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**ORDINANCE NO. O-2013**

**BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON,  
STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:**

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF  
CHAPTER 2, ARTICLE VII et seq. OF THE *CODE OF  
ORDINANCES OF BENTON COUNTY, ARKANSAS* REGARDING  
BENTON COUNTY EMPLOYMENT AND SALARY  
ADMINISTRATION POLICY**

**WHEREAS**, a county government, acting through its county quorum court, may exercise local legislative authority not expressly prohibited by the Arkansas Constitution or by law for the affairs of the county. These powers include, but are not limited to, the power to: i) fix the number and compensation of deputies and county employees; ii) fix the compensation of each county officer within a minimum and maximum to be determined by law; exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions; and

**WHEREAS**, pursuant to Arkansas law, the Quorum Court’s legislative power expressly includes “any legislative authority with regard to employee policy and practices of a general nature, including, but not limited to, establishment of general vacation and sick leave policies, general office hour policies, general policies with reference to nepotism, or general policies to be applicable in the hiring of county employees; and

**WHEREAS**, as expressly stated in A.C.A. § 14-14-805(2), any such policies will not apply to elected officials. Moreover, it is clear that while the County Judge has the power to hire county employees, other elected officials have exclusive power over hiring decisions in their own offices.

**NOW, THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF THE  
COUNTY OF BENTON, STATE OF ARKANSAS:**

**ARTICLE 1.** That Section 2-501 et. seq. of the *Code of Ordinances of Benton County* is hereby stricken and repealed.

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**ARTICLE 2.** That all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

**ARTICLE 3.** That the attached such document called the "Benton County Employment Policy" is attached hereto and made a part hereof as though set out herein word for word and shall be codified, published and printed as a handbook for all county employees.

APPROVED:

\_\_\_\_\_  
ROBERT D. CLINARD, COUNTY JUDGE  
DATE SIGNED: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
TENA O'BRIEN, COUNTY CLERK  
SPONSOR: JP Shirley Sandlin  
DATE ADOPTED: \_\_\_\_\_  
Votes For: \_\_\_\_ Votes Against: \_\_\_\_  
Abstain: \_\_\_\_ Present: \_\_ Absent: \_\_\_\_

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**Benton County Employment Policy**

**I. PURPOSE.**

A. The purpose of this document is to establish at-will employment as the default employment policy for the county and to state the *General Employment Policies* issued by the Quorum Court in its capacity as the legislative branch of county government. The General Employment Policies set forth herein apply uniformly to all county employees because they relate exclusively to “employee practices and policies of a general nature.”

B. *Executive Employment Policies* are those adopted by an elected county officer to apply to the employees of that office in the course of administering the day-to-day administrative responsibility of his or her elected office. A.C.A. § 14-14-805(2). An elected official can create and administer his own employee discipline measures, subject, however, to the condition that these cannot contravene these general, uniformly applicable measures adopted by the quorum court.

C. Each and every county employee is entitled to request a hearing before the County Grievance Council in the event the employee believes that the executive decision of an elected official violates the Constitution, the Law, or the General Employment Policy duly adopted by the Quorum Court.

D. Nothing in this General Employment Policy adopted by the Quorum Court creates a property right in employment nor establishes grounds upon which discipline or dismissal must be based.

**II. GENERAL COUNTY POLICY**

A. The county is to treat all employees and citizens in a manner that is: 1) rationally related to the effectuation of legitimate county objectives and 2) uniformly applied to all persons similarly situated.

B. No official or employee of the county is to abuse or misuse his or her governmental power.

C. No official or employee is to engage in any overt act that is either illegal (contrary to applicable statutes or judicial rulings) or unconstitutional (contrary to the U.S. Constitution or the Arkansas Constitution).

D. No official or employee is to omit the performance of any duty that is *affirmatively* required by applicable laws (statutes or judicial rulings).

E. No official of county government shall “be interested, either directly or indirectly, in any contract or transaction made, authorized, or entered into on behalf of the county ... or accept or receive any property, money, or other valuable thing, for his [or her] use or benefit on account of, connected with, or growing out of any contract or transaction of a county”, except as provided by ordinance pursuant to Ark. Code Ann. 14-14-1202.

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F. No official of county government is to engage in any act that would constitute “corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office.” Ark. Code Ann. 14-14-1311

G. Each elected official of the county is to fully and completely administer the day-to-day affairs of his or her office of county government on behalf of the county, in a manner that is in accord with applicable laws (statutes or judicial rulings), the constitutions (U.S. and Arkansas), and this general county policy.

H. Use of deadly force against another person by the Sheriff or any Deputy Sheriff is limited to the following: 1) to effect an arrest or to prevent the escape from custody of an arrested person whom the officer reasonably believes: a) there is probable cause to arrest the felony suspect; b) the felon cannot otherwise be apprehended; *and, c) the felon either: i) had used deadly force in the commission of the felony or, ii) would use deadly force against the officer or others if not immediately apprehended* or 2) to defend himself or a third person from what he reasonably believes to be the use of imminent use of deadly force.

**III. COUNTY EMPLOYMENT POLICY**

A. Pursuant to its authority as the legislative branch of county government, the Quorum Court adopts “at-will” employment as the default employment policy for each county employee. At-will employment is not for a specific period of time and employment may be terminated at any time, without notice or liability of any kind (except for wages earned and unpaid) and with or without cause. Unless rehired by a newly elected supervising county official, employment shall cease at the conclusion of the county's biennium (December 31 of even-numbered years). If, notwithstanding this document, any employee contends that he or she has a property right in his or her employment or a substantial expectancy of continued employment (express, implied, written, or oral) until "just cause" exists for reduction or removal in pay or position, then that employee shall assert such contention at a "property right" grievance hearing requested in the time and manner set forth in this policy.

B. It is the county's policy to provide equal opportunity for all qualified persons; to prohibit unlawful discrimination in employment practices, compensation practices, personnel procedures, and administration of benefit plans; and to otherwise provide the same or similar treatment and opportunities to all persons similarly situated.

**IV. REDUCTION OR REMOVAL OF PAY OR POSITION**

A. A county official may reduce or remove pay or position for any reason that is rationally related to the effectuation of any conceivable legitimate county objective.

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- B. Examples: It is not possible to list all "rational bases" for reduction or removal of pay or position; however, examples include (without limitation):
1. Misrepresentation, dishonesty, or self-dealing conduct;
  2. Intemperate conduct;
  3. Insubordination, including the failure or refusal to follow the legal orders of an employee's supervisor or other supervisors;
  4. Negligent, reckless, knowing, or intentional destruction of county property;
  5. Abuse or misuse of an employee's position as a county employee;
  6. Any conduct, acts, or omissions that interfere with or impair an employee's ability to properly and effectively perform your duties as a county employee;
  7. Any rational change in the mode or manner of operations, including any rational decision regarding the persons selected by the county official for the delivery of county services.

**V. CONSTITUTIONALLY PROTECTED CONDUCT**

A. It is the policy of this county not to violate the Constitution or the laws of Arkansas or the United States.

B. Should any applicant, employee, or person requesting county assistance or services contend that he or she has been unlawfully discriminated against because of the race, color, religion, gender, national origin, age, or disability or that he or she has been unlawfully punished for the exercise of a constitutionally protected liberty right (e.g., free speech, free association, political patronage, access to courts, privacy, etc.) or treated in any other unlawful or unconstitutional manner, the applicant or employee shall request, in the time and manner set forth in this county employment policy, a "liberty right" hearing before the County Grievance Council to provide the county's final policymaker with authority and opportunity to learn of the alleged unlawful discrimination or unlawful punishment and to thereby have an opportunity to voluntarily conform the conduct of county officials and county employees to the requirements of county policy.

Amended ( )

**VI. HIRING AND PROMOTING**

A. The at-will employment policy set forth herein applies equally to hiring and promoting. Nothing herein shall create a property right in employment, entitlement to be hired or promoted, or an expectancy of continued employment. Nothing herein establishes grounds upon which hiring or promoting must be based.

B. Prospective employees who are required to register with the selective service system must certify compliance with the Military Selective Service Act as a condition for employment.

**VII. EMPLOYEE BENEFITS**

A. Eligibility for vacation leave or other employee benefits does not create any property right in employment or any expectancy of continued employment.

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**VIII. INFORMAL PROCEDURE FOR REPORTING/RESOLVING PERCEIVED HARASSMENT:**

- A. This policy provides an informal procedure for reporting any conduct or condition perceived to be race, color, religion, gender, sex, national origin, age, or disability harassment to enable the county to receive timely notice and to act affirmatively, if needed, to assure compliance with the law. If this informal procedure does not achieve the desired result, the affected person should utilize the Grievance Hearing procedure to bring the matter before the County Grievance Council.
- B. Race, color, religion, gender, sex, national origin, age, or disability harassment (by conduct or condition) is prohibited.
- C. If the conduct of a county official or a county employee, or a workplace condition is considered to be harassment due to race, color, religion, gender, sex, national origin, age, or disability, it should be reported immediately to any supervisor, elected official, or the County Attorney.
- D. The supervisor or elected official receiving any such report shall report the matter to the appropriate elected official or officials which, for the implementation of this procedure, shall be the elected official(s) responsible for managing the day-to-day affairs of the office of county government in which the alleged harassment occurred or in which the alleged harasser works.
- E. Any supervisor or elected official receiving any report of race, color, religion, gender, sex, national origin, age, or disability harassment shall take appropriate action and make report to the County Attorney to remedy any race, color, religion, gender, sex, national origin, age, or disability harassment and shall respond to the person reporting the matter so the person originating the report can be informed of the action taken.
- F. If the person reporting the alleged harassment is not satisfied with the action taken or if the alleged harassment continues, that person shall report the matter to the county's Prosecuting Attorney or Deputy Prosecuting Attorney.
- G. Except to the extent needed to implement this policy and remedy the alleged harassment, the identification of the person reporting the conduct or condition shall remain confidential.
- H. Reporting conditions or conduct reasonably believed to be prohibited harassment shall not adversely affect the reporting citizen or employee.

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**IX. GRIEVANCE HEARING PROCEDURE:**

**CAVEAT:** The purpose of this Grievance Hearing Procedure is to establish a required procedure to resolve applicant and employee grievances, and to thereby enable the county to voluntarily conform the conduct of county officials and county employees to the requirements of county policy. If the applicant or employee does not follow this affirmatively required county grievance hearing procedure, the county will raise waiver and estoppel as affirmative defenses to any claims against the county filed by the applicant via any administrative or judicial procedures otherwise available for redress of grievances.

**A. Availability of Property Right Hearings**

1. At-will employment may be terminated by either the county or the employee at any time without prior notice, without cause, and without any property right hearing.
2. Any claim that any employee has a constitutionally protected property right in employment, entitling the employee to continued employment, must be timely asserted in writing by the affected employee in accordance with this Grievance Hearing Procedure, or the property right claim will be waived by the employee.

**B. Availability of Liberty Right Hearings**

1. Any claim of illegal county employment discrimination on the basis of race, color, religion, gender, national origin, or disability or because the county is acting in a manner that is arbitrary, capricious, or unreasonable, in hiring, compensation, conditions of employment, discipline, or dismissal must be timely made in writing by the affected applicant or employee in accordance with this grievance hearing procedure.
2. Any claim that any employee treatment, discipline, or dismissal is unconstitutional punishment due to the employee's exercise of a constitutionally protected "liberty right" or other constitutionally protected activity of the employee must be timely made in writing by the affected employee in accordance with this grievance hearing procedure.
3. Any claim that any employee treatment, discipline, or dismissal is contrary to the public policy of Arkansas must be timely made in writing by the affected employee in accordance with this grievance hearing procedure.

**C. Availability of Name Clearing Hearings**

1. Any claim that any employee's liberty interest in future employment has been damaged as a result of any "stigmatizing charge" publicly communicated by the county must be timely asserted by the affected employee in accordance with this grievance hearing procedure.

**D. Availability of Hearings Generally:**

1. A grievance hearing requested by an applicant or employee is not required to be held unless it is timely requested in the manner required by this Employee Grievance Hearing Procedure and required by the constitution or by this policy.
2. Neither liberty rights nor property rights are created by this document.
3. The county may, in its discretion, hold a hearing prior to any decision or deprivation.

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E. Timely Requests for Grievance Hearing

1. It is the applicant's or employee's duty to request a grievance hearing.
2. The applicant or employee must timely file a written grievance hearing request after any claimed deprivation of the applicants or employee's liberty or property, or any right to a hearing or to object to the deprivation shall be waived.
3. The grievance hearing request should state, in writing:
  - a) the grievance for which a hearing is requested;
  - b) the factual basis of the grievance; and
  - c) the relief sought.
4. The written grievance hearing request shall be delivered to the County Grievance Council in care of the County Judge no later than four-thirty o'clock (4:30) p.m. on the third full business day (weekends and holidays excluded) after any claimed deprivation for which a grievance hearing is requested.
5. Any dismissal decision shall automatically be a suspension with pay for three full business days (weekends and holidays excluded) during which time the employee subject to dismissal may request a pre-deprivation hearing, in which case the suspension with pay shall continue until the conclusion of the County Grievance Council hearing. All accrued but unpaid leave time -- e.g., vacation, comp. time, etc. -- will automatically run concurrent with the period of suspension with pay, unless the employee prevails in his or her grievance. Any discipline decision that will result in reduction or removal of pay or position shall automatically be deferred for three full business days (weekends and holidays excluded) during which time the employee subject to discipline may request a pre-deprivation hearing, in which case the deferral shall continue until the conclusion of the County Grievance Council hearing. If the employee is not successful, the effective date of termination is retro-active to the end of the automatic 3 day suspension period.
6. The Grievance Council shall respond in writing to all timely submitted Grievance Hearing Requests stating:
  - a) the time and place of the hearing, if the hearing request is granted, which shall be no later than 14 working days of the request, and
  - b) the reason for denial, if the hearing request is denied.

F. Hearing Procedures:

- 1) 1. **NOTICE:** After an employee requests a grievance hearing, the employee shall be notified of the date, time, and place of the hearing. If the set time/date of the hearing is not acceptable, the grievant may request a change in date, time, and/or place. If the grievant fails to notify the Office of the County Judge of the intent to cancel the hearing, within twenty-four (24) hours of the hearing, they may be charged for the expenses incurred to hold the hearing, with the expense being withdrawn from his/her final paycheck.
2. **SUSPENSION WITH PAY:** If it is determined that the grieving employee should continue to work until the hearing is concluded, the employee may be requested to perform duties for the benefit of the County with pay pending the outcome of the hearing.
3. **HEARING RECORD:** The hearing shall be reported by a court reporter (not merely a tape recorder) for transcription upon request by either party at the expense of the requesting party.



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4. PROCEDURAL ISSUES: At the hearing, on the record, the parties shall suggest any desired hearing procedures and state any complaints regarding: a) the notice; b) the date, time, or place of the hearing; c) the opportunity to refute fairly the charges; and d) the impartiality of the decision maker(s).
5. RULES OF PROCEDURE AND EVIDENCE: Informal rules of procedure and evidence (Ark. Code Ann. 25-15-208) shall be followed:
  - a) witnesses shall testify under oath;
  - b) parties shall be allowed, at their own expense, to obtain and use legal counsel for representation;
  - c) parties shall be allowed to obtain and use the presence of witnesses for examination, cross-examination, and rebuttal; and
  - d) parties shall be granted a reasonable continuance if requested prior to the hearing in writing and if reasonably necessary for stated reasons to prepare adequately for the hearing.
6. PUBLICATION: The County Grievance Council shall hear the evidence offered by the parties, hear any argument desired by the parties, and vote without public discussion or deliberation. Only the decision and not the factual or legal reasons therefore, shall be announced publicly. The hearing shall be held in public if so required by the F.O.I.A.; however, the employee may, at any time, decline the hearing and accept the intended discipline or dismissal.
7. CONFIRM IN WRITING: After the hearing, the grieving applicant or employee shall be sent a letter stating the factual and legal bases found by the County Grievance Council for any refusal or removal of pay or position.

G. Hearing Issues and Burdens of Proof:

1. Property Interest Hearings
  - a) Since this County employment policy affirmatively creates at-will employment, the employee has the burden of proving by a preponderance of the evidence that he or she has a property interest in his or her employment.
  - b) Where the employee meets his or her burden of proof, the supervisory official has the burden of proving "just cause" for the supervisory official's intended discipline or dismissal of the employee.
2. Liberty Interest Hearings
  - a) Claim of Arbitrary Discrimination (Unequal Treatment)
    - (1) The grieving employee has the burden of proving by a preponderance of the evidence that he or she is being treated differently than another person otherwise similarly situated with the employee.
    - (2) Where the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the reason for the difference in treatment is rationally related to the effectuation of a legitimate County objective.
  - b) Claim of Unconstitutional Punishment
    - (1) The employee has the burden of proving by a preponderance of the evidence that he or she has engaged in constitutionally protected conduct that was a substantial or motivating factor in any adverse employment decision, discipline, or dismissal.

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- (2) Where the employee meets his or her burden of proof, the supervisory official has the burden of proving that the adverse employment decision, discipline, or dismissal would have occurred even in the absence of the constitutionally protected conduct.
- c) Claim of discrimination due to race, color, religion, gender, sex, or national origin
- (1) The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is being treated or affected differently than another person who, other than for race, color, religion, gender, sex, or national origin, is similarly situated with the applicant or the employee.
- (2) Where the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the proven inequality of treatment or effect is necessary to effectuate a compelling County objective.
- d) Claim of Discrimination Due to a Disability
- (1) The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is a qualified individual with a disability who, because of the disability, is being treated or affected differently than another person in regard to job application, procedures, advancement, dismissal, compensation, training, or other terms, conditions, or privileges of employment.
- (2) Where the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the proven difference in treatment or effect is job-related and necessary to effectuate a legitimate county objective, that performance of the job cannot be accomplished by reasonable accommodation, or that the needed accommodation would result in undue hardship on the county.
- (3) Definitions: The following definitions apply to claims of discrimination due to a disability.
- (a) "Disabled" or "disability": A physical or mental impairment that substantially limits one or more of the major life activities of an individual; having a record of such an impairment; or being regarded as having such an impairment.
- (b) "Regarded as having such an impairment": includes those with conditions such as obesity or cosmetic disfigurement, and individuals perceived to be at high risk of incurring a work-related injury.
- (c) "Discrimination" includes:
- i) Limiting, segregating, or classifying a job applicant or employee in a manner that adversely affects his or her opportunities or status;
- ii) Participating in contractual or other arrangements that have the effect of subjecting individuals with disabilities to discrimination;
- iii) Using standards, criteria, or methods of administration in such a manner that results in or perpetuates discrimination;
- iv) Imposing or applying tests and other selection criteria that screen out or tend to screen out an individual with a disability or

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a class of individuals with disabilities unless the test or selection criteria are job-related and consistent with county necessity;

v) Failing to make reasonable accommodations to the known limitations of a qualified individual with a disability unless the covered entity can demonstrate that an accommodation would impose an undue hardship on the operation of the county; or  
vi) Denying employment opportunities because a qualified individual with a disability needs reasonable accommodations.

(d) "Reasonable accommodation" examples include:

i) Making existing facilities used by employees readily accessible to the disabled;

ii) Job restructuring;

iii) Flexible or modified work schedules;

iv) Reassignments to other positions; and

v) The acquisition or modifications of equipment or devices.

(e) "Undue hardship": an action requiring "significant difficulty or expense," considering:

i) The overall size of the county with respect to the number of employees, number and type of facilities, and size of the budget;

ii) The type of operation maintained by the county including the composition and structure of the work force of that entity; and

iii) The nature and cost of the accommodation needed.

(f) "Qualified individual with a disability": an individual with a disability who, with or without reasonable accommodation, can perform the "essential functions" of the employment position held or desired.

(g) "Essential functions": job tasks that are fundamental but not marginal (not every job task is to be included in determining the essential functions).

e) Claim of a Completely Arbitrary Decision.

(1) The grieving employee has the burden of proving by a preponderance of the evidence that the action taken against him or her is not rationally related to the effectuation of any conceivable legitimate governmental objective of the county.

(2) Where the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the action taken against the grieving employee is rationally related to the effectuation of a conceivable legitimate governmental objective of the County.

f) Claim of a Violation of Arkansas Public Policy

1. The grieving employee has the burden of providing by a preponderance of the evidence that he or she is being treated in a manner that violates public policy in Arkansas.

2. Where the employee meets his or her burden of proof, the supervisor and/or elected official have the burden of proving that the adverse employment decision, discipline, or dismissal would have occurred even in the absence of the violation of public policy in Arkansas.

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(3) Name Clearing Hearings

(a) The grieving applicant or employee has the burden of alleging that a "stigmatizing charge" has been publicly communicated by the county or a county official or county employee and requesting an opportunity to publicly clear his or her name.

(b) Where the applicant employee meets his or her burden of proof, the county shall provide the applicant or employee a public hearing opportunity to clear his or her name.

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**X. COUNTY GRIEVANCE COUNCIL**

A. The County Grievance Council shall be five (5) members of the Quorum Court, selected, on the **biennium** by the Quorum Court at their organizational meeting. If the Quorum Court fails to select members of the Grievance Council, then it shall be composed of all members of the Quorum Court. The Grievance Council shall elect a chair from their number who shall serve for the year. The decision of the Grievance Council shall only be advisory to the County Judge.

B. The purpose of the grievance hearing is to enable the county, through its Grievance Council, to hear from both the employee and the employee's supervisory official and to thereafter determine whether or not an executive decision of the county official or employee violates the Constitution or the Law. If the decision being challenged in the Grievance Hearing process is determined by the County Grievance Council to violate the Constitution or the Law, then the County Grievance Council shall declare the decision to be unconstitutional or illegal and shall direct the supervising elected county official to modify that executive decision to conform that decision to the requirements of the Constitution or the Law.

C. The County Grievance Council is not to substitute its operational judgment for that of an elected official if the decision of the county official or employee does not violate the Constitution or the Law.

D. If the employee's supervisory official refuses to abide by the County Grievance Council's decision, then the County Grievance Council must either access the courts to seek an order enjoining the supervisory official from acting contrary to the Constitution or the Law, or the County Grievance Council shall be deemed to have acquiesced to the decision of the supervisory official and the decision of the supervisory official shall become the *County's* final decision with respect to the employment action taken.

**XI. RELEASE OF EMPLOYEE GRIEVANCE RECORDS**

Public access to employee grievance records is authorized only if approved by the effected employee or authorized by the Arkansas Freedom of Information Act.

**XII. FMLA LEAVE POLICY**

A. Purpose. The purpose of the Family and Medical Leave Act (FMLA) of 1993 is to balance the needs of families with the demands of the workplace. It was designed to promote our country's interest in preserving family unity while accommodating the legitimate interests of employers.

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- B. Equality. The FMLA legislation seeks to minimize the potential for employment discrimination on the basis of gender consistent with the Equal Protection Clause of the Fourteenth Amendment by assuring that leave is available when necessary for both men and women.
- C. Twelve weeks unpaid leave. The county will grant up to twelve (12) weeks of unpaid leave per year to employees who need to care for family members.
- D. Qualifying employees. An employee must have been employed for at least twelve (12) months and worked at least 1,250 hours during the previous twelve (12) months to qualify for FMLA leave.
- E. Purposes for which leave can be taken. Employees are entitled to take up to twelve (12) weeks unpaid FMLA leave a year for:
1. The birth of the employee's child;
  2. The placement of a child with the employee for adoption or foster care;
  3. To care for the employee's spouse, child or parent who has a serious health condition;
  4. A serious health condition rendering the employee unable to perform his or her job.
- F. Intermittent leave. The employee may take leave intermittently or on a reduced work schedule when medically necessary due to the employee's or a family member's illness.
- G. Notice required. The employee is to provide at least thirty (30) days notice, if possible, of the intention to take leave.
- H. Medical certification. The county requires medical certification that the leave is needed due to the employee's own serious health condition or that of a family member. The county may, at the county's expense, require a second medical opinion. If the first and second opinion differs, the county may request a third opinion, at the county's expense, which is then binding.
- I. Continuation of benefits. The county will continue the employee's health insurance under the same conditions as if the employee were working. Under this circumstance, the employee will still be required to pay his or her share of the premium if the county's health insurance plan provides for such co-payments. Leave under this Act is not a "qualifying" event under COBRA. If the employee does not return to the job, the employee shall be liable to the county for repayment of the health insurance benefits paid by the county during the employee's FMLA leave.
- J. Return to the job. Upon returning from leave, an employee is entitled to be restored to the same or equivalent position with equivalent pay, benefits and other terms and conditions of employment.
- K. Concurrent leave. FMLA leave will automatically run concurrent with all other available leave time. (E.g., sick leave, maternity leave, etc.)
- L. Service Member FMLA. The Family Medical Leave Act was amended to provide leave rights related to military service to eligible employees who are working for covered employers. This policy supplements current FMLA policy. Except as mentioned in this section, an employee's rights and

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obligations to Service Member FMLA Leave follows the existing FMLA policy.

1. Eligible employees are entitled to up to 12 weeks of leave because of “any qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. Examples of qualifying exigency leave could include: Arranging for childcare, attending pre-deployment briefings, attending family support meetings.

2. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to a combined total of 26 weeks of all types of FMLA leave in a single 12-month period to care for the service member.

**XIII. PUBLIC SAFETY EMPLOYEE DRUG AND ALCOHOL TESTING:**

A. Public safety employees are subject to testing by the county to detect the presence of controlled substances and alcohol in their body, including:

1. Pre-employment Testing (controlled substances only)
2. Reasonable Suspicion Testing
3. Random Testing
4. Post-accident Testing
5. Return-to-duty and Follow-up Testing.

B. Public safety employees subject to testing shall include only employees whose duties require them to:

1. Maintain a commercial driver's license; or
2. Drive a vehicle as a part of the employee’s normal county duties (excluding to and from work); or
3. Carry a firearm; or
4. Routinely operate an emergency vehicle (one equipped with siren and red or blue lights) in order to lawfully carry out their duties; or
5. Serve as mechanics on county vehicles; or
6. Be prepared to use justified physical force against persons to maintain order or secure security for persons detained by the county.

C. The Drug and Alcohol Testing Procedures required by the U.S. Department of Transportation (the Rules) shall be the procedures followed by the county, which procedures shall not be contrary to procedures promulgated by the Association of Arkansas Counties.

D. Upon the county's adoption of this policy, or at the point of hiring, each county employee shall certify in writing that:

1. The employee has been informed of and understands his or her obligations under the county's drug and alcohol testing policy and the drug and alcohol regulation of the U.S. Department of Transportation;
2. The employee understands that the use or possession of alcohol in any form is prohibited in the workplace, and that there are restrictions on alcohol use for a period prior to reporting for work and after an accident;
3. The employee understands that the possession or use of unauthorized or illegal drugs is prohibited at any time whether in the workplace or not; and
4. The employee understands that, as a condition of employment, the employee must

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submit to collection of breath, urine, blood, and/or saliva samples when requested by the county employer or contractor acting for the county employer and, also, that the employee may be subject to drug and alcohol testing in other circumstances including, but not limited to post-accident and when the employer has reasonable suspicion to believe the driver has engaged in prohibited actions concerning controlled substances or alcohol.

E. Drug and alcohol testing will be administered to the employees in the circumstances and in the manner mandated by the Rules.

F. Reasonable suspicion testing shall not be conducted until after the facts are reviewed by the Prosecuting Attorney, a Deputy Prosecuting Attorney, or the County Civil Attorney and the reviewing attorney agrees with the supervising elected official that reasonable suspicion exists under the particular facts of the particular case.

G. The following shall result in immediate discharge:

1. Refusal to take a mandated test for drugs or alcohol;
2. A positive drug test result, once the time limit for requesting a second test of a split sample has expired, or upon receipt of a positive drug test result from the second test; or
3. A positive alcohol test result.

H. Employees whose initial drug test results are positive and who request a test of the second portion of the split sample will be suspended without pay until such time as the county's 'Designated Representative' receives the results of the second (split sample) test. Such second test will be paid by the employer to be reimbursed to the county by the employee. The county shall withhold from the employee's paycheck the cost of the second (split sample) test to reimburse the county. A negative result from the second (split sample) drug test will render the first test invalid and the employee will be reinstated with back pay and reimbursement for the costs of the second test.

I. An employee suspected of unlawful use of drugs or abuse of alcohol while on duty, as established by the Rules, or who is involved in an accident as defined in 49 CFR 390.5 (and receives a citation for a moving traffic violation in this section) by the Rules, shall be suspended immediately with pay until the results of the drug or alcohol test are received by the county's 'Designated Representative.'

J.

**XIV. COMPENSATORY TIME:**

A. Police officers and similar public safety employees (including jailers) who perform work such as preventing or detecting crimes; conducting investigations or inspections for violations of law; performing surveillance; interviewing witnesses; interrogating and fingerprinting suspects; preparing investigative reports; and similar work are eligible for overtime compensation.

B. Otherwise, only employees defined by the Fair Labor Standards Act (Title 29, Part 541 of the Code of Federal Regulation) as "non-exempt"-- which means NOT employed in a bona fide "executive, administrative, or professional capacity" -- will be entitled to overtime compensation.

C. As authorized by the Fair Labor Standards Act, the county's employees who are eligible to receive overtime compensation shall receive, in lieu of over-time pay, compensatory time off at a rate

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of one and one-half hours for each hour of time worked in excess of the normal work period.

D. The normal work period shall be 40 hours per week for all employees except employees engaged in the provision of law enforcement (including jailer) and ambulance services. The normal workweek for law enforcement (including jailer) and ambulance personnel shall be no more than 80 hours in a 16 consecutive day work period (including weekends.)

E. Overtime shall only be worked in emergencies or when public health, welfare, and the safety of the general community are in danger.

F. No employee shall accrue more than 40 hours of compensatory time. After accruing the maximum 40 hours of compensatory time, an employee eligible to receive overtime compensation shall be paid overtime in cash (subject to the normal withholdings for taxes and etc.) at a rate of one and one-half times the rate earned for each hour of time worked in excess of the normal work period.

G. An employee who has accrued compensatory time shall, upon termination of employment, be paid for the unused compensatory time at a rate of compensation of not less than:

1. the average regular rate received by such employee during the last three (3) years of the employee's employment; or
2. the final regular rate received by such an employee, which-ever is higher.

H. An employee who has accrued compensatory time off and who has requested the use of such compensatory time off shall be permitted to use such time within a reasonable period after making a request if the use of compensatory time does not unduly disrupt the operation of the employing agency.

I. No overtime hours shall be worked without the approval of the elected official or such supervisory personnel designated by the elected official to approve the overtime.

J. All elected officials and department heads will maintain time sheets to be filled out by each non-exempt employee on a weekly basis under oath and signed by the elected official or department head. The time sheets will be provided to the county's personnel office at the end of each month to be kept and filed in the County Clerk's office as a permanent record. If the elected officials or department heads fail to give the required approved time sheets to the Payroll Department, the Payroll Department is not to issue subsequent paychecks.

K. The county requests that any compensatory time incurred in any 28-day work period be used by the employee during the next 28-day work period. Compensatory time will be charged before vacation leave, if a balance exists of more than five (5) hours at the time vacation is requested. Accrued compensatory time will be expended prior to expending any accrued annual leave. If an employee has reached the maximum accrual level of vacation leave, a combination of vacation and compensatory time will be allowed until his/her vacation leave balance falls below that maximum accrual level. The amount of overtime is calculated in fifteen (15) minute increments. If less than eight (8) minutes are worked, the number of minutes of overtime will be rounded downward. If eight (8) minutes or more are worked, the number of minutes of overtime will be rounded upward. Elected officials and department heads are encouraged to make every effort to afford the time off requested during the period stated herein.



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L. Paid leave days shall not count toward calculating overtime unless the employee actually worked on a paid leave day (e.g. a holiday worked by an employee).

M. A person who accepts employment of the county or continues in its employment shall be considered or deemed to have agreed to receive compensatory time off in lieu of overtime compensation.

N. When an employee transfers to a different department, all earned compensatory time will be paid prior to transfer.

**Amended ( )**

**XV. OVERTIME LIABILITY CONTROL PROCEDURE:**

A. Non-Exempt Employees Required to Personally Sign and Certify Timesheets: Each non-exempt county employee shall *personally* sign his or her employee time sheet, stating: “My signature certifies that the above recorded hours worked and leave taken are correct.”

B. County Clerk To File and Keep Employee Time Sheets As Permanent Record: The signed/certified employee time sheets shall be timely provided to the County Clerk's Office at the end of each pay-period to be kept as a permanent record (for 5 years).

C. County Payroll Department Will Figure Payroll From Employee Time Sheets: The Personnel Office will figure the payroll, including overtime, directly from the signed/certified time sheets, relying upon the employee’s signed certification that the hours worked and the leave time taken are correct.

D. County Payroll Department Not to Issue Check without Signed/Certified Timesheet: The County Payroll Department shall NOT issue paychecks if the required signed/certified employee time sheets are not signed/certified *by the employee* (personally) or are not timely delivered to the County Payroll Department.

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**XVI. SPECIFIC BENTON COUNTY PERSONNEL AND SALARY ADMINISTRATION POLICIES AND GUIDELINES:**

The following personnel policies are designed to inform Benton County employees of the county’s operating policies and practices as they apply to all county employees. The individual elected officials may adopt additional policies and practices, provided that they do not conflict with the law. County employees are defined as those deputies and others employed by and serving at the pleasure of the elected officials. Each county employee is responsible to the elected official who hires and/or appoints that employee.

**A. DEFINITIONS:**

Benton County Employee - Any individual providing labor to Benton County for salary or wages payable through County funds. State employees who receive compensation from Benton County funds are excluded from this definition.

Elected Official - Any person holding an elective county office, whether elected or appointed to that office.

Hiring Official - An elected official or any designated agent of such elected official.

Department Head - Any person who is appointed or designated by an Elected Official as a head of a department and who has hiring authority and supervision of a department.

Continuous Service - Uninterrupted employment while working as a full-time employee of the County.

**B. JOB CLASSIFICATION:**

Job positions, grade, classifications and pay ranges are determined in accordance with the Job Evaluation and Salary Administration sections of this Policy, and paid accordingly upon appropriation of the Quorum Court. A copy of the Salary Ranges is available at the office of the County Clerk or the Personnel Office.

**C. CLASSIFICATIONS OF EMPLOYEES:**

1. **REGULAR FULL-TIME:** Employees who are regularly scheduled to work the county’s full-time work schedule of 40 hours per week (36 or more hours per week-benefits eligible), and who are not assigned to a temporary classification. Regular full-time employees are, in most cases, eligible for all Benton County benefit programs, subject to the terms, conditions, and limitations of each benefit program.
2. **PART-TIME EMPLOYEES- Benefits Eligible:** Employees who are regularly scheduled to work LESS than 36 hours per week but more than 20 hours per week and who are not in a temporary classification. This classification are “benefits eligible” employees who receive all legally mandated benefits, such as Social Security, and worker’s compensation insurance; as well as Arkansas Public Employees Retirement and part-time vacation accrual.

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3. PART-TIME EMPLOYEES-Non-Benefits Eligible: Employees who are regularly scheduled to work less than 20 hours per week and who are not in a temporary classification. This classification are “non-benefits eligible” employees who receive all legally mandated benefits such as Social Security, and worker’s compensation insurance; but are not eligible for any other county benefit programs.
4. TEMPORARY – Employees who are hired as an interim replacement to temporarily increase the county’s workforce, or to help finish a specific project. Temporary Employees may work only up to a total of 89 days. The work hours are not limited and overtime will be paid as earned, but not accruing. Temporary Employees receive all legally mandated benefits such as Social Security, and worker’s compensation insurance; but are not eligible for any other county benefit programs. If Temporary Employees are hired to work in one of the other classifications, the hire date will not reflect the time worked as a temporary employee.

**D. PERSONNEL RECORDS:**

1. A personnel file for each employee is maintained in the Personnel Department with copies maintained by respective elected officials and/or department heads. Information about job applicants or employees' medical conditions shall be filed separately from the personnel records and treated confidentially. Keeping the employee’s personnel file up-to-date can be important to the employee with regard to pay, deductions, benefits and other matters.
2. The Personnel file for each employee will include the following information:

Legal Name  
Home Address  
Home Telephone Number  
Person to call in case of Emergency  
Number of Dependents  
Marital Status  
Change of Beneficiary  
Copy of Driver’s License (and status of driving record if employee operates a County-owned vehicle  
Military or Draft Status  
I-9 Requirements  
Updated W-4 tax Form  
Job Application  
Payroll Records  
Insurance Records  
Worker’s Compensation and Unemployment Records  
Retirement records required by the Arkansas State Retirement System  
Records required by the Internal Revenue Service  
Records required by State or Federal Grants

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If an employee has a change in any of the above items, the employee will notify the Personnel Office as soon as possible. Coverage or benefits that may be received under the county's benefit package could be negatively affected if the information in the Personnel File is incorrect.

#### **E. FAIR LABOR STANDARDS ACT:**

- A. The Fair Labor Standard Act establishes a general minimum hourly wage for those employees who are within its coverage and not exempt from its requirements. It also provides for equal pay regardless of sex and the establishment of minimum wage rates. Except for child labor restrictions, the FLSA does not impose any limitation on the number of hours that may be worked by employees covered under the Act. Instead, it seeks to limit the number of hours worked by requiring additional pay, in the form of overtime pay or compensatory time, for hours worked in excess of the established 40-hour maximum.
- B. The FLSA does not require:
1. Extra pay for Saturdays, Sundays, or holidays, as such.
  2. Pay for vacations or holidays, or severance pay.
  3. Discharge notices.
  4. Limits on the number of hours of work for persons 16 years of age or older, as long as overtime pay provisions are met.
  5. Time off for holidays or vacation. (If employees work on holidays, they need not be paid at time and one-half, or any other premium rate. Under the Act, holidays and Sundays are treated as other days.)
  6. Not all workers are covered by the FLSA. Certain workers who are outside the reach of the Act include: elected officials and their personal staffs, political appointees, legal advisors, bona fide volunteers, independent contractors and prison laborers. Other employees, while covered by the recordkeeping provisions of the Act, are exempt from the overtime and minimum wage requirements. These include executive, administrative, and professional employees.
  7. Exempt employees are managers, professional staff, technical staff, and others whose duties and responsibilities allow them to be Exempt from compensatory provisions as provided by the Federal Fair Labor Standards Act (FSLA) and any applicable State laws. All employees will be notified of this unclassified status at the time of hiring, transfer or promotion.

#### **F. STANDARD WORK WEEK:**

1. The standard workweek for Benton County shall begin at 12:00 A.M. on Monday and end at 11:59 P.M. on Sunday. A pay period shall consist of two standard workweeks. Although the hours of operation for all County buildings are determined by the County Judge, Elected Officials will determine work schedules and his/her office's hours of operation. All employees are expected to work those hours prescribed by their elected official. The scheduling of these hours is the responsibility of each elected official. The elected official should schedule the hours of his or her employees so that each employee works no more than forty (40) hours in any workweek or 80 hours per pay period for certain positions within the Sheriff's Office. Absence without authorized leave, including any day or part of the day, shall be considered a violation of the Benton County Employment Policy.

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2. All employees who are not exempt from the minimum wage and overtime provisions of the Benton County Employment Policy, whether full-time or part-time, shall record on a time sheet/card (or electronically) their total hours worked each workday. At the end of the pay period, the employee must sign a time sheet/card to certify accuracy of hours worked and submit it to his or her elected official or department head for verification and approval. Payroll processing shall be based on this documentation.
3. Changes in an employee’s pay or position shall be submitted to Personnel Office and become effective on or before the second Wednesday of the current pay period.
4. All employees who are exempt from the minimum wage and overtime provisions of the Benton County Personnel Policy shall provide the Personnel Office with a report of any hours not worked in the workweek. Missed hours may be charged to the appropriate leave (vacation, sick, holiday, etc.) in accordance with the county personnel policies. Benton County will define “exempt” by Department of Labor regulations and may resolve any question by requesting an Administrative Letter ruling from the Department of Labor.

**G. PAYDAY AND SALARY CHECKS:**

1. Employees will be paid on Friday following the close of the pay period. In the event Friday is a holiday, payday will be the last workday before Friday. Pay shall be bi-weekly consisting of 26 pay periods for a calendar year. Pay Day shall be every other Friday. Pay will be for the preceding pay period.
2. Questions concerning paychecks should be directed to the department head, elected official, or the Personnel Office.
3. Paychecks will be issued only at the regularly scheduled times. Employees who will be absent when checks are issued will make arrangements with the hiring authority/department head to have their paychecks picked up or deposited.
4. Manually prepared payroll checks will be issued only to correct an error on a payroll check which is the fault of payroll processing.
5. Employees who resign or retire shall receive their paychecks on the regularly scheduled payday. Any earned vacation or compensatory pay will be paid at this time if sufficient notice and documentation from the department has been given to the human resources office. Failure to give notice may cause a delay in the processing of special pay due on resignation.
6. All county employees are strongly encouraged to establish “direct deposit” of his or her pay. Employees will have a choice of up to two (2) transactions (i.e. two (2) accounts in one bank/credit union or one (1) account in two (2) banks/credit unions). All employees hired after this policy becomes effective may complete a direct deposit form during their initial orientation session. The county Human Resources staff may assist an employee in establishing an account. The final paycheck of a person’s employment with Benton County will be in the form of a paper check rather than direct deposit.
7. The employee is responsible to notify the county Human Resources Department immediately if there are any changes of the bank information or account information. Failure to timely make notification may result in delay in receiving pay. Such notice must be made no later than the Wednesday of the week prior to a pay date.

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**H. SALARY ADMINISTRATION PROGRAM:**

1. The salary administration program will provide (a) an equitable distribution of the salary dollars based on employee contribution to the county, with emphasis on attainment of the performance standards for each position; (b) that Benton County's salary levels are competitive with external salary levels; (c) a sound and continuing salary administration program will aid in eliminating salary inequities and assist in the proper management of salaries; and (d) means for relating performance to salaries, plus employee performance evaluations. This process adopted by the county is known as Job Evaluation and Salary Administration Program (JESAP).
2. The JESAP Committee shall consist of the elected officials of Benton County, the prosecuting attorney, the circuit judges, and the chair of the personnel committee or (a representative) of the Quorum Court.
3. This salary administration program will include a job evaluation program and will be coordinated, integrated and administered according to the guidelines as established by the JESAP Committee.
4. Salary adjustments for all county employees may be given as set out herein.
  - a. Types of Increases: All employees may receive a base salary increase through a market adjustment, merit, and/or promotion. A Salary Pay Range is approved by the QC at the annual budget process for the following year.
  - b. Payment within the Range: All employees shall be paid at an equitable level within the prescribed salary range for their classification, with each position having a prescribed salary grade, as adopted by the Quorum Court in the Annual Benton County Budget. No employee will receive a salary adjustment that causes the person's salary to exceed the salary range maximum without approval by the Quorum Court. The salary range established by the JESAP Committee will fully compensate for proven performance as related to the performance standards and goals for a respective position.
  - c. Hire-in Rate: A new hire may be assigned a wage rate at any level from the minimum of the grade range up to 90% of the midpoint for the position's salary range, provided the new-hire has additional experience, education, etc. that added value to the position. Any additional money required must be approved by the Quorum Court.
  - d. Salary Increase after Six-Month Anniversary Date: A salary increase may be given within an employee's second six months on the job, at the discretion of the elected official, and only if the employee was hired below the 90% of midpoint for the position's salary range. If funds are available in the current budget, the elected official may grant a new employee a salary increase in an amount not to exceed 3%. This increase may not result in a wage that exceeds 90% of the salary grade midpoint.
  - e. Merit Increase Eligibility: Each year, all full-time and regular part-time county employees will be evaluated by their respective elected official/department head based on their past year's performance, using the Benton County's performance evaluation form. All evaluations must be completed and reviewed by the employee and his/her immediate supervisor, and submitted to the human resources manager for placement in their respective Personnel File. If approved by the Quorum Court during the annual budget process, merit adjustments will be

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allocated beginning the first pay period of the next year to employees for their performance who met the eligibility requirements. Employees with less than one year of employment may receive a pro-rata share of the merit adjustment. Employees hired after October 1, are not eligible for merit adjustments. Merit adjustments will not cause an employee to go over the maximum of his/her respective range.

- f. Limit of Merit Increase: The maximum amount of any one merit increase given during a twelve-month period will be established each year, by the Quorum Court, during the annual budget process. The exact amount of merit increase to each employee should be determined by considering (1) the Department’s salary budget, and (2) the incumbent's position within the salary range, and (3) the employee’s performance, as communicated during the performance evaluation process. Elected officials are not considered county employees and any changes in compensation will be determined by the Quorum Court, in accordance to minimums and maximums established by state statutes. Changes to the compensation for elected officials will only be reviewed during odd-numbered years but will include cost of living adjustments in even numbered years. Any exception to this policy must be approved by the Quorum Court.
- g. Promotional Increase Eligibility: An employee may be eligible for promotional increase at any given time during the year provided the individual's classification has been changed to a higher salary range due to assignment of additional duties and accountabilities as formulated through the county's job evaluation program or the employee is moved to a position with a higher grade level.
- h. Limit of Promotion Increases: The amount of a promotional increase may be assigned a new salary anywhere from the minimum up to ninety (90%) of the midpoint of the new grade range. Employees whose salaries already exceed 90% of the midpoint of the new grade’s salary range may receive up to a 5% increase. Any promotional increase that exceeds the above criteria requires approval of the Quorum Court. The individual’s qualifications and performance shall determine the new salary. Promotional increases shall be in addition to, rather than instead of merit increases.
- i. Salary Assignments for Lateral and Downward Transfers: When an employee moves to a position with an equal or lesser grade, they are accepting a job that may have less responsibilities and accountabilities. It is their choice to take this position and is not associated with a punitive action, as in the case of demotions. When an employee takes a position at an equal or a lower salary grade they may be assigned a salary between the minimum and 90% of the midpoint of the salary grade. In the event their salary is above the midpoint of salary grade for their new position, the employee’s wages will be reduced to a level equivalent to others within the department with the same grade and similar length of service and experience.
- j. Salary Assignments for Demotions: A demotion occurs as a result of poor performance and is punitive in nature. When an employee is not performing to expectations, the elected official may decide to demote the employee to a position with a lower salary grade. The new salary for the employee shall be between the minimum and 90% of the salary grade midpoint.

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5. Any request for salary placement at any other level which does not fit the above guidelines should be submitted to the JESAP Committee, with supporting documentation, for review and recommendation to the Quorum Court for its approval.
6. Merit Increase Procedures and Approving Authority: The elected official and/or department head originates the merit increase request, including support documentation, e.g. performance appraisal data.
  - a. The elected official/department head counsels with and reviews the merit increase documentation with the JESAP Committee as to: (1) completeness of the information, (2) availability of salary budget funds; and (3) relationship of the merit request as to current criteria and policies.
  - b. After submission of merit adjustments for each department to the Personnel Department, the Personnel Department will submit adjustments to the Quorum Court for (1) review and approval; (2) approval with modifications; or (3) disapproval.
  - c. After the Quorum Court approves the payroll budget (part of the overall budget), elected officials/department heads can advise their employees of the forthcoming increase in salary resulting from merit recognized performance.
7. Job Descriptions: Each county position shall have an official “Job Description” for each job which shall be prepared, signed and dated by the Elected Official/Department Head. The job description, which is the basic instrument for evaluation, will be functional and current. It will: (a) emphasize essential and non-essential position objectives; (b) denote areas of operation and accountabilities; (c) show organizational and working relationships; (d) show accountability for final results; (e) provide pertinent data about the position; and (f) highlight physical and mental requirements. The County Personnel Department will maintain and keep current copies of all position descriptions for each classification, with the originals to be filed in the office of the County Clerk. Job descriptions currently on file with job titles as listed in the *Schedule 4-Personnel and Compensation Authorization* listing are hereby adopted and approved.
8. Position Titles:

The JESAP Committee has formulated job titles in keeping with the following pattern: (a) Position Title, Supervisor’s Title, Department Name, Exempt Status; (b) Description of essential position duties and requirements; (c) Supervision or non supervision responsibilities; (d) Minimum and preferred education and experience requirements; (e) Levels of accountability, decision making, authority over equipment, funds and County property; (f) Other skills, knowledge and abilities to perform job functions; (g) Physical demands and requirements; and (h) Work environment. Required job title changes are processed through the JESAP Committee following the same procedure used for new position descriptions.
9. Maintenance of Job Descriptions:

To assure adequate maintenance of the job descriptions, the elected official/department head will review and compare the content of each position with the job description annually. Any significant variance between the descriptions and the position as it exists should be referred to the JESAP Committee for re-evaluation, if applicable.



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10. Descriptions for New Positions: The elected official/department head should prepare a job description questionnaire for a new position. The personnel administrator, in conjunction with the JESAP Committee, will prepare the job description for the approval of the elected official and schedule it on the agenda for the JESAP Committee for evaluation and rating. A newly created position will not be filled until the job has been properly described, evaluated and funded by the Quorum Court. The Job Description and grade/class adopted by the Quorum Court shall remain in effect until the process established herein changes it.
  
11. Any employee grievance regarding merit pay policy or practice herein shall be brought before the Grievance Council as outlined by the Benton County Employment Policy.

**I. FRINGE BENEFITS:**

Rates and benefits details will be provided by the Personnel Office.

**J. AUTHORIZED LEAVES OF ABSENCE AND LEAVE BENEFITS:**

1. Each elected official shall be responsible for keeping records of the leaves taken by his or her employees and shall make regular reports of such on the payroll worksheets. The report shall include type and length of leave. NOTE: With regard to the vacation, sick and other fringe benefits outlined herein, it must be understood that these benefits are not required by law, nor are they guaranteed by the county. No contract is entered into by the county with any employee, nor does the county incur any debt or obligation. Benefits described herein may be added, deleted or modified at any time.
  
2. **VACATION:** (Annual Leave Time) The County shall maintain the following vacation eligibility requirements and the list of vacation rates shall accrue on a pro rata basis.
  - a. Employees start to accrue paid vacation time immediately, when beginning employment as a Regular Full-Time Employee or Part-time, Benefits Eligible. Overtime hours are not used to calculate vacation accruals. During the first year, before one can use vacation time, 180 calendar days of employment must be completed. After the waiting period, vacation leave may be requested up to half (40 hours) of the annual vacation accrual.
  
  - b. Regular Full-Time Employees, employed less than seven years, are eligible to earn up to 10 vacation days each year. Vacation leave is accrued per paid hour. An employee who does not work any hours in a pay period AND does not use paid leave or earned compensatory time, (i.e. leave without pay) will not accrue vacation pay during that time. Overtime hours are not used when calculating leave hours.
  
  - c. Regular Full-Time Employees, who have completed seven years of continuous employment, and are beginning his/her eighth year are eligible to earn up to 15 vacation days each year, accrued at a rate per paid hour. An employee who does not work any hours in a pay period AND does not use paid leave or earned compensatory time, (i.e. leave without pay) will not accrue vacation pay during that time. Overtime hours are not used when calculating leave hours.

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- d. Regular Full-Time Employees, who have completed fifteen years of continuous employment and are beginning his/her sixteenth year, are eligible to earn up to 20 vacation days each year, accrued at a rate per paid hour or up to 160 hours per year worked. An employee who does not work any hours in a pay period AND does not use paid leave or earned compensatory time, (i.e. leave without pay) will not accrue vacation pay during that time. Overtime hours are not used when calculating leave hours.
  - e. Part-time, Benefits-Eligible Employees are eligible to earn up to 5 vacation days each year. Vacation days are accrued at a rate per hour, up to a maximum of 40 hours paid leave. Employees who work less than 40 hours during any pay period will not accrue any vacation leave.
  - f. Scheduling of vacation shall be done by the elected officials and department heads with due regard to the desires of the employee and the needs of the office or department. Vacation leave shall be charged against employees in not less than one-hour units.
  - g. Employees who do not use his/her earned vacation by the end of their anniversary year, may carry over the unused time to the next benefit year. If the total amount of unused vacation time reaches the "cap" amount, leave time will temporarily stop accruing. The "cap" amount is two times the annual vacation accrual amount. (i.e. 160 hours, 240 hours, and 320 hours) When the employee takes vacation again and the total accrued amount falls below the cap, vacation leave will start accruing again.
  - h. Regular, Full-Time employees and Part-time, Benefits-Eligible Employees who resign or are terminated and have been employed continuously for at least one year, will be paid at their current rate of pay for the unused vacation time. The employee may also choose to use their vacation time instead of receiving a lump sum payout.
- 3. SICK LEAVE:**
- a. All full-time employees of the county with at least three (3) months service are eligible for sick leave with pay with the maximum benefit of up to twelve (12) working days per year. This earned sick leave can be carried over from year to year. Sick leave shall accrue at the rate per paid hour of work, up to a maximum of 480 hours.
  - b. An employee will be eligible for sick leave for the following reasons:
    - (i) Personal or family (employee's spouse, child or parent) illness or physical incapacity resulting from causes beyond an employee's control. A grandparent of a newborn grandchild may use sick leave for the day of the birth and the day following the birth. In the case where a grandparent is needed to provide primary care for his/her child or grandchild, the employee may use sick leave if approved under the Family Medical Leave Act (FMLA). A grandparent may use non-FMLA sick leave if the grandchild remains hospitalized after birth.

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- c. An employee who is unable to report for work due to previously mentioned reasons shall report the reasons to their supervisor within one (1) hour from the time he or she is expected to report for work. Sick leave with pay shall not be allowed unless a report has been made to the county official or his assistant has approved the report.
- d. County full-time employees shall receive paid sick leave if their absence is due to personal or family (employee’s spouse, child or parent) illness, injury, or quarantine for the duration of the employee’s absence or until accumulated sick leave is used, whichever occurs first, providing the following:
  - i. The county employee has not been terminated before the absence;
  - ii. The county employee’s illness or injury is not attributed to:
    - (i) Intentionally self-inflicted injury;
    - (ii) Illness or injury committed while committing a felony;
    - (iii) Illness or injury resulting from paid employment of any kind other than the county.
- e. A written statement by a physician certifying that the employee’s condition prevented him or her from appearing for work may be required by the elected official or department head if sick leave with pay is in excess of three (3) consecutive working days.
- f. Truthful evidence of full justification for every absence receiving sick leave benefits must be presented when requested by the elected official and/or department head. If an employee accepts sick leave benefits based upon false evidence, the employee will be discharged.
- g. Absence for a part of the day that is chargeable to sick leave pay in accordance with these provisions will be charged in not less than one-hour increments.
- h. An employee who uses all his sick leave benefits for which the employee is eligible and still has not returned to work shall be placed on an inactive employee status without pay unless additional circumstances justify exceptional action by the Quorum Court. The elected official will be notified any time an employee consumes all accrued leave.
- i. Employees leaving the employment of the county shall not be paid accumulated sick leave.
- j. All leave taken by employees for any purpose other than sick leave outlined above and emergency leave listed in another portion of the personnel policy will be charged against vacation time. Upon exhaustion of paid vacation time an employee may at the discretion of the elected official or department head, be granted leave without pay for a period of ninety (90) calendar days; otherwise, the employee shall be separated.

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k. County part-time employees shall not earn paid sick leave. A full-time employee when sick will not have sick leave reduced to pay for a holiday, vacation, or approved absence if it falls during the time of the illness. Such days will be treated as if the employee was not ill and a full-time employee shall receive sick leave pay at the rate of the employee’s regular base salary. County employees will not be paid for unused sick leave.

**4. ADMINISTRATIVE LEAVE:**

a. Leave with pay while conducting an investigation to determine the propriety of an employee’s action may be imposed by the elected official.

b. Administrative leave must be documented on the time worked records as such. Hours paid will not be deducted from the employee’s leave time.

**5. MILITARY LEAVE:**

a. Employees who are members of the National Guard or any of the reserve branches of the armed forces shall be granted leave at the rate of fifteen (15) days per calendar year, plus necessary travel time for annual training requirements or other duties performed in an official duty status.

b. To the extent this leave is not used in a calendar year, it will accumulate for use in the succeeding calendar year until it totals fifteen (15) days at the beginning of a calendar year.

c. The leave shall be granted without loss of pay and in addition to regular vacation time.

d. Each employee who requests military leave shall furnish a copy of his or her orders for his or her personnel file.

e. An employee who is drafted or called to active duty in the armed forces of the United States or who volunteers for military service shall be placed on extended military leave without pay and upon application within ninety (90) days after the effective date of his or her release from active duty, shall be reinstated to the position vacated or an equivalent position at no loss of seniority or any of the other benefits and privileges of employment.

f. The right of reemployment shall conform with all federal government rules and regulations.

g. Any employee who enlists or reenlists for a second consecutive tour of military duty shall be deemed to have forfeited his or her reemployment rights.

h. Personnel called to duty in emergency situations by the Governor or the President shall be granted leave with pay not to exceed thirty (30) working days after which leave without pay will be granted. This leave shall be granted in addition to regular vacation time.

i. “Emergency situations” means any case of invasion, disaster, insurrection, riot, breach of peace, or imminent danger thereof, threats to the public health or security, or threats to the maintenance of law and order.

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- j. During any military leave of absence, the employee shall be entitled to preserve all seniority rights, efficiency or performance ratings, promotional status, retirement privileges, life and disability insurance benefits, and any other rights, privileges, and benefits to which the employee has become entitled.
- k. The period of military service shall, for purposes of computations to determine whether such person may be entitled to retirement benefits, be deemed continuous service, and the employee shall not be required to make any contributions to any retirement fund.
- l. The county shall continue to contribute its portion of any life or disability insurance premiums during the leave of absence on behalf of the employee, if requested, so that continuous coverage may be maintained.
- m. Whenever an employee of Benton County is granted military leave for a period of fifteen (15) days per calendar year or fiscal year, under the provisions of this section, the military leave will accumulate for use in succeeding calendar years or fiscal years until it totals fifteen (15) days at the beginning of the calendar year or fiscal year, for a maximum number of military leave days available in any one (1) calendar year or fiscal year to be thirty (30) days.

**6. BEREAVEMENT LEAVE:**

- a. Leave with pay of up to three days may be taken in case of death in the immediate family of the employee or his/her spouse. Immediate family is defined as:

Spouse	Sister	Daughter-in-law
Child	Step-sister	Son-in-law
Parent	Mother-in-law	Grandparent
Step-parent	Father-in-law	Grandchild
Brother	Brother-in-law	Step-brother
Sister-in-law		

- b. One day of bereavement leave may be granted for extended family members, defined as: aunts, uncles, cousins, nephews, and nieces of the employee or his/her spouse.
- c. Vacation, compensatory time, or leave without pay may be granted for deaths other than the above. When approved by the elected official, sick leave may be used in the event of the death of an immediate family member.
- d. Bereavement leave does not apply to employees who are no longer related to the deceased due to divorce. In the event of the death of an ex-spouse, if children under the age of eighteen (18) or an older special needs child who requires the assistance of the surviving parent are involved, up to three (3) days of bereavement leave may be allowed.

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**7. EDUCATION OR TRAINING LEAVE:**

Full-time County employees may be granted leave with pay for attendance at conferences, seminars or short courses of instruction designed to advance the technical or professional skills of the person attending.

**8. JURY DUTY AND WITNESS PAY:**

County employees shall be excused from work with pay for the period of time necessary to fulfill their civic duty when subpoenaed for jury duty or as a witness. The county employee will be permitted to retain any funds paid to them for such service. Employees who receive a subpoena to testify in court, or are summoned to be a witness for Benton County will receive time off with pay.

If an employee chooses to be a witness and is not served with a subpoena, time off without pay may be given. Employees may use vacation leave or compensatory time to be paid for any unpaid time off. Sick leave may not be used for witness duty. An employee who needs time off to be a witness, must show the subpoena to his/her supervisor and/or elected official as soon as it is received. Employees are expected to report for work whenever they are not needed in court. Employees will be permitted to retain any funds paid for witness duty.

**9. HOLIDAYS:**

- a. Holidays are listed pursuant to Arkansas Code Annotated §1-15-101. Holidays falling on a Saturday will be observed on the preceding Friday. Holidays falling on a Sunday will be observed on the succeeding Monday. The Benton County Judge shall officially declare Benton County Holidays. This declaration shall be issued annually, on or before December 10, and shall be for the forthcoming calendar year. The County Judge may at his discretion establish by Executive Proclamation additional days when County offices shall be closed in observance of special events or for other reasons. Hours will be added for record keeping purposes to the holiday leave balance at the time the holiday occurs, if the employee is eligible.
- b. **Holiday Pay:** Employees working in areas that are not closed on holidays shall receive holiday pay for the declared holiday in addition to their regular pay. Those holiday hours to be paid will be included in that pay period wherein the holiday falls. A paid holiday shall consist of eight (8) paid hours or 1/5 of the average weekly hours, whichever is less, at the employee's normal hourly rate. Part-time employees shall receive holiday pay based on the average number of hours worked during the preceding pay period in which it occurs.
- c. Employees must work the workday before, after, and the holiday if scheduled to work those days in order to receive holiday pay. Except:
  - i) Employees taking sick leave on the scheduled workday before or the scheduled workday after the holiday that provide a certificate of need from their doctor for the day in question. This certificate must be attached to the payroll authorization sheet before holiday pay will be processed.
  - ii) Employees on scheduled vacation leave before or after a holiday will be considered as working the scheduled workday before or the scheduled workday after the holiday.
- d. Holiday pay begins immediately upon employment.

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- e. Employees on Leave Without pay are not eligible for holiday pay and leave time cannot be reserved for use during holiday pay periods only.

**K. LEAVE WITHOUT PAY:**

When an employee has not accrued any sick leave or annual leave and requires time-off from work, he or she may request leave without pay from his/her elected official. It is the decision of the elected official to determine whether or not leave without pay may be granted. Under no circumstances may a leave without pay be granted when an employee has a compensatory time available for use. Leave without pay shall be notated as such on the employee’s timesheet. Leave without pay shall not interrupt continuous service; however, employees will not accrue paid leave, such as vacation or sick time. At no time shall the leave without pay extend more than 90 calendar days beyond the use of all paid leave.

Under circumstances where disciplinary action is being taken, an employee may be placed on leave without pay for a period not to exceed three days.

**XVII. MEDICAL INSURANCE:**

All full-time county employees are eligible to participate in a paid group health benefit plan. Participation becomes effective on the first of the month after completion of the initial three-month benefit-waiting period. The county pays the insurance premium for the employee. Family coverage is available to eligible employees at the employee’s expense. Part-time employees are not eligible to participate in the county’s medical insurance program. The elected offices of Justice of the Peace, Coroner, Surveyor, and Constable are not eligible for the health benefit plan paid by the county. Eligible employees electing not to participate in the paid health plan will not receive alternate insurance or a cash sum in lieu of the program and must sign documentation waiving their coverage choice. Justices of the Peace may participate in the health plan at their own expense. Current part-time employees who are promoted into a full-time position, Deputy Prosecuting Attorneys, and Deputy Public Defender Attorney’s who transfer from state-funded positions to county-funded positions without any break in employment become eligible to participate in the group health benefit plan immediately. Insurance coverage will end on the last day of the month in which you last worked. Vacation leave, non-FMLA sick leave, compensatory time, and grievance pay do not apply in the calculation of last day of coverage.

**XVIII. CONTINUATION COVERAGE – COBRA:**

On April 7, 1986, a Federal law (Public Law 99-272, Title X) was enacted requiring that most employers sponsoring a group health plan offer employees and their families the opportunity for a temporary extension of health coverage (called “continuation coverage”) at group rates in certain instances where coverage under the plan would otherwise end. This notice is intended to inform all employees, in a summary fashion, of their rights and obligations under the continuation coverage provisions of that law. (Both employee and any family member affected should take time to read this notice carefully.)

If an employee of Benton County is covered by Benton County’s Group Health Plan, the employee has the right to choose this continuation coverage if group health coverage is lost because of a reduction in hours of employment or the termination of employment (for reasons other than gross misconduct on the employee’s part).

A covered spouse of an employee has the right to choose continuation of coverage if group health coverage is lost under the Benton County’s Group Health Plan for any of the following reasons:

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1. The death of the employee (spouse);
2. A termination of the spouse’s employment (for reasons other than gross misconduct) or reduction in spouse’s hours or employment;
3. Divorce or legal separation from the spouse; or
4. The spouse becomes eligible for Medicare.

In the case of a covered dependent child of an employee, he or she has the right to continuation coverage if group health coverage under the Benton County’s Group Health Plan is lost for any of the following reasons:

1. The death of a parent;
2. The termination of a parent’s employment (for reasons other than gross misconduct) or reduction in a parent’s hours of employment with Benton County;
3. Parents’ divorce or legal separation;
4. A parent first becomes eligible for Medicare; or
5. The dependent ceases to be a “dependent child” under the terms of the contract.

Under the law, the employee or a family member has the responsibility to inform Benton County of a divorce, legal separation or of a child losing dependent status under the plan. This notification must be made within 60 days of the date of the qualifying event, which would cause a loss of coverage.

This notice must be in writing, and should be sent to:  
Personnel Office – Employee Benefits  
Benton County  
215 E. Central, Suite 9  
Bentonville, AR 72712

When Benton County is notified that one of these events has occurred, the county will in turn forward the request to the proper agency, who will then in turn notify the person making the request that they have the right to choose continuation coverage. Under the law, a person has at least 60 days from the date coverage would be lost due to one of the events described above to elect continuation coverage. If and when this election is made, coverage will become effective on the day after coverage would otherwise be terminated.

If continuation coverage is not chosen, the employee’s group health insurance coverage will terminate in accordance with the provisions outlined in the booklet/certificate.

If continuation coverage is chosen, coverage will be identical to the coverage provided under the plan to similarly situated employees or family members. The law requires that an employee be afforded the opportunity to maintain continuation coverage for three years unless group health coverage was lost because of a termination of employment or reduction in hours. In that case, the required continuation coverage is 18 months (an extension to 29 months is available under certain circumstances to disabled persons.)

However, the law also provides that coverage may be terminated for any of the following reasons:

1. Benton County no longer provides group health coverage to any of its employees;
2. The premium on the continuation coverage is not paid in a timely manner.



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3. You become an employee covered under another group health plan (as an employee or otherwise) that does not contain a pre-existing condition limitation; or
4. You first become eligible for Medicare.

You do not have to show that you are insurable to choose continuation coverage. However, you have to pay all of the premium plus a 2% administrative fee for your continuation coverage. (The law also says that, at the end of the 18 month or 36 month continuation coverage period, you must be allowed to enroll in an individual conversion health plan provided under the current group health plan, if the plan provided a conversion privilege.)

If you have any questions about this, please contact the County Personnel Office. Also, if you have changed marital status, or if you, your spouse, or any eligible covered dependent have changed address, you must notify the Personnel Office in writing.

If any covered child is at a different address, you must notify Benton County in writing, so that a separate notice may be sent.

### **XIX WORKER’S COMPENSATION:**

Reporting of Worker’s Compensation Injuries:

Ark. Stat. Ann. § 81-1317(a) states in part: “Unless an injury either renders the employee physically or mentally unable to do so, or is made known to the employer immediately after it occurs, the employee shall report the injury to the employer on a form prescribed or approved by the Commission and to a person or at a place specified by the employer, and the employer shall not be responsible for disability, medical or other benefits prior to the receipt of the employee’s report of injury.” In order to avoid the possible loss of benefits under the Workers’ Compensation Act, the following procedure for reporting work-related injuries must be followed:

- a) All work-related injuries, no matter how minor, should be reported to the employee’s supervisor immediately, and a WCC Form N must be completed. For the purpose of this policy, an injury shall not be considered reported unless the supervisor has been notified and an injury report has been completed and submitted to the Personnel Office immediately after the accident.
- b) If a work-related injury is not reported immediately, or if an injury report was not completed, the employee must fill out a WCC Form N (available from supervisors or the Personnel Department) and submit it to the Personnel Department before seeking treatment. The only exception to this rule shall be for emergency treatment required after regular business hours; however, in this case, the employee shall report the injury to the Personnel Department on WCC Form N on the next business day following the treatment. Failure to give notice to the employer shall also be excused if the employee is either physically or mentally unable to do so.
- c) Employees receiving compensation under the worker’s compensation plan will receive holiday pay and will continue to accrue vacation and sick leave for the first 60 days while covered under the workers’ compensation insurance program.

### **XX. ARKANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM (APERS):**

Effective July 1, 2005, anyone hired by Benton County must participate in the Arkansas Public Employees Retirement System (APERS). Five percent of gross wages will be deducted on a pre-tax basis from each paycheck. Employees hired prior to July 1<sup>st</sup>, 2005 or those re-hired prior to December 31, 2005 may choose to either contribute or remain on the non-contributory plan. Although some County officials and employees working for the County before 1978 may be covered by an earlier plan,

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all those employed since January, 1978, are covered by Act 793 of 1977 and any Acts amendatory thereto. Under this plan, the County contributes to the Arkansas Public Employees Retirement System (APERS) an amount specified by law. Retirement benefits do not accrue during leave of absence without pay.

All full-time employees and part-time employees who work 80 or more hours each month for 90 or more days in an APERS fiscal year (July 1 through June 30) must be enrolled as a member of APERS retroactive to the date of employment.

A part-time employee hired to work less than 80 hours per month who does in fact, at some point work 80 or more hours per month, must then be enrolled in APERS. Deposits will not be retroactive to the date of hire but will continue thereafter.

Specific questions should be directed to:

Arkansas Public Employees Retirement System  
One Union National Plaza  
124 West Capitol, Suite 400  
Little Rock, AR 72201-1015

### **XXI. TERMINATION:**

Benton County is an at-will employer. Employment with Benton County may be terminated at any time by the employee or the County for any or for no reason, with or without notice. Employees are encouraged but not required to give two weeks notice.

The personnel office shall determine the compensation due the employee on termination according to records of the Personnel Office and the Elected Official. Insurance coverage will end on the last day of the month in which you last worked. Vacation leave, non-FMLA sick leave, compensatory time, and grievance pay do not apply in the calculation of last day of coverage. The employee's final paycheck will be in the form of a paper check, even if he/she previously had direct deposit of paychecks. The final paycheck will be mailed if arrangements for picking-up the check are not made with the Treasurer's Office.

### **XXII. REINSTATEMENT:**

If an employee resigns for a position outside the County or leaves service with the County for more than 30 days, they must be rescreened and will be treated as a new hire.

### **XXIII. INCLEMENT WEATHER:**

Employees are expected to work regardless of the weather unless the County Judge declares the County offices officially closed. If the County offices are closed by the County Judge due to inclement weather, employees will be paid for the number of hours the offices were closed. If the County offices are not officially closed, any employee unable to report to work due to inclement weather will be charged vacation, compensatory time or leave without pay for each hour he or she does not report for work. If an elected official closes their office due to inclement weather, the employees may leave and document lost hours as leave without pay or use vacation leave, or compensatory time.

If a non-exempt employee works at the discretion of the Elected Official during inclement weather when County buildings are closed, the employee will receive normal pay for hours worked, plus additional straight time for hours the County offices were closed.

If the County is closed for a portion of a day, such as with a delayed opening, only those employees

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scheduled to work will be paid. If the County is closed for an entire day anyone scheduled to work before the next day will be paid according to the emergency closing policy. If you are on pre-scheduled vacation leave or sick leave, you will not be paid for the emergency closing but will receive your leave pay.

### **XXIV. NEPOTISM:**

The employment of persons who are related to each other is limited to employment not within the same line of supervision. No employee shall be under the direct line of supervision of a relative. A "relative" is a parent, parent-in-law, child, spouse, brother, foster brother, sister, foster sister, grandparent, grandchild, son-in-law, brother-in-law, daughter-in-law, sister-in-law, or other family member who resides in the same household.

When marriage results in an employee being supervised by a relative, the situation may be resolved by transfer to another available position in the County or resignation. If transfer alternatives are available, the employee will be given the opportunity to select among the available alternatives. If no alternative position is available within 60 days, the County will take action to resolve the situation.

### **XXV. OUTSIDE EMPLOYMENT:**

Outside employment is permissible as long as it does not impact an employee's job performance with Benton County and the job does not interfere with scheduling demands. Employees who have another job at the time of employment must notify his/her supervisor and/or elected official. If an employee is considering a second job while employed by Benton County, prior written notification to the supervisor and/or Elected Official is required. In order to remain employed at Benton County, employees may be asked to terminate an outside job if it is determined that it is adversely impacting job performance

Employees may not have an outside job that is a conflict of interest with Benton County. Also, employees may not get paid or receive anything in return from a person outside Benton County in exchange for something produced or a service provided as part of the employee's Benton County job. Outside employment of a continual nature must be reported to the elected official and/or department head. Under no circumstances will a person be allowed to work at a job which conflicts in any way with their duties as a county employee.

### **XXVI. EMPLOYEE MEDICAL EXAMINATIONS:**

Benton County may require some employees to have a medical examination either as a hiring requirement or as a requirement for continued employment, as required by State Law. Benton County will choose the health professional and pay for the examination. All medical information is kept separate from other personnel information to protect the employee's privacy.

### **XXVII. REST AND MEAL PERIODS:**

The allowance for and scheduling of breaks and meals is left to the discretion of each elected official. During meal periods, where wages are not being paid, employees are not subject to any work responsibilities or restrictions.

### **XXVIII. SMOKING:**

Benton County prohibits smoking throughout the workplace. In compliance with Arkansas Act 8, *The Arkansas Clean Indoor Air Act* smoking is prohibited in all county-owned buildings and facilities and vehicles.

This policy applies equally to all employees, as well as to our customers and visitors. Smoking is only allowed in designated areas outside of the county buildings.

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### **XXIX. DISCIPLINE:**

Although employment is based on mutual consent, the employee and Benton County have the right to terminate employment at will, with or without cause or advance notice, the elected official may use progressive discipline at his or her discretion as a development tool. Disciplinary action may be any or all of the following four steps: 1) verbal warning, 2) written warning, 3) suspension with or without pay, or 4) termination of employment.

### **XXX. POLITICAL ACTIVITY:**

No County employee shall participate in partisan politics during working hours.

All County employees are subject to the Miscellaneous misdemeanor offenses and penalties as set out in Arkansas Code Annotated § 7-1-103.

Any employee who becomes a candidate for election to a County, judicial district, state or national office may take his or her accrued vacation leave or be granted a leave of absence without pay during the time he or she actively campaigns. An elected official may require an employee who becomes a candidate to take vacation leave or leave of absence without pay during the time he or she actively campaigns. However, if the employee is a candidate for the office of the elected official who supervises him or her, any involuntary leave shall be reviewed by the Quorum Court.

All political parties, with permission of the County Judge, may use County meeting rooms on an equal basis.

### **XXXI. USE OF COUNTY PROPERTY:**

No County official or employee may use the County property for his or her own personal use. This excludes vehicles assigned to elected officials as a benefit of their office.

### **XXXII. CODE OF ETHICS:**

The holding of public office or employment is a public trust created by the confidence, which the electorate reposes in the integrity of officers and employees of County government. An officer or employee shall carry out all duties assigned by law for the benefit of the people of the County. The officer or employee may not use his office, the influence created by his official position, or information gained by virtue of his position to advance his individual personal economic interest or that of an immediate member of his family or an associate, other than advancing strictly incidental benefits as may accrue to any of them from the enactment or administration of law affecting the public generally. (A.C.A. 14-14-1202)

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**XXXIII. RULES OF CONDUCT:**

County employees shall not grant any special consideration or advantage to individuals or groups beyond that which is available to every other individual or group.

Benton County employees are prohibited by law to bid on or knowingly come into possession of County-owned property or property sold through the County surplus auctions.

County employees shall not engage in conflict of interest activities that prove to be incompatible with assigned duties, bring discredit upon the County, or give them an advantage in their outside activities over persons working in similar vocations.

County employees shall not accept gifts, services, gratuities, or favors, or engage in trading or bartering with those in custody or their families or friends.

County employees shall not use county funds, supplies, or facilities for purposes other than to conduct official county business.

County employees shall not use official positions to receive special favors for themselves or others.

County employees shall exercise care and emphasize safety in the use of county property and equipment.

County employees shall perform their duties fairly, impartially, and in a professional manner.

County employees shall conduct themselves both on the job and off duty so as to command the respect of fellow workers and the general public. Use of profanity and/or comments made regarding a person's race, religion, ethnic background, or anything sexual in nature will not be tolerated and may result in disciplinary actions up to and including termination.

County employees shall not display prejudice against persons or organizations, thus affecting cordiality or contact with other employees or the public.

No employee shall engage in any private business in the hours for which the county is compensating him or her.

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### **XXXIV. GENERAL SAFETY RULES:**

1. Observe and practice the safety procedures established for the job.
2. Where required, you must wear protective equipment, such as goggles, safety glasses, masks, gloves, etc.
3. Horseplay and/or practical jokes are forbidden.
4. Lift properly—use legs, not back. For heavier loads, ask for assistance.
5. Know the location of fire exits.
6. Unauthorized possession of firearms or weapons of any kind on county property is prohibited.
7. Possession or use of alcoholic beverages, narcotics or dangerous drugs on county property and reporting or returning to work under the influence of same is prohibited.
8. Use of prescription drugs on the advice of your physician must be reported to your Supervisor if there is any possibility of the drug causing a safety hazard.
9. Fighting or being involved in a fight will not be tolerated on county property.

### **XXXV. ELECTRONIC INFORMATION SYSTEMS USAGE**

Some employees of Benton County may be required to make use of, or have access to, the computers and electronic information installed by the county to fulfill job responsibilities.

As a productivity tool, employees may also have access to the global Internet and electronic mail messaging. Benton County owns the computer equipment, the computer network, all software programs and all electronic data, and employees will respect all electronic equipment and information as any other county property.

Incidental and infrequent private use of electronic mail and viewing of information via the global internet may be allowed if approved by the elected official. However, documents and electronic messages are not private. Employees are prohibited from using their county-owned computer, tablet, or phone to view television, movies or inappropriate web content. Emails and computer usage may be monitored by the county.

Consequently, any Internet activity and electronic mail activity can be subject to the Freedom of Information Act (FOI), and can be made available for public viewing.

All employees using the county information systems will be supplied electronic account(s) with encrypted password(s) that grant specific access to the supported software applications and associated electronic data. It is the responsibility of the employee to keep their password(s) confidential. Furthermore, the employee will not alter the physical configuration of the computer equipment that is provided for their use. Likewise, installation of software for personal use is prohibited.

Depending upon the department, office or agency, there may be further legal requirements or restrictions concerning electronic information system usage. An employee should contact their elected official or department supervisor for more detail on this subject.

The Information Systems Department personnel will assist employees with any questions, comments or concerns regarding the proper conduct or functional use of Benton County electronic data processing.

[Violations of the this policy will lead to disciplinary action up to and including termination](#)

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#### **XXXVI. BENTON COUNTY VEHICLE POLICY**

No county official or employee may use the county vehicle for his or her own personal use. This excludes vehicles assigned to elected officials as a benefit of their office. The use of a county vehicle by county employees to be driven to their home at the end of their work shift will be allowed by the elected official only. The use of this vehicle after hours will be if an employee could be called out for an emergency or county business. The use of vehicle after hours must log time used and nature of call out or business trip. County vehicles are for county business use only; no non-county employee may use or be a passenger in vehicle without permission from elected official.

The *Benton County Vehicle Operation Policy* is a separate document that all employees using any county vehicle, truck, tractor, or equipment must sign-off on prior to employment with the county.

#### **XXXVII COUNTY TRAVEL AND MEAL EXPENSES POLICY**

- A) **Purpose:** The purpose of this policy is to establish the procedures governing the eligibility for payment incurred by County Employees and Elected Officials during travel related to County business. Elected officials and department heads must approve all requests for official travel prior to the employee’s departure. Elected officials and department heads will evaluate travel requests against factors including budget constraints, job relatedness of traveler’s activities, and other program considerations judged by the elected official or department head to have an impact on the request.
- B) **Non-County Reimbursements:** County employees and elected officials will not receive duplicate reimbursement from the County for attending workshops and meetings.
- C) **Transportation:** For travel by air, bus, or train, actual cost will be paid directly from the County to the vendor. Where possible, air reservations should be made 30 days prior to departure to maximize discounts. Vendor supplied receipts must be submitted with payment requests. Taxicab and bus fares within the visited city will be reimbursed at actual cost with receipts required. Employees who intend to rent vehicles (only compact or mid-sized cars) for official County business must secure approval from their elected official or department head. Air travel must be at economy class.

Reimbursement for use of a private vehicle is allowable on a per-mile basis based on the Standard Mileage Rate as set by the U.S. General Services Administration (GSA). Employees can check with the Accounting Department for the current Standard Mileage Rate. Reimbursement shall be based only on official miles driven, and the County shall not assume responsibility for maintenance, operational cost, accidents, or fines incurred by the owner of the vehicle while on official business for the County. When more than one County employee is transported in the same vehicle, only one owner shall be entitled to mileage reimbursement.

Trip distances shall be computed from the odometer readings and recorded on the Travel Request Form. Should the employee, in the course of County-related travel, use his/her vehicle for personal use, then the employee is only allowed reimbursement for the County-related mileage as listed on the Travel Request Form.

Map mileage or computer generated maps such as MapQuest or Yahoo Maps may be utilized to determine mileage. The County will only reimburse for the most direct route unless the employee is required to make alternate stops, which shall be noted on the Travel Request Form.

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All employees traveling in personally owned vehicles for County business must have current vehicle insurance and a valid driver’s license. If said employee does not have current vehicle insurance and a valid driver’s license, then it is the responsibility of the elected official or department head to prohibit the use of a privately owned vehicle on County business. The elected official or department head in approving an employee’s claim for reimbursement of travel by private automobile is, in effect, certifying that he/she has made a reasonable effort to determine that the employee has current insurance. Personal vehicle mileage reimbursement shall not exceed available economy airfare, nor shall food and lodging expense be for more than one day of travel time to and from the destination.

**D) Meals During Travel:**

Meals during travel will only be reimbursed or funded by the County if consumed while traveling outside the County boundaries. The County will pay no more per day than the Standard Meal Allowance as set by the GSA for the area in which the travel occurs. The Standard Meal Allowance includes cost of meal and any incidental expenses, such as tips. Tips shall not exceed 15% of cost of meal. Current rates and exceptions for high-cost areas can be obtained at the GSA website [www.gsa.gov/perdiem](http://www.gsa.gov/perdiem).

County employees will use the Meals & Incidental Expenses (M&IE) rate published in the current GSA per diem policy. In all cases for two or more days of travel, the per diem rate for the first and last day of travel will be 75% of the maximum M&IE rate.

Snacks such as soda, coffee, candy, tobacco items, and other personal items are not allowable County expenditures per the State Auditor.

**E) Local Meals:**

Reimbursement for local meals will only be made if they meet the following IRS conditions:

- i. They are furnished on Benton County premises or facilities utilized for County functions, and are for the convenience of the County (i.e. during training sessions and during emergency events).

**F) Lodging:**

Actual costs for single-room rate lodging are paid by Visa Card when available; directly by the County to the establishment; or can be reimbursed to the employee with actual receipts attached to the payment request. It is recommended that the employee find lodging that offers government rates as established by the GSA for the specific area. In cases where an employee is attending a conference/association meeting and the conference assigns or recommends the hotel, then the County will pay the conference rate. The County shall not pay for personal items such as movie rental, flowers, laundry services, room service, or alcoholic beverages.

**G) Parking and Tolls:**

Expenses incurred for parking and tolls are reimbursable with actual receipts.



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**H) Seminar and Conference Registration:**

Seminar and conference registration fees, etc., are paid directly by the County to the registrar, or can be reimbursed to the employee with actual receipts attached to the payment request.

**I) County Visa Cards:**

Only authorized employees who have been assigned a County Visa Card may utilize that card for lodging. The County Visa Card will also be allowed for meals but fuel purchases should be only made using the Visa Card when the County Fuel Card is not accepted. If the County Visa Card is used for meals during overnight travel it should be noted that the receipts for the Card must be provided and checked for accuracy by the immediate supervisor on the Travel Request Form before submission to the Accounting Department.

**J) Travel Advances:**

The County may sometimes give employees a cash advance to cover the expected expenses for an approved trip. If an employee needs a cash advance, he/she must complete the Travel Request Form which is available from the Accounting Department. All advances must be approved by the elected official or department head. The Travel Request Form must be completed and turned into the Accounting Department within 72 hours of return. Receipts for every expense item claimed must be submitted with the Report.

It is a very serious matter if you record false or misleading information on your Travel Request Form. You may not request reimbursement for expenses that you did not have or that were not business-related. Employees who do not follow this travel policy could be subject to disciplinary action, up to and including termination of employment.

**XXXVIII COUNTY UNIFORM POLICY**

A) County purchased uniforms and work clothing issued to employees must meet County guidelines in order to be purchased. Departments shall identify uniforms or work clothing items as being specifically required for a position, program participation, or event.

B) Only items required for specific position, program participation, or events may be purchased, unless otherwise approved by the appropriate Elected Official.

C) Department identified uniforms must bear the Benton County Government logo in a conspicuous place. Specific departments may be granted approval for logos other than the standard Benton County Government logo by the County Judge.

D) Uniforms and work clothing is defined by the IRS. (See Publication 529)

E) Items that are not adaptable to general use are excluded from the requirement to bear the County logo. These items include safety equipment items that are exposed to hazardous waste,

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items that would not be adaptable to use outside the workplace, work clothing for uniformed and/or certified public safety employees, and items that do not leave County premises.

F) If appropriated by the Quorum Court, employees may be eligible for a work clothing allowance. Such allowances are a benefit for a particular position. Such allowances will only be considered for specific positions and amounts, not as a gross amount for departments to allocate on a discretionary basis. In considering requests for a clothing allowance, the Quorum Court may take into account how similar positions are treated by other employers. While the Quorum Court has ultimate discretion with regard to any particular clothing allowance, such will generally not be considered for positions which are purely office work or positions which are already provided daily uniforms at the County’s expense. Such allowances are taxable income and will be included on an employee’s W-2. Any work clothing allowance will be divided and paid out to the employee as part of the employee’s pay throughout the course of the year unless otherwise approved by the elected official for whom the employee works. With such approval, any work clothing allowance up to the full annual allowance may be expended or paid out in a single lump sum with the amount so expended to be accounted for throughout the course of the year in order to recover the amount advanced. In such instances, the employee shall sign an agreement allowing the advanced amount to be withheld from the employee’s final paycheck in the event the employee separates from employment.

G) Care and Maintenance of Uniforms – Benton County may provide a cleaning service for all issued uniforms. The County will be responsible for the cost of cleaning/maintaining all issued uniforms. Employees are personally responsible for the proper care, cleaning, alterations and repair of any work clothing purchased with his/her allowance.

### **XXXIX Benton County Credit Card Policies and Procedures**

The purpose of this credit card policy is to facilitate purchases necessary for County operations, travel to approved destinations, and other necessary transactions where use of a purchase order is not feasible. The purpose of the use of County credit cards is not to override the procedures set forth in the Benton County Purchasing Manual, but to provide an alternative method of purchasing for necessary goods or services.

#### **A) Obtaining a Credit Card:**

1. Elected Official or Department head must request credit card by completion of “Card Request Form” provided by the Benton County Accounting Department. See Attachment 1
2. The Benton County Accounting Department will order the credit card. The card will be issued to cardholder upon receipt of the signed “Cardholder Agreement.” See Attachment 2
3. All revisions to credit cards must be submitted in writing to the Accounting Department by an Elected Official/Department Head.

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**B) Rules of Use of Credit Card:**

1. The credit card is to be used for County authorized purchases only. The card cannot be used for any personal use and any such use will require immediate reimbursement by cardholder. Reimbursements for personal use shall be submitted to the accounting department within five days of the transaction date.
2. The credit card is only to be used for purchases less than \$5,000.
3. The credit card is prohibited for use with vendors that accept purchase orders.
4. The credit card shall not be used for cash advances, alcoholic beverages, recurring charges (dues/memberships/subscriptions) or any type of personal use.

**C) Documentation/Reconciliation:**

1. Cardholder shall retain all credit card receipts or invoices for remittance to the accounting department. These receipts must be submitted to accounting with a purchase order request (payable to VISA) detailing the intended expenditure line item to be charged from the corresponding departmental budget. If the cardholder is unable to remit a sales receipt or invoice from the vendor, he/she must attach a signed statement that includes a description of the item purchased, date of purchase, vendor's name, and why there is no supporting documentation.

**D) Termination:**

1. Cardholders must return credit cards to the Accounting Department or Elected Official/Department Head upon termination from employment. Upon receipt of the credit card, the Accounting Department will deactivate and destroy the card. Cardholders that utilize a credit card after separation from employment will be subject to legal action.

**Benton County**  
**Credit Card Request Form**  
**Attachment 1**

<b>CARDHOLDER INFORMATION</b>
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Name of Cardholder

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Department

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Information to be put on Card

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Proposed Credit Card Limit (Not to Exceed \$5,000)

**Elected Official/Manager Approval**

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Signature of Elected Official/Manager

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Date

**Benton County**  
**Credit Card-Cardholder Agreement**  
**Attachment 2**

You have been granted the privilege of having a Benton County credit card. Your participation in the County's credit card program is a convenience that carries responsibilities for you as a cardholder. Although this card is issued in your name or department name, it is County property and should be used with good judgment. By signing this agreement, you acknowledge that you understand and will comply with all of the County's Credit Card guidelines, as listed below:

I, as an authorized and approved cardholder, fully understand and agree to the following terms and conditions regarding the use and safekeeping of the credit card entrusted to me:

1. I accept full personal responsibility for the safekeeping of the credit card assigned to me.
2. I will be making financial commitments on behalf of Benton County and will obtain fair reasonable prices.
3. I have received the policy and agree to follow all procedures established for use of the credit card.
4. I will not use the Benton County credit card for non-County related business, unauthorized purchases, or for personal purchases.
5. I will immediately report the theft or loss of my credit card to the Benton County Accounting Department.

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6. I understand that use of the credit card does not exempt me from purchasing requirements as set forth in the County's purchasing manual.
7. I understand that I cannot use the credit card as a financial reference to obtain personal credit cards or loans.
8. I understand that I am personally responsible for obtaining ALL original detailed receipts (purchase and credit documents) and submitting them in accordance with the Benton County Credit Card Policy.
9. I understand that any purchases made by me will be recorded and reviewed in management reports, to ensure compliance with the policy.
10. I understand that failure to follow any of the above listed terms & conditions or if found to have misused the credit card in any manner may result in:
  - Revocation of the privilege to use card
  - Disciplinary action
  - Termination of employment, and/or criminal charges being filed with the appropriate authority
11. I agree to surrender the credit card immediately upon request or upon termination of employment for any reason.

I hereby accept the above terms and conditions and acknowledge receipt of the Benton County Credit Card.

\_\_\_\_\_  
Employee Signature

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

\_\_\_\_\_  
Employee Name Printed