

Carbon County Personnel Policies and Procedures Manual

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Title 1. Introduction and Policy Statements

Chapter A. Personnel Officer

- 1. Personnel Officer.** A position entitled **Personnel Officer shall administer the human resource and personnel functions of Carbon County.** The Personnel Officer's duties shall be those described in the Utah Code Annotated, 1953 as amended in Title 17-33 et. seq. Duties and responsibilities listed there may differ slightly if the County has not been required to adopt certain provisions therein.

- 2. Duties:** The following list of duties may not be exhaustive. The Commission may, from time to time, require others. Others may necessarily evolve because of the nature of the position. The following are, therefore, some of the duties of the Personnel Officer:
 - a. The Personnel Officer is responsible for interpreting the Policies & Procedures already adopted. If an issue is not covered, he/she shall seek a ruling from the Commission which shall then become policy.
 - b. The Payroll function of Personnel is maintained by the Clerk-Auditors Office, however the Personnel Officer has access to the records and may from time to time make certain rulings regarding already adopted policies concerning overtime, etc.
 - c. The Clerk-Auditor shall maintain the permanent personnel files but nothing shall be removed therefrom without the Personnel Officer's knowledge and approval.
 - d. The Personnel Officer shall preside at all administrative hearings except when the Commission hears an appeal or requires the appeal be heard by an ALJ. In such cases, in company with the County Attorney, he shall prosecute the County's case.
 - e. Unless there is an appeal, the Personnel Officer is a neutral party. He/she is required to respond to inquiries from elected officials, supervisors and employees and to do so in a timely manner. He/she is required to respond in five (5) working days or sooner if possible. If the question requires research he/she shall inform the person making the inquiry that research is progressing and to complete the same as rapidly as possible. He/she is required to assist both supervisors making charges and employees filing grievances. He is to make available records and paperwork entrusted to him/her and to maintain such records as may be required by law or other parts of these Policies & Procedures.
 - f. When contemplating creating new policies, the Commission shall require him/her—and if necessary the County Attorney—to research the same regarding any bar that might exist thereto.

- g. He/she is to assist the Commission in any labor negotiations and to act as a neutral point of transference of information therein.
 - h. He/she shall act in assistance to the Commission, Clerk-Auditor and County Attorney insofar as their duties dealing with personnel.
 - i. Propose new policies and procedures and amendments thereto as provided by, UCA Title 17-33 et. seq. Adoption shall be by the executive authority of Carbon County unless otherwise provided for.
 - j. Serve the Board of Commissioners in such capacities regarding personnel matters as they may require and as provided by law or policy.
- 3. Employee Access to Personnel Officer.** Any employee has access to the Personnel Officer for reasons of determining policy or with questions. Any employee has access to the Personnel Officer for determining his or her rights and obligations. Supervisors and elected officials have access to the Personnel Officer to assist in investigations or applications of discipline. The Executive Authority of Carbon County may require the Personnel Officer to investigate any matter within his/her purview not otherwise raised or requested by another employee or supervisor.

Title 1. Introduction and Policy Statements

Chapter B. Personnel Policies

1. **Policies.** These policies as enunciated in the Personnel Policies and Procedures manual constitute the personnel policies and procedures for Carbon County.
2. **Policies Not Contractual.** Neither this nor any other policy of the County is a contract either express or implied with any party. The rights of individuals derive from the laws or from express contract, not from policy. Provided they are not contrary to law or contract, the Carbon County Board of Commissioners reserves the right to alter or, abolish any policy or to enact new policies they feel best promote the good operation of the County. The policy may be contractual by proper reference or by direct inclusion of this language within a contract.
3. **Policies Severable.** Nothing in this Title or any other policy of Carbon County shall be at variance with any law, judicial decision or collective bargaining agreement. If through the passage of time, the adoption of a contract, or through error or omission, any part of this Title shall be at variance with law, decision or contract, it shall cease to have force upon discovery, and all other parts of this Title are wholly severed therefrom and remain in complete force and operation.
4. **Departmental Policies**
 - a. **Departmental Policies.** The Commission realizes that some Departments have special circumstances and needs that require certain policies and procedures that will not apply to the County Government as a whole. Therefore the Commission authorizes Departmental specific policies and procedures provided only that: A) they are not at odds with the Policies & Procedures promulgated by the Commission, B) they are not at odds with the Laws of Utah or of the United States, C) they are not at odds with any City or County Ordinance or Contract made by the County, and D) the Commission reserves the ultimate right to rescind such policies.
 - b. **Professional Codes and Standards of Conduct.** If employees within a department are required to adhere to professional codes or standards of conduct to perform their jobs or to maintain their position, Department Heads and Elected Officials should adopt any such applicable codes of professional conduct or other standards of conduct. The Departments shall provide copies of the same to all employees within their respective departments, to the Personnel Officer, and to the Commission.
 - c. **Personnel Officer Review.** All Departmental policies shall be approved by the Personnel Officer prior to enactment by a Department. After Personnel approval, copies shall be distributed to the Commission which has ten (10) working days to rescind them before they become effective.
 - d. **Enactment of Departmental Policy.** Policy means permanent standard. Departments must adopt any personnel policies in accordance with applicable statute and ordinance and distribute them in accordance with this chapter. Failure

to so adopt and distribute the policies will prevent an employee from being disciplined for failure to adhere to them.

5. Amendment, Addition & Revision

- a. Amendment or Revision.** The Personnel Policies & Procedures of Carbon County may be amended, added to or revised only as provided herein. Unless amended, added to or revised all policies remain in full force and effect and no person may deviate from them. They carry the same force of law as would any statute or ordinance.
- b. Definitions.**
 - 1. “Amendments” are new policies and/or procedures that cancel old ones or which change the meaning and effect of old ones.
 - 2. “Addition” means a totally new policy and/or procedure, not a change in an existing one.
 - 3. “Revision” means a change in wording that is not intended to change the meaning or effect of the provision.
- c. Amendment by Commission.** The Board of Commissioners may alter the Policies & Procedures at their own discretion. They may delegate to others the authority to review and make recommendations regarding the Policies and Procedures, including by the adoption of this ordinance the Personnel Officer. However, the final power to amend, revise, alter, add to or abolish any policy contained herein rests with the Executive Authority of Carbon County.
- d. Amendment by Departmental Heads.** Department Heads can amend or revise-Departmental Policies only. The Personnel Officer shall certify that such amendment is not a violation of existing policy or contract. The Board of Commissioners may also amend General Policies and Procedures.
- e. Distribution of Amendment and Revisions.** Changes to these Policies and Procedures shall be given to all employees.
- f. Employee Maintenance of Personal Copies of Personnel Policies and Procedures.** It shall be the responsibility of the person receiving additions, amendments and revisions to these personnel policies and procedures to maintain their own copy of the document. The County shall distribute these policies and procedures—and any additions and changes—to all employees but may, if the Commission dictates, charge for replacements.

Title 1. Introduction and Policy Statements

Chapter C. Definitions

1. Employee Classifications. Employees shall be classified as follows:

- a. Executive Employee – An employee hired by the County or appointed by the County Commissioners Office on a salaried basis and receives such employee benefits as provided by the County. Employees considered executive employees include the following:
 1. Non-elected Department Heads. Non-elected Department Heads are charged with carrying out policies of the Executive Authority of the County and who (1) are supervisors and (2) have discretionary powers. There shall be no more than one Non-elected Department Head per department, except as otherwise provided by law.
 2. Chief Deputies. A chief deputy is appointed by an elected officer pursuant to Utah state law, Utah Code Annotated § 17-33-8(1)(b)(iv) or as subsequently amended.
 3. Confidential Secretaries. A confidential secretary, if any, assigned to each elected county officer and Department Head.
 4. Administrative Assistants. An administrative assistant, if any, to the county executive, each member of the county legislative body, and each elected official.
 5. Division Directors. After May 2008, any person in a confidential relationship with an elected county officer who was appointed by an elected county officer to be a division director to administer division functions in furtherance of the performance of the elected officer's professional duties.
 6. Key-Policy Employees. Any employee in a position that by its confidential or key policy-determining nature, cannot or should not be considered an occupational employee.
- b. Occupational Employee – A full time employee receiving an hourly wage and not occupying a Temporary or Executive position, and who receives employee benefits provided by the County.
- c. Part Time Employee – An employee regularly scheduled for less than 30 hours per week.
- d. Temporary Employee – An employee hired or leased for a limited period of time.
- e. Stand-by Employee - A temporary employee who is irregularly used to replace

other employees.

- f. Probationary Employee - All (1) Occupational Employees who are newly employed by the County and (2) current Occupational Employees who are promoted or transferred to a different position within the County are Probationary Employees for the first six-months to year of their new employment or their new position. Employees will be notified of the duration of their probationary period at the time of their employment, promotion, or transfer to a new position with the County.

2. Existing Carbon County Classifications

Department	Position	Full Time	Exempt	Part Time	Non-Exempt	Executive	Occupational	Temporary	Seasonal	Stand By	Contract	Provisional
Ambulance	Emergency Medical Technician	X		X	X		X					
Ambulance	Director	X	X			X						
Animal Shelter	Animal Control Supervisor	X	X			X						
Animal Shelter	Animal Control Officer	X			X		X					
Animal Shelter	Animal Caretaker			X	X		X					
Assessor	Chief Deputy	X			X	X						
Assessor	Certified Appraiser – Gen.	X			X		X					
Assessor	Certified Appraiser – Res.	X			X		X					
Assessor	Licensed Appraiser	X			X		X					
Assessor	Appraisal Trainee	X			X		X					
Assessor	Data Collector			X	X		X		X			
Attorney	Criminal/Civil/Administrative Investigator	X	X				X					
Attorney (3)	Deputy County Attorney	X	X				X					
Attorney	Legal Secretary/Office Manager	X			X		X					
Attorney (2)	Assistant Legal Secretary	X			X		X					
Building/Planning & Zoning	Director of Planning	X	X			X						
Building/Planning & Zoning	Zoning Administrator	X			X		X					
Building/Planning & Zoning	Building Official	X	X			X						
Building/Planning & Zoning	Building Inspector	X			X		X					
Building/Planning & Zoning	Deputy Building Official/Waste Management Administrator	X			X		X					
Building/Planning & Zoning	Administrative Assistant/Permit Technician	X			X		X					
Clerk/Auditor	Chief Deputy Clerk/Auditor	X			X	X						
Clerk/Auditor	Deputy Clerk/Auditor	X			X		X					
Clerk/Auditor	Deputy Clerk/Auditor - B	X			X		X					
Clerk/Auditor	Deputy Clerk/Auditor	X			X		X					
Commission	Commission Secretary	X			X	X						

Department	Position	Full Time	Exempt	Part Time	Non-Exempt	Executive	Occupational	Temporary	Seasonal	Stand By	Contract	Provisional
Communications/ Television	Communications/Television Technician	X			X		X					
Economic Development	Economic Development Director	X	X			X						
Emergency Operations	Emergency Services Field Assistant	X			X		X					
Engineering	County Engineer	X	X			X						
Engineering	Deputy County Surveyor	X			X		X					
Events Center/Fairgrounds	Director	X	X			X						
Events Center/Fairgrounds	Events Center & Fairgrounds Support Staff	X			X		X					
Events Center/Fairgrounds	Office & Event Support Staff			X	X		X					
Fairgrounds/Maintenance	Director	X	X			X						
Fairgrounds/Maintenance (3)	Equipment Operator	X			X		X					
GIS	GIS Director	X	X			X						
GIS	GIS Specialist I	X			X		X					
GIS	GIS Specialist II	X			X		X					
Family Support and Children's Justice Center	Director	X	X			X						
Family Support and Children's Justice Center	Children's Justice Center Program Coordinator	X			X		X					
Family Support and Children's Justice Center	Family Support and CJC Office Assistant			X	X		X					
Family Support and Children's Justice Center	Day House Parent	X			X		X					
Family Support and Children's Justice Center (2)	Day House Parent			X	X		X					
Family Support and Children's Justice Center (9)	Evening House Parent			X	X		X					
IT	Director	X	X			X						
IT	IT Technician						X					
IT	IT Tech			X	X		X					
Justice Court	Chief Deputy Court Clerk	X			X	X						
Justice Court (2)	Court Deputy Clerk	X			X		X					
Maintenance	Maintenance Supervisor	X	X			X						
Maintenance & Abatement Department	Maintenance	X			X		X					
Maintenance & Abatement Department	Repair Man	X			X		X					
Maintenance & Abatement Department	Maintenance	X			X		X					
Maintenance & Abatement Department	Seasonal Mower/Operator	X			X		X		X			
Personnel	Human Resource Director/Personnel Officer	X	X			X						
Personnel	Administrative Assistant	X			X		X					
Public Lands	Carbon County Public Lands Director	X	X			X						
Quality Control	Quality Control			X	X	X						
Recorder	Chief Deputy Recorder	X			X	X						
Recorder's Office	Deputy Recorder	X			X		X					
Recreation	Recreation Department Director	X	X			X						

Department	Position	Full Time	Exempt	Part Time	Non-Exempt	Executive	Occupational	Temporary	Seasonal	Stand By	Contract	Provisional
Recreation	Recreation Department Assistant Director	X			X		X					
Recreation	Coordinator of Recreation Programs	X			X		X					
Recreation	Program Assistant			X	X		X					
Road Department	Road Department Supervisor	X	X			X						
Road Department	Assistant Road Supervisor	X			X		X					
Road Department	Landfill Operations	X			X		X					
Road Department	Landfill Operator	X			X		X					
Road Department	Landfill Operator - Part Time			X	X		X					
Road Department	Shop Foreman	X			X		X					
Road Department	Mechanic	X			X		X					
Road Department	Shop Specialist/Road Department Clerk	X			X		X					
Road Department	Equipment Operator	X			X		X					
Road Department	Equipment Operator - Seasonal	X			X		X		X			
Road Department	Mower Operator - Seasonal	X			X		X		X			
RSVP	Executive Director	X	X			X						
Safety	Safety Administrator	X	X			X						
Senior Center	Senior Affairs Director	X	X			X						
Senior Center	East Carbon Site Manager	X			X		X					
Senior Center	Office Manager	X			X		X					
Senior Center	Head Cook	X			X		X					
Senior Center	Assistant Cook	X			X		X					
Senior Center	Mobile Meals Coordinator	X			X		X					
Senior Center	Mobile Meals Driver			X	X		X					
Senior Center	Crafts Instructor			X	X		X					
Senior Center	Bus Driver	X			X		X					
Senior Center (2)	Custodian	X			X		X					
Senior Center	Recording Clerk			X	X		X					
Emergency Services	Emergency Management and Homeland Security Director	X	X			X						
Emergency Services	Emergency Mgt. Specialist	X			X		X					
Sheriff	Captain	X			X		X					
Sheriff	Lieutenant	X			X		X					
Sheriff	Sergeant	X			X		X					
Sheriff	Investigator	X			X		X					
Sheriff	Deputy Sheriff	X			X		X					
Sheriff	Civil Process	X			X		X					
Sheriff	Court Security Officer	X			X		X					
Sheriff	Jail Lieutenant	X			X		X					
Sheriff	Corrections Officer	X			X		X					
Sheriff	Victim Advocate	X			X							X
Sheriff	Drug Court Assistant										X	
Sheriff	Corrections Food Service	X			X		X					
Sheriff	Corrections Assistant Cook			X	X		X					

Department	Position	Full Time	Exempt	Part Time	Non-Exempt	Executive	Occupational	Temporary	Seasonal	Stand By	Contract	Provisional
Tourism	Director	X	X			X						
Tourism	Office Coordinator	X			X		X					
Tourism	Marketing Coordinator	X			X		X					
Treasurer's Office	Chief Deputy Treasurer	X			X	X						
Utah State University Extension	USU Extension/Dept of Agriculture Secretary	X				X						
Utah State University Extension	4-H Aide			X	X				X			

Title 1. Introduction and Policy Statements

Chapter D. Career Service Council

1. Selection. It is the intention of Carbon County to comply with the provisions of the County Personnel Management Act currently found at Utah Code Ann. §§ 17-33-4, to establish a Career Services Council. To the extent that the provisions of these provisions in any way conflict with this provision or any later amendments, Carbon County expressly incorporates the controlling state statutes.

a. Appointment of Regular Council Members. The Carbon County Commission shall appoint three individuals to serve as regular members of the Carbon County Career Services Council.

1. The individuals appointed shall:

- a. Be persons in sympathy with the application of merit principles to public employment, and
- b. Be actual and bona fide residents of the state of Utah and Carbon County for a period of not less than one year preceding the date of appointment.

2. The individuals appointed shall not, during the terms of their appointment:

- a. Hold another government office, or
- b. Be employed by Carbon County.

b. Appointment of Alternate Council Members. The Carbon County Commission may appoint two additional members as alternate members to hear appeals that one or more Regular Career Service Council Members are unable to hear.

1. The individuals appointed shall:

- a. Be persons in sympathy with the application of merit principles to public employment, and
- b. Be actual and bona fide residents of the state of Utah and Carbon County for a period of not less than one year preceding the date of appointment.

2. The individuals appointed shall not, during the terms of their appointment:

- a. Hold another government office, or
- b. Be employed by Carbon County.

2. Terms of Council Members.

a. Regular Council Members.

1. Terms. Each Regular Council Member shall serve a three year term that will expire on the June 30th that is three years after the date of his or her appointment.
 - a. Initial Terms of Regular Council Members. When the Career Service Council Regular Members are first appointed, the members will be designated as Regular Council Member A, Regular Council Member B, and Regular Council Member C.
 1. The term of Regular Council Member A shall expire on June 30th of the year following his or her appointment.
 2. The term of Regular Council Member B shall expire on June 30th of the second year following his or her appointment.
 3. The term of Regular Council Member C shall expire on June 30th of the third year following his or her appointment.
2. Removal. A Regular Council Member may be removed by the Carbon County Commission for cause.
 - a. Before a Regular Council Member may be removed for cause, he or she will be given a copy of the charges against him or her.
 - b. Upon being given the charges, a Regular Council Member may request a public hearing before the Carbon County Commission to answer the charges.
 - c. If removed, the Regular Council Member shall hold office until his or her successor is appointed.
3. Appointment to fill vacancy. In the event that a Regular Council Member position becomes vacant before the expiration of the term, a successor may be appointed by the Carbon County Commission. The term of the successor shall run only to the end of the vacant position's term.

b. Alternate Council Members.

1. Terms. An Alternative Council Member may be appointed for a one year term only which shall expire on June 30th of the year following his or her appointment.

2. Removal. An Alternate Council Member may be removed by the Carbon County Commission for cause.
 - a. Before an Alternate Council Member may be removed for cause, he or she will be given a copy of the charges against him or her.
 - b. Upon being given the charges, an Alternate Council Member may request a public hearing before the Carbon County Commission to answer the charges.
 - c. If removed, the Alternate Council Member shall hold office until his or her successor is appointed.
3. Appointment to fill vacancy. In the event that an Alternate Council Member position becomes vacant before the expiration of the term, a successor may be appointed by the Carbon County Commission. The term of the successor shall run only to the end of the vacant position's term.
 - c. The Career Services Council must be a bipartisan council.

3. Compensation of Career Services Council Members

- a. Council members shall receive compensation for each day or partial day they are in session at a per diem rate determined by the Carbon County Commission.

4. Career Service Council Proceedings

- a. The career service council:
 1. may make an initial determination in each appeal whether it has jurisdiction;
 2. shall hear appeals not resolved at lower administrative levels in the cases of Occupational Employees suspended, transferred, demoted, or dismissed;
 3. shall hear appeals in the cases of grievance not resolved by the grievance procedure at the division or department level;
 4. shall review written appeals in cases of applicants rejected for examinations and report final binding appeals decisions, in writing, to the county legislative body;
 5. may not hear any other personnel matter;
 6. may affirm, modify, vacate, or set aside an order for disciplinary action; and
 7. may take any other action permitted by statute.

- b. The Career Services Council shall elect one of its Regular Council Members as chairperson.
- c. Two or more members of the council shall constitute a quorum necessary for carrying on the business and activity of the council.
- d. The council shall have subpoena power to compel attendance of witnesses, and to authorize witness fees where it deems appropriate, to be paid at the same rate as in justice courts.

Title 2. Hiring & Retention

Chapter A. General

- 1. Competitive Placement.** Employment by Carbon County (“County”) shall be based upon open competition, an individual's merit, and shall be free from personal and political considerations. The County is committed to filling open positions with current employees when a qualified employee is available. However, it is understood that the County retains the right to interview all applicants for job openings. Nothing herein shall be so construed as to prevent the County from offering a veteran's preference in hiring, nor shall any discrimination be shown against members of the military for complying with their duty.

Title 2. Hiring & Retention

Chapter B. Recruitment

- 1. Advertisement.** The County shall advertise the availability of permanent full-time or part-time or temporary/seasonal employment as follows:
 - a. Promotions Within a Department.** Department Heads may wish to promote from within their respective departments before seeking employees from other County departments or from the general public. Any employee who has previously worked or is currently working for the County in the same or a similar position within the hiring department may be promoted or rehired without advertising the position so long as the employee hired meets the minimum requirements of the position to be filled.
 - b. Open Positions.** Where a position has not been filled from within a Department as described in § 2.B.1.a above and the Department Head of the particular department so desires, the County may advertise the availability of employment internally to all Carbon County employees for one week prior to advertisement to the public. If the Department Head is unable to fill the position with a suitably qualified applicant from another Carbon County department or believes in his or her discretion that additional advertising would be beneficial, the availability of employment shall be advertised to the general public in a way and manner designated to appropriately advertise the availability of the position.
 - c. Salary Upon Transfer.** If an employee is promoted within or rehired into a Department as described in § 2.B.1.a above or is hired from another department as described in § 2.B.1.b above and the salary in to which he or she transfers has lesser salary and/or benefits, the employee is obligated to accept the lesser salary and/or benefits of the new position.
- 2. Fair Hiring Practices.** Department Heads, Supervisors, etc. shall not attempt to give unfair advantage to any applicant, such as giving advance notice of interview questions. Nor shall they in any way attempt to circumvent any applicable laws or rules. Nor shall they order any employee not to apply for a position in another department nor fail to post job notices distributed by the Personnel Officer. Nor shall they conceal from the Personnel Officer any previous knowledge or relationship with an applicant, but rather must divulge any previous association or relationship.

Title 2. Hiring & Retention

Chapter C. Interview Process

- 1. Interviewing.** The Personnel Officer shall be present at all hiring interviews. The County shall not interview nor hire any person for a position who does not meet the minimum requirements listed in the job description and/or advertisement. All interviewees will have substantially the same opportunity to present themselves and answer inquiries regarding them. The Commission or Commissioners have the right to be present at any interviews.

- 2. Selection.** All persons interviewing for a position shall be subject to the same criteria. It is the policy of Carbon County, any other policy notwithstanding, to hire the most qualified individual available. The primary decision on selection rests with the Department Head; however, the Personnel Officer has the right to veto a selection if he/she determines that selection will violate law or policy. In such a circumstance, the Commission shall choose to make the final hiring decision in departments not headed by an elected official.
 - a. Seniority. A County employee's seniority consists of the entire amount of time the employee has served the County in a full-time capacity (at least 30 hours per week). The Executive Authority may consider seniority as a factor in promotion, advancement, job bidding or other advancement. Where certain skills are relevant only to one department, seniority for the purposes of advancement and job bidding may be departmental. Within these bounds, every department may have a seniority policy providing it is approved by the Personnel Officer and Commissioner over that department. Nothing herein shall be construed as to absolutely require seniority as the only factor regardless of skills or the ability to perform the essential functions of a particular job. Additionally, no department shall, because of seniority, be deprived of a skill necessary to its good operation. Determinations as to what is to be considered a necessary skill shall be made by the Department Head or, if it so desires, by the County Commissioners.

Title 2. Hiring & Retention

Chapter D. Job Functions

- 1. Essential Job Functions.** All persons employed by the County shall be able to perform the essential functions of their positions with or without reasonable accommodation. Reasonable accommodation is available to qualified applicants and employees with disabilities whether they work part-time or full-time, or are considered “probationary.” The request for reasonable accommodation must be requested by the job applicant or employee.

Title 2. Hiring & Retention

Chapter E. Reductions-in-Force

- 1. Decision to Reduce County Workforce.** Any employee who is employed by the County is subject to losing his or her position because of a reduction in the County's workforce. The County Commission may in its sole discretion determine that a reduction in its workforce is necessary to preserve the County's interests.

- 2. Identification of Individuals subject to Reduction-in-Force.** In determining which employees shall be separated pursuant to the reduction-in-force, the County Commission in consultation with Department Heads, Elected Officials, and the Personnel Officer shall recommend the job classifications to be reduced. The County Commission and Elected Officials shall have final say as to the job classifications to be reduced for employees that report to each of them respectively. After making the determination of job classifications to be reduced, the County Commission and each Elected Official, upon the recommendation of the Department Heads and the Personnel Officer, shall identify the individuals to be separated based upon a uniform set of standards comprised of the following:
 - a. Performance measured by the average of the three most recent performance appraisals (including annual and orientation period appraisals);
 - b. Conduct and disciplinary actions;
 - c. Attendance
 - d. Ability
 - e. Departmental Seniority
 - f. County Seniority

While all these factors must be considered, at the time of the reduction in workforce the County Commission, upon the recommendation of the Personnel Officer may determine the weighting of each factor that must be considered and applied uniformly across all job categories and which must be identified in writing prior to the application of the criteria to the job classifications. In the absence of any written determination, the County shall give equal weight to all factors.

Moreover, the preference, unless the County Commission and Elected Officials in consultation with the Department Heads determine otherwise, shall be that all Probationary, Temporary, or Stand-By Employees shall be reduced first and all Regular Part-Time Employees shall be reduced second, before separating any Full-Time Employee in any department identified for a reduction-in-force.

Nothing contained in this section shall be construed as limiting the right of the County Commission to determine or adjust the budget of any department or elected official.

Title 3. Employee Conduct

Chapter A. General Conduct

- 1. General Conduct.** Because those doing the People's business; whether hired, appointed or elected, are the agents of the People, to whom the government belongs, and bear responsibility for the trust and mandate the People have placed on their government, they shall at all times, therefore, perform their appointed duties faithfully and in full. They shall so bear themselves that the commitment of the County to providing good governance for its citizens shall be unquestioned.

Further, all employees receiving compensation from Carbon County shall faithfully execute the responsibilities and tasks given them to the best of their ability. Neither shall they withhold labor when on-duty; i.e., taking longer than authorized breaks or otherwise withholding service. Employees are required to perform the essential functions contained in their job descriptions and those that can be reasonably derived therefrom.

- 2. Professional Standards.** In addition to the general requirement of the good performance of defined duties and essential functions, the County requires employees covered by codes of conduct and practice adopted elsewhere to abide by the same; e.g., Bar Code, EMT protocols, Uniform Building Code, etc. Where standards are not formally codified but generally upheld within a professional group or industrial sector, those too shall be considered standard of performance for Carbon County. Further, all persons employed by the County or who are the agents of the County shall abide by the laws of the United States, the State of Utah, Carbon County and the various incorporated municipalities therein.

- a. **NIMS Training.** All employees shall complete all NIMS compliance training as required by FEMA. Employees shall complete all training with 6 months of their hiring date, and thereafter shall attend all mandatory training sessions they are notified of. The Personnel Director, in conjunction with the Emergency Services Director, shall indicate in each employee's job description the NIMS compliance required. The Personnel Director shall maintain a checklist in each employee's file indicating NIMS compliance courses completed. In the event employees are uncertain as to the NIMS compliance training required, each employee is individually responsible to ascertain the compliance level required by contacting the Emergency Services Director. Failure to timely obtain all training required shall be grounds for immediate termination. Most initial NIMS compliance trainings can be achieved online at <http://training.fema.gov/IS/NIMS.asp>

- 3. Employee Demeanor.** Politeness and reasonableness are required of all Carbon County employees. Reasonable co-operation and a respect for the dignity and feelings of others also is a requirement. Rudeness, bullying, uncooperativeness, unresponsiveness and refusal to communicate are unacceptable. All employees are especially cautioned to be polite and helpful when dealing with the general public.

Title 3. Employee Conduct

Chapter B. Employee Conduct Guidelines

- 1. Loyalty to the County.** No employee may refuse to fulfill the County's duties or to carry out the policies and ordinances of the County Government which are within its rightful jurisdiction.
 - a. **Commentary on Internal Matters.** No employee may comment to the media or the public on matters which are internal in nature only. Matters of internal concern deal primarily with direction of the work force and personnel matters which are not subject to disclosure under applicable federal, state, and local law.
 - b. **False Statements about the County Government.** Employees who knowingly make false statements against the County are engaging in Disruptive Communication as well as Disloyalty.
- 2. Confidentiality.** Many employees have access to information that is sensitive and private in nature. Much of that information is protected under State and Federal law. Employees also have access to information that could unfairly influence the bidding process. Employees are expected to keep all information that they learn in their positions confidential.
- 3. Moonlighting.** The County recognizes the fact that an employee may be justified, under some circumstances, in accepting casual outside employment to be performed after working hours if no conflict with the County interest is involved. No employee shall accept or engage in any activity, business, or employment, either during or after working hours, that would conflict with County's interests or diminish the ability of the employee to render to the company the full, loyal, and undivided service which is contemplated in his or her employment by the County. Accordingly, the County does not prohibit its employees from having another employer other than the County.

However, second jobs are permissible only if an employee can continue to perform his or her essential functions of the job within the scheduled workweek. Work assignments and schedules will not be changed for County employees to perform duties not related to County. If a second job can be shown to be interfering with the full performance of the essential functions of County duties, the employee's supervisor may condition the employee's continued employment at the County on his or her termination of the other employment. The employee in question has the right to ask the Personnel Officer to mediate if he/she thinks the decision of the supervisor is in error.

It is not County policy to allow an employee to work for more than one department of the County where the total working time regularly would require the payment of overtime pay.

- 4. Telephone Use.** In general, County telephones are for business purposes only. It is recognized that some personal telephone calls are necessary such as in the case of a

family emergency or urgent matter requiring immediate attention. The duration of these calls, both in-coming and out-going, should be as brief as possible and the number of calls kept to a minimum. Personal calls that can be made after work should not be made or received during business hours. To ensure that this policy is not too burdensome, Supervisors may authorize employees to receive or make personal calls that are (a) local charge and (b) as short as possible. This is an area that requires discretion if any personal calls are allowed at all and, in all cases, the Supervisor's decision and discretion are final. However, in no case may an employee receive a collect long distance call nor initiate one without a supervisor's express permission. Long distance personal out-going calls must be reimbursed to the County. Employees placing personal calls must advise the County Accounting Department in writing of the date, time, and number called so that the County can be reimbursed by the employee. Under no circumstance may an employee initiate a "900" call or other "fee for time" call.

Further, employees may not use any cell phone, personal or county-issued, while operating a county vehicle or a private vehicle when operating that private vehicle in furtherance of county business. For more information on the safe use of cellular phones, please refer to the Carbon County Safety Manual.

5. **Use of County Property.** From time to time, employees will be given the use of County property to perform their jobs. County property includes, but is not limited to, all equipment, vehicles, electronics, cell phones, and computers given or issued to the employee for the performance of his or her job. All employees shall use County property for the use intended and at the direction of their Supervisors. County property shall not be used for personal purposes. Theft or willful destruction of County property is prohibited. **Additionally, the County maintains all ownership in any County property, may demand the return of the property, or may assign the property to another employee at its sole discretion. Employees have no right to exclude the County from entering, searching, or reviewing at any time anything in the County property, created with the assistance of the County property, or stored by, within, or in the County property. Employees have no expectation of privacy in the use of any County property.**
6. **Duty to Report Workplace Injuries.** In addition to the rules and laws of the State of Utah, Carbon County requires that employees report injuries that are not obviously minor at the earliest possible time. Employees should make these reports within at least twenty-four hours. This is especially true of falls and strains.
7. **Duty to Report Personnel Policy Violations.** Employees of the County have a duty to report any violation of the Carbon County Policies and Procedures Manual or the commission of any Class B or Class A Misdemeanor or Felony to their immediate supervisor within five (5) working days or as soon as possible if that violation endangers the life or limb of any person whomsoever. This duty includes an employee's obligation to report (a) his or her own violation and (b) any other violation of any other person observed by the employee. Supervisors are required

to report any such offense within two (2) working days to the Personnel Officer. Further, all Supervisors are required to take action upon such offenses. Failure to report or failure to take action shall be a violation equal in gravity to the uncharged or unreported offense; i.e., an employee who fails to report a Class II violation is guilty of a Class II violation.

Title 3. Employee Conduct

Chapter C. Dress and Grooming Standards

- 1. General.** Department Heads and Contractors who have County employees permanently assigned to them have the right to demand certain dress standards applied uniformly throughout the department.
- 2. Safety Requirements.** The County may, from time to time, require employees to shorten hair length or provide for restraint of their hair for safety reasons or good hygiene. For specific safety requirements that employees are expected to follow please see the Carbon County Safety Manual. The County shall make provision for reimbursing at a reasonable rate safety equipment including attire as required or provided at the County's discretion.
- 3. Appearance.** The County may require employees to dress in a manner in which an identifiable majority of the workers in the community doing substantially the same work dress. All employees who are working in a general office environment, including the County offices, shall be required to wear casual business attire. The County shall provide a policy specifically defining what this requires them to wear. Those performing manual labor, or working in environments where clothes regularly become soiled, shall be allowed to wear the most comfortable and easy to maintain clothes possible consistent with other requirements. This is especially true of workers who rarely if ever deal directly with the public.
- 4. Grooming.** The County insists that workers exhibit the highest standard of cleanliness and hygiene consistent with the work they perform. Where the work performed rarely consists of the soiling of clothing or self, there is some latitude in grooming but personal cleanliness is a must. Hair length in males and females may be restricted in departments of a paramilitary nature to the same standards used by the U. S. Armed Forces. Hair length in other individuals may be restricted to a lesser degree but such length must serve a public purpose. The Personnel Officer may require a Department Head to show cause as to public purpose. Department Heads must be able to articulate a standard and the reasons therefore before attempting to impose one.
- 5. Provocative Clothing.** Clothing that is considered provocative may be forbidden.
- 6. Authority to Create Standards.** Department Heads may set the standards for their own departments providing only that they reduce them to rational written form, if required to do so. However, the Commission may impose County-wide standards and may overturn a Departmental standard.

Title 3. Employee Conduct

Chapter D. Political and Religious Activities

- 1. Religious and Political Activities.** An employee may belong to the political party or persuasion of their choice, or to the religion of their choice. They may be active in the same. Any activity relating to politics or religion not performed during work time is their right.
- 2. Religious and Political Displays at Work.** No employee shall display, on a County work site, any materials promoting the political election or defeat of any candidate for public office. Nor shall they solicit money or service for any candidate, nor shall they campaign for a candidate during work time. Employees should not proselytize during work time or otherwise organize religious worship. Carbon County will accommodate religious observance as required by law. Employees shall respect the wishes of others who do not want to participate in political or religious discussions or activities.
- 3. No Religious or Political Affiliation Requirement.** No person shall lose employment or promotion because of political activities or affiliation or lack thereof. Nor shall employment be denied for the same. Nothing herein, however, shall be so construed as to require the employment or retention of a person who advocates the violent overthrow of the United States or violence against any government official or other person whomsoever
- 4. Union Activities.** No employee shall be discriminated against in matters of hiring, promotion, discipline or evaluation with regard to membership (or lack of) in a labor union or association.

Title 3. Employee Conduct

Chapter E. Drug Free Workplace

The County prohibits drug and alcohol use or impairment in the work place in order to protect the public and the County's employees. The County has adopted comprehensive drug and alcohol regulations to implement this policy.

Title 3. Employee Conduct

Chapter F. Prohibited Conduct

1. Prohibited Conduct. No person employed by the County, or who shall be an agent of the County, shall engage in any conduct that adversely impacts the efficiency, harmony, good order or lawful and good purposes of the County or its Departments; nor shall engage, while on duty, in any conduct that discredits the County in the eyes of the general public. An act need not be unlawful or specifically mentioned in these Policies & Procedures to be considered prohibited conduct. Any act which a reasonable person would define as adversely impacting the County Government or its operation, or the citizens of the County, is "prohibited conduct." The seriousness of an act of prohibited conduct, whether falling under this paragraph, or whether specifically proscribed elsewhere, shall be defined as having either:

- A) a serious adverse impact,
- B) a moderate adverse impact, or
- C) a minor adverse impact.

In that order they shall be defined as Class III, Class II or Class I Offenses.

2. Specific Instances of Prohibited Conduct. The following are specific instances of conduct. This is not an exhaustive list and is intended only to define certain specific types of prohibited conduct.

- a. Abusive language. Any language that is intended to disparage, demean, insult or provoke is prohibited. Specifically forbidden are:
 - 1. Scatological references;
 - 2. Graphic sexual descriptions or gesture;
 - 3. Disparaging references to a person's race, religion, creed, ancestry or disability;
 - 4. Use of any language with the intent to provoke or demean another person or any language that a reasonable person would consider offensively inappropriate to the situation.
- b. Attendance. Employees who are late for work (tardiness) or who do not show up for assigned shifts are, by definition of these policies, not performing satisfactorily. Employees who, for any reason, will be late in reporting for work, should make every attempt to contact their Supervisor. Employees who, because of personal business, must be absent from work should arrange with their Supervisor to be excused. Repeated offenses will be considered an aggravating factor in disciplinary actions.

1. "Tardiness" is reporting to work at any time past the assigned start of work.
 2. "Absenteeism" is not being present or reporting to work for at least two hours after the assigned starting time.
 3. "Job Abandonment" is defined to be absence without written permission more than three (3) times in any given calendar year.
- c. Reporting Work and Absences. It shall be a violation of these policies for an employee to fail to report to his or her supervisor when he or she has left his or her regular work site, including his or her office, and when the employee expects to return when the employee will be absent from the regular work site for a reason other than a regularly scheduled break or for more than a brief interval. It shall also be a violation of these policies for an employee to fail to keep an accurate and daily log of when he or she reports to work and/or to a job site and to log when he or she completes his or her work at a job site or finishes work for the day.
- d. Conflicts of Interest. It shall be a violation of these policies to violate Utah Code Annotated § 67-16-1, et seq., as currently codified or subsequently amended, or any other federal, state, or local statute governing conflicts of interest. It is recognized that in rural areas, conflicts of interest sometimes appear unavoidable. A person's cousin, for instance, may be the only local source of a product the person's department uses. A general guide for employees is that a person should be neither helped nor harmed because of his/her relations with County employees. If any employee feels that he/she may have a potential conflict of interest, he/she should file notice of Conflict of Interest and his/her decisions in these matters shall be reviewed by the Executive Authority or other relevant authority if the Executive Authority is unable. The Personnel Officer may, from time to time, be required to develop procedures that result in the resolution of possible conflicts of interest; i.e., special bidding procedures, etc.
1. Gratuities and Bribes. Receiving gratuities is a violation of the Utah Public Officers' and Employee Ethics Act. Receiving gratuities may cloud the judgment of public employees. Any gift other than a meal during the normal course of the workday is expressly forbidden. Even a meal in certain circumstances is a violation of law. Accordingly, employees should even decline meals in most circumstances. It is even a more serious offense to solicit a gratuity (bribe) in promise to perform or refrain from performing a public duty or prerogative.
- e. Dispensing of Artificial Scents. In order to promote healthier, nonallergenic air, it shall be a violation of these policies to dispense into the air of any Carbon County Worksite any artificial scent. For the purposes of this section that shall include the burning of scented candles, the placing of the same on hot plates, plug-in air fresheners or any other mechanical or electrical device or contrivance designed to introduce into the air any artificial scent. Nor shall any product be used which introduces scents into the air by degradation (simply being uncovered). Nothing herein shall be so construed as to forbid the use of colognes or perfumes on one's

person unless in such amounts as to become offensive to the general public. Nothing herein shall be so construed as to forbid the use of "ionic" devices or other non-scented cleaners. The Executive Authority may excuse the application of this policy when it determines that a violation is necessary and will not cause physical distress. Employees working in the sheriff's office, animal shelter, road department, or in the ambulance department are specifically exempt from the application of this section. Additionally, dispensing of artificial scents is permitted in any restroom.

- f. Disruptive Communication. "Disruptive Communication" is any action, physical, written or verbal, designed to defame an employee or agent of the County, or to interfere with the good operation of the County or the rightful execution of its ordinances or policies. It is any attempt made to impede, alter or stop:
1. the performance or advancement of an employee;
 2. the outcome of a disciplinary or personnel action;
 3. the hiring of an employee; or
 4. the forming or execution of policy, especially by the Executive Authority of the County.

Disruptive Communication is also making false charges, or causing them to be made. It is Disruptive Communication if the action is done with malice and/or caprice and the statements made are demonstrably untrue and the person who makes the statements knows, or should have known, of their untruth. It is Disruptive Communication if a person represents as truth that which he/she knows to be false or does not know to be the truth.

- g. Fabrication, Falsification, or Fraud. Any employee who willfully and purposefully falsifies any document relating to his/her employment, or, who willfully and purposefully makes any false verbal statement regarding his/her employment, or, who gives false testimony or statements in a personnel action regarding another person, or, who knowingly withholds pertinent evidence regarding personnel actions, is guilty of violating this paragraph. It is also a violation to falsify any portion of an application or interview for employment. Violations can include falsification of time cards or medical releases.
- h. Failure to Comply with Order of Emergency Personnel. All employees will comply immediately and fully with the orders and instructions of all emergency and law enforcement personnel. Failure to do so constitutes a serious breach of discipline endangering life and property. Employees are hereby warned that any damage or injury resulting from non-compliance may result not only in disciplinary action but civil or criminal liability.
- i. Firearms and Weapons. Unless specifically permitted by his or her job duties, such as a law enforcement, while employed by the County and during work hours, employees are prohibited from introducing, possessing, using, buying, or selling unauthorized weapons, firearms, ammunition, explosives, infernal device, knife or

other edged weapon (other than a pocket knife), or items deemed by the County to be dangerous inside of a County Vehicle or upon County property or upon their person. Pocket knife shall be defined to be a small knife, designed for carrying in a pocket or purse, that has its cutting edge and point entirely enclosed by its handle, and that may not be opened by a throwing, explosive, or spring action. Nor shall any County vehicle be used for hunting. The actual use of any weapon, even if make-shift, exacerbates any charge of threat or violence.

- j. Horseplay and/or Fighting. No employee of Carbon County shall take any physical action intended to harm or demean another person. Nothing herein shall be construed to punish an attempt to prevent harm by pulling a person out of the way of danger or trying to gain their attention in a noisy environment. Further, persons who are attacked have the right of self-defense but only providing they cannot flee the situation.
- k. Insubordination. Insubordination occurs when an employee deliberately refuses to obey or carry out a reasonable, legal, and proper directive from a superior. This type of misconduct in the workplace can obviously damage an employer and employee relationship. Illegal orders consist of: (A) any order which, if carried out, would be a breach of federal, state, or local law, or, (B) any order which if carried out would endanger the life or limb of either the person carrying out the order or any other person. Insubordination also includes disrespectful conduct or language directed at a superior.
- l. Negligence. Any action, physical, written or verbal, which may reasonably be believed to subject any person to injury or death, or may subject County property to damage or destruction. Negligence need not result in harm to be an offense; it need only subject persons or property to the proximate danger of harm. Any action is negligence that a reasonable and prudent person would refrain from because he/she knows that it will or might endanger persons or property. Negligence also occurs when an employee places himself or herself in proximate danger, or injures himself or herself, through an act or acts that he or she knows or should have known to be perilous.
- m. Nepotism. It shall be a violation of these policies to violate Utah Code Annotated § 52-3-1, et seq., as currently codified or subsequently amended, or any other federal, state, or local statute governing the employment and/or supervision of relatives of current employees or officials. The Commission may, at its discretion, impose additional conditions to such hirings, including, e.g., ensuring that relatives do not work the same shifts; requiring one of the relatives to work only part time, etc.
- n. Personal Mail and Packages. No employee shall arrange to have or receive any personal mail or packages at work.
- o. Solicitation and Business Activities at Work. No employee shall engage in "for-profit" business during his/her hours of work for the County. They shall not offer

for sale to any other employee or person on a job site any product or service for monetary reimbursement. No person shall be admitted to a work area to solicit sales not having to do with County business. Nor shall any person be admitted to a work area for the collection of debt. Nothing herein, however, shall prohibit solicitation for charitable contributions provided disruption is minimal. Nor shall anything herein prohibit a rare offer to sell or buy. For instance, one employee sees a "for sale" sign in another employee's car and inquires of the price. The test drive, though, would have to take place on personal time. The intent of this paragraph is to forbid running a business on County time.

- p. Unbecoming Conduct. "Unbecoming Conduct" consists of gambling, wagering, or illegal sexual conduct. It also covers other conduct which has been held by most courts to be grounds for dismissal under the terms of "moral turpitude."
- q. Fraud, Waste, and Abuse. Employees shall not engage in (i) intentional, wrongful acts to obtain either money or some other advantage from the County or its associated programs, including theft, embezzlement, false statements, illegal commissions, kickbacks, conspiracies, collusive contracts, etc, (ii) inappropriate actions or omissions that results in taxpayers not receiving reasonable value for money in connection with the County or its associated programs, including mismanagement, inappropriate acts, and inadequate oversight, and (iii) acts that impair effective and efficient County operations.
- r. Violations of Carbon County Policies. Carbon County will from time to time adopt and amend policies such as policies governing e-mail, computer usage, retention and destruction of documents, and personal use of county facilities. Employees are required to read and follow these policies. Any violation of these policies is prohibited.

3. Classes of Prohibited Conduct

- a. Class I Offenses. The following list is of actions deemed by the County to have a minor adverse impact on the County. This list is partial and any action by an employee having a minor adverse impact on the County is hereby deemed a Class I offense:
 - Negligence where no property damage or personal injury occurs, and where personal injury is unlikely;
 - Failure to wear required safety equipment;
 - Failure to report Class I violations as required;
 - Failure to report injury or any accident of less than \$1,000 in value or any injury-whether to self or others-which does not require off-site care.
- b. Class II Offenses. The following list is of actions deemed by the County to have a moderate adverse impact on the County. This list is partial and any action by an employee having a moderate adverse impact on the County is hereby deemed a Class II offense:
 - Failure to report any accident where the damage to County property is equal to or likely to exceed \$1,000 or failure to report damage to property owned by another person or company other than a County employee or

- agency;
 - Commission of a second Class I offense within one (1) calendar year. This is not an additional offense, but changes the Class I to a Class II;
 - Insubordination where damage or personal injury occurs;
 - Negligence where property damage exceeds \$1,000 or a non-lost-time personal injury takes place where the likelihood of damage exceeding \$1,000 or lost-time personal injury is a substantial possibility. This includes failure to wear safety equipment as required;
 - Conviction of a Class A Misdemeanor or 3rd Degree Felony including those relating to substance abuse;
- c. Class III Offenses. The following is a list of actions deemed by the County to have a serious adverse impact on the County. This list is partial and any action by an employee having a serious adverse impact on the County is hereby deemed a Class III offense:
- Failure to report an injury—whether to self or another—that requires offsite treatment;
 - Commission of a second Class II offense within one (1) calendar year. Commission of a third Class I offense within one (1) calendar year. This is not an additional offense but changes the Class I or Class II to a Class III;
 - Commission of a Class II violation by a supervisor;
 - Use of alcohol or controlled substances (without a prescription) on a worksite;
 - Possession of controlled substances with the intent to sell;
 - Sale of controlled substances on County property or conviction by a court of law of possession with intent to sell;
 - Negligence where property damage or loss exceeds \$1,000, or where any lost time personal injury results, or where there is permanent disability or death. Negligence includes failure to wear required safety equipment;
 - Refusing to take a breath, urine or blood test requested by a competent authority of the County which persons include the employee's supervisor, the County Personnel Officer or any County Commissioner;
 - Loss of driving privileges where operation of a vehicle is one of the essential functions of the position; e.g., bus driver, truck driver, etc.
 - Improper possession of controlled substance or alcohol on County Property.

Title 4. Performance Evaluations

Chapter A. Job Descriptions

Job descriptions outlining the essential functions of the position shall be established for every position by the Personnel Officer and updated as needed. Each Carbon County employee, regardless of status, shall be able to execute the essential functions of their position with or without reasonable accommodation. If an employee is unable to perform up to the standard required for the position or the essential functions of the position, a meeting with the employee will be arranged to determine the reasons for the inability to meet these requirements and what changes or corrections may be required to either the work environment or resources available to assist the employee. Failure to do so may result in disciplinary action. Unwillingness of an employee to cooperate in taking the necessary steps to improve his or her processes may result in termination.

Employee performance plans shall be established by the Personnel Officer in collaboration with the Department Supervisors for each employee under their supervision on a yearly basis or more if needed.

Title 4. Performance Evaluations

Chapter B. Performance Evaluations

At least annually, within one month of the employee's anniversary date, the employee's supervisor shall conduct an evaluation of the employee's performance. The purposes of the evaluation are as follows:

1. To communicate supervisor expectations to the employee.
2. To develop goals for the employee to work toward.
3. To allow the employee to discuss any suggestions, problems or concerns the employee may have.
4. To identify any deficiencies in the employee's performance and to outline a plan of correction.
5. To provide documentation for potential promotions, bonuses, disciplinary actions, or discharge.

Upon completion of every probationary period, a performance evaluation will be completed by the appropriate supervisor.

An annual performance evaluation may be completed by the employee's anniversary date. In addition, such evaluations may be completed from time to time as needed for the benefit of the employee or the District. An employee's anniversary date is defined as the day the employee begins employment.

The Personnel Officer will review all evaluations for consistency and for compliance with these policies. The Board of Commissioners may, from time to time, evaluate non-elected Supervisors. All employees may request to have any statements they consider false or malicious to be reviewed by the Personnel Officer.

Title 5. Discipline

Chapter A. General.

- 1. Applicability.** Any Executive Employee, Part-Time Employee, Temporary Employee, Stand-by Employee, or Probationary Employee may be discharged at the will of the County. Such employees have no expectation of continuing employment and have no expectation that they will be subject to any notification prior to discharge. Additionally, no Executive Employee, Part-Time Employee, Temporary Employee, Stand-by Employee, or Probationary Employee is entitled to any progressive discipline unless these policies and procedures and/or applicable provisions of federal, state, or local law expressly provides for such progressive discipline. Accordingly, the provisions of Title 5 of this Manual do not apply to such employees unless expressly made applicable to the particular classification of employees in the body of the applicable provision.
- 2. Discipline Appropriate.** Any employee (which term includes supervisors) committing an offense against the good order and discipline of the County, wherever named, shall be subject to disciplinary actions up to and including termination.
- 3. Fair Discipline.** It is the policy of Carbon County that discipline shall be applied without regard to race, color, creed, national origin, sex, age, disability, marital status or the intent to bear children. Furthermore, it shall be applied evenly. However, the County recognizes the necessity of using discretion with regard to aggravating and mitigating circumstances.
- 4. Initiation of Discipline.** Generally, any disciplinary investigation and/or the disciplinary process is initiated by the Department Head (whether or not elected) or an employee's immediate supervisor. However, the Commission, or a Commissioner, may order a disciplinary investigation and the imposition of any warranted disciplinary action. The Personnel Officer, may, if he/she has evidence that a Department Head is refusing to act, investigate a report of infraction provided only that he/she informs the Commission in writing that he/she is doing so. Nothing herein shall be so construed as to relieve any person whomsoever of the duty of imposing discipline or reporting violations of the Policies and Procedures.
- 5. Enforcement.** While the decision to apply discipline is primarily the Department Head's, the oversight of ensuring compliance with these procedures is the responsibility of the Personnel Officer. Except as noted under Procedures, any applicable processes, forms, etc., shall be approved by the Personnel Officer.

Title 5. Discipline

Chapter B. Types of Discipline.

1. **Verbal Warning.** A Verbal Warning is a private discussion between supervisor and employee regarding any disciplinary issue, including failure to adequately perform. Any deficiency verbally communicated to the employee is a Verbal Warning.
2. **Written Warning.** A Written Warning is a written document delivered to an employee regarding any disciplinary issue, including failure to adequately perform. Any deficiency communicated in writing to an employee is a Written Warning.
3. **Suspension.** A Suspension is a disciplinary action in which an employee is prohibited from working for the County for a period of time. The suspension may be with or without pay. Any prohibition from working for the County for any period of time is a Suspension.
4. **Disciplinary Transfer.** A Disciplinary Transfer is a disciplinary action in which an employee is transferred to another position in a different department or division of the County or to the supervision of a different supervisor.
5. **Demotion.** A Demotion is a disciplinary action in which an employee is moved to a lower pay grade, moved to a subordinate position that results in a reduction in pay, or removed from a position of responsibility that results in a reduction in pay.
6. **Dismissal or Discharge.** A Dismissal or Discharge is a disciplinary action in which an employee's employment relationship with the County is involuntarily terminated and the employee is removed from the payroll.
7. **Other Disciplinary Measures.** The disciplining official or body may determine to fashion other disciplinary measures than those identified above. In such cases, the disciplining official or body should attempt to classify such measures within one of the above-identified classifications. For instance, if a Department Head determines to place a person on probation for a length of time with the consequence for failing to adhere to policy, it would be appropriate to identify the measure as a Written Warning.

Title 5. Discipline

Chapter C. Administration of Discipline.

- 1. Purpose of Discipline.** The County's policies on disciplinary procedures are designed to achieve the following goals:
 - a. To eliminate disciplinary problems in advance, as much as possible, by letting employees know what offenses will be punished and what disciplinary steps will be taken.
 - b. To protect employees from the unsafe actions of their co-workers that might put them in physical jeopardy.
 - c. To assure all employees that basic disciplinary procedures will be applied uniformly in all Departments.
 - d. To give employees who violate rules the opportunity, where appropriate, to improve by informing them what specific actions they should take to meet behavioral and performance standards.

The County may use corrective discipline for violations of standards of conduct in a progressive manner. Increasing severity of disciplinary action may be given each time an employee is disciplined.

2. Procedure for Use of Disciplinary Methods

- a. Verbal Warnings. If, in the matter of any Class I violation, the disciplining authority deems it in the best interest of all concerned to issue only a Verbal Warning and not to initiate any formal discipline, the disciplining authority may speak to the employee about what he/she considers a violation.
 1. In such cases, the disciplining authority should prepare a written record specifying the date and time of the Verbal Warning and identifying with specificity the reason for the Verbal Warning. The record of the Verbal Warning should be placed in the employee's personnel file.
 2. A Verbal Warning may not be used for Class II or Class III violations. Additionally, a Verbal Warning may not be used for a second Class I offense that is the same or similar to another Class I offense for which an employee received a Verbal Warning within the last year.
- b. Written Warnings. If an employee commits any Class I or Class II violation and the disciplining authority deems it in the best interest of all concerned to issue only a Written Warning and not to initiate any other formal disciplinary measures, the disciplining authority may issue a Written Warning.
 1. In such cases, the disciplining authority should prepare a Notice of Intent to Issue a Written Warning, identifying with specificity the reason for the

proposed Written Warning and the date and time by which any employee response will be accepted. The Notice of Intent to Issue the Written Warning should be delivered to the employee by any appropriate method.

2. An employee who is given a proposed Written Warning must be given an opportunity to respond to the proposed Written Warning either verbally or in writing before any Written Warning is issued. The response time should be a reasonable amount of time under the circumstance, which in no event shall be less than one working day.
 3. A Written Warning when issued must be delivered to the employee by any appropriate method and placed in the employee's personnel file. Although not necessary for administration of the Written Warning, an employee should be given an opportunity to sign the Written Warning to evidence that he or she was delivered a copy. If an employee refuses to sign, the disciplining authority should date the document and note that the employee refused to sign the Written Warning.
 4. A Written Warning may not be used for a Class III violation. Additionally, a Written Warning may not be used for a second Class II offense that is the same or similar to another Class II offense for which an employee received a Written Warning within the last year.
- d. Suspension, Demotion, Disciplinary Transfer, Discharge or Dismissal. If an employee commits any Class I, Class II, or Class III violation and the disciplining authority deems it in the best interest of all concerned to Suspend, Demote, Disciplinary Transfer, Discharge, or Dismiss an employee, the disciplining authority must follow the following procedures.
1. In such cases, the disciplining authority should prepare a Notice of Intent to Suspend, Demote, Transfer, Discharge, or Dismiss ("Notice of Intent to Discipline"), identifying with specificity the reason for the proposed action and the date and time by which any employee response will be accepted. The Notice of Intent to Discipline should be delivered to the employee by any appropriate method.
 2. An employee who is given a proposed Notice of Intent to Discipline must be given an opportunity to respond to the proposed discipline verbally, in writing, or both before any discipline is issued. The employee may request both verbal and written responses. The response time should be a reasonable amount of time under the circumstance, which in no event shall be less than three working days.
 - a. A disciplining authority may immediately suspend an employee without pay and require the employee to leave the premises if, in the sole discretion of the disciplining authority, circumstances require such an action. In such a circumstance, the suspension must be with pay unless

after a hearing is held on the proposed discipline, the disciplining authority determines that immediate action was necessary because the employee's intentional and willful violation of policy, the safety of the public or other County employees, or the protection of property required immediate action.

3. Once final discipline is issued the Notice of Disciplinary Action must be delivered to the employee by any appropriate method and placed in the employee's personnel file. Although not necessary for administration of the discipline, an employee should be given an opportunity to sign the Notice of Disciplinary Action to evidence that he or she was delivered a copy. If an employee refuses to sign, the disciplining authority should date the document and note that the employee refused to sign the Notice.
- e. Other Forms of Discipline. If a disciplining authority determines to issue an alternative form of discipline to those described above, the employee is entitled to the procedure that is most closely aligned to the discipline that is issued. The Personnel Officer ultimately will determine which procedure is most appropriate after giving due deference to the disciplining authority's opinion as to the appropriate procedure.

Title 5. Discipline

Chapter D. Termination of Executive Employees.

- 1. Senior Executive Employees.** In the event that an Occupational Employee accepts an appointment to become an Executive Employee, he or she shall be reinstated as an Occupational Employee in a position for which he or she is qualified in a pay grade comparable to the pay grade he or she had when last employed as an Occupational Employee if (a) he or she is not retained by the appointing official, (b) he or she was not discharged for cause, and (c) an Occupational Employee position exists. If a comparable Occupational Employee position does not exist, the employee may be appointed to a lesser position pending the opening of a comparable position. If the employee is placed in this pending position, he or she shall have precedence over other employees and applicants who are waiting for such an Occupational Employee position.

Title 5. Discipline

Chapter E. Disciplinary Appeals.

- 1. Applicability.** Any Executive Employee, Part-Time Employee, Temporary Employee, Stand-by Employee, or Probationary Employee has no right to an appeal of any disciplinary decision. Accordingly, the provisions of Title 5, Chapter E of this Manual do not apply to such employees unless expressly made applicable to the particular classification of employees in the body of the applicable provision.
- 2. Right to Appeal.** Before an employee may appeal any disciplinary action against him or her, the employee must first exhaust the County's Grievance Procedure. Employees may not appeal verbal warnings or written warnings. Additionally, any employee of the Carbon County Sheriff's Department must appeal to the Deputy Sheriff's Merit Board.
- 3. Appeal Initiation.** Upon the receipt of notice of the final disposition of the Carbon County grievance procedures outlined in Title 9, an employee has the right to appeal the disciplinary process and action imposed to the Carbon County Career Service Council.
 - a. Time for Appeal. An employee must submit his or her written notice of appeal to the Carbon County Recorder within ten days or an employee will be deemed to have waived all appeal rights.
 - b. Initial Determination of Jurisdiction. The Career Services Council shall make an initial determination as to whether the Council has jurisdiction under Utah Code Ann. § 17-33-4(b). This determination shall be done without the necessity of a hearing.
 - c. Hearings. If the Career Services Council determines that it has jurisdiction, it shall have discretion to require written submissions, conduct a hearing, or to conduct any other proceedings necessary to hear and resolve the appeal. Additionally, although the Career Services Council is generally an appellate body with reviewing authority to determine the appropriateness of the decision of the disciplining authority, it may have all the powers to compel witnesses to attend the hearing where it deems appropriate and as authorized by applicable state statute.
 - d. Final Decision. Upon the completion of a hearing, the Career Services Council may affirm, modify, vacate, or set aside the discipline imposed. The decision is by majority vote. The decision is not final until it is placed in written form, signed, and served upon the appealing party either by hand-delivery or placed in certified mail return receipt requested. Service is complete upon delivery to the appealing party or placement of the decision in the mail.

Title 6. Non Discrimination

Chapter A. General

- 1. Equal Opportunity.** Carbon County is an Equal Opportunity Employer and provides access to all County services. It is the practice of the County to select, develop, and promote employees based on their ability and performance. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, termination, layoff, recall, transfers, leaves of absence, compensation, and training. This policy also extends to those who seek to do business with the County.

As an EOE Employer, the County does not discriminate on the basis of race, color, gender, religion, age, national or ethnic origin, disability, marital status, veteran status, genetic information, sexual orientation, gender identity (as that term is defined in the Utah Antidiscrimination Act currently codified at 34A-5-101 *et seq.*), or any other classification prohibited by federal, state, or local law. The County adheres to and upholds the mandate set by the Utah Right to Work Law in that the right of persons to work for the County “shall not be denied or abridged on account of membership or non membership in any labor union, labor organization or any other type of association.”

- 2. Expression of Religious or Moral Beliefs.** Pursuant to the requirements of Utah Code § 34A-5-112, an employee may express his or her religious or moral beliefs at work so long as the expressions are made reasonably, non-disruptively, and in a non-harassing way. However, Elected Officials and Department Heads, with the concurrence of the Board of County Commissioners, may establish rules prohibiting these types of expression upon a specific and express finding that “the expression is in direct conflict with the essential business-related interest” of the Department.
- 3. Discrimination is Punishable.** It is the obligation of every person employed by the County, including Department Heads and Elected Officials, to uphold these policies and the laws from which they are derived. Any willful discrimination shall be considered an offense against the good operation of the County and shall subject the offender to disciplinary action up to and including termination.
- 4. Military Service Protected.** No County employee shall suffer any disability or discrimination because of his/her service in the Armed Forces of the United States (including the U.S. Coast Guard). Nor shall the County discriminate in hiring because of membership in the Guard and Reserve components of the Armed Forces.

Title 6. Non Discrimination

Chapter B. Harassment

- 1. All Legally Prohibited Harassment and Discrimination Prohibited.** The County prohibits the harassment and discrimination of its employees, contractors, consultants, Board of Commissioners, other elected or appointed officials, and customers in any manner. The County will not tolerate verbal, visual, or any other communication including email, internet, or telephone, physical misconduct, or any other actions by any employee that harasses, discriminates, or that impacts another's job function and performance or who creates a hostile work environment by demeaning or harassing any person based on an individual's gender, gender identity (as that term is defined in the Utah Antidiscrimination Act currently codified at 34A-5-101 *et seq.*), sexual orientation, race, age, national origin, religion, disability, genetic information, or any other legally protected characteristic.

The County is committed to providing a professional, safe working environment within a setting of mutual respect. Words, actions, or other forms of harassment or discrimination based on an individual's gender, race, age, national origin, religion, disability, genetic information or any other legally protected characteristic are prohibited and will result in corrective action up to and including termination.

- 2. Sexual Harassment.** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex;
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker; and
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

Sexual harassment can occur in different types of situations. For instance, it is illegal sexual conduct (1) if submission to sexual conduct is made either explicitly or implicitly a term or condition of an individual's employment or advancement or (2) where a job benefit is directly tied to an employee submitting to unwelcome sexual advances.

Moreover, conduct can be sexually harassing if the sexual conduct unreasonably interferes with an individual's job performance or creates a hostile, intimidating or

offensive work environment without regard to tangible or economic job consequences: the person may not lose pay or a promotion. Such sexual harassment may include, but is not limited to:

- repeated requests for sexual favors
- demeaning sexual inquiries and vulgarities
- offensive language
- other verbal or physical conduct of sexual or degrading nature
- sexually offensive, explicit or sexist signs, cartoons, calendars, off color jokes, gender stereotyping, literature or photographs displayed in plain view
- offensive and vulgar graffiti.

- 3. Reporting Process.** It is helpful for the employee who feels he/she has been the victim of or witness to any illegal harassing behavior to directly inform the harasser that the conduct is unwelcome and must stop. However, such action is not required, but the employee or witness to acts of harassment should document the occurrence.

Employees and/or witnesses must report the incident to his/her supervisor or another member of Management. In the event that the behavior is from one's supervisor, the victim or witness can make a report to his or her Personnel Officer or any member of the Carbon County Commission. If the offending individual is the Personnel Officer, the victim or witness may report the incident to the Board of Commissioners pursuant to the rules available from Human Resources.

- 4. Investigations.** All allegations of discriminatory or harassing behavior will be taken seriously and investigated immediately by the Personnel Officer or another duly delegated individual while maintaining the privacy and confidentiality to the parties involved. Where appropriate, immediate corrective action will be taken up to and including termination. All claims are encouraged to be reported immediately.

No person shall be required to remain on a work site if there is an immediate threat of harm or there has been an assault. No person shall lose wages or in any way be made subject to any disciplinary action for reporting sexual harassment. Where an environment is hostile or dangerous no person shall be required to work in that environment until the situation is resolved. The Personnel Officer is explicitly authorized to grant paid leave if necessary.

The process will include:

- interview with involved parties: claimant, alleged harasser, witnesses, etc.;
- recording of the evidence: ascertain the facts and observable incident(s), not opinions and document discussion; and
- share findings: investigation results will be communicated to the claimant, alleged harasser, witness and supervisor.

- 5. “Zero Tolerance” of Retaliation.** It is important for County employees to know that by law, any retaliation against an employee who opposed any illegal discrimination or harassment or made a charge or participated in an investigation is prohibited under Title VII. No employee will be penalized for factual representation of the events. Employee behaviors that are protected include:
- resisting advances, discrimination, or other harassment
 - registering a complaint of harassment or discrimination
 - supporting the claim of another employee
 - picketing in protest of illegal discrimination or harassment
 - notifying law enforcement authorities
- 6. False Claims.** In the event it is found that claimant or witness made false accusations or use this policy to intimidate, harass or create groundless claims against another, will be subject to corrective action up to and including termination.

Title 7. Benefit & Compensation

Chapter A. General

- 1. Benefits and Compensation.** It is the policy of Carbon County to offer benefits and compensation at such levels as to promote stable and functional families. It is the policy of Carbon County to offer the highest levels of compensation and benefits commensurate with: (a) fiscal responsibility, (b) provision of high levels of service and the provision services mandated by law, (c) the good order and discipline of the County and (d) the level of productivity among the workforce. It is further the policy of the County to provide compensation according to all laws of the State of Utah and the United States and the decisions of courts of competent jurisdiction.

- 2. Equality.** Employees doing the same job in the same department should receive the same wage except that the County may from time to time institute systems of seniority and merit. There shall be no favoritism where benefits are not tied to job descriptions or levels of compensation; i.e., one employee may not be granted two days of bereavement leave for the death of a father while another is granted three. Nothing herein shall be so construed as the adoption of the doctrine of "Equal Worth," nor shall anything be so construed as to prevent the adoption or acceptance of an Affirmative Action Plan.

- 3. Probationary Employee Salary.** Probationary Employees receive a probationary wage or salary during the term of their probation. The wage or salary is ten percent less than the normal hourly rate of the position for which they are serving the probationary period.

Title 7. Benefit & Compensation

Chapter B. Holidays

- 1. Holidays.** The days listed below shall be recognized and observed as Holidays. In addition, the Board of Commissioners may, from time to time, declare additional days as Holidays. Days so declared entitle employees to the same benefits as if the day were part of the list.
 - a. NEW YEARS DAY; the 1st day of January.
 - b. MARTIN LUTHER KING, JR. DAY, a.k.a. Human Rights Day, the 3rd Monday of January.
 - c. PRESIDENT'S DAY, the 3rd Monday of February.
 - d. MEMORIAL DAY, the last Monday of May.
 - e. INDEPENDENCE DAY, the 4th day of July.
 - f. PIONEER DAY, the 24th day of July.
 - g. LABOR DAY, the 1st Monday of September.
 - h. COLUMBUS DAY, the 2nd Monday in October.
 - i. VETERAN'S DAY, the 11th Day of November or the Monday thereafter.
 - j. THANKSGIVING DAY, the 4th Thursday in November.
 - k. FRIDAY AFTER THANKSGIVING.
 - l. CHRISTMAS DAY, the 25th Day of December, workers working on Christmas Eve, and not the day after and after 4 pm are eligible for Holiday Pay reimbursement.

- 2. Holidays Observed.** When one of the above listed days falls on a Saturday, the day before shall be considered the Holiday. If it falls on a Sunday, the Monday after shall be considered the Holiday. All employees working on a Holiday shall be compensated monetarily except the Sheriffs Department. All Sheriffs Department employees receive one (1) day of compensatory time per month, regardless of when the Holiday's fall. Part-time, seasonal, and temporary workers do not receive Holiday benefits. However, part-time, seasonal and temporary workers required to work on a declared Holiday shall be paid 1.5 rate. If four ten (10) hour shifts are being worked and the Holiday occurs on a Friday or Saturday, the Thursday before shall be the Holiday. In all other cases the Holiday shall be observed on the day listed above except that ambulance workers who work on the 24th of December may claim Holiday pay on that day provided they do not work on the 25th.

Title 7. Benefit & Compensation

Chapter C. Vacation

- 1. General.** It is the policy of Carbon County that employees should be allowed vacation time because of the regenerative effect thereof; it being in the best interest of both the employee and the County to have vacations. Therefore, supervisors shall make themselves aware of the vacation accruals of their employees and schedule vacations for the maximum efficiency of the department. It is up to the supervisors to schedule vacations but they must allow employees to use the maximum allotment of their accrual in any given calendar year if they so desire. However, nothing herein shall be so construed as to prevent response to emergencies or to maintaining adequate staffing levels.
- 2. Limited Accrual.** No employee shall accumulate more than 168 hours (24 days) if they are a 35 hour worker or 192 hours (24 days) if they are a 40 hour worker or worker in another class. Full-time workers of at least 30 hours but less than 35 hours shall compute their maximum accrual as 24 x the length of their normal shift. Vacation credit in excess of these limits shall be lost at midnight on the 31st of December each calendar year. However, no employee shall lose vacation time because they were forced by policy to use compensatory time. In such cases, the payroll clerk shall simply not remove the excess vacation time from the employee's account.
- 3. Scheduling.** Consistent with section 1 above, employees and supervisors will work closely together in scheduling vacations. It is realized that not all vacations can be planned, but to the extent it is possible, they should be. Generally speaking, first requested, first granted. It would be wise if every supervisor would hand out a calendar on the first work day of the year and ask the employees to request their known conflicts. In case of conflicts, the senior employee generally prevails. However, perhaps an employee must attend a certain event on a certain day and shall therefore prevail unless both the senior and junior employee are in the same situation. Once a day is pre-scheduled, a senior employee has five (5) working days to claim seniority right; if not, the original request stands.
- 4. Accumulations.** While "days" is a common term and used in these Policies & Procedures, actual credit and debit of vacation time and sick time is in hours.
- 5. Cut Off Days.** No employee begins accumulating sick leave until the first day of the month following his or her first day of work.
- 6. Probationary Employees.** While actual accumulation begins with hire, its use is restricted. While an employee may use his or her time, with supervisor's approval, during their probation, a probationary employee who does not successfully complete probation, will have vacation time monetarily deducted from his or her final paycheck.

7. Earning rates. The amount of vacation earned depends on the seniority of the employee. The Commission may grant additional vacation time to comply with the ADA if necessary for reasonable accommodation. Again, the actual computation of credit and debit is in hours. However, for convenience, use the following schedule:

0-5 years of service	.833 days a month or 6.66 hrs	(10 days annually)
5-10 years of service	1.00 days a month or 8.00 hrs	(12 days annually)
10-15 years of service	1.25 days a month or 10.00 hrs	(15 days annually)
15-20 years of service	1.50 days a month or 12.00 hrs	(18 days annually)
20+ years of service	1.67 days a month or 13.50 hrs	(20 days annually)

8. Vacation Coordination. If a County Holiday should occur during an employee's vacation, he/she shall not be charged vacation time for that day or part thereof. Similarly, even though on vacation, an employee will receive holiday pay credit.

9. Termination. All unused vacation credit shall be paid upon retirement or termination (voluntary or involuntary).

Title 7. Benefit & Compensation

Chapter D. Sick Time

1. **General.** Employees are granted sick time regardless of seniority. The Commission may grant additional vacation time to comply with the ADA, if necessary, for reasonable accommodation. It is accumulated at the rate of 7 hours per month for 35-hour employees and 8 hours for 40 hour employees and employees of other classes. Full-time workers of at least 30 hours, but less than 35 hours, shall compute their accrual by dividing their weekly hours by 5 and then rounding the number down to the next integer. Sick time is credited on the first day of the month after it is earned.
2. **Usage.** An employee may use his/her sick time to care for a child over which he/she is the legal guardian, or a spouse, or, his/her own parent or grandparent.
3. **Donation.** In exceptional circumstances, an employee may donate sick time to another employee who has exhausted all of his or her sick leave. Donations may only be made after commission approval and where the following conditions have been met:
 - a. Serious Health Condition. An employee must have a serious health condition as defined under the Family Medical Leave Act (FMLA). Additionally, the employee must be suffering from the serious health condition at the time of the request.
 - b. Relationship to Short-Term Disability. The employee must apply for and be denied coverage under a short-term disability plan before a request for donation may be made.
 - c. Total Time. An employee may receive donated leave up to his or her budgeted number of hours each pay period for a maximum period of six months.

The County Commission retains the right to vary from this policy when in its sole discretion it determines that good cause for variation from the policy has been demonstrated.

Only when a request for donated time has been granted, may an employee donate his or her time to another employee. Additionally, donation may occur only under the following circumstances.

- a. Two-Week Bank. No employee may donate his or her sick time if the contribution shall cause the employee to have less than two working weeks of sick leave.
- c. Total Amount. No Employee may donate more than forty hours to any other employee.
- b. Retirement. No employee may donate his or her remaining sick leave or any portion of it to any other employee at the time of retirement unless the donation

complies with the restrictions otherwise identified in this section.

- c. **Disclosure.** Before donation, Carbon County shall disclose that all donations are irrevocable and are subject to forfeiture by the donee upon his or her return to work. The disclosure in this manual constitutes sufficient disclosure when an employee has received a copy of the manual or an updated copy of the manual.

Donated sick leave will be administered on a pay-period-by-pay-period basis. Donated time may not be applied retroactively to any pay period prior to the pay period in which the request is made to the Commission. Any sick and vacation time accrued by an employee while using donated leave must be used in the following pay period before additional donated time may be used. When a donee returns to work his or her sick leave account shall be zeroed out regardless of how many hours remain therein unless otherwise dictated by law.

FMLA and any other County granted leave of absence shall run concurrently with donated sick leave time.

4. **Cash Conversion.** As a wellness incentive, Carbon County will pay 1/4 of the accumulated sick time upon separation from employment. Said payment shall not exceed one month's base pay. To receive this benefit, all sick leave hours will be deemed to have been "cashed in."
5. **Probationary Period.** An employee begins to accumulate sick leave during probation but may not use the same. Any sick time during probation shall be unpaid. However, probationary employees must be allowed unpaid leave for any purpose consistent with the Family & Medical Leave Act.
6. **Certification.** Any time an employee is absent using sick leave for illness for more than three consecutive work days (regardless of length of shift) certification of illness must be provided by a health care professional. Note this is WORK days, not consecutive calendar days.
7. **Personal Days.** Any employee may use two of his/her sick days during a given year as personal days for any purpose whatsoever. However, a personal day must be formally requested prior to its use and may not be used in conjunction with an absence due to illness; i.e., used to avoid the required certification called for above. Use of a personal day must be noted on the employee's time sheet or it will be treated as a normal sick day. Nothing herein shall be so construed as to allow an employee to use time he or she has not otherwise accrued nor construed so as to add to the number of days allowed an employee under other provisions of County Policy or State and Federal laws.
8. **Fraud.** A person who abuses these policies or in any way fraudulently claims to be sick is engaged in prohibited conduct that will subject him or her to disciplinary action up to and including termination.

Title 7. Benefit & Compensation

Chapter E. Other Leave

1. **Bereavement Leave.** The County shall grant five (5) days paid leave for the death of a spouse or child over which the employee is the legal guardian and if not the legal guardian, currently married to the parent of the child who has died, and, three (3) days paid leave for the death of a brother, sister, mother, step-mother, father, step-father, grandmother, grandfather, grandchild or, the mother, father, grandmother, grandfather of a spouse or son or daughter-in-law. In addition, the County shall grant one (1) day paid leave for the death of the employee's own aunt or uncle or, brother or sister-in-law. This leave may be taken anytime within ten (10) calendar days of the report of the death to the employee. If an employee is informed of the death while on shift, he/she may leave the shift and not begin the count of leave until the next calendar day.
2. **Unpaid Leave of Absence.** An employee may request unpaid leave of absence for up to six (6) months to further education, illness not covered under the FMLA, drug or alcohol treatment, medical treatment not covered the County Insurance, or for reasons pertaining rationally to their family situation. Employees do not have the absolute right to such leave; it must be granted either by their supervisor or the Commissioner. However, should an employee be granted such leave, he/she has the same reemployment rights as provided under Active Duty Military Service.
3. **Family Medical Leave.** The County will comply with the provisions of the Family and Medical Leave Act ("FMLA"). The County will administer such leaves of absences in accordance with FMLA and other applicable federal and state law. The Personnel Officer shall prepare, and update as appropriate, written guidelines to implement this policy and shall provide a copy of those guidelines to each employee. The type and length of leave, and compensation to be received, if any, during the leave will also be set forth in those guidelines. The most recent guidelines are appended hereto to this Chapter E as Appendix A.
4. **Break Time for Nursing Mothers.** The County will comply with the requirements of Patient Protection and Affordability Care Act ("PPACA") and the Fair Labor Standards Act ("FLSA") by providing break times during the work day for nursing mothers to express breast milk for her nursing child. Break time and a designated location shall be available to employee nursing mothers for one (1) year following the child's birth. Employees shall not be compensated for breaks taken for the purpose of expressing breast milk, although nothing herein shall prevent employee mothers from expressing during their normal employee break times and being compensated in the same way that other employees are compensated for the same break times.
 - a. Consistent with the requirements of the PPACA and FLSA, the County will provide a designated location other than a bathroom, wherein employee mothers can express breast milk in a space that is sufficiently sized, shielded from view, and free from intrusion from co-workers and the public.
5. **Disability Leave Caused by Employment Injury.** Should a worker be so injured in the course of employment with the County as to receive disability payment, that person may be placed on unpaid disability leave once his or her paid sick leave is exhausted. If the County replaces a worker on disability, he/she may reclaim his or

her job provided that the replacement worker has not been employed for longer than six (6) months. After six months, the worker has preference for any County position for which he or she is otherwise qualified. Any person injured to an extent he/she cannot perform the essential functions of the position must bring a physician's release before returning to work. The County will, if necessary, make reasonable accommodations to assist a worker who has disabilities.

- a. Reporting. An employee must report to his/her immediate supervisor: (A) any injury or strain he or she believes should receive treatment, (B) an injury that may aggravate if not attended to, (C) any fall to the back or head, (D) any cut wherein the flow of blood may not be staunched by a regular "band-aid." They must report these incidents or injuries immediately if possible or at the earliest opportunity. Failure to do so may result in disciplinary action but does not bar him or her from claiming Workers Compensation benefits.
 - b. Release to Return to Work. Any worker who claims disability or who is otherwise injured and declared unfit to work by a physician shall obtain a medical release to return to work before being allowed to do so. Either the worker or the County will present, if necessary, a job description to the physician so that he/she may give informed release.
 - c. Designated Provider. The County may, from time to time, designate a physician or facility as "designated first provider," whom/where the injured worker must first see. The worker has the right under State law to visit another physician. However, the County and/or those administering its workman's compensation claim, retain the right to have a physician of their choosing examine the patient.
- 6. Military Service Leave.** Leave shall be given as required by federal and state law to all qualified members of the armed services.
- 7. Automatic Non-Prejudicial Termination.** Employees who have been absent for six (6) months and who have run out of sick-time and vacation time or who, at a point earlier than six (6) months, are absent without benefits are automatically terminated without prejudice unless they are on an Unpaid Leave of Absence or Military Absence. However, no employee shall be terminated because of the failure of a physician to provide paperwork. If such be the case and the Department Head or Clerk-Auditor or Personnel Officer cannot obtain compliance from the treating physician, they shall send them to another physician to determine fitness for work.
- a. Extension. The Commission may from time to time extend final termination providing the employee's replacement has not been on the job for six months, or may allow the termination to take place and extend absolute preference to the employee regarding the next hire, or they may expand the department by promising to take back the person upon release. This is solely a Commission prerogative and is not an employee right. It is a recognized principal that unforeseen situations require some flexibility of executive authority. In all cases, the Commission's decision is final. However, the Commission should make the extension a finite time to be reviewed as circumstances dictate. This action is not available if the employee has not been off six (6) months or has not run out of benefits. No action under this paragraph should take place if donated sick time is available and the time away is less than six (6) months.

APPENDIX A

EMPLOYEE RIGHTS AND RESPONSIBILITIES

UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

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

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the

family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

Title 7. Benefit & Compensation

Chapter F. Special Compensation and Other Allowances

1. Overtime

- a. Workweek. The designated work week of the County begins each Saturday at 23:59:59 and ends 168 hours and one second later; i.e. midnight of the second Sunday after. Any time actually worked, regardless of when it occurs during the work week, in excess of forty (40) hours shall be designated overtime work. Overtime work shall be compensated at 1.5 times normal rate. Compensation shall be monetary except as provided below.
- b. Computation. Overtime will be computed as required by law.
- c. Authorization. No employee may claim overtime except that such work is authorized by the supervisor. The Commission and/or other elected officials may assume, at their pleasure, the authority to authorize overtime. If any such department shall make such the policy and the policy is not current at the time of the adoption of these Policies & Procedures, all employees in that department shall be so informed. Further, supervisors will not suffer work to be done on the County's behalf without pay or compensatory time. For the purposes of this paragraph, voluntary work performed for the 4-H clubs Boy Scouts, Girl Scouts or any charitable organization to which the employee may belong, though it be of indirect benefit to the County, are exempted provided that no employee shall in any way suffer because he/she refuses to volunteer.
- d. Eligibility. No elected official nor Department Head shall receive overtime or compensatory time, provided only that the Commission declares them Salaried-Exempt and he or she meets the criteria established by law.
- e. Mandatory. The County may require overtime work. Workers may be required to make themselves available for overtime work.
- f. Compensatory Time. The Federal Government has allowed to local and state governments to pay compensatory time (hereafter comp time) instead of overtime monetary pay. This is provided that employees agree to the same and the rates at which it is paid are the same at which monetary compensation would have been paid. For instance, a worker who works more than forty (40) hours per week will receive 1.5 hours of compensatory time for each hour of work over forty (40). No employee not eligible for overtime pay shall be eligible for comp time pay.
 1. Use of Comp Time. Each Department who pays in comp time shall submit to the Commission & Clerk-Auditor & Personnel Officer a policy stating the maximum accumulation their Department will allow. The policy must provide the following:

- a. Total Number of Hours accumulated:
 - i. Employees engaged in public safety activities, emergency response activities, or seasonal activities who are not exempt from the Fair Labor Standards Act overtime rules may accumulate no more than 480 hours.
 - ii. Employees engaged in any other activity not listed above and who are not exempt from the Fair Labor Standards Act overtime rules may accumulate no more than 240 hours. Additionally, once such employees have worked 160 hours of overtime, they may accumulate no more comp time.
- b. The policy must include a provision that states that no employee may be forced or coerced to accept comp time in lieu of payment.
- c. The policy must provide that the employees be allowed to use the comp time within a reasonable period after the employee makes a request for its use if that will not unduly disrupt the operations of the department.

The Commission may approve or reject any such policy at its sole discretion. If approved, a comp time report for each employee shall be submitted to the Clerk-Auditor every month on a form he/she shall provide. No employee shall be allowed to exceed the Departmental maximum. After the maximum has been reached, overtime pay shall be compensated monetarily.

- 2. **Call Out Pay.** Any time an employee, having already left the workplace in the expectation that his/her shift is completed is called back to work before the next regularly scheduled shift; that worker has been "called out." Workers who are called out shall receive not less than two (2) hours pay regardless of time worked. If they work one (1) hour they shall be paid two (2) hours; if they work three (3) hours they shall be paid three (3) hours. Call-out pay also applies to those on Standby but not those on pager.
- 3. **Standby and Pager Pay.** If an employee is required to wear a pager and be available for duty and not be required to be in a fixed spot, the County shall reimburse such persons at the rate of \$1.00 per hour. If an employee of the UNIT is required to wait near a phone or other communication device in a fixed position, he/she shall be reimbursed at the rate of 1/6 base pay for every hour required to wait. Such time shall not count toward overtime calculations.
- 4. **Snowfighter Pay.** Persons called out to remove snow shall receive \$1.33 per hour over and above any other compensation.
- 5. **Uniform Allowance.** Any employee required by the County to wear a uniform shall have that uniform provided or shall receive maintenance costs of the same in such a

manner as the Commission shall from time to time dictate.

- 6. Tool Allowance.** Non-Executive Employees who are required to provide tools valued at not less than \$3,000 shall receive a tool allowance for wear and tear. Such allowance shall either be authorized by the Commission from time to time or be a matter of contractual agreement. Further, the County shall provide reasonable insurance coverage for the same which shall be authorized by the Commission from time to time or be a matter of contractual agreement.
- 7. Protective Clothing Allowance.** All departments shall require such protective apparel as required by law. The Commission will from time to time establish a schedule for reimbursement for the purchase of such apparel.
- 8. Travel Allowance.** Employees may be entitled to reimbursement for business related travel. Reimbursement for such travel expenses are governed by separate Travel Policies that are determined from time to time by the Commission.

Title 7. Benefit & Compensation

Chapter G. Break Policy

- 1. Periodic Breaks.** It shall be the policy of Carbon County that Carbon County employees shall receive one 15 minute break for each continual 4 hour period of work. Additional breaks or other break schedules may be required due to State or Federal law for certain employees, such as ambulance drivers, CDL drivers, law enforcement, etc., and this policy shall not be construed to supersede or conflict with such laws or statutes.
- 2. Lunch Breaks.** All employees working more than 35 hours a week shall receive a one-half or one hour unpaid lunch break each day. All such employees must clock out during their lunch break. The lunch break shall be at the employee's half-way point in the workday or at such time as the employee's supervisor may direct. Employees may not take their lunch break at the end or beginning of a shift. Employees may remain at their work site during their lunch break but may not be required to work during that time.
- 3. Timing and Use of Breaks.** Breaks are for the purpose of providing the employee with a respite from work during the middle of a work shift. Break time shall not be used immediately after a shift begins or immediately before a shift ends for the purpose of leaving work early or arriving to work late. Break time shall not be used immediately prior to or immediately after the lunch break for the purpose of extending a lunch period, and no more than one break shall be taken within a four hour period (i.e., employees shall receive one break in the morning and one in the afternoon).
- 4. Break Time for Nursing Mothers.** The County will comply with the requirements of Patient Protection and Affordability Care Act ("PPACA") and the Fair Labor Standards Act ("FLSA") by providing break times during the work day for nursing mothers to express breast milk for her nursing child. Break time and a designated location shall be available to employee nursing mothers for one (1) year following the child's birth. Employees shall not be compensated for breaks taken for the purpose of expressing breast milk, although nothing herein shall prevent employee mothers from expressing during their normal employee break times and being compensated in the same way that other employees are compensated for the same break times.

 - a. Consistent with the requirements of the PPACA and FLSA, the County will provide a designated location other than a bathroom, wherein employee mothers can express breast milk in a space that is sufficiently sized, shielded from view, and free from intrusion from co-workers and the public.

Title 8: Drug Testing Policy

Chapter A. General Policy and Definitions.

Policy. It is the policy of the Carbon County that the following is expressly prohibited: the unlawful manufacture, distribution, possession or use of a controlled substance or illegal drug; the distribution, dispensation, possession, or use of alcohol in the workplace; and/or impairment while on duty, on Carbon County property, or while representing Carbon County.

- a. In order to achieve a drug-free work place, employees and applicants shall be required to participate in all of the following alcohol and drug testing:
 1. When an applicant has been extended a conditional offer of employment but before beginning work.
 2. When there is a reasonable suspicion to believe that the employee has used illegal drugs, has illegally used legal drugs, or has the presence of illegal drugs in his or her system.
 3. When there is reasonable suspicion to believe that an employee is impaired while under the influence of any legal drug, illegal drug or alcohol.
 4. When the employee has been involved in an “on duty accident” or unsafe work practice.
 5. On a random basis if the employee is in a safety-sensitive position.
 6. As a condition to return to duty after testing positive for controlled substances or alcohol.
 7. As part of follow-up procedures to employment related drug or alcohol violations.
 8. As part of preannounced periodic testing.
2. **Scope.** This policy covers all employees of and applicants for employment at Carbon County.
3. **Definitions.**
 - a. The terms “alcohol” and “drugs” are defined according to Utah Code Ann. § 34-41-101(1), as amended. The term “illegal drug” means any Schedule I drug as defined under Utah Code Ann. § 58-37-4, as amended; a Schedule II, III, IV or V drug, or a prescription medication used or consumed by the employee without a lawful prescription. The term “illegal drug” does not include any medication

which has been lawfully prescribed for an employee by his or her physician and taken as directed.

- b. On Duty Accident. Any accident involving injury to person or property including the loss of life, or an accident in a vehicle resulting in the issuance of a moving traffic citation.
- c. Drug and Alcohol Test. A drug or alcohol test is defined to mean a blood, urine, saliva, hair, breath, and/or any other scientifically recognized test to determine the presence of alcohol or a drug or the metabolite of a drug using any scientifically reliable analytical method.
- d. Impaired. Being under the influence of any legal drug, illegal drug, or alcohol to such a degree that a person's ability to react appropriately to ordinary situations has been demonstrably affected or there is a likelihood of causing self-harm, harm to another, or damage to property.
- e. Legal Drug. Any legally prescribed drug, over-the-counter drug, or other drug that an employee is not restricted by law from using. The term "Legal Drug" as used in this policy does not include Alcohol as it is treated separately.
- e. Positive Test. The result on any drug and alcohol test showing the presence of alcohol or any illegal drug in an employee's system at or above the cutoff levels defined below. A positive test shall also include detection of a legal drug or alcohol below the Alcohol Cutoff Level identified below in an employee's system when it is coupled with employee behavior that either demonstrates that the employee's ability to react appropriately in ordinary situations is impaired or evidences a likelihood of causing self-harm, harm to another, or damage to property.
 - 1. Illegal Drug Cutoff Levels shall be the Drug Test Cutoff Levels generally accepted by the drug testing community or levels established by any scientifically reliable analytical method.
 - 2. Alcohol Cutoff Level shall be a Blood Alcohol Content ("BAC") level of 0.04 grams/ml or more.
- f. Refusal to Submit to Testing. (a) Failure or refusal to provide an adequate sample without a valid and verified medical explanation, after the employee has received notice that they are being tested or (b) engaging in conduct that clearly obstructs the testing process, including, but not limited to, delaying the test to avoid the efficacy of the testing methodology used.
- g. Reasonable suspicion. An articulated belief based on recorded specific facts and reasonable inferences drawn from those facts that an employee is in violation of Carbon County's drug and alcohol policy.

- h. Safety Sensitive Duties. Any duties which directly affect the safety of governmental employees, the general public, or duties involving access to controlled substances as defined in Title 58, Chapter 37, Utah Controlled Substances Act, during the course of performing job duties.
- i. Sample. A sample means urine, blood, breath, saliva, hair, or any other substance from which a drug and alcohol test can reliably identify the presence of alcohol and/or drugs in a person's body.

Title 8: Drug Testing Policy

Chapter B. Testing Policy

1. Testing Notice.

- a. Before performing any alcohol or drug test authorized by this Policy, Carbon County, through its designated representative shall notify the employee being tested, verbally or in writing, whether the test being administered is required by the Omnibus Transportation Employees Testing Act of 1991, or whether it is required by this policy.
- b. Carbon County employees who, under applicable Carbon County job descriptions, are required to hold CDLs are required under rules established by the Federal Highway Administration to be subjected to pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing.
 1. When conducting any of the above-noted tests on CDL employees, Carbon County shall provide the employee with the following notice:
 - a. The drug and/or alcohol test you are being required to take is required under rules established by the Federal Highway Administration pursuant to the Omnibus Transportation Employees Testing Act of 1991.
 - b. If you refuse to submit to the required testing you may be subject to disciplinary action, up to and including termination. And your refusal will be reported in the Federal Motor Carrier Safety Administration Clearinghouse.
 2. Although the procedures in this policy apply to all employees, including CDL employees, drug and alcohol tests that are required by the Omnibus Transportation Employees Testing Act are administered separately by the Rose Barnes, H.R. Director. Detailed information regarding such drug testing can be obtained directly from Rose Barnes, H.R. Director at 435.636.3290 and rose.barnes@carbon.utah.gov.
- c. Carbon County employees are also subject to pre-employment, reasonable suspicion, random (if employment involves safety-sensitive duties), preannounced period testing, post-accident, return-to-duty, and follow-up drug and alcohol testing under this policy.
 1. When conducting any of the above-noted tests pursuant to Carbon County Policies for any other reason other than as required by the federal regulations and statutes identified in section 8.B.1.b above, Carbon County shall provide the employee with the following notice:

- a. The drug and/or alcohol test you are being required to take is required by the Personnel Policies and Procedures of Carbon County.
- b. If you refuse to submit to the required testing you may be subject to disciplinary action, up to and including termination.

2. Pre-Employment Testing. Carbon County requires a final applicant selected for a position with the Carbon County to undergo an alcohol and drug test to detect the presence of alcohol and illegal drugs in the body. Refusal to take such a test shall be grounds for denial of employment. An applicant who tests positive for illegal drugs or alcohol may be denied employment with Carbon County.

- a. Drug and alcohol testing shall be conducted after the selected applicant has been extended a conditional offer of employment but before beginning work.
- b. All of Carbon County's job announcements and conditional offers of employment may contain the following notice:
 - 1. All applicants selected for employment with Carbon County may be required to take a drug and alcohol test with negative results as a precondition of employment.
 - 2. A positive test result or failure to submit to the required testing shall result in the withdrawal of any conditional offer of employment with Carbon County.
- c. If the final applicant tests positive for drugs or alcohol as set forth above, or refuses to submit to testing as defined by this policy, the conditional offer of employment shall be withdrawn in writing and the applicant shall not be employed by Carbon County.

3. Prohibited Employee Conduct.

- a. Employees shall not use or be in possession of alcohol, illegal drugs, or legal drugs obtained illegally, while on duty, on Carbon County premises or while in the Carbon County vehicles. Carbon County premises includes buildings, parking lots, grounds and vehicles owned by the Carbon County or personal vehicles being used for Carbon County business.
- b. Employees shall not use, be under the influence of, be in possession of, or be in such a condition as to test positive for alcohol or illegal drugs while on duty, on Carbon County premises or while in Carbon County vehicles. Carbon County premises includes buildings, parking lots, grounds and vehicles owned by Carbon County or personal vehicles being used for Carbon County business.
- c. Employees shall not be impaired while on duty, on Carbon County premises,

including buildings, parking lots, grounds, and vehicles owned by Carbon County, or while representing Carbon County.

- d. Employees violating the terms of this Policy shall be subject to questioning and disciplinary action.
- e. Any employee violating this Policy may be subject to immediate termination.

4. Reasonable Suspicion Testing.

- a. When a designated Department Head or other responsible individual makes a determination that there is reasonable suspicion to believe that an employee is using or has used and has alcohol or illegal drugs in his or her system; is under the influence of, or is in possession of alcohol or illegal drugs; or is impaired the employee shall be subject to drug or alcohol testing.
 - 1. The Department Head or other responsible individual making the determination that reasonable suspicion exists shall submit written documentation setting forth the specific, contemporaneous articulable observations that resulted in the reasonable suspicion determination. Reasonable suspicion of use of illegal drugs or alcohol may also be based on observation of indications of the chronic and withdrawal effects of those substances.
 - a. The required observations underlying reasonable suspicion testing must be made by a Department Head or Carbon County official who has received at least two (2) hours of training on the physical, behavioral, speech, and performance indicators of alcohol and/or drug use.
 - b. Observations underlying the reasonable suspicion testing must be documented in writing and signed by the Department Head or Carbon County designated official within twenty four (24) hours or before the results of the tests are announced, whatever is later.
 - 2. Reasonable suspicion testing may not be conducted by the same Department Head or responsible individual who makes the reasonable suspicion determination.
 - 3. Upon required testing due to reasonable suspicion, the employee tested shall not engage in the operation of any Carbon County equipment or engage in any employment related duties until the results of the tests are received and the employee is released back to work.

5. Random Testing.

- a. Employees assigned to, or performing, safety sensitive duties are subject to

random drug/alcohol tests.

- b. Random tests shall be both of the following:
 - 1. Unannounced.
 - 2. Reasonably spread throughout the year.
- c. Each employee within a testing pool must have an equal chance of being tested each time a random test is conducted.
- d. Random Testing for CDL Drivers.
 - 1. Employees having CDL licenses may be subjected to random alcohol testing only while performing safety sensitive function, just before the driver is to perform safety sensitive functions, or just after the driver has ceased performing safety sensitive functions when those tests are conducted not pursuant to the requirements of the separate provisions of this Policy found in Section 8.B.5.e but only pursuant to federal regulations.
 - 2. Drug tests may be performed at any time the driver is on duty.
 - 3. Employees having CDL licenses are also subject to random testing pursuant to Section 8.B.5.e. Tests conducted pursuant to that subsection are not subject to the requirements of this subsection.
- e. Random Testing for Safety Sensitive Employees not having CDL Licenses. (a) Employees performing safety sensitive duties but not having CDL licenses and (b) employees with CDL licenses when performing safety sensitive duties unrelated to their CDL licensure may be subjected to random alcohol and drug tests any time the employee is on duty.
- f. Pool Testing – Consortiums.
 - 1. Carbon County may join a consortium with testing pools large enough so that Carbon County's CDL drivers are always subject to random testing and the required annual testing rate shall be met by tests conducted of all drivers within the pool.
 - 2. If and when Carbon County chooses to join a drug/alcohol testing consortium, Carbon County shall designate a liaison to coordinate with the testing consortium and obtain and maintain all of the following records and information:
 - a. How the random selection pool was assembled.

- b. The method of selection and notification of drivers.
- c. The location of collection sites.
- d. Methods of reporting the tests results on each employee.
- e. Summary reports on the consortiums program showing that the consortium tested at the prescribed minimum annual rates for alcohol and/or controlled substances.

6. Post Accident Testing.

- a. Any employee involved in an On Duty Accident that by observation of the employee and the circumstances of the accident reasonably could indicate violation of the County drug and alcohol policy shall be tested as soon as practical for alcohol and drugs.
 - 1. An employee who is subject to post-accident testing shall remain readily available for such testing or shall be deemed to have refused to submit to testing.
 - 2. The results of tests conducted by Federal, State, or Local law enforcement officers having independent authority to conduct tests to detect alcohol or drugs may be used by the employer to meet post-accident testing requirements.
- b. Upon requested testing due to an accident, the employee tested shall not engage in the operation of any Carbon County equipment or engage in any employment related duties until the results of the tests are received and the employee is released back to work.

7. Preannounced Periodic Testing. Carbon County may test all of its employees on a regular, periodic basis so long as the testing is conducted pursuant to a schedule that identifies periodic intervals for the testing and that the employees who are to be tested on any scheduled test date are notified, at least, two weeks in advance of the date of the test. Additionally, the testing schedule should be available for employees' inspection after the schedule is set.

8. Consequences of Positive Drug/Alcohol Test.

- a. Except for in situations described in subsection 1 below, all drug tests conducted pursuant to this Title 8 shall require a split urine sample of at least 45 ml of urine. The urine shall be divided into two specimen bottles, with at least 30 ml of urine in one bottle and at least 15 ml of urine in the other.
 - 1. If an employee attempts to evade an alcohol or drug test and delays taking the

test past the time that a drug test on a sample of urine will be effective to identify drug or alcohol use, Carbon County may test a sample in any other approved method identified in this policy that will effectively test for the presence of alcohol or drugs.

- b. The test shall be conducted during or immediately after the regular work period of the employee and shall be considered paid work time for the employee.
- c. Carbon County shall pay all the expenses of the sample collection, testing, and transportation for testing conducted off the worksite.
- d. A test shall be conducted by an entity that is independent of Carbon County and certified for employment drug testing by either the Substance Abuse and Mental Health Services Administration or the College of American Pathology. Additionally, all instructions, chain of custody forms, and collection kits used for sample collection shall be prepared by that entity.
 1. The entity taking the samples shall ensure that (a) the collection of samples is performed under reasonable and sanitary conditions, (b) the collection method ensures the privacy of the person being tested, and (c) the manner is reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.
 2. The entity shall also ensure that (a) the samples are labeled and sealed so as to reasonably preclude the probability of erroneous identification of test results, (b) those being tested have a chance to provide identification of currently used or recently used prescription or nonprescription drugs or other relevant medical information, (c) sample collection, storage, and transportation to the place of testing are performed in a manner that reasonably precludes the probability of sample misidentification, contamination, or adulteration, and (d) sample testing conforms to scientifically accepted analytical methods or procedures.
 3. The entity shall verify or confirm any positive initial screening test by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical methods.
- e. Carbon County shall ensure that the employee or prospective employee be notified as soon as possible the results of the test and of the employee's option to have the 15 ml urine sample tested at the equally shared expense of the employee and Carbon County. The notice shall be given (a) by telephone at the employee's last known telephone number, or (b) in writing at his or her last known address of the results of the initial test.
- f. Positive Test Results.

1. Alcohol.

- a. If an employee's test is positive for alcohol or an employee refuses to submit to testing, the employee shall be subject to discipline pursuant to the policies established in Title 5 of the Personnel Policies and Procedures Manual. Additionally, the employee shall be removed from, and cannot return to a safety sensitive function until, at a minimum, all of the following are met:
 1. The employee undergoes evaluation by a substance abuse professional and, where necessary, rehabilitation.
 2. The substance abuse professional determines that the employee has successfully complied with any required rehabilitation.
 3. The employee undergoes a return-to-duty test with no positive alcohol or illegal drug test results.
 - b. In the event a test establishes a BAC level under 0.04 grams/ml but establishes a BAC level at or between 0.01 to 0.039 grams/ml, Carbon County shall retest an employee after fifteen minutes. If after retest, the BAC level is at or over 0.04 grams/ml, the test shall be considered a positive test result and the employee will be subject to the provisions of Section 8.B.8.f.1.a.
 - c. If after retest, the BAC level is 0.02 to .039 grams/ml, the employee shall not be permitted to perform any safety-sensitive functions and shall suffer no disciplinary sanctions except as indicated in subsection e below.
 - d. If after retest the BAC level is at or below 0.01 to 0.019 grams/ml, the employee shall (a) suffer no disciplinary sanction except as indicated in subsection e below and (b) have no restriction unless signs and indicators of impairment are evident and articulated by a trained and certified drug and alcohol evaluation technician. If, after the evaluation, it appears that the employee is impaired, he or she shall not be permitted to perform any safety related function.
 - e. The employee may be subject to discipline pursuant to the policies established in Title 5 of the Personnel Policies and Procedures Manual if the employee consumed alcohol with the intention of becoming impaired, took the alcohol knowing that there was a possibility of impairment and, despite that knowledge, conducting safety-sensitive functions, or the employee has had a previous history of violation of the drug policy.
2. Illegal Drugs. If an employee's drug or alcohol test is positive for illegal drugs or if the employee refuses to submit to testing, the employee shall be

subject to discipline pursuant to the policies established in Title 5 of the Personnel Policies and Procedures Manual. Additionally, the employee shall be removed from, and cannot be returned to, a safety sensitive position until, at a minimum, all of the following are met:

- a. The employee undergoes evaluation by a substance abuse professional, and, where necessary, rehabilitation.
- b. The substance abuse professional determines that the employee has successfully complied with any required rehabilitation.
- c. The employee undergoes a return-to-duty test with a verified negative test result for illegal drugs and alcohol.

3. Legal Drugs.

- a. If an employee's drug or alcohol test is positive for a legal drug other than alcohol, the employee may be subject to discipline pursuant to the policies established in Title 5 of the Personnel Policies and Procedures Manual if the employee took the legal drug with the intention of becoming impaired, took the legal drug knowing that there was a possibility of impairment and, despite that knowledge, conducting safety-sensitive functions, or the employee has had a previous history of violation of the drug policy. Additionally, the employee shall be removed from, and cannot return to a safety sensitive function until, at a minimum, all of the following are met:
 1. The employee undergoes evaluation by a substance abuse professional and, if necessary, rehabilitation.
 2. The substance abuse professional determines that the employee is no longer impaired, or, if rehabilitation was deemed necessary, that rehabilitation was successfully completed..

g. General.

1. If through any of these detection methods or on the employee's initiative, an employee tests positive or seeks rehabilitation treatment, Carbon County will pay for an initial substance abuse evaluation. However, Carbon County reserves the right to discipline any employee violating its drug or alcohol abuse policies up to and including termination. If an employee's employment is terminated prior to the initial substance abuse evaluation, Carbon County will have no obligation to pay for the evaluation.
2. Carbon County encourages employees to enroll in a counseling or rehabilitation program. Any employee that Carbon County determines not to dismiss for violations of the drug or alcohol abuse policies and who does

enroll in a counseling or rehabilitation program will be required to sign a document agreeing to the following conditions in order to remain employed with full rights and benefits:

- a. Any employee for whom treatment is recommended will be responsible for costs not covered by insurance. The employee will be required to use accrued compensatory time, annual vacation leave, and sick leave until all leave is expended. Carbon County will pay the employee's benefit package during the allotted treatment time, but not wage supplements during this time. Each incident will be reviewed on a case-by-case basis.

9. Follow-up Testing. With the exception of an isolated instance of an unintentional violation through the use of a legal drug that caused impairment, employees who have violated this Policy and continue to work for Carbon County shall be subject to follow up drug/alcohol testing for a period of not less than one (1) year and not to exceed sixty (60) months.

- a. Employees subject to follow up testing will be tested a minimum of six (6) times in the first (1st) twelve (12) months following their return to duty.
- b. Follow-up testing beyond one (1) year shall be based on a needs assessment provided by a substance abuse professional.

10. Additional Requirements for Drivers with Commercial Driver Licenses

- a. **Safety-Sensitive Duties.** In addition to the definition above in Section A.3.h., safety-sensitive duties are defined for CDL drivers to include waiting to be dispatched while on duty, inspecting, servicing, or conditioning a commercial motor vehicle, driving or sitting at the driving controls of a commercial motor vehicle, being present inside a commercial motor vehicle (except when resting in a sleeper berth), loading or unloading a vehicle, or attending a vehicle being loaded or unloaded, repairing a vehicle, obtaining assistance for a vehicle, and attending a disabled vehicle.
- b. **Prohibited CDL Employee Conduct.** CDL employees must not consume alcohol while on duty or four hours prior to on-duty time.
- c. **Post-Accident Testing.**
 1. When an alcohol test is required following an accident, Carbon County shall administer the test within eight hours following the accident.
 - a. An employee who is involved in an On Duty Accident shall not use alcohol up to eight hours following an Accident or until the employee undergoes a post-accident test, whichever occurs first.

2. When a drug test is required following an accident, Carbon County shall administer the test within thirty-two hours following the accident.
- d. Information Reported to FMCSA Clearinghouse.
1. Carbon County shall report the following to The Federal Motor Carrier Safety Administration's national Clearinghouse:
 - a. All positive, adulterated, or substituted drug test result, all alcohol confirmation tests with a concentration of 0.04 or higher, and all refusals to submit to testing;
 - b. All manager- or supervisor-confirmed reports from other Carbon County employees concerning observation of a CDL driver's on-duty or pre-duty alcohol use, alcohol use following an accident, or controlled substance use;
 - c. Reports from a substance abuse professional indicating than an employee has successfully completed the return-to-duty process;
 - d. All negative return-to-duty tests; and
 - e. Reports that an employee has completed follow-up testing.

11. Miscellaneous.

- a. Carbon County maintains the right to conduct announced inspections of Carbon County owned property, work stations, equipment, desks, cabinets, vehicles, etc. This property is the property of Carbon County and individual employees should expect no privacy with respect to the use of this property.
- b. Carbon County maintains the right to utilize detection methods necessary for the enforcement of this policy including blood, urine, or other tests, and the use of electronic detection equipment and trained animals.
- c. Failure to cooperate with these detection methods or inspections is grounds for disciplinary action up to and including termination of employment.
- d. Employees may direct any questions regarding this policy to the Personnel Officer.

Title 9: Reporting Governmental Waste, Fraud, and Abuse

Chapter A. Employee Good-Faith Reporting..

- 1. General Policy.** No employee may be subject to any adverse action as that term is defined in the Utah Protection of Public Employee's Act (UPPEA), currently codified at Utah Code § 67-21-1, *et seq.*, because the employee communicates in good faith the waste or misuse of public funds, property, or manpower, a violation of a federal, state, or local law, rule, or regulation. Moreover, no employee may be subject to adverse action because he or she has objected to or refused to carry out a directive that the employee reasonably believes violates a federal, state, or local law, rule, or regulation adopted by the federal, state, or local government.
- 2. Reporting.** An employee may report such conduct by giving written notice or otherwise formally communicating the alleged conduct to (a) a person having authority over the alleged perpetrator, (b) the Utah attorney general's office, (c) law enforcement (if the conduct is criminal in nature), or (d) a member of the Board of County Commissioners or the County Clerk/Auditor.
- 3. Copy of Statute.** As required by UPPEA, a copy of the statute is attached as Appendix A to this Title 9.

Title 9: Reporting Governmental Waste, Fraud, and Abuse

Appendix A

§ 67-21-1. Short title.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-1. Short title

This chapter is known as the "Utah Protection of Public Employees Act."

Cite as Utah Code § 67-21-1

History. Enacted by Chapter 216, 1985 General Session

§ 67-21-2. Definitions.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-2. Definitions

As used in this chapter:

- (1) "Abuse of authority" means an arbitrary or capricious exercise of power that:
 - (a) adversely affects the employment rights of another; or
 - (b) results in personal gain to the person exercising the authority or to another person.
- (2) "Adverse action" means to discharge, threaten, or discriminate against an employee in a manner that affects the employee's employment, including compensation, terms, conditions, location, rights, immunities, promotions, or privileges.
- (3) "Communicate" means a verbal, written, broadcast, or other communicated report.
- (4) "Damages" means general and special damages for injury or loss caused by each

violation of this chapter.

- (5) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied.
- (6)
 - (a) "Employer" means the public body or public entity that employs the employee.
 - (b) "Employer" includes an agent of an employer.
- (7) "Gross mismanagement" means action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of the public entity or public body that employs, or is managed or controlled by, the person.
- (8) "Judicial employee" means an employee of the judicial branch of state government.
- (9) "Legislative employee" means an employee of the legislative branch of state government.
- (10) "Political subdivision employee" means an employee of a political subdivision of the state.
- (11) "Public body" means any of the following:
 - (a) a state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution, or any other body in the executive branch of state government;
 - (b) an agency, board, commission, council, institution member, or employee of the legislative branch of state government;
 - (c) a county, city, town, regional governing body, council, school district, local district, special service district, or municipal corporation, board, department, commission, council, agency, or any member or employee of them;
 - (d) any other body that is created by state or local authority, or that is primarily funded by or through state or local authority, or any member or employee of that body;
 - (e) a law enforcement agency or any member or employee of a law enforcement agency; and
 - (f) the judiciary and any member or employee of the judiciary.
- (12) "Public entity" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.
- (13) "Public entity employee" means an employee of a public entity.
- (14) "Retaliatory action" is as defined in Section 67-19a-101.
- (15) "State institution of higher education" is as defined in Section 53B-3-102.

- (16) "Unethical conduct" means conduct that violates a provision of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Cite as Utah Code § 67-21-2

History. Amended by Chapter 427, 2013 General Session, §7, eff. 5/14/2013.

Amended by Chapter 329, 2007 General Session

§ 67-21-3. Reporting of governmental waste or violations of law - Employer action - Exceptions.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-3. Reporting of governmental waste or violations of law - Employer action - Exceptions

- (1) (a) An employer may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith:
- (i) the waste or misuse of public funds, property, or manpower;
 - (ii) a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; or
 - (iii) as it relates to a state government employer:
 - (A) gross mismanagement;
 - (B) abuse of authority; or
 - (C) unethical conduct.
- (b) For purposes of Subsection (1)(a), an employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the conduct described in Subsection (1)(a) to:
- (i) a person in authority over the person alleged to have engaged in the conduct described in Subsection (1)(a);

- (ii) the attorney general's office;
- (iii) law enforcement, if the conduct is criminal in nature;
- (iv) if the employee is a public entity employee, public body employee, legislative employee, or a judicial employee:
 - (A) the state auditor's office;
 - (B) the president of the Senate;
 - (C) the speaker of the House of Representatives;
 - (D) the Office of Legislative Auditor General;
 - (E) the governor's office;
 - (F) the state court administrator; or
 - (G) the Division of Finance;
- (v) if the employee is a public entity employee, but not an employee of a state institution of higher education, the director of the Division of Purchasing and General Services;
- (vi) if the employee is a political subdivision employee:
 - (A) the legislative body, or a member of the legislative body, of the political subdivision;
 - (B) the governing body, or a member of the governing body, of the political subdivision;
 - (C) the top executive of the political subdivision; or
 - (D) any government official with authority to audit the political subdivision or the applicable part of the political subdivision; or
- (vii) if the employee is an employee of a state institution of higher education:
 - (A) the State Board of Regents or a member of the State Board of Regents;
 - (B) the commissioner of higher education;
 - (C) the president of the state institution of higher education where the employee is employed; or
 - (D) the entity that conducts audits of the state institution of higher

education where the employee is employed.

- (c) The presumption described in Subsection (1)(b) may be rebutted by showing that the employee knew or reasonably ought to have known that the report is malicious, false, or frivolous.
- (2) An employer may not take adverse action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by the public body.
- (3) An employer may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law of this state, a political subdivision of this state, or the United States, or a rule or regulation adopted under the authority of the laws of this state, a political subdivision of this state, or the United States.
- (4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document:
 - (a) the waste or misuse of public funds, property, or manpower;
 - (b) a violation or suspected violation of any law, rule, or regulation; or
 - (c) as it relates to a state government employer:
 - (i) gross mismanagement;
 - (ii) abuse of authority; or
 - (iii) unethical conduct.

Cite as Utah Code § 67-21-3

History. Amended by Chapter 178, 2018 General Session, §2, eff. 5/8/2018.

Amended by Chapter 427, 2013 General Session, §8, eff. 5/14/2013.

Amended by Chapter 324, 2010 General Session

§ 67-21-3.5. Administrative review of adverse action against a public entity employee.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-3.5. Administrative review of adverse action against a public entity employee

- (1) A public entity employee who believes that the employee's employer has taken retaliatory action against the employee in violation of this chapter may file a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5 and subject to Section 67-21-4.
- (2) If the Career Service Review Office determines that retaliatory action is taken in violation of this chapter against the public entity employee, the Career Service Review Office may order:
 - (a) reinstatement of the public entity employee at the same level held by the public entity employee before the retaliatory action;
 - (b) the payment of back wages, in accordance with Subsection 67-19a-406(5)(b) ;
 - (c) full reinstatement of benefits;
 - (d) full reinstatement of other employment rights; or
 - (e) if the retaliatory action includes failure to promote, as described in Subsection 67-19a-101 (11)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.
- (3) A public entity employer has the burden to prove by substantial evidence that the public entity employer's action was justified.
- (4) A public entity employee or public entity employer may appeal a determination of the Career Service Review Office as provided in Section 67-19a-402.5.

Cite as Utah Code § 67-21-3.5

History. Amended by Chapter 390, 2018 General Session , §14, eff. 5/8/2018.

Added by Chapter 427, 2013 General Session , §9, eff. 5/14/2013.

Related Legislative Provision: *See Chapter 427, 2013 General Session , §17.*

§ 67-21-3.6. Administrative review for political subdivision employees.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-3.6. Administrative review for political subdivision employees

- (1)
 - (a) A political subdivision may adopt an ordinance to establish an independent personnel board to hear and take action on a complaint alleging adverse action.
 - (b) The ordinance described in Subsection (1)(a) shall include:
 - (i) procedures for filing a complaint and conducting a hearing; and
 - (ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.
- (2) If a political subdivision adopts an ordinance described in Subsection (1), a political subdivision employee may file a complaint with the independent personnel board alleging adverse action.
- (3) If an independent personnel board finds that adverse action is taken in violation of the ordinance described in Subsection (1)(a), the independent personnel board may order:
 - (a) reinstatement of the employee at the same level as before the adverse action;
 - (b) the payment of back wages;
 - (c) full reinstatement of fringe benefits;
 - (d) full reinstatement of seniority rights; or
 - (e) if the adverse action includes failure to promote, as described in Subsection 67-19a-101(8)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.

Cite as Utah Code § 67-21-3.6

History. Added by Chapter 427, 2013 General Session, §10, eff. 5/14/2013.

§ 67-21-3.7. Administrative review for state institution of higher education employees.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-3.7. Administrative review for state institution of higher education employees

- (1)
 - (a) As used in this section, "independent personnel board" means a board where no member of the board:
 - (i) is in the same department as the complainant;
 - (ii) is a supervisor of the complainant; or
 - (iii) has a conflict of interest in relation to the complainant or an allegation made in the complaint.
 - (b) A state institution of higher education shall adopt a policy to establish an independent personnel board to hear and take action on a complaint alleging adverse action.
 - (c) The policy described in Subsection (1)(b) shall include:
 - (i) procedures for filing a complaint and conducting a hearing; and
 - (ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.
- (2)
 - (a) An employee of a state institution of higher education may file a complaint with the independent personnel board described in Subsection (1)(b) alleging adverse action.
 - (b) An independent personnel board that receives a complaint under Subsection (2)(a) shall hear the matter, resolve the complaint, and take action under Subsection (3) within the later of:
 - (i) 30 days after the day on which the employee files the complaint; or
 - (ii) a longer period of time, not to exceed 30 additional days, if the employee and the independent personnel board mutually agree on the longer time period.
- (3) If an independent personnel board finds that adverse action is taken in violation of the policy described in Subsection (1)(b), the independent personnel board may order, or

recommend to a final decision maker:

- (a) reinstatement of the employee at the same level as before the adverse action;
 - (b) the payment of back wages;
 - (c) full reinstatement of fringe benefits;
 - (d) full reinstatement of seniority rights; or
 - (e) if the adverse action includes failure to promote, as described in Subsection 67-19a-101(8)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.
- (4) A final decision maker who receives a recommendation under Subsection (3) shall render a decision and enter an order within seven days after the day on which the final decision maker receives the recommendation.

Cite as Utah Code § 67-21-3.7

History. Amended by Chapter 178, 2018 General Session, §3, eff. 5/8/2018.

Added by Chapter 427, 2013 General Session, §11, eff. 5/14/2013.

§ 67-21-4. Choice of forum - Remedies for employee bringing action - Proof required.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-4. Choice of forum - Remedies for employee bringing action - Proof required

- (1)
 - (a) Except as provided in Subsection (1)(b) or (d), and subject to Subsections (1)(d) through (e), an employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.
 - (b) Except as provided in Subsection (1)(d):
 - (i) an employee of a political subdivision that has adopted an ordinance described in Section 67-21-3.6 :
 - (A) may bring a civil action described in Subsection (1)(a) within 180

- days after the day on which the employee has exhausted administrative remedies; and
- (B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies; and
- (ii) an employee of a state institution of higher education :
- (A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and
- (B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies.
- (c) Except as provided in Subsection (1)(d), a public entity employee who is not a legislative employee or a judicial employee may bring a claim of retaliatory action by selecting one of the following methods:
- (i) filing a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5; or
- (ii) bringing a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.
- (d) (i) A claimant may bring an action after the 180-day limit described in this Subsection (1) if:
- (A) the claimant originally brought the action within the 180-day time limit;
- (B) the action described in Subsection (1)(d)(i)(A) failed or was dismissed for a reason other than on the merits; and
- (C) the claimant brings the new action within 180 days after the day on which the claimant originally brought the action under Subsection (1)(d)(i)(A).
- (ii) A claimant may commence a new action under this Subsection (1)(d) only once.
- (e) A public entity employee who files a grievance under Subsection (1)(d)(i):
- (i) may not, at any time, bring a civil action in relation to the subject matter of the grievance;
- (ii) may seek a remedy described in Subsection 67-21-3.5(2) ; and

- (iii) waives the right to seek a remedy or a type of damages not included in Subsection 67-21-3.5(2).
 - (f) A public entity employee who files a civil action under Subsection (1)(d)(ii) may not, at any time, file a grievance with the Career Service Review Office in relation to the subject matter of the civil action.
- (2) An employee who brings a civil action under this section shall bring the action in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has the person's principal place of business.
 - (3) To prevail in an action brought under this section, the employer shall prove by substantial evidence that the employer's action was justified.

Cite as Utah Code § 67-21-4

History. Amended by Chapter 178, 2018 General Session , §4, eff. 5/8/2018.

Amended by Chapter 427, 2013 General Session , §12, eff. 5/14/2013.

Amended by Chapter 177, 1999 General Session

§ 67-21-5. Court orders for violation of chapter.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-5. Court orders for violation of chapter

- (1) A court, in rendering a judgment in an action brought under this chapter, may order reinstatement of the employee at the same level, the payment of back wages, full reinstatement of fringe benefits and seniority rights, damages, or any combination of these remedies.
- (2) A court shall award the complainant all or a portion of the costs of litigation, which are defined to include reasonable attorney fees and witness fees, if the court determines that the complainant prevails.

Cite as Utah Code § 67-21-5

History. Amended by Chapter 427, 2013 General Session , §13, eff. 5/14/2013.

Amended by Chapter 177, 1999 General Session

§ 67-21-6. Civil fine.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-6. Civil fine

- (1)
 - (a) A person who violates this chapter is liable for a civil fine of not more than \$500.
 - (b) The person who takes an adverse action against an employee in violation of this chapter, and not the public body that employs the employee, shall, after receiving notice and an opportunity to be heard, pay the civil fine under this Subsection (1).
 - (c) If a person is ordered to pay a civil fine under this Subsection (1), the employer may dismiss the person who took the adverse action in violation of this chapter.
- (2) A civil fine ordered under this chapter shall be submitted to the state treasurer for deposit in the General Fund.
- (3) The civil fine described in this section may be imposed if a violation of this chapter is found by:
 - (a) an independent personnel board described in Subsection 67-21-3.6(1)(a) or 67-21-3.7(1)(a);
 - (b) the Career Service Review Office; or
 - (c) a court.

Cite as Utah Code § 67-21-6

History. Amended by Chapter 427, 2013 General Session , §14, eff. 5/14/2013.

Enacted by Chapter 216, 1985 General Session

§ 67-21-7. No impairment of employee rights under collective bargaining agreement.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-7. No impairment of employee rights under collective bargaining agreement

This chapter shall not be construed to diminish or impair the rights of an employee under any collective bargaining agreement.

Cite as Utah Code § 67-21-7

History. Enacted by Chapter 216, 1985 General Session

§ 67-21-8. No compensation when participation in public inquiry.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-8. No compensation when participation in public inquiry

This chapter shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing, or inquiry held by a public body in accordance with Section 67-21-3.

Cite as Utah Code § 67-21-8

History. Enacted by Chapter 216, 1985 General Session

§ 67-21-9. Notice of contents of this chapter - Posting.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-9. Notice of contents of this chapter - Posting

- (1) An employer shall post notices and use other appropriate means to keep employees informed of their protections and obligations under this chapter.
- (2) An employer shall provide an employee with a copy of this chapter:
 - (a) when the employee is hired;
 - (b) upon a request by the employee; and
 - (c) when the employee files a grievance under this chapter.

Cite as Utah Code § 67-21-9

History. Amended by Chapter 178, 2018 General Session , §5, eff. 5/8/2018.

Amended by Chapter 427, 2013 General Session , §15, eff. 5/14/2013.

Enacted by Chapter 216, 1985 General Session

§ 67-21-10. False accusations.

Utah Statutes

Title 67. State Officers and Employees

Chapter 21. Utah Protection of Public Employees Act

Current through 2018 General Session

§ 67-21-10. False accusations

- (1) An employee violates this chapter if the employee knowingly makes a false accusation against an employer under this chapter.
- (2) An employee who violates Subsection (1), is subject to:
 - (a) a fine not to exceed \$5,000; and

(b) dismissal from employment.

Cite as Utah Code § 67-21-10

History. Added by Chapter 427, 2013 General Session , §16, eff. 5/14/2013.

Title 10. Grievances

Chapter A. Issues Subject to Grievance Procedure

- 1. General Policy.** Employees who perceive that they have a grievance against Carbon County should exhaust the administrative procedure set forth in the body of this Policy before addressing their grievance through any other forum. An employee may file a grievance about a perceived work related injustice or oppression resulting from an act occurrence, omission, condition, or unfair labor practice that adversely affects the employee grieving. Issues addressable throughout the grievance process include, but are not limited to:
 - a. Employee-Supervisor relationships
 - b. Duty assignments not affecting job classification
 - c. Shift and job location assignments
 - d. Working conditions
 - e. Practices affecting granting of leave
 - f. Any disciplinary action issued against the employee grieving
 - g. Any claim of adverse action taken against an employee for reporting pursuant to Title 9 of these policies and procedures

Although employees may grieve the application of policies and procedures to themselves or their particular circumstances, given that policies and procedures adopted by the County and a Department must be amended through a public process in which employees have a right to express their views, employees may not grieve general application or adoption of policies and procedures or seek relief that would require an amendment to policies and procedures.

Moreover, employees may only grieve issues that have adversely affected them. They cannot grieve the County's imposition or refusal to impose discipline against another employee nor can they use the grievance process to demand disciplinary action against another employee.

Title 10. Grievances

Chapter B. Grievance Process

1. **Resolution Encouraged at the Lowest Levels.** Grievances should be resolved at the lowest administrative level possible. Each level of the grievance process is mandatory unless expressly waived in writing by the Personnel Officer. Employees must first raise their grievance informally with their immediate supervisor before they may file any grievance in writing. Each employee pursuing a formal grievance must prepare and submit a separate written grievance to the appropriate responding official. Written grievances shall contain, at a minimum, the following information:
 - a. Name of the employee
 - b. Date the occurrence or action underlying the grievance occurred
 - c. Nature of the grievance
 - d. Historical information related to the grievance
 - e. Requested resolution
 - f. Signature of the employee filing the grievance and date filed
2. **Time for Filing Grievance.** Employees will be allowed a reasonable amount of time during work to prepare written grievances. Employee grievances must be filed within ten (10) days of the occurrence or event giving rise to the grievance, or within ten (10) days of when the employee acquires knowledge of the occurrence or event giving rise to the grievance. In the event that an employee determines to move to the next grievance level, the employee's grievance must be filed within ten (10) days of the response that the employee received from the preceding level of grievance. In the event that the responding official failed to respond within the time allotted, the ten (10) days begins to run from the date that the response was due.
3. **Time for Response to Grievance.** At each level of the grievance process, after a responding official has received an employee grievance, the responding official shall have ten (10) working days to respond in writing to the grievance.
 - a. Permissible Extension. If a responding official is unable to answer the grievance within the specified time period due to extenuating circumstances, the official may take an additional ten (10) working days to answer the grievance if he or she notifies the employee in writing of the circumstances and that the extension is being exercised. If after receiving the response from the responding official, the employee believes that the the decision is unacceptable, the employee may grieve the decision to the responding official at the next level of the grievance process.

- b. Failure to Respond. If the responding official fails to respond within the allotted time, the employee may proceed to the next level of grievance.
- 4. **Issues Subject to Grievance.** Only the issues presented in the original grievance may be considered throughout the grievance process.
- 5. **Chain of Grievance.** A grievance shall be processed through the following chain of responding officials:
 - a. Immediate Supervisor
 - b. Department Head
 - c. Personnel Officer
 - d. County Commission

If the official with whom an employee must file his or her grievance fulfills multiple roles with respect to that employee, i.e., the responding official is both the employee's immediate supervisor and department head, the employee need only file one grievance with that responding official.

- 6. **County Commission Decision is Final.** The decision of the County Commission constitutes the final grievance level. The County Commission shall issue a decision within forty-five days of the filing of the grievance with it. If the Commission fails to respond within forty-five days, the grievance is deemed to be denied by the Commission.
- 7. **Record of Grievance.** No document relating to a grievance shall be placed in the employee's personnel file. If any disciplinary action against an employee is rescinded as a result of the grievance process, the Department Head shall remove the record of the disciplinary action from the employee's personnel file. If any disciplinary action against an employee is modified as a result of the grievance process, the unmodified record of the disciplinary action shall be removed from the employee's personnel file and the modified record of the disciplinary action shall be placed in the employee's personnel file.

Title 11. Volunteers

Chapter A. Generally

- 1. Policy Statement.** The Commission recognizes that volunteers are essential to the productivity, efficiency, and cost-effectiveness of County operations, and therefore encourages and welcomes individuals and groups who have the skill, talent, ability, and time to volunteer in Departments, divisions, and facilities.

- 2. Definition.** “Volunteer” is a person who, of his or her free will, provides goods or services to any unit of County government without receiving monetary or material compensation. Except as expressly provided in this Title 10, volunteers are not considered employees for any purposes, including but not limited to the purposes of Titles 1 through 9 of this Manual, and volunteers are not entitled the protections or benefits found in Titles 1 through 9 of the Carbon County Personnel Policies and Procedures Manual. Accordingly, the provisions of Titles 1 through 9 of the Carbon County Personnel Policies and Procedures Manual do not apply to Volunteers.

Title 11. Volunteers

Chapter B. Status

- 1. Volunteers Sometimes Considered Employees.** As mandated by UCA § 67-20-3, as amended from time to time, the County shall consider all volunteers as employees solely for purposes of:
 - a. receiving workers' compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under UCA Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act, as amended from time to time, respectively.
 - b. the operation of motor vehicles or equipment if the volunteer is properly licensed and authorized to do so; and
 - c. liability protection and indemnification normally afforded paid government employees.

- 2. Classifications.** The County recognizes the following classifications of volunteers:
 - a. "Regular-service volunteer" means a person engaged in specific voluntary service activities on an ongoing or continual basis.
 - b. "Episodic volunteer" means a person who offers to provide a one-time or occasional voluntary service.
 - c. "Material donor" means a person who may be unable to give the time required for volunteer service, but chooses to express his or her contribution by providing funds or materials.
 - d. "Community service volunteer" means a person who is court-ordered to complete a required number of volunteer hours as part of their probation.

- 3. County Employee Volunteers.** Volunteers who are County officers and/or employees are not permitted to voluntarily perform services which are the same as or are similar to their duties for which they are paid to perform by the County.

Title 11. Volunteers

Chapter C. Management

1. **Registration.** All volunteers shall register with the HR Department before performing any volunteer work on behalf of the County. The HR Department shall coordinate volunteer placement and activities within the County. The HR Department is expressly delegated authority by the Commission and Personnel Department to authorize specific volunteer services, as required by UCA § 67-20-4, as amended from time to time.
2. **Time.** A Volunteer Log will be maintained by the HR Department, and by all Departments or facilities, and will contain volunteer names, dates, hours of service, and tasks assigned. Volunteers will daily sign in and out in the Volunteer Log before performing any volunteer services on behalf of the County.
3. **Training.** The Carbon County HR Department will verify that all volunteers receive appropriate training for the services that will be performed, before the volunteer performs any of those services, including training on the use of equipment required for the service to be performed. Regular service volunteers shall receive periodic training appropriate for the types of services the volunteers are performing. Episodic volunteers and community service volunteers shall receive preliminary training, as much as practicable and reasonable within the circumstances, before beginning any County approved services. No training is required for material donors.
4. **Licenses and Certification.** Volunteers must not be knowingly exposed to any unnecessary danger or hazards and must not perform any functions requiring a license or certification unless they have a current license or certification to do so.
5. **Screening.** Before providing any services, volunteers are required to pass any and all screening requirements that apply to employees performing the same services that the volunteer will be performing on behalf of the County.
6. **Confidentiality.** Volunteers will maintain strict confidentiality of any information to which they may have access within the performance of their volunteer services. Volunteers are prohibited from using information or materials not generally available to the public and obtained by reason of their volunteer positions for the personal benefit of themselves or others.
7. **Departments.** Volunteers will work within the policies, procedures, and rules set by the responsible Departmental Heads. Volunteers who do not adhere to the policies, procedures, or rules of a Department or who fail to satisfactorily perform their volunteer assignment are subject to dismissal.

Title 11. Volunteers

Chapter D. Equipment

- 1. Equipment Use.** Volunteers will use only the space, equipment, and materials authorized during their assignment by the Carbon County RSVP and Volunteer Center or by the supervising Department.
- 2. Insurance.** The County will provide liability insurance coverage for all volunteer activities conducted under specific County authorization. Such liability coverage shall extend to authorized volunteer use of County equipment.

Stand- Alone Policies

Carbon County Dress Code
Information and Technology
Employees with Disabilities
Return to Work - Transitional Duty Program
Travel Policy
Employment Application Information Retention
Employee Flower Fund Policy and Guidelines
Inclement Weather Policy
Policy on COVID19-Related Leave
Vehicle Use Policy