

# YANCEY COUNTY PERSONNEL POLICY MANUAL



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# **PART A. MANAGEMENT FOCUS**

## **SECTION 1 – INTRODUCTION AND GENERAL PROVISIONS**

Within Yancey County Government, all Human Resources functions are handled by the County Manager’s and County Finance Offices. Human Resources related questions should be directed to the following staff members:

The County Manager	(828)682-3971
The Administrative Assistant to the County Manager	(828)682-3971
The Finance Officer	(828)682-3819

### **1.1 Purpose of Personnel Policy**

It is the purpose of this policy to establish a fair and uniform system of personnel administration for all employees of the County under the administration of the County Manager, elected officials, Elections Board, Social Services Board and Health Department Board. These entities are the official Appointing Authorities covered by this personnel policy. State requirements will supersede these policies for positions subject to the State Human Resources Act whenever there is a conflict. This policy is established under the authority of North Carolina G.S. 153A, Article 5 and G.S. 126.

#### Departmental Rules and Regulations

Each department in Yancey County Government is authorized to establish supplemental rules and regulations applicable only to the personnel of that department, including appropriate dress expectations for their respective functions. Such rules and regulations shall be subject to the approval of the County Manager, and shall not in any way conflict with the provisions of this Policy, but shall be considered as supplemental requirements.

### **1.2 Merit Principles**

All appointments and personnel actions shall be made on the basis of merit. Decisions regarding appointments and promotions are within the County’s discretion. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and salary grade. No applicant for County employment or employee shall be deprived of employment opportunities or otherwise be adversely affected as an employee because of an individual’s race, religion, color, sex, (including gender, pregnancy, sexual orientation and gender identity), national origin, age (40 or older), non-disqualifying disability, veteran status, genetic information (including family medical history), sickle cell or hemoglobin C traits, AIDS virus or HIV infection, being a victim of domestic violence, or any other protected characteristic as established by law.

### **1.3 Responsibilities of the Board of Commissioners**

The Yancey County Board of Commissioners shall establish and approve personnel policies and rules and may change as necessary, including the classification and pay plan, and shall make and confirm appointments when required by general statutes.

### **1.4 Responsibilities of the County Manager and Department Heads**

The Yancey County Manager shall be responsible to the Yancey County Board of Commissioners for the administration of the personnel policy. The County Manager or his/her duly authorized agent shall prepare and maintain the position classification plan and the pay plan. The County Manager shall have the authority to appoint, suspend, and remove all county officers and employees, except those elected by the people or those whose appointment is otherwise provided for by law. The County Manager shall make appointments, dismissals, and suspensions in accordance with state statute and other policies and procedures spelled out in this manual.

The County Manager shall:

- A. Recommend policies and revisions to the personnel system to the Yancey County Board of Commissioners for consideration;
- B. Make changes as necessary to maintain an up-to-date and accurate position classification plan;
- C. Recommend necessary revisions to the pay plan;
- D. Determine which employees shall be subject to the overtime provisions of the Fair Labor Standards Act (FLSA);
- E. Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the County;
- F. Perform such other duties as may be assigned by the Yancey County Board of Commissioners not inconsistent with this Policy;
- G. Ensure that all employees receive access to a copy of this Personnel Policy, as well as all revisions, and
- H. Appoint an employee to the role of Human Resources Director or serve in that role for the County.

The Yancey County Department Heads shall meet their responsibilities as directed by the County Manager, being guided by this Policy and Yancey County Ordinances.

The Department Heads and Supervisors shall:

- A. Deal with all employees in a fair and equitable manner and uphold the principles of equal employment opportunities;
- B. Develop and motivate employees to reach their fullest potential through continued education and training;

- C. Communicate clear performance expectations, make objective evaluations of individual work performance annually, and discuss these evaluations with each employee so as to appreciate effective employee performance and bring about needed improvements;
- D. Keep employees informed of their role in accomplishing the work of their Department and of conditions or changes affecting their work; and
- E. Make every effort to resolve employee problems and grievances and advise employees of their rights and privileges.

### **1.5 Application of Policy**

- A. The personnel policy shall be binding on all County employees. The County Manager, County Attorney, elected officials, and appointees to advisory boards and commissions will be exempted from all provisions of this policy, unless specifically included.
- B. This policy has been filed with the State Human Resources Director, and will therefore supersede the rules adopted by the State Human Resources Commission governing vacation leave, sick leave, hours of work, holidays, and the administration of the pay plan for the County employees otherwise subject to those provisions.
- C. The Sheriff, Register of Deeds, Elections Board, Social Services Board and Health Department Board are Appointing Authorities for the employees in each respective department. The County Manager is the Appointing Authority for all other employees.
- D. Employees of the Sheriff and Register of Deeds are considered County employees and are, therefore, subject to all policies except for those regarding employment and dismissal and any other rules set forth in the General Statutes.
- E. Employees of the County Board of Elections are considered County employees and are, therefore, subject to all policies except for those regarding employment and dismissal and any other rules set forth in the General Statutes.
- F. In accordance with the Memorandum of Understanding between the Yancey County Board of Commissioners and the North Carolina Cooperative Extension Service, Extension employees will follow County policies relative to office hours, office closings for inclement weather and holidays, and for the management and use of County property.
- G. The Tax Administrator and Tax Collector are considered County employees and are, therefore, subject to this policy except the provisions regarding appointment and discipline/dismissal and other rules set forth in the North Carolina General Statutes.

### **1.6 At-Will Employment**

Employment with Yancey County is voluntarily entered into, and the employee is free to resign at will at any time, with or without cause. Similarly, Yancey County may terminate the employment relationship at will at any time so long as there is no violation of applicable Federal or State law.

Personnel policies are not intended to create a contract, nor are they to be construed to constitute contractual obligations of any kind or a contract of employment between Yancey County and any of its employees. The provisions of this manual have been developed at the discretion of management and, except for its policy of employment-at-will, may be amended or cancelled at any time, at the sole

discretion of the County. No employee of Yancey County can enter into an employment contract for a specified period of time, or make any agreement contrary to this policy without written approval from the County Manager.

These provisions supersede all existing policies and practices and may not be amended or added to without the express approval of the Board of Commissioners of Yancey County.

### **1.7 Equal Employment Opportunity Statement**

Equal Employment Opportunity is a fundamental principle at Yancey County, where employment is based upon the applicant's qualifications without discrimination because of race, religion, color, sex, (including gender, pregnancy, sexual orientation and gender identity), national origin, age (40 or older), non-disqualifying disability, veteran status, genetic information (including family medical history), sickle cell or hemoglobin C traits, AIDS virus or HIV infection, being a victim of domestic violence, or any other protected characteristic as established by law.

This policy of Equal Employment Opportunity applies to all policies and procedures relating to recruitment and hiring, compensation, benefits, termination and all other terms and conditions of employment.

The County Manager has overall responsibility for this policy and maintains reporting and monitoring procedures. Employees' questions or concerns should be referred to that office.

Appropriate disciplinary action up to and including termination, may be taken against any employee willfully violating this policy.

### **1.8 Americans with Disabilities Act**

Yancey County is committed to complying fully with the Americans with Disabilities Act (ADA) and ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis. Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position.

Reasonable accommodation is available to all disabled employees, where their disability affects the performance of job functions. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.

Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as in job assignments, classifications, organizational structures, position descriptions, lines of progression and seniority lists.

Yancey County is also committed to not discriminating against any qualified employee or applicant because they are related to or associated with a person with a disability. The County will follow any State or Local law that provides individuals with disabilities greater protection than the ADA.

This policy is neither exhaustive nor exclusive. Yancey County is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and all other applicable Federal, State, and Local laws. Any employee who feels that he or she has been unlawfully discriminated against should immediately inform the County Manager, after which the complaint will be thoroughly investigated.

Employees with life-threatening illnesses often wish to continue their normal pursuits, including work, to the extent allowed by their condition. Yancey County supports these endeavors as long as employees are able to meet acceptable performance standards. As in the case of other disabilities, the County will make reasonable accommodations in accordance with all legal requirements, to allow qualified employees with life-threatening illnesses to perform the essential functions of their jobs.

Medical information on individual employees is treated confidentially. Yancey County will take reasonable precautions to protect such information from inappropriate disclosure. Department Heads and other employees have a responsibility to respect and maintain the confidentiality of employee medical information. Any employee inappropriately disclosing such information is subject to disciplinary action, up to and including termination.

### **1.9 Non-Discrimination and Anti-Harassment Policy**

It is the policy of the County to ensure equal employment opportunity without discrimination or harassment on the basis of race, religion, color, sex (including gender, pregnancy, sexual orientation and gender identity), national origin, age (40 or older), non-disqualifying disability, veteran status, genetic information (including family medical history), sickle cell or hemoglobin C traits, AIDS virus or HIV infection, being a victim of domestic violence, or any other protected characteristic as established by law.

### **1.10 Discrimination and Harassment**

Courteous, mutually respectful, pleasant, noncoercive interactions between employees that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.

Yancey County strives to create and maintain a work environment in which people are treated with dignity, decency and respect. The County will not tolerate unlawful discrimination or harassment of any kind. All employees, regardless of their positions, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Department Heads and Supervisors who knowingly allow or tolerate discrimination, harassment or retaliation, including the failure to immediately report such misconduct to the County Manager, are in violation of this policy and subject to discipline. Yancey County complies with all applicable Federal and State anti-discrimination and harassment laws and regulations in the enforcement of this policy. Discrimination in violation of this policy will be subject to disciplinary measures up to and including termination.

### Discrimination

It is a violation of Yancey County's policy to discriminate in the provision of employment opportunities, benefits, or privileges; to create discriminatory work conditions or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, religion, color, sex (including gender, pregnancy, sexual orientation and gender identity), national origin, age (40 or older), non-disqualifying disability, veteran status, genetic information (including family medical history), sickle cell or hemoglobin C traits, AIDS virus or HIV infection, being a victim of domestic violence, or any other protected characteristic as established by law. Discrimination of this kind may also be strictly prohibited by a variety of Federal and State laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967 and the Americans with Disabilities Act of 1990. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

### Harassment

Yancey County prohibits harassment of any kind, including sexual harassment (Section 1.11) and will take appropriate and immediate action in response to complaints or knowledge of violation of this policy. For purposes of this policy, harassment is any verbal or physical conduct designed to threaten, intimidate or coerce a staff member, co-worker, or any person working for or on behalf of Yancey County.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, age, sex, sexual orientation, pregnancy, appearance, disability, gender identity or expression, marital status or other protected status, including epithets, slurs and negative stereotyping.
- Nonverbal harassment includes distribution, display or discussion or any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital status or other protected status.

### Retaliation

No hardship, loss, benefit or penalty may be imposed on an employee in response to:

- filing or responding to a bona fide complaint of discrimination or harassment;
- appearing as a witness in the investigation of a complaint; or
- serving as an investigator of a complaint.

Lodging a bona fide complaint will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation. Any employee who is found to have violated the retaliation aspect of the policy will be subject to discipline up to and including termination of employment.

## Confidentiality

All complaints and investigations are treated confidentially to the extent possible and information is disclosed strictly on a need-to-know basis. The County Manager will take adequate steps to ensure that the complainant is protected from retaliation during and after the process. All information pertaining to a complaint or investigation under this policy will be maintained in secure files within the County Manager's office.

### **1.11 Sexual Harassment**

Sexual harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited under Yancey County's anti-harassment policy. The Equal Employment Opportunity Commission defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct is used as the basis for employment decisions, or such conduct has the purpose or effect of creating an intimidating, hostile or offensive working environment.

Sexual harassment occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:

- is made explicitly or implicitly a term or condition of employment;
- is used as a basis for an employment decision; or
- unreasonably interferes with an employee's work performance or creates an intimidating, hostile or otherwise offensive environment.

The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats, requests for any type of sexual favor (including repeated, unwelcome requests for dates) and verbal abuse or "kidding" that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome;
- Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex, suggestive or insulting sounds, leering, staring, whistling, obscene gestures, content in letters, notes, facsimiles, emails or other internet postings, photos, text messages, or other forms of communication that are sexual in nature and offensive; or
- Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing against, hugging, cornering, kissing, fondling, and forced sexual intercourse or assault.

Yancey County strongly discourages a romantic or sexual relationship between a Supervisor and an employee who reports directly or indirectly to that person as such relationships tend to create compromising conflicts of interest or the appearance of such conflicts. Consent by the staff member is

suspect and may be viewed as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different department, or other actions may be taken.

If any Supervisor for Yancey County enters into a consensual relationship that is romantic or sexual in nature with an employee who reports directly or indirectly to that Supervisor, or if one of the parties is in a supervisory capacity in the same department in which the other party works, the parties must notify the County Manager or other appropriate director. Because of potential issues regarding quid pro quo, Yancey County has made reporting mandatory. This requirement does not apply to employees who do not work in the same department or to parties where neither one supervises or otherwise manages responsibilities over the other. Once the relationship is made known to the County Manager, a review will be made to determine whether one or both parties will be moved to another department, the decision about which will be based on what will be the least disruptive to the organization as a whole. If no other jobs are available for either party, the employees will be given the option of terminating their relationships or resigning.

#### The Investigation of Discrimination and Harassment, Including Sexual Harassment

Any reported allegations of harassment, discrimination or retaliation will be investigated promptly, thoroughly and impartially. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.

The references in Section 1.10, Discrimination and Harassment, regarding retaliation and confidentiality are equally applicable for incidences of sexual harassment.

#### Responsive Action

Misconduct constituting harassment, discrimination or retaliation will be dealt with promptly and appropriately. Responsive action may include training, referral to counseling, monitoring of the offender, and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reduction of wages, demotion, reassignment, temporary suspension without pay or termination, as the County believes appropriate under the circumstances.

### **1.12 Drug-Free Workplace and Drug and Alcohol Testing**

#### Alcohol and Drug Policy:

Yancey County is firmly committed to maintaining an efficient and effective workplace and to providing a safe and productive work environment that is free from the effects of alcohol and illegal drugs for its employees. Employees in certain safety-sensitive positions are governed by special State and/or Federal regulations in regard to drug-free workplace requirements, including such actions as random

drug testing. All County employees including regular full-time, part-time, limited service, contracted employees, as well as applicants for employment, are subject to the County's zero-tolerance drug-free workplace policy.

Definitions:

Conviction – finding of guilt (including plea of “no contest”) by any judicial body charged with the responsibility to determine violations of Federal or State criminal law.

Disciplinary Actions – written warnings, transfers, demotions in classification and/or pay, suspensions, and dismissals.

### Health and Safety Related Positions

- a) Positions which may include duties that directly impact public or employee health and safety, or the protection of life, property, and the environment.
- b) Positions with any job or work related to the operation of a motor vehicle that is performed by an employee while working for Yancey County Government, including driving or waiting to drive.

Illegal Drugs – For the purpose of the policy, the term “illegal drugs” includes substances designated by State or Federal law to be illegal, including but not limited to heroin, morphine, methamphetamine and other narcotics, marijuana, cocaine, PCP, LSD and “crack.” The term also includes “legal” drugs which are obtained or used without a prescription.

Impaired – Such demonstrated performance and/or behavior as would indicate to a reasonable person that the employee's ability to handle job assignments safely and/or efficiently is compromised.

Negative Results – A test result indicating no evidence of drug(s) in the urine sample, and for alcohol an Evidential Breath Test (EBT) result with no alcohol levels.

Positive Results – A test result indicating the presence of drug(s) in the urine sample. These drug(s) are found to be in accordance with the laboratory process and County policy.

Random Test – A drug and/or alcohol test performed on County employees who are in health and safety related positions or in safety sensitive positions. Selection is by a scientifically valid, random number generation method. Random generation of employee names to be tested is performed by the independent medical provider.

Reasonable Cause/Suspicion – An expressible belief based on specific objective facts, and rational inferences drawn from those facts, that an employee has consumed or is under the influence of alcohol or drugs while in the course of their work. Circumstances which constitute a basis for determining “reasonable suspicion” may include, but are not limited to:

- a) Observable occurrences, such as direct observation of alcohol and/or drugs and/or physical symptoms of being under the influence of alcohol and/or drugs;
- b) A report of alcohol and/or drug use by an employee while in the course of their work, provided by a reliable and creditable source;
- c) A pattern of unexplained, preventable accidents and/or information based on specific objective facts that an employee has caused or contributed to an accident while in the course of an employee's work or in conducting County business while under the influence of alcohol and/or drugs;
- d) Evidence that an employee is involved in the unauthorized manufacture, solicitation, distribution, dispensation, possession, sale, or use of alcohol and/or drugs while working or while on the County's premises or in possession of or operating a County vehicle, machinery, or equipment;
- e) Combative, abusive, violent, or disruptive behavior (verbal or physical);
- f) Erratic behavior/mood swings;
- g) Relevant body or breath odors;
- h) The focus of investigation, arrest, or conviction for drug related offense;
- i) Evidence of substance abuse or drug test tampering; and
- j) A pattern of excessive absenteeism, tardiness, or deterioration in work performance in combination with an observable occurrence as described above.

Testing Facility – The outside agency contracted to collect, test and review drug and alcohol samples.

Prohibited Conduct:

The following conduct is prohibited under this policy:

- a) The use, consumption, possession or storage, manufacture, distribution, dispensation or sale of alcohol, controlled substances, illegal drugs or drug paraphernalia on County property or any County work area, in County vehicles, or while on County business;
- b) Reporting to work or working on County premises or any County work area, in County vehicles or conducting County business while under the influence of illegal drugs, non-prescribed drugs, or alcohol;

- c) The use or possession of alcohol or illegal drugs off County premises and while not on duty where such conduct could likely have a direct and material adverse impact on the County's interests, including public image;
- d) Conviction of selling prescriptions or illegal drugs or of possession with intent to sell prescription or illegal drugs at any time or place;
- e) Failure to notify the County of any arrest or conviction under any criminal drug or alcohol statute by the next workday following the arrest or conviction;
- f) Failure to notify the employee's Supervisor before beginning work that the employee is taking prescription or over the counter drugs which may interfere with the safe and effective performance of duties;
- g) Refusal to submit to an alcohol and drug test when requested by a Supervisor, in accordance with this policy;
- h) Failure to adhere to the requirements of any drug or alcohol treatment program in which the employee is enrolled as a condition of continued employment; and
- i) Tampering with or obstruction of a drug or alcohol test being administered by or for the County.

The foregoing is not intended to be an exhaustive list of conduct prohibited by this policy.

#### Drugs to be Tested

When drug screening is required under the provisions of this policy, a blood, urine, or breath test will be conducted to detect the presence of drugs, including but not limited to the following: heroin, morphine, methamphetamine and other narcotics, marijuana, cocaine, PCP, LSD, alcohol and any other controlled substance as defined in North Carolina General Statute Section 90-87 (5), as amended. For purposes of this drug testing policy, alcohol is considered a drug. Any employee found to have abused prescription drugs would also be subject to the terms and conditions of this policy.

#### Prescription Medication Use

Employees using medications prescribed by a physician that have stated side effects with the potential to significantly affect or impair work performance shall be responsible for notifying their Supervisor of such potential. An employee need not give the Supervisor specific medical information, but the employee should inform their Supervisor of the potential impact of any medication on job performance to allow the Supervisor to evaluate and determine the appropriate course of action.

Supervisors shall monitor employee behavior and assess possible warning signs indicating that the employee's work performance, while under the influence of prescribed medication, is impaired or is causing an unsafe work environment for the employee, his or her co-workers, or the public. If there is cause for serious concern with regard to the employee's behavior or performance, the employee shall be advised to take a leave of absence using accrued sick, annual, or compensatory leave, if applicable,

or leave without pay if all leave has been exhausted pursuant to any applicable County policy for all time away from work, until such time the employee can safely return to work.

### Applicant Testing

Applicants selected for employment will be provided with written notification of the County's drug testing policy and the testing provisions of this program. A pre-employment drug test will be conducted on all applicants offered positions with Yancey County. Applicants may be formally notified in an offer letter that their employment with Yancey County will be contingent upon negative test results.

Applicants scheduled for a pre-employment drug test will be asked to sign a consent form authorizing a drug test and permitting release of the test results to County officials with a need to know. A job applicant who refuses to consent to a drug test will be denied employment.

The County Manager may waive pre-employment drug testing in cases of limited service employment or part-time employment except for person(s) performing transit-related or safety-sensitive functions.

### Current Employee Testing

Department heads who have reasonable cause/suspicion (as defined herein) that an employee in his/her department is using or under the influence of drugs is authorized to schedule a drug test and require the employee to cooperate fully with testing personnel.

Before a drug test is administered, the Department Head shall ask the employee to sign a consent form authorizing the test and permitting release of test results to County officials with a need to know. The consent form shall also set forth the following information:

- a) The procedure for confirming an initial positive test result;
- b) The consequence of a positive result;
- c) The right of an employee to explain a positive drug test result and the applicable appeal procedures; and
- d) The consequences of refusing to undergo a drug test.

An employee who refuses to consent to a drug test, when reasonable suspicion of drug use has been identified and documented, will be recommended for, and is subject to, dismissal.

An employee must submit to a drug test following an on-the-job accident or other occurrence that involves one or more of the following events:

- a fatality; a serious injury to an employee or other individual;
- substantial damage to vehicles or other property; or
- the employee receives a citation under state or local law for a moving traffic violation arising from the accident.

An employee may also be tested after a series of minor on-the-job accidents or injuries as determined by the Department Head.

An employee in a health and safety related position shall be subject to a random test as follows:

- a) The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of health and safety employees;
- b) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year;
- c) The number of employees randomly selected during the calendar year shall not be less than the percentage rates established by the Federal regulations for those safety sensitive employees subject to random testing by Federal regulations;
- d) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection whether or not the employee has been previously tested. There is no discretion on the part of management in the selection;
- e) Random tests can be conducted at any time during an employee's shift for drug testing; and
- f) Employees are required to proceed immediately to the testing facility upon notification of their random selection, but no longer than two (2) hours after notification. Failure to report to the testing site after two (2) hours of notification will be considered a failed test.

The following procedures apply to random tests:

- a. The County Manager and/or designee and the Department Head will be notified of the employee's selection for random testing;
- b. The Department Head will notify the employee of the pending test and direct them to report immediately to the test facility. The Department Head must speak to the employee personally and privately and not leave a voice mail or e-mail. The Department Head must indicate to the employee that the employee must appear and complete the required test within the two (2) hour period or it will be considered as a failure to test;
- c. The employee must report to the test facility for testing immediately, but no later than two (2) hours after notification and proceed with the test as directed; and

- d. All test results will be sent to the County Manager and/or designee by the testing facility, and the Department Head will be notified of the status of the drug screening.

### The Test

Tests will be made in accordance with Article 20 of Chapter 95 of the North Carolina General Statutes and other applicable laws. A urine, breath, and/or blood test will be used to determine the presence of drugs. A certified toxicologist of the approved laboratory will determine the content level of each substance needed to determine whether an employee has consumed or is under the influence of a drug. All personnel involved with the sample collection, transporting and testing will maintain a strict chain of custody.

If a test result is positive, the County Manager and/or Department Head will notify the employee or applicant in writing. The letter of notification shall identify the particular substance found. Such an applicant or employee shall have the right to request a re-test as provided by N.C. General Statute Section 95-232(f) as amended.

### Consequence of a Positive Test Result

An applicant shall be denied employment if his/her drug test is positive. An employee who has a positive drug test result shall be subject to disciplinary action, up to and including dismissal.

### Use of Results in Criminal Action

No test results of the County's drug testing program may be used as evidence in a criminal action against the employee or job applicant except by order of a court of competent jurisdiction, or otherwise as required by law.

### Notification of Conviction

The employee shall notify his/her Supervisor of any charge or conviction for being in violation of any criminal drug statute no later than the next workday after being charged or convicted with a drug violation. The County may place an employee who has been charged with violating a crime involving drugs on investigatory suspension until such time as pertinent details have been researched. Department Heads will research the circumstances and make a decision based upon available facts.

### Additional Standards

All applicants for and all employees in positions subject to the provisions of the North Carolina Criminal Justice Training and Standards Council will be subject to the drug testing policies and procedures of the Council.

Various Federal laws require drug testing of certain safety sensitive employees who operate or maintain transit vehicles purchased with Federal funding. A copy of relevant Federal laws will be maintained in the Yancey County Transit Department. Such tests will be conducted in accordance with Federal guidelines and will include the following:

- a) Pre-employment testing for controlled substances prior to a date of hire;
- b) Random testing of the drivers/safety sensitive employees;

- c) Testing upon reasonable suspicion of alcohol or drug use;
- d) Post accident testing within two (2) hours of an accident that involves:
  - 1) A fatality; or
  - 2) The County driver receiving a citation, or contributing to the cause of the accident, or the accident results in any personal injury, or the accident results in property damage, or the vehicle is required to be towed from the scene.
- e) The removal of employees from safety sensitive duties following a positive drug test;
- f) Return to duty testing following a positive test for controlled substance, and
- g) Treatment follow-up including unannounced testing at specific intervals during treatment and at the end of treatment.

An employee who tests positive for controlled substance(s) will be removed from the safety sensitive duties immediately. The employee will be subject to the provisions as set forth in the County Drug Testing Policy applicable to all employees. Failure to comply with this policy will result in termination of employment.

#### Inspections and Searches

When there is reasonable suspicion, the County reserves the right to search employer-owned items used by employees (e.g., desks, lockers, vehicles, equipment, etc.), and employees should not expect privacy in these containers. The employee's Supervisor or Department Head and a witness may conduct search efforts.

#### Enforcement

Department Heads are responsible for the proper application of the procedures in their departments and for holding Supervisors accountable for the daily implementation of this policy. Department Heads and Supervisors shall be responsible for identifying abuse-related behavioral and performance problems, following the proper referral for testing, and taking appropriate disciplinary measures. Failure to take action when the Supervisor has reasonable cause to believe an employee is impaired while at work will result in disciplinary action being taken against the Supervisor. If in doubt about what action to take, the Supervisor should consult with the Department Head or the County Manager. Every effort shall be made to protect the privacy, confidentiality, and dignity of employees by minimizing the number of employees who learn of suspicions involving a co-worker's possible substance abuse or actions taken against that employee.

The Yancey County Sheriff's Office will utilize this policy, and any disciplinary action will be under the discretion of the Sheriff.

## **SECTION 2 – RECRUITMENT AND EMPLOYMENT**

### **2.1 Responsibility of the County Manager or Other Appointing Authority**

The County Manager, or other Appointing Authority, is responsible for an active recruitment program to meet current and projected staffing needs, using procedures that will ensure equal employment opportunities based on job-related requirements. Recruitment efforts of the County Manager and all County departments will be coordinated in a timely manner.

### **2.2 Position Vacancy Announcements**

All position vacancy announcements shall be posted for a minimum of seven (7) working days at the County Manager's Office and on the County's website. Position vacancies may also be listed with the North Carolina Employment Security Commission. Recruiting publicity may be carried out through the local or other media and through postings within departments, as appropriate. Position vacancy announcements shall contain, at a minimum: (1) the title, the grade, and the location of the position; (2) the closing date of the announcement; (3) a summary of the duties of the position; (4) a summary of the basic qualifications; (5) the procedures for making application; and (6) a statement of Equal Employment Opportunity. In rare situations because of emergency conditions the County may hire or promote without advertising jobs upon approval of the County Manager.

### **2.3 Application for Employment**

Applications for employment in Yancey County should be submitted as follows: general County employment to the County Manager's Office; Social Services to that agency; Board of Elections to that agency; Health Department to that agency; and Sheriff's Office and Register of Deeds to those departments respectively. The application form should be obtained from those Appointing Authorities. Applications shall be kept in an inactive reserve file in accordance with Equal Employment Opportunity Commission guidelines, or a minimum of two years.

### **2.4 Selection**

Selection will be made by the County Manager to fill those positions for which he/she is the Appointing Authority after an appropriate screening and interview process necessary to assess accurately the knowledge, skills, and experience of the applicant. Before any commitment is made to an applicant the County will conduct reference checks regarding the employee's qualifications and work performance. Input from the Department Head will be an important part of the selection process. Selection will be made by the other Appointing Authorities to fill those positions in their respective areas. An appropriate background check will be conducted commensurate with the specific job requirements. All employment offers shall be confirmed in writing. The County Manager will determine the class and the salary of employees as set forth in general statutes.

The Board of County Commissioners must approve the appointment by the Sheriff or the Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin.

While being convicted of a crime is not automatically disqualifying, the Board must also approve the appointment of such an applicant after considering the severity of the crime and the degree to which the crime is job related.

## **2.5 Qualification Standards**

- A. All applicants considered for employment or promotion shall meet the qualification standards established by the class specifications relating to the position for which the employment is being made.
- B. All employment or appointments shall be made on the basis of merit.
- C. Consideration may be given to “trainee” employment when there is an absence of qualified applicants from which to make a selection. In this instance the deficiencies may be eliminated through orientation and on-the-job training, and the employee is designated a trainee by the County Manager (for employees in Yancey County general positions) or the Office of State Human Resources (for employees in all positions subject to the State Human Resources Act.)
- D. When no qualified applicant is available and there is no trainee provision for the vacant classification, employment may be made below the level of the regular classification, allowing the employee an opportunity to gain the qualifications needed for the position through on-the-job experience.

## **2.6 Pre-Employment Criminal Background Check and Drug Screening**

As a public employer, Yancey County government is responsible for reasonably ensuring the health and safety of its employees and the citizens of Yancey County. As a condition of employment with Yancey County all final applicants for positions will be required to submit to (1) a pre-employment screening in accordance with prevailing Federal and State regulations that will include a nationwide criminal history check and may include work and professional history, identity information, and employment eligibility and (2) a drug test as set forth in Section 1.12, for the purpose of screening for the presence of controlled drugs or an abusive level of prescribed medication. It is the policy of Yancey County that a negative result from this screening is a condition of employment. A confirmed positive test result indicating the presence of controlled drug use or an abusive level of prescribed medication shall result in a rejection of the applicant for the position. A confirmed positive test will also result in the applicant being barred from securing employment with Yancey County for a one-year period. The following criteria will be strictly adhered to:

- A. Pre-employment drug screening results will be held in complete confidence. Tested applicants may receive a copy of the results upon request. Specimens may be analyzed by an outside laboratory utilizing chain of custody procedures; and

- B. Results of the drug screens will be released only to the County Manager and/or other Appointing Authorities. The Department Head filling the position will be notified of the results by the County Manager. The screening results will be maintained in the applicant's personnel file and are not public record and will not be disclosed to any individual except the applicant.

## **2.7 Introductory Period**

An employee approved for a permanent non-exempt position shall serve an introductory period of six (6) months. During the introductory period, Supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. With approval of the County Manager, the introductory period may be extended for a maximum of six (6) additional months. An employee may be dismissed at any time during the introductory period without following the dismissal process. After successful completion of the introductory period, the employee may be dismissed only as provided in Section 3.

## **2.8 State Human Resources Act Employee**

Employees subject to the State Human Resources Act are covered under that act by certain provisions for disciplinary actions and appeal procedures. In Yancey County these are employees of the Social Services Department, the Health Department, and certain employees in Emergency Management whose primary job duties involve coordination of the emergency management response whose salary is funded, in whole or in part, by Federal Homeland Security or emergency management funds.

## **2.9 Work Against Appointment**

In departments whose employees are subject to the State Human Resources Act, the Appointing Authority may appoint an employee in a "work against" situation. When qualified applicants are unavailable and there is no trainee provision for the classification of the vacancy, the Appointing Authority may appoint an employee below the level of the regular classification in a "work against" appointment. This appointment is for the purpose of allowing the employee to gain the qualifications needed for the full class through on-the-job experience. A "work against" appointment may not be made when applicants are available who meet the training and experience requirements for the full class in the position being recruited. During the "work against" appointment, the employee is on introductory status.

## **2.10 Promotion**

Candidates for promotion shall be chosen on the basis of their qualifications. First consideration for filling positions shall be given to employees already in service with the County. If a current employee is chosen for promotion, the Department Head shall forward the request to the County Manager with recommendations for classification and salary along with reasons for selecting the employee over other applicants. After considering the Department Head's recommendation, the County Manager shall accept or reject the recommendation. If the County Manager confirms the promotion, he/she shall determine the starting salary for the employee.

## **2.11 Demotion**

An employee may be demoted voluntarily or involuntarily as follows with the commensurate pay reduction:

- A. An employee whose work is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in another position. The employee shall be provided with written notice citing the recommended effective date of the demotion, the reasons for the demotion, and the appeal rights available to the employee; and
- B. An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a voluntary demotion. A voluntary demotion is not a disciplinary action.

## **2.12 Transfer**

- A. If a vacancy occurs and an employee eligible for transfer from another department wishes to be considered for the position, a written request and application must be forwarded to the County Manager during the recruitment period for the position. The request for transfer shall be subject to approval by the County Manger. Any employee transferred without his or her having requested it may appeal the action in accordance with the Grievance Procedure.
- B. Any employee who has successfully completed an introductory period may be transferred to any other position without serving another introductory period.

## **SECTION 3 – SEPARATION AND REINSTATEMENT**

### **Types of Separation**

Separation of employees from Yancey County employment shall be designated as one of the following: resignation, retirement, disability, reduction in force, dismissal, or death.

#### **3.1 Resignation**

A minimum of two (2) weeks' written notice is expected of all employees who resign. Such notice shall be given to the Department Head (or in the case of Department Heads, to the County Manager.) Within those two weeks a resigning employee is expected to work at least fifty (50) percent of his scheduled workdays, one of which must be the final day. Employees who fail to meet these requirements are not eligible to receive payment for accumulated vacation leave, unless the notification and/or workday requirements are waived upon recommendation of the Department Head and approved by the County Manager. Payment for accumulated vacation leave will be in accordance with Section 8.

Three (3) consecutive day of absence without contacting the Supervisor or Department Head is considered to be a voluntary resignation.

#### **3.2 Retirement**

Employees who have completed the required number of years' service to Yancey County and who have been contributing members of the Local Government Employees' Retirement System are qualified to retire with benefits from LGERS. Employees who need additional information and assistance with retirement applications should contact the Finance Officer.

#### **3.3 Disability**

An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the County's service for which the employee may be suited. (See Americans with Disabilities Act, Section 1.8)

Action for disability separation may be initiated by the employee or the County, but in all cases consideration for disability separation shall be supported by medical evidence as certified by an attending physician. Employees who meet the requirements of the North Carolina Local Government Employees' Retirement System may qualify for a disability retirement. The County may require a physical and/or mental examination at its expense and by a physician of its choice.

### **3.4 Reduction in Force**

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, current performance appraisals, organizational needs, and seniority, in determining the employees to be retained. Employees who are temporarily or permanently terminated because of a reduction in force shall be given at least two (2) weeks' notice. No permanent employee shall be separated while there are limited service or probationary employees serving in the same class in the department unless the permanent employee is not willing to transfer to the position held by the limited service or probationary employee. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

### **3.5 Death**

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

### **3.6 Discipline and Dismissal**

- A. An employee may be suspended, demoted, or dismissed by the employee's Department Head, with approval of the County Manager, for just cause – either unsatisfactory job performance or detrimental personal conduct.

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Department Head or County Manager. Examples of unsatisfactory job performance include, but are not limited to, the following:

- a. Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
  - b. Careless, negligent, or improper use of County property or equipment;
  - c. Physical or mental incapacity to perform duties after reasonable accommodation;
  - d. Discourteous treatment of the public or other employees;
  - e. Absence without approved leave;
  - f. Improper use of leave privileges;
  - g. Pattern of failure to report for duty at the assigned time and place;
  - h. Failure to complete work within time frames established in work plan or work standards;
  - i. Failure to meet work standards over a period of time;
  - j. Failure to follow the chain of command to address work-related issues; or
  - k. Failure to maintain certifications required by the job.
- B. When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the employee shall be reprimanded by being given written notice by the Department Head as to how the employee's work is deficient and what must be done for the work to be satisfactory.

- C. An employee who is suspended, demoted, or dismissed for unsatisfactory performance of duties shall receive at least three (3) warnings (one (1) warning may be oral, and at least one (1) warning shall be written) before disciplinary action is taken. The Supervisor and the Department Head will record the dates of their discussions with the employee, the performance deficiencies discussed, and the corrective actions recommended, and file the information in the employee's personnel file. The County Manager will be notified of any disciplinary action taken.
- D. An employee may be reprimanded, suspended, demoted, or dismissed for reasons of detrimental personal conduct without prior warning or disciplinary action having been given to the employee.

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

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

- a. Fraud or theft;
- b. Conviction of a felony or the entry of a plea or nolo contendere thereto;
- c. Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- d. Willful misuse or gross negligence in the handling of County funds or personal use of County equipment or supplies;
- e. Willful or wanton damage or destruction to property;
- f. Willful or wanton acts that endanger the lives and property of others;
- g. Possession of unauthorized firearms or other lethal weapons on the job;
- h. Brutality in the performance of duties;
- i. Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- j. Engaging in incompatible employment or serving a conflicting interest;
- k. Request or acceptance of gifts in exchange for favors or influence;
- l. Engaging in political activity prohibited by this Policy;

- m. Harassment of an employee or the public on the basis of sex or any other protected class;
  - n. Harassment of an employee or the public with threatening or obscene language and/or gestures, or any incidence of workplace violence; or
  - o. Refusal to perform assigned duties or flagrant violation of work rules and regulations, or serious malfeasance of work.
- E. An employee may be suspended without notice by the Department Head for causes related to detrimental personal conduct in order to protect the safety of persons or property, or for other serious reasons. When a Department Head suspends an employee without notice, the employee shall be required to leave Yancey County property at once and remain away until further notice. The Department Head shall notify the County Manager immediately. A written summary giving the circumstances and the facts leading to the immediate suspension shall be prepared. One (1) copy shall be delivered to the employee, and one (1) copy shall be filed with the County Manger.
- F. When any action is taken, whether for detrimental personal conduct or unacceptable job performance, the Department Head shall provide the employee with a written notice which will include the nature of the proposed action, its recommended effective date, the reason(s) for the action, and the employee's appeal rights. In addition, before an employee is dismissed, the employee shall be given a pre-termination conference with the Department Head, County Manager or Hiring Authority at which the employee may present reasons why the dismissal should not take place. The employee will be notified in writing of the final decision within three working days following the conference.

### **3.7 Investigatory Suspension**

Investigatory suspension, with or without pay, shall be termed administrative leave and may be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status. The County may elect to use an administrative leave to avoid undue disruption of work or to protect the safety of persons or property. Administrative leave without pay shall not exceed forty-five (45) calendar days. By the end of forty-five (45) calendar days, the following must occur: (1) appropriate disciplinary action based on the results of the investigation, (2) reinstatement of the employee with up to three (3) days' pay deducted from back pay, or (3) reinstatement of the employee with full back pay.

### **3.8 Employee Appeal**

An employee wishing to appeal a reprimand, demotion, suspension, or dismissal may present the matter using the grievance procedure prescribed in Section 4 of this policy.

### **3.9 Reinstatement**

- A. An employee who resigns while in good standing or who is separated because of a reduction in force may be reinstated within three (3) years of the date of separation, with the approval of the Department Head, the County Manager, and in the case of competitive service employees, in accordance with Personnel Policies for Local Government Employees Subject to the State Human Resources Act.
- B. An employee who is reinstated within three (3) years shall be credited with previous service and previously accrued sick leave.
- C. An employee who enters active duty with the Armed Forces of the United States, or with a reserve component of the Armed Forces, will be granted reinstatement rights provided under Federal law. (See Military Leave, Section 8.13).

## **SECTION 4 – INTERNAL COMPLAINT AND GREVANCE PROCEDURES**

### **4.1 Internal Complaint Procedures**

To foster sound employee-employer relations through communication and reconciliation of work-related problems, Yancey County provides employees with an established procedure for expressing employment-related concerns.

In situations where employees feel a complaint is in order, the following steps should be taken:

- Step 1. If an employee believes that he/she has a legitimate work-related complaint, the employee is encouraged to first attempt to resolve the issue(s) through discussions with his/her immediate Supervisor; and
- Step 2. If the situation is not resolved within five (5) working days from the time the complaint is discussed with the employee's immediate Supervisor, barring extenuating circumstances, it should be brought to the attention of the Department Head or County Manager by written documentation. The County will attempt to resolve the complaint within a reasonable period of time while preserving the confidentiality and privacy of those involved to the extent feasible. If no resolution can be reached, the employee may utilize the Grievance Procedure.

### **4.2 Purposes of the Grievance Procedure**

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

- a. Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- b. Encouraging employees to express themselves about the conditions of work which affects them as employees;
- c. Promoting better understanding of policies, practices and procedures which affect employees;
- d. Increasing employees' confidence that personnel actions taken are in accordance with established, fair and uniform policies and procedures;
- e. Increasing the sense of responsibility exercised by Supervisors in dealing with their employees;
- f. Encouraging conflicts to be resolved between employees and Supervisors who must maintain an effective future working relationship, and therefore encouraging conflicts to be resolved at the lowest level possible in the chain of command; and

- g. Creating a work environment free of continuing conflicts, disagreements, and negative feelings about the County or its leaders, thus freeing up employee motivation, productivity and creativity.

### **4.3 Grievance Procedure**

A grievance is defined as any matter of concern or dissatisfaction in the form of a claim or complaint arising from the working conditions of individuals employed by Yancey County. Every employee shall have the right to present a grievance in accordance with these procedures without interference, coercion, restraint, discrimination, penalty, harassment or reprisal. Supervisors or other employees who do so shall be subject to disciplinary action, up to and including dismissal from County service.

Prior to the submission of a formal grievance, the employee and Supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the Supervisor may involve the County Manager as a resource to help resolve the grievance. Mediation may be used at any step in the process and is encouraged. Mediation is the neutral facilitation of the conflict between or among parties where the facilitator helps the parties find a mutually agreeable outcome.

The following procedure is to be used when mediation is ineffective:

- Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the Supervisor in writing. The grievance must be presented within fifteen (15) calendar days of the event or within fifteen (15) calendar days of learning of the event or condition. The Supervisor shall respond to the grievance within five (5) calendar days after receipt of the grievance. The Supervisor should consult with any employee of the County in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. The response from each supervisory level for each step in the formal grievance process shall be in writing and signed and dated by the Supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the County Manager or Appointing Authority.
- Step 2. If the grievance is not resolved by the Supervisor to the satisfaction of the employee, the employee may appeal, in writing, to the Department Head within five (5) calendar days after receipt of the response from Step 1. The Department Head shall respond to the appeal, stating the determination of decision within five (5) calendar days after receipt of the appeal.
- Step 3. For General County employees only – those subject to the State Human Resources Act shall follow those provisions. If the grievance is not resolved by the Department Head to the satisfaction of the employee, the employee may appeal, in writing, to the County Manager or Appointing Authority within five (5) calendar days after receipt of the response from Step 2. The Appointing Authority shall respond to the appeal, may meet with the employee to discuss the grievance fully, and will make a decision within ten (10) calendar days. The County Manager's or Appointing Authority's decision is final.

However, The County Manager should inform the County Board of Commissioners of any possible legal actions. Any appeal of this decision must be made through the North Carolina Court System.

### **Department Heads**

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

- a. Provide mediation between the Department Head and the County Manager or Appointing Authority; or
- b. Consider the appeal and make recommendations back to the County Manger or Appointing Authority concerning the appeal.

Such parties might consist of human resource professionals, attorneys trained in mediation, mediators, or other parties appropriate to the situation. The County Manager's or Appointing Authority's decision regarding the disposition of the grievance shall be final. The County Manager will notify the Board of Commissioners of any impending legal action.

### **Grievance Procedure for Discrimination**

When an employee, former employee or applicant believes that any employment action discriminates based on any protected class, he/she has the right to appeal using the grievance procedure outlined in this policy or by appealing directly to the County Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. Such alleged act of discrimination should be appealed within thirty (30) calendar days of the alleged discriminatory action, but may be appealed for up to six (6) months following the action.

For State Human Resources Act employees who have met the General Statutes' requirement for career status, defined as service in a position subject to the State Human Resources Act for the immediate twenty-four (24) preceding months. If the grievance is not resolved to the satisfaction of the employee by the Department Head, the employee may appeal the decision to the North Carolina Office of Administrative Hearings (OAH) within thirty (30) calendar days of the receipt of the Department Head's decision. The findings of the OAH will be forwarded to the State Human Resources Commission. The decision of the State Human Resources Commission shall be advisory only and the Department Head shall have the final decision. Discrimination cases may be appealed directly to the OAH.

#### **4.4 Grievance Records**

All documentation, records, and reports regarding any official grievance will be retained for a minimum of three (3) years and shall be held by the County Manager. These records will be subject to review by the employee, the employee's Department Head, the County Manager or other Appointing Authority, and the Yancey County Commissioners.

#### **4.5 Other Remedies Preserved**

The existence of the grievance procedure does not preclude any individual from pursuing any other remedies available under law.

## **SECTION 5 – PERSONNEL RECORDS**

### **5.1 Personnel Records Maintenance**

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the County Manager. Yancey County shall maintain in personnel records only information that is necessary and relevant to accomplishing legitimate personnel administration needs as well as documents required by State or Federal regulations. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents. Confidentiality of personnel records will be maintained as required by Article 5 of G.S. 153 A and Article 7 of G.S. 126.

### **5.2 Request for Personnel Information**

All requests for disclosure of personnel information regarding employees under the Appointing Authority of the County Manager will be made to the County through the Office of the County Manager. All requests for disclosure of personnel information regarding employees under the other Appointing Authorities should be directed to those other Appointing Authorities.

### **Public Information**

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

1. Name;
2. Age;
3. Date of original employment or appointment to the service;
4. The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the County has the written contract or a record of the oral contract in its possession;
5. Current position title; current salary (pay, benefits, incentives, bonuses, and all other forms of compensation paid by the County,) date and amount of each increase or decrease in salary with the County;
6. Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the County;
7. Date and general description of the reasons for each promotion with the County;

8. Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the County. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the County setting forth the specific acts or omissions that are the basis of the dismissal; and
9. The department to which the employee is currently assigned.

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

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

### **5.3 Access to Confidential Records**

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

1. The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient;
2. A licensed physician designated in writing by the employee may examine the employee's medical record;
3. A County employee having supervisory authority over the employee may examine all material in the employee's personnel file;
4. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file;
5. An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the County Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee (except name, address and telephone number) or for the purpose of assisting in an investigation of the employee's tax liability;
6. An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in

the release to prospective employers, educational institutions, or other persons specified in the release; and

7. The County Manager, with the concurrence of the County Board, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a County employee along with the reasons for that action. Before releasing that information, the County Manager shall determine that the release is essential to maintaining the level and quality of County services. The written determination shall be retained in the County Manager's Office, is a record for public inspection, and shall become part of the employee's personnel file.

#### **5.4 Records of Former Employees**

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

#### **5.5 Remedies of Employees Objecting to Material in File**

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

#### **5.6 Examination or Copying Without Authorization**

Section 153A-98 of the General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor. Likewise, the same statute provides that any person not specifically authorized to have access to a personnel file designated as confidential who shall knowingly and willfully examine the file, remove or copy any portion of the file shall be guilty of a misdemeanor. Upon conviction, either shall be fined consistent with the General Statutes.

#### **5.7 Destruction of Records**

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

## **PART B. EMPLOYEE FOCUS**

### **SECTION 6 – CONDITIONS OF EMPLOYMENT**

#### **6.1 Ethical Conduct and Conflict of Interest**

The proper operation of County Government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. As stewards of public resources and holders of the public trust, County employees are expected to uphold the highest standards of ethical conduct while fulfilling their job duties and responsibilities.

The County recognizes the right of employees to engage in activities outside of their employment which are of a private nature and unrelated to the County's business. However, the employee must disclose any possible conflicts so that the County may assess and prevent potential conflicts of interest from arising. A potential or actual conflict of interest occurs whenever an employee is in a position to influence a decision that may result in a personal gain for the employee or an immediate family member (i.e., spouse or significant other, children, parents, siblings) as a result of the County's business dealings. A violation of this policy will result in immediate and appropriate discipline, up to and including termination.

##### **A. Outside Employment**

The work of the County takes priority over other employment interests of employees. All outside employment salaries, wages, or commission and all self-employment must be reported to the employee's Department Head before such work is to begin. The Department Head and the County Manager will determine whether the outside work would create a conflict of interest or otherwise be incompatible with Yancey County service. Time spent in the performance of outside employment must not interfere in any way with the performance of work assignments with the County. The assumption of outside employment without prior approval by the County may be deemed improper conduct and subject the employee to disciplinary action, up to and including termination.

##### **B. Financial Interest in Other Business**

An employee and his/her immediate family may not own or hold any significant interest in a supplier or customer of the County, except where such ownership or interest consists of securities in a publicly-owned company with securities regularly traded on the open market. An exception will be made for those employees who have given written notice to the County Manager and the County Manager in writing has made the determination that there is no conflict of interest.

## **6.2 Gifts and Favors**

No employee may solicit or accept gifts of significant value (i.e., in excess of \$25.00), lavish entertainment or other benefits from potential and actual suppliers of goods and services. Special care must be taken to avoid even the impression of a conflict of interest.

No official or employee shall grant any improper favor, service, or thing of value in the discharge of duties.

## **6.3 Work Product Ownership**

All Yancey County employees must be aware that the County retains legal ownership of the product of their work. No work product created while employed by the County can be claimed, construed, or presented as property of the individual, even after employment by the County has been ended or the relevant project completed. This includes written and electronic documents, audio and video recordings, systems codes, and also any concepts, ideas, or other intellectual property developed for the County, regardless of whether the intellectual property is actually used by the County. It is acceptable for an employee to display and/or discuss a portion or the whole of certain work product in certain situations, such as on a resume.

## **6.4 Confidential Nature of Work**

All Yancey County records and information relating to Yancey County are confidential, and employees must treat all matters accordingly. No Yancey County information, including without limitation, documents, notes, files, records, oral information, computer files, or similar materials (except in the ordinary course of performing duties on behalf of Yancey County) may be removed from the County's premises without permission from the County Manager. Additionally, the contents of Yancey County's records or information otherwise obtained in regard to business may not be disclosed to anyone, except where required for a business purpose. Employees must not disclose any confidential information, purposefully or inadvertently through casual conversation, to any unauthorized person inside or outside the County. Employees who are unsure about the confidential nature of specific information must ask their Department Head for clarification. Employees will be subject to appropriate disciplinary action, up to and including termination, for knowingly or unknowingly revealing information of a confidential nature.

## **6.5 Political Activity**

Every employee of Yancey County has a civic responsibility to support good government by every available means and in every appropriate manner. Any employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, and may advocate and support the principals or policies of civic or political organizations in accordance with the Constitution and the laws of the State of North Carolina and the Constitution and the laws of the United States of America.

However, while on duty, no employee of Yancey County shall:

- A. Engage in any political or partisan activity in accordance with NCGS 160A-169 and 153A-99;
- B. Use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
- C. Be required as a duty or a condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
- D. Coerce or compel contributions for political or partisan purposes by another employee of the County;
- E. Use funds, supplies, or equipment of the County for political or partisan purposes; or
- F. Be a candidate for nomination or election to the office of County Commissioner.

Employees subject to the Hatch Act (in a position that has duties in connection with programs financed in whole or in part by Federal funds) may not be candidates for elected office in a partisan election.

Any violation of this section may subject the employee to appropriate disciplinary action, up to and including termination.

#### **6.6 Limitation on Employment of Relatives**

- A. No two members of an immediate family (spouse, children, parents, siblings, grandparents, great-grandparents, grandchildren, great-grandchildren, step-parent, step-brother, step-sister, half-brother, half-sister, mother-in-law, father-in-law, sister-in-law and brother-in-law) shall be employed within the same department if such employment will result in one member supervising the other, or in one member occupying a position that has influence over the other's employment, promotion, salary administration or related management or personnel consideration, except as may be authorized by the County Manager in writing.
- B. The Yancey County Board of Commissioners shall approve the appointment by the Sheriff or the Register of Deeds of a relative by blood or marriage or nearer kinship than first cousin.

#### **6.7 Impairing Substance Use**

Employees shall not consume, purchase, or possess any intoxicating beverage while on County time. No employee shall operate a County-owned vehicle after the consumption of any amount of intoxicating beverage. At no time shall an employee operate a vehicle or any other heavy equipment while impaired. Off-duty employees shall not consume intoxicating beverages to such an extent as to render them unfit to report for their next regular duty day or when on call. Employees shall not report for duty or be on duty while visibly affected from the use of alcohol, controlled substances, drugs, or any other

means, or with an odor of intoxicants on their breath. No employee shall report for duty while taking prescribed or over-the-counter medications that affect their ability to properly or safely perform their assigned duties.

Any employee driving a County-owned vehicle, driving a personal vehicle in the course of County business, or using County-owned heavy equipment is subject to random testing for drug and alcohol use. Any employee on duty or reporting for duty while visibly affected by the use of alcohol, controlled substances, drugs, or any other intoxicants, or with an odor of intoxicants on their breath may be required to submit to a breath test or other diagnostic test(s) as directed by the County Manager or designee. If the County Manager has reasonable suspicion that an employee is under the influence of such substances, the County Manager may require a test to confirm such suspicion. Such tests administered under this rule shall only apply to any administrative process that may result. A failure to submit to such test will subject the employee to disciplinary action, up to and including termination.

## **6.8 Attendance**

In order to maintain a safe and productive work environment, Yancey County expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on the County. In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they should notify their Supervisor as soon as possible in advance of the anticipated tardiness or absence. Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action, up to and including termination.

## **6.9 Violence in the Workplace**

Yancey County is committed to preventing workplace violence and to maintaining a safe work environment. All employees, including Supervisors and limited service employees, should be treated with courtesy and respect at all times. Employees are expected to refrain from fighting, "horseplay" or other conduct that may be dangerous to others.

Conduct that threatens, intimidates, or coerces another employee or member of the public at any time, including off-duty periods, will not be tolerated. This prohibition includes all acts of harassment, including harassment that is based on race, religion, color, sex (including gender, pregnancy, sexual orientation and gender identity), national origin, age (40 or older), non-disqualifying disability, veteran status, genetic information (including family medical history), sickle cell or hemoglobin C traits, AIDS virus or HIV infection, being a victim or domestic violence, or any other protected characteristic as established by law.

All threats of (or actual) violence, both direct and indirect, should be reported as soon as possible to the Department Head or County Manager. The County will promptly and thoroughly investigate all reports of threats of (or actual) workplace violence and of suspicious individuals or activities. The identity of the individual making a report will be protected as much as is practical. In order to maintain workplace safety and the integrity of its investigation, the County may suspend employees, either with or without pay, pending investigation. Anyone determined to be responsible for threats of (or actual) violence or

other conduct that is in violation of these guidelines will be subject to disciplinary action, up to and including termination.

## **6.10 Solicitations, Distributions, and Use of Bulletin Boards**

Yancey County Employees should not solicit during work time when doing so interferes with another employee's job performance. Likewise, when dealing with outside solicitors, employees should be sure their job performance is in no way compromised and their work station is covered.

Bulletin boards on Yancey County property are to be used only for posting or distributing notices containing matters directly concerning County business, announcements of a business nature which are equally applicable and of interest to employees, and required labor law postings. All posted material must have authorization from the County Manager's Office.

Employees are expected to check these bulletin boards and the County's website periodically for new and/or updated information regarding employment laws.

## **6.11 Internet and E-Mail Use**

### **A. INTERNET USE**

Employees are provided with access to the Internet to assist them in performing their jobs. In addition, email provides an excellent means of communicating with other employees, vendors, and other governments and businesses. Use of the Internet, however, must be tempered with common sense and good judgment, and such use of the Internet via the County's computer system constitutes consent by the user to all of the terms and conditions of this policy. Abuse of the right to use the Internet may result in disciplinary action, including possible termination, and civil and criminal liability.

Employees should be aware that information posted on personal social networking sites can reflect both personally and professionally on the employee and Yancey County Government.

Disclaimer of liability for use of Internet: Yancey County is not responsible for material viewed or downloaded by users from the Internet. Users are cautioned that the Internet contains offensive, sexually explicit, and inappropriate material. In general, it is difficult to avoid at least some contact with this material while using the Internet.

Duty not to waste computer resources: Employees must not deliberately waste computer resources or unfairly monopolize resources to the exclusion of others. This includes, but is not limited to, sending mass mailings or chain letters, spending excessive amounts of time on the Internet, playing games, engaging in online chat groups, printing multiple copies of documents, or otherwise creating unnecessary network traffic. Because audio, video, and picture files require significant storage space, files of this or any other sort may not be downloaded unless they are work-related.

Duty to maintain with no expectation of privacy: The computers and email accounts given to employees are to assist them in performance of their jobs. Employees should not have an expectation of privacy in anything they create, store, send, or receive on the computer system. The computer system belongs to the County and may only be used for business purposes. In addition, email is a public record as defined by North Carolina General Statutes 132 and 121 and as such is subject to the records retention regulations as defined by the Department of Cultural Resources. Electronic mail is a record just the same as paper and must be maintained (either printed and filed or electronically filed) for the same required time as paper communication of the same information. All Department Heads have access to the Records Retention and Disposition Schedule for further clarification.

Monitoring computer usage: The County has the right, but not the duty, to monitor any and all of the aspects of its computer system, including, but not limited to, monitoring sites visited by employees on the Internet, monitoring chat groups, social networking sites and news groups, reviewing material downloaded or uploaded, and reviewing email sent and received by users.

Blocking of inappropriate content: The County may use software to identify inappropriate or sexually explicit Internet sites. Such sites may be blocked from access by County networks. An employee who encounters inappropriate or sexually explicit material while browsing on the Internet should immediately disconnect from the site, regardless of whether the site was subject to the County's blocking software.

Prohibited activities: Material that is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory, or otherwise unlawful, inappropriate, offensive (including offensive material concerning sex, race, color, national origin, religion, age, disability, or any other characteristic protected by law), or violates the County's equal employment opportunity policy and its policies against sexual or other harassment may not be downloaded from the Internet or displayed or stored in the County's computers. An employee encountering or receiving this kind of material should immediately report the incident to the Department Head or the County Manager's Office. The County's Equal Employment Opportunity Policy and its policies against sexual or other harassment apply fully to the use of the Internet and any violation of those policies may be grounds for discipline, up to and including termination. Any evidence of child pornography found on electronic and information technology equipment must be reported by the Information Technology Director to the County Manager who will then be responsible for notifying law enforcement officials.

Games and entertainment software: Employees may not use the County's Internet connection to download games or other entertainment software or to play games over the Internet.

Illegal copying: Employees may not illegally copy material protected under copyright law or make that material available to others for copying. Employees are responsible for complying with copyright law and applicable licenses that may apply to software, files, graphics, documents, messages, and other material. Employees may not agree to a license or download

any material for which a registration fee is charged without first obtaining the express permission of the Department Head.

Accessing the Internet: To ensure security and to avoid the spread of viruses, employees accessing the Internet through a computer attached to the County's network must do so through an approved Internet firewall. Accessing the Internet through the County's network by any means that by-passes the firewall is strictly prohibited. Password and back-up procedures as directed by the Information Technology Director must be adhered to.

Virus detection: Files obtained from sources outside the County, including storage devices brought from home, files downloaded from the Internet and other online services, files attached to email, and files provided by vendors may contain dangerous computer viruses that may damage the County's computer network. Employees should scan all electronic material with County-approved virus checking software. If an employee suspects that a virus has been introduced into the County's network the Information Technology Director should be notified immediately.

## B. E-MAIL USE

Employees should always ensure that the business information contained in electronic mail/Internet messages is accurate, appropriate, and lawful. In addition, e-mail is not to be used for personal business. The email network is a private information system of Yancey County. Individuals using this system expressly consent to monitoring of their activities. Anyone using this system in violation of the Country's Internet and email policy may be subject to disciplinary action, up to and including termination.

### **6.12 Voice Mail Policy**

The Voice Mail system is the property of Yancey County and has been provided for use in conducting County business. All communications and information transmitted by, received from, or stored in this system are records and property of the County. The Voice Mail system is to be used for County purposes only. Employees have no right of personal privacy in any matter stored in, created, received, or sent over the County Voice Mail system.

Employees should also use professional and courteous greetings in their Voice Mail boxes so as to properly represent the County to outside callers. Employees should be aware of the fact that voice mail messages and records may be subject to discovery in litigation.

### **6.13 Telephone and Cell Phone Use**

Because a large percentage of Yancey County's business is conducted over the phone, it is essential to project a professional telephone manner at all times.

Although the County realizes that there are times when an employee may need to use the telephone for personal reasons, it is expected that good judgment will be used in limiting the length and frequency of such calls.

#### **Cell Phone/Smart Phone Usage**

##### **A. Personal Cell Phone Use While at Work**

Employees should limit the use of personal cell phones while at work as it may present a hazard or distraction to the user and/or co-workers. This policy is meant to ensure that cell phone use while at work does not disrupt business operations and is courteous to co-workers that are working in the vicinity. For safety purposes cell phones are not to be used while operating any motorized equipment.

##### **B. County-Provided Cell Phones**

Cell phones are provided to certain employees of Yancey County for the purpose of conducting Yancey County business. The use of County-provided cell phones for personal calls is expressly prohibited.

##### **C. Smart Phones Connected to County Server**

A lost or stolen mobile device, owned either by the County or by the employee, with connectivity to the County's server for email access must be reported to the IT Department immediately. The device may be remotely locked or wiped of all data to prevent unauthorized access to the County's network.

### **6.14 Internal Investigations and Searches**

From time to time, the County may conduct internal investigations pertaining to security, auditing or work-related matters. Employees are required to cooperate fully with and assist in these investigations if requested to do so.

Whenever necessary, at the County's discretion, work areas (i.e., desks, file cabinets, etc.) may be subject to a search without notice. Employees are required to cooperate.

The County will generally try to obtain an employee's consent before conducting a search of work areas, but may not always be able to do so.

### **6.15 Reference Inquiries**

All inquiries regarding a current or former Yancey County employee must be referred to the County Manager or other Appointing Authority.

Should an employee receive a written request for a reference, he/she should refer the request to the County Manager's Office for handling. No Yancey County employee may issue a reference letter on behalf of any current or former employee without the permission from the County Manager's Office.

Under no circumstances should any County employee release any information about any current or former County employee over the telephone. All telephone inquiries regarding any current or former employee of the County must be referred to the County Manager's Office.

In response to an outside request for information regarding a current or former County employee, the County Manager's Office will furnish or verify only such information as is contained in Personnel Records, Section 5. No other data or information regarding any current or former County employee, or his/her employment with the County, will be furnished unless (1) the employee authorizes the County Manager in writing to furnish this information and releases the County from liability in connection with the furnishing of this information, or (2) the County is required by law to furnish such information.

### **6.16 Use of Tobacco Products**

All Yancey County buildings are smoke-free. Yancey County employees are permitted to smoke or use other tobacco products in designated smoking areas only, not within fifty (50) feet of a public entrance unless a variance is issued by the County Manager. Employees are prohibited from smoking or using tobacco in non-smoking areas or in County vehicles. When granted, smoking areas shall be clearly designated. The prohibition against tobacco products includes e-cigarettes or other devices which provide a vapor or nicotine substance and inhaler devices that simulate smoking.

Any questions regarding the designated locations should be directed to the County Manager's Office.

### **6.17 News Media**

To ensure that all County-related information is accurate and up to date, all requests from the media for comment are to be referred to the County Manager for a response. While the County Manager may refer the request for comment to the appropriate Appointing Authority, no statement which involves the County, its policies, or employees is to be otherwise released verbally or in writing.

### **6.18 County Mail**

The use of Yancey County's paid postage for personal correspondence is not permitted. Mail received marked "Personal and Confidential" is sometimes inadvertently opened, or may be opened because the addressee is no longer employed and it is believed that the piece of mail is an important business-related item that requires immediate attention. Accordingly, the County assumes that it has each employee's permission to open any piece of mail received at the office address.

### **6.19 Personal Property**

Yancey County cannot be responsible for personal property that is lost, damaged or stolen. It is not covered under the County's insurance.

Also, the County prohibits any items on the premises or worksite that are sexually suggestive, offensive, or demeaning to specific individuals or groups, along with firearms or other weapons.

### **6.20 Use of County Time, Supplies, Equipment and Vehicles**

Yancey County equipment, materials, tools, and supplies are not available for personal use, nor are they to be removed from County property except in conduct of official County business, unless approved by the County Manager. No employee shall purchase for personal use any equipment or supplies through County purchase accounts. County employees are expected to provide reasonable care of any County equipment as a function of their job and will be held accountable for the proper use of such equipment. Use of County time, supplies, or equipment for personal or other purposes not related to the employee's County duties and responsibilities is prohibited and subjects the employee to disciplinary action, up to and including termination.

### **6.21 Uniforms and Other Property**

Yancey County furnishes uniforms to employees whose work requires uniformity of appearance and identification. County uniforms are not to be worn except when on duty for the County. Sheriff's Deputies may wear their uniforms in off-duty hours only when approved by the Sheriff or his designee.

Uniforms will be replaced as needed due to normal wear. However, employees will be charged for replacement of uniforms that have been lost or willfully damaged by the employee. All employees who are assigned uniforms will be required to sign for them when they are issued and return them when leaving County employment. The cost of the uniforms and other County-owned property issued and not returned will be deducted from the employee's final pay.

## **6.22 Driver's License, Vehicle Insurance, and Driving Record Requirements**

### **A. Drivers of County-Owned Vehicles**

Vehicles owned by Yancey County are not to be used for personal purposes. Employees who operate Yancey County vehicles as part of the essential duties of their position are required to meet the following minimum standards set by Yancey County and have possession of an appropriate driver's license valid in the State of North Carolina, except where preempted by military involvement. Any employee operating Yancey County vehicles must have a minimum of five (5) years' driving experience. Motor vehicle records checks will be made with the North Carolina Department of Motor Vehicles for anyone hired for a position that requires the operation of a County-owned vehicle to determine the driver's acceptability. An annual NC DMV records check will be completed for all authorized drivers to determine continued acceptability. After employment, any employee whose license is revoked, suspended, or lost, must notify his/her Department Head immediately. The employee will be unable to resume operating a Yancey County vehicle until providing proof of a valid driver's license to the Department Head. Employees who are not able to perform essential job duties due to the suspension or revocation of their driver's license may be reassigned to a non-driving position or may be terminated.

The Yancey County Transit Department routinely conducts driver safety training for its employees. These sessions are available to all other County departments, and all employees from other departments who operate Yancey County vehicles as part of the essential duties of their position, or who drive personal vehicles in the course of County business, are required to attend a minimum of two (2) such sessions annually with attendance recorded and reported to the County Manager's Office.

As noted in Section 6.7, "Impairing Substance Use," employees driving County-owned vehicles or personal vehicles in the course of County business are subject to random testing for drug and alcohol use.

These minimum standards apply to all employees who operate Yancey County vehicles. Additional requirements are established for and communicated by the Transportation Department and the Sheriff's Department.

### **B. Drivers of Personal Vehicles on County Business**

Yancey County requires that employees who drive personal vehicles in the course of County business provide proof of adequate personal insurance coverage limits in addition to the driver's record check referenced above. Minimum personal auto limits of \$500,000 are recommended to be maintained on the personally-owned vehicle used while performing County business. The County Manager (or Department Head in the case of DSS and Extension Service) shall review and maintain copies of the referenced information for the respective employees.

### C. Vehicle Accident Investigation Procedure

Drivers of County-owned vehicles or employees driving personal vehicles on County business are to take appropriate action in the event of an accident to prevent additional accidents and/or injuries. The employee should immediately report the accident to the County's emergency services (E-911) who will dispatch appropriate law enforcement and/or emergency medical personnel. The employee is to remain at the scene of the accident, be courteous, answer law enforcement personnel's questions, and give identifying information to other parties involved. As soon as possible, and no more than twenty-four (24) hours following the accident, the employee should complete the Accident/Incident Report Form available from his/her Department Head or from the County Manager's Office.

Employees found to be negligent in operating vehicles on behalf of Yancey County are subject to the procedures outlined in Section 3.6 "Discipline and Dismissal."

### **6.23 Licenses, Registrations, or Certifications**

Yancey County employees are expected to maintain any license, registration, or certification required by relevant law, rule, or provision when the duties of the position require that license, registration, or certification. Employees must obtain or maintain current, valid credentials as required by law, rule, regulation, and occupational boards.

### **6.24 Safety in the Workplace**

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

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

### **6.25 Nursing Mothers**

Section 4207 of the Patient Protection and Affordable Care Act of 2010 (PPACA) provides "reasonable breaks" as needed for an employee to express milk for her nursing child for one year after the child's birth. Time taken for these breaks in excess of 20 minutes should be excluded from time reported on the employee's timesheet.

### **6.26 Compensatory Time Off**

Yancey County provides compensatory time off in lieu of cash overtime compensation to employees who have earned compensatory time in accordance with Section 8.6.

### **6.27 Performance Evaluation**

All Yancey County employees shall be evaluated by the Supervisor or Department Head at least once a year. These performance evaluations shall be documented in writing and placed in the employee's personnel file. Procedures for the performance evaluation process shall be determined by the County Manager.

## **SECTION 7 – EMPLOYEE BENEFITS**

Benefits available to Yancey County employees are reviewed on an annual basis and are subject to the availability of funds.

### **7.1 Eligibility**

All full-time or part-time employees whose regular work assignment is thirty (30) hours or more per week are eligible for benefits provided by the County. However, membership in the Local Government Employees' Retirement System (LGERS) is required for those working 19.23 hours per week.

Full-time Employee – An employee who is in a position for which an average work week equals at least 37.5 hours and continuous employment of at least 12 months.

Part-time Employee – An employee who is in a position for which an average work week equals at least 20 hours and less than 37.5 hours and continuous employment of at least 12 months.

Limited Service Employee – An employee who is in a position for which either the average work week is less than twenty (20) hours (1,000 hours per year) or continuous employment required by the County is less than twelve (12) months. Such employees are not eligible for benefits other than FICA and Worker's Compensation, except those employees scheduled to work more than thirty (30) hours per week for more than three (3) months are eligible for health insurance under the Affordable Care Act.

### **7.2 Group Health and Hospitalization Insurance**

Yancey County will provide a percentage of the cost of individual hospitalization insurance for all employees as defined above. Employees may be enrolled in the group plan in accordance with the provisions of the insurance contracts on the first day of the calendar month following employment. All coverage is for the calendar month. Health insurance provided through Yancey County is pre-paid, and thus is deducted from payroll checks the month prior to the effective date. All employees will continue to have coverage for the calendar month following termination. Individuals employed after the beginning of the second pay period will be responsible for full payment (both employee and employer portion) of the first month's health insurance premium if they desire immediate health insurance coverage, or delay coverage until the next calendar month.

### **7.3 Membership in Local Government Employees' Retirement System**

All employees working a minimum of 19.23 hours per week or 1,000 hours per year must be enrolled in the Local Government Employees' Retirement System (LGERS). Employees contribute six percent (6%) of their gross salary each month to the system. Yancey County also contributes an actuarially determined percentage of the gross payroll each month to the system.

LGERS is a defined benefit retirement plan that provides a fixed sum of money each month to the retiree. An employee may retire and begin to draw unreduced LGERS benefits at age sixty-five (65)

with five (5) years of creditable service, age sixty (60) with twenty-five (25) years of credit, or at any age with thirty (30) years of creditable service. Reduced benefits are available at age fifty (50) with twenty (20) years of service, or age sixty (60) with five (5) years of service. More information regarding LGERS membership and benefits can be found at [www.nctreasurer.com](http://www.nctreasurer.com).

#### **7.4 Supplemental Retirement Income Plan for Law Enforcement Officers**

All law enforcement officers automatically become members of the North Carolina 401(k) Supplemental Retirement Income Plan on the date of hire. Yancey County contributes five percent (5%) of each officer's salary to the plan. The employee may also voluntarily contribute.

#### **7.5 Law Enforcement Officers' Special Separation Allowance**

Yancey County provides law enforcement officers upon retirement from law enforcement positions a special separation allowance as required by G.S. 143-166.42. The officer will receive a percentage of his/her last base rate of compensation, with consideration for the number of years of service, if the officer meets certain qualifying conditions as follows: (1) has completed a minimum of thirty (30) years of service, or is at least fifty-five (55) years old and has completed a minimum of five (5) years of service; and (2) is under sixty-two (62) years of age; and (3) has five (5) continuous years of service as a law enforcement officer during the period immediately preceding retirement.

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

1. The last day of the month in which the officer attains sixty-two (62) years of age;
2. The first day of re-employment in any position in any local government in North Carolina where the employee is required to join the local government retirement system (working one thousand 1,000 hours or more); or
3. The death of the officer.

#### **7.6 Retiree Health and Hospitalization Insurance**

All Yancey County employees who reach eligibility for retirement from the Local Government Employees' Retirement System based on no less than twenty (20) years of creditable service completed in and for Yancey County are likewise eligible for continued health insurance coverage. Such retirement must occur upon completion of active service and not follow a period of separation. The County will provide up to the same amount of contribution to the eligible retiree's coverage through the existing health plan as the prevailing contribution provided for active employees. This benefit will cease when the retiree reaches eligibility for Medicare benefits based on either age or disability, or if the retiree is employed elsewhere and covered under that employer's insurance plan.

**7.7 Other Insurance Products**

All Yancey County employees who retire from active service as described under the Health and Hospitalization Insurance section are eligible to continue coverage under other insurance products as provided by the prevailing carrier of those products. Such continuation of benefits may be billed by, and paid directly to, the provider by the retiree, or may be billed to Yancey County. If billed to the County, the retiree must pay the County monthly by the 25<sup>th</sup> for the next month's coverage.

**7.8 Local Government Employees' Retirement System Death Benefit**

An additional LGERS benefit provides that if an employee dies while still in active service with at least one (1) year as a contributing member of the Retirement System, the employee's beneficiary will receive a lump-sum payment equal to the employee's highest twelve (12) consecutive months' salary during the preceding twenty-four (24) months, but no less than \$25,000 and no more than \$50,000. This benefit is also paid if the employee dies within 180 days of the last day for which he/she was paid a salary.

**7.9 Longevity Pay**

Yancey County employees earn a bonus payment after a period of service to Yancey County. This is a valuable employee benefit and is explained in detail in the Pay Plan section of this manual.

Longevity pay is a benefit paid annually to those employees who have (10) or more years of aggregate Yancey County service. Longevity pay amounts are computed by multiplying the employee's base pay rate on the date of eligibility by the applicable percentage as follows:

<u>Years of Aggregate County Service</u>	<u>Longevity Pay Rate</u>
10 but less than 15 years	1.25 percent
15 but less than 20 years	2.25 percent
20 but less than 25 years	3.25 percent
25 or more years	4.50 percent

**7.10 Federal Social Security and Medicare Program**

Yancey County provides Social Security (including Medicare) contributions (FICA) for all employees in accordance with the provisions of the Social Security Act. The Federal Social Security program provides monthly benefits upon retirement, with full and reduced benefits available as determined by the Social Security Administration. Medicare benefits become available under the terms of that program.

## **7.11 Life Insurance**

All permanent full-time and part-time (30 hours per week or more) employees of Yancey County are provided with life insurance coverage upon employment. The coverage amount is \$15,000 per eligible employee in active employment status.

## **7.12 Other Optional Benefits**

Yancey County provides its employees the opportunity to participate in several optional benefit plans, including but not limited to the following:

### **NC State Employees' Credit Union and Local Government Federal Credit Union**

Employees may become members of these credit unions based on criteria established by each. The County will provide payroll deduction for services that employees may obtain from either credit union.

### **Deferred Compensation Plans**

Employees may enroll in the Section 401(k) plan, which is authorized by the Internal Revenue Code, and which provides supplemental retirement income.

### **Cafeteria Plan**

Employees may enroll in several benefits authorized by Section 125 of the Internal Revenue Code through which pre-tax payroll deductions can provide several supplemental insurances. Enrollment forms for the 125 Plan are available every year during open enrollment, and the election must be maintained for one (1) full year. However, certain changes in family circumstances are considered under IRS regulations as valid reasons to make mid-year plan changes.

### **Miscellaneous Deductions**

Yancey County employees may request payroll deductions for a variety of currently available miscellaneous deductions such as United Way contributions, Blue Ridge Fitness Center dues, etc.

## **7.13 Workers' Compensation**

All Yancey County employees are covered by the North Carolina Workers' Compensation Act and are entitled to medical attention for all on-the-job injuries, including those incurred while traveling on official County business.

An employee must report all injuries occurring on the job to his/her Department Head immediately. The Yancey County Manager's Office will complete an injury report and provide the employee with appropriate instructions for obtaining any required medical attention. Workers' Compensation claims

are filed with the North Carolina Industrial Commission by the County's Workers' Compensation insurance carrier on behalf of the injured employee.

Any employee who is on qualified Workers' Compensation leave will be required to provide doctor's statements of physical condition and progress toward a potential for returning to work. A doctor's release is required before being allowed to return to work.

#### **7.14 Unemployment Compensation**

Yancey County employees who are temporarily or permanently dismissed from the County's service may apply for unemployment compensation through the local office of the North Carolina Employment Security Commission. Eligibility for unemployment compensation will be determined by the Employment Security Commission.

#### **7.15 COBRA Benefits Continuation**

The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health insurance coverage under Yancey County's health plan when qualifying events, such as the following, would otherwise result in loss of coverage: Resignation, termination of employment, or death of an employee; a reduction in an employee's hours or a leave of absence; an employee's divorce or legal separation; or a dependent child no longer meeting eligibility requirements.

Under COBRA, the employee or beneficiary pays the full cost of coverage at Yancey County's group rates, plan an administration fee, to the third party administrator. Yancey County provides each eligible employee with a written notice describing rights granted under COBRA when the employee becomes eligible for coverage under Yancey County's health insurance plan. The notice contains important information about the employee's rights and obligations.

#### **7.16 HIPAA**

The HIPAA (Health Insurance Portability and Accountability Act) Privacy Rule, as outlined by the U.S. Department of Health and Human Services, established national standards to protect medical records and personal health information maintained by a health care provider, a health plan or a health care clearinghouse. Yancey County pays a portion of the employee's health plan and is therefore considered a "health plan" and must provide appropriate safeguards to protect personal health information privacy. The County can, however, ask an employee for a doctor's note or other health information which may be needed for sick leave, Workers' Compensation, wellness programs or health insurance.

## **SECTION 8 – HOLIDAY AND LEAVE BENEFITS**

Paid leave benefits are granted to all permanent full-time and part-time employees of Yancey County (but not limited service employees) whose regularly scheduled work hours total thirty (30) or more per week as follows:

### **8.1 Paid Holidays**

The following holidays (as observed by the state of North Carolina) and such others as the Yancey County Board of Commissioners may designate, shall be observed by County departments and shall be counted as hours worked, and therefore paid, for all permanent full-time or part-time employees scheduled to work on the day on which the holiday falls:

New Year's Day	Mount Mitchell Crafts Fair Friday
Martin Luther King, Jr. Holiday	Labor Day
Good Friday	Veterans' Day
Memorial Day	Thanksgiving (two (2) days)
Independence Day	Christmas (three (3) days)

Regular holidays that occur during an annual, sick, or other paid leave period for any employee shall count as a holiday and shall not be charged as annual, sick, or other paid leave.

### **8.2 Holiday Pay When Work Is Required**

Permanent non-exempt employees required to work on regularly scheduled holidays will receive double their regular rate of pay for each hour worked on the holiday. The additional holiday pay will be included in the next payroll period.

Shift employees whose annual holiday pay is added to the annual hourly rate will receive additional pay at the base hourly rate for hours scheduled to work on a holiday.

### **8.3 Sick Leave**

Sick leave is a privilege provided by Yancey County. For purposes of the policies concerning sick leave and bereavement leave, immediate family is: spouse, children, parents, siblings, grandparents, great-grandparents, grandchildren, great-grandchildren, step-parent, step-brother, step-sister, half-brother, half-sister, mother-in-law, father-in-law, sister-in-law and brother-in-law.

- A. All permanent full-time and part-time employees shall earn sick leave, including the County Manager, Sheriff and Register of Deeds. Permanent part-time employees working a minimum of thirty (30) hours per week shall be entitled to three-fourths the amount of sick leave earned by a full-time employee.
- B. Employees may be granted sick leave for absence due to the following:

1. Personal or family sickness that prevents the employee from performing his/her regular duties;
  2. Personal or family medical or dental appointments;
  3. The actual period of temporary disability related to pregnancy, miscarriage, childbirth, or recovery from either. A doctor's certificate may be required to verify the employee's period of temporary disability for these reasons;
  4. To supplement Workers' Compensation leave both during the waiting period and to supplement the remaining salary, not to exceed the regular salary amount; or
  5. When exposure to a contagious disease might jeopardize the health of others when continuing to work.
- C. Employees must notify their Department Head of all requests for sick leave before the leave is taken, or at the beginning of a scheduled shift or working day. Sick leave may be taken only with the approval of the Department Head.
- D. The employee's Department Head or the County Manager may require a statement from a physician or other acceptable proof that the employee was unable to report for work, as a condition of approving sick leave after an absence of three (3) consecutive days. A physician's statement may also be required prior to an employee's return to work.
- E. For the first two (2) years of employment, permanent full-time employees shall accrue sick leave on a basis of ten (10) days per year or 3.08 hours per pay period. After two (2) full years of employment each full-time employee shall begin to accrue twelve (12) days of sick leave per year or 3.70 hours per pay period. Permanent part-time employees working a minimum of thirty (30) hours per week shall be entitled to three-fourths the amount of sick leave earned by a full-time employee. Unused sick leave may accumulate from year to year on the basis of ten (10) days per year for those employees with less than two (2) years' employment, and at the rate of twelve (12) days per year for those who have been employed two (2) or more years. However, no employee shall be paid for accumulated sick leave upon separation by retirement, resignation, or other termination.
- F. Sick leave is converted to creditable service upon retirement by employees who are members of the North Carolina Local Government Employees' Retirement System (LGERS). One (1) month of service credit is allowed for each twenty (20) days of unused sick leave, and one (1) additional month is credited for any portion of twenty (20) days of unused sick leave remaining. Unused sick leave earned at another North Carolina government (State or Local) agency will be accepted and transferred to the County if the employee did not retire from that employer when leaving employment. Such transfers will be as follows:

1. The maximum number of days added or accepted will be fifty (50). Verification received in hours will be calculated and accepted in days rounded to the nearest whole;
2. The total number of days accepted as transferred will be added to the record after completion of the introductory period;
3. Verification of accumulated sick leave must be received in writing from the previous employer;
4. The transfer must be completed within three (3) years of the employee's last working day with the previous employer; and
5. It is the employee's responsibility to request the leave balance to be forwarded to Yancey County by the end of the introductory period.

G. Employees who resign and are not reinstated with the County within a period of three (3) years shall lose all sick leave credits.

#### **8.4 Bereavement Leave**

In the event of a death in the employee's immediate family (spouse, children, parents, siblings, grandparents, great-grandparents, grandchildren, great-grandchildren, step-parent, step-brother, step-sister, half-brother, half-sister, mother-in-law, father-in-law, sister-in-law and brother-in-law), paid bereavement leave will be granted, but not to exceed three (3) days for any one occurrence. An employee is only eligible for bereavement leave for three (3) days following the death of an immediate family member. Permanent part-time employees working less than thirty (30) hours per week shall be entitled to bereavement leave if the death and days following occur during the time the employee is regularly scheduled to work, and only for those scheduled work days.

Weekends or holidays are not included in the three-day (3) period. Additional leave time shall be charged to other available leave if authorized by the Department Head.

#### **8.5 Vacation Leave**

Vacation leave is paid time away from work earned during the working period. There is no provision for pay in lieu of paid time away from work.

For the purpose of earning and accruing vacation leave, the period of twelve (12) calendar months between January 1 and December 31 is established as the leave year.

All permanent full-time and part-time employees shall earn vacation leave, including the County Manager. Permanent part-time employees working a minimum of thirty (30) hours per week shall be entitled to three-fourths the amount of vacation leave earned by a full-time employee.

	<u>Hours Earned</u>		<u>Days Earned</u>
	<u>Per Pay Period/Per Year</u>		<u>Per Year</u>
Less than 2 years	3.08	80.00	10
2 but less than 5 years	3.70	96.00	12
5 but less than 10 years	4.62	120.00	15
10 but less than 15 years	5.54	144.00	18
15 but less than 20 years	6.47	168.00	21
20 years or more	7.39	192.00	24

A. Vacation leave may be accumulated without any applicable maximum until December 31 of each calendar year. However, if the employee separates from service through retirement, resignation, or other termination, payment for accumulated leave shall not exceed thirty (30) days or 240 hours. In the event of resignation, an employee must meet the requirements of Section 3 in order to be paid for accumulated vacation leave.

Any advanced vacation leave shall be deducted from the employee's final compensation.

- B. On December 31, vacation leave balances in excess of thirty (30) days or 240 hours shall be carried forward to sick leave. Conversely, an employee whose leave balance is a negative of three (3) or more days (24 or more hours) at any point in the year shall have a monetary deduction equal to the amount of the negative on a subsequent payroll. The employee's leave balance will then be increased accordingly.
- C. Vacation leave shall be taken with the prior approval of the employee's Department Head, and a leave request may not be approved when it would create a hardship for the County.
- D. Any employee who separates in good standing from Yancey County and is reinstated within three (3) years may receive credit for previous service for the purpose of accruing vacation leave. An employee coming to Yancey County from another local or state government as referenced in item H below may also receive credit for previous service for the purpose of accruing vacation leave if employed by Yancey County within three (3) years of separation in good standing from that government. The total months of previous service will be recognized at the end of the new introductory period.
- E. The estate of an employee who dies while employed by the County shall be entitled to payment for all the accumulated vacation leave credited to the employee's account, not to exceed a maximum of thirty (30) days or 240 hours.
- F. Employees coming to Yancey County from another local government or from a North Carolina state government agency will be given work experience credit for the purpose of Vacation Leave accrual only. Such creditable service at the other local government or state agency must be verified by that government or by the annual statement from the Local Government Employees' Retirement System (LGERS) or the Teachers' and State Employees' Retirement System

(TSERS). Prior experience credit is not applicable to re-hired retirees from either local or state government.

- G. An employee who has worked on a part-time basis in and for Yancey County and is subsequently moved to full-time status will receive pro-rata credit for the previous part-time service for the purpose of accruing vacation leave.
- H. An employee who has successfully completed the six (6) months introductory period will normally be paid for accumulated annual leave upon separation subject to the 30-day maximum, provided notice is given to the Supervisor at least two (2) weeks in advance of the effective date of resignation. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the County Manager when deemed to be in the best interest of the County.
- I. Employees who are involuntarily separated shall receive payment for accumulated vacation leave not to exceed thirty (30) days, except that at the discretion of the County Manager employees dismissed for serious violations of personal or criminal conduct may be determined ineligible to receive vacation pay.

#### **8.6 Compensatory Leave**

Compensatory Leave ("comp time") is paid time off available to non-exempt employees as a result of working in overtime status. See Section 9 for additional information on earning compensatory time.

#### **8.7 Shared Leave**

Yancey County provides the opportunity for employees to share earned sick leave with another employee who is experiencing extreme and extenuating circumstances covered in sick leave provisions. The following procedure applies to sharing sick leave:

- A. An employee experiencing an extreme and extenuating situation who has exhausted his/her sick and vacation leave may apply in writing to their Department Head to accept donated sick leave from other Yancey County employees. The written request shall include a brief description of the circumstance prompting their request;
- B. The Department Head shall review the request and forward it to the County Manager for approval or denial in consultation with the Department Head;
- C. Upon approval, the shared leave request will be forwarded to the Finance Office for payroll administration;
- D. The recipient shall continue to accrue sick and vacation leave while in a shared leave status;

- E. An employee who wishes to donate sick leave to an approved applicant must indicate in writing the employee to whom he/she wishes to donate and the hours to be donated, and submit it to the Finance Officer for payroll administration. The minimum amount of hours that can be donated is four (4), and the maximum amount of hours that can be donated shall not exceed one-half of the donor's sick leave balance;
- F. Each approval of shared sick leave shall not exceed 480 hours (six (6) weeks). Requests for additional donated sick leave must be submitted in the same manner as the original request, and all subsequent requests shall be presented to the Board of Commissioners for approval in addition to that of the County Manager; and
- G. At the termination of the circumstance requiring donated sick leave, all donated sick leave in excess of twenty-four (24) hours (not including sick leave accrued by the recipient while in shared leave status) shall be prorated and returned to each donor's sick leave balance.

### **8.8 Adverse Weather Closings**

It is the policy of Yancey County to keep all County offices and departments open during the regular workday except during the most extreme or adverse weather conditions. County offices and departments shall remain open for the full scheduled working day unless authorization for delayed opening, early closing, or other deviation is received from the County Manager. This policy does not pertain to emergency services (law enforcement, E-911 and ambulance service) and other designated personnel whose attendance during such times is considered a condition of employment. All other departments and offices will be given sufficient advance notice of any authorized early closing or delayed opening. Employees will receive full pay for all such authorized periods. Employees who leave work before an official early closing time, as well as employees who report for work late or do not report for work at all when no County-wide closing has been authorized, will be required to use earned vacation leave or compensatory time for hours or days taken.

Delayed openings or full-day closings will be communicated to all employees in the most efficient manner possible, either by 10 p.m. on the preceding evening or by 7:00 a.m. on the morning of such a day. Employees who report to work during an official closed period will not be granted extra pay or compensatory time for the reported period unless specifically directed to report to work by his or her Supervisor or Department Head.

It is recognized that weather conditions vary throughout the County, and depending on road conditions in each community the decision whether or not to report to work, or to leave early, lies strictly with each individual employee. However, available compensatory leave or vacation leave must be used for the time missed from work.

In the event of an inclement weather closing, employees on previously approved leave will remain on that leave, not adverse weather leave.

## **8.9 Court Leave**

Court leave may be granted when an employee is called for jury duty or as a witness in any civil or criminal legal proceeding. The employee shall receive leave with pay for such duty. Permanent part-time employees working less than thirty (30) hours per week shall be entitled to court leave if the proceedings occur during the time the employee is regularly scheduled to work, and only for those scheduled work days.

An employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation, except that employees must turn over to the Finance Officer any witness fees or travel allowances awarded for court appearances in connection with official duties. When an employee's obligation for jury or witness duty ends during the work day, the employee shall return to work as soon as practical. While on court leave, benefits and leave shall accrue as though on regular duty.

An employee who is involved in legal proceedings not work related shall not be entitled to court leave, but may take vacation leave, compensatory leave, or leave without pay for necessary court appearances with the approval of the Department Head.

## **8.10 Workers' Compensation Leave**

Workers' Compensation leave complies with applicable North Carolina statutes and Federal laws and runs concurrently with the FMLA. By statute the Workers' Compensation benefit is two-thirds (66.66%) of the injured worker's average weekly wage. The benefit is paid by the carrier and is tax free. The employee may elect to request sick leave pay, if available, for the remaining one-third of the day while absent for Workers' Compensation leave, as well as for the required waiting period prior to receiving Workers' Compensation pay.

## **8.11 Community Involvement Leave**

A County employee may take up to a maximum of eight (8) hours of paid leave annually to be involved with school activities of his/her child(ren) in kindergarten through high school; volunteer for educational or community organizations or events; or otherwise make a contribution to the community. For the purposes of this policy a "parent" is defined as the natural mother or father of a child; a person who has legal custody of a child; or a person who acts as a guardian of a child regardless of whether he/she has been appointed legally as such. The leave must be taken at a time mutually agreed upon by the employee and the Department Head and should be requested at least forty-eight (48) hours prior to the time of the leave.

## **8.12 Family and Medical Leave Act – FMLA**

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

### A. General Provisions

Yancey County will grant up to twelve (12) weeks (or up to twenty-six (26) weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a rolling twelve (12) month period to eligible employees. The leave may be paid, unpaid or a combination of both.

### B. Eligibility

To qualify to take FMLA, the employee must meet all of the following conditions:

1. The employee must have worked for the County for twelve (12) months or fifty-two (52) weeks which need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven (7) years unless the break includes National Guard or other military obligations. For eligibility purposes, an employee will be considered to have been employed for an entire week, even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.
2. To be eligible for any type of FMLA leave, an employee:
  - a. must have a total of at least twelve (12) months service with the employer, although the twelve (12) months need not be consecutive;
  - b. must have worked at least 1,250 hours during the last twelve months; and
  - c. must work at a worksite that has at least fifty employees within a seventy-five mile radius.

### C. Types of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

1. The birth of a child and in order to care for that child;
2. The placement of a child for adoption or foster care and to care for the newly placed child;
3. To care for a spouse, child or parent with a serious health condition;
4. The serious health condition of the employee that makes the employee unable to perform his/her job;

5. Qualifying exigency leave for families of members of the National Guard and Reserves when the covered military member is on active duty or called to active duty in support of a contingency operation; or
6. Military caregiver leave (also known as covered service member leave) to care for an ill or injured service member. This leave may extend to up to twenty-six (26) weeks in a single twelve (12) month period for an employee to care for a spouse, son, daughter, parent or next-of-kin covered service member with a serious illness or injury incurred in the line of duty on active duty. Next-of-kin is defined as the closest blood relative of the injured or recovering service member.

Employees with questions about what illnesses are covered under this FMLA policy or under the County's sick leave policy are encouraged to consult with the County Manager's Office.

#### D. Amount of Leave

An eligible employee can take up to twelve (12) weeks for the FMLA circumstances described in Section C above under this policy during any twelve (12) month period. The County will measure the twelve (12) month period as a rolling twelve (12) month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the County will compute the amount of leave the employee has taken under this policy in the last twelve (12) months and subtract it from the twelve (12) weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee can take up to twenty-six (26) weeks for the FMLA circumstance previously described (military caregiver leave) during a single twelve (12) month period. For this military caregiver leave, the County will measure the twelve (12) month period as a rolling twelve (12) month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of twenty-six (26) weeks available.

If a husband and wife both work for the County and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of twelve (12) weeks of leave. If a husband and wife both work for the County and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of twenty-six (26) weeks of leave.

#### E. Employee Status and Benefits During Leave

While an employee is on leave, the County will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member, the County will require the

employee to reimburse the amount it paid for the employee's health insurance premium during the leave period.

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

While the employee is on unpaid FMLA leave, he/she may request continuation of optional benefits and pay his/her premiums to the County in person or by mail by the 25<sup>th</sup> of the month.

#### F. Use of Paid and Unpaid Leave

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid vacation and sick leave prior to being eligible for unpaid leave. Sick leave may be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established sick leave policy.

Disability leave for the birth of the child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA. For example, if an employer provides six (6) weeks of pregnancy disability leave, the six (6) weeks will be designated as FMLA leave and counted toward the employee's twelve (12) week entitlement. The employee may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the twelve (12) week entitlement. An employee who is taking leave for the adoption or foster care of a child must use all paid vacation, personal or family leave prior to being eligible for unpaid leave.

An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid vacation or sick leave (as long as the reason for the absence is covered by the County's sick leave policy) prior to being eligible for unpaid leave.

#### G. Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in twelve (12) consecutive weeks, or may use the leave intermittently by taking a day periodically when needed over the year. The leave may not exceed a total of twelve (12) workweeks (or twenty-six (26) workweeks to care for an injured or ill service member over a twelve (12) month period).

#### H. Certification for the Employee's Serious Health Condition

Yancey County will require a certification for the employee's serious health condition, or that of the relevant family member if that is the qualifying reason for FMLA. The employee must respond to such a request within fifteen (15) days of the request. Failure to provide certification may result in a denial of continuation of leave.

The County may directly contact the employee's health care provider for verification or clarification purposes. In compliance with HIPAA Medical Privacy Rules, the County will obtain the employee's permission for clarification of individually identifiable health information.

The County has the right to ask for a second opinion if it has reason to doubt the certification. The County will pay for the employee to get a certification from a second doctor, which the County will select. The County may deny FMLA leave to an employee who refuses to release relevant medical records.

I. Certification of Qualifying Exigency for Military Family Leave

Yancey County will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within fifteen (15) days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in denial of continuation of leave.

J. Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave

The County will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within fifteen (15) days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

K. Re-certification

The County may request re-certification for the serious health condition of the employee or the employee's family member no more frequently than every thirty (30) days and only when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his/her leave. Otherwise, the County may request re-certification for the serious health condition of the employee or the employee's family member every six (6) months in connection with an FMLA absence.

L. Procedure for Requesting FMLA Leave

All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the County Manager. Within five (5) business days after the employee has provided this notice, the County Manager will respond to the request and provide the employee with information regarding their rights.

### **8.13 Military Leave**

A military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). Advance notice of military service is required, unless military necessity prevents such notice or it is otherwise impossible or unreasonable. Military Leave applies to Armed Forces Active and Reserve, Army and Air National Guard, FEMA Disaster Assistance Teams, Commissioned Corps of Public Health Service, Military Service Academies, and Reserve Officer's Training Corps (ROTC.)

Extended active duty leave will be unpaid. However, employees may use any available paid time off for the absence. Short-term military leave with pay will be granted for up to fifteen (15) workdays during the year.

Continuation of health insurance benefits is available as required by USERRA based on the length of the leave and subject to the terms, conditions and limitations of the applicable plans for which the employee is otherwise eligible. Employees on extended military leave will remain eligible for health benefits on a voluntary basis, at the employee's expense, for a period of twenty-four (24) months.

If the compensation received while on military leave is less than the salary that would have been earned during this same period as a County employee, the employee shall receive partial compensation equal to the difference. The effect will be to maintain the employee's salary at the normal level during this period. Additionally, the employee may be eligible for retirement service credit at no cost for the period of military leave in accordance with LGERS specifications.

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

Benefit accruals, such as vacation, sick leave, or holiday benefits, will be suspended during the leave and will resume upon the employee's return to active employment. However, while on involuntary military leave, seniority-based benefits such as leave accrual rates shall continue to accrue as if the employee was actively at work.

Employees on military leave for up to thirty (30) days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. Employees on longer military leave must apply for reinstatement in accordance with USERRA and all applicable state laws.

Employees returning from military leave in less than five (5) years will be returned to the same or like position they would have attained had they remained continuously employed in accordance with USERRA. They will be treated as though they were continuously employed for purposes of determining benefits based on length of service. A military discharge from DD214 with an honorable discharge must be submitted with the notification of intent to return to work.

#### **8.14 Leave Without Pay**

- A. Leave without pay for a period of up to six (6) months may be granted for appropriate reasons, such as personal disability, immediate family (spouse, children, parents, siblings, grandparents, great-grandparents, grandchildren, great-grandchildren, step-parent, step-brother, step-sister, half-brother, half-sister, mother-in-law, father-in-law, sister-in-law and brother-in-law) sickness, continuation of education, special work that will permit the County to benefit by the experience, as determined by the County Manager upon recommendation of the Department Head. Failure to report for duty at the expiration of the leave without pay period, unless an extension has been granted, shall be considered a resignation.
  
- B. An employee shall have the option to retain all unused vacation and sick leave while on leave without pay. Vacation and sick leave credits will not accrue during leave without pay. Hospitalization insurance provided for the employee by the employer during regular pay status will not be provided at County expense during leave without pay unless the employee is in the payroll status a minimum of one-half (1/2) the working days of the calendar month. The employee, however, may continue to participate in any benefit(s) provided by the County's group plans, subject to restrictions set by the respective group carriers.

#### **8.15 Administration Leave**

The County Manager may, for disciplinary reasons or during an investigative period, direct that an employee be placed on administration leave, with or without pay.

#### **8.16 Deducting Leave**

All leave and compensatory time shall be deducted in the following manner:

Emergency services personnel (law enforcement and ambulance service) shall have each hour of leave or compensatory time taken deducted, up to the total hours for the shift. All other employees shall have each hour of leave or compensatory time taken deducted, up to a total of eight (8) hours for each day absent from work.

#### **8.17 Leave Request Form**

Prior to taking vacation leave (or compensatory leave) an employee must turn in a Leave Request Form. The request form shall indicate how many hours will be taken and when the leave will be taken. The request form should be turned in as far in advance as possible, with a two (2) weeks' notice preferred.

Sick leave requests shall be turned in as soon as the employee is aware that it is necessary to take sick leave for medical appointments. When the employee is not aware in advance, sick leave requests should be turned in immediately upon the employee's return to work.

The County Manager and Department Heads may deny leave requests when the granting of a request would increase the expense of, or cause difficulty in, operating the department, thus impacting services provided by the County.

## **SECTION 9 – PAYROLL PROCEDURES AND THE PAY PLAN**

### **Employment Overview**

#### **9.1 Employment Status**

Employment status with Yancey County is one of the following:

**Full-Time Employee:** An employee in a permanently established budgeted position who is regularly scheduled to work thirty-seven and one-half (37.5) or more hours per workweek with continuous employment of at least twelve (12) months and is generally paid on a salary basis.

**Part-Time Employee:** An employee in a permanently established budgeted position who is regularly scheduled to work less than thirty-seven and one-half (37.5) hours but at least twenty (20) hours per workweek with continuous employment of at least twelve (12) months, and may be paid either on a salary or an hourly basis. Employees who work thirty (30) or more hours per week in a permanently established budgeted position are eligible for benefits, including paid leave days. Also, for the purpose of health insurance coverage, thirty (30) hours per week is termed “full time.” However, Local Government Employees’ Retirement System membership is required for employees working 19.23 hours or more per week, (1,000 hours per year.)

**Permanent Employee.** An individual who has successfully completed the introductory period and is employed in a budgeted position of an indefinite duration. Permanent employees may be full-time or part-time. Reference to “permanent” positions or employment should not be construed as a contract or right to perpetual funding or employment.

**Limited Service Employee.** An employee in a position for which either:

- a. the average work week required by the County over the course of a year is less than twenty (20) hours (or 1,000 hours per year); or
- b. continuous employment required by the County is less than twelve (12) months.

**Introductory Period Employee:** An individual employed in a permanently established budgeted position that has served less than six (6) months in that position. The employee’s job performance will be carefully monitored during, and evaluated at the end of, the introductory period for determination of continued employment.

## **Payroll Procedures**

### **9.2 Pay Period and Payday**

The pay period for Yancey County Government begins at 6:01 a.m. each Saturday and ends at 6:00 a.m. on the following Saturday.

All employees shall be paid on a bi-weekly basis, with Thursday designated as payday. If payday falls on a holiday, employees will be paid on the last working day before the holiday. Payroll is processed based on timesheets, as prescribed by the Finance Officer, which are due in the Finance Office on alternate Fridays preceding payroll on the next Thursday.

### **9.3 Direct Deposit of Payroll**

Direct deposit of payroll is a benefit available to all Yancey County employees. Individuals employed in part-time or full-time permanently established budgeted positions will be paid through direct deposit of payroll only. Direct deposit may go to any account and to any banking institution.

### **9.4 Timesheets**

The Fair Labor Standards Act requires that a full record and accounting of all non-exempt employee hours worked must be maintained by the employee and kept on file by the employer for a three (3) year period. The following procedures are to be followed:

1. All non-exempt employees are required to keep a daily time record of actual hours worked, including start/stop times. The time record shall be completely filled out, and shall reflect accurately the time that an employee arrives for work and when the employee leaves. The type of record shall be determined by the Finance Officer, and whether paper or electronic is referenced in these policies as "timesheet."
2. If the employee does not work on a particular day (i.e., vacation, sick leave) the appropriate code(s) should be entered.
3. The information on the timesheet may be reviewed by the Supervisor at any time. It is the Supervisor's responsibility to ensure that timesheets are kept up to date and are accurate.
4. At the end of the pay period the timesheet is to be signed and dated by the employee and submitted to the Department Head. The Department Head will in turn review and certify the timesheet by signing and dating it, then submit it to the Finance Office as directed by the Finance Officer. All timesheets will be kept on file in the Finance Office for a period of three (3) years.
5. Any fabrication of information will result in disciplinary action, up to and including termination.

6. Time records must also be kept by exempt employees in order to substantiate attendance and leave days.

### **9.5 Pay for Part-Time Work**

Compensation of any employee whose work assignment is less than thirty-seven and one-half (37.5) hours per week may be computed on an hourly basis. Permanent part-time employees whose regular work assignment is thirty (30) or more hours per week will receive the same paid holidays as the full-time employees provided that they are regularly scheduled to work on the day the holiday occurs.

### **9.6 Holiday Pay**

Yancey County permanent non-exempt employees working in various areas (such as law enforcement, E-911, ambulance service, parks and recreation, transportation, and convenience centers) are subject to being scheduled for work on holidays. Those employees will receive double their regular rate of pay for working on a holiday observed by Yancey County Government, or double hours worked added to their compensatory time balance. However, time worked on a holiday will be counted hour for hour (not double time) for the purposes of reaching overtime status, which is actual time worked in excess of forty (40) hours in the designated work week or eighty-six (86) hours in the work period for law enforcement that results in compensatory leave. Emergency services personnel (law enforcement, E-911 and ambulance service) will have an annual board-approved calendar with regard to designated holidays to ensure equal application of this holiday pay policy.

### **9.7 Payroll Deductions**

All statutory taxes including Federal and State income taxes, Social Security and Medicare (FICA) tax, and retirement contributions shall be deducted as required by law. Other voluntary deductions such as health insurance, miscellaneous insurance products, and certain contributions (United Way, etc.) will be deducted as authorized by law and the Yancey County Board of Commissioners. All voluntary deductions will be based on the employee's authorizing signature. Enrollment dates and processes for all voluntary deductions will be communicated each year so that all eligible employees are informed and participation is readily available.

### **9.8 Wage Garnishment**

The Yancey County Finance Office will appropriately acknowledge all wage garnishments from other governments – Local, State and Federal. In addition, it is required that each Yancey County employee pay his or her County property tax in a timely fashion. Failure to do so will be considered a violation of these policy provisions and the property tax due will be subject to garnishment from the employee's payroll check.

### **9.9 Annual Longevity Pay**

Longevity pay is a benefit paid annually to those employees who have ten (10) or more years of aggregate Yancey County service. Longevity pay amounts are computed by multiplying the employee's base rate on the date of eligibility by the applicable percentage as follows:

<u>Years of Aggregate County Service</u>	<u>Longevity Pay Rate</u>
10 but less than 15 years	1.25 percent
15 but less than 20 years	2.25 percent
20 but less than 25 years	3.25 percent
25 or more years	4.50 percent

1. An employee must have ten (10) years of aggregate qualifying service before being eligible for a longevity payment.
2. The employee must be in a part-time or full-time thirty (30) or more hours per week permanently established budgeted position at the time of qualification.
3. The aggregate service requirement shall not include temporary or part-time less than thirty (30) hours employment; periods of break in service; or leave without pay in excess of one-half (1/2) the workdays in a month, with the exception of military leave. The aggregate service requirement shall include the introductory period that precedes permanent status.
4. If the employment status changes to temporary or part-time less than thirty (30) hours the employee is ineligible for continued longevity pay.
5. Longevity pay is not considered a part of annual base pay for classification and pay purposes, nor is it to be recorded in personnel records as part of annual base salary.

### **9.10 Administration and Maintenance of Pay Plan**

The County Manager should be responsible for the administration and maintenance of the pay plan. The pay plan shall be administered in a fair and systematic manner. It is intended to provide equitable compensation for all positions when considered in relation to each other and based on relative duties and responsibilities, to general rates of pay for similar employment in the private and public sector in the area, to changes in the cost of living, and to financial conditions of the County. The County Manager shall periodically make comparative studies of all factors affecting the level of salary ranges and shall recommend to the Yancey County Board of Commissioners such changes in salary ranges as are warranted.

### **9.11 Payment at a Listed Rate**

Employees covered by the salary plan shall be paid at a listed rate within the salary ranges established for their respective job classes except for employees in a trainee status or employees whose present salaries are above the established maximum rate following transition to a new pay plan. When an employee attains the maximum rate of a salary range for his/her present position, no further salary increase will be received unless the position is reclassified, the employee is promoted to another position with a higher salary range, or the salary for the present position is increased.

### **9.12 Hiring Rate/Starting Salary**

Employees will be hired at the minimum amount of their assigned salary grade. Appointments above the minimum amount may be made by the County Manager when deemed necessary for the best interests of the County. Higher placement will be based on such factors as superior qualifications of the applicant or a shortage of qualified applicants available at the hiring rate. Appointment above the mid-point salary must be approved by the Board of Commissioners.

### **9.13 Trainee Salaries**

An applicant hired who does not meet all the established requirements of the position shall be paid with the approval of the County Manager at a pay rate of one percent (1%) below the minimum salary. Employees subject to the State Human Resources Act will be designated "trainees" in accordance with rules and regulations established by the Office of State Human Resources. Other County employees shall be designated "trainees" when recommended by the Department Head with the approval of the County Manager. An employee in a trainee status shall continue to receive a reduced salary until the appointing Department Head and the County Manager determine that the trainee is qualified to assume the full responsibilities of the position.

### **9.14 Failure to Perform Satisfactorily**

An employee who fails to perform satisfactorily, whether during the introductory period or during advancement from Step 1 to Step 4 (the Standard Job Rate), will be denied the scheduled salary increase. Employees who have advanced to the Standard Job Rate (Step 4) will be required to perform at a satisfactory level.

### **9.15 Pay Increase for Job Certifications**

Yancey County encourages additional education and/or training for certifications that enhance job skills. The training must have the prior approval of the Department Head and the County Manager and is not for basic certifications that are a requirement of the job held. Successful completion of special certifications will result in an additional \$600 per year (\$50 per month) added to the employee's annual compensation.

### **9.16 Pay Rates in Promotion, Reclassification, Demotion and Transfer**

When an employee is promoted, demoted, transferred, or reclassified, the rate of pay for the new position shall be established as follows:

- A. When a promotion or reclassification occurs, if the employee's current salary is below the new minimum, it shall be increased to the minimum amount of the salary range to which he/she is promoted or reclassified. If an employee's current salary is already above the new minimum salary rate, his/her salary may be adjusted one (1) step upward or left unchanged at the discretion of the County Manager, provided that the adjusted salary does not exceed the maximum of the new assigned salary range.
- B. If an employee is demoted as a result of a reclassification, and the employee's current salary falls above the maximum range for the lower class, the employee's salary will remain unchanged until general schedule adjustments or range revisions contain that amount. If an employee is demoted for cause, the employee's salary will be reduced to any step in the lower salary range as long as the reduced salary does not fall below the minimum salary rate of the new range.
- C. When a transfer occurs from a position in one class to a position in another class assigned to the same pay range, the employee shall continue to receive the same salary.

### **9.17 Pay Rates in Salary Range Revisions**

If the Yancey County Board of Commissioners approves a change in salary range for a class of positions, the salaries of employees whose positions are allocated to that class shall be affected as follows:

- A. When a class of positions is assigned to a higher pay range, employees in that class may receive a pay increase of one percent (1%) or an increase to the minimum step of the new range, whichever is higher.
- B. When a class of positions is assigned to a lower pay range, the salaries of employees in that class will remain unchanged. If this assignment to a lower pay range results in an employee being paid at a rate above the maximum amount established for the new class, the salary of the employee shall be maintained at that level until such a time as the employee's pay range is increased above the employee's current salary.

### **9.18 On-Call and Call-Back Compensation**

Yancey County provides continuous service twenty-four (24) hours per day, seven (7) days per week to its citizens. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. The County provides compensation for employees who are

required to be available for after hours on-call duty. The County Manager determines the departments and positions that are eligible for the on-call compensation. Compensation for time spent while on call and for time spent when actually called back to work shall be determined as follows:

1. On-call time consists of scheduled non-work hours during which an employee is required to be available to be called back to work on an emergency basis and must respond within a reasonable period of time, be free from the influence of alcohol or narcotics and be able to work. Call-back time consists of actual time spent when called back to work to handle an emergency situation.
2. On-call schedules must be approved by the Department Head.
3. Yancey County chooses to compensate employees at a rate less than regular pay for the inconvenience of being on call where time is not substantially restricted. Those employees classified as non-supervisory and required to be on call will be paid at the rate of \$12.00 (twelve dollars) per day for each day on call. Employees classified as Supervisory and required to be on call will be paid at the rate of \$15.00 (fifteen dollars) per day for each day on call.
4. Hours actually worked while on call begins when the employee reports to the work site or begins the work process and concludes when the emergency situation ends. These hours are added to the employee's compensatory time balance.

## **9.19 Fair Labor Standards Act and Overtime Compensation**

### **Code of Federal Regulations – Title 29 Part 553**

#### **A. General Provisions**

All employees of Yancey County can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the County and as determined by the Supervisor. For the purposes of this section, "Supervisor" is defined as "Department Head" supervising County functions and "County Manager" supervising Department Heads.

Elected public officials and staff members in policy-making positions under the supervision of the elected officials are excluded from provisions of the Act.

#### **Exempt or Non-Exempt Employees**

All positions in Yancey County are determined to be exempt or non-exempt from the provisions of the Fair Labor Standards Act. Such determination is based on the criteria set forth in the law which considers salary amount, responsibilities and job duties.

## B. Non-Exempt Employees

Non-exempt employees in all departments are expected to work during all assigned periods and are not to perform work during any time that they are not scheduled to work unless they receive approval from the Supervisor, except in cases of emergency. All employees (not including law enforcement) occupying positions determined to be non-exempt are entitled to overtime compensation when the work week exceeds forty (40) hours. In determining eligibility for overtime in a work period only hours actually worked shall be considered, thus vacation, sick leave, or non-working holidays are not to be included in the computation of hours worked for FLSA purposes.

Public safety (law enforcement) employees determined to be non-exempt are entitled to overtime compensation when the work period (fourteen (14) days or one bi-weekly pay period) exceeds eighty-six (86) hours.

Yancey County, in agreement with its employees upon employment and as a condition of employment as noted in Section 6.26, provides paid compensatory time off to most non-exempt employees who have earned such time. The rate is one and one-half ( $1\frac{1}{2}$ ) hours earned for each hour worked above forty (40) in the work week for all departments except law enforcement, or above eighty-six (86) hours in the work period for law enforcement. Compensation for overtime for non-exempt law enforcement employees will be either paid time added in the next payroll period or compensatory time added to the employee's balance, the choice of which will be determined by the Supervisor.

Only hours worked in excess of forty (40) or eighty-six (86) as applicable, are compensated at the rate of one and one-half ( $1\frac{1}{2}$ ) times worked. However, time worked in excess of the standard work week of thirty seven and one-half ( $37\frac{1}{2}$ ) hours established by Yancey County is compensated at a straight time rate and is considered other compensatory time. Whenever practical, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees to avoid creating an overtime condition.

Accumulation of more than eighty (80) hours of compensatory time is discouraged and must have the approval of the County Manager.

Employees may not "volunteer" to perform the same type of services for which they are employed by Yancey County to perform. Conversely, employees may occasionally or sporadically work freely and solely at their own option in a different capacity from their regular employment with total hours worked not being combined for the computation of overtime compensation.

When two employees agree, solely at their option and with the approval of the Supervisor, to substitute for one another during scheduled work hours, the hours worked shall be excluded in the calculation of hours for which the substituting employee would otherwise be entitled to overtime compensation.

Use of the earned compensatory time by all employees will be only with the prior approval of the Supervisor and at a time that is convenient for the County.

Non-exempt employees may not accrue more than 240 hours of compensatory time, and non-exempt public safety and seasonal employees may not accrue more than 480 hours of compensatory time.

Upon termination of employment an employee shall be paid for unused compensatory time at the average regular rate received during the last three (3) years of employment or the final regular rate, whichever is higher.

### C. Exempt Employees

Employees occupying positions determined to be exempt (not covered by the law) will not receive compensation for hours worked in excess of their normal work week. These employees may be granted compensatory leave by their Supervisor during extreme situations and when the convenience of the department allows in accordance with procedures established by the County Manager. Such compensatory time is not guaranteed to be taken and ends without compensation upon separation from the County.

### D. Yancey County Sheriff's Office

In addition to the preceding sections of this policy, the following sections are applicable to the employees in the Yancey County Sheriff's Office:

#### Civilian Employees

Civilian employees include all office support personnel and others who do not qualify as "law enforcement" under FLSA Section 7(k). These employees have a seven-day work period and receive time-and-one-half compensatory time off for overtime hours after forty (40) hours of work in each work week. Compensatory time at the straight time rate is earned when accumulated hours exceed the normal work schedule but are less than forty (40) hours of work in each work week. With permission of the Supervisor, time worked beyond the scheduled hours on a workday can be used to reduce working hours on another scheduled day within the same work week or can be used to reduce the leave time requested for time off in that work week. The work period for civilian employees is consistent with that of regular County employees.

#### Justice Officers

For the purpose of this policy, justice officers are sworn law enforcement and detention officers. The work period for justice officers is a 14-day work period with the FLSA Section 7(k) eighty-six (86) hour overtime threshold. The period begins at 6:01 a.m. on Saturday and ends at 6:00 a.m. Saturday two (2) weeks later.

The work schedule for all justice officers is eighty-four (84) hours per work period and includes deputies assigned to road patrol, detention officers, bailiffs, court house security, administrative deputies and detectives.

Supervisors will work with employees to maintain coverage and evaluate hours worked past schedules. Non-exempt officers will document the reason for any hours worked over eighty-four (84). Comments shall include date and reason for time worked past regular schedule. All hours worked between eighty-four (84) and eighty-six (86) will be compensated at straight time. Hours worked over eighty-six (86) will be compensated with FLSA compensatory time accumulated at time-and-a-half for each overtime hour worked, or with overtime pay at one-and-a-half (1½) times the regular hourly rate. Timesheets will be reviewed and reconciled at the end of each fourteen (14) day work period. Timesheets will be completed by each employee of the Sheriff's Office in the manner and schedule required by the Yancey County Finance Office, and then submitted to the immediate Supervisor or designee. Supervisors should review the timesheet for accuracy.

When determining overtime, days off including sick leave, holiday, annual leave and compensatory time off are not counted as hours of work. When leave is used, justice officers will account for eighty-four (84) hours on the timesheet for the fourteen (14) day work period including sick leave, holiday, annual leave and FLSA compensatory time.

### General Compensation Guidelines

The following guidelines are provided as general compensation guidelines for all justice officers:

Shift Change Coverage: Time on duty at shift change during briefing and debriefing and shift overlap is compensable hours of work and must be reported accurately. Such time must be kept to the absolute minimum to maintain coverage. Time socializing with other officers at shift change is not compensable hours of work and reporting such time as hours of work is a violation of policy.

Court Time: When an officer is required to attend court for a work-related case, this time is compensable and shall be reported as hours worked.

In-Service Training: When an officer attends in-service training that is required or directly related to their current position, the time shall be reported as hours worked. This includes firing range practice and qualification when officers are required to qualify with their weapons.

### Special Assignments

Any officer working an event such as 4<sup>th</sup> of July celebration, Christmas or other parades, events, marches, demonstrations, riots, labor disturbances, manhunts, fires and other incidents that are of an emergency nature will count the time as hours worked. All hours worked between eighty-four (84) and eighty-six (86) will be compensated at straight time or at the employee's regular hourly rate. Hours worked over eighty-six (86) will be compensated with FLSA compensatory time accumulated at time-and-a-half for each overtime hour worked or one-and-a-half times the employee's regular hourly rate.

## General Procedures

The following procedures will be followed to ensure consistency in complying with FLSA:

- All timesheets will be presented by the end of each fourteen (14) day work period;
- All hours worked must be recorded on the timesheet;
- Supervisors are required to monitor time and can relieve employees from duty and/or alter their work schedule in efforts toward reducing straight time and FLSA overtime;
- Employees are responsible for ensuring that each timesheet is a true and accurate record. Supervisors are also responsible for ensuring the accuracy of their employees' timesheets;
- Employees and Supervisors shall not maintain any separate time records;
- All other rules of payment as established by the Yancey County Finance Office will apply;
- Supervisors will review timesheets and make necessary corrections to assure compliance with this policy; and
- Accrued compensatory time should not exceed eighty-four (84) hours at the end of the calendar year. Exceptions to this must be approved in writing by the Chief Deputy.

## Payment of Overtime Compensation

Subject to financial considerations and budgetary issues, payment of overtime money through the payroll process may be used to compensate employees under certain circumstances. Employees earning time worked beyond their normal shifts are subject to compensation based on FLSA. If an employee earns time compensable under the FLSA and accurately documents their time on the approved timesheet, they may request to be paid for their overtime in lieu of compensatory time.

The foregoing Personnel Policies are periodically reviewed and revised as needed by the Yancey County Board of Commissioners. These policies are intended to set forth clearly the expectations of the governing body for employment with Yancey County. Additionally, these policies recognize the value of the government's employees in providing services to the citizens of Yancey County, and also set forth both benefits and protections for those employees.