

# Muskegon County

## Board of Commissioners

### Personnel Rules

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## PERSONNEL SYSTEM RESOLUTION

WHEREAS, the County wishes to utilize the benefits of a structured personnel system to assist in the recruitment and retention of quality employees, in the assurance of continuity of good governmental administration and in the assurance that the selection, pay and treatment of employees are based on merit principles;

NOW, THEREFORE, BE IT RESOLVED, that this personnel system covering the Employees of the County of Muskegon be established:

- I. The selection, pay, advancement and treatment of County employees will be based solely on qualifications and performance without reference to their political affiliation, religious beliefs, racial origin, sex, national origin, ancestry, age, or physical disability, except where specific age, sex, or physical requirements constitute a bona fide occupational qualification.
- II. The Personnel System will be administered by the Human Resources Director in accordance with policies established by the Ways & Means Committee or its successor committee pursuant to any future reorganization of the Board of Commissioners. The Ways & Means Committee will meet at such times and places as its Chairman will designate in accordance with the rules of the Board of Commissioners.
- III. The duties and responsibilities of the Ways & Means Committee will be as set forth in the rules of the Board of Commissioners and, in addition, will include the preparation and enforcement of specific rules and regulations to carry out the provisions and intent of this resolution and recommending to the Board of Commissioners on the provisions of all employee fringe benefit programs.
  - A. Copies of the rules and regulations developed by the Ways & Means Committee and all future changes in such rules and regulations will be submitted to the Board of Commissioners at a regular meeting of the Board of Commissioners.
  - B. A special committee, hereinafter referred to as the Personnel Rules Committee, will be established and meet at least every odd-numbered year for the purpose of reviewing the personnel rules and recommending changes to the Full Board. The special committee appointed by the Board of Commissioners will be comprised of at least the following: four (4) County Commissioners, Corporate Counsel, County Administrator, EEO Representative and Human Resources Director.

- C. Provisions of contracts with employee bargaining groups will not be unilaterally altered by the rules and regulations promulgated pursuant to this resolution. Where provisions of said contracts provide for different levels of benefit for the employee, the contract will prevail. Provided, however, that it will be the policy of the County of Muskegon to reduce and eliminate such differences at the earliest opportunity, through the collective bargaining process.
  
- IV. The policies, rules and programs of the Ways & Means Committee will be administered by the County Human Resources Director who will be the Executive Secretary to the Personnel Rules Committee.

## RULE I - COVERAGE OF THE PERSONNEL SYSTEM

The Muskegon County Personnel System applies in its entirety to all employees paid by the County of Muskegon, except that provision covering the manner of selection, appointment or removal from office or limitation of political activities will not apply to:

1. Officers elected by popular vote and persons appointed to fill such vacancies.
2. Officers and employees for whom the Constitution or statute specifically directs the manner of selection, appointment or removal from office.
3. Members of boards and commissioners, officers and employees specifically required by law to be appointees of the Board of Commissioners, the Governor or other non-County officials or official bodies.

No provisions covering the manner of selection, appointment, discipline, or removal from office will apply to employees in the departments and classifications listed below:

<u>DEPARTMENT</u>	<u>CLASSIFICATION</u>
Administration	County Administrator
Brookhaven MCF	Administrator/Brookhaven
Circuit Court/Family Court	Circuit Court Administrator/Friend of the Court
	Circuit Court Legal & Scheduling Secretary
	Court Reporter
	Family Division Referee
	Law Clerk
	Friend of the Court Enforcement Attorney
	Clerk Bailiff/NB
	Recorder Bailiff
	Deputy Family Division Administrator
	Assistant Family Division Administrator-Legal
	Assistant Family Division Administrator-Operations
Community Development	Community Development Director
Community Mental Health	Community Mental Health Director
	Community Mental Health Medical Director
	Community Mental Health Psychiatrists
District Court	District Court Administrator
	Chief Deputy Administrator/Clerk
	Attorney Magistrate District Court
	Court Recorder/District Court
Equalization	Equalization Director
Finance & Management	Finance & Management Services Director
Human Resources	Human Resources Director
Juvenile Transition Center	Youth Services Director

Probate Court	Probate Court Administrator/Register Deputy Probate Register Court Recorder/Judicial Secretary
Public Defender	
Public Health	Public Health Director
Public Works	Public Works Director
Wastewater Management System	Wastewater Director

<u>ELECTED OFFICIAL</u>	<u>CLASSIFICATION</u>
County Clerk	Deputy County Clerk
Drain Commissioner	Deputy Drain Commissioner
Prosecutor	All Attorneys Child Support Investigator/Prosecutor
Register of Deeds	Deputy Register of Deeds
Sheriff	Under Sheriff
Treasurer	Deputy Treasurer

No provision covering the manner of discipline, removal, or selection of office will apply to employees with the following status:

1. Seasonal - an employee appointed to a position which will require the services of an employee, up to 40 hours per week, to perform seasonal work activities for a continuous period not exceeding one-hundred and twenty (120) calendar days.
2. Temporary - an employee appointed to a position which will require the services of an employee, up to 40 hours per week, for a continuous period not exceeding ninety (90) calendar days.
3. Hourly, permanent - an employee appointed to a position which will require the services of an incumbent for less than twenty-five (25) hours per week, regardless of the number of days worked.
4. Limited Term - an employee appointed to a position which will require the services of an employee, up to 40 hours per week, to perform work activities for a continuous period not exceeding one-hundred and eighty (180) calendar days.

## **RULE 2 - SALARIES**

### **Section I SETTING OF SALARIES**

All county salaries will be set by the Board of Commissioners as part of the budget approval process each fiscal year or by specific board motion during the year.

### **Section II PREPARATION OF SALARY SCHEDULE**

Shortly after January 1 of the year in which the salaries are to become effective, the Human Resources Department will prepare a Salary Schedule showing the latest approved salary ranges for all County classifications. Copies of this Salary Schedule will be available for inspection on the Human Resources website.

### **Section III APPLICATION OF SALARIES TO CLASSIFICATION**

The salary range for a classification will apply to all County positions and employees so classified.

### **Section IV SALARY RANGES**

The salary set for a classification will be called the salary range for that classification, whether the salary consists of a single rate or a series of salary rates. The salary rate will not include longevity, night shift differential or other bonuses or premiums.

### **Section V STARTING SALARY RATE**

The salary rate at which an employee begins employment in a given classification will be the base rate of the class, except:

- A. When the employee enters the new class by way of promotion or transfer from another County classification with a higher maximum salary rate than the base rate of the new classification.
- B. When the employee brings recent, directly comparable work experience or advanced academic qualifications to the classifications.
- C. When there is an acute shortage of qualified applicants for the classification.

### **Section VI MERIT INCREASES**

The advancement to the next higher rate within a salary range will be called a merit increase and will be based not only on the passage of the indicated length of service in

the classification, but also on the written recommendation of the employee's Department Head as expressed on the official Human Resources form. The affected employee will receive a copy of the completed Human Resources form, whether the merit increase was granted or not.

The indicated length of service in the classification shall include only service credited during that period toward the employee's Benefit Anniversary Date under Rule 19, VI, B, 2.

## Section VII LONGEVITY PAY

The longevity pay plan provides that County employees hired prior to October 5, 2008 and appointed County officials, appointed prior to October 5, 2008, be granted automatic longevity payments in addition to the salary for the classification. Longevity pay is based on the following schedule:

<u>Years of Continuous Service as of December 1 of each Year</u>	<u>Amount of Payment</u>
5 years	\$250
For each completed year after 5 years	\$50 additional to a maximum of \$1,250

- A. Longevity payments are determined based on the number of whole years of service completed as of December 1 of each year. Annual payment will be made after that date.

Employees must be in pay status as of December 1 in order to be eligible for longevity payments. If an employee is not in pay status at the required date, he or she will be paid a pro rata payment based on hours worked during the period.

An employee on leave of absence without pay during the period who retires under MERS during the period or who dies during the period will be paid a pro rata payment based on hours worked during the period. An employee who separates from County service during the period for any other reason will receive no payment.

- B. Length of County employment is described in Rule 19, "Eligibility for Fringe Benefits".

## Section VIII OVERTIME PAY

### A. Definition of Overtime

1. To be considered for overtime, the work and the time of doing it must have been assigned by the employee's Department Head or another supervisory employee given this authority by the Department Head.
2. For full-time employees, all hours worked in excess of forty in one (1) week will be considered as overtime, except for: those employees on rotating shifts where the shift rotation sometimes results in three days off as shift change time and sometimes one day.
3. For part-time employees, all working time in one week in excess of 40 hours in a work week will be considered as overtime.
4. See also Rule 24, "Legal Holidays".

### B. Eligibility for Overtime

1. All County Employees are eligible for overtime pay (as defined in Section VIII of this rule) except those determined to be exempt by these rules or exempt pursuant to the Fair Labor Standards Act.
2. The classifications of those County employees and officials exempted from the payment of overtime will be so noted in the County's official salary schedule.
3. Employees excluded from overtime as listed in the official Salary Schedule:
  - A. Shall not be specifically compensated for overtime in either money or compensatory time.
  - B. Shall be expected to average at least the number of hours per week as required by the standard County work week, and shall receive full salary for any week in which the employee performs any work without regard to the number of hours worked, subject to the following exceptions:



- (1) Deductions from pay shall be made when an employee is absent from work for one (1) or more days for personal reasons other than sickness or disability.
- (2) Deductions will be made from pay for absences from work of one (1) or more full days occasioned by sickness or disability consistent with available sick leave and other disability benefits.
- (3) If an exempt employee is on a Family Medical Leave the County will pay a proportionate part of the full salary for time actually worked.

C. Time absent from work and deviation from the official office hours of the employee's department must always be with the approval of the employee's Department Head who shall have the responsibility for evaluating the employee's performance and justifying permitted deviations from established hours of work. Department Heads wishing to be absent or deviate from the departmental schedule shall obtain approval from the Administrator. Department Heads shall not be required to obtain permission to work beyond normal business hours.

- (1) Employees who are absent from work for less than one complete day, subject to approval of the department head:
  - (a) will "make-up" for time lost by working extra hours in the same pay period, or
  - (b) shall be compensated as if the employee were "on the job" in terms of cash paid, however, time absent from work for sick reasons shall result in an appropriate use of accumulated sick leave, and time absent for vacation or personal reasons shall result in the appropriate use of accumulated annual leave.

- (2) Employees in unique positions which require extensive overtime hours on a seasonal basis, may be exempt from this requirement upon Board of Commissioners approval. The Wastewater Farm Manager is an approved exempt classification with adoption of these rules.
- (3) Employees shall be compensated for periods of temporary military leave as though they were "on the job" except their salary for that period shall be offset by the amount of military pay received by the employee for that period.
- (4) Employees shall be compensated as a witness under Rule 26, except that the salary shall be reduced by the amount received by the employee as a witness or jury fees.

C. Method of Compensation for Overtime

1. Eligible employees, as described in Section B above, will be compensated for overtime as previously described by payment in wages which will be computed at the rate of one and one-half (1-1/2) times the employee's normal base hourly rate, including any applicable shift differential. Annual leave and paid holidays will be counted as time worked when determining eligibility for overtime payment.
2. All time to be compensated for will be recorded on the employee's attendance record overtime requests and authorization forms as may be required.

Section IX MINIMUM CALL-IN

- A. Employees eligible for overtime payment who are called in to work on a regularly scheduled day off or who are called back to work after having left work from their regular shift will receive a minimum of two (2) hours' pay at the overtime rate, regardless of the number of hours worked, except as modified in B below. Employees required to work in excess of the minimum call-in time will be paid for time worked at the normal base rates. This section will not apply where an employee is required to begin his/her shift early.

- B. Employees who receive On-Call Assignment Pay in accordance with Section X will only be paid for actual hours called in to work at the overtime rate rounded to the nearest thirty-minute interval, and will not be entitled to minimum call-in pay described in A above.

Section X ON-CALL ASSIGNMENT PAY

Employees designated for an on-call assignment will be available to respond to an emergency or other call-in requests outside of normal working hours. Employees will be available for contact by electronic means or cell phone and expected to be within a reasonable distance of their response location to ensure a prompt response time. Only employees eligible for overtime payment will be eligible for on-call assignment pay.

- A. Employees designated by their Department Head for on-call assignment and available for contact by electronic means or cell phone outside of normal working hours will receive on-call pay in lieu of overtime pay at the rate of one and one-half (1-1/2) times the employee's normal base hourly rate, including shift differential, for each shift of on-call assignment.
- B. Designated on-call employees will be paid for actual call-in time worked in accordance with Section IX, Minimum Call-In, B.
- C. Shifts, assignment designations, and minimum response times for on-call assignments will be determined by the Department Head.
- D. The Department Head will establish proper response procedures to ensure on-call availability.

Section XI NIGHT SHIFT DIFFERENTIAL

A. DEFINITION OF NIGHT SHIFT DIFFERENTIAL

1. This is a bonus added to the salary rates of employees in nonexempt (or overtime eligible), County positions for hours actually worked on the afternoon and midnight shift.
2. Employees working any shift in which at least four hours of the shift fall between 6:00 p.m. and 6:00 a.m. will be eligible for a shift differential of .20/hour.

Section XII METHOD OF PAYMENT - EMPLOYEES

- A. Employees are paid biweekly (every other Friday).
- B. The two-week payroll begins on Sunday and ends on Saturday, fourteen days later.
  - 1. Full-time employees normally work, and are paid for, ten working days during this fourteen-day period.
  - 2. Because of shift change dates on rotating shifts, it is possible that an employee may work nine days in one pay period and eleven days in the immediately preceding or succeeding period. In this situation, such employees are paid for the normal ten-day salary for each pay period.
- C. Payday is the Friday following the Saturday on which the payroll period ends.
- D. The portion of the annual salary rate the employee is paid each biweekly pay period is calculated on the normal number of working days in the year.

Number of Working  
Days in a Year

260

Portion of Annual Rate  
Paid each biweekly, Pay Period

1/26

Section XIII METHOD OF PAYMENT FOR THE LOSS AND GAIN OF TIME DUE TO CHANGES FROM STANDARD TIME TO DAYLIGHT-SAVING TIME AND RETURN

- A. The shift on duty when the time change is made from Eastern Standard time to daylight-saving time will be paid for the normal eight hour shifts, even though the actual time of work is one hour less.
- B. The shift on duty when the time change is made from daylight-saving time back to Eastern Standard time will be paid for the normal eight hour shifts, even though the actual time of work is one hour more.

## **RULE 3 - CLASSIFICATION PLAN**

### **Section I      GROUPING OF CLASSIFICATIONS**

All of the positions in the county service will be grouped into classifications so that all positions requiring the same general type of work, of the same general level, with the same relative duties and responsibilities will have the same classification.

- A.      A position will be defined as a unit of duties and responsibilities to be carried out by one employee, normally on a full work year basis.
  - 1.      A budgeted position is one which is paid from a department's budgeted salaries appropriation.
  - 2.      All positions are approved by the Board of Commissioners, either as part of the County's Annual Budget or as a separate action by the Board of Commissioners.
- B.      A classification will be defined as the title given to all County positions having the same general type of work with relatively the same duties and level of responsibilities.
- C.      New classifications will be approved by the Board of Commissioners on the recommendation of a Board Committee.
- D.      Title changes will be approved by the County Administrator and Human Resources Director.

### **Section II     DETERMINATION OF CLASSIFICATION**

- A.      The classification of each position will be reviewed by the Human Resources Department and must be in writing.
  - 1.      The Human Resources Department will maintain an up-to-date written class specification describing each classification covered by the County Classification plan.
  - 2.      Classification determinations will be reviewed by the Human Resources Department after study of the duties and responsibilities of the positions involved and after consultation with the Department Head involved.
  - 3.      A department wishing the classification of a position studied will make such a request in writing to the Human Resources Director.

### SECTION III FORMS OF CLASSIFICATION DETERMINATIONS

- A. NO CHANGE is when it is determined that the position is correctly classified at its present classification.
- B. A LATERAL RECLASSIFICATION is when it is determined that a position should be reclassified to a classification having the same maximum salary.
- C. AN UPWARD RECLASSIFICATION is when it is determined that a position should be reclassified to a classification having a higher maximum salary.
- D. A DOWNWARD RECLASSIFICATION is when it is determined that a position should be reclassified to a classification having a lower maximum salary.
  - 1. Incumbents in positions reclassified downward, who remain in that position, will be reduced to the lower classification immediately, but will remain at their present salary rate, receiving no further upward salary adjustments until such time as the maximum salary for the new classification of the position equals or exceeds their salary on the date of the Downward Reclassification Determination.
  - 2. Incumbents in positions reclassified downward may apply to the Human Resources Department for transfer into another position of the same classification from which their position has been reclassified. This request will be treated as all other requests for lateral transfer.

## RULE 4 - HIRING PROCESS

### Section I ANNOUNCEMENTS

- A. Open competitive announcements will be open to all persons.
- B. Classes of Work will be publicly announced at least ten (10) calendar days in advance of the last date for filing applications by means of an announcement posted on the official bulletin board in the Human Resources Department, by advertisement in the newspaper with the largest general circulation, posting on the County's website, and by such other means as the Director of Human Resources and requesting Department Head, will deem appropriate.
- C. Applicants will be rejected for the following reasons:
  - 1. if the applicant fails to meet the minimum qualifications for the classification;
  - 2. if the application was not received or postmarked before the announced last date for filing applications;
  - 3. if the applicant has a documented record of previous unsatisfactory service in County employment or elsewhere, of such nature as to demonstrate unsuitability for employment in a position of the classification for which the applicant is applying to include applicants previously employed by the County of Muskegon who were disciplined or terminated for a Group 3 offense during their employment;
- D. Applicants may be rejected for the following reason:

if the applicant has been found guilty of a felony, a crime involving fraud or dishonesty or received a dishonorable discharge from the armed forces of the United States.
- E. Rejected applicants will be notified in writing giving the reasons for their rejection.

Rejected applicants will have the right to review their application with the Human Resources Department. Rejection based on the provisions above, however, may be waived if the applicant, subsequent to his/her rejection, but not later than five (5) business days after notice of this rejection, files a request with the Human Resources Department outlining in detail the reasons for his/her request and the justification for waiving this provision.

The Human Resources Director, or designee, after review of the request, will make the final determination.

## Section II POSTINGS WITH CLOSING DATES

- A. Postings may be announced with a definite announced period for the acceptance of applications.
  - 1. The last date for the acceptance of applications will be clearly stated on the official posting, County website postings, and in the official newspaper announcements.
  - 2. This filing period will be at least ten calendar days.
  - 3. Applications must be received at the Human Resources Department before 5:00 p.m. on the announced last date for filing applications, or be postmarked on or before that date in order to be accepted.

## Section III CONTINUOUS POSTINGS

- A. Postings may be announced as continuous postings with applications being accepted until further notice.
  - 1. The statement that applications will be accepted until further notice will be clearly stated on the official posting, in the County website postings and in the official newspaper announcements.
  - 2. Continuous postings will be administered as applications are received and as the needs of the requesting department dictate.
  - 3. Successful candidates on continuous postings will be added to the eligible list. The certification of eligibles from eligible lists resulting from continuous postings will be made from those on the list the date the certification is made.
  - 4. Continuous Postings will be closed by the posting of a formal notice, signed by the Human Resources Director or designee on the announcement of that examination on the official bulletin board in the Human Resources Department at least seven (7) calendar days in advance of the last date for filing applications.



## Section IV PURPOSES OF EXAMINATIONS

- A. Examinations may be given to fill present or future vacancies in a particular classification.
- B. If an examination is given, it will be developed to maximize objectivity, reliability, and validity; will be conducted and scored in an objective manner; and may be made up of written or oral tests; or physical ability or psychological evaluation tests; or involve a rating of past experience and training; or be made up of a combination of such tests and weighted as appropriate.
- C. If an examination is given, written notification will be mailed to each qualified applicant at least five calendar days in advance of the examination, notifying the applicant of the time and place of the examination. If a current County employee receives written notification of examination testing for an internal position they applied for, that examination/testing time is not to be deducted from their annual/sick leave but rather treated as if that employee were on the job.
- D. All candidates will be notified by mail of their examination results.
  - 1. All candidates will have the right to review their examination results with the Human Resources Department.
- E. When examinations are given, a candidate may retake an examination in an attempt to pass an examination previously failed. The retaking of an examination is subject to the following rules:
  - 1. A period of thirty (30) calendar days must have elapsed between the date the first part of the examination was taken in the original attempt and the date the first part of the examination is taken in the second attempt.
  - 2. If the second attempt is made between thirty (30) and ninety (90) calendar days after the original attempt, the candidate can have a choice of:
    - (a) Retaking the entire examination, or
    - (b) Retaking only a portion, or portions, of the examination
      - (1) The sections that can be retaken are: a written test, standardized test, performance test and physical agility test.

(c) A period of six (6) months must elapse between the date the first part of the examination was taken in the second attempt and the date the first part of the examination is taken in the third attempt.

(1) A candidate retaking the same examination a third time must retake the entire examination.

(d) Candidates retaking the same continuous examination more than three (3) times are governed by Section IV, E, 2 (c) above, for each succeeding attempt.

## Section V OPEN COMPETITIVE APPOINTMENT

Definition: The appointment of a person who has been selected as a result of participation in a competitive exam open to the general public.

- A. For each vacancy, the Department Head will have the choice of the applicants meeting the minimum qualifications for the class of work resulting from an open competitive examination.
- B. All current County employees are eligible to compete in an open competitive exam.
- C. Persons receiving open competitive appointments must successfully complete a six-month probationary period before the appointment will be considered complete.
  - 1. Probationary employees who successfully complete the probationary period will receive regular status and all the rights of that status.
  - 2. Probationary employees must be evaluated by the department head or designee on forms provided by the Human Resources department after two and one-half (2-1/2) and five (5) months of employment. Employees who fail to successfully complete their probationary period will be separated from County employment without benefit of appeal.

Their names will not be reinstated on the eligible list for that classification until they have successfully retaken the entire current open competitive examination for that classification.

## Section VI RE-EMPLOYMENT OF A FORMER COUNTY EMPLOYEE

### A. Effect of Re-employment

1. Definition: Re-employment is the appointment of a former County Employee to a County position without requiring the employee to be certified from an open-competitive eligible list for the classification of the position.
2. Former employees re-employed under this section will serve a new six (6) month probationary period starting with the effective date of their re-employment. Former employees must receive an evaluation after two and one-half (2-1/2) and five (5) months by the department head or designee on forms provided by the Human Resources Department. Until the successful completion of this new probationary period, the re-employed employee will not have the rights of a permanent employee.
3. The Human Resources Department will send a re-employment instruction sheet to all eligible former employees.
  - a. This rule applies only to those employees who were permanent employees at the time of separation from County Service and whose prior service was at least satisfactory in nature based on their most recent performance evaluation.
  - b. At the time of separation, the returning employee must have been employed:
    1. In the classification in which he/she is returning, or
    2. In a classification with equal or higher maximum salary than the one in which he/she is returning and in addition, must meet at least the minimum qualifications of the classification in which he/she is returning as shown in the current examination or announcement for that classification, or if such an examination is not open, the latest written specification for that classification.

B. Time Limits and Procedures for Re-employment

1. To be eligible for the provisions of this re-employment rule, former employees must, within twelve (12) months after the effective date of their last separation from County employment, make written application to be placed on re-employment lists for specific classifications.
2. The written application must be made on forms provided by the Human Resources Department, which will maintain lists of qualified former County employees who have expressed interest in re-employment with the County in specific classifications.
3. While a former employee's name is on the re-employment list for a classification, it will be certified by the Human Resources Department in answer to each Personnel Requisition for that classification, for which the requisitioning Department Head has requested.
4. Actual re-employment under the provisions of this rule, as indicated by the effective date of the appointment must begin no more than eighteen (18) months after the effective date of the employee's last separation from County employment. The names of former employees not appointed to a County position within this eighteen-month (18) period will be removed from the re-employment lists.
5. Former County employees who are not eligible for re-employment under the provisions of this rule, or who are not re-employed within the time limits of this rule may return to County employment through the regular methods of appointment available to all applicants.

C. Effects of Re-employment on the Fringe Benefits

1. Fringe benefits apply, regardless of the method of re-employment but apply only to those eligible for fringe benefits under Rule 19 "Eligibility for Fringe Benefits".
2. Former County employees who return to County service and who left their employee retirement contributions on deposit with the Michigan Municipal Employees' Retirement System will have the following fringe benefits based on their total length of County Service (benefit date) as described in Rule 19 "Eligibility for Fringe Benefits".

- a. Retirement Years of Service Credit
  - b. Rate of Earning Annual Leave
  - c. Rate of Earning Sick Leave
3. Former County Employees who return to County service and who withdrew their employee retirement contributions from the Michigan Municipal Employees' Retirement System, will be treated as new employees as far as the above listed fringe benefits in paragraph one and two above are concerned.
  4. Former County Employees who return to County service and redeposit their employee retirement contributions as established by MERS shall have, from the payroll period nearest to the date they redeposit such contributions, fringe benefits based on their total length of County service (benefit date) as described in Rule 19 "Eligibility for Fringe Benefits".

#### Section VII TRANSFER OF A PRESENT COUNTY EMPLOYEE

Definition: A transfer is a status change of an employee from the employee's present position to a vacant position with the same or lower maximum salary, where an open competitive examination has not been used.

- A. For any transfer an employee may be required to pass a competitive exam or other pre-employment screening as required by Section XI "Pre-Employment Screening".
- B. Types of Transfers
  1. Intra-Departmental (within the department).

The Department Head may consider regular status employees presently working in the same department, where such transfer results in a substantial change of duties or geographic change in location.

Employees eligible to be considered must:

- a. Have regular status in a position of the same classification;

or

- b. Have regular status in a position of a different classification with the same maximum salary, where the employee meets the minimum qualifications of the vacant position.
- 2. Inter-Departmental (outside the department but within the County).

The Department Head may consider regular status employees presently working in other County departments.

Employees eligible to be considered must:

- a. Have regular status in a position of the same classification;
  - or
  - b. Have regular status in a position of a different classification with the same maximum salary, where the employee meets the minimum qualifications for the vacant position.
- C. Employees must have regular status to be acceptable for transfer, except:
- 1. Employees serving probationary periods resulting from an open competitive examination may be transferred through participation in an open competitive examination for the vacant position, and must be reappointed to the department to which they have transferred and start a new six (6) month probationary period for the purposes of work performance evaluation.

## Section VIII PROMOTION OF A PRESENT COUNTY EMPLOYEE

Definition: Promotion is the status change of an employee from his/her present position to a vacant position in a classification with a higher maximum salary.

- A. For any promotion, an employee may be required to pass a competitive exam or other pre-employment screening as required by Section XI "Pre-Employment Screening".

B. Types of Promotions

1. Intra-Departmental (within the Department).

A Department Head may promote a present County employee who is working in the same department.

To be eligible for such promotion, an employee must:

- a. Have regular status in his/her present classification,
- b. Meet the minimum qualifications for the classification of the vacancy as shown in the most current specifications for that classification.

2. Inter-Departmental (outside the Department but within the County).

The Department Head may promote an employee presently working in another County department.

To be eligible for such a promotion, an employee must:

- a. Have regular status in his/her present classification.
- b. Meet the minimum qualifications for the classification of the vacancy as shown in the most current specification for that classification.

C. County employees promoted under this section will serve a six (6) month promotional probationary period for the purpose of work performance evaluation only before the promotion will be considered complete. Promoted employees will be evaluated after two and one-half (2-1/2) and five (5) months by the Department Head or designee on forms provided by the Human Resources Department.

1. Promoted employees successfully completing their promotional probationary period will receive regular status in the classification to which they have been promoted.
2. Employees who fail their promotional probationary period will be returned to their former position if it is available.

If their former position is not available, the employee will be placed if possible, in his/her former classification. If their former position is unavailable and if there is no position available with the employee's former classification, then they will be separated from County services.

## Section IX PROVISIONAL APPOINTMENT

If it is necessary to fill a position before a competitive examination can be held, a person who meets the minimum qualifications for the classification can receive one (1) nonrenewable provisional appointment for a period of not more than six (6) months.

- A. A provisional appointee must pass an open competitive examination for the classification in question.
  - 1. Provisional appointees who receive an open competitive appointment to the position they held as a provisional appointee, must serve a six (6) month probationary period. However, all time served as a provisional appointee in that classification and that department immediately prior to the open competitive appointment will count toward the probationary period.

## Section X ELIGIBLE LISTS

Definition: An eligible list is the list of all candidates who have taken and passed all portions of an examination, or have been screened eligible for a class of work.

- A. If the announcement has a closing date, the names of all successful candidates are placed on the eligible list.
- B. Successful candidates on continuous announcements will be added to the eligible list.
- C. The eligible lists will be prepared by and kept at the Human Resources Department for a period of three (3) months with an option to renew up to one (1) year.
- D. Use of Eligible Lists
  - 1. For the filling of a vacancy, the Department Head will submit a requisition for a vacancy on a form provided by the Human Resources Department.



2. If the Department Head has stated on the requisition that the position is to be filled by an open competitive announcement, the Human Resources Department will issue a certification showing the names, addresses and phone numbers of applicants meeting the minimum qualifications on the appropriate eligible list.
3. The certification of eligibles will be made from those on the eligible list on the date the certification is made.
4. A canvass of the eligibles on a list may be made prior to certification to determine current availability of eligibles interested in the vacancy and work location of the pending certification.
5. If any of the eligibles become unavailable or uninterested in the vacancy in question, after the certification has been issued, an amended certification can be made.
6. When a vacancy exists in a classification which is one of a series of classes differentiated by the level of experience required and/or the level of skills measured on a performance test as part of the examination, an eligible list resulting from a higher level class in the series may be used as an appropriate eligible list from which to fill vacancies in a lower level class in that series if:
  - a. no eligible list exists for a lower level classification, and if certification is made from the eligibles that are willing to accept a position in the lower classification, and if the certified eligible is paid within the salary range for the lower classification.

E. Removal of Names from Eligible List

Names will be removed from eligible lists for the following reasons: (Eligibles removed from the eligible list for reasons other than one and two below will be so notified by mail.)

1. Having been appointed to a County position in the classification of the eligible list. These names will also be removed from the eligible lists of all lower paying classification on which they may appear.

2. At the request of the eligible.
3. Failing to pass the Pre-Employment Medical or Psychological Examination.
4. Declining employment on two (2) occasions after receiving an appointment and accepting it.
5. Failing to appear for an employment interview with a department, except for extenuating circumstances, when shown.
6. Being unavailable for employment interviews with departments during normal County working hours, except for extenuating circumstances, when shown.

Eligibles may request to be considered for employment in particular departments or work locations only, without violating this rule.

7. Being unreachable at the address given by the eligible as evidenced by an attempt by mail.
8. At the determination of the appointing department head on the basis of a post-offer criminal background check.
9. A provable falsification on the eligible's application.
10. Documented evidence that the eligible has been found guilty of a felony, a crime involving fraud or dishonesty, or has received a dishonorable discharge from the Armed Forces of the United States. Rejection on this basis, however, may be waived if the applicant, subsequent to his/her rejection, but not later than five (5) business days after notice of this rejection, files a request with the Human Resources Department outlining in detail the reasons for his/her request and the justification for waiving this provision. The Human Resources Director, after review of the request, will make the final determination.
11. A documented unsatisfactory work record reported by a previous employer during a reference investigation.

## Section XI PRE-EMPLOYMENT SCREENING

### A. Coverage

1. Appointees to all County positions, (including promotions, transfers and re-employment) except those excluded below, may be required to successfully pass the following screenings before their appointments will be considered complete.
2. Appointees to positions in the following categories are not required to successfully pass these screenings:
  - a. Elected Officials
  - b. Appointees of the Governor
  - c. County Board Appointees to Statutory Boards
  - d. County Board Appointees to Advisory Boards

### B. Post-offer Medical Examination and Drug Screening Test

1. All appointees covered by this rule must take and pass a post-offer medical examination and a drug screening test administered by a County-selected physician.
2. Failure to meet the medical standards, or failure to have the ability to perform the essential job functions, or failure to pass the drug screening test, will cause termination of appointment and removal of the appointee's name from the eligible list for that classification.
3. No appointee will begin employment prior to taking and passing the post-offer medical examination and drug screening test.
4. The Human Resources Department will provide examining physicians with classification specification information including essential job function information.
5. Examining physicians will report the findings of their medical examinations and drug screening tests on appropriate forms to the Human Resources Department.
6. The medical examination and drug screening test results and reports will be maintained, by the Human Resources Department, as records separate from an employee's personnel file as required by law and will be utilized only in accordance with applicable law.

- C. In addition to the screening described in Sections A and B above, appointees to all County positions must also undergo a criminal background check. This check may be performed at the department level or with the assistance of the Human Resources Department. The check must be run prior to the physical process and certification that the check has been completed must be forwarded to the Human Resources Department to be placed in the employee's confidential file.
  
- D. Employment and Education References
  - 1. The employment and education references of all appointees covered by this rule will be verified in writing by the Human Resources Department or the employing department.
  - 2. Information gained from such reference verification will be utilized under the appropriate sections of these rules.
  - 3. Falsification of any references will be grounds to remove the candidate from the list of eligible applicants.
  
- E. Post-offer Criminal Background Check
  - 1. The decision of whether a given criminal conviction warrants disqualification will be based upon the statutory criteria, recency and relevancy of that conviction to the classification for which the applicant has been offered as determined by the appointing Department Head.

## **RULE 5 - PROBATIONARY PERIOD**

### **Section I WHO MUST SERVE A PROBATIONARY PERIOD**

- A. Employees who have received an open competitive appointment to a covered County position.
- B. Employees who have been promoted to a classification with a higher maximum salary. (See also Rule 4, and appropriate contract languages.)
- C. Former County employees who have been re-employed in a covered Personnel System position under Rule 4.

### **Section II DEFINITION OF PROBATIONARY PERIOD**

- A. The probationary period will be for six months immediately following an employee's open competitive appointment, promotion or re-employment, under Rule 4.
- B. The probationary period is a continuation of the selection, promotional or re-employment process and the appointment, promotion or re-employment is not complete until the employee has successfully completed the probationary period as demonstrated by the required performance evaluations at two and half and five month intervals generated by the appointing Department Head. (See Also Rule 4.)

### **Section III EFFECT OF PROBATIONARY PERIOD ON AN EMPLOYEE**

- A. During the probationary period following an open competitive appointment or re-employment, an employee does not have the right to request a hearing on a dismissal, suspension, or disciplinary action.
- B. During a probationary period following a promotion, an employee does not have the right to request a hearing on a demotion to the highest classification in which he/she has regular status.

### **Section IV LENGTH OF PROBATIONARY PERIOD**

The probationary period will begin on the effective date of the appointment, promotion or re-employment and will end on the same date of the sixth month in the future.

A Department Head cannot extend a six-month probation unless approved by the County Administrator.

Section V      EFFECT OF A PROVISIONAL APPOINTMENT ON A PROBATIONARY PERIOD

Time spent in a provisional appointment in the same classification and department and immediately prior to receiving an open competitive appointment to that classification and department will be considered as time spent under the probationary period of that appointment.

Section VI     EFFECT OF PROBATIONARY PERIOD ON EMPLOYEE APPOINTED FOR THE LIFE OF A FEDERAL, STATE, LOCAL OR OTHER GRANT OR CONTRACT

Employees appointed to fill a position funded by a special grant or contract program, who have successfully completed a six-month probationary period while in grant or contract-funded employment will be granted regular status for all the purposes of these rules. It is understood, however, that a loss of funding in the special grant or contract program may result in the employee's separation from County service.

## **RULE 6 - EMPLOYEE PERFORMANCE EVALUATIONS**

PERFORMANCE EVALUATIONS WILL BE CONDUCTED FOR ALL COUNTY EMPLOYEES, EXCEPT THOSE SPECIFICALLY EXEMPTED UNDER RULE I AT INTERVALS NOT TO EXCEED 12 MONTHS.

### Section I DEFINITION

A performance evaluation is a review of an employee's work performance over a given period of time. The evaluation, usually performed by the employee's supervisor, or in the case of a Department Head, the County Administrator, is recorded on forms provided by the Human Resources Department at the time of the employee's anniversary date or during a probationary period. (See also Rule 5 - Probationary Period.)

### Section II USE OF PERFORMANCE EVALUATION

- A. In each department informal performance evaluations should be ongoing throughout the year between employees and their supervisors, or in the case of a Department Head, the County Administrator.
- B. Formal performance evaluations will be conducted for employees with regular status at least once every twelve (12) months on the anniversary date of the employee's present classification. Such evaluations are used to:
  - 1. Acknowledge areas of exceptional performance.
  - 2. Identify and improve areas of deficient performance.
  - 3. Stimulate communication between supervisors and their subordinates relative to job duties and performance.
  - 4. Provide documentation for potential promotions, transfers, salary adjustments, merit increases, disciplinary actions and other personnel transactions.
- C. Formal performance evaluations will be conducted twice during an employee's probationary period (including both new hires and promoted employees), once during mid-probation and once at the end of the probationary period. Such evaluations are used to:
  - 1. Apprise the probationary employee of his/her status during probation.

2. Identify areas of unsuitable work performance and allow time for correction.
3. Assure adequate review of a probationary employee's performance prior to completion of the probationary period.
4. See also, Rule 5, Section V.

### Section III EVALUATION PROCEDURE

#### A. Assigned Duties of Employee

1. Each Department Head is responsible for ensuring that each employee is provided a list of assigned duties
2. The list of duties should be provided to the employee as soon as possible upon the employee's assumption of duties
3. Evaluation of the employee's performance will be based upon assigned duties and should be updated accordingly as duties are modified.

B. The Human Resources will notify each Department Head in advance of the employee's anniversary date that a performance evaluation is due.

C. The employee's supervisor or Department Head, or in the case of a Department Head, the County Administrator, will complete the performance evaluation on forms provided by the Human Resources department and discuss the evaluation with the employee.

D. After the rater, the employee and the Department Head, or in the case of a Department Head, the County Administrator, have signed the evaluation, it will be forwarded to the Human Resources Department for review.

### Section IV RESPONSIBILITY OF HUMAN RESOURCES

- A. Upon receipt of a performance evaluation from a Department, Human Resources will review the evaluation for completeness and return evaluations inappropriately completed.
- B. Human Resources will incorporate completed performance evaluations into the employee's official personnel file.



## **RULE 7 - PAY POLICY**

### **Section I APPOINTMENTS**

- A. New hires - the salary rate at which a new employee begins employment in a given classification shall be the base or minimum rate of the classification. Exceptions to this provision shall be made only for the reasons indicated in Rule 2, Section V and require the written recommendation of the Department Head and approval by the Human Resources Director.
  
- B. Re-employment - Former employees re-employed under the provisions and conditions of Rule 4 shall be eligible for re-employment at the same pay step in their former classification as was received at the time they separated from the County service.

### **Section II PAY ADJUSTMENTS**

The following personnel actions shall affect the pay status of the affected employee in the following manner:

- A. Transfers
  - 1. An employee transferring to a classification with the same maximum pay rate shall maintain the current pay rate received.
  - 2. An employee transferring to a classification with a lower maximum pay rate shall maintain the current pay rate received, unless such pay rate exceeds the maximum pay rate for their new classification, in which case the employee's pay rate will be reduced to the maximum pay rate for their new class.
  
- B. Promotions

An employee promoting to a new classification with a higher maximum pay rate shall receive the minimum step of the new class. In the case of an overlap in pay ranges between the employee's current class and the class to which they are promoting, employees shall receive an increase to that step on the new pay range which would most closely approximate a five percent (5%) increase over their present pay rate, not to exceed the maximum pay rate for the class into which they are promoting.
  
- C. Reclassifications

When employees are reclassified in accordance with provisions of Rule 3, any pay adjustment to the incumbent shall occur as follows:

1. An upward reclassification shall result in a pay adjustment for an incumbent employee in accordance with Section II, B above.
2. A downward reclassification shall result in a pay adjustment for an incumbent employee in accordance with Rule 3, Section III, D (1).

D. Salary Range Adjustments

A salary range adjustment for a classification as set by the Board of Commissioners shall result in a pay adjustment for an incumbent employee in accordance with Section II, B, above.

Section III MERIT INCREASES

The following merit increase pay policy shall apply for all employees:

- A. Salary increases within a class are not automatic but shall be based on the recommendation of the employee's department head in keeping with the employee performance evaluation system described in Rule 6.
- B. Employees may be granted merit increases of one (1) pay step once every twelve (12) months on the employee's anniversary date in their present classification dependent upon completion of a satisfactory performance evaluation.
- C. Employees shall not receive merit increases to a pay step above the maximum pay step in their classification.

Section IV APPLICATION TO PART-TIME AND HOURLY COUNTY EMPLOYEES

Hourly employees, defined as employees whose appointments are for more than ninety (90) days, but less than twenty-five (25) hours per week, and part-time employees, defined as employees whose appointments are for more than ninety (90) days, and for twenty-five (25) or more but less than forty (40) hours per week, upon the appropriate recommendation of the employee's department head, may be granted a merit increase of one pay step following the completion of each consecutive series of 2,080 hours worked commencing from the employee's most recent date of hire into County service.

## **RULE 8 - ACCESS TO EMPLOYEE PERSONNEL FILES**

The responsibility for establishing and maintaining Employee Personnel files will be that of the County Human Resources Department. Information contained in Employee Personnel files is to be considered privileged and confidential.

- Section I
- A. The following individuals have general access to employee personnel files:
    - 1. County Administrator
    - 2. Human Resources Department staff
  - B. The following individuals have limited access to employee personnel files:
    - 1. County Commissioners will have access to the employee file of the Administrator.
    - 2. Department Heads will have access to employee files for employees in their department. Access to files of employees not in their department can only be given with the written consent of the Human Resources Director.
    - 3. Corporate Counsel will have access when necessary to represent the County.
    - 4. Employees will only be allowed access to their own personnel file. Access will be in accordance with Public Act 397, the Employee Right to Know Act, which allows access two (2) times per year. If copies of previously furnished material are requested, there is a charge.
- Section II
- A. Department Heads and County Employees interested in viewing a personnel file must first complete an Employee Personnel File Access Form (available at the Human Resources Department) which must be approved by the Human Resources Director and/or designee and placed in the personnel file which was accessed.

## **RULE 9 - DISCIPLINARY ACTIONS**

Employees with regular status have the right to a hearing on dismissals, suspensions, demotions and disciplinary actions conducted by the Muskegon County Administrator or designee. Employees requesting a hearing, must file such request in writing to the Human Resources Department within five (5) calendar days of the effective date of the action taken against them. The Human Resources Department will forward the request to the County Administrator who will have up to ten (10) calendar days to review and schedule the hearing with the employee and the Department.

For dismissals only, if the hearing before the County Administrator does not result in resolution, the employee has the right to request a formal hearing before the County's Personnel Hearing Board which will act as the final County Hearing body in these matters and who will make findings of fact and recommendations concerning the resolution of such matters.

Consultation with Human Resources is required prior to any disciplinary action being taken by the department. When disciplinary action resulting in termination is recommended by the department, Human Resources shall consult with Corporate Counsel if deemed necessary.

### **Section I TYPES OF DISCIPLINARY ACTIONS**

#### **A. Written Reprimand**

1. This is an action taken by a Department Head who writes out the action or behavior which requires the employee to change, cease or begin. The written reprimand will describe in detail the behavior to be corrected, give direct and concrete orders for the future and point out the consequences of repeating the actions which brought about the written reprimand.
2. Written reprimands must be given on the Notice of Written Reprimand form provided by the Human Resources Department and must be presented to the employee in accordance with Section II of this rule.

#### **B. Suspension without Pay**

This is an action taken by a Department Head which removes an employee from employment in that department and from the County payroll for a definite period of time.

1. This action does not require the employee's consent to be placed on such a Leave without Pay.

2. The employee does not accrue salary, annual leave credit or sick leave credit, during the time of suspension and cannot use such time while on suspension.
3. The employee's benefit anniversary date will also be adjusted accordingly.
4. At the end of the suspension, the employee will be returned to the payroll at the same department, classification and salary as when suspended.
5. Suspensions without pay must be given on the Notice of Suspension Without Pay form provided by the Human Resources Department and must be presented to the employee in accordance with Section II of this rule.

C. Demotion

This is an action taken by a Department Head which reduces an employee's classification to a classification with a lower maximum salary.

1. The employee's salary must be reduced to fall within the range of the new classification but to no lower step designation than the one held in the higher classification unless the new classification has fewer salary steps, in which case the employee should be placed at the highest step.
2. The employee's duties and responsibilities must be reduced to that of the lower classification.
3. The reasons for the demotion must be given.
4. Demotions must be given on the Employee Job form provided by the Human Resources Department and must be presented to the employee in accordance with Section II of this rule.

D. Dismissal

This is an action taken by a Department Head which permanently removes an employee from employment in that department and from County payroll. (See Rule 15, "Separations") Consultation with Human Resources is required prior to dismissal being implemented by the department.

1. Dismissed employees need not be kept in employment or paid for any time after the completion of their normal working day on the date they are dismissed.
2. Dismissed employees will be treated the same as employees separated for reasons other than retirement, in the payment of unused accumulated annual leave. Dismissed employees do not receive payment for unused accumulated sick leave.
3. Dismissed employees will not be entitled to any form of "Severance Pay".
4. Dismissals must be given on forms provided by the Human Resources Department and must be presented to the employee in accordance with Section II of this rule.

Section II      METHODS OF NOTIFYING AN EMPLOYEE OF:

- A.      Written Reprimand  
         Suspension Without Pay  
         Demotion  
         Dismissal

1.      A written notice of the action, giving specific reasons for the action and the effective dates and conditions of the action, must be signed by the Department Head or designee and be presented to the employee in person by the Department Head or designee or else sent to the employee's last known address by registered mail, restricted delivery, with return receipt requested, on/or prior to the effective date of the action. If the written notice is presented in person, the employee should sign all copies to acknowledge receipt. If an employee refuses, the presenter should note it on the form.
2.      The written notice must be on official forms made available by the Human Resources Department. Such forms will have the rules covering the method of appealing such an action either on an attached sheet or imprinted on the reverse side of the official notice.
3.      A copy of the written notice will be retained by the department and remaining copies will be forwarded to the Human Resources Department where a copy will be made part of the employee's file and record on employment.

### Section III DISCIPLINARY PROCEDURE

A. In Part B of this section, examples of behavior which would be cause for disciplinary actions are divided into three (3) groups. Guidelines for administering discipline are set forth within each of these groups and these guidelines will be followed by Department Heads when dealing with the types of behavior described. These guidelines provide examples only on the type of misconduct that may lead to discipline and the level of discipline resulting from that misconduct. It is expressly recognized that not every form of misconduct can be listed in these rules. These rules should be construed as including, but not limited to, the behaviors listed below.

#### B. Group 1 Offenses

- a. Habitual tardiness at commencement of work day or after lunch. (Habitual will be interpreted to mean two (2) instances in one (1) month without sufficient reason, as determined by the department head.)
- b. Absenteeism without sufficient reason or proper notification.
- c. Disregard of safety rules or common safety practices.
- d. Abuse of break time.
- e. Use of profanity or obscene language in the presence of fellow employees or the public.
- f. Faulty work and/or covering up faulty work.
- g. Inefficient work.
- h. Any other offenses of like consequence.

The disciplinary procedure in this group will be: first offense, written reprimand; second offense, three day suspension without pay; third offense, discharge. The violations will be cumulated for a period of not more than two (2) years.

#### C. Group 2 Offenses

- a. Unprofessional conduct.
- b. Injurious or dangerous pranks.

- c. Fighting on the premises.
- d. Gambling during work hours.
- e. Making or publishing of false and vicious or malicious statements concerning any employee, department head, or the County.
- f. Malicious destruction of County property.
- g. Verbal abuse of the public or fellow employees.
- h. Willful disobedience to the proper directive of a supervisor, or other acts of insubordination.
- i. Accumulation of five (5) or more points on the employees driving record where the employee is hired for the primary purpose of transporting other persons.
- j. Any other offenses of like consequence.

The disciplinary procedure in this group will be: first offense, three days' suspension without pay; second offense, discharge. The violations will be cumulated for a period of not more than three (3) years.

D. Group 3 Offenses

- a. The misuse or removal from the premises, without prior authorization, of any County records, confidential information, or of any other County property, except as necessary in the performance of an employee's duty.
- b. Theft of any property of fellow employees or of the County.
- c. Knowingly falsifying any time keeping records, or intentionally giving false information to anyone whose duty it is to make such records.
- d. Consumption of any alcoholic beverages on County property, in County vehicles or during working time.
- e. Absence of three (3) consecutive working days without notice or approved leave and without justifiable reason for failure to report.



- f. Accumulation of ten (10) or more points on the employee's driving record where the employee is hired for the primary purpose of transporting other persons.
- g. Physical abuse of the public or fellow employees.
- h. Reporting to work while under the influence of alcohol, illegal drugs, controlled substances or hallucinogens.
- i. Possession or use, sale or delivery of illegal drugs, controlled substances or hallucinogens on County property, in County vehicles or during working time.
- j. Conviction of a misdemeanor or felony while employed and working in a department which involves contact with juvenile, elderly, vulnerable or frail population, or when the conviction is inconsistent with the job duties as determined by the department head.
- k. Being placed on a violator registry while employed and working in a department which involves contact with juvenile, elderly, vulnerable or frail population.
- l. Possession of a concealed weapon without written authorization in the course of employment with the County. For the Hall of Justice, the Jail or a Sheriff's Department vehicle, advance written authorization must be obtained from the Sheriff. For all other County property and vehicles, the County Administrator makes all written authorization decisions. "In the course of employment with the County" includes without limitation employee possession of a concealed weapon on County property or in a County vehicle.
- m. Loss of any license or certification as required by the class specification.
- n. Solicitation of or acceptance of a gratuity (gift) of any kind from anyone for personal benefit, other than from fellow employees.
- o. Any other offenses of like consequence.

The disciplinary action in this group will be immediate discharge.

## **RULE 10 - NOTICE OF LAW VIOLATION**

All employees are required to notify their Department Head if they are arrested or charged for a violation of criminal law. The Department Head will then forward notice to the Human Resources Director and the County Administrator. Any Department Head who is arrested or charged for a violation of criminal law will notify the County Administrator.

Employees are also required to notify the Department Head, or as appropriate, the Administrator, of any conviction for a violation of criminal law. The Department Head will also provide notice to the Human Resource Director. Notification by the employee must occur as soon as possible after the incident but no later than five (5) calendar days after the charge, arrest or conviction. Conviction includes a plea of guilty and a plea of no contest.

## **RULE 11 - DRUG AND ALCOHOL TESTING**

### **Section I POLICY**

The Department Head or designee has the authority to require an employee to submit to a random alcohol and/or drug test for alcohol, illegal drugs, controlled substances or hallucinogens. Cost for testing will be the responsibility of the County.

### **Section II TEST TYPES**

Such testing may require the employee to provide a blood and/or urine sample. If the test discloses the presence of illegal drugs, controlled substances or hallucinogens, or if the test indicates that the employee is impaired or intoxicated by alcohol, the employee is subject to discipline up to and including immediate discharge. Refusal to submit to the test is grounds for immediate discipline, up to and including immediate discharge.

### **Section III PRESCRIPTION MEDICATION**

An employee is urged to consult with his/her supervisor if he/she is using prescription or over-the-counter medication which the employee believes may affect his/her performance.

### **Section IV FAILED TEST**

An employee determined, as a result of properly implemented medical tests, to be impaired by alcohol, controlled substances, hallucinogens or to test positive for an illegal drug(s) while at work, on first occurrence, may result in discipline up to and including discharge. A Department Head may enter into an agreement with an employee to enter a rehabilitation or counseling program, providing such employee enters into a "Last Chance Agreement". The Department, in conjunction with Human Resources will ensure monitoring and reporting of subsequent testing in accordance with the terms of the Last Chance Agreement. A blood/alcohol level meeting or exceeding .05% or 10 mg/DL will constitute alcohol impairment for purposes of this policy.

## **RULE 12 - POLITICAL ACTIVITIES**

Any of the following activities on the part of the county employees covered by the personnel system will be grounds for suspension or dismissal from the county service.\*

- A. Engaging in any political activity or campaigning for a public elective office during scheduled working hours or while on duty or while off duty while wearing uniform or other identifying insignia of office.
- B. Neglecting his or her assigned duties or responsibilities because of permitted political activity. This includes the circulating or nominating petitions for political office during working hours.
- C. Using office, public position, public property or supplies to secure political contributions or to influence a partisan or nonpartisan election to fill an office at any level of government.
- D. Soliciting or receiving anything of value as a partisan or nonpartisan political contribution or subterfuge for such contribution from any other person during work hours.
- E. Giving money, property, or anything of value, as a contribution or subterfuge for such contribution, for any partisan or nonpartisan political purposes, to any other public officer or employee, as distinguished from political parties or groups during work hours.
- F. Promising or using influence, to secure public employment or other benefit financed from public funds as a reward for political activity.
- G. Discriminating in favor of, or against, an officer, employee or applicant on account of his or her political contribution or permitted political activity at any level of government.
- H. Engaging in any permitted political activity, while off duty, directed at other public employees who are on duty.

\*Employees paid from Federal funds may be subject to the additional restrictions of sections 1501-1508 of Title 5 of the United States Code, commonly referred to as the Hatch Act. Additional information may be obtained from Human Resources.

## **RULE 13 - CONFLICT OF INTEREST**

### **Section I CONFLICT OF INTEREST**

- A. County employees will not engage in any business or transactions or have any financial or other personal interest that is, or may appear to be, incompatible with the performance of their official duties.
- B. County employees will not engage in any outside work or consultation that is, or may appear to be, incompatible with the performance of their official duties.
- C. County employees will not in their performance of their official duties, seek personal or private gain by granting preferential treatment to any persons, agency or organization.
- D. County employees will not solicit nor, unless duly authorized, accept transfers of economic value from persons, agencies or organizations with whom they have contact in their official capacity.
- E. County employees will not use, or permit the use of, government property of any kind for activities not associated with the performance of their duties.
- F. County employees will not seek or obtain personal or private gain from the use of information acquired during the course of their official duties which is not generally available to the public.
- G. County employees will not engage in any business or transaction with any person, agency or organization with whom they have contact in their official capacity which may create a "quid pro quo" obligation or give the appearance of said obligation to the employee or the employees of the County of Muskegon. This provision does not necessarily prohibit the receipt of voluntary contributions for the benefit of County clients or other charitable purposes.

### **Section II PENALTIES**

Violation of this rule may result in discipline, up to and including discharge.

## **RULE 14 - INTERNET/E-MAIL USAGE/SOCIAL MEDIA POLICY**

### **Section I INTERNET USAGE POLICY**

- A. The County provides internet access to employees for their use to transact County business.
- B. Department Heads may request, in writing, for individual employees to have access to the internet through the County's system, clarifying that said employee has a business need for access.
- C. The County may choose to restrict access to various internet sites. Absent specific blocking of a site, employees are expected to refrain from accessing sites which would be considered offensive by community standards, except where such access is necessary for the execution of County business.
- D. The County reserves the right to review individual internet usage at its unfettered discretion. The Department Head or Administrator also reserves the right to request a report of an employee's internet activity.
- E. Employees that access the internet must be aware that the hardware and software utilized for the internet access has the ability to log all County internet activity, including linked sites.
- F. Nothing in this policy will prohibit law enforcement officials from examining any internet usage in the course of an ongoing investigation of civil or criminal activity. The Department Head or designee reserves the right to disclose any internet activity to law enforcement officials, but will notify the County Administrator and Corporate Counsel prior to any investigation being initiated.
- G. Any conduct that violates this policy may result in disciplinary action up to and including dismissal.

### **Section II E-MAIL USAGE POLICY**

- A. The County provides e-mail (electronic mail) to employees for their use to transact County business.
- B. Employees must recognize that County computers are public property and are subject to monitoring at any time.

- C. Time spent on e-mail messages which are personal is expected to be either incidental in nature, or confined to time periods which are a part of the employee's non-paid work hours.
- D. Employees are expected to refrain from sending, or encouraging the receipt of, messages for which the content would be considered offensive by community standards, except where such messages are necessary for the execution of County business.
- E. The County reserves the right to access and disclose the contents of e-mail messages, but will do so only when it has a legitimate business need, or when the urgency of the need is sufficiently strong to offset the County's commitment to honor the employee's interest in privacy.
- F. The County may monitor e-mail messages as a routine matter.
- G. Nothing in this policy will prohibit law enforcement officials from examining any e-mail messages in the course of an ongoing investigation of civil or criminal activity. The Department Head or designee reserves the right to disclose any e-mail messages to law enforcement officials, but will notify the County Administrator and Corporate Counsel prior to any investigation being initiated.
- H. In case of termination or extended absence, work related e-mail messages may be forwarded to the most appropriate employee.
- I. The unauthorized viewing and/or retrieval of another person's e-mail, and other forms of electronic snooping, are prohibited.
- J. The County Administrator and Corporate Counsel will review and approve any request for access to the contents of e-mail messages.
- K. Any conduct which violates this policy may result in disciplinary action up to and including dismissal.

### SECTION III SOCIAL MEDIA POLICY

#### A. Purpose

Internet applications that facilitate information sharing and collaboration include internet based communities, social-networking sites, video-sharing sites, wikis, blog and micro-blogs, mashups, and

countless others. Together, these technologies are known as “social media”. The most prominent of these is Facebook at the present time. As the popularity and integration of social media continues to increase in popularity, a number of new issues and questions are raised about proper use. These policies were created to assist County personnel to effectively and responsibly navigate issues unique to social media.

B. Scope

This policy applies to all County personnel who participate in social media or other internet activity. This policy applies without regard to whether the conduct occurs during working or non-working time. Similarly, this policy applies regardless of whether County equipment is used. This policy is not intended to regulate County sponsored participation in social media.

C. Other County Policies Apply to Social Media

All County policies apply to an employee’s participation in social media, whether during working hours or non-working time. In particular, the Anti-Harassment Policy is applicable to any employee’s participation in social media.

D. Duty to Report Harassment

The County’s Anti-Harassment Policy states that employees “should” report any harassment witnessed by the employee or experienced by the employee. This same standard applies to reporting harassment through social media networks.

E. Public Nature of Social Media

Information on the internet is public in nature, whether allegedly protected by privacy settings on social media websites. As such, County employees who identify themselves on the internet as being employed by the County are expected to conduct their internet interactions as representatives of the County.

F. Standards of Conduct



1. Transparency

If an employee communicates on the internet about the County, and they identify themselves as affiliated with the County, the employee must make it clear that any statement made about the County made by the employee are personal opinions and that the employee is not speaking for the County.

2. Confidentiality

An employee may not discuss confidential matters related to the County on social media websites. Any breach of County confidentiality will be classified as a Group II offense under Rule 9.

3. Quality

An employee should refrain from online activity that could reasonably be expected to harm the County's reputation with the public.

4. Advice

An employee should not give advice on matters beyond the scope of the employee's knowledge. An employee shall not provide advice on legal matters in online activity.

5. Copyrights

An employee shall not utilize any logos of Muskegon County in the employee's online communications.

6. "Friending"

Employees should use discretion in making connections with colleagues on social websites. As between supervisors and subordinates, establishing or disconnecting online associations may be coercive or awkward. As between peers, inclusion or exclusion in online communities may create negative feelings in the workplace. This is not a prohibition against such relationships, simply a suggestion that employees use caution and discretion in their "friending" online.

## **RULE 15 - SEPARATIONS FROM COUNTY SERVICE**

### **Section I RETIREMENT**

This is an action in which the employee leaves County service to become a retirant member of the Michigan Municipal Employees Retirement System.

- A. Retiring employees must make application for retirement on an official "Application for Retirement" form obtainable from the Human Resources Department. This form must be filed with MERS at least thirty (30) days before the date of retirement and not more than ninety (90) days before the date of retirement. The failure of the retiring employee to meet these deadlines may result in a delay in the retiree receiving retirement benefits.
- B. Human Resources Department will notify retiring employee's Department Head of their intention to retire.

### **Section II RESIGNATION**

This is an action in which an employee voluntarily separates from the County service for reasons other than formal retirement.

- A. Employees may resign from the County service by signing a letter of resignation and submitting it to their Department Head.
- B. Resigning employees must submit a written letter of resignation to their Department Head at least two weeks before their final date of work.
- C. Resigning employees will work their normal work schedule between the time the resignation is submitted and its effective date, except for Department Head approved uses of accumulated Annual Leave and Sick Leave and the working of Department Head approved overtime.

### **Section III SEPARATION BECAUSE OF CURTAILMENT OF WORK, LACK OF FUNDS OR REORGANIZATION**

- A. "Curtailement of work" is a situation in which the need for the employee's services is no longer required because the County no longer performs the function to which the employee was assigned, to the degree that the same number of employees are needed.

- B. "Lack of funds" is a situation in which the County is forced to drop positions because it does not have the funds to pay the salaries of the incumbent employees.
- C. In the event of separation because of curtailment of work or lack of funds, such reductions in force will be limited to the department involved and will be made in the following order:
  - 1. Temporary part-time employees.
  - 2. Temporary full-time employees.
  - 3. Provisional employees.
  - 4. Employees serving probationary periods after certification from open competitive eligible lists.
  - 5. Part-time employees with regular status.
  - 6. Full-time employees with regular status.

The order within each designated category will be determined by the Department Head's evaluation of the employee's relative worth toward coping with the remaining work load of the department giving consideration to classification and the length and quality of County and department service.

Employees who have been promoted but who are serving a promotional probationary period at the time of such reduction in force will be considered as holding a position in the highest classification in which they hold regular status.

- D. In the event that departmental reorganization is proposed because of the need to improve the efficiency of the department, and that proposed reorganization involves the separation of full-time employees, said reorganization will be evaluated on a case-by-case basis and a department-by-department basis. In the event separation is proposed under this sub-rule, the Department Head will be required to demonstrate to the County Board of Commissioners the cost savings that will result from this action, the need for those cost savings and/or any efficiencies that will result from the separation of the employee. These actions by a Department Head can be taken based upon the current conditions of the department or conditions that can be reasonably anticipated within a reasonably short period of time.

- E. The names of such separated employees who have regular status will be placed on the “re-employment lists” in accordance with the provisions in Rule 4.
- F. The names of probationary employees will be placed at the top of the current eligible list for the classes for which they were certified.
- G. The Human Resources Department is directed to bring such “re-employment lists” to the attention of County Department Heads as vacancies occur in such classifications.

#### Section IV DISMISSAL

This is an action taken by the employee’s Department Head which permanently removes an employee from employment in that department and from the County payroll. Consultation with Human Resources is required prior to dismissal being implemented by the department.

- A. See Rule 9, Section I, E and Section III.
- B. For appeal of Dismissals see Rule 18, “Hearings on Dismissals, Suspensions and Demotions.”

#### Section V DEATH OF AN EMPLOYEE

- A. The deceased employee’s Department Head should:
  - 1. Send the deceased employee’s separation papers to the Human Resources Department.
    - a. Any accumulated unused Annual Leave and Sick Leave should be noted on the separation papers so that the deceased’s last paycheck will include payment for this time. (See Rule 2, Section VIII, “Overtime Pay” and Rule 21, Section V, “Payment for Unused Accumulated Sick Leave”)
- B. The deceased employee’s family should:
  - 1. Phone the Human Resources Department.
  - 2. The Human Resources Department will obtain:

- a. A copy of the Death Certificate.
- b. The deceased employee's County Group Life Insurance Policy and will assist the designated beneficiary with the application process.

#### Section VI OFFICIAL DATE OF SEPARATION

- A. The official date of separation will be the last day of actual work except for time off, authorized by the employee's Department Head, under one of the following categories:
  1. Use of earned accumulated unused Annual Leave.
  2. Use of earned accumulated unused Sick Leave.
- B. In the case of an employee dying while on the County payroll, the official date of separation will be the end of the usual working day on the date of the employee's death.
- C. Unused accumulation of Annual Leave and Sick Leave existing as of the official date of separation will not be used to prolong the official period of County service except for the determination of eligibility for unemployment compensation benefits.

#### Section VII METHOD OF PAYMENT ON SEPARATION

The separated employee's last paycheck will contain payment for the following items at the employee's salary rate as of the official date of separation.

- A. Payment for all days worked, but as yet unpaid, through the official date of separation.
- B. Payment at straight time for all unused Annual Leave accumulated as of the official date of separation, based on "Maximum Days of Accumulation" as noted in Rule 20, Section 3A.
- C. For employees separated for reasons of retirement or death: see Rule 21.
- D. For employees separated for other reasons, except dismissal, see Rule 21.

- E. Employees who are dismissed from County employment will not be eligible for payment of accumulated, but unused sick leave.

## **RULE 16 - EXIT INTERVIEWS**

### Section I POLICY

All employees who separate from the County of Muskegon employment may be subject to an exit interview conducted by the Human Resources Director or designee prior to the employee's last scheduled day of work.

The employee will suffer no reduction in pay when released to attend the exit interview. Information obtained in the exit interview will be provided to the Department Head, EEO Office and/or County Administrator, when appropriate.

### Section II PROCEDURE

- A. All Department Heads will notify the Human Resource Department of an employee separation as soon as the information becomes available.
- B. The Human Resources Director or designee will contact the separating employee to schedule a convenient time to conduct the exit interview.
- C. The exit interview may be completed in person, via telephone or through completion of various forms if a convenient meeting cannot be scheduled.

## **RULE 17 - PERSONNEL HEARING BOARD**

### **Section I DUTIES OF THE PERSONNEL HEARING BOARD**

The Personnel Hearing Board will act as the final County hearing body in matters of dismissals involving covered County employees and departments. It will be empowered to swear and hear witnesses and take testimony. It will render findings of fact and make the final determination as to the resolution of the employee appeals. The decision of the Personnel Hearing Board is final and not subject to review, approval or appeal to the Full County Board or any other Board committee.

### **Section II JURISDICTION OF THE PERSONNEL HEARING BOARD**

The Personnel Hearing Board acts in all cases involving employees covered by the Personnel System Resolution. The board's jurisdiction specifically excludes those employees who are covered under Rule 1 and those employees covered by a Collective Bargaining agreement.

### **Section III MAKE-UP OF THE PERSONNEL HEARING BOARD**

- A. The Personnel Hearing Board will be comprised of three (3) members of the Board of Commissioners. The members will be selected by lot for each case for which the Hearing Board is required to convene pursuant to Rule 18 below; provided, however, that no Commissioner will serve on two (2) consecutive hearing boards except under extraordinary circumstances.
- B. A discharged employee requesting a hearing before the Personnel Hearing Board, must submit, on a form available at the Human Resources Department and available on the County's website, a written statement, describing in reasonable detail, the reasons the discharge should be revoked. Attached to the request should be all documents that the discharged employee will rely upon to support their request for a Personnel Hearing Board, to be provided at their own expense. This documentation must be submitted to the County Board Chairperson (via County Administration) within seven (7) days of the date of the decision of the County Administrator. Within seven (7) days of the receipt of the written request, the Board Chairperson will determine whether the employee has alleged sufficient facts to justify a hearing before the Personnel Hearing Board and will notify the discharged employee and the Human Resources Director in writing of the decision.



- C. Upon receipt of the Board Chairperson's authorization for a hearing pursuant to Rule 18, the Human Resources Director will arrange for the selection of Hearing Board members by the drawing of names at the earliest Full Board or Committee meeting of the Board of Commissioners. The Board Chairperson's name will not be a part of the drawing. The presiding Chairperson will draw three (3) names to serve on the Hearing Board. The Commissioner whose name is drawn first will serve as Chairperson of the panel. The Commissioner whose name is drawn second will serve as Vice Chairperson of the panel. The names of Commissioners serving on the most recently established panel will not be included in the drawing for the succeeding case. In the event a board is impaneled which does not convene, the names of the members of that board will be included in the next drawing. Commissioners serving on a panel actively hearing a case will not be drawn for another panel except under extraordinary circumstances.

#### Section IV LENGTH OF TERM

Each Hearing Board panel will serve only for as long as is required to adequately hear and decide the particular case for which the panel was drawn.

#### Section V PROCEDURES OF THE PERSONNEL HEARING BOARD

- A. The Human Resources Department will, in coordination with the Personnel Hearing Board Chair, establish the date, time and location of the hearing.
- B. The Human Resources Department will notify all interested parties with the date, time and place of the hearing in writing at least five (5) calendar days prior to the hearing. This notice will also be provided to the Administrator's office, who will post the hearing as required.
- C. Upon request of the County Administrator, Corporate Counsel will prepare the case and provide it to the hearing board members at least five (5) calendar days prior to the hearing.
- D. The Chairperson will be responsible for calling the hearing to order and maintaining order.
- E. The Human Resources Department will ensure that the hearing is properly recorded.
- F. The Recording Secretary will administer the oath to witnesses.

- G. The Human Resources Department will ensure that the actions of the Personnel Hearing Board are properly communicated to all interested parties.
- H. The Personnel Hearing Board will make final determination either affirming, modifying, or revoking the order of dismissal as in its judgement, is equitable. The decision and findings of fact will be reduced to writing and will be forwarded to the interested parties. The decision of the Personnel Hearing Board is final and not subject to review, approval or appeal to the Full County Board or any other Board committee.

## **RULE 18 - HEARINGS ON DISMISSALS**

### Section I ELIGIBILITY TO REQUEST A HEARING

- A. All County employees who are covered by these rules and who have successfully completed their probationary period, will have the right to a hearing on dismissals after they have participated in a hearing conducted by the Muskegon County Administrator and after their request has been reviewed and approved by the Chairman of the Muskegon County Board of Commissioners.
1. Employees who have not successfully completed a probationary period in any classification will not be eligible for a hearing.
  2. Employees who have successfully completed a probationary period in one or more classifications, but have not completed the probationary period in a classification to which they have been promoted, will have the right to a hearing on dismissals.
- B. County employees who voluntarily terminate their employment with Muskegon County are not eligible for Personnel Hearing Board procedures subsequent to the date of their voluntary termination.

### Section II METHOD OF REQUESTING A HEARING

#### Step 1 - Hearing Before County Administrator

- A. Employees wishing a hearing on their dismissal must submit on a form available at the Human Resources Department and on the County's website, a written statement, describing in reasonable detail, the reasons the discharge should be revoked. Attached to the request should be all documents that the discharged employee will rely upon to support their request, to be provided at their own expense. This documentation must be submitted within seven (7) calendar days of the discharge, with the following exception: If the Human Resources Department is closed and unable to receive hearing request on the seventh (7th) day (Saturday, Sunday, holiday or other non-working days) requests will be received up to, but no later than 5:00 P.M. on the next working day the Human Resources Department is open to receive such requests for hearings.

#### Step 2 - Hearing Before Personnel Hearing Board

- A. Employees wishing a hearing before the Personnel Hearing Board,

must submit, on a form available at the Human Resources Department and on the County's website, a written statement, describing in reasonable detail, the reasons the discharge should be revoked. Attached to the request should be all documents that the discharged employee will rely upon to support their request, to be provided at their own expense. This request must be submitted to the County Board Chairperson (via County Administration) within seven (7) calendar days of the decision of the County Administrator, with the following exception: If the Administration Department is closed and unable to receive hearing request on the seventh (7th) day (Saturday, Sunday, holiday or other non-working days) requests will be received up to, but no later than 5:00 P.M. on the next working day the Administration Department is open to receive such requests for hearings.

### Section III SCHEDULING OF A HEARING

The Human Resources Department will, upon approval of the County Board Chairperson, schedule a hearing on the matter beginning on or before the twenty-ninth (29th) calendar day after the effective date of the appealed action.

- A. Both the Department Head and employee will be given written notice of the time and place of the hearing at least five (5) calendar days before the date of the hearing.

### Section IV CONDUCT OF HEARINGS

- A. The Personnel Hearing Board may conduct its hearings in an informal manner, but witnesses in such hearings will be sworn.
- B. Employees and Department Heads may represent themselves or be represented.
- C. The Personnel Hearing Board may have the assistance of counsel.
- D. The Board may subpoena witnesses and records as it finds necessary.
- E. A quorum will consist of two (2) Board members present.
- F. A majority vote of the members will be required for Board action.

- G. The Personnel Hearing Board will make final determination either affirming, modifying, or revoking the order of dismissal, as in its judgement, is equitable. The decision and findings of fact will be reduced to writing and forwarded to the interested parties. The decision of the Personnel Hearing Board is final and not subject to review, approval or appeal to the full County Board or any other Board committee.

## **RULE 19 - ELIGIBILITY FOR FRINGE BENEFITS**

### Section I      DEFINITION OF FRINGE BENEFITS

- A.      This rule will be used to determine eligibility for the following Fringe Benefits which may be provided, (unless spelled out differently in the provisions of, or laws regulating, the individual benefit).
1.      The earning, accumulation and use of Annual Leave.
  2.      The earning, accumulation and use of Sick Leave.
  3.      The use of Bereavement Leave.
  4.      The use of Personal Day Leave.
  5.      County Hospitalization Insurance.
  6.      Membership in Michigan Municipal Employees' Retirement System.
  7.      County Group Life Insurance and Accidental Death and Dismemberment.
  8.      County Dental Insurance.
  9.      Long-term Disability Insurance.
  10.     Cost-of-living payment - only for those employees hired prior to October 5, 2008. Employees must be in pay status as of December 1 in order to be eligible for COLA payments.
  11.     Longevity Payment - only for those employees hired prior to October 5, 2008. Employees must be in pay status as of December 1 and meet eligibility requirements as stated in Rule #2, Section VII; payment is pro-rated based on number of hours worked.
  12.     Legal Holidays.
  13.     Section 125 Plan

Section II ELIGIBILITY FOR FRINGE BENEFITS

All full-time, permanent employees covered by these rules may be eligible for the fringe benefits listed in Section I above.

Section III INELIGIBILITY FOR FRINGE BENEFITS

The employees listed below will not be eligible for any fringe benefits:

- A. Employees whose appointments are for less than one-hundred twenty (120) calendar days.
- B. Permanent employees who are scheduled to work less than twenty-five (25) hours per week.

Section IV LIMITED ELIGIBILITY

Employees who are appointed for more than one-hundred twenty (120) calendar days and who are scheduled to work twenty-five (25) hours, but less than forty (40) hours, per week will have limited eligibility to the fringe benefits listed in Section I above, as follows on a pro-rated basis:

- A. Earn, accumulate and use sick leave and annual leave at a rate that is determined by the number of scheduled hours worked per week in relation to a full-time employee; and subject to the successful completion of their probationary period.
- B. Benefits for eligible part-time employees will be prorated based on hours worked for cost-of-living and longevity payments, insurance contributions and special leaves (personal, bereavement and holiday.)

Section V ELIGIBILITY DATE

- A. In the rule applying to the individual fringe benefit, employees who qualify under this rule will be eligible for fringe benefits based on the benefit anniversary of County employment.
- B. Time spent in non-eligible County employment cannot later be made eligible time and credited toward the fringe benefit, except as they may qualify under Section VI below.

Section VI LENGTH OF COUNTY SERVICE

- A. For Retirement Benefits

1. Except as modified elsewhere in these rules, all employees will be eligible to earn retirement credit for retirement benefits effective with their date of hire, provided that they are regularly scheduled for and work ten (10) days or more per month and six (6) hours or more per day to earn retirement credit for that month.
  2. An employee will be eligible to receive retirement benefits when he/she has reached age 60 and has completed at least 10 years of service with the County of Muskegon.
    - a. Length of service will be computed on a basis of the amount of time the employee has been actually paid by the County payroll.
    - b. Retirement credit for service with other governmental agencies may be granted subject to the rules of M.E.R.S.
    - c. Purchase of generic service credit at the request of an employee through the MERS system is only allowable subject to the following conditions: 1) the employee pays the total actuarial cost of the additional credited generic service time as determined by MERS; 2) such purchases must occur not more than sixty (60) calendar days prior to the actual retirement date of the employee wishing to purchase generic service time; 3) this generic time purchase will not count toward the actual completed continuous service time with Muskegon County used to determine the percentage of retiree co-payment for medical and dental insurance benefits, and 4) must have Board approval.
- B. For all other fringe benefits based on a length of service
1. This subsection applies to all benefits other than retirement as outlined in Section I above, for which eligibility is based on length of County service.
  2. Length of service will be determined by the employee's "Benefit Anniversary Date" which is computed on the basis of the amount of time paid to the employee on the County payroll commencing at the employee's date of hire into eligible service with the following exceptions:



- a. Time spent on Military Leave from Muskegon County will be included.
- b. If an employee leaves and returns to County employment within fifteen (15) years and has not withdrawn their MERS contributions, their benefit anniversary date will include credit for prior service.
- c. If an employee leaves and returns to County employment within fifteen (15) years and withdrew their MERS contributions, their benefit anniversary date will not be credited unless the employee's contributions to MERS are fully reinstated with MERS.
- d. If an employee leaves and returns to County employment after fifteen (15) years, they are treated as a new hire.

## RULE 20 - ANNUAL LEAVE

### Section I DEFINITION OF ANNUAL LEAVE

Annual Leave is absence from work for which the employee is paid just as if he/she were at work. Annual Leave is earned and accumulated each pay period at a rate dependent on the length of the employee's County service. The determination of when Annual Leave is to be used, and the amount of Annual Leave that is to be taken at one time are at the discretion of the employee's Department Head within the limitations of the employee's accumulation, or in the case of a Department Head, only with the permission of the Administrator. Of necessity, the welfare and convenience of the County and the continuation of the services the department renders must be the foremost consideration in allowing Annual Leave.

### Section II ELIGIBILITY FOR ANNUAL LEAVE

- A. See Rule 19 "Eligibility for Fringe Benefits."
- B. All employees eligible for Annual Leave, will begin their accumulation from the first day of eligible County employment.

### Section III RATE OF ACCUMULATION OF ANNUAL LEAVE AND MAXIMUM ACCUMULATION

- A. Annual Leave will be earned and accumulated per pay period according to the following chart:

LENGTH OF ELIGIBLE COUNTY SERVICE (See Rule 19)		MAXIMUM DAYS OF ANNUAL LEAVE EARNED Per Pay      In 12 Months		MAXIMUM DAYS OF ACCUMULATION*	MAXIMUM DAYS OF ACCUMULATION FOR NEW HIRES EFFECTIVE "OCTOBER 5, 2008"***
From	Through				
0 years	5 years				
6 years	10 years	.500	13	26	13
11 years	15 years	.615	16	32	16
16 years		.731	19	38	19
17 years		.769	20	40	20
18 years		.808	21	42	21
19 years		.846	22	44	22
20 years	Remainder	.885	23	46	23
of County Service		.923	24	48	24

\* The maximum accumulation is based on two year's worth of Annual Leave earnings for employees hired prior to October 5, 2008. When the maximum accumulation of Annual leave is reached, additional time spent in County service, while an employee's Annual Leave accumulation is at the maximum, will not earn Annual Leave, either for immediate or future use until the employee's accumulation is below the maximum.

\*\*The maximum accumulation is based on one (1) year's worth of Annual Leave earnings. When the maximum accumulation of Annual Leave is reached, additional time spent in County service, while an employee's Annual Leave is at the maximum, will not earn Annual Leave, either for immediate or future use until the employee's accumulation is below the maximum.

B. Department Director's, as identified in Board of Commissioners' Rules, Rule #15, Annual Leave will be earned and accumulated per pay period according to the following chart:

LENGTH OF ELIGIBLE COUNTY SERVICE (See Rule 19)		MAXIMUM DAYS OF ANNUAL LEAVE EARNED		MAXIMUM DAYS OF ACCUMULATION*	MAXIMUM DAYS OF ACCUMULATION FOR NEW HIRES EFFECTIVE OCTOBER 5, 2008**
From	Through	Per Pay Months	In 12 Months		
0 years	5 years	.615	16	80	40
6 years	10 years	.808	21	105	52.5
11 years	Remainder of County Service	.923	24	120	60

\* The maximum accumulation is based on five (5) year's worth of Annual Leave earnings for employees hired prior to October 5, 2008. When the maximum accumulation of Annual leave is reached, additional time spent in County service, while an employee's Annual Leave accumulation is at the maximum, will not earn Annual Leave, either for immediate or future use until the employee's accumulation is below the maximum.

\*\*The maximum accumulation is based on two and one-half (2 ½) year's worth of Annual Leave earnings. When the maximum accumulation of Annual Leave is reached, additional time spent in County service, while an employee's Annual Leave is at the maximum, will not earn Annual Leave, either for immediate or future use until the employee's accumulation is below the maximum.

\*\*\*Employees in class designations of BD, EE, ND, NF, NH, NT, NU, NV, NW, NX, SF, XH, XT, XU, XF, XW, and XX (excluding Elected Officials and hourly employees) will have all accumulated vacation time paid based on the maximum set; however, the balance will be allowed to accrue and be used beyond the maximum for accrual purposes only.

#### Section IV USE OF ANNUAL LEAVE

- A. Annual Leave may be used only with the permission of an employee's Department Head or in the case of a Department Director, only with the permission of the County Administrator. This provision will apply to all other sections of this plan.
- B. Annual Leave may be used at any time after it is earned subject to item "A" above, but not prior to the completion of six months continuous County service.
- C. Annual Leave may not be used before it is earned.
- D. Annual Leave may be used in any combination of days, subject to item "A" above.

#### Section V EFFECT OF SICK LEAVE ON ANNUAL LEAVE

- A. Employees on Sick Leave (with pay) will continue to accumulate Annual Leave just as if they were on the job.
- B. If an employee has reason to use Sick Leave during a period of Annual Leave usage, and if such Sick Leave is used to cover an illness of the employee and if such Sick Leave need is documented by a physician's written statement to the Department Head's, or in the case of a Department Head, the Administrator's, satisfaction, such time may be deducted from the employee's Sick Leave accumulation instead of from his/her Annual Leave accumulation.

#### Section VI EFFECT OF BEREAVEMENT LEAVE ON ANNUAL LEAVE

If an employee has reason to use Bereavement Leave during a period of Annual Leave usage, and such Bereavement Leave is documented to the Department Head's satisfaction, or in the case of a Department Head, the Administrator's, such time may be considered as Bereavement Leave instead of deducted from the employee's Annual Leave accumulation. (See also, Rule 22, Bereavement Leave)

#### Section VII EFFECT OF PAID LEGAL HOLIDAYS ON ANNUAL LEAVE

Legal Holidays, as defined in these rules, which are counted as days off with pay by the County, will not be deducted from an employee's Annual Leave accumulation when they fall during a period of Annual Leave usage.

Section VIII EFFECT OF LEAVES OF ABSENCE WITHOUT PAY ON ANNUAL LEAVE

Employees will not accumulate Annual Leave while on Leaves of Absences Without Pay.

Section IX EFFECT OF TRANSFER OF AN EMPLOYEE FROM ONE DEPARTMENT TO ANOTHER WITHIN THE COUNTY SERVICE ON ANNUAL LEAVE

A transferring employee's unused accumulated Annual Leave hours will transfer with him/her. No money will be transferred from one salary budget to another to cover this.

Section X PAYMENT FOR UNUSED ACCUMULATED ANNUAL LEAVE ON SEPARATION FROM COUNTY SERVICE

Employees separated from the County Service who have completed at least six (6) months eligible service will be paid at separation for their unused accumulations of Annual Leave at the salary rates the employee's are being paid on their final day of actual work. The amount of unpaid, unused annual leave to be paid based on this section, shall not exceed the maximum accumulation allowed by Rule 20, Section III, above.

## RULE 21 - SICK LEAVE

### Section I DEFINITION OF SICK LEAVE

Sick Leave is an absence from work for which the employee is paid just as if he/she were at work, because the reason for the absence is covered by the provisions of this Sick Leave plan and the employee has accumulated at least as much Sick Leave as required for the absence in question.

### Section II ELIGIBILITY FOR SICK LEAVE ACCUMULATION AND USE

- A. See Rule 19 "Eligibility for Fringe Benefits".
- B. All employees eligible for Sick Leave will begin their accumulation from the first day of eligible County employment, but will be eligible for use of paid Sick Leave only after completion of six months of continuous eligible County service.

### Section III RATE OF EARNING AND ACCUMULATION OF SICK LEAVE

Eligible employees will accumulate Sick Leave as follows:

Years of Service	Days Sick Leave Earned Per Pay Period Months	In 12	Maximum Days of Accumulation	Days Sick Leave Earned for New Hires Effective "October 5, 2008" Per Pay Period Months	Maximum Days of Accumulation for New Hires Effective "October 5, 2008"
0 - 10	.4615	12	Unlimited	.385	10
10 -	.6923	18	Unlimited		180 (not based on years of service)

### Section IV USE OF SICK LEAVE

- A. Sick Leave accumulations may be used subject to the approval of the employee's Department Head, or in the case of a Department Head, the permission of the Administrator. This provision will apply to all other sections of this plan.
- B. Each County Department Head will be responsible for reviewing employee requests for Sick Leave and determining their validity.

He/she will refuse to allow use of Sick Leave when in his/her judgment, there is insufficient evidence to support the employee's claim, or where he/she believes that the employee has not exercised reasonable effort to promptly notify the Department of his/her absence. The Department Head may require an employee to submit a physician's statement in order to justify the use of sick leave.

- C. Employees should whenever possible, notify their Department Head that they will be unable to work before their normal work day begins, in any case, not later than one-half hour after the working day begins. (This requirement may vary in some departments because of operational necessities.)
- D. Sick Leave will not normally be granted for a period of more than three successive work days unless the employee submits a statement from his/her physician, to his/her Department Head, that the Sick Leave is necessary.
- E. Sick Leave may not be used before it is earned, nor before an employee has six (6) continuous months of County service.
- F. Sick Leave may be used for the following purposes:
  - 1. Personal illness or incapacity over which the employee has no reasonable control.
  - 2. Absence from work because of exposure to contagious disease which, according to public health standards, would constitute a danger to the health of others by the employee's attendance at work.
  - 3. Medical and dental examinations or treatment.
  - 4. The care of the employee's ill minor dependent children, spouse, parents or guardians, if the employee is the only person available to render such care. Such usage will not exceed two (2) days for any one illness, unless the employee is on an approved Family Medical Leave.
  - 5. To supplement Workmen's Compensation payments.

Section V PAYMENT FOR UNUSED ACCUMULATED SICK LEAVE

- A. Payment when separating from County employment for reasons of death or to become a retirant member of the Michigan Municipal employees' Retirement System:

An employee will receive three-quarters pay for all unused accumulated Sick Leave not to exceed one hundred eighty (180) days (up to 180 days x .75 x hourly rate) (maximum payout 135 days). Employees hired on or after October 5, 2008 will receive three-quarters (3/4 (.75)) pay for all unused accumulated Sick Leave up to ninety (90) days (maximum payout - sixty-seven and one-half (67-1/2) days). Payment will be based on the rate the employee is earning at the time of separation.

- B. Payment for resigning from County employment after completion of at least one (1) year of continuous County employment: an employee will receive one-half (.50) pay for all unused accumulated Sick Leave, not to exceed one-hundred eighty (180) days (maximum payout - 90 days).

- C. Payment for resigning from County employment for employees hired on or after October 5, 2008, after completion of at least one (1) year of continuous County employment, will receive one-half (.50)) pay for all unused accumulated Sick Leave, up to ninety (90) days (maximum payout - forty-five (45) days). Payment will be based on the rate the employee is earning at the time of separation.

- D. Employees who are dismissed from County employment will not be eligible for payment of accumulated but unused sick leave.

Section VI EFFECT OF SICK LEAVE ON ANNUAL LEAVE AND SICK LEAVE ACCUMULATIONS

- A. Employees on Sick Leave with pay will continue to accumulate Annual Leave and Sick Leave just as if they were on the job.

- B. If an employee has reasons to use Sick Leave during a period of Annual Leave usage, and if such Sick Leave is used to cover an illness of the employee, and if such Sick Leave is documented by a physician's written statement, to the Department Head's satisfaction, such time may be deducted from the employee's Sick Leave accumulation, instead of from his/her Annual Leave accumulation.



- C. Legal Holidays which are counted as days off with pay by the County will not be deducted from an employee's Sick Leave accumulation when they fall during a period of Sick Leave Usage.

Section VII EFFECT OF LEAVES OF ABSENCE WITHOUT PAY ON SICK LEAVE

Employees will not accumulate or use Sick Leave while on Leaves of Absence Without Pay.

Section VIII EFFECT OF TRANSFER OF AN EMPLOYEE FROM ONE DEPARTMENT TO ANOTHER WITHIN THE COUNTY SERVICE ON SICK LEAVE

A transferring employee's unused accumulated Sick Leave hours will transfer with him/her. No money will be transferred from one salary budget to another to cover this.

Section IX EFFECT OF RE-EMPLOYMENT ON SICK LEAVE

- A. Former employees who have been paid for Sick Leave accumulations and who return to County service, must start their accumulation of Sick Leave as new employees.
- B. Employees who terminate their employment prior to completion of one year of eligible County service and who return to eligible County service will forfeit any previous sick leave accumulations.
- C. Employees who leave the County service to enter the Armed Forces of the United States under the provisions of the Selective Service Act, who are members of the Armed Forces and are called to active duty, or who enlist in the Armed Forces during a declared national emergency will, upon re-employment by the County, have available any unused Sick Leave previously earned, less any Sick Leave for which they may have been paid; provided that such re-employment takes place within ninety (90) days after discharge or release from active duty in the Armed Forces, whichever is later.

Section X EFFECT OF BEREAVEMENT LEAVE ON SICK LEAVE

Employees who are given permission to use Bereavement Leave during a period of approved Sick Leave usage will not have the time spent on Bereavement Leave deducted from their Sick Leave accumulation.

## **RULE 22 - BEREAVEMENT LEAVE**

### **Section I      DEFINITION OF BEREAVEMENT LEAVE**

- A.      Bereavement Leave is an absence from work, for not more than three consecutive working days, for which the employee is paid just as if he/she were at work, because the reason for the absence is the death of a member of his/her immediate family or household as described by the following provisions of this plan.
  
- B.      The deceased must bear one of the following relationships to the employee. (Whether the relationship is natural, adoptive, step or foster in nature.)

Spouse	Spouse's Parent
Child	Brother-in-law
Parent	Sister-in-law
Guardian	Son-in-law
Grandparent	Daughter-in-law
Brother	Spouse's grandparent
Sister	Member of the employee's household which is the deceased's residence at the time of death
Grandchild	

### **Section II      ELIGIBILITY FOR BEREAVEMENT LEAVE USE**

See Rule 19 - "Eligibility for Fringe Benefits."

### **Section III      USE OF BEREAVEMENT LEAVE**

- A.      Bereavement Leave may be used only with the permission of the employee's Department Head, or in the case of a Department Head, the Administrator's.
  
- B.      The length of Bereavement Leave will be at the discretion of the employee's Department Head, or in the case of a Department Head, the Administrator's, depending on the relationship of the employee to the deceased and the geographical location of the funeral, but in no case will leave for one death be longer than three consecutive working days.

Section IV EFFECT OF BEREAVEMENT LEAVE ON SICK LEAVE AND ANNUAL LEAVE ACCUMULATIONS

Time taken off with pay as Bereavement Leave will not be deducted from either the employee's Annual Leave accumulation or Sick Leave accumulation.

Section V MILITARY FUNERALS

One day with pay may be granted to attend a military funeral in which the employee is an official participant.

Section VI USE OF SICK LEAVE FOR BEREAVEMENT LEAVE

Use of up to three days Sick Leave may be granted by the employees' Department Head, or in the case of a Department Head, the Administrator, in addition to the other provisions of this rule, in cases which require lengthy travel. The need for additional time off must be documented to the Department Head's and/or Administrator's satisfaction.

## **RULE 23 - PERSONAL LEAVE**

### **Section I DEFINITION OF PERSONAL LEAVE**

Personal leave is absence from work for which the employee is paid just as if he/she were at work.

### **Section II ELIGIBILITY**

Personal leave is available for regular full-time and part-time employees upon completion of six-months of continuous County service. Eligible employees will be entitled to two (2) personal days off with full pay each calendar year of service, however, they are not cumulative.

### **Section II USE OF PERSONAL LEAVE**

Personal days may be taken at any time provided the employee requests the day five (5) working days in advance and obtains approval of the supervisor, Department Head or County Administrator. Personal leave can only be taken in 8-hour increments and cannot be carried over from one year to the next. Any unused days will be forfeited.

## **RULE 24 - LEGAL HOLIDAYS**

### **Section I DEFINITION**

The following holidays are recognized as Legal Holidays by the County of Muskegon:

- 1) New Year's Day
- 2) Martin Luther King Day
- 3) Good Friday
- 4) Memorial Day
- 5) Independence Day
- 6) Labor Day
- 7) Veterans Day
- 8) Thanksgiving Day
- 9) The day after Thanksgiving
- 10) Christmas Eve
- 11) Christmas Day
- 12) New Year's Eve

### **Section II HOLIDAYS FALLING ON SUNDAY**

Whenever one of the designated holidays falls on Sunday, the immediately following Monday will be considered as the Official Holiday for the purpose of these regulations.

### **Section III HOLIDAYS FALLING ON SATURDAY**

Whenever one of the designated holidays falls on Saturday, the immediately preceding Friday will be considered as the Official Holiday for the purpose of these regulations.

### **Section IV HOLIDAYS OFFICIALLY CELEBRATED ON MONDAY**

Whenever one of the designated holidays is celebrated on Monday, in compliance with Act 12 of the Public Acts of 1969, that Monday will be considered as the Official Holiday for the purpose of these regulations.

### **Section V EFFECT OF LEGAL HOLIDAYS**

- A. All County Departments and Institutions will be closed on these designated holidays except those departments and institutions

which must stay open to provide continuous around-the-clock service or where contracts with employee bargaining groups provide for other holidays.

- B. County Employees eligible for Fringe Benefits under Rule 19, will be granted time off with pay on these days, in accordance with the provisions of this rule.
- C. All County non-bargaining employees are required to report to work on those holidays that apply to bargaining agreement employees, but are not recognized holidays for non-bargaining employees.

#### Section VI METHODS OF COMPENSATION FOR LEGAL HOLIDAYS

- A. The following provisions apply only to those employees both eligible for fringe benefits under Rule 19 and eligible for overtime under Rule 2, Section VIII, B.
- B. Eligible, but less-than-full-time employees will be compensated for Legal Holidays in the same manner as full-time employees, except:
  - 1. The compensation for those who actually worked the Holiday in question but who worked less than a full shift, will be based on the hours actually worked.
  - 2. The compensation for those eligible, part-time employees who did not work on the holiday in question will be based on the number of hours which the employee would have normally been scheduled to work on that day. Employees will be compensated for the appropriate number of hours at their regular hourly rate.
- C. Situations (Illustrated for full-time employees only)
  - 1. Employees normally scheduled to work the day in question, but who do not because they have been granted the day off with pay because it is a Legal Holiday, will be paid at their regular rate for the day, just as if they had worked.
  - 2. Employees whose normal scheduled day off falls on the day in question, because of the assigned shift, and who do not work the day will be granted one day of holiday pay at the employee's regular rate.

3. Employees who are assigned to work the day in spite of it being a Legal Holiday:
  - a. For the Legal Holiday the employee will be granted: A day's pay at the employee's regular rate.
  - b. In addition, for the time actually worked on the Legal Holiday, the employee will be granted pay at the rate of time and one-half.

## Section VII EFFECTS OF LEGAL HOLIDAYS ON FRINGE BENEFITS

### A. Effect of Legal Holidays on Paid Leave

Legal Holidays falling within a period when an employee is on Paid Leave, will be counted as the Legal Holiday off and will not be deducted from the employee's Paid Leave accumulation.

### B. Effect of Legal Holidays on Leave of Absence

Employees on Leaves of Absence Without Pay will not get Legal Holidays off with pay and will not accumulate equivalent time off with pay for such Legal Holidays.

## **RULE 25 - FAMILY AND MEDICAL LEAVE ACT**

### **Section I PURPOSE**

This rule is written to provide some guidance to employees of Muskegon County about the requirements of the Family and Medical Leave Act of 1993 (FMLA) and the County FMLA Policy. This law provides for employee leaves in certain situations. This rule does not address all possible situations under the FMLA. This is a condensation of the extensive regulations developed by the United States Department of Labor interpreting the FMLA. If a situation is not clearly covered by this rule, the regulations in the Code of Federal Regulations, 29 CFR § 825.100, et. seq., should be consulted.

### **Section II SCOPE**

This rule applies to all facilities of Muskegon County and to all employees of the County.

### **Section III RESPONSIBILITY/REPORTING REQUIREMENTS**

The interpretation administration and enforcement of this rule shall be the responsibility of Department Heads and the Human Resources Department of the County of Muskegon.

Department Heads are responsible for notifying the Human Resources Department of all FMLA requests or designations within three (3) business days of the initial date of leave.

### **Section IV RULE - FAMILY AND MEDICAL LEAVES**

The County will provide eligible employees with a paid or an unpaid family and medical leave of absence from work (FMLA leave) in the following circumstances:

- A. The birth of a child and in order to care for such child;
- B. In the event of an adoption of a child or to care for a foster child;
- C. To care for a child, spouse, or parent who has a serious health condition.
- D. Because of the employee's own serious health condition that renders the employee unable to perform the essential functions of his or her position. Employees who are unable to meet the criteria set forth in the Act, and thus are not eligible for FMLA leave may apply for a general leave of absence in accordance with Rules 26 and 27 of the Muskegon County Personnel Rules.



- E. For a qualifying exigency arising out of the military service of an employee's spouse, child or parent.
- F. To care for an injured or ill active service member, if the employee is the next of kin.

Section V ELIGIBLE EMPLOYEES

To be eligible for a leave under the FMLA, an employee must:

- A. Have been employed by the County for 12 months at the time that the first day of leave is taken. The 12 months do not need to be consecutive. Employment prior to a seven year break of service is not counted toward the 12 months, except where the break in service is the result of National Guard or military service.
- B. The employee must have worked at least 1250 hours during the 12 months before the first day of leave. The calculation of the 1250 hours includes hours that would have been worked, but for military or National Guard service. For all other calculations of the hours worked, only the actual hours worked count toward the 1250 hours of eligibility.

Section VI DEFINITIONS

- A. For purposes of this rule, the following definitions apply:
  - 1. Child. A biological, adopted, or foster child, stepchild, legal ward, or a child of an employee standing in loco parentis (i.e., in place of a parent), who is under 18, or older than 18 if incapable of self-care because of a mental or physical disability.
  - 2. Parent. A biological parent or individual who stood in loco parentis to an employee when the employee was a child.
  - 3. Spouse. A husband or wife as defined or recognized under state law for purposes of marriage, including common law marriage if established as valid under the law of another state.
  - 4. Serious health condition. An illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider. (A temporary disability due to a non-therapeutic abortion is not covered.). Complications of pregnancy may be a serious health condition.

As a general rule, a serious health condition requires that the affected person have a period of incapacity, defined as inability to work, attend school, or perform other regular activities due to the serious health condition or recovery therefrom.

B. Health Care Provider means:

1. Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctors practice; or
2. Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice, under state law; or
3. Nurse practitioners, nurse-midwives and clinical social workers authorized to practice, and performing within the scope of their practice, as defined under state law; or
4. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; or
5. Any health care provider recognized by the County or the County's group health plan benefits manager.

C. Qualifying Exigency. (details of these are found at 29 CFR 825.126). An eligible employee may take FMLA leave while the employee's spouse, son, daughter, or parent (the "covered service member") is on active duty or has been called to active duty for these qualifying exigencies:

1. Short-notice deployment
2. Military activities and related events
3. Childcare and school activities due to active duty or call to duty of a covered service member- this is not routine child care.
4. Financial and legal arrangements due to active duty or a call to active duty of a covered service member.
5. Counseling due to active duty or a call to active duty of a covered service member.
6. Rest and recuperation of a covered service member.
7. Post-deployment activities, such as ceremonies or recovering remains after death.

- D. Key Employee means a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the County.
- E. "Next of Kin of a covered service member" means the nearest blood relative other than the covered service member's spouse, son or daughter, in the following order of priority: Blood relative who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caretaker leave under the FMLA. Where no such designation is made and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such s designation has been made, the designated individual shall be deemed to be the covered service member's only next of kin.

## Section VII LEAVE DURATION

Except in the case of leave to care for a covered service member with a serious injury or illness, leaves may be taken for up to 12 workweeks during any 12 month period. Where spouses are both employed by the County, their aggregate leave will be limited to 12 workweeks during any 12 month period, except in the case of their own serious health condition(s), or to care for their spouse or child, in which case both spouses will be eligible for the full 12 weeks of leave during the 12 month period.

The County has adopted the "backward rolling" 12 month method of determining the amount of FMLA leave for which the employee is eligible. This measures the amount of FMLA leave for which an employee is eligible based on the amount of FMLA leave used by the employee during the preceding 12 month period.

An eligible employee may take 26 weeks of leave in a single 12 month period to care for the serious illness or injury of an active duty service member whose illness or injury was sustained during active duty. In order to use this type of leave, an employee must be a son or daughter, spouse, parent or next of kin of the injured or ill service member. The single 12

month period starts on the first day of leave taken to care for the service member, and expires at the end of the 12 month period, and is not subject to the "backward rolling" method of determining the amount of leave for which the employee is eligible. Any unused leave is forfeited. Any leave taken for other FMLA purpose is included in the 26 weeks, i.e., an employee is not eligible for an additional 12 weeks of FMLA leave.

## Section VIII LEAVE CONDITIONS

- A. Birth of a child or placement of a child for adoption or foster care.
  - 1. Leave for such purposes must be taken in consecutive workweeks and must be completed within the 12 month period following the birth of the child or placement of the child with the employee for adoption or foster care.
  - 2. At the discretion of the County, leave for one of these purposes may also be permitted to be taken by the employee on either an intermittent basis or on a reduced leave schedule (i.e., a reduced workweek or reduced workdays).
  - 3. Employees requesting leave for one of these purposes must provide the County with 30 days advance notice of leave, except when the birth or placement requires leave to begin in less than 30 days. In the latter instance, employees should provide as much advance notice as is practicable.
  
- B. Care for child, spouse, parent, or employee's own serious health condition.
  - 1. Employees may take leave for these purposes on a consecutive basis or intermittently, or may request to be placed on a reduced workweek or reduced workdays.
  - 2. If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the County may require the employee to transfer temporarily to an available alternative position for which the employee is qualified to better accommodate the recurring periods of leave that the employee will require. Employees transferred in such circumstance will receive pay and benefits equivalent to that of their regular position, although the duties may not be equivalent.
  - 3. Employees requesting leaves for these purposes must make a reasonable effort to schedule the treatment, either for

themselves or for their child, spouse, or parent, so as not to unduly disrupt the County's operations. The employee should endeavor to secure the approval of his or her own or covered family member's health care provider to reasonable schedule the treatment to avoid such disruption.

4. Employees requesting leave for these purposes must provide 30 days advance notice of leave or, if treatment is required in less than 30 days, with as much advance notice as practicable.
- C. Active duty leave for employees with a spouse, parent or child who is on active duty or who has been called to active duty in the armed forces.
1. Leave for such purposes may be taken up to 12 weeks in a 12 month period or a qualifying exigency.
  2. Leave for a qualifying exigency may be taken on an intermittent basis.
- D. Injured service member leave for an employee who is a spouse, parent, child or next of kin of a service member with a serious injury or illness on active duty in the armed services.
1. Leave for such purposes may be taken for up to 26 weeks in a single 12 month period. This leave may be taken in consecutive weeks or intermittently. The 26 week entitlement must be taken in the 12 month period starting with the first day of leave.
- E. If an employee fails to give 30 days' notice for foreseeable leave with no reasonable excuse for the delay, the employer may delay the taking of FMLA leave until at least 30 days after the date the employee provides notice to the employer of the need for FMLA leave.
- F. The employee should provide notice to the employer either in person or by telephone, facsimile ("fax") machine or other electronic means. Notice may be given by the employee's spokesperson (e.g., spouse, adult family member or other responsible party) if the employee is unable to do so personally. The employee need not expressly assert rights under the FMLA or even mention the FMLA, but may only state that leave is needed.

## Section IX REQUEST FOR FMLA CERTIFICATION

- A. Employees will be required to provide the County with proper certification of the need for leave. The certification document required depends on the reason for the leave. The County will provide notice to the employee of this requirement within five business days of the employee providing notice of the need for leave, as required in Section XVII below.

For the serious illness of an employee, form WH-380E is required.

For the serious illness of a relative, form WH-380F is required.

For a qualifying exigency arising from military service of a relative form WH-384 is required.

For the care of the next of kin of an injured or ill service member, form WH-385 is required.

Whichever document is applicable must be fully completed by the applicable certifying personnel and supply sufficient information. If the information is insufficient or incomplete, the County shall state in writing what additional information is required. The employee will have seven calendar days to supply the additional information. If the employee fails to provide this information, despite diligent efforts, the FMLA leave may be denied.

The County will provide written notice to the employee each time the applicable document needs to be completed.

- B. Employees will be required to provide certification annually, no matter whether the condition for which certification is obtained has been designated by the certifier as lasting more than one year.
- C. Employees requesting leave for their own or a covered family member's serious health condition will be required to provide medical certification to substantiate their leave request. Such certification must be provided to the County 30 days in advance of the leave request, or as far in advance of the leave as practicable. If the leave is not foreseeable, then the certification must be provided within 15 calendar days after the County requests that the employee supply certification.

Certification will be on the United States Department of Labor form WH-380 E or F, as applicable, and must consist of all of the following:

1. Date on which the serious health condition commenced;
2. Probable duration of the condition;
3. Appropriate medical facts within the knowledge of the health care provider regarding the condition, including a statement by the health care provider as to how these facts fit the definition of a serious health condition, including sufficient information to establish that the employee cannot perform the essential functions of the employee's job, including any restrictions and the likely duration of the inability to perform their job;
4. Where the leave is required because of the serious health condition of a child, parent, or spouse, a statement that the eligible employee is needed to care for the covered individual and the amount of time necessary for such care;
5. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), whether the employee:
  - a. Is unable to perform work of any kind;
  - b. Is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions the employee is unable to perform, based on either information provided on a statement from the County of the essential functions of the position or, if not provided, discussion with the employee about the employee's job functions; or
  - c. Must be absent from work for treatment.
6. In the case of certification for intermittent leave or a reduced leave schedule for planned medical treatment of the employee, the dates on which such treatment is expected to be given and the duration of such treatment; or if not for planned treatment but for rehabilitation, a statement of the

medical necessity for and duration of such intermittent leave or reduced leave schedule. In this situation, the County may reassign the employee if the reassignment would minimize disruption of the County's operations;

7. If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety, or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery. The employee is required to indicate on the form the care he or she will provide and an estimate of the time period.
  8. If the condition is pregnancy or a chronic condition, whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.
    - a. If additional treatments will be required for the condition, an estimate of the probable number of such treatments.
    - b. If the patient's incapacity will be intermittent and unforeseeable, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any.
- D. The County may contact the employee's health care provider for authentication or clarification of the information supplied by the health care provider. Additional medical information may not be requested. Such contact shall be by the Human Resources Department or a management official. An employee's direct supervisor may NOT make contact with the employee's health care provider. Prior to contact, the employee or relative must have provided authorization under the HIPAA Privacy Rules. If the information supplied by the health care provider is not sufficient to establish the need for FMLA leave and the employee fails to provide HIPAA authorization, the leave may be denied.



- E. The County reserves the right to have an employee examined by a health care provider of its choice for a second opinion if it has reason to doubt the validity of the certification. Any such second opinion examination shall be paid for by the County. The health care provider rendering the second opinion may not be employed on a regular basis by the County. The health care provider utilized for a second opinion may request information from the employee's or employee's relative's health care provider. Failure to supply this information, if requested, may result in denial of the requested FMLA leave.
- F. If the opinions of the employee's and the County's designated health care providers differ, the County may require the employee to obtain certification from a third health care provider, again at the County's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the County and the employee. The County and the employee must each act in good faith to attempt to reach agreement on whom to select for the third opinion provider. If the County does not attempt in good faith to reach agreement, the County will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification.
- G. Failure to provide adequate certification within 15 days of the County's request for certification may result in the County treating the unpaid leave as non-FMLA, unexcused leave. This determination will be assessed on a case by case basis. If the employee never produces the certification, the leave will be treated as non-FMLA by the County.
- H. An employee taking leave for a qualifying exigency will be required to complete form WH-384. Both employee and employer shall have the rights and obligations defined in 29 CFR § 825.309. There is no re-certification requirement for leave for a qualifying exigency.
- I. An employee taking leave to care for an injured or ill service member will be required to complete form WH-385. Both employee and employer shall have the rights and obligations defined in 29 CFR § 825.310. There is no re-certification requirement for leave for care for a service member.

## Section X RE-CERTIFICATION

- A. The County may request re-certification no more frequently than every 30 days. In addition, if the certification states that the minimum duration of the condition is more than 30 days, no re-certification may be requested until that minimum duration has expired.
- B. In all cases, including intermittent leave for a chronic condition, re-certification may be requested every six months.
- C. Re-certification may be required more frequently than specified in paragraphs (A) and (B) when:
  - 1. The employee requests an extension of leave.
  - 2. If the circumstances described by the original certification have changed, including increased frequency or duration of leave.
  - 3. If the employer receives information that casts doubt on the employee's stated reason for the leave or the continuing validity of the leave.
- D. Re-certification shall be provided within 15 days of the County's request, unless not practicable despite the employee's diligent efforts to provide the re-certification.
- E. The required contents of the re-certification are the same as described in Section IX, above. No re-certification is required for leave for a qualifying exigency or to care for an injured or ill service member.
- F. The County may provide the health care provider with a record of the employee's absences and ask the provider whether pattern of absences is consistent with the employee's serious health condition.

## Section XI USE OF ACCRUED LEAVE TIME

- A. Employees will be required to use all accrued unused paid annual leave, personal leave, or sick leave, in the event of a leave for a child's birth or the placement of a child for adoption or foster care as a part of the FMLA leave, running concurrently with the FMLA leave. The employer will notify the employee of the designation of the leave as FMLA leave and whether paid leave will counted as a part of the

FMLA leave. So far as practicable, the notification by the employer will be within two days after the request. The initial approval of FMLA leave may be verbal, however must be confirmed in writing before the next following payday.

- B. Employees will be required to use all accrued unused paid annual leave, personal, or sick leave for leaves for the employee's or a covered family member's serious health condition as a part of the FMLA leave, running concurrently with the FMLA leave. The employer will notify the employee of the designation of the leave as FMLA leave and whether paid leave will counted as a part of the FMLA leave. So far as practicable, the notification by the employer will be within two days after the request. The initial approval of FMLA leave may be verbal, however must be confirmed in writing before the next following payday.
- C. With respect to leaves for the employee's own serious health condition, employees may also be eligible to receive statutory benefits such as long-term disability or workers' compensation, in accordance with applicable Michigan law and the terms of each respective benefit plan.
- D. Time during which an employee is receiving any such statutory benefits shall also be charged against an employee's FMLA 12-workweek entitlement.
- E. The County will count as FMLA leave any leave time funded by either workers' compensation or long-term disability.

## Section XII BENEFITS DURING FMLA LEAVE

- A. During any FMLA leave, the County will maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. If the employee has an obligation to pay a portion of the group health plan co-pay as a payroll deduction, the employee will be required to pay the employee's share of the premium while on FMLA leave. Payroll deductions will be continued to the extent that paid leave is used for FMLA purposes.

Payment will be obtained by one of the methods below:

1. Payment is due at the same time as it would be made if by payroll deduction (paid to the County Human Resources Department);
2. Another system voluntarily agreed to between the County and the employee, which may include prepayment of co-pays (e.g., through increased payroll deductions when the need for the FMLA leave is foreseeable).

If a required employee contribution for group insurance is more than 30 days late, then the County reserves the right to terminate coverage, by providing written notice to the employee of the intent to terminate the coverage at least 15 days prior to insurance termination. Termination of insurance does not affect the right of any employee to reinstatement after FMLA leave, including restoration of benefits as though no leave were taken.

If the employee fails to return to work following the FMLA leave, absent circumstances outlined in 29 C.F.R. § 825.213, the County reserves the right to recover its costs of the employee's health insurance paid by the County during any unpaid portion of the FMLA leave.

- B. An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee will be reinstated on the same terms as prior to taking the leave, including family or dependent coverages, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc.
- C. Benefits that operate on an accrual basis (e.g. annual leave, sick leave, personal leave) will not accrue during any period of unpaid leave under this policy.
- D. An employee's eligibility for qualified benefits (e.g. pension) will be governed according to the terms of each respective benefit plan.

### Section XIII REINSTATEMENT AFTER LEAVE

- A. Eligible employees taking leave under this rule will be reinstated to their former position or to an equivalent position with equivalent benefits and other terms and conditions of employment. However, no employee is entitled under this policy to any right, benefit, or position other than that to which the employee would have been entitled had he or she not taken leave. Thus, for example, if a layoff

or business condition arises that affects the employee's position, reinstatement may not be possible.

- B. If an employee is unable to perform an essential function of their position upon return from FMLA leave, the County has no obligation to reinstate the employee, except as provided in the Americans With Disabilities Act, as amended.
- C. The County also reserves the right to deny leave reinstatement to key employees, where such denial is necessary to prevent substantial and grievous economic injury to the County's operations. This includes the ability of the County to temporarily replace the employee (or do without the employee) during the FMLA leave.
- D. Key employees will be notified of the County's intention about denial of reinstatement as soon as a determination is made that such injury would occur. This notice will be provided in person or by certified mail.
- E. In the event such notice is given to a key employee already on leave, the employee will be offered the opportunity to terminate his or her leave and immediately return to work.
- F. Key employees notified while on leave of the County's intent to deny reinstatement; and decide not to return to work, will remain on leave for the balance of the leave period and then be terminated. Benefits will continue until either the employee provides notice to the County of the employee's intent to terminate employment or until the end of the FMLA leave. The County cannot recover their cost of benefits ordinarily paid by the employee when a key employee does not return to work. A key employee may request reinstatement at the end of an FMLA leave, even when the County has provided notice of its intent to deny reinstatement. In this event, the County will again determine whether reinstatement would create a substantial and grievous economic injury to the County's operations.
- G. Key employees are defined above in Section VI.D.
- H. Employees may be required to provide the County with medical certification evidencing their ability to return to work and perform the essential functions of their positions, with or without reasonable accommodations. Such certification may be requested at the County's discretion.

## Section XIV RETURN TO WORK EXAMINATIONS (FITNESS FOR DUTY)

Before being permitted to return to work from a leave for the employee's own serious health condition, the employee will be required to provide certification from his or her health care provider that he or she is able to return to work and perform all essential functions of the job with or without reasonable accommodation. The employer will provide the health care provider with a list of the essential functions of the job.

As a general rule, no return to work certification is required for a person taking intermittent leave following each leave period. However, the County may require such return to work certification no more than every 30 days if reasonable safety concerns exist regarding the employee's ability to perform his or her duties, based on the serious health condition for which the employee took leave. If such concerns exist, the County will notify the employee of the need to provide the fitness for duty certification at the time that the employee starts the intermittent leave. Reasonable safety concern means a reasonable belief of significant risk of harm to the employee or others.

At the end of an FMLA leave, failure to provide either a required fitness for duty certification or a new certification for continued leave may result in termination of the employee.

## Section XV PERIODIC NOTIFICATION DURING LEAVE

Employees will be required at least once every 30 days while on leave to contact their Director, or if a Director, the Administrator, to report on their status and intentions with respect to returning to work at the end of their leave period.

If an employee unequivocally indicates an intent to not return to work, the employer's obligations under the FMLA to continue health care benefits terminate (subject to COBRA obligations).

## Section XVI SHORT TERM ABSENCES

Absences for any reason not exceeding three continuous work days do not require the formal filing of a request for a written, authorized leave unless taken as intermittent leave under the FMLA. However, employees taking short-term absences are required to comply with required procedures under the Personnel Rules of the County of Muskegon.

## Section XVII PROCEDURE FOR FMLA LEAVE

### A. Notice by Employee

An employee must provide notice of the need for FMLA leave in writing.

The employee will be required to provide sufficient information in the notice in order for the County to determine whether, at first review, the reason for the request is for an FMLA qualifying reason, a qualifying military exigency or to care for an injured or ill service member. Failure of an employee to respond to a reasonable request by the County about the purpose of a leave may result in denial of FMLA protection if the County cannot determine whether the reason for the leave is FMLA or Military Family Leave.

For a foreseeable FMLA leave, the notice must be provided at least 30 days prior to the requested leave, or if 30 days' notice is not possible, as far in advance as practicable. Delay in providing the County with notice of the need for leave may result in a delay in starting an approved FMLA leave. Leave taken without protection of the FMLA will be treated as unexcused leave, potentially subjecting the employee to discipline for unexcused leave, whether the leave is paid or unpaid.

For an unforeseeable FMLA leave, notice must be provided to the County as soon as practicable. The notice must contain sufficient information for the County to determine whether the FMLA applies to the leave or whether a qualifying exigency exists. Calling in "sick" will not provide the County with sufficient notice that the reason for leave is an FMLA reason, without more information. Delay in providing the County with notice may result in delay of FMLA coverage of the leave, potentially subjecting the employee to discipline for unexcused leave.

In all cases, an employee will be required to comply with the call-in procedures of Personnel Rule Number 21, unless circumstances make compliance impossible. If the employee fails to comply with this rule, the circumstances that made failure to comply impossible will be explained by the employee at the time of the request for FMLA leave. Failure to sufficiently explain the circumstances that resulted in the failure to comply may result in disciplinary action.

B. Request by Employee

Upon receiving a request from an employee for leave for an FMLA qualifying reason, or upon the County acquiring sufficient information to determine that a leave is for an FMLA qualifying reason, the employee will be required to complete a formal application for FMLA leave by the completion of the form designated in Section (IX)(A), above. The completion of this form also provides the County with certification of the reason for the leave.

C. County's Eligibility Notice to Employee

When an employee requests FMLA leave or the County acquires knowledge that a leave may be for an FMLA qualifying reason, the County will notify the employee within five days of the employee's request or the County's acquisition of knowledge whether the leave is designated as FMLA leave.

The notice from the County must indicate whether the employee is eligible for FMLA leave. This notice may be oral or in writing. With the "rolling backward" determination of eligibility, eligibility for FMLA leave will be determined at the time of each FMLA leave request or determination by the County that a leave is for an FMLA qualifying reason. More specifically, the County will determine whether the employee who is otherwise eligible based on months of service has accrued 1,250 hour of service during the previous 12 month period.

This information will be provided on form WH-381 within five days of the employee's request or the acquisition of knowledge by the County that the leave is for an FMLA qualifying reason.

D. Notice by County of Rights and Responsibilities of Employee.

Upon receiving a request for FMLA leave or the County acquiring knowledge that a leave may be FMLA qualifying, The County will provide written notice to the employee regarding:

1. Whether the leave is designated as FMLA leave.
2. That the employee is required to provide certification of a serious health condition, serious injury or illness or a qualifying exigency as a result of active duty or a call to active duty in military service.



3. That the County will require the substitution of paid leave as FMLA leave and that the employee has the right to unpaid leave if no paid leave is available to the employee
4. Whether the employee is required to pay health care insurance premiums during leave, the procedures for payment, and the consequences of failure to make payments or failure to return to work at the end of the FMLA leave.
5. Whether the employee is a "key employee".
6. The employee's right to reinstatement and continuation of benefits as though the FMLA leave had not been taken. This will indicate that any benefits based on hours of service do not accrue during FMLA leave.
7. Whether a fitness to return to duty exam will be required of the employee, including a list of the essential functions of the position in writing.
8. If the duration of leave requested can be determined at the time of the request or acquisition of knowledge of an FMLA qualifying leave, the County will inform the employee of the hours or weeks of leave that will be designated as FMLA leave. If the amount of leave cannot be determined at the time of the request (such as intermittent leave for an unforeseeable condition), the hours or weeks used will be included in the next payroll statement.

This information will be provided to the employee on form WH-381. This may be included on the same WH-381 as the eligibility notice in subsection (C) if sufficient information is provided by the employee at the time of the request to determine whether the leave is for an FMLA qualifying reason. It will be provided on a separate WH-381 within five days of the County acquiring sufficient information to determine that a leave is for an FMLA qualifying reason.

E. Certification - See Section IX, above.

## Section XVIII EMPLOYMENT WHILE ON LEAVE

Employment while on an authorized leave of absence is prohibited unless required as part of a remedial therapy program under the County's medical direction, or otherwise permitted under existing County employment policies affecting outside employment.

## Section XIX REQUESTS FOR LEAVE EXTENSIONS BEYOND 12 WEEKS

If an employee is unable to return to work after his or her FMLA leave expires, the employee may file a request for a leave extension in the same manner as he or she filed the initial leave request. For a medical leave extension request, employees must submit additional medical certification to support the leave extension request.

Employees approved for a leave extension will be re-employed at the expiration of such extension if a position is available for which the individual, in the County's sole opinion, is qualified, with or without a reasonable accommodation. In those instances where no position is available, the individual will be laid off due to lack of work. In addition, the County will not continue health insurance benefits during an extension of unpaid leave beyond the 12 weeks provided by the FMLA.

## **RULE 26 - LEAVE OF ABSENCE WITH PAY**

### Section I COURT APPEARANCE LEAVE - DURING SCHEDULED WORKING TIME

#### A. Definition

Court Appearance Leave is an absence from work during scheduled working time, for which the employee is paid, as if he/she were at work, if the absence is caused by the employee being subpoenaed as a witness to appear in Court.

#### B. Eligibility

1. Only those employees who are subpoenaed or ordered to appear in Court during their regular working hours will be eligible to use Court Appearance Leave. Employees who appear in Court as volunteer witnesses or who appear on their own behalf will not be eligible to use this type of leave.
2. Employees requesting the use of Court Appearance Leave must show proof of subpoena and will be required to deposit all witness fees, less mileage payments, with the County Treasurer.
3. Only those employees eligible for benefits under Rule 19 will be eligible for Court Appearance Leave.
4. Employees released from court appearance in excess of one hour prior to the end of their shift are expected to return immediately to their County duties.

#### C. Effect of Court Appearance Leave on Annual and Sick Leave

Employees on Court Appearance Leave will continue to accumulate Sick Leave and Annual Leave as if they were at work. No time will be deducted from the employee's Sick Leave or Annual Leave accumulations while on approved Court Appearance Leave.

### Section II COURT APPEARANCE LEAVE - DURING NON-SCHEDULED WORKING TIME

#### A. Definition

This refers to the appearance in Court during non-scheduled working time by County employees whose presence in Court at this time is required because of their County position.

B. Method of Payment

1. The Court Appearance must be verified in writing by the Court involved.
2. If the employee is in a classification which is eligible for overtime compensation, such compensation will be made at the rate of time and one-half for all time spent in Court, with a guarantee of a minimum of two hours compensation per day.
3. If the employee is in a classification which is not eligible for overtime compensation, no extra compensation will be made for time spent in Court.

Section III JURY DUTY LEAVE

A. Definition

Jury Duty Leave, is an absence from work for which the employee is paid, as if he/she were at work, if the absence is caused by the employee being ordered to serve as a juror.

B. Eligibility

1. Employees requesting the use of Jury Duty Leave must show proof of being drawn for Jury Duty and will be required to deposit all fees with the County Treasurer.

Employees excused from jury duty in excess of one hour prior to the end of their shift are expected to return immediately to their County duties.

2. Only those employees eligible for benefits under Rule 19 are eligible for this type of Leave.

C. Effects of Jury Duty Leave on Annual and Sick Leave

1. Employees on Jury Duty leave will continue to accumulate Sick Leave and Annual Leave, as if they were at work. No time will be deducted from the employee's Sick Leave or Annual Leave accumulations for the time spent on jury duty leave.

## **RULE 27 - LEAVE OF ABSENCE WITHOUT PAY**

### **Section I      DEFINITION OF LEAVE OF ABSENCE WITHOUT PAY**

- A.      A Leave of Absence Without Pay is a predetermined amount of time off from work, without pay, which has been approved by the employee's Department Head and the Human Resources Department, within regulations established by the Board of Commissioners. All time, for which a full time County employee is to be continued as an employee, but not paid, will be considered as a Leave of Absence Without Pay, whether it is one (1) day or the maximum time allowable under the reason for the Leave.
  
- B.      The fact that a Leave is possible under these regulations does not mean that the requested Leave must be granted. A Leave of Absence deprives the employee's department of the services of an employee, who it is assumed is needed if the department is to properly do its job. Leaves of Absence Without Pay, except in the case of disciplinary leaves, should be considered as a privilege and the best interests of the department and the County service must be the determining factor in whether such leaves are granted or not.
  
- C.      In granting an employee a Leave of Absence Without Pay, the Department Head makes a commitment to allow the employee to return to work at the end of the leave to the same duties and the same salary that the employee was performing and earning when he/she went on leave. Any substitutes hired to fill in for employees on Leaves of Absence Without Pay, should be hired accordingly.
  
- D.      When granted a Leave of Absence Without Pay, the employee is committed to return to work at the end of the Leave.
  
- E.      The leave of absence will expire based on the type of leave specified.

### **Section II      EFFECTS OF LEAVES WITHOUT PAY**

During a Leave of Absence Without Pay, the employee:

- 1.      Does not receive pay from the County
  
- 2.      Does not earn Annual Leave

3. Does not earn Sick Leave
4. Does not get paid for Legal Holidays occurring during the Leave.
5. Has no time deducted from Annual Leave or Sick Leave to cover the time off on the Leave of Absence Without Pay.
6. Remains a member of the Michigan Municipal Employees' Retirement System but cannot withdraw retirement contributions while on Leave of Absence, only on separation; and cannot pay retirement contributions.
7. The Employee does not earn credit toward the Service Increment Plan or credit toward the rate of Annual Leave or Sick Leave accumulation for the period covered by the Leave.
8. Must pay any group hospitalization premiums falling due during any month in which the employee has not worked at least one (1) week. (Such premiums are normally paid by the County for eligible employees.) Employees on such leaves should contact the Accounting department.
9. Will retain full coverage for up to six (6) months under the Employees' Group Life Insurance Plan. If the employee fails to return to active County employment by the end of the approved leave of absence without pay, the employee's group life insurance coverage is terminated regardless of the six (6) month's limitation.

### Section III TYPES OF LEAVE WITHOUT PAY

- A. To cover time off because of personal illness beyond that covered by earned Sick Leave with pay.
  1. To be used when the employee has exhausted his/her accumulation of earned Sick Leave with pay and earned Annual Leave.
  2. Not to exceed sixty (60) calendar days for any one (1) leave, but may be renewed, will not exceed six (6) consecutive calendar months commencing with the month following the date that earned sick leave with pay and earned annual leave is exhausted.

3. To be granted only on the written recommendation of the employee's physician.
- B. To cover time off because of a compensable injury beyond that covered by Sick Leave with pay and Annual Leave with pay. Not to exceed one (1) year for any one (1) injury.
- C. To cover time off while running for County Elected Office filled by partisan election. If such a Leave is requested, it must be granted, except no more than two (2) Leaves may be granted for the purpose of running for elected office in any one (1) calendar year and leave must be no less than fifteen (15) calendar days nor more than thirty (30) calendar days.
- D. To cover disciplinary leaves (suspensions without pay) as covered in Rule 9, Disciplinary Actions.
- E. To cover time off for educational purposes where such educational training is directly related to the employee's present or future duties as a County employee, not to exceed 120 days.
- F. To cover time off for personal reasons not to exceed sixty (60) days for any one (1) leave.

#### Section IV RETURN FROM A LEAVE WITHOUT PAY

- A. When an employee returns from a Leave of Absence Without Pay, the employee's Department Head must submit an Employee Form to the Human Resources Department before the employee can be returned to the payroll.
- B. If an employee fails to return to County employment at the end of a Leave of Absence Without Pay, and no extensions of the leave are granted, it will be considered a voluntary resignation from County service.

## **RULE 28 - MILITARY LEAVE**

### **Section I PURPOSE**

Muskegon County complies with applicable state and federal law in granting paid military leave to eligible employees.

### **Section II GIVING NOTICE**

The Uniformed Services Employment and Reemployment Rights Act (USERRA) requires that service members provide advance written or verbal notice to their employer for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity.

### **Section III MILITARY LEAVE WITHOUT PAY**

If a regular employee's period of uniformed service exceeds any accrued leave the employee chooses to use, the employee will be eligible for Military Leave Without Pay during the period of uniformed service. A regular employee's eligibility for Military Leave Without Pay will end upon her or his return to work or the exhaustion of applicable reporting period under USERRA.

### **Section IV BENEFIT COVERAGES**

Eligible employees performing federal active military duty for more than 30 days may elect to continue County-sponsored health plan programs for up to 24 months. However, the employee will be required to pay 102% of the full premium after the first 30 days of leave. Prior to departure for service, the employee should coordinate her or his coverage under the County's health plan with her or his military unit.

### **Section V RETIREMENT BENEFITS**

Employees are treated as if they had been continuously employed for retirement purposes. This applies to vesting and also determining the amount of monthly contributions. If the employee participates in the defined contribution plan, the employee may make contributions after the military leave.

### **Section VI FAMILY MEDICAL LEAVE ACT**

Federal active military duty time counts toward hours worked for eligibility.



Section VII PAY

The returning service member is entitled to his or her pre-service rate, adjusted by merit increases and/or general wage increases added during his or her absence.

Section VIII VACATION/SICK LEAVE USE AND ACCRUAL

Service members are able, but are not required, to use accrued vacation leave and personal leave while performing military service.

Section IX PROBATIONARY STATUS

A probationary employee called to military service is eligible for Reemployment under County policy and USERRA. When a probationary employee is re-employed, he or she will return to the same status as existed prior to the military service. For example, if a six-month probationary employee is called to active military service after completing four months of probationary employment, upon return to work status, the employee will be in a probationary status for the remaining two months.

Section X REEMPLOYMENT RIGHTS

In accordance with the provisions of USERRA, the individual must meet the following conditions or eligibility criteria:

- A. Must hold a County job (jobs held for a brief, non-recurrent period with no reasonable expectation of continuing for a significant period do not qualify).
- B. Must have given written or verbal notice to supervisor prior to leaving the job for military training or service except when precluded by military necessity.
- C. Must not have exceeded the 5-year cumulative limit on periods of service.
- D. Must have been released from active service under conditions other than dishonorable.
- E. Must report back to the County in a timely manner or submit a timely application for reemployment. Time limits are:

Military Service Less Than 31 Days: Employees must report for reemployment “at the beginning of the first full regularly scheduled working period on the first full calendar day following completion of service and expiration of eight hours after time for safe transportation back to his or her residence.”

Military Service More Than 30 Days but Less Than 181 Days: Employees must report no later than 14 days following completion of service.

Military Service over 180 Days: Employees must report no later than 90 days after completion of military service.

The application deadlines are extended up to two years if an employee is hospitalized or convalescing from an injury caused by active duty. In addition, the two-year period could be further extended by the “minimum time required to accommodate the employee’s disabilities.”

#### Section XI FIVE-YEAR LIMIT DEFINED

An employee is not entitled to reemployment or other benefits provided by USERRA if his or her cumulative period of absence for military service, from one employer, exceeds five years. For this purpose, periods of military service shall not include service:

- A. Required beyond five years to complete an initial period of obligated service;
- B. During which the employee was unable to obtain a discharge or release in time to prevent the cumulative absence from exceeding five years, through no fault of the employee;
- C. Necessary to complete periods of statutorily mandated training for National Guard and Reserves necessary for professional development;
- D. Performed by a member of the uniformed service who is ordered to or retained on active duty during a war, or in certain emergency or national-security-related situations; or
- E. Performed by a member of a uniformed service in support of an operational mission or critical mission, as determined by the Secretary of Defense.

## **RULE 29 - ADMINISTRATIVE LEAVE**

### **Section I PURPOSE**

To establish a policy regarding the application of administrative leaves under special circumstances that do not fall under existing County policies.

### **Section II ACCOUNTABILITY**

Under the direction of the County Administrator, the Director of Human Resources shall insure compliance with this policy and implement the policy in collaboration with the Department.

### **Section III DEFINITION**

Administrative leave is a leave of absence (paid or unpaid) initiated to manage special circumstances where it is in the County's best interest to retain the employee relationship for a period of time to be determined by the County.

### **Section IV ELIGIBILITY**

Regular full-time employees are eligible provided that their work performance and attendance are satisfactory.

### **Section V POLICY**

Administrative leaves may be utilized to manage special circumstances. Such leaves may only be initiated by the County. Examples of special circumstances may be, but are not limited to:

- A. Necessity to remove an employee from the work place while an internal investigation/review ensues;
- B. Emergency conditions where no other administrative option exists;

The decision of whether an administrative leave will be paid or unpaid, and whether benefits will continue, rests with the Department Head and depends on the circumstances surrounding the leave. Administrative leave approval will be at the Department Head's discretion, in collaboration with the Administrator or Administrator's designee, the Human Resources Director, and may also include Corporate Counsel.

An administrative leave for investigative/review purposes will not be given for a predetermined length of time, but will be in effect long enough to conclude the investigation/review.

If administrative leave is administered, the employee must be informed in writing with a copy to the Human Resources Department for the employee's file.

#### Section VI BENEFITS DURING ADMINISTRATIVE LEAVE

Vacation and sick time will not accrue during the period of an unpaid administrative leave. When an employee returns from administrative leave, vacation and sick time will begin to accrue on the return date. Holidays which fall during the leave will not be granted under the County's Paid Holiday Policy.

An employee on unpaid leave will be responsible for prepaying the entire premium for the health insurance benefits they wish to continue. Prior arrangements must be made by the employee with Human Resources to ensure continuation of health insurance coverage during the leave.

Employees will not accrue pension benefits while on unpaid administrative leave.

#### Section VII RETURN FROM ADMINISTRATIVE LEAVE

If an employee fails to return to work or notify the department in writing of their intention to return within three (3) business days after the date the leave is discontinued, the employee will be considered absent without official leave and be subject to termination.

## **RULE 30 - OPERATION/WORK STANDARDS**

### Section I HOURS OF WORK

- A. Work Day: For pay computation purposes, the normal County Work Day is eight (8) hours (excluding the lunch period) in a 24-hour period starting at 12:01 a.m.
- B. Work Week: The normal County Work Week is Monday through Friday with the exception of 24-hour operations.
- C. Lunch Period: No scheduled lunch period will be longer than one hour.
- D. Relief Periods: Whenever possible, employees scheduled to work a full shift will be granted one fifteen (15) minute relief period before the lunch period and one fifteen (15) minute relief period after the lunch period. Relief and lunch periods may not be combined nor banked for use on another day. These relief periods shall be taken, however, in a manner that does not detrimentally affect departmental operations.
- E. Scheduling: The scheduling of shifts, lunch periods and relief periods, within the above restrictions, will be the responsibility of the Department Head, and will be designed to provide the least possible disruption of the department's services and not be a hardship on the employees involved. Department Heads will clearly inform all employees of their working hours and the timing of their lunch hours and must personally approve any exceptions to the normally scheduled routine.

### Section II HOURS OF OPERATION

County business offices will be open from 8:00 a.m. to 5:00 p.m. The hours of operation may be extended to meet the needs of departmental programs as required to serve the public. Any scheduled changes in county business office hours must have prior approval of the County Administrator.

## **RULE 31 - WORK CONNECTED INJURY OR ILLNESS**

All employees will be covered by the applicable worker's compensation laws and related benefits.

### **Section I REPORTING**

- A. County employees will report all injuries or illnesses arising from their County employment to their Department Head immediately.
- B. Department Heads will report all such injuries or illnesses to the Human Resources Department immediately on Accident Report forms.

### **Section II TREATMENT**

- A. The Department Head's ordering of an employee involved in an on-the-job injury to receive immediate professional medical attention will be considered a legitimate authority of a County Department Head and refusal by the employee on any grounds other than religious will be deemed insubordination.
  - 1. Except in dire emergencies, this medical treatment should not be given by County medical profession employees.
  - 2. The person or institution rendering the medical treatment should be told that it is a possible Workmen's Compensation case, via an "Order for Medical Treatment" form.

### **Section III WORKER'S COMPENSATION PAYMENTS**

The employee will receive worker's compensation benefits as allowed by law, and at the option of the employee may charge accumulated, unused sick leave and/or vacation balance to the extent that it would provide such employee with his/her regular net salary. If the employee continues on worker's compensation following the depletion of such leave balances, payments will be governed by applicable law.

### **Section IV RETURN TO COUNTY DUTIES**

- A. An employee who has suffered a work connected injury or illness will be returned to work as soon as the employee's recuperation permits. Where the work situation and the employee's condition permit, such employees may be returned to limited duties.

- B. In instances where the employee's recovery is in doubt, that employee may be required to undergo a medical examination by a county-appointed physician.

## RULE 32 - EMPLOYMENT OF RELATIVES

### Section I      COVERAGE

- A. All sections of this rule will apply to all positions covered by the Personnel System, regardless of whether the Department Head obtained his/her position through election, appointment or open competitive appointment.

### Section II     DEFINITION OF NEPOTISM

- A. For the purpose of this rule, “nepotism” is defined as a person in an administrative capacity using their position for a purpose that is, or gives the appearance of being motivated by favoritism for themselves or their relatives.

### Section III    DEFINITION OF RELATIVE

- A. For the purpose of this rule, a “relative” will be a person holding the following relationship to the employee, whether that relationship is natural, adoptive, step or foster in nature.

Spouse	Uncle
Spousal Equivalent <sup>1</sup>	Aunt
Child	Niece
Parent	Nephew
Brother	Parent-in-law
Sister	Child-in-law
Grandparent	Brother-in-law
Grandchild	Sister-in-law
First Cousin	

### Section IV    PROHIBITIONS ON EMPLOYMENT OF PERSONS WHO ARE RELATIVES AT THE TIME OF APPOINTMENT

No person will be appointed in a department where the Department Head, Assistant Department Head, Head of the Division where employed or Immediate Supervisor is a relative of the employee at the time of appointment.

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<sup>1</sup> For the purpose of this rule, the term “spousal equivalent” shall be a person residing in the same household as the employee.



Section V PROHIBITIONS ON THE CONTINUED EMPLOYMENT OF EMPLOYEES WHO BECOME SPOUSES OR SPOUSAL EQUIVALENTS AFTER THEY ARE EMPLOYED

No person will continue to be an employee in a Department after he or she becomes the spouse or the spousal equivalent of the Department Head, Assistant Department Head, Head of the Division where employed or Immediate Supervisor.

Section VI PROHIBITIONS ON THE CONTINUED EMPLOYMENT OF EMPLOYEES WHO ARE RELATIVES OF PERSON PROMOTED OR APPOINTED TO POSITIONS OF DEPARTMENT HEAD OR ASSISTANT DEPARTMENT HEAD OF THE EMPLOYEE'S DEPARTMENT

- A. Such employees may continue to be employed in the same Department except:
1. Spouses or spousal equivalents covered under Section V of this rule.
  2. If such a relationship occurs before the employee gains permanent status where the Department Head or immediate Supervisor is a relative, the employee will be transferred to another Department or separated from the County Service.

Section VII PROHIBITIONS ON THE CONTINUED EMPLOYMENT OF EMPLOYEES WHO ARE RELATIVES OF PERSONS PROMOTED OR APPOINTED TO POSITION OF HEAD OF THE DIVISION WHERE EMPLOYED OR IMMEDIATE SUPERVISOR

- A. All lower ranking employees in the Division or Supervisory Unit who are relatives of the Division Head or Supervisor, will be transferred to another Division or Supervisory Unit of the same Department where they will not be supervised by a relative.

## **RULE 33 - SUPPLEMENTAL OUTSIDE EMPLOYMENT**

### Section I DEFINITION

Supplemental outside employment is defined as engaging in any activity for wages or income of any kind with an employer other than the County of Muskegon.

### Section II POLICY

Supplemental outside employment is permitted provided that the employee notifies his/her Department Head in writing to engage in his/her supplemental outside employment including the name of the employer, duties and hours of work. This written notice must be given by the employee to the Department Head prior to commencing the outside employment.

### Section III PROCEDURE

- A. The Department Head will consult the Human Resources Department and will determine if the supplemental outside employment is permitted provided that the employee notifies and requests permission of his/her Department Head in writing to engage in his/her supplemental outside employment. The information will include the name of the employer, duties and hours of work.
- B. The supplemental outside employment must not conflict with the employee's hours of County employment, or the department's established hours, nor will it interfere or directly conflict with the employee's satisfactory performance of the employee's duties or conflict with the interest of the County.
- C. The supplemental outside employment must not be incompatible or in conflict with the discharge of the employee's County employment duties or tend to impair the employee's independence or action in the performance of the employee's County duties.
- D. Permission to work supplemental outside employment must be in writing and will not be unreasonably withheld. In the event permission is withheld, the employee may appeal the decision to the County Administrator.

## **RULE 34 - DUAL EMPLOYMENT**

### Section I DUAL EMPLOYMENT

County employees covered under the Personnel System Resolution who receive pay from the County for their services in permanent, provisional, seasonal, temporary, full-time, part-time, or hourly positions will not be eligible for dual employment with the County of Muskegon where such employees would be appointed and receive pay for services rendered in more than one County position or classification at the same time.