

RESOLUTION 2017-04

A RESOLUTION AMENDING THE FOLLOWING SECTIONS OF THE PERSONNEL POLICIES AND PROCEDURES MANUAL REGARDING CHANGES TO THE EMPLOYEE LEAVE SYSTEM: (1) SECTION 6, EMPLOYEE STATUS, (2) SECTION 11, COMPENSATION, (3) SECTION 14, OCCUPATIONAL SAFETY AND HEALTH AND EMPLOYEE ACCIDENTS AND INJURIES, (4) SECTION 15, LEAVE, (5) SECTION 17, ETHICS, (6) SECTION 18, ALCOHOL AND DRUG USE SCREENING, TESTING, AND TREATMENT, AND (7) SUBSECTION 24.B, PROCEDURE – DISCIPLINE; ENACTING SECTION 15A, PERSONAL TIME OFF (PTO); AND MAKING TECHNICAL CORRECTIONS

WHEREAS, the Tooele County Commission desires to revise and update the current employee leave policy with a more modern and flexible personal time off (PTO) policy. Use of a PTO policy will be more fiscally stable than the current leave policy which creates an unknown financial liability; and

WHEREAS, the County intends to institute the new PTO policy for all new employees hired on or after July 1, 2017. Current County employees will be offered the option to convert to the new PTO policy by July 1, 2017 or remain under the current leave policy.

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE COUNTY COMMISSION that the following sections of the Personnel Policies and Procedures Manual are amended to read as attached hereto, which attachments are, by this reference, made a part hereof:

- (1) Section 6, "Employee Status," is amended (Attachment 1);
- (2) Section 11, "Compensation," is amended (Attachment 2);
- (3) Section 14, "Occupational Safety and Health and Employee Accidents and Injuries," is amended (Attachment 3);
- (4) Section 15, "Leave," is amended (Attachment 4);
- (5) Section 15A, "Personal Time Off (PTO)" is enacted (Attachment 5);
- (6) Section 17, "Ethics," is amended (Attachment 6);

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- (7) Section 18, "Alcohol and Drug Use Screening, Testing, and Treatment" is amended (Attachment 7); and
- (8) Subsection 24.B, "Procedure," in Section 24, "Discipline" is amended (Attachment 8).

EFFECTIVE DATE: This resolution shall take effect immediately upon passage.

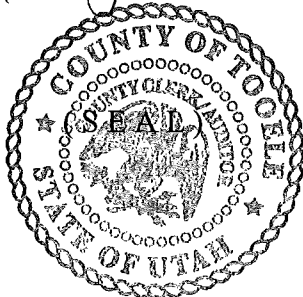
DATED this 20th day of June 2017.

ATTEST:

TOOELE COUNTY COMMISSION:



Marilyn K. Gillette, Clerk/Auditor


Wade B. Bitner, Chairman



Commissioner Bateman voted aye
Commissioner Bitner voted aye
Commissioner Milne voted aye

APPROVED AS TO FORM:


SCOTT A. BROADHEAD
Tooele County Attorney

**SECTION 6
EMPLOYEE STATUS**

- A. **DEFINITION**: As used in these personnel policies and procedures, “employee” means each full-time, part-time, or appointed worker, elected official, and any temporary, seasonal or on-call worker in the service of the county, under any contract of hire, express or implied, written or oral. “Employee” does not include any independent contractor, volunteer, or court-appointed ward.
- B. **FULL-TIME EMPLOYEES**: Non-elected, compensated employees not in appointed positions and who regularly work 40 hours per week, or 84 hours in a 14-consecutive-day period if a sworn law enforcement officer, are full-time employees.
- C. **PART-TIME EMPLOYEES**:
1. Non-career service part-time employees: Employees who are hired to work less than 20 hours per week receive no fringe benefits. They are not hired pursuant to the regular hiring procedure. They are exempt from career service. They may not be transferred or promoted to a status which provides for fringe benefits without going through the regular hiring procedure. They may be terminated without cause. Part-time employees may be authorized to work more than 20 hours per week during peak seasonal periods. Time spent in a non-career service part-time position will not count towards seniority benefits.
 2. Career service half-time employees: Employees hired to work more than 20 hours per week but less than 30 hours per week receive fringe benefits, except medical, dental, and life insurance. They accrue leave on a prorated basis according to their half-time status, pursuant to Sections 15 and 15A. A career service half-time employee may be authorized to work more than 30 hours per week during peak seasonal periods. They are hired pursuant to the regular hiring procedure and serve an extendable six-month probation. They may be transferred or promoted to a status which provides for additional fringe benefits without going through the regular hiring procedure. Time spent in a career service part-time position counts towards seniority benefits.
 3. Career service three-quarter-time employees: Employees hired to work more than 30 hours per week but less than 40 hours per week receive fringe benefits including medical, dental, and life insurance. They accrue leave on a prorated basis according to their three-quarter-time status, pursuant to Sections 15 and 15A. They are hired pursuant to the regular hiring procedure and serve an extendable six-month probation. They may be transferred or promoted to a full-time position without going through the regular hiring procedure. Time spent in a career service part-time position counts towards seniority benefits.
- D. **APPOINTED EMPLOYEES**:
1. The following employees are designated as appointed employees:

- a. chief deputies and members of elected officials' personal staff;
 - b. members of policy, advisory, review, and appeal boards or similar bodies who do not perform administrative duties as individuals;
 - c. time-limited or contract positions established for the purpose of conducting special projects and programs;
 - d. department directors who are not elected;
 - e. the lieutenants in the sheriff's department; and
 - f. temporary, seasonal, on-call, and emergency employees.
2. Unless state law defines otherwise, employees serving in appointed positions pursuant to Utah Code 17-33-8, serve at the discretion of the Commission or appointing authority. Appointed positions are exempt from career service. Appointed employees shall have no expectation of continued employment. They may be dismissed without cause for any reason other than age, race, sex, religion, national origin, or disability, except where there are bona fide occupational qualifications. They have no appeal rights after a dismissal. Appointed positions are not subject to the regular hiring procedure unless specifically stated otherwise. The hiring process for these positions shall be determined solely by the appointing authority.
 3. Except where specifically stated otherwise, appointed department heads are eligible to participate in and receive all other benefits of county employment, as well as those negotiated as a condition of hire, and are subject to the other provisions of the county's personnel policies that have no relationship to appointed employee status.
 4. Notwithstanding any provision to the contrary, the director of the Health Department is appointed by the County Board of Health, which also determines the director's compensation, subject to ratification by the County Commission. The director is subject to removal for cause by the Board of Health or by the County Commission if it rescinds, or withdraws, in writing the ratification of the director, in accordance with Title 26A of the Utah Code.
 5. The Human Resources Director is appointed pursuant to Utah Code 17-33-5.
 6. Lieutenants in the sheriff's department are key policy-determining positions and are appointed pursuant to Utah Code 17-33-8(1). They are exempt from career service. Notwithstanding any provision to the contrary, such lieutenants are eligible to participate in and receive all benefits of county employment, shall accrue leave, and are subject to those provisions of the county's personnel policies that have no relationship to appointed employee status. The salaries will be pursuant to the established county compensation plan.

E. ELECTED OFFICIALS:

1. Elected officials are excluded employees pursuant to Subsection 11(A)(3) of the Personnel Policies and Procedures Manual and their salaries are established annually by resolution of the County Commission. Elected officials receive the same fringe benefit package that full-time employees receive.
2. Elected officials are not covered by the personnel policies and procedures. They shall administer their departments according to these personnel policies and procedures. In the event that any elected official is found to have a serious behavior or performance violation which would result in suspension, demotion, or termination for a merit employee, the elected official shall be publicly censured by the Commission.

F. CHIEF DEPUTIES:

1. Chief deputies are excluded employees pursuant to Subsection 11(A)(3) of the Personnel Policies and Procedures Manual, and their salaries are established annually by resolution of the County Commission. However, the salary of a chief deputy shall be equal to or greater than the salary the employee would receive under the regular county compensation plan. Chief deputies receive the same fringe benefit package that full-time employees receive.
2. Chief deputies serve in their position at the discretion of the elected official or department head they serve under. Chief deputies may be removed without cause from their position by the elected official or department head they serve under. In the event that any chief deputy is found to have a serious behavior or performance violation which would result in suspension, demotion, or termination for a merit employee, the elected official or department head shall discipline the chief deputy in the same manner as a merit employee or be publicly censured by the Commission.

G. TEMPORARY AND SEASONAL EMPLOYEES: Temporary and seasonal employees work on a short-term basis, usually to perform a specific piece of work. Applicants must meet the position's minimum qualifications. Such employment shall not exceed 90 days, with the period extendable for a period not to exceed an additional 90 days for good cause. (*Reference: Utah Code Ann. 17-33-5(3)(b)(ix)*). The hiring authority shall notify the Human Resources Director before any offer is made. The hiring of seasonal employees who may be required to work more than six months in a year and who may be recalled from year to year as departmental needs dictate shall follow the regular hiring procedure. Temporary and seasonal employees receive no fringe benefits.

H. ON-CALL EMPLOYEES: On-call employees work as department needs dictate but have no regular working schedule. Such employees are not entitled to fringe benefits. They are not subject to the regular hiring procedure. They may not be transferred or promoted to a status which provides for fringe benefits without going through the regular hiring procedure. They may be terminated without cause.

- I. **INDEPENDENT CONTRACTORS**: Independent contractors are those persons engaged in work for Tooele County who are independent of the county in all that pertains to execution of their work, are not subject to the rule or control of the county, are engaged only in the performance of a definite job or piece of work, and are subordinate to the county only in effecting a result in accordance with the county's design. Independent contractors are not covered by the personnel policies and procedures. Elected officials or department heads must enter into a written agreement with each independent contractor. If the written agreement is other than the pre-approved form for independent contractor agreements, then the agreement must be reviewed by the County Attorney and the Human Resources Director. The agreement must be approved by the Commission consistent with Tooele County Code 1-8-1 et seq. A copy of the agreement must be provided to the Auditor's Office for payment purposes only.
- J. **VOLUNTEERS**: "Volunteer" means any person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by Tooele County. "Volunteer" does not include any person who has been convicted of a criminal offense; any youth who has been adjudged delinquent; or any person or youth who has been diverted from the criminal or juvenile justice system and performs a public service as a condition of the person or youth's sentence, diversion, probation, or parole. "Volunteer" includes a juror or potential juror appearing in response to a summons for a trial jury. Services rendered by a volunteer shall not be the same type of service which the person is otherwise employed to perform for the county. A volunteer may not donate any service to Tooele County unless the volunteer's services are approved by the County Commission or the department head, and by the office of personnel. Volunteers shall provide their name, address and contact information on a tracking sheet, which shall be submitted by the department head to the Human Resource Department. Volunteers are not covered by other provisions of the county's personnel policies, except they may be entitled to receive workers' compensation medical benefits. (*Reference: Utah Code Ann. 67-20-1 et seq.*) Volunteers who drive on county business and who are age 68 and above must provide proof of attendance at an AARP Driving Safety Course or other mature driving program before driving on county business. The county may require volunteers to submit to a background check, which may include the volunteer providing criminal history record information provided by a law enforcement agency. The county may refuse the services of the volunteer for any reason, including the results of the background check.
- K. **COURT-APPOINTED WARDS**: Prisoners or probationers required to work by or for Tooele County are not covered by the provisions of the county personnel policies and procedures, except for workers' compensation.
- L. **PROBATIONARY EMPLOYEES**: Newly-hired employees serve an extendable six-month probation, except for peace officers whose probationary term is for an extendable twelve-month period (see UCA 17-30-11). Probationary employees are at-will employees. They have no expectation of continued employment with Tooele County. They may be discharged with cause, without cause, for rule violation, or for any reason other than a reason prohibited by law. Probationary employees may not invoke the grievance process except as described in this subsection. Employees who move to a new position, whether involuntarily or voluntarily, are subject to this subsection, and shall also have no expectation of continued employment in the new position until successfully completing the probationary period.

M. STUDENTS: Departments are encouraged to arrange their employment to accommodate students during summer months and summer vacations. However, no person under age 16 may be employed by the county unless authorized by the Human Resources Director and the County Commission.

N. CAREER STATUS: An employee who has successfully completed a probationary period in a career service position, as evidenced by a satisfactory employee performance appraisal, shall have earned career service time.

O. CAREER SERVICE EXEMPT EMPLOYEES:

1. A career service exempt employee occupies a position which either (i) is funded by grant monies or another alternate funding source, or (ii) the duration of the work to be performed does not exceed three years.
2. Career service exempt employees accrue benefits in the same manner as other career service employees. The employment term of a career service exempt employee is temporary and subject to the availability of funds from the source or the continuing need of the county for the work to be performed.
3. Such employees shall be terminated without rights of appeal when funding is no longer available or the need of the county for the work to be performed no longer exists. They will not have the rights of the reduction in force provisions.
4. Employees accepting career service exempt positions shall be required to sign a letter specifying conditions of employment and the funding source to which the position is tied or specifying that the anticipated duration for the work to be performed does not exceed three years.
5. The Human Resource Department, consulting with the appointing authority, will determine which positions are career service exempt.
6. Employees hired in career service exempt positions prior to the effective date of this policy are considered career service employees.

SECTION 11 COMPENSATION

A. COMPENSATION PLAN:

1. Covered employees shall be paid an hourly wage at their grade and step according to the compensation plan then in effect.
2. Exempt employees shall be paid an annual salary according to the compensation plan then in effect.
3. Excluded employees shall be paid an annual salary established by resolution of the County Commission. Such employees do not receive overtime pay or compensatory time off.
4. The compensation plan shall be approved each year by the County Commission.

B. OVERTIME:

1. Accrual of overtime hours is discouraged. If the requirements of a department mandate extra hours worked, the department head shall arrange schedules to avoid overtime pay if possible and give preference to the accrual of compensatory time. Except in the case of an emergency, no department head shall authorize overtime hours which will result in overtime pay without prior approval of the County Commission on the approved "Overtime Authorization Form." The Overtime Authorization Form must be signed and submitted to the Auditor's Office. Prior to working overtime, an employee shall obtain specific direction to work from the department head.
2. Each covered employee shall be paid overtime at one and one-half times the employee's regular rate of pay for each hour worked in a work week in excess of 40 hours. Pursuant to Section 207(k) of the FLSA, overtime for covered sworn law enforcement officers begins to accrue after 84 hours have been worked in the 14-consecutive-day work period.
3. "Hours worked" includes those hours on the job in productive work effort and jury leave. It does not include annual leave, sick leave, personal time off (PTO), holiday leave, administrative leave, emergency leave, maternity leave, military leave, converted sick leave, or compensatory time off.
4. Overtime hours shall be recorded on the time card for the pay period in which they are accrued.

C. COMPENSATORY TIME:

1. In lieu of monetary overtime compensation, compensatory time off is authorized for covered employees at a rate of one and one-half hours of compensatory time for each hour of overtime worked.

2. The use of compensatory time shall be authorized only for those employees who have previously entered into the compensatory time off agreement with the county.
3. Covered employees generally may accrue up to 40 hours of compensatory time. After 30 days, any amount of compensatory time in excess of 40 hours will be paid by the county.
4. An employee who has accrued compensatory time and requests use of the time will be permitted to use the time off within a reasonable period after making the request if it does not unduly disrupt the operations of the department.
5. Compensatory time accrued after the effective date of this section shall be exhausted before leave or personal time off (PTO) is used.
6. Compensatory time shall be recorded on the time card for the pay period in which it is accrued. Any unused compensatory time shall be reflected upon subsequent time cards until it has been completely used. The use of accrued compensatory time shall also be recorded on the time card for the pay period during which the time off was taken.
7. Tooele County may freely substitute cash in whole or in part for compensatory time. Payments for accrued compensatory time will be paid at the regular rate earned by the employee at the time the employee receives payment. Employees who have accrued the maximum number of compensatory hours shall be paid overtime compensation in cash for any additional overtime hours worked.
8. Upon termination or retirement, a covered employee will be paid for unused compensatory time figured at the average regular rate received by such employee during the last three years of employment, or the final regular rate received by such employee, whichever is higher.
9. Exempt employees who work more than 40 hours in a week or, if an exempt sworn law enforcement officer, more than 84 hours in a 14-consecutive-day work period, shall be granted compensatory time at the rate of one hour for every extra hour worked. This is straight-time, non-FLSA compensatory time. There is no cap on the number of compensatory hours exempt employees can earn. Because exempt employees are salaried, they are not paid additional sums for compensatory time. Upon termination or retirement, exempt employees shall not be entitled to any pay for accrued compensatory time.

D. HOLIDAY PAY:

1. Sunday shall not be a paid holiday for employees. When a holiday falls on a Saturday, it shall be observed on the preceding work day. When it falls on a Sunday, it shall be observed on the following work day.
2. When an employee works on a holiday, that employee will receive straight time plus time and one-half pay for time worked. However, this paragraph does not apply to the following classes of employees: part-time employees who work less than 20 hours per week and

appointed employees, as defined in Section 6 of the Tooele County Personnel Policies and Procedures.

3. Career service half-time and three-quarter-time employees shall be paid for county holidays at the same rate as if they had worked their regular part-time hours.
 4. An employee must be in a paid status through the date of the holiday to receive holiday pay.
 5. For departments which are required to be open on certain holidays, if an employee does not work on the holiday and the employee has worked a full work week, the department head shall have the option to either (i) grant the employee a day off to compensate the employee for the holiday, or (ii) instead of granting a day off to the employee, pay the employee his/her regular wage for that day off.
- E. CALL-OUT PAY:** The time spent waiting while on-call is not considered working time. If an employee is required by the employee's supervisor to return to work at other than the employee's regular work hour, the employee shall be credited with a minimum of two hours worked.
- F. REAPPOINTMENT RATE:** Employees who are reappointed to a position they held previously shall not be paid at a step higher than when they terminated without approval of the appointing authority and the County Commissioner responsible for personnel.
- G. PAY ADVANCEMENT WITHIN PAY GRADES:** Probationary employees who satisfactorily complete their probationary period shall be eligible for a step raise. Thereafter, employees may receive an annual step raise if they receive a score of 70 or better in the annual performance review. Step raises occur until the maximum step is reached. All pay advances within a grade shall be subject to budget constraints, revenue projections, other factors affecting financial resources, and the county's ability to fund the increases. The County Commission may freeze pay advances recommended for employees.
- H. ELIGIBILITY DATE ADJUSTMENTS:** If an employee receives a career ladder change within their job classification, the employee's eligibility date for pay advancement shall nevertheless not be adjusted. When an employee voluntarily changes job classification from one department or division to another, the eligibility date for the pay adjustment will be adjusted to the date of the change.
- I. EFFECTIVE DATE:** The effective date for a pay increase shall be the beginning of the payroll period nearest the approval date. The increase shall be paid retroactive to the eligibility date.
- J. DENIAL OF A PAY INCREASE:** If the employee's annual performance review indicates less than satisfactory performance, a step raise shall be withheld until the employee has, in the judgment of the appointing authority, corrected the deficiencies. Written notice of the denial of a step raise and the reason therefor shall be submitted promptly to the employee and the Human Resource Department. However, the employee's eligibility date for future raises shall remain unchanged.

K. FACTORS NOT AFFECTING PAY INCREASE: The following factors shall not affect eligibility for a pay increase:

1. pay adjustments resulting from an annual salary and wage survey;
2. a transfer which does not result in a pay increase;
3. leave-without-pay for fewer than 30 days;
4. military leave-without-pay necessitated by a draft or reserve call-up because of a national emergency;
5. a period of leave with pay; and
6. reclassification to a class code of the same pay range or lower.

L. PROMOTION: An employee is promoted when the employee is moved to a position of a higher pay grade within the department. When an employee is promoted, the rate of pay shall be determined as follows; however, the promoted employee shall receive at least a 5% increase in pay:

1. If the salary received in the lower pay grade is equal to or below the minimum rate for the new grade to which promoted, the new rate of pay shall be increased to the minimum rate for the new grade, plus one step.
2. If the salary received in the lower grade falls within the pay range for the grade to which promoted, the new pay shall be set at the nearest step plus one step.

M. DEMOTION: An employee is demoted when the employee is moved to a position of a lower pay grade within the department. When an employee is demoted, the rate of pay shall be determined as follows:

1. If demoted in lieu of a layoff and if the pay rate received in the higher range falls within the pay range for the grade to which demoted, the rate of pay shall remain unchanged. If the pay rate received in the higher range is greater than the maximum for the grade to which demoted, the pay rate shall be reduced to the maximum of the lower pay range.
2. If demoted during the probationary period following original appointment, the rate of pay shall be the minimum of the pay range of the grade to which demoted.
3. When an employee is demoted to a former grade following promotion, pay shall be set at the former pay rate in effect prior to the promotion.
4. If demoted following disciplinary action and the pay received in the higher grade is equal to or greater than the maximum of the pay range for the grade to which demoted, the pay shall

be reduced to any rate, including the maximum, of the lower pay range. The exact step shall be determined by the appointing authority and the County Commission.

5. If within one year of a promotion an employee requests to be demoted to the exact position the employee held prior to the promotion, the employee's pay will revert to the pre-promotion grade and step and will be adjusted to account for step increases and COLA adjustments. The employee will retain the current review date. An employee's request for demotion must be approved by the County Commission and the department head or elected official.
 6. If an employee requests to be demoted, and the demotion is approved by the County Commission and the department head or elected official, the employee's pay will be adjusted as follows:
 - a. The employee's pay will be reduced by at least 5% per grade demoted;
 - b. The employee's pay may not exceed the average pay of all current, full-time regular employees in the same salary grade within the department; and
 - c. The employee's review date will be adjusted to the date of the demotion.
- N. TOTAL PAY:** Any pay rate established for an employee shall be the total remuneration, not including reimbursement for official expenses. Except in special situations authorized by the County Commission, no employee shall receive pay from the county in addition to that authorized under the compensation plan, formal incentive programs, or approved bonus plans for services rendered either in the discharge of ordinary duties or any additional duties which the employee may undertake to perform.
- O. PAY DAY:** Employees will be paid on a bi-weekly basis. Pay shall be distributed to employees by electronic deposit to each employee's bank account. Employees shall not acquire their pay checks by any other method. If more than 26 pay days fall within one calendar year, the County Commission may authorize additional compensation for employees receiving an annual rate of an additional one/26th of the regular annual compensation which is designed to avoid reduced bi-weekly paychecks for years in which there are 27 pay periods.
- P. TIME CARDS:** All employees must clock into and out of the time keeping system at the beginning and end of each work day and at the beginning and end of their lunch break. If an employee does not clock into or out of the system prior to the time card being submitted to the Human Resource Department for the applicable pay period, then the employee must accept the adjustments submitted by the supervisor on their behalf for that pay cycle. The employee has one full pay cycle following receipt of that pay to appeal any possible discrepancies from that time that was adjusted. If the employee does not appeal the time submitted on the timecard forwarded by their supervisor within one full pay cycle following the receipt of the pay, then the time card is deemed approved and accepted by the employee.

Q. LONGEVITY PAY: A full-time employee shall receive one additional step for every five years of continuous full-time status. Longevity pay is subject to availability of funds and specific approval of the County Commissioners.

R. YEARS OF SERVICE: Years of service for the purposes of longevity increases and accrual of benefits shall be based upon continuous full-time employment with Tooele County. Years of service accrued prior to January 1, 1989 were fixed by the County Commission as of December 31, 1988. An employee is deemed to remain a full-time employee and accruing service time during the following circumstances, unless otherwise stated:

1. leave-without-pay for fewer than 30 days;
2. military leave-without-pay necessitated by a draft or reserve call-up because of a national emergency;
3. a period of leave-with-pay;
4. a change of status from a full-time employee to an elected or appointed county position;
5. a specific period of leave-without-pay, approved by the department head and County Commission, but this leave shall not itself be included within years of service, but after its exclusion does not alter an employee's continuous employment status; and
6. reinstatement to full-time employment within one year of termination, but the time from termination to reinstatement shall not count towards accrual of service time.

SECTION 14
OCCUPATIONAL SAFETY AND HEALTH AND
EMPLOYEE ACCIDENTS AND INJURIES

- A. OCCUPATIONAL SAFETY AND HEALTH ACTS:** It is the intent of Tooele County to comply with all applicable rules and regulations pertaining to the Williams-Steiger Occupational Safety and Health Act of 1970, 29 U.S.C. §. 651 et seq., and the Utah Occupational Safety and Health Act, Utah Code Annotated Section 34A-6-101 et seq. Information relative to such Acts can be obtained from:

Utah Labor Commission
160 East 300 South
Salt Lake City, Utah 84114-6600

Phone: (801) 530-6800

- B. HAZARD-FREE WORKPLACE:** Tooele County shall attempt to furnish each of its employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or physical harm. Each employee shall comply with the occupational safety and health standards, orders, rules, and regulations promulgated under the Utah Occupational Safety and Health Act.
- C. SAFETY OFFICER/SUPERVISOR RESPONSIBILITY:** Tooele County desires to control loss due to workplace injuries and has appointed the Human Resources Director as the Safety Officer. Each elected official or department head shall inspect or designate a competent person or persons to inspect frequently for unsafe conditions and practices, defective equipment and materials, and where such conditions are found, take appropriate action to immediately correct such conditions. Supervisory personnel shall enforce safety regulations and issue such rules as may be necessary to safeguard the health and lives of employees. They shall warn all employees of dangerous conditions and permit no one to work in an unsafe place, except for the purpose of making it safe.
- D. SAFETY RULES AND REGULATIONS:**
1. An employee may not remove, displace, damage, destroy, or carry away any safety device or safeguard provided for use in any employment or place of employment, or interfere in any way with the use thereof by any other person.
 2. An employee may not interfere with the use of any method or process adopted for the protection of any employee.
 3. An employee may not fail or neglect to follow and obey orders and to do every other thing reasonably necessary to protect the life, health, safety, and welfare of employees.

4. Employees who do not understand or speak the English language shall not be assigned to any duty or place where the lack or partial lack of understanding English might adversely affect their safety or that of other employees.
5. Where there is a risk of injury from hair entanglement in moving parts of machinery, employees shall confine their hair to eliminate the hazard.
6. Loose sleeves, tails, ties, lapels, cuffs, or similar garments that can become entangled in moving machinery shall not be worn where an entanglement hazard exists.
7. Wrist watches, rings, or other jewelry shall not be worn on the job where they constitute a safety hazard.
8. No employee shall carry liquor into a place of employment except that the place of employment shall be engaged in liquor business and this is a part of the assigned duties.
9. No intoxicated person shall be allowed to go into or loiter around any operation where workers are employed except where the employee's working conditions require it.
10. Use of seat belts is required of all drivers and passengers in county vehicles and other vehicles being used for county business.
11. Cell phones may be used by drivers of county motor vehicles.

E. CLEAN WORK AREAS: All supervisors and employees shall insure clean work areas. Excessively littered or dirty work areas constitute a hazardous condition of employment and should be remedied within a reasonable amount of time. When no other method or combination of remedies exists to minimize hazards due to toxic dusts, fumes, gases, flying objects, dangerous rays, or burns from heat, acid, caustics, or any hazard of a similar nature, the county shall provide each worker with the necessary personal protection equipment, such as respirators, goggles, gas masks, and certain types of protective clothing. Provision shall also be made to keep all such equipment in good, sanitary working condition at all times.

F. EMPLOYEE ACCIDENTS AND INJURIES:

1. Workers' Compensation Coverage: Tooele County operates under the State of Utah Workers' Compensation Act found at Utah Code Ann. Section 34A-2-101 et seq., which provides that each employee who is injured and the dependents of each employee who is killed, by accident arising out of and in the course of employment, wherever such injury occurred, if the accident was not purposely self-inflicted, shall be paid compensation for loss sustained on account of the injury or death, and such amount for medical, nurse, and hospital services and medicines, and, in case of death, the amount of funeral expenses. The responsibility for compensation and payment of medical, nursing, and hospital services and medicines, and funeral expenses is on the employer and its insurance carrier and not on the

employee. The size of the awards and the conditions connected with workers' compensation claims are contained in the State laws covering workers' compensation cases.

2. Reporting Injuries: Any injury occurring on the job must be reported to the supervisor immediately, but no later than the end of the employee's regular shift, and forms prescribed by the Industrial Commission of Utah must be completed and submitted to the Human Resource Department within seven days of the job injury. All necessary forms may be obtained through the Human Resource Department.
3. Record of Accidents: An accurate record shall be kept in the Human Resource Department of all accidents involving an injury to an employee while on duty, whether or not time is lost. These records shall be available at all reasonable times to the Industrial Commission of Utah or its representatives upon request. Other records shall be kept as requested by the Industrial Commission.
4. Injury Report Procedure: A report of any on-the-job injury resulting in disability or compensable lost time shall be submitted by the department head or other designated official to the Human Resource Department who will file the report with the Industrial Commission of Utah, the Workers' Compensation carrier, and the affected employee within seven calendar days on a "First Report of Injury" form. Should any sudden or unusual occurrence or change of conditions occur such as the appearance of toxic or unusual fumes or gases, major equipment failure, explosions, or fires that might affect the safety or health of county employees or tend to increase the hazards thereof, the department head or other designated authority shall notify the Human Resource Department at once. Such notification must be made whether or not any actual injuries result from the above occurrences or changes of conditions.
5. Notification of Serious Injuries: All fatal and potentially fatal and serious accidents shall be reported immediately to the Industrial Commission of Utah.
6. Vehicle Accidents: Each accident involving a county vehicle or a private vehicle being used on county business shall be reported to the local police, sheriff, or highway patrol in accordance with State law. The accident shall also be investigated by the supervisor of the employee involved in the accident. Each employee involved in such an accident shall submit a signed, detailed report to his or her supervisor on forms supplied by the county. The supervisor shall retain a copy of the report for the department files and shall forward the original report to the insurance coordinator. The insurance coordinator will submit the accident for consideration by the accident review board.
7. Benefits: Every employee is eligible to receive workers' compensation benefits for injuries arising out of or in the course of county employment, subject to the following:
 - a. The first three days of absence shall be taken as sick leave, personal time off (PTO), or other leave, if available.

- b. The employee shall use sick leave, PTO, or any other accrued leave, if available, until the workers' compensation benefits begin to be paid. When received, the employee shall pay the workers' compensation benefits to the county for the period of time that the benefits were accruing but were not actually being paid, up until the time that payment of the benefits began. For periods of benefit of less than 14 days, all sick, PTO, or other leave days will be restored upon payment of the accrued workers' compensation to the county, except the first three. For periods of benefits longer than 14 days, all sick, PTO, or other leave days will be restored. The employee shall, at that time, be placed on a leave-without-pay status, and shall retain the workers' compensation benefits. Once benefits begin to be paid, an employee may elect to use up to ten hours of accrued leave per pay period in order to cover elected deductions. If deductions are not covered by this amount, the employee is responsible for the remaining balance. Employees who are on leave-without-pay status due to a job-related injury or illness shall receive all regular benefits at the county's expense at the current rate and contribution. However, benefits shall cease when the individual's status is changed from leave-without-pay to terminated.
- c. Under no circumstances shall an employee receive more income because of an industrial accident than the employee's regular pay check.
- d. In instances where an employee is disabled through the course of employment and is covered by workers' compensation, the employee's right to return to county employment will be governed by the following conditions:
 - i. Within a one year period, an employee in an approved leave status shall be entitled to the previous position held or one with equivalent pay.
 - ii. For an additional year beyond the first granted, the county will attempt to find a vacant position similar in pay to that previously held. The county may require medical evidence upon which to make a judgment.

G. WORKERS' COMPENSATION ACCIDENT REVIEW BOARD:

1. There is hereby established a Workers' Compensation Accident Review Board. The board shall consist of one member of the County Attorney's Office, one member of the Sheriff's Office, the Human Resources Director, and the county insurance coordinator.
2. The review board shall review each on-the-job injury or illness involving county employees and volunteers, keep written minutes of each meeting and forward a copy of the minutes to the workers' compensation loss control manager and send copies of the accident reviews or reports to such carrier. The review board shall also review each vehicular accident involving county employees or county vehicles, and forward its conclusions and recommendations to the County Commission and to the department head of the employee involved in the accident. Other types of accidents may be reviewed by the accident review board upon the request of the department head of the employee involved in the accident.

3. The review board shall evaluate the accident and shall consider any or all of the following information:
 - a. written evidence presented by the driver concerned, the supervisor, and the police report of the accident investigation;
 - b. maintenance records of the vehicle or other information available concerning the vehicle both before and after the accident, including estimates of the cost of repair;
 - c. laboratory test on vehicle parts;
 - d. the driver's past driving record;
 - e. diagrams, photographs, and other evidence; and
 - f. testimony of other drivers and witnesses present.
4. The review board shall determine, as far as possible, the cause of the accident and whether the accident was preventable. A preventable accident is defined as an accident in which the employee failed to exercise every reasonable precaution to prevent the accident.
5. In the event the review board's findings and recommendations include corrective measures to be taken by the department head, the department head shall implement those corrective measures as soon as practical.
6. If the accident involved the violation of established policies associated with preventing injuries and incurring liability, corrective disciplinary action shall be taken as soon as practical.
7. The accident review board shall prepare a written report of its findings and recommendations to implement corrective action, if indicated. The report shall be delivered to the employee, the County Commission, the employee's department head, and the Human Resources Director to be placed in the employee's personnel file.
8. In the event the employee disagrees with the findings of the review board or with the action taken by the department head, the employee may file an appeal to the County Commission. The appeal must be in writing and must be filed with the County Commission within 30 days of the date on which the employee is provided with a copy of the report from the review board or when action is taken by the department head. The County Commission may, in considering the appeal, review only the record of the review board or may, in its discretion, allow additional evidence to be submitted.

H. RETURN TO WORK – TRANSITIONAL DUTY PROGRAM:

1. This Return To Work – Transitional Duty Program is designed to support employee recovery, protect employee income, reduce workers' compensation costs, and promote employee good will.
2. Employees recovering from a work-related injury or illness who are unable to return to work and fully perform the essential functions of their jobs, with or without reasonable accommodation, may still be able to undertake an alternative, temporary, transitional position with the county until recovery is complete. This transitional position will be carefully designed to be appropriate for the skills, knowledge, and capabilities of the recovering employee so that the work can be accomplished safely. An employee able to perform transitional duty will work in a temporary transitional duty position until either he or she has the necessary capacity to perform his or her normal position, or until the transitional duty job is terminated.
3. The Return To Work – Transitional Duty Program covers all compensable disabling conditions insured under workers' compensation and is limited to employees with temporary impairments. Transitional duty positions, when available, are always temporary and are assigned for a finite period of time.
4. While the goal of this program is to return all employees to gainful employment as quickly as possible, the workload needs of the county must be considered. As a result, temporary transitional duty work may not always be available to all employees. A transitional duty position may entail doing some of the duties of the injured employee's normal job, or it may involve undertaking a special project or projects previously left unaccomplished by the department. Transitional duty work may also be found outside the employee's own department. At the time of the work-related illness or injury, the Human Resources Director shall contact supervisors for assistance to determine whether an appropriate transitional duty position is possible.
5. After a reported illness or injury resulting in transitional duty, the employee's supervisor or a representative of the Human Resources Director will contact the employee to determine when the employee may be available to return to work, to either full duty in the normal position, or to a new temporary transitional duty position. If the employee is unable to resume the full set of duties, supervisors will first attempt to provide the employee a temporary transitional duty position based on the employee's job skills and capacities at the time of return to work.
6. With appropriate medical documentation indicating an employee is able to perform all temporary transitional duty tasks, a Return to Work – Transitional Duty Agreement will be signed by the employee, supervisor, and Human Resource Department designee, defining the transitional duties and the duration of the agreement based on the operational needs of the institution. The employee needs to communicate to both the supervisor and the Human

Resource Department any changes in medical condition, concerns about transitional duty tasks, and other concerns related to the workplace injury or the transitional duty work.

SECTION 15 LEAVE

[FOR EMPLOYEES HIRED PRIOR TO JULY 1, 2017 WHO HAVEN'T CONVERTED TO PTO]

A. ANNUAL LEAVE:

1. Annual leave is intended to benefit the employee. Employees are encouraged to take annual leave in the year in which it is earned. Annual leave will not be advanced to employees.
2. An employee may accumulate up to 320 hours of annual leave to add to the annual leave earned the following year. Any annual leave in excess of 320 hours not taken during the year in which it is earned will be forfeited. Beginning January 1, 2018, annual leave in excess of 320 hours will be forfeited if not used by the anniversary of employee's hire date. For the purpose of this subsection, "during the year" shall extend from the employee's date of hire until the following anniversary date.
3. Annual leave will be scheduled so as to meet the operating requirements of the county, and insofar as possible, the preference of employees. Previously taken leave and seniority shall apply in case of conflict of leave schedules.
4. A county holiday shall not constitute a day of annual leave. When an authorized holiday falls within the time period of employees' annual leave, the employee will be entitled to one additional day beyond the specified annual leave period.
5. Supervisors have access through the timekeeping system to track and calendar annual leave used by each employee.
6. Employees who have terminated or who give notice of intent to terminate their employment and who will not actually work after giving such notice shall not be allowed to continue or retain their status as an employee by electing to take accrued annual or sick leave. Employees that have given notice of intent to terminate or retire, but will continue to actually work after giving such notice, shall not be allowed to use accrued annual or sick leave unless approved by their Department Head or Elected Official. Employees terminating or retiring will be cashed out in a lump sum for all annual leave and converted sick leave credits that do not exceed 320 hours.
7. Full-time employees accrue four hours of annual leave per pay period from the date of appointment. Employees using leave continue to accrue annual and sick leave.
8. Full-time employees with at least five years and through their ninth year of service accrue five hours of annual leave per pay period, from their anniversary date.
9. Full-time employees with at least ten years through their fourteenth year of service accrue six hours of annual leave per pay period, from their anniversary date.

10. Full-time employees with 15 or more years of service accrue seven hours of annual leave per pay period from their anniversary date.
11. Employees accrue annual leave on a prorated basis as follows:
 - a. Employees working 20 hours or more per week and less than 30 hours accrue annual leave on a half-time basis.
 - b. Employees working 30 hours or more per week and less than 40 hours accrue annual leave on a three-quarter time basis.
12. Annual leave is not earned by part-time employees working less than 20 hours per week, temporary or seasonal employees, or employees on leave-without-pay status.
13. For departments that have approved a flexible work schedule:
 - a. For each full day of leave taken, the total daily scheduled hours shall be deducted from accumulated leave.
 - b. If less than a full day of leave is taken, then each hour of leave taken shall be deducted from accumulated leave.
14. The fact that an employee has available leave does not justify tardiness or unexcused absences. Unscheduled absenteeism and tardiness are grounds for disciplinary action, regardless of the availability of leave.
15. Annual leave does not accrue during unpaid leave or leave during which an employee receives compensation from any county-sponsored program, such as disability or military leave.
16. Annual leave accrued in any pay period may be taken the following pay period.
17. Annual leave will not be considered as time worked for calculating overtime compensation.
18. Employees who are excluded under the Fair Labor Standards Act (“FLSA”) are paid a salary for any week in which they work, regardless of the number of hours worked. However, all full-time employees are generally expected to work 40 hours per week. The leave policy does not apply to FLSA excluded employees, but the Personal Time Off (PTO) policy is a guideline for reasonable time off for such employees with the following modifications:
 - a. Leave is deemed accrued at the beginning of each year.
 - b. Leave does not carry over from year to year.

B. SICK LEAVE:

1. Full-time or eligible employees hired prior to July 1, 2017 and electing to be subject to this policy shall accrue sick leave at the rate of four hours per pay period. Holidays which fall on a regular working day within a period when sick leave is being taken shall be credited as holiday and not as a day of leave. Employees on paid sick leave continue to accrue both annual and sick leave. An employee may accumulate up to 700 hours of sick leave. If an employee has more than 700 hours of sick leave on July 1, 2017, the employee may retain those hours, but will not accrue more sick leave until the employee has less than 700 hours of accumulated sick leave. Accumulated sick leave is not paid upon termination. For purposes of this subsection, days not included in a scheduled 40 hour work week shall not be considered regular working days. Sick leave shall not accrue during time spent on leave without pay.
2. Sick leave may be granted for preventive health and dental care or for absence from duty because of illness, injury or temporary disability of the employee, a spouse or dependents living in the employee's home, with an exception granted for divorced parents. Sick leave may also be granted for the following qualifying events under the Family and Medical Leave Act of 1993, as amended:
 - a. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.
 - b. Because of the placement of a son or daughter with the employee for adoption or foster care.
 - c. In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.
 - d. Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.
3. Sick leave may be used only when the employee or a member of the employee's immediate family notifies the supervisor or other designated person of the employee's absence prior to or within one hour after the scheduled reporting time. The department head shall use discretion in approving sick leave. Employees who abuse this sick leave policy may be denied sick leave.
4. Any application for sick leave to cover an absence which exceeds three successive working days shall be supported by a medical certificate or other evidence administratively acceptable. When excessive sick leave is being taken, a doctor's diagnosis or other evidence of illness may be required for absences of less than three days.
5. Beginning July 1, 2017, the converted sick leave program will be dissolved. Employees with converted sick leave hours from 2016 and/or prior years will be paid out those hours at their

pay rate as of July 1, 2017. The county will make payment for those hours prior to December 31, 2018.

6. Any absence for illness beyond the accrued sick leave credit may be continued either in a leave-without-pay status not to exceed twelve months or in an annual leave status. Additional sick leave with pay may be granted by the County Commission, at its discretion upon sufficient proof from the appropriate elected official or department head that the department has sufficient funds to continue the sick leave with pay for the employee and still efficiently operate its offices. The County Commission must find it is in the best interest of Tooele County that the employee's sick leave be continued with pay. The primary basis for granting additional sick leave shall be:
 - a. absence due to injury;
 - b. extended absence due to major illness or surgery;
 - c. short-term absence within the 12-month period following an illness where the entire accrual of sick leave has been depleted; or
 - d. other reasonable absences due to sickness or injury where no pattern of abuse of sick leave privileges has been demonstrated.
7. An employee separating from county service will not be compensated for unused sick leave.
8. Sick leave is not earned by temporary or seasonal employees, or part-time employees working less than 20 hours per week.
9. For departments that have approved a flexible work schedule:
 - a. For each full day of leave taken, the total daily scheduled hours shall be deducted from accumulated leave.
 - b. If less than a full day of leave is taken, then each hour of leave taken shall be deducted from accumulated leave.
10. Employees who have accrued annual leave or compensatory time may donate all or a part of the leave or time to another county employee, which leave may then be used by the donee as sick leave, upon compliance with the following conditions:
 - a. The department heads of both the donor and the donee must approve of the donation of leave.
 - b. The donee must have exhausted all annual leave, sick leave, and compensatory time and need additional sick leave to avoid taking leave without pay.

- c. The donee must comply with all of the policies and procedures regarding the use of sick leave.
- d. Donated leave shall be documented on a form supplied by the Human Resource Department and shall contain the signatures of the department heads, the donor, and the donee. Donated leave shall be administered under the direction of the Human Resource Department.

C. CONVERSION FROM ANNUAL AND SICK LEAVE TO PERSONAL TIME OFF (PTO):

1. Employees hired prior to July 1, 2017 may elect to remain subject to the policy of this section or they may elect to be subject to the newly created policy under Section 15A, Leave and Personal Time Off (PTO). Such election shall be made by July 1, 2017.
2. Employees electing to be subject to the PTO policy will have their annual and converted sick leave hours converted to PTO.
3. Employees electing to be subject to the PTO policy with converted PTO in excess of 480 hours must reduce their hours to 480 hours or less. Employees with over 480 hours will be paid out those hours at their pay rate as of July 1, 2017. The county will make payment for those hours prior to December 31, 2018.
4. Employees with sick leave electing to be subject to the PTO policy will have their hours placed in an Extended Illness Bank (hereinafter "EIB"). The employee's EIB hours will be available to the employee after using three days of PTO and with a doctor's note for personal illness or after using five days of PTO for approved FMLA leave. The number of accessible EIB hours will be determined by the estimated time off suggested by the doctor. EIB hours may only be used for the personal illness of the employee or to care for sick family members (spouse, child, or parent) following FMLA guidelines until the EIB hours are exhausted. EIB hours that have been used cannot be replenished. Employees leaving county employment shall forfeit any unused hours that have been placed in the EIB.

D. HOLIDAYS:

1. The following days are designated as legal paid county holidays:

New Year's Day	-	January 1
Dr. Martin Luther King Jr. Day	-	Third Monday of January
Presidents' Day	-	Third Monday of February
Memorial Day	-	Last Monday of May
Independence Day	-	July 4
Pioneer Day	-	July 24
Labor Day	-	First Monday of September
Columbus Day	-	Second Monday of October
Veterans' Day	-	November 11
Thanksgiving Day	-	Fourth Thursday of November
Christmas Day	-	December 25

2. Full-time employees shall receive paid holiday leave in the amount of ten hours per holiday for a total of 110 hours. Public safety employees shall receive 12 hours per holiday for a total of 132 hours. Three-quarter time employees shall receive 7.5 hours per holiday for a total of 82.5 hours. Half-time employees shall receive five hours per holiday for a total of 55 hours. If the holiday falls on a regularly scheduled day off, such employees shall receive an equivalent workday off equal to the employee's regular scheduled hours.

3. No holiday leave is paid to temporary, seasonal, on-call, or part-time employees working less than 20 hours per week.

E. EMERGENCY LEAVE: Emergency leave with pay may be authorized by the department head in the case of a death in the immediate family for a period not to exceed one week or a total of 40 hours. "Immediate family" shall mean wife, husband, children, daughter-in-law, son-in-law, parents, grandchildren, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparents, spouse's grandparents, brothers, and sisters of the employee. In the event of the death of other family members, an employee may be authorized emergency leave to attend the funeral for such persons. The number of authorized hours for emergency leave shall not exceed four hours. "Other family members" means relatives other than immediate family members, within and including the fifth degree of consanguinity, computed according to the rules of civil law, and also include the spouses of such relatives.

F. COURT LEAVE: An employee who, in obedience to a subpoena or direction by proper authority appears during a regularly scheduled work shift as a juror in any court case or as a witness in his official capacity for the federal government, the State of Utah or a political subdivision thereof, shall be paid that employee's regular compensation for the time taken off work. The employee shall immediately pay over to Tooele County any compensation or fees, except mileage, received from the court. Time absent by reason of a subpoena in private litigation or by some party other than the federal government, state government, or a political subdivision thereof, or to testify as an individual and not in an official capacity for the county, shall be taken as annual leave or leave without pay.

G. MATERNITY LEAVE: An employee who becomes pregnant may continue working until such time she can no longer satisfactorily perform her duties or her physical condition is such that her continued employment may be injurious to her health. An employee shall, upon request, present medical certification from her doctor of fitness to continue or resume work. Sick leave, which is regularly available to cover the time for physical examinations and periods of incapacitation, will be available to the pregnant employee for the same purpose. Maternity leave shall be granted on the same basis as any other temporary disability or illness.

H. MILITARY LEAVE:

1. Leave is granted for a period of active military service. Military leave of less than six months is known as short-term leave. Leave of six months or more is known as extended leave.
2. Short-term military leave is authorized pursuant to the following:
 - a. Employees are entitled to eleven working days of military leave per year without loss of compensation or other fringe benefits, subject to Subsection 15.H.2.b. Any employee requesting military leave must provide the designated administrator with a copy of the military orders placing the employee on active duty status.
 - b. Employees who are members of reserve units of the military shall notify their immediate supervisor at least four weeks in advance unless prevented by military necessity and shall indicate in writing their intention and anticipation with regard to participating in periods of active duty. Such written notification shall be made a part of the employee's personnel file.
3. Extended military leave is granted to full-time or part-time employees who enlist, are drafted, or are called to active service in the armed forces of the United States in accordance with the Universal Military Training and Service Act.
4. Former employees are entitled to return to county employment pursuant to the following conditions:
 - a. The leave of absence may not exceed five years from the date of entry into the military service, unless the employee is involuntarily retained longer.
 - b. The employee must have satisfactorily completed the period of active duty and furnish a certificate to that effect.
 - c. Any employee leaving active military duty is authorized to request reinstatement to a position of comparable status and compensation. If gone 30 days or less, the employee must request reinstatement the next business day after military release. If gone 31 to 180 days, the employee must request reinstatement within 14 days after military release. If gone 181 or more days, the employee must request reinstatement within 90 days after military release.

- d. If the employee declines two consecutive offers for position vacancies, reinstatement rights may be canceled.
 - e. If an employee is not qualified to perform all the duties of the employee's former position due to a disability incurred or aggravated while in military service, reasonable efforts will be made to accommodate the disability so the employee can perform the position the employee would have held if the employee had remained continuously employed. If, despite reasonable accommodation efforts, the person is not qualified for the position due to the disability, the employee will be employed in a position of equivalent seniority, status, and pay, so long as the employee is qualified to perform the duties of the position or could be qualified to perform them with reasonable efforts by the county. If the employee does not become qualified for this second position, the employee will be employed in a position that, consistent with the circumstances of that person's case, most nearly approximates the second position in terms of seniority, status, and pay.
5. Employees using military leave may elect to use annual leave, compensatory time, or leave without pay.

I. ADMINISTRATIVE LEAVE:

- 1. Full-time or probationary employees may, upon approval of the department head, be granted administrative leave with pay to perform legitimate duties in connection with county business, to attend trade or professional meetings which relate to official duties, or to participate in recognized or authorized training programs.
 - a. Employees may be allowed administrative leave with pay for conducting or participating in trade or professional organizations as follows:
 - (1) Employees serving as organization officers may receive up to five hours administrative leave per month.
 - (2) Employees may attend local employee organization-sponsored meetings or functions during normal working hours, but not to exceed five hours per month.
 - b. Administrative leave shall be granted at the discretion of the department head or elected official. Under no circumstances shall the accrual of overtime hours be permitted for such participation.
- 2. The County Commission may, at its discretion, grant administrative leave with pay to employees.

J. LEAVE OF ABSENCE:

- 1. Leave of absence without pay may be granted or directed for periods not to exceed one year to employees because of illness, for education purposes, for disciplinary reasons, or for other appropriate reasons. It shall be granted only when all other leave is used, but may be directed

at any time. Such leave shall not be regarded as an acquired right by employees and shall be granted only when the county will not be adversely affected thereby. Leave of absence without pay for illness may be approved by the department head or elected official for periods less than 40 hours per week. Unless designated as Family and Medical Leave by the Human Resource Department, leave without pay beyond the 40 hours must be made in writing and, if approved by the department head and a County Commissioner, shall be filed with the Human Resource Department. Leave granted to employees who accept full-time employment outside the county's service shall be subject to the approval of the County Commission and a designated administrator and shall be denied unless the request thereof is accompanied by satisfactory proof that such employment is temporary and that the experience gained thereby will be for the betterment of the county's service. If an employee is placed on leave-without-pay status three or more times, however, that employee may be subject to immediate dismissal.

2. A leave of absence without pay may be terminated prior to the expiration date. Failure of an employee to report for duty promptly at the expiration of the leave or violation of an agreement or understanding entered into by the employee relative thereto shall be just cause for discharge and the removal of the employee's name from any eligible list on which it may appear.
3. An employee may be placed on leave of absence without pay when suspected of or charged with committing a felony or a crime involving an abuse of the county office or position. If the employee is exonerated, the employee shall be reinstated with back pay.
4.
 - a. A career service employee shall be placed on an automatic leave of absence in the event the employee is appointed to a position exempt or excluded from the career service for the period of time the employee fills the exempt or excluded position. A career service employee who is elected as a county official is not granted a leave of absence, and the employee's career service status is terminated.
 - b. A career service employee who accepted an appointment to an exempt or excluded position prior to August 15, 2006, who is not retained by the appointing officer, and has not been terminated for a violation of the standards of conduct such as those identified in Section 24, shall be returned to their former career service position upon termination of the leave of absence.
 - c. A career service employee accepting an appointment to an exempt or excluded position after August 15, 2006, who is not retained by the appointing officer, and has not been terminated for a violation of the standards of conduct such as those identified in Section 24, shall:
 - (1) be appointed to any career service position for which the employee qualifies in a pay grade comparable to the employee's last position in the career service, provided an opening exists; or

- (2) be appointed to any lesser career service position for which the employee qualifies pending the opening of a position in a pay grade comparable to the employee's last career service position.
- d. Appointed lieutenants in the Sheriff's Office are governed by Section 6 of these Policies and Procedures and shall have bumping rights back to their former position regardless of when they were appointed unless discharged for a violation of the standards of conduct such as those identified in Section 24. The rate of pay will be determined by Section 11.
- e. The Human Resources Director shall maintain a reappointing register to facilitate the operation of this section, which shall have precedence over other registers.
- f. Employees taking such a leave of absence shall have their accrued annual leave and converted sick leave converted to wages and paid to them upon commencement of the leave. An employee may elect to freeze up to 40 hours of accrued annual leave and up to 40 hours of converted sick leave to be reinstated upon termination of the leave of absence. An employee electing to freeze leave and who does not return to a career service position will have the leave converted to wages at the rate in which the hours were frozen and paid to them upon termination of employment.
- g. A career service employee who accepted an appointment to an exempt or excluded position, who is not retained by the appointing authority, and who returns to a career service position, shall have their grade and step determined according to increases the employee would have attained during the leave of absence. The exact step will be determined by the Human Resources Director but shall not exceed the maximum step for the grade unless approved by the appointing authority and the County Commission.

K. FAMILY AND MEDICAL LEAVE:

1. FMLA ELIGIBILITY

- a. Employees are eligible for FMLA leave if they have worked for Tooele County for at least 12 months (52 weeks) and worked 1,250 hours of service during the 12-month period immediately before the commencement of the leave.
- b. In determining the 12 months (52 weeks) worked for Tooele County, the 12 months need not be consecutive months. Employment periods prior to a break in service of seven years or more are not counted unless the employee's break in service is occasioned by the fulfillment of his or her National Guard or Reserve military service obligations. The time served performing the military service must be also counted in determining whether the employee has been employed for at least 12 months. For FMLA 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 the week or if the employee was on other paid leave during the week (i.e., sick leave, annual leave, or worker's compensation).

- c. Time spent on paid (including worker's compensation payments) or unpaid leave is not counted in determining the 1,250 hours worked for FMLA eligibility purposes. Tooele County will include overtime hours as hours worked on an hour-for-hour basis regardless of whether they were paid out as overtime or as compensatory time.

2. FMLA DEFINITIONS

For purposes of this section, the following terms have the stated meanings:

- a. Parent means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was child. Parent does not include parent-in-law.
- b. Child means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" except for FMLA leave due to military service the person does not have to be a minor.
- c. Next-of-kin of a covered service member means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter. The FMLA provides additional definitions regarding next of kin including order of priority or employee's designation of next of kin.
- d. "Serious health condition," for purposes of the FMLA, means an illness, injury, impairment, or physical or mental condition that:
 - (1) requires an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity (meaning the inability to work, attend school, or perform other regular daily activities due to the serious health condition treatment therefore, or recovery there from) or any subsequent treatment in connection with such inpatient care;
 - (2) involves continuing treatment by a healthcare provider for incapacity and treatment. To qualify the incapacity must be for a period of more than three consecutive full calendar days from work, school, or other regular daily activities and include subsequent treatment or period of incapacity relating to the same condition. Subsequent treatment must include treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider. Subsequent treatment must occur two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist. Subsequent treatment may be performed by a health care provider, a nurse under direct supervision of a healthcare provider, or by a provider of health care services under orders of, or on referral by, a health care provider;
 - (3) any period of incapacity due to pregnancy, or for prenatal care;

- (4) any period of incapacity (or treatment for such incapacity) due to a chronic serious health condition. A chronic serious health condition is one which:
 - (a) requires periodic visits at least twice a year for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;
 - (b) continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - (c) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
- (5) a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment, by a health care provider (e.g., Alzheimer's, stroke, terminal stages of a disease, etc.); or,
- (6) any absences to receive multiple treatments (including any period of recovery there from) by, or on referral by, a health care provider for a condition for:
 - (a) restorative surgery after an accident or other injury; or
 - (b) a condition that would likely result in a period of incapacity of more than three consecutive full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

3. BASIC FMLA LEAVE ENTITLEMENT

The FMLA provides up to 12 weeks of job protected leave to eligible employees for the following reasons:

- a. for incapacity due to pregnancy, prenatal medical care, or child birth;
- b. to care for the employee's child after birth, or placement for adoption or foster care. Leave to care for a child following birth, for adoption, or for foster care must be taken within one year of the birth or placement of the child;
- c. to care for the employee's spouse, child, or parent with a serious health condition; or,
- d. for a serious health condition that makes the employee unable to perform the employee's job.

4. MILITARY FMLA LEAVE ENTITLEMENT

- a. Eligible employees with a spouse, child, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week FMLA leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. The FMLA does provide limitations on the amount of leave that can be used for certain qualifying exigencies.
- b. FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single “12-month period.” A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. This is the only type of FMLA leave that may extend an employee’s leave entitlement beyond 12 weeks to 26 weeks. Other types of FMLA leave are added to this type of leave totaling the 26 weeks. If an eligible employee does not take all of his or her 26 workweeks of leave entitlement to care for a covered service member during this “single 12-month period,” the remaining part of his or her 26 workweeks of leave entitlement to care for the covered service member is forfeited.

5. CALCULATION OF 12 WEEKS / 26 WEEKS

- a. **12 Weeks.** In determining eligibility for FMLA leave the county will measure the 12-month period as a rolling 12-month period measured backward from the date of an employee’s first FMLA use. Each time an employee requests leave, the county will compute the amount of FMLA leave the employee has taken in the last 12 months and subtract it from the 12 weeks of available FMLA leave. The balance remaining will be the amount the employee is entitled to take at that time. Note that this amount may change with each request for FMLA leave as periods of leave drop from the 12-month look back period resulting in leave coming available to the employee. When an employee’s work schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the FMLA leave period is used to calculate the amount of FMLA leave available to the employee.
- b. **26 Weeks.** The “single 12-month period” to care for a covered service member begins on the first day the eligible employee takes FMLA leave to care for a covered service member and ends 12 months after that date. The “single 12-month period” is applied on a per-covered-service member, per-injury basis. An employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for a different covered service member or to care for the same service member with a subsequent serious

injury or illness, except that no more than 26 workweeks of leave may be taken within any “single 12-month period.”

6. HUSBAND & WIFE BOTH EMPLOYED BY COUNTY

If a husband and wife both work for Tooele County and each wishes to take FMLA leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for Tooele County and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of FMLA leave during the “single 12-month period.” These limitations do not apply where the reason for the leave is the serious health condition of either the husband or wife or the serious health condition of a child. If either the husband or wife is ineligible for FMLA leave, the eligible spouse retains full leave entitlement (i.e., they don’t have to split the leave).

7. EMPLOYEE BENEFITS DURING FMLA LEAVE

- a. While an employee is on FMLA leave, Tooele County will continue the employee’s health, dental, and vision benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.
- b. Retirement, life, and other benefits may be continued based on insurance provider’s approval. Generally, continuation of these benefits is contingent upon whether the FMLA leave is paid or unpaid and what sources are paying the employee’s wages. Benefit continuation is subject to change based on individual insurance providers’ provisions. Employer contributions to the 401K plan will be adjusted and based on wages paid by Tooele County (i.e., does not include unpaid or worker’s compensation wages).
- c. While on **paid** FMLA leave, Tooele County will continue to make payroll deductions to collect any portion of the employee’s share of the premiums.
- d. While on **unpaid** FMLA leave, the employee must continue to pay any portion of the employee’s share of the health premiums (and any other benefits the employee desires to continue) and may do so in person or by mail. The payment will be due by the 15th day of each month. The employee will be deemed delinquent if the payment is more than 30 days late and alternative payment arrangements have not been made with Tooele County. Failure to make timely premium payments may result in cancellation of benefits. Tooele County may recover the costs incurred for paying the employee’s share of any premiums, whether or not the employee returns to work, including seeking recovery through civil court. Tooele County may also seek retroactive termination of insurance coverage with the insurance provider. Tooele County may recover from an employee both the employee’s and/or employer’s share of any premiums paid during a period of **unpaid** FMLA leave if the employee fails to return to work after the employee’s FMLA leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:

- 1) the continuation, recurrence, or onset of either a serious health condition of the employee or the employee's family member, or a serious injury or illness of a covered service member, which would otherwise entitle the employee to leave under FMLA; or
- 2) other circumstances beyond the employee's control.

8. EMPLOYEE STATUS AFTER FMLA LEAVE

- a. An employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits, and other employment terms. The position will be the same or virtually identical in terms of pay, benefits, and working conditions.
- b. Tooele County may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

9. SUBSTITUTION OF PAID LEAVE AND/OR DISABILITY INSURANCE

- a. **Paid Leave Benefit Substitution.** Tooele County has elected the statutory provision under the FMLA permitting an employer to require employees to take any accrued paid annual, sick leave, or comp-time (i.e., paid FMLA leave or "substitution of paid leave") and have it run concurrently with any FMLA leave, to the extent that the reason for the leave complies with permissible uses as specified in this and other sections regarding paid leave herein. Before being eligible for unpaid FMLA leave, an employee is required to substitute any accrued and qualifying paid leave to bring the employee to 100% of his/her wage at the time FMLA starts. In cases of varying schedules, the required substitution will be calculated as the average weekly wage earned during 12 months prior to commencing FMLA leave. While substituting paid leave, an employee must follow the same terms and conditions of the county's policy that apply to other employees for the use of such paid leave.
- b. **Worker's Compensation Substitution.** When substitution occurs and wages are paid in whole or in part by a county-sponsored disability insurance provider (i.e., worker's compensation insurance), the employee may elect to, but is not required to, supplement the insurance payment up to 100% of his/her pre-disability wage. This generally only occurs when FMLA is needed due to the serious medical condition of the employee.

10. INTERMITTENT FMLA LEAVE OR A REDUCED WORK SCHEDULE

- a. An employee may take FMLA intermittently (i.e., take off work in 15 minute increments when needed or a day or two over the year when needed) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 work weeks (or 26 work weeks to care for an injured or ill service member over a "12-month period").

- b. Tooele County may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.
- c. For the birth, adoption, or foster care of a healthy child, Tooele County and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced work schedule.
- d. If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with Tooele County before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.
- e. An employee who has been approved for intermittent FMLA-protected leave must specifically reference either the qualifying reason for leave or the need for FMLA leave. Calling in “sick” without providing more information will not be considered sufficient notice to trigger Tooele County’s obligations under the Act.

11. PROCEDURE FOR REQUESTING FMLA LEAVE

- a. For (1) The birth of a child or in order to care for that child; or 2) The serious health condition of the employee:
 - (1) An employee must complete the FMLA packet prior to the requested leave in all possible circumstances. The packet contains all information and certifications required for the leave to be considered an FMLA approved leave. For cases where an emergency prevents the packet from being completed prior to the first day of leave, it must be completed within a reasonable time directly afterward. Employees who do not complete the packet prior to leave, yet take more than five days of leave for an FMLA event, will have the FMLA leave used back-dated to that FMLA event.
 - (2) Employees must then submit a completed “Certification of Health Care Provider for Employee’s Serious Health Condition (Family and Medical Leave Act)” form.
 - (3) The worker’s compensation insurance company’s approval of the employee’s need to be absent from work will satisfy the need to submit a completed “Certification of Health Care Provider for Employee’s Serious Health Condition (Family and Medical Leave Act)” form.
 - (4) Employees must provide Tooele County with at least 30 days notice prior to the need for leave, if possible. If it is not possible to give 30 days notice, the employee must give as much notice as is practicable. An employee who is to undergo planned medical treatment is required to make a reasonable effort to schedule the treatment in order to minimize disruptions to the workplace. If an employee fails to provide 30 days notice for foreseeable leave with no reasonable excuse for the delay, the

leave request may be denied until at least 30 days from the date Tooele County receives notice.

- (5) While on leave, employees are requested to report periodically to Tooele County regarding the status of the medical condition and their intent to return to work. Tooele County may ask for additional updates.
 - (6) The employee must respond to requests for certification or recertification within 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.
 - (7) If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent leave or working a reduced schedule.
 - (8) Tooele County has the right to ask for a second opinion if it has reason to doubt the certification. Tooele County will pay for the employee to get a certification from a second doctor, which the county will select. If necessary to resolve a conflict between the original certification and the second opinion, Tooele County will require the opinion of a third doctor. Tooele County and the employee will mutually select the third doctor, and the county will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.
- b. To care for a spouse, child, or parent with a serious health condition:
- (1) An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
 - (2) Employees must then submit a completed "Certification of Health Care Provider for Family Member's Serious Health Condition (Family and Medical Leave Act)" form.
 - (3) Employees must provide Tooele County with at least 30 days notice prior to the need for leave, if possible. If it is not possible to give 30 days notice, the employee must give as much notice as is practicable. If an employee fails to provide 30 days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date Tooele County receives notice.
 - (4) While on leave, employees are requested to report periodically to Tooele County regarding the status of the medical condition and their intent to return to work. Tooele County may ask for additional updates.

- (5) The employee must respond to requests for certification or recertification within 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.
 - (6) If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent leave or working a reduced schedule.
- c. The placement of a child for adoption or foster care and to care for the newly placed child:

An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
 - d. For a qualifying exigency for Military Family Leave:
 - (1) An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
 - (2) Employees requesting this type of FMLA leave must also submit a completed "Certification of Qualifying Exigency for Military Family Leave (Family and Medical Leave Act)" form. If such leave is foreseeable, employees are asked to provide as much notice as possible to Tooele County.
 - e. To care for an injured or ill service member:
 - (1) An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
 - (2) Employees requesting this type of FMLA leave must submit a completed "Certification for Serious Injury or Illness of a Current Servicemember – for Military Family Leave (Family and Medical Leave Act)" form. If such leave is foreseeable, employees are asked to provide as much notice as possible to Tooele County.

12. DESIGNATING LEAVE AS FMLA LEAVE

- a. Absent extenuating circumstances, Tooele County will inform the employee, in writing, of the designation of leave as FMLA-qualifying leave within five business days after receipt of notification of the need for leave and if applicable, receipt of completed required documentation.
- b. While leave is in progress or if upon returning from leave Tooele County learns that the reason for leave was an FMLA-qualifying reason, Tooele County may retroactively

designate such leave while the leave is in progress or within two business days of the employee's return to work.

L. LONG TERM DISABILITY LEAVE:

1. An employee who is determined eligible for the Long Term Disability Program (LTD) shall be granted up to one year of leave, if warranted by a medical condition.
2. The leave begins on the last day the employee worked. LTD requires a three-month waiting period before benefit payments begin. During this period, an employee may be placed on FMLA leave or other types of leave. When these leaves are exhausted, the employee will then be placed in a leave-without-pay status. The employee shall be paid for remaining balances of leave once disability eligibility is determined.
3. Only insurance coverages that were in effect at least one full year prior to the time of LTD eligibility may be continued. If approval or denial for LTD coverage is delayed beyond the three-month waiting period, the employee is entitled to continue benefits not to exceed six months. If denied LTD benefits, the employee will be entitled to elected COBRA coverage.
4. If the county's insurance carrier provides a waiver program, the employee is responsible for the premiums as outlined in the carrier's waiver program. Dental and life insurance are not covered under a waiver program. If no waiver program is offered, the employee is responsible for premiums according to the county service credit policy offered to retirees. However, only the years of service up to LTD eligibility will be counted towards the service credit. Once the employee's service credit is exhausted, and if the employee remains LTD eligible, the employee is responsible to pay the same premiums and be on the same plans offered regular retirees.
5. An employee shall continue to accrue service credit for retirement purposes while receiving LTD benefits. An employee who retires from county government directly from LTD will be entitled to insurance benefits at the same level and pay with the same premiums as other qualified retirees.
6. If an employee is able to return to work within one year of the last day worked, the county shall place the employee in the previously held position or a similar position in a comparable salary range, provided the employee is able to perform the essential functions of the job with or without a reasonable accommodation.
7. If an employee is unable to perform the essential functions of the position because of a permanent disability that qualifies as a disability under the ADA, the county shall offer the employee a reassignment to an available vacant position, for which the employee qualifies, and whose essential functions the employee is able to perform without a reasonable accommodation.
8. If an employee is unable to return to work within one year after the last day worked, the employee shall be separated from county employment.

9. An employee determined eligible for LTD shall be separated from Tooele County with reinstatement optional within one year, provided the employee first submits a written request for a one-year leave of absence for medical purposes.

**SECTION 15A
PERSONAL TIME OFF (PTO)**

A. PERSONAL TIME OFF:

1. This policy applies to all employees hired after July 1, 2017 and all current employee electing to be subject to this policy by the same date.
2. Personal time off (hereinafter "PTO") is intended to benefit the employee. Employees are encouraged to take PTO in the year in which it is earned. Annual PTO will not be advanced to employees.
3. An employee may accumulate up to 480 hours of PTO to add to the PTO earned the following year. Any PTO in excess of 480 hours not taken during the year in which it is earned will be forfeited if not used by the anniversary of employee's hire date. For the purpose of this subsection, "during the year" shall extend from the employee's date of hire until the following anniversary date.
4. PTO will be scheduled so as to meet the operating requirements of the county, and insofar as possible, the preference of employees. Previously taken leave and seniority shall apply in case of conflict of leave schedules.
5. A county holiday shall not constitute a day of PTO. When an authorized holiday falls within the time period of employees' PTO, the employee will be entitled to one additional day beyond the specified PTO period.
6. Supervisors have access through the timekeeping system to track and calendar PTO used by each employee.
7. Employees who have terminated or who give notice of intent to terminate their employment and who will not actually work after giving such notice shall not be allowed to continue or retain their status as an employee by electing to take accrued PTO. Employees that have given notice of intent to terminate or retire, but will continue to actually work after giving such notice, shall not be allowed to use accrued PTO unless approved by their Department Head or Elected Official. Employees terminating or retiring will be cashed out in a lump sum for all PTO that does not exceed 480 hours.
8. Full-time employees accrue six hours of PTO per pay period from the date of appointment. Employees using PTO continue to accrue PTO.
9. Full-time employees with at least five years and through their ninth year of service accrue seven hours of PTO per pay period, from their anniversary date.
10. Full-time employees with at least ten years through their fourteenth year of service accrue eight hours of PTO per pay period, from their anniversary date.

11. Full-time employees with 15 or more years of service accrue nine hours of PTO per pay period from their anniversary date.
12. Employees accrue PTO on a prorated basis as follows:
 - a. Employees working 20 hours or more per week and less than 30 hours accrue PTO on a half-time basis.
 - b. Employees working 30 hours or more per week and less than 40 hours accrue PTO on a three-quarter time basis.
13. Probationary employees accrue PTO from the date of their initial appointment. However, probationary employees are not entitled to use accrued PTO during the first six months of their probationary period. They forfeit all accrued PTO if they quit or are terminated during their probationary status. This subsection applies only to newly hired probationary employees, not to employees who are on probation as a result of a promotion and who have previously completed a new-hire probationary period.
14. PTO is not earned by part-time employees working less than 20 hours per week, temporary or seasonal employees, or employees on leave-without-pay status.
15. For departments that have approved a flexible work schedule:
 - a. For each full day of PTO taken, the total daily scheduled hours shall be deducted from accumulated PTO.
 - b. If less than a full day of PTO is taken, then each hour of PTO taken shall be deducted from accumulated PTO.
16. The fact that an employee has available PTO does not justify tardiness or unexcused absences. Unscheduled absenteeism and tardiness are grounds for disciplinary action, regardless of the availability of PTO.
17. Unplanned PTO may be used only when the employee or a member of the employee's immediate family notifies the supervisor or other designated person of the employee's absence prior to or within one hour after the scheduled reporting time. The department head shall use discretion in approving unplanned PTO. Employees who abuse this PTO policy may be denied unplanned PTO.
18. PTO does not accrue during unpaid leave or leave during which an employee receives compensation from any county-sponsored program, such as disability or military leave.
19. PTO accrued in any pay period may be taken the following pay period.
20. PTO will not be considered as time worked for calculating overtime compensation.

21. Employees who are excluded under the Fair Labor Standards Act (“FLSA”) are paid a salary for any week in which they work, regardless of the number of hours worked. However, all full-time employees are generally expected to work 40 hours per week. The PTO policy does not apply to FLSA excluded employees, but the PTO policy is a guideline for reasonable time off for such employees with the following modifications:

- a. PTO is deemed accrued at the beginning of each year.
- b. PTO does not carry over from year to year.

B. HOLIDAYS:

1. The following days are designated as legal paid county holidays:

New Year’s Day	-	January 1
Dr. Martin Luther King Jr. Day	-	Third Monday of January
Presidents’ Day	-	Third Monday of February
Memorial Day	-	Last Monday of May
Independence Day	-	July 4
Pioneer Day	-	July 24
Labor Day	-	First Monday of September
Columbus Day	-	Second Monday of October
Veterans’ Day	-	November 11
Thanksgiving Day	-	Fourth Thursday of November
Christmas Day	-	December 25

2. Full-time employees shall receive paid holiday leave in the amount of ten hours per holiday for a total of 110 hours. Public safety employees shall receive 12 hours per holiday for a total of 132 hours. Three-quarter time employees shall receive 7.5 hours per holiday for a total of 82.5 hours. Half-time employees shall receive five hours per holiday for a total of 55 hours. If the holiday falls on a regularly scheduled day off, such employees shall receive an equivalent workday off equal to the employee’s regular scheduled hours.

3. No holiday leave is paid to temporary, seasonal, on-call, or part-time employees working less than 20 hours per week.

C. EMERGENCY LEAVE: Emergency leave with pay may be authorized by the department head in the case of a death in the immediate family for a period not to exceed one week or a total of 40 hours. “Immediate family” shall mean wife, husband, children, daughter-in-law, son-in-law, parents, grandchildren, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparents, spouse’s grandparents, brothers, and sisters of the employee. In the event of the death of other family members, an employee may be authorized emergency leave to attend the funeral for such persons. The number of authorized hours for emergency leave shall not exceed four hours. “Other family members” means relatives other than immediate family members, within and including the fifth degree of consanguinity, computed according to the rules of civil law, and also include the spouses of such relatives.

D. COURT LEAVE: An employee who, in obedience to a subpoena or direction by proper authority appears during a regularly scheduled work shift as a juror in any court case or as a witness in his official capacity for the federal government, the State of Utah or a political subdivision thereof, shall be paid that employee's regular compensation for the time taken off work. The employee shall immediately pay over to Tooele County any compensation or fees, except mileage, received from the court. Time absent by reason of a subpoena in private litigation or by some party other than the federal government, state government, or a political subdivision thereof, or to testify as an individual and not in an official capacity for the county, shall be taken as PTO or leave without pay.

E. MATERNITY LEAVE: An employee who becomes pregnant may continue working until such time she can no longer satisfactorily perform her duties or her physical condition is such that her continued employment may be injurious to her health. An employee shall, upon request, present medical certification from her doctor of fitness to continue or resume work. PTO, which is regularly available to cover the time for physical examinations and periods of incapacitation, will be available to the pregnant employee for the same purpose. Maternity leave shall be granted on the same basis as any other temporary disability or illness.

F. MILITARY LEAVE:

1. Leave is granted for a period of active military service. Military leave of less than six months is known as short-term leave. Leave of six months or more is known as extended leave.
2. Short-term military leave is authorized pursuant to the following:
 - a. Employees are entitled to eleven working days of military leave per year without loss of compensation or other fringe benefits, subject to Subsection 15A.F.2.b. Any employee requesting military leave must provide the designated administrator with a copy of the military orders placing the employee on active duty status.
 - b. Employees who are members of reserve units of the military shall notify their immediate supervisor at least four weeks in advance unless prevented by military necessity and shall indicate in writing their intention and anticipation with regard to participating in periods of active duty. Such written notification shall be made a part of the employee's personnel file.
3. Extended military leave is granted to full-time or part-time employees who enlist, are drafted, or are called to active service in the armed forces of the United States in accordance with the Universal Military Training and Service Act.
4. Former employees are entitled to return to county employment pursuant to the following conditions:
 - a. The leave of absence may not exceed five years from the date of entry into the military service, unless the employee is involuntarily retained longer.

- b. The employee must have satisfactorily completed the period of active duty and furnish a certificate to that effect.
 - c. Any employee leaving active military duty is authorized to request reinstatement to a position of comparable status and compensation. If gone 30 days or less, the employee must request reinstatement the next business day after military release. If gone 31 to 180 days, the employee must request reinstatement within 14 days after military release. If gone 181 or more days, the employee must request reinstatement within 90 days after military release.
 - d. If the employee declines two consecutive offers for position vacancies, reinstatement rights may be canceled.
 - e. If an employee is not qualified to perform all the duties of the employee's former position due to a disability incurred or aggravated while in military service, reasonable efforts will be made to accommodate the disability so the employee can perform the position the employee would have held if the employee had remained continuously employed. If, despite reasonable accommodation efforts, the person is not qualified for the position due to the disability, the employee will be employed in a position of equivalent seniority, status, and pay, so long as the employee is qualified to perform the duties of the position or could be qualified to perform them with reasonable efforts by the county. If the employee does not become qualified for this second position, the employee will be employed in a position that, consistent with the circumstances of that person's case, most nearly approximates the second position in terms of seniority, status, and pay.
5. Employees using military leave may elect to use PTO, compensatory time, or leave without pay.

G. ADMINISTRATIVE LEAVE:

- 1. Full-time or probationary employees may, upon approval of the department head, be granted administrative leave with pay to perform legitimate duties in connection with county business, to attend trade or professional meetings which relate to official duties, or to participate in recognized or authorized training programs.
 - a. Employees may be allowed administrative leave with pay for conducting or participating in trade or professional organizations as follows:
 - (1) Employees serving as organization officers may receive up to five hours administrative leave per month.
 - (2) Employees may attend local employee organization-sponsored meetings or functions during normal working hours, but not to exceed five hours per month.

- b. Administrative leave shall be granted at the discretion of the department head or elected official. Under no circumstances shall the accrual of overtime hours be permitted for such participation.
2. The County Commission may, at its discretion, grant administrative leave with pay to employees.

H. LEAVE OF ABSENCE:

1. Leave of absence without pay may be granted or directed for periods not to exceed one year to employees because of illness, for education purposes, for disciplinary reasons, or for other appropriate reasons. It shall be granted only when all other leave is used, but may be directed at any time. Such leave shall not be regarded as an acquired right by employees and shall be granted only when the county will not be adversely affected thereby. Leave of absence without pay for illness may be approved by the department head or elected official for periods less than 40 hours per week. Unless designated as Family and Medical Leave by the Human Resource Department, leave without pay beyond the 40 hours must be made in writing and, if approved by the department head and a County Commissioner, shall be filed with the Human Resource Department. Leave granted to employees who accept full-time employment outside the county's service shall be subject to the approval of the County Commission and a designated administrator and shall be denied unless the request thereof is accompanied by satisfactory proof that such employment is temporary and that the experience gained thereby will be for the betterment of the county's service. If an employee is placed on leave-without-pay status three or more times, however, that employee may be subject to immediate dismissal.
2. A leave of absence without pay may be terminated prior to the expiration date. Failure of an employee to report for duty promptly at the expiration of the leave or violation of an agreement or understanding entered into by the employee relative thereto shall be just cause for discharge and the removal of the employee's name from any eligible list on which it may appear.
3. An employee may be placed on leave of absence without pay when suspected of or charged with committing a felony or a crime involving an abuse of the county office or position. If the employee is exonerated, the employee shall be reinstated with back pay.
4.
 - a. A career service employee shall be placed on an automatic leave of absence in the event the employee is appointed to a position exempt or excluded from the career service for the period of time the employee fills the exempt or excluded position. A career service employee who is elected as a county official is not granted a leave of absence, and the employee's career service status is terminated.
 - b. A career service employee who accepted an appointment to an exempt or excluded position prior to August 15, 2006, who is not retained by the appointing officer, and has not been terminated for a violation of the standards of conduct such as those identified in Section 24,

shall be returned to their former career service position upon termination of the leave of absence.

- c. A career service employee accepting an appointment to an exempt or excluded position after August 15, 2006, who is not retained by the appointing officer, and has not been terminated for a violation of the standards of conduct such as those identified in Section 24, shall:
 - (1) be appointed to any career service position for which the employee qualifies in a pay grade comparable to the employee's last position in the career service, provided an opening exists; or
 - (2) be appointed to any lesser career service position for which the employee qualifies pending the opening of a position in a pay grade comparable to the employee's last career service position.
- d. Appointed lieutenants in the Sheriff's Office are governed by Section 6 of these Policies and Procedures and shall have bumping rights back to their former position regardless of when they were appointed unless discharged for a violation of the standards of conduct such as those identified in Section 24. The rate of pay will be determined by Section 11.
- e. The Human Resources Director shall maintain a reappointing register to facilitate the operation of this section, which shall have precedence over other registers.
- f. Employees taking such a leave of absence shall have their accrued PTO converted to wages and paid to them upon commencement of the leave. An employee may elect to freeze up to 80 hours of accrued PTO to be reinstated upon termination of the leave of absence. An employee electing to freeze leave and who does not return to a career service position will have the leave converted to wages at the rate in which the hours were frozen and paid to them upon termination of employment.
- g. A career service employee who accepted an appointment to an exempt or excluded position, who is not retained by the appointing authority, and who returns to a career service position, shall have their grade and step determined according to increases the employee would have attained during the leave of absence. The exact step will be determined by the Human Resources Director but shall not exceed the maximum step for the grade unless approved by the appointing authority and the County Commission.

I. FAMILY AND MEDICAL LEAVE:

1. FMLA ELIGIBILITY

- a. Employees are eligible for FMLA leave if they have worked for Tooele County for at least 12 months (52 weeks) and worked 1,250 hours of service during the 12-month period immediately before the commencement of the leave.

- b. In determining the 12 months (52 weeks) worked for Tooele County, the 12 months need not be consecutive months. Employment periods prior to a break in service of seven years or more are not counted unless the employee's break in service is occasioned by the fulfillment of his or her National Guard or Reserve military service obligations. The time served performing the military service must be also counted in determining whether the employee has been employed for at least 12 months. For FMLA 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 the week or if the employee was on other paid leave during the week (i.e., PTO or worker's compensation).
- c. Time spent on paid (including worker's compensation payments) or unpaid leave is not counted in determining the 1,250 hours worked for FMLA eligibility purposes. Tooele County will include overtime hours as hours worked on an hour-for-hour basis regardless of whether they were paid out as overtime or as compensatory time.

2. FMLA DEFINITIONS

For purposes of this section, the following terms have the stated meanings:

- a. Parent means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was child. Parent does not include parent-in-law.
- b. Child means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" except for FMLA leave due to military service the person does not have to be a minor.
- c. Next-of-kin of a covered service member means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter. The FMLA provides additional definitions regarding next of kin including order of priority or employee's designation of next of kin.
- d. "Serious health condition," for purposes of the FMLA, means an illness, injury, impairment, or physical or mental condition that:
 - (1) requires an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity (meaning the inability to work, attend school, or perform other regular daily activities due to the serious health condition treatment therefore, or recovery there from) or any subsequent treatment in connection with such inpatient care;
 - (2) involves continuing treatment by a healthcare provider for incapacity and treatment. To qualify the incapacity must be for a period of more than three consecutive full calendar days from work, school, or other regular daily activities and include subsequent treatment or period of incapacity relating to the same condition.

Subsequent treatment must include treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider. Subsequent treatment must occur two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist. Subsequent treatment may be performed by a health care provider, a nurse under direct supervision of a healthcare provider, or by a provider of health care services under orders of, or on referral by, a health care provider;

- (3) any period of incapacity due to pregnancy, or for prenatal care;
- (4) any period of incapacity (or treatment for such incapacity) due to a chronic serious health condition. A chronic serious health condition is one which:
 - (a) requires periodic visits at least twice a year for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;
 - (b) continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - (c) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
- (5) a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment, by a health care provider (e.g., Alzheimer's, stroke, terminal stages of a disease, etc.); or,
- (6) any absences to receive multiple treatments (including any period of recovery there from) by, or on referral by, a health care provider for a condition for:
 - (a) restorative surgery after an accident or other injury; or
 - (b) a condition that would likely result in a period of incapacity of more than three consecutive full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

3. BASIC FMLA LEAVE ENTITLEMENT

The FMLA provides up to 12 weeks of job protected leave to eligible employees for the following reasons:

- a. for incapacity due to pregnancy, prenatal medical care, or child birth;

- b. to care for the employee's child after birth, or placement for adoption or foster care. Leave to care for a child following birth, for adoption, or for foster care must be taken within one year of the birth or placement of the child;
- c. to care for the employee's spouse, child, or parent with a serious health condition; or,
- d. for a serious health condition that makes the employee unable to perform the employee's job.

4. MILITARY FMLA LEAVE ENTITLEMENT

- a. Eligible employees with a spouse, child, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week FMLA leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. The FMLA does provide limitations on the amount of leave that can be used for certain qualifying exigencies.
- b. FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single "12-month period." A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. This is the only type of FMLA leave that may extend an employee's leave entitlement beyond 12 weeks to 26 weeks. Other types of FMLA leave are added to this type of leave totaling the 26 weeks. If an eligible employee does not take all of his or her 26 workweeks of leave entitlement to care for a covered service member during this "single 12-month period," the remaining part of his or her 26 workweeks of leave entitlement to care for the covered service member is forfeited.

5. CALCULATION OF 12 WEEKS / 26 WEEKS

- a. **12 Weeks.** In determining eligibility for FMLA leave the county will measure the 12-month period as a rolling 12-month period measured backward from the date of an employee's first FMLA use. Each time an employee requests leave, the county will compute the amount of FMLA leave the employee has taken in the last 12 months and subtract it from the 12 weeks of available FMLA leave. The balance remaining will be the amount the employee is entitled to take at that time. Note that this amount may change with each request for FMLA leave as periods of leave drop from the 12-month look back period resulting in leave coming available to the employee. When an employee's work schedule varies from week to week, a weekly average of the hours

worked over the 12 weeks prior to the beginning of the FMLA leave period is used to calculate the amount of FMLA leave available to the employee.

- b. **26 Weeks.** The “single 12-month period” to care for a covered service member begins on the first day the eligible employee takes FMLA leave to care for a covered service member and ends 12 months after that date. The “single 12-month period” is applied on a per-covered-service member, per-injury basis. An employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for a different covered service member or to care for the same service member with a subsequent serious injury or illness, except that no more than 26 workweeks of leave may be taken within any “single 12-month period.”

6. HUSBAND & WIFE BOTH EMPLOYED BY COUNTY

If a husband and wife both work for Tooele County and each wishes to take FMLA leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for Tooele County and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of FMLA leave during the “single 12-month period.” These limitations do not apply where the reason for the leave is the serious health condition of either the husband or wife or the serious health condition of a child. If either the husband or wife is ineligible for FMLA leave, the eligible spouse retains full leave entitlement (i.e., they don't have to split the leave).

7. EMPLOYEE BENEFITS DURING FMLA LEAVE

- a. While an employee is on FMLA leave, Tooele County will continue the employee's health, dental, and vision benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.
- b. Retirement, life, and other benefits may be continued based on insurance provider's approval. Generally, continuation of these benefits is contingent upon whether the FMLA leave is paid or unpaid and what sources are paying the employee's wages. Benefit continuation is subject to change based on individual insurance providers' provisions. Employer contributions to the 401K plan will be adjusted and based on wages paid by Tooele County (i.e., does not include unpaid or worker's compensation wages).
- c. While on **paid** FMLA leave, Tooele County will continue to make payroll deductions to collect any portion of the employee's share of the premiums.
- d. While on **unpaid** FMLA leave, the employee must continue to pay any portion of the employee's share of the health premiums (and any other benefits the employee desires to continue) and may do so in person or by mail. The payment will be due by the 15th day of each month. The employee will be deemed delinquent if the payment is more than 30 days late and alternative payment arrangements have not been made with Tooele County.

Failure to make timely premium payments may result in cancellation of benefits. Tooele County may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work, including seeking recovery through civil court. Tooele County may also seek retroactive termination of insurance coverage with the insurance provider. Tooele County may recover from an employee both the employee's and/or employer's share of any premiums paid during a period of **unpaid** FMLA leave if the employee fails to return to work after the employee's FMLA leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:

- 1) the continuation, recurrence, or onset of either a serious health condition of the employee or the employee's family member, or a serious injury or illness of a covered service member, which would otherwise entitle the employee to leave under FMLA; or
- 2) other circumstances beyond the employee's control.

8. EMPLOYEE STATUS AFTER FMLA LEAVE

- a. An employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits, and other employment terms. The position will be the same or virtually identical in terms of pay, benefits, and working conditions.
- b. Tooele County may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

9. SUBSTITUTION OF PAID LEAVE AND/OR DISABILITY INSURANCE

- a. **Paid Leave Benefit Substitution.** Tooele County has elected the statutory provision under the FMLA permitting an employer to require employees to take any accrued paid PTO or comp-time (i.e., paid FMLA leave or "substitution of paid leave") and have it run concurrently with any FMLA leave, to the extent that the reason for the leave complies with permissible uses as specified in this and other sections regarding paid leave herein. Before being eligible for unpaid FMLA leave, an employee is required to substitute any accrued and qualifying paid leave to bring the employee to 100% of his/her wage at the time FMLA starts. In cases of varying schedules, the required substitution will be calculated as the average weekly wage earned during 12 months prior to commencing FMLA leave. While substituting paid leave, an employee must follow the same terms and conditions of the county's policy that apply to other employees for the use of such paid leave.
- b. **Worker's Compensation Substitution.** When substitution occurs and wages are paid in whole or in part by a county-sponsored disability insurance provider (i.e., worker's compensation insurance), the employee may elect to, but is not required to, supplement the insurance payment up to 100% of his/her pre-disability wage. This generally only occurs when FMLA is needed due to the serious medical condition of the employee.

10. INTERMITTENT FMLA LEAVE OR A REDUCED WORK SCHEDULE

- a. An employee may take FMLA intermittently (i.e., take off work in 15 minute increments when needed or a day or two over the year when needed) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 work weeks (or 26 work weeks to care for an injured or ill service member over a “12-month period”).
- b. Tooele County may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.
- c. For the birth, adoption, or foster care of a healthy child, Tooele County and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced work schedule.
- d. If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with Tooele County before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.
- e. An employee who has been approved for intermittent FMLA-protected leave must specifically reference either the qualifying reason for leave or the need for FMLA leave. Calling in “sick” without providing more information will not be considered sufficient notice to trigger Tooele County’s obligations under the Act.

11. PROCEDURE FOR REQUESTING FMLA LEAVE

- a. For (1) The birth of a child or in order to care for that child; or 2) The serious health condition of the employee:
 - (1) An employee must complete the FMLA packet prior to the requested leave in all possible circumstances. The packet contains all information and certifications required for the leave to be considered an FMLA approved leave. For cases where an emergency prevents the packet from being completed prior to the first day of leave, it must be completed within a reasonable time directly afterward. Employees who do not complete the packet prior to leave, yet take more than five days of leave for an FMLA event, will have the FMLA leave used back-dated to that FMLA event.
 - (2) Employees must then submit a completed “Certification of Health Care Provider for Employee’s Serious Health Condition (Family and Medical Leave Act)” form.
 - (3) The worker’s compensation insurance company’s approval of the employee’s need to be absent from work will satisfy the need to submit a completed “Certification of

Health Care Provider for Employee's Serious Health Condition (Family and Medical Leave Act)" form.

- (4) Employees must provide Tooele County with at least 30 days notice prior to the need for leave, if possible. If it is not possible to give 30 days notice, the employee must give as much notice as is practicable. An employee who is to undergo planned medical treatment is required to make a reasonable effort to schedule the treatment in order to minimize disruptions to the workplace. If an employee fails to provide 30 days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date Tooele County receives notice.
 - (5) While on leave, employees are requested to report periodically to Tooele County regarding the status of the medical condition and their intent to return to work. Tooele County may ask for additional updates.
 - (6) The employee must respond to requests for certification or recertification within 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.
 - (7) If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent leave or working a reduced schedule.
 - (8) Tooele County has the right to ask for a second opinion if it has reason to doubt the certification. Tooele County will pay for the employee to get a certification from a second doctor, which the county will select. If necessary to resolve a conflict between the original certification and the second opinion, Tooele County will require the opinion of a third doctor. Tooele County and the employee will mutually select the third doctor, and the county will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.
- b. To care for a spouse, child, or parent with a serious health condition:
- (1) An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
 - (2) Employees must then submit a completed "Certification of Health Care Provider for Family Member's Serious Health Condition (Family and Medical Leave Act)" form.
 - (3) Employees must provide Tooele County with at least 30 days notice prior to the need for leave, if possible. If it is not possible to give 30 days notice, the employee must give as much notice as is practicable. If an employee fails to provide 30 days notice

for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date Tooele County receives notice.

- (4) While on leave, employees are requested to report periodically to Tooele County regarding the status of the medical condition and their intent to return to work. Tooele County may ask for additional updates.
 - (5) The employee must respond to requests for certification or recertification within 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.
 - (6) If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent leave or working a reduced schedule.
- c. The placement of a child for adoption or foster care and to care for the newly placed child:
- An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
- d. For a qualifying exigency for Military Family Leave:
- (1) An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
 - (2) Employees requesting this type of FMLA leave must also submit a completed "Certification of Qualifying Exigency for Military Family Leave (Family and Medical Leave Act)" form. If such leave is foreseeable, employees are asked to provide as much notice as possible to Tooele County.
- e. To care for an injured or ill service member:
- (1) An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
 - (2) Employees requesting this type of FMLA leave must submit a completed "Certification for Serious Injury or Illness of a Current Servicemember – for Military Family Leave (Family and Medical Leave Act)" form. If such leave is foreseeable, employees are asked to provide as much notice as possible to Tooele County.

12. DESIGNATING LEAVE AS FMLA LEAVE

- a. Absent extenuating circumstances, Tooele County will inform the employee, in writing, of the designation of leave as FMLA-qualifying leave within five business days after receipt of notification of the need for leave and if applicable, receipt of completed required documentation.
- b. While leave is in progress or if upon returning from leave Tooele County learns that the reason for leave was an FMLA-qualifying reason, Tooele County may retroactively designate such leave while the leave is in progress or within two business days of the employee's return to work.

J. LONG TERM DISABILITY LEAVE:

1. An employee who is determined eligible for the Long Term Disability Program (LTD) shall be granted up to one year of leave, if warranted by a medical condition.
2. The leave begins on the last day the employee worked. LTD requires a three-month waiting period before benefit payments begin. During this period, an employee may be placed on FMLA leave or other types of leave. When these leaves are exhausted, the employee will then be placed in a leave-without-pay status. The employee shall be paid for remaining balances of leave once disability eligibility is determined.
3. Only insurance coverages that were in effect at least one full year prior to the time of LTD eligibility may be continued. If approval or denial for LTD coverage is delayed beyond the three-month waiting period, the employee is entitled to continue benefits not to exceed six months. If denied LTD benefits, the employee will be entitled to elected COBRA coverage.
4. If the county's insurance carrier provides a waiver program, the employee is responsible for the premiums as outlined in the carrier's waiver program. Dental and life insurance are not covered under a waiver program. If no waiver program is offered, the employee is responsible for premiums according to the county service credit policy offered to retirees. However, only the years of service up to LTD eligibility will be counted towards the service credit. Once the employee's service credit is exhausted, and if the employee remains LTD eligible, the employee is responsible to pay the same premiums and be on the same plans offered regular retirees.
5. An employee shall continue to accrue service credit for retirement purposes while receiving LTD benefits. An employee who retires from county government directly from LTD will be entitled to insurance benefits at the same level and pay with the same premiums as other qualified retirees.
6. If an employee is able to return to work within one year of the last day worked, the county shall place the employee in the previously held position or a similar position in a comparable salary range, provided the employee is able to perform the essential functions of the job with or without a reasonable accommodation.

7. If an employee is unable to perform the essential functions of the position because of a permanent disability that qualifies as a disability under the ADA, the county shall offer the employee a reassignment to an available vacant position, for which the employee qualifies, and whose essential functions the employee is able to perform without a reasonable accommodation.
8. If an employee is unable to return to work within one year after the last day worked, the employee shall be separated from county employment.
9. An employee determined eligible for LTD shall be separated from Tooele County with reinstatement optional within one year, provided the employee first submits a written request for a one-year leave of absence for medical purposes.

SECTION 17 ETHICS

A. GENERAL POLICY:

1. Employees are expected to adhere to the highest standards of personal, professional and business ethics, and to use common sense and good judgment about the way they conduct themselves when on duty or representing Tooele County. Honesty, respect and care in dealings with others on the job, in performance of duties, and in dealings with customers, vendors, and visitors should be standard benchmarks of each employee's behavior.
2. Employees shall avoid even the appearance of unethical behavior in all business relationships, both foreign and domestic. Tooele County's business success does not require unethical actions, and such conduct is not condoned. Employees should contact their supervisor or department head with any questions or concerns regarding business ethics at Tooele County. Engaging in unethical conduct may result in disciplinary action up to and including termination of employment. "Unethical conduct" includes but is not limited to:
 - a. engaging in business conduct which is damaging to Tooele County's reputation;
 - b. disclosing or misusing trade secrets or confidential or proprietary information belonging to the county or its customers;
 - c. promising or giving something of value to anyone doing or seeking to do business with the county in order to influence them in matters relating to the county;
 - d. accepting gifts, entertainment, services, or other benefits where the purpose is to unduly influence business decisions;
 - e. selecting vendors based on non-business reasons, such as personal or former non-business relationships;
 - f. directing business to a relative, friend, or company in which the employee or one of the employee's family members has a direct or indirect financial or personal interest;
 - g. representing or discussing county affairs with the media without proper authorization;
 - h. undermining business decisions, unless they are perceived to be illegal or dishonest;
 - i. engaging in illegal activity; and
 - j. using county confidential information or trade secrets, facilities and supplies, or merchandise for personal gain.

B. RECEIPT OF GIFTS: Employees are prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loan, or any item of monetary value from any person within or outside county employment whose interests may be affected by the employee's performance or a nonperformance of official duties. Employees shall not receive outside compensation for their performance of county duties except in cases of:

1. awards for meritorious public contribution given publicly;
2. receipt of honoraria or expenses paid for papers, talks, demonstrations, or appearances made by employees with the approval of the department head, or on their own time for which they are not compensated by the county and which are not prohibited by these rules; and
3. receipt of usual social amenities, ceremonial gifts or insubstantial advertising gifts.

C. OUTSIDE EMPLOYMENT: No employee may engage in additional employment that interferes with the proper and effective performance of official duties or which results in a conflict of interest. It is necessary that every employee give priority to the job with Tooele County. The county shall not be held liable to grant leave in any cases of injury to an employee while that employee is engaged in outside employment.

D. PRIVILEGED INFORMATION: County employees who are involved with information of significant public interest may not use this privileged information for personal gain or to benefit friends or acquaintances. If an employee has an outside interest that could be affected by any county plan or activity, this situation must be reported to the employee's supervisor immediately. Each employee is charged with the responsibility of ensuring that only information that should be made available to the general public is released. Violation of these provisions regarding privileged information or use for private gain shall be cause for disciplinary action.

E. POLITICAL ACTIVITIES OF EMPLOYEES: Except as otherwise provided by law or by policies and procedures promulgated for federally aided programs, county employees may voluntarily participate in political activity subject to the following provisions:

1. No person shall be denied the opportunity to become an applicant for a position under the merit system in any covered department by virtue of political opinion or affiliation.
2. No person employed by the county under the merit system may be dismissed from service as a result of political opinion or affiliation.
3. A career service employee may voluntarily contribute funds to political groups and become a candidate for public office.
4. No county officer or employee, whether elected or appointed, may directly or indirectly coerce, command, or advise any officer or employee covered under the merit system to pay, lend, or contribute part of his or her salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No county officer or employee, whether elected or appointed, may attempt to make any officer's or employee's

personnel status dependent upon the employee's support or lack of support for any political party, committee, organization, agency, or person engaged in a political activity.

5. No officer or employee may engage in any political activity during the hours of employment nor shall any person solicit political contributions from county employees during hours of employment for political purposes, but nothing in this section shall preclude voluntary contribution by a county employee to the party or candidate of the employee's choice.
6. Nothing contained in this section shall be construed to permit partisan political activity of any county employee who is prevented or restricted from engaging in such political activity by the provision of the federal Hatch Act.

F. LOSS OF PROPERTY OR FUNDS:

1. Any officer or employee who is responsible for, has access to, or has been given possession of county property or funds shall immediately notify his or her department head of the loss of, or inability to account for, said property or funds. Also, any other employee who is aware of such a loss, irrespective of who may be the responsible party, shall also notify their department head of the loss.
2. Upon discovering a loss of property or funds or upon receiving such notice from another person, the department head shall immediately notify the County Auditor and Sheriff. If the auditor determines that the loss is one that may be covered by the county's public employee bond, he shall cause that notice of the loss, or facts indicating that a loss has occurred, be immediately given to the county's insurance company by certified mail.
3. The Auditor and Sheriff shall jointly conduct an investigation of the facts surrounding the loss. The results of the investigation shall be forwarded to the County Commission and County Attorney.

SECTION 18
ALCOHOL AND DRUG USE SCREENING, TESTING, AND TREATMENT

A. POLICY STATEMENT:

1. Tooele County recognizes there must exist a healthy and productive work force within the county, safe working conditions free from the effects of drugs and alcohol, and high quality services rendered to the public. These circumstances are vital to the functioning of county government, the safety of its employees, and the well-being of the general public.
2. The use of illegal drugs and alcohol and abuse of legal medications on the job creates a variety of workplace problems, including increased injuries on the job, increased absenteeism, increased financial burden on health and benefit programs, decreased employee morale, and a decline in the quality of services rendered to the public. Such use and abuse may be in violation of the criminal laws of the State of Utah. It greatly increases the potential legal liability of the county for accidents and misconduct of its employees.
3. In balancing the interests of the county and its employees and volunteers with the interests and welfare of the general public, the County Commission finds it is in the best interest of all parties to implement a drug-free workplace policy in accordance with the Local Governmental Entity Drug-Free Workplace Policies, Section 34-41-101, et seq., Utah Code Ann., 1953, as amended, the Federal Drug-Free Workplace Act of 1988, 41 U.S.C. 701 et seq.; and the Omnibus Transportation Employee Testing Act of 1991, Pub. L. 102-143, Title V. Accordingly, this policy addresses alcohol and drug screening, testing, and treatment for all county employees, including those who hold a commercial driver license (CDL). Employees who hold a commercial driver license (CDL) as a condition of their employment are also subject to Section 18A of the Tooele County Personnel Policies and Procedures.
4. In adopting this policy, it is the intent and objective of the County Commission to be as comprehensive as possible in addressing the issues of safety, confidentiality, privacy, alcohol and drug use education treatment, and the appropriate use of alcohol and drug testing as described in this policy.

B. DEFINITIONS:

As used in this section:

1. "Abuse" or "misuse" means the use of either an illegal substance or controlled substance obtained without a prescription for other than medicinal purposes; the inappropriate use of drugs obtained by prescription; or the inappropriate use of legally obtained alcohol products or over-the-counter medications.
2. "Act" means the Local Governmental Entity Drug-Free Workplace Enabling Act, Utah Code Ann. 34-41-101, et seq., 1953, as amended.

3. "Alcohol" means any or all alcoholic beverages, including hard liquor, beer or wine.
4. "Alcohol test" means the scientific analysis for the presence of alcohol in the human body.
5. "Commercial driver license" or "CDL" means a license required to operate a commercial vehicle.
6. "Commercial vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
 - a. has a gross vehicle weight rating of more than 26,000 pounds, including a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
 - b. is designed to transport 16 or more passengers including the driver; or
 - c. is of any size, is used to transport hazardous materials, and is required to be placarded.
7. "Confirmation test" means:
 - a. for alcohol testing, a second test following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration; and
 - b. for drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.
8. "Driver" means any person who operates a commercial vehicle.
9. "Drug" means any substance recognized as a drug in the Utah Controlled Substances Act, Title 58, Chapter 37, Utah Code Ann. 1953 as amended, or the Federal Controlled Substances Act, Title II, Pub. L. 91-513.
10. "Drug testing" or "drug test" means the scientific analysis for the presence of drugs or their metabolites in the human body. Tooele County will drug test for drugs including, but not limited to, the following:
 - a. marijuana (THC);
 - b. cocaine;
 - c. opiates;
 - d. phencyclidine (PCP);

- e. amphetamines, including methamphetamines;
 - f. barbiturates;
 - g. benzodiazepines;
 - h. propoxyphene;
 - i. methadone;
 - j. hydrocodone; and
 - k. oxycodone.
11. "Employee" means every person working for Tooele County, whether compensated or not, including volunteers, full and part-time, temporary, merit, merit exempt and community service workers.
 12. "Medical review officer" means a licensed physician who has knowledge of substance abuse disorders and has the training to interpret and evaluate test results.
 13. "Prospective employee" means any person who has made written or oral application to become an employee of the county.
 14. "Reasonable suspicion" means an articulated belief based on recorded specific facts and reasonable inferences drawn from those facts.
 15. "Rehabilitation testing" means unannounced but preselected drug or alcohol testing done as part of a program of counseling, education and treatment of an employee.
 16. "Safety sensitive" means any employee whose job is described as safety sensitive or performs any act which is safety sensitive, such as operating a commercial vehicle or heavy equipment.
 17. "Safety-sensitive function" means anytime a CDL holder is driving a commercial vehicle, is ready to drive a commercial vehicle, or is immediately available to drive as an employment responsibility. It also means any employee performing an act which is safety sensitive, such as operating a commercial vehicle or heavy equipment.
 18. "Sample" means any sample of urine or breath to be used for drug or alcohol testing.
 19. "Screening test" means:
 - a. in alcohol testing, an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system; and

b. in drug testing, an immunoassay screen to eliminate “negative” urine specimens from further consideration.

20. “Substance abuse professional” means a licensed physician, psychologist, social worker, employee assistance professional, or addiction counselor trained in the diagnosis and treatment of drug and alcohol abuse.

C. USE OF ALCOHOL OR DRUGS:

1. No employee shall drink alcohol while on Tooele County property, in a county vehicle, in a private vehicle on county business, at a county work site, on county business, or while representing county interests.
2. No employee shall report for a regularly scheduled duty shift or be on duty while under the influence of alcohol or any drug to the extent that it adversely affects the proper performance of the employee’s job or renders the employee incapable of safely and adequately performing job duties. No employee shall be fit for duty if the employee is under the influence of alcohol or drugs.
3. On-duty employees shall not operate a motor vehicle while under the influence of alcohol or any drug to a degree which renders the person incapable of safely operating the vehicle.
4. No employee suspected of being under the influence of alcohol or drugs shall be allowed to drive to a testing site or to any other location as long as reasonable suspicion exists that the employee is in an impaired state.
5. Employees shall not use, possess, distribute, manufacture, dispense, sell, or purchase any illegal drugs or controlled substances whenever such persons are on Tooele County property, in a county vehicle, in a private vehicle on county business, at a county work site, on county business, or while representing county interests.
6. Employees shall not use or possess prescription drugs unless such drugs are properly prescribed by a licensed physician and are being properly used for the treatment of any illness or injury.
7. Refusing to submit a sample as provided in this policy, attempting to contaminate a specimen or provide a false specimen, interfering with drug or alcohol testing procedures, or violating this policy in any way are grounds for disciplinary action, which may include termination.
8. Tooele County reserves the right to conduct unannounced inspections of county owned or leased property, work stations, equipment, desks, cabinets, etc. and to utilize detection methods necessary for the enforcement of this section, including testing, electronic detection equipment, and trained animals. As a condition of employment, all employees accept that such inspections are reasonable searches not requiring a search warrant. County employees shall not use personal locks on county owned or leased property unless approved by their

department head or elected official. If a personal lock is used, the employee must give access to the property immediately upon request by the department head or elected official. Failure to grant such access may result in removal of the personal lock by force and discipline consistent with the county's policies and procedures. Even when a personal lock is used, employees have no expectation of privacy in county owned or leased property.

D. EXEMPTION: The use or possession of drugs or alcohol will not be considered a violation of this policy where use or possession is permitted by law, or is considered a normal part of job duties and is approved by the department head.

E. PRE-EMPLOYMENT TESTING: All persons selected for hire by Tooele County (excluding elected officials) shall be given a conditional job offer and then must submit to a drug test. Any such persons found to be using an illegal drug or controlled substance, or using a prescription drug without an authorized prescription, or who refuses to take the drug test shall be disqualified from employment.

F. REASONABLE SUSPICION TESTING:

1. Employees having a reasonable suspicion that an employee is under the influence of alcohol or drugs in violation of this policy shall notify the immediate supervisor or department head and provide the information in writing which justifies their suspicion. The department head shall immediately notify the Human Resources Director of the information.
2. Circumstances which may constitute a basis for determining a reasonable suspicion include, but are not limited to:
 - a. a pattern of abnormal or erratic behavior such as a significant change in the quantity or quality of work, unusual mistakes or errors of judgment, or unusual absenteeism;
 - b. a work-related accident, in combination with other factors;
 - c. the direct observation of the employee using drugs or alcohol;
 - d. the employee's possession of alcohol or drugs at a county work site;
 - e. the noticeable presence of physical symptoms of drug or alcohol use such as glassy, blurry, or bloodshot eyes; dilated or pinpoint pupils; hand tremors; flushed or swollen face; the odor of alcohol on the breath; slurred speech; needle marks; hallucinations; unusual euphoria; unusual, aggressive, or bizarre acts; or poor coordination or reflexes; or
 - f. being informed by an employee that another employee is believed to be using or under the influence of drugs or alcohol.
3. In the event that a supervisor has a reasonable suspicion that an employee is impaired by the use of alcohol or drugs in violation of this section, the following steps shall be taken:

- a. The employee shall be immediately removed from assigned duties and informed by the supervisor that an impairment due to drug or alcohol use is suspected.
- b. The employee shall be given an opportunity to explain the behavior giving rise to the suspicion.
- c. The reporting supervisor shall immediately notify the department head or chief deputy of the supervisor's actions and request advice as to steps to be followed.
- d. The department head or chief deputy, after counsel with and in the presence of the supervisor, shall inform the employee that impairment due to the use of drugs or alcohol is suspected.
- e. The department head or chief deputy may direct the employee to submit to a drug and alcohol test by a qualified provider to determine whether drugs or alcohol is present in the employee's system. The employee's refusal to submit to the test may be subject to separate appropriate disciplinary action which may include termination.
- f. If the determination is made by the supervisor and the department head or chief deputy that alcohol or drug use impairment is involved to the extent that the performance of job duties is adversely affected, the employee shall be relieved from duty.
- g. An employee, upon being confronted by the reasonable suspicion that he or she is under the influence of drugs or alcohol, may request that a drug or alcohol test be conducted by a qualified provider to determine whether drugs or alcohol are present in his or her system if such a test has not already been directed.
- h. Upon being relieved of duty, appropriate steps shall be taken to discourage the employee from operating a motor vehicle. Reasonable efforts shall be taken to protect the public safety as well as the employee's safety.

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

1. Alcohol tests must be conducted within two hours of an accident. If alcohol tests cannot be conducted within two hours, a written report must be prepared by the employee's supervisor and kept on file stating the reasons the tests were not administered within the two-hour time limit. The alcohol test must then be conducted within eight hours. After eight hours, all attempts to test for alcohol must cease. Drivers shall not use alcohol for eight hours after the accident or until the post-accident test has been completed.
2. Drug tests must be conducted within 32 hours of an accident. If drug tests cannot be conducted within 32 hours, a written report must be prepared by the employee's supervisor

and kept on file stating the reasons the tests were not administered within the allowed time limits.

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

H. REQUIREMENTS FOR SAFETY SENSITIVE AND PUBLIC SAFETY PERSONNEL:

1. All safety sensitive and public safety personnel must be tested for alcohol and drugs.
2. No safety sensitive or public safety personnel shall report for duty or remain on duty requiring the performance of safety-sensitive functions when such person uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle or perform public safety functions. Tooele County shall not permit the employee to perform or continue to perform a safety-sensitive function if the county has actual knowledge that a such person has used a controlled substance.
3. Notwithstanding the absence of a reasonable suspicion alcohol test, safety sensitive and public safety personnel are prohibited from reporting or remaining on duty requiring the performance of safety-sensitive functions if they have an alcohol concentration of .04 or greater. Such persons are not permitted to use alcohol while driving or for four hours prior to driving. Tooele County, if it has actual knowledge of such alcohol concentration or use, shall not permit such persons to perform safety-sensitive functions. No such persons shall be on duty or operate a commercial vehicle while such persons possess alcohol, unless the alcohol is manifested and transported as part of a shipment. Such persons with a blood alcohol concentration of .04 or greater will be removed from safety-sensitive functions and not allowed to return until successfully completing return-to-duty testing. An alcohol test with results between .02 and .04 will also cause the employee to be removed from safety-sensitive functions, but will allow the employee to return for their next scheduled shift if at least eight hours have elapsed or 24 hours have passed for drivers.
4. Tooele County has the right to require safety sensitive and public safety personnel to report the use of any therapeutic drug they are taking.
5. Safety sensitive and public safety personnel may be allowed to perform job duties while using prescribed medication containing a controlled substance if a physician advises in writing that the substance will not adversely affect their ability to operate a commercial vehicle or perform a safety-sensitive function.
6. The misuse of any over-the-counter drug which is labeled that it may cause drowsiness or a warning to users not to operate heavy machinery is prohibited while driving a commercial or public safety vehicle or while performing a safety-sensitive function.

7. The unauthorized use of another person's prescription drugs while driving a commercial vehicle, performing a safety-sensitive function, or performing public safety functions is prohibited.
8. All prospective employees who will be driving a commercial vehicle while on duty, performing a safety-sensitive function, or will be employed in public safety must be tested for misuse or abuse of the drugs listed in Subsection B.10 and alcohol before starting work. In lieu of this requirement, Tooele County may request detailed written documentation from a previous employer of a prospective employee's drug and alcohol history. Pre-employment testing will occur after a conditional offer of employment. In order to begin work, the test must indicate less than .04 alcohol concentration and negative drug test results.
9. All drivers operating commercial or public safety vehicles who are in an accident when they are cited, where there is an injury, where a vehicle is towed, or which results in the loss of human life must be tested for misuse or abuse of drugs and alcohol. Post-accident testing shall comply with Subsection G of this policy.
10. Random testing is required of safety sensitive and public safety personnel pursuant to the following:
 - a. Fifty percent of all such employees must be tested on a random basis for alcohol and drug misuse or abuse every calendar year and 10% of all such employees must be tested for alcohol every calendar year utilizing a procedure that will:
 - (1) give all such employees an equal chance of being selected for testing;
 - (2) is unannounced; and
 - (3) is evenly spaced throughout the year.
 - b. Alcohol tests must be performed just prior to or immediately following performance of a safety-sensitive or public safety function.
 - c. If employees selected for random testing are off work due to illness, injury, annual leave, or personal time off (PTO), the supervisor will document it and keep that information in a permanent record.
 - d. A computerized random selection procedure generated by the Human Resource Department will be utilized to select employees for random testing.
11. Reasonable suspicion testing of safety sensitive and public safety personnel will be conducted pursuant to the following:
 - a. Such employees must be tested for drugs or alcohol when a supervisor has reasonable suspicion that they are under the influence of either alcohol or drugs. The supervisor's

determination that a reasonable suspicion exists to require the employee to undergo an alcohol or drug test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.

- b. The required tests shall not be performed by the same supervisor who determined that reasonable suspicion existed.
 - c. Supervisors shall document the specific facts and observations or symptoms which formed the basis for determination that reasonable suspicion existed.
 - d. Alcohol testing is authorized only when the observations are made just before, during, or just after the employee operates a commercial vehicle or when the employee is working in a public safety function. An employee may be directed by the supervisor to only undergo reasonable suspicion testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.
 - e. Alcohol tests must be conducted within two hours of an accident. If alcohol tests cannot be conducted within two hours, a written report must be prepared by the employee's supervisor and kept on file stating the reasons the tests were not administered within the two-hour time limit. The alcohol test must then be conducted within eight hours. After eight hours, all attempts to test must cease.
 - f. Drug tests must be conducted within 32 hours. If drug tests cannot be conducted within 32 hours, a written report must be prepared by the employee's supervisor and kept on file stating the reasons the tests were not administered within the allowed time limits. A written record shall be made of the observations leading to a controlled substance reasonable suspicion test, and signed by the supervisor who made the observations, within 24 hours of the observed behavior or before the result of the controlled substance test is released, whichever is earlier.
12. Before an employee returns to duty requiring the performance of a safety-sensitive or public safety function after engaging in conduct prohibited by Subsection H regarding alcohol, the employee shall be evaluated by a substance abuse professional, receive proper treatment, if necessary, and undergo an alcohol test with a result indicating an alcohol concentration of less than .02. If the conduct regarded drugs, the employee must receive the evaluation, treatment, and complete a drug test with a verified negative result.
13. Following a return-to-duty test, employees must be tested for drugs and alcohol a minimum of six times in the next twelve months or as many as 30 times in a total of 60 months pursuant to the recommendations of a substance abuse professional.
14. Refusing to submit to testing will prohibit the employee from performing safety-sensitive functions. Refusal is constituted by failure to provide adequate breath without explanation, obscuring testing, failing to sign a test form, leaving the accident scene before testing, and

activities which are similar forms of set-back. The consequences for refusal are congruent to testing at .04 grams of alcohol concentration or violating rules.

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

I. DEPARTMENT POLICIES: Elected offices, departments, or divisions of the county may adopt policies regarding drug and alcohol testing for sensitive driving functions or those occupations with duties involving public safety, at-risk clientele, or other duties which, by law, are appropriately amendable to random drug testing. Such elected office, department, or division policies shall be drafted to ensure their application to qualified occupations. They ensure that appropriate testing procedures are followed. Any departmental policy must be approved by the commissioner supervising that department and the Human Resource Department.

J. TESTING PROCEDURES:

1. Drug testing is performed using a urine collection method. The county, in its discretion, may perform drug testing by using a blood sample method. Each department whose employee is being tested may send another trusted employee in company with the first to the collection site to minimize the opportunity for sample adulteration. Testing will be conducted under controlled procedures by a qualified technician. Samples collected will be sent for analysis to a drug testing laboratory that follows guidelines set forth by the National Institute of Drug Abuse (NIDA). Split sample testing will be followed. A medical review officer must review and verify all positive drug tests and notify the employee's supervisor and the Human Resources Director. An employee whose test result is positive may submit a written request within ten days to the contracted testing facility for further, independent testing of the original specimen. This independent testing must be done at a NIDA certified laboratory and will be done at the employee's own expense.
2. Alcohol testing will be conducted by a certified breath alcohol technician (BAT), using an evidential breath testing device. It may be done at the scene of an accident providing Tooele County can obtain the results of that testing. The BAT must conduct an initial screening test. If the results are .02 or greater, a confirmation test must be administered. The confirmation test must be conducted at least 15, but no more than 20 minutes following the screening test. The BAT shall transmit all test results to the employee's supervisor and the Human Resources Director. The county may, in addition or as an alternative, require a blood sample for testing. Use of a urine or blood sample for both the drug testing and alcohol testing is not allowed.
3. Positive test results of alcohol or drug abuse will not be reported until after a confirmatory test has been administered.
4. The department requesting the tests shall pay for all costs of alcohol and drug testing procedures covered under this policy.

5. Time spent participating in drug and alcohol testing procedures covered in this policy will be considered compensable time, whether the employee is on or off duty.
6. All drug or alcohol test sample collection, handling, transportation, and testing under this policy shall be conducted in accordance with the requirements of the Act and other applicable provisions of state or federal statutes or regulations.
7. Any person required to submit to a drug test under this policy may, at such individual's option and expense, submit a second drug test sample for further testing in accordance with the provisions of the Act and within six hours after the first drug test.
8. All drug and alcohol testing and sample collection procedures under this policy shall be performed under reasonable and sanitary conditions and in such a manner as to ensure the privacy of the individual being tested.
9. In all drug testing and sample collection procedures, any transmittal or reporting of test results shall be conducted with due respect for confidentiality. Drug and alcohol test activities and result reports may be made available only to supervisors and management personnel with an immediate need to know. Testing procedures and results may be made available and communicated as needed for the purposes of any disciplinary action or criminal investigation or prosecution.

K. RECORD KEEPING:

1. Records regarding test results are generally considered protected documents under the provisions of the Government Records Access and Management Act, Utah Code Ann. 63G-2-305, 1953, as amended.
2. All records related to drug and alcohol testing must be maintained in a secured, confidential file and shall not be made part of the personnel file unless the record is used as basis for an involuntary termination of employment or other disciplinary action.
3. Drug and alcohol related testing records for employees who hold a CDL shall be maintained in accordance with the Omnibus Transportation Employee Testing Act of 1991. Alcohol results indicating an alcohol concentration of 0.02 or greater, documentation of refusals for testing, evidential breath testing calibration documentation, and substance abuse professional's evaluation of employees, and referral documents all must be maintained for five years. Records relating to the collection process and training must be maintained for two years. Negative test results must be kept for one year.
4. Applicants subject to pre-employment drug and alcohol testing may request and receive a copy of the test results within 60 days of hiring.

5. Employees must be notified by their supervisor as soon as possible by telephone and in writing to their last known address of positive test results for random, post-accident, and reasonable suspicion testing, including the drug for which they tested positive.
6. The Human Resources Director will, upon request, submit to the Federal Highway Administration an annual report summarizing the test results under Subsection H.

L. DISCIPLINE AND REHABILITATION:

1. If a confirmed positive drug or alcohol test result indicates a violation of this policy, or if an individual refuses to provide a sample in accordance with this policy, or otherwise violates this policy, that test result, refusal, or violation may be used as a basis for imposing disciplinary action, including termination.
2. Whenever appropriate, rehabilitation of employees who suffer from drug or alcohol use or abuse problems should be pursued. The determination of whether to proceed with discipline, rehabilitation in addition to discipline, or rehabilitation in lieu of discipline for violations of this policy shall be within the discretion of the department head and the County Commission. Consultation with the Human Resources Director or an outside service provider is encouraged in making that decision.
3. Alcohol or drug abuse which can be determined through a medical or other recognized professional diagnosis to be a disabling condition will be subject to state and federal disability regulations. Drug or alcohol abuse conditions which can be treated through rehabilitation must be referred to a recognized rehabilitation center. The referral may be voluntary or mandatory at management's discretion and depending on the severity of the abuse.
4. Any rehabilitation in lieu of or in addition to disciplinary action should be undertaken in accordance with the terms of a written memorandum of understanding or agreement between the department head and the employee. The memorandum should set out the expectations which the employee must satisfy, including successful completion within one year of a rehabilitation program at the employee's expense; an appropriate waiver of confidentiality to permit communication between supervisors and rehabilitation service providers, as needed; rehabilitation drug and alcohol testing as determined appropriate which is paid for by the employee; an acknowledgment that failure to successfully complete rehabilitation will lead to appropriate disciplinary action; and such further conditions as may be necessary and appropriate.
5. An employee undergoing rehabilitation may be granted no more than 30 working days of sick leave, annual leave, personal time off (PTO), or leave without pay for inpatient treatment.
6. Nothing in this policy shall be construed as granting a county employee immunity from disciplinary action under other policies or arrest or prosecution by appropriate law enforcement authorities for activities involving drugs or alcohol, which are in violation of

state law or city or county ordinance. County employees convicted of the use or possession of illegal drugs in the workplace must report that conviction to their supervisor.

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

N. FEDERAL ACT COMPLIANCE:

1. As a condition of employment on any federal contract or grant of a value of \$25,000 or more, each employee shall:
 - a. abide by the terms of this policy; and
 - b. notify the supervisor or department head of any criminal or drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
2. The department head will notify the federal grantor or agency for which a contract is being performed within ten calendar days after receiving notice from the judicial system, through other means, or from an employee performing work under the grant or contract that the employee has so been convicted.

O. POLICY DISTRIBUTION:

1. Each department will distribute this policy to its employees. It must be given to each new employee at the time of hire.
2. Department heads will assure that each employee engaged in the performance of federal contract or grant of a value of \$25,000 or more is given a copy of this policy.
3. Each person receiving this policy must sign a statement certifying they received it.

**SECTION 24
DISCIPLINE**

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B. PROCEDURE:

1. Discipline shall be for cause including, but not limited to: violation of the County Personnel Management Act or Tooele County Personnel Policies and Procedures, violation of the statutory ethical and disclosure requirements, malfeasance, nonfeasance, neglect of duty, insubordination, misconduct, inefficiency or inability to satisfactorily perform assigned duties, unprofessional conduct at the workplace or at anytime while performing job duties, or acts inimical to the public service.
2. The usual sequence of discipline shall be verbal warning, written warning, suspension, and termination. A disciplinary evaluation period with interim performance evaluations may be a part of the progressive discipline process. Deviations from the usual sequence of discipline may be justified depending on the severity and circumstances of the action(s) to be disciplined. Reduction in pay and demotions may also be used for disciplinary purposes.
 - a. Verbal Warnings: Verbal warnings are informal discussions between a supervisor and an employee in an attempt to change behavior. Supervisors need to make clear to the employee that a verbal disciplinary warning is being given.
 - (1) Verbal warnings shall be recorded in the supervisor's own record. This record should include the date the warning was given; a description of the inappropriate behavior, including the date, time, and location, if applicable; and a brief description of the discussion with the employee. The Employee Disciplinary Notice form can be used for this purpose. A copy of this record shall be given to the employee to ensure it is clear that a verbal warning has been given. The record of the verbal warning is not sent to the Human Resource Department for inclusion in the employee's official personnel file.
 - (2) In cases of a verbal warning, the employee shall be advised that a copy of Personnel Policies and Procedures Section 25A, Procedures for Employee Complaints, is available on the Tooele County website.
 - b. Written Warnings: A written warning can be given to an employee who has not appropriately responded to a previous verbal warning or for behavior that the employee should have known was inappropriate.
 - (1) Documentation for the written warning must follow the guidelines provided in Subsection 24.B.3 below.

- (2) In cases of a written warning, the employee shall be advised that a copy of Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, is available on the Tooele County website.
- c. Disciplinary Evaluation Period: When the discipline involves the employee's ability to perform their job, a supervisor may review and evaluate the employee's performance more often than others. The purpose of this closer focus on the employee's performance is to clarify expectations and to provide coaching and feedback in an attempt to help the employee turn his or her performance around to a satisfactory level.
- (1) Documentation for the disciplinary evaluation period must follow the guidelines provided in Subsection 24.B.3 below.
- d. Suspension: When an employee has failed to adequately respond to prior disciplinary measures, a suspension without pay may be appropriate. Suspension may also be the appropriate first step in the disciplinary process depending on the severity of behavior involved.
- (1) No employee may be suspended for more than thirty (30) calendar days for a single disciplinary incident nor for more than sixty (60) calendar days in one (1) calendar year.
 - (a) Employees designated as exempt from the Fair Labor Standards Act (E-FLSA) shall not be suspended for a period of less than one entire work week.
 - (2) Documentation for the suspension must follow the guidelines provided in Subsection 24.B.3 below.
 - (3) In cases of suspension, the supervising department head, elected official, or designee shall notify the employee in writing of the discipline at least seven (7) calendar days before the effective date of such discipline. The employee may waive this requirement in writing. The notice shall be delivered, in person, to the employee or the employee's last known home address by certified mail or personal service. The employee shall be advised that copies of Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, and Personnel Policies and Procedures Section 25C, Procedures for Career Service Employee Appeals, are available on the Tooele County website.
 - (4) If the supervising department head or elected official so determines, he or she may place the employee in a leave-with-pay status between the notice and the proposed effective date of the suspension or any portion thereof.
 - (a) An employee suspended-with-pay under the above circumstances shall remain on-call and available to the suspending division, department, or elected office during normal county working hours throughout the

suspension-with-pay period and provide the division, department, or elected office with a telephone number at which the employee may be reached.

- e. Reduction in Pay: Employees can have their pay reduced as a form of discipline.
 - (1) Documentation for the reduction in pay must follow the guidelines provided in Subsection 24.B.3 below.
 - (2) In cases of reduction in pay, the supervising department head, elected official, or designee shall notify the employee in writing of the discipline at least seven (7) calendar days before the effective date of such discipline. The employee may waive this requirement in writing. The notice shall be delivered, in person, to the employee or the employee's last known home address by certified mail or personal service. The employee shall also be advised that copies of Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, and Personnel Policies and Procedures Section 25C, Procedures for Career Service Employee Appeals, are available on the Tooele County website.

- f. Demotion: Employees can be moved to a position with a lower grade as a form of discipline. The salary of the demoted employee shall not exceed the new pay range maximum without express authorization by the County Commission.
 - (1) Documentation for the demotion must follow the guidelines provided in Subsection 24.B.3 below.
 - (2) In cases of a demotion, the supervising department head, elected official, or designee shall notify the employee in writing of the discipline at least seven (7) calendar days before the effective date of such discipline. The employee may waive this requirement in writing. The notice shall be delivered, in person, to the employee or the employee's last known home address by certified mail or personal service. The employee shall also be advised that copies of Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, and Personnel Policies and Procedures Section 25C, Procedures for Career Service Employee Appeals, are available on the Tooele County website.
 - (3) If the supervising department head or elected official so determines, he or she may place the employee in a leave-with-pay status between the notice and the proposed effective date of demotion or any portion thereof.
 - (a) An employee on leave-with-pay under the above circumstances shall remain on-call and available to the demoting division, department, or elected office during normal county working hours throughout the leave-with-pay period and provide the division, department, or elected office with a telephone number at which the employee may be reached.

g. Termination: When an employee has failed to adequately respond to prior disciplinary measures, termination may be appropriate. Termination may also be the appropriate first step in the disciplinary process depending on the severity of behavior involved.

- (1) Documentation for the termination must follow the guidelines provided in Subsection 24.B.3 below.
- (2) In cases of potential termination, the supervising department head, elected official, administrator, or designee shall notify the employee in writing of the potential discipline and the date for the pre-termination hearing at least two (2) calendar days before the effective date of such potential discipline. The notice shall be delivered, in person, to the employee or the employee's last known home address by certified mail or personal service. The employee shall also be given copies of Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, and Personnel Policies and Procedures Section 25C, Procedures for Career Service Employee Appeals.
- (3) If the supervising department head or elected official so determines, he or she may place the employee in a leave-with-pay status between the notice and the proposed effective date of termination.
 - (a) An employee on leave-with-pay under the above circumstances shall remain on-call and available to the terminating division, department, or elected office during normal county working hours throughout the leave-with-pay period and provide the division, department, or elected office with a telephone number at which the employee may be reached.
- (4) A pre-termination hearing must be scheduled no sooner than two (2) working days nor later than seven (7) calendar days after the termination notice is given.
 - (a) The purpose of the pre-termination hearing is not to definitively and finally resolve the propriety of the termination, but to determine whether there are reasonable grounds to believe that the charges against the employee are factual.
 - (b) The pre-termination hearing is held between the employee and the supervising department head, elected official, or designee. An audio recording of the pre-termination hearing shall be made and kept until all formal post-termination proceedings are completed. The employee shall not be represented by legal counsel. Witness statements may be informally presented by the parties in writing or orally. The employee may have an attorney observe the hearing. If an employee wishes to waive the pre-termination hearing, he or she may do so by notifying the supervising department head or elected official in writing of his or her wish to waive the hearing.

- (c) The supervising department head or elected official shall give his or her decision in writing regarding the termination within two (2) working days after the hearing. The decision by the supervising department head or elected official shall be delivered to the employee, by certified mail or personal service, and to the Human Resources Director for placement in the employee's personnel file.
 - (d) The pre-termination hearing does not eliminate a formal post-termination grievance proceeding, as set forth in Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, and Personnel Policies and Procedures Section 25C, Procedures for Career Service Employee Appeals.
 - (5) Temporary withholding of payment for accumulated annual leave or personal time off (PTO) may be authorized when an employee is being terminated under circumstances in which the employee may owe money to the county or is holding county property.
 - (6) No employee shall be removed from employment covered under the Career Service System by means of job reclassification or transfer of job function where the job reclassification or transfer of job function is primarily for the purpose of dismissing the employee.
3. Documentation: Notice of any disciplinary action shall be communicated in writing to the employee.
- a. A disciplinary notice may be made by:
 - (1) Completing an "Employee Disciplinary Notice" form, available from the Human Resource Department, signed by the employee's supervisor; OR
 - (2) Preparing a letter addressed to the employee containing the following information:
 - (a) notification that the letter is a disciplinary notice;
 - (b) date of warning;
 - (c) type of violation;
 - (d) date, time, and place of violation;
 - (e) number and types of previous warnings;
 - (f) what is needed to correct the violation;

- (g) type of disciplinary action being imposed and the date of action, if appropriate; and
 - (h) probable consequences of not correcting the violation.
- b. A copy of the “Employee Disciplinary Notice” form or written disciplinary notice letter shall be given to the employee and, in cases other than a verbal warning, a copy forwarded to the Human Resource Department for placement in the employee’s personnel file, and a copy retained by the supervisor. Supervisors shall discuss the contents of the disciplinary notice form or letter with the subordinate.

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