be provided the panel members by the County.

The conduct of the hearing shall be as follows:

The County shall provide a copy of the record to the panel, the supervisor, and the grievant.

- a. The panel may at the beginning of the hearing ask for statements clarifying the issues involved.
- b. Exhibits, when offered, may be received in evidence by the panel, and when so received shall be marked and made part of the record.
- c. The employee and supervisor, or their representative, shall then present their claim and proofs and witnesses who shall submit to questions or other examination. The panel may at its discretion, vary this procedure but shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant evidence.
- d. The parties may offer evidence and shall provide such additional evidence as the panel may deem necessary for an understanding and determination of the dispute. The panel shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.
- e. All evidence taken by the panel shall be under oath.
- f. The majority decision of the panel shall be rendered within ten (10) work days of the conclusion of the hearing and shall be final and binding and consistent with law and written policies.
- g. The parties should not discuss the substance of any grievance or the problem giving rise to the grievance with any panel members prior to or subsequent to the hearing. Any matters requiring the attention of the panel should be communicated in writing with copies to all parties.
- h. The Panel shall have the authority to establish such other procedures for the hearing as are consistent with state law.

12.4 Compensation and Expense Reimbursement Guidelines

- a. Non-County employees serving as panel members are not compensated or reimbursed for any expenses. The time spent by County employees who serve as witnesses or panel members during normal working hours shall not have this time charged against any leave. It is expected that the number of witnesses called would remain within reasonable limits.
- b. Grievants who are still employed by the County are compensated at their regular rate of pay for the time spent during normal working hours in the management-step meetings, the panel hearings and other hearings provided in the procedure. This compensation is not charged against any leave.
- c. Employees who are grieving termination are not compensated except in cases where a panel decision results in reinstatement with back pay.
- d. The grievance procedure is designed for an employee to go through the process without the necessity

for representation. While the employee has the freedom to select a representative of his choice if desired, there is no provision for any compensation or expense reimbursement for a representative, whether such person is a County employee or someone outside of County service.

12.5 Appeal of a Panel Decision

- a. If a written request to reconsider the panel decision is submitted by either party within five (5) work days of receipt of the decision, the panel by majority vote may elect to review its decision and/or reopen the hearing for a good cause shown.
- b. Any challenge of a panel decision on the grounds of inconsistency with law and written policy shall be submitted by either party within five (5) work days to the County Administrator.
- c. The County Administrator may on his own action remand to panel for further consideration a decision which appears to be inconsistent with law or written policy.
- d. Either party may petition the Frederick County Circuit Court for an order requiring implementation of the decision of the panel.

12.6 Retention of Records

All complaints received by the County Administrator and responses from the panel will be kept by ~~the County of Frederick~~the HR Department for a period of three years.

XIII. PERSONNEL RECORDS

13.1 Official Personnel File Policy

The purpose of this policy is to establish an official personnel file and to provide a procedure governing the access, dissemination and purging of information contained within this file.

The official personnel file shall be defined as the employment file containing personal information relevant to the individual's employment which is maintained by the ~~Personnel~~ HR Department.

The official personnel file shall be the only file which is to be considered official and complete in matters related to wage and salary, employee selection, employee relations including promotion, discipline, evaluation and other official actions discussed herein. Information pertaining to any personnel related aspect of employment (i.e. unemployment compensation requests, etc.) shall be contained within the file.

~~The access, dissemination and purging of information contained within the file shall be in accordance with the Privacy Protection Act of 1976 as may from time to time be amended. Access to personnel files shall be governed by the Virginia Freedom of Information Act and as set forth herein.~~

The following individuals shall be designated as having regular access to the official personnel files:

- a. The Board of Supervisors, the County Administrator, the Assistant County Administrator, the ~~Personnel~~ HR Director and his staff.
- b. The members of a grievance panel selected in accordance with the approved County grievance procedures.
- c. The Virginia Employment Commission - Unemployment Compensation Division.
- d. ~~Federal, State, or local agencies, to create additional personnel records after employment, to be released upon written authority of the employee~~ The Equal Employment Opportunity Commission and/or any other agency charged with responsibility for investigating claims of discrimination.
- e. Federal, State, or local law enforcement agencies during the investigation of a violation or potential violation of the law.

The following individuals shall be designated as having regular access to a limited number of the official personnel files:

- a. Individual employees or former employees shall have regular access to their own personnel file after having satisfactorily demonstrated their identity.
- b. Department Heads shall have regular access to the official files of employees under their authority only.

~~All official personnel files shall be reviewed in the presence of the County Administrator, the Personnel Director or the Personnel Department Staff.~~

~~There shall be no dissemination of any personal information contained within the official personnel file to any individual organization not having regular access unless a Voluntary Release of~~

~~Information Form has been completed both by the employee and the requesting individual agency.~~
In the discretion of the County Administrator, however, the County may disclose the contents of any personnel file to such other persons as deemed appropriate.

XIV. TERMINATION OF EMPLOYMENT

14.1 Resignation

A resignation shall be defined as a voluntary separation from employment through written notification to the employing authority initiated by the employee.

All employees desiring to resign their employment with the County shall submit written notification of such intent to their employing authority. This notification shall include the reason for resignation, the actual date ~~and hour~~ the resignation is to become effective and shall be signed by the employee. A copy of the notification shall be forwarded to the ~~Personnel Office~~ HR Department for inclusion in the personnel file.

It is requested that all employees give at least fourteen (14) calendar days notice prior to the ~~commencement of any terminal leave or~~ effective date of resignation, except where specific circumstances prohibit such advance notification. Such resignation may be withdrawn by the employee at any time prior to the effective date, with the approval of the Department Head. ~~Employees who resign shall receive payment for all annual leave and compensatory time for which they are eligible according to the annual leave and compensatory time policy.~~

For those employees who fail to submit the written notification prior to their ~~termination~~ resignation date, the employing authority shall forward a letter certified mail (return receipt requested) stating it is his understanding that the employee has voluntarily resigned employment. An employee's failure to respond within forty-eight (48) hours following receipt of the certified letter regarding any errors contained therein shall constitute a valid resignation.

14.2 Return of County Property

An employee leaving the service, whether through resignation, lay-off or dismissal is responsible for returning any County property which he may have in his possession. Upon termination, such property as ~~personnel~~ HR manuals, ID cards, ~~prescription drug cards~~, uniforms, badges, keys, etc., must be returned to the Department Head, the County Administrator or the HR ~~Department of Personnel~~.

14.3 Lay-Off

The County reserves the right to separate employees for lack of available work or funds, ~~or unsatisfactory completion of the probationary period of employment.~~ In such cases, the employees affected shall be given a minimum of two (2) weeks advance notice or two (2) weeks severance pay at the discretion of the County Administrator. ~~An employee may also be laid off if he or she becomes physically or mentally unable to perform the duties of the position for which hired.~~

14.4 Administrative Termination

Employees who are hired by appointing authorities to fill positions that are later determined to be unavailable in the budget of the respective departments, or who are found not to meet the minimum qualifications of the position, following the actual start of work, shall have their employment administratively terminated as soon as convenient following the determination of the discrepancy.

14.5 Out-Take

In order to process a terminating/retiring employee's final pay and benefits options, they are required to schedule and complete the out-take process with the ~~Personnel~~ HR Department as soon as possible and prior to their last day of work.

14.6 Exit Interview

Frederick County is interested in knowing why an employee is leaving the County's work force. In order to improve our personnel policies and supervision, all terminating employees are urged to schedule an exit interview with the ~~Personnel~~-HR Director. Information received will not be made a part of the employee's personnel file.

14.7 Retirement

An employee may retire in accordance with the provisions of the Virginia Retirement System (VRS).

An employee who *retires* under VRS at or after age 50 years and with at least 20 years continuous service with Frederick County, and with a hire date prior to July 1, 1995, will be provided 100% health insurance coverage until eligible for Medicare (~~age 65 years~~), at which time the County will provide 100% supplemental insurance.

An employee hired on/or after July 1, 1995 and who *retires* under VRS with *full benefits* (non-LEOs, at or after age 50 and with at least 30 years service; LEOs, at or after age 50 with at least 25 years service) and with at least 30 (or at least 25 for LEOs) years continuous service with Frederick County will be provided 100% health insurance coverage until eligible for Medicare (~~age 65 years~~), at which time the County will provide 100% supplemental insurance.

An employee hired on or after July 1, 2012 will not, upon retirement, be provided with healthcare coverage at the expense of the County, regardless of the employee's retirement conditions.

An employee who *retires* under VRS with reduced benefits, and who is not eligible for Medicare benefits, may participate at their own expense in the group health insurance plan under COBRA.

An employee who *retires* because of disability may participate at their own expense in the group health insurance plan for a period of twenty-nine (29) months under COBRA, or until they become eligible for Medicare, whichever shall occur first.

All payments shall be made in advance and sent to the County's Agent Of Record.

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