



# *Personnel Policy Manual*

*Revised January 6, 2026*



**SECTION 1  
TABLE OF CONTENTS**

SECTION 1	Table of Contents	i-ii
SECTION 2	Purpose, Administration and Definitions	1-4
<b>Employment Related</b>		
SECTION 3	Employment	1-5
SECTION 4	<del>Probationary Period</del> — Section eliminated see Section 3.00	1-2
SECTION 5	Classification and Compensation Plans	1-6
SECTION 6	<del>Classification Plan</del> Section eliminated see Section 5.01	1
SECTION 7	<del>Employee Personnel Records</del> – Section eliminated	1
SECTION 8	<del>Payroll</del> Section eliminated see Section 5.10	1
SECTION 9	Hours of Work	1
	Appendix B Telecommuting	1-7
SECTION 10	<del>Overtime</del> Section eliminated see Section 5.03	1
SECTION 11	<del>Severance of Employment</del> Section eliminated See Section 3.00	1-3
<b>Benefits</b>		
SECTION 12	<del>Paid Time Off (PTO)</del> Section eliminated see Section 16	1-2
SECTION 13	<del>Holidays</del> Section eliminated see Section 16.05	1
SECTION 14	<del>Vacation, Sick &amp; Personal Leave</del> Eliminated see Section 12 (PTO) D-H & Section 16.03	1
SECTION 15	<del>Leaves of Absence with and/or without Pay Bereavement Leave</del> Section eliminated see Section 16.06	1
SECTION 16	Benefits	1-26
SECTION 17	Expense Reimbursement/Meal Allowance—Section A-E of Policy eliminated see Section 16.07	1-3
<b>Behavioral &amp; Conduct Policies</b>		
SECTION 18	Discipline	1-2
SECTION 19	Grievances	1-3
SECTION 20	Policy Against Offensive Conduct, Harassment & Violence	1-11
SECTION 21	Conflicts of Interest	1-2
SECTION 22	Substance Abuse Policy	1-4
	Appendix B Drug and Alcohol Policy – CDL – DOT	1-23
	Appendix C Drug and Alcohol Policy – Federal Transit Administration (FTA)	1-19
SECTION 23	Inclement Weather Policy	1
SECTION 24	<del>Collective Bargaining Principles</del> Section eliminated.	1
SECTION 25	Safety Eyeglass Policy	1
SECTION 26	Firearms Policy	1
SECTION 27	Electronic Mail & Internet Access Acceptable Use Policy	1-3
SECTION 28	Lobbying & Intergovernmental Relations Policy	1
SECTION 29	<del>Nursing Mothers, Lactating Employees, and Pregnancy Accommodations</del> Eliminated, see section 16.06 J.	1
SECTION 30	<del>Identification Badge</del> Section eliminated.	1

**SECTION 1  
TABLE OF CONTENTS**

SECTION 31	<del>Workplace Emergency Plan</del> Section eliminated.	1
<b>Addendums</b>		
ADDENDUM I	<del>Relationships &amp; Degrees of Kindred</del> – Section eliminated	1
ADDENDUM II	<del>Tennessee Warning for Employees</del> – Section eliminated	1
ADDENDUM III	Code of Ethics & Implementation Guidelines	1-6
ADDENDUM IV	<del>Employee Assistance Program (EAP) Policy</del> Section eliminated see Section 16.07	1
ADDENDUM V	<del>Exempt Positions</del> – Section eliminated	1
ADDENDUM VI	<del>Hubbard County Reimbursement Schedule</del> Section eliminated see Section 16.06	1
ADDENDUM VII	<del>Hubbard County Cafeteria Contribution</del> Section eliminated see Section 16.01	1
ADDENDUM VIII	Severance Reserve Establishment	1-2
ADDENDUM IX	<del>2018 Hubbard County Compensation Schedule</del>	1

## **Section 2.00: Introduction, Scope, Expected Behavior, Policy Responsibility, & Terminology – Benefit Eligible revised as Section 16.01b and 16.03 A1.**

### **Introduction**

This policy manual is intended to provide Hubbard County (County) administrative and supervisory personnel, as well as county employees, a guide and resource to Board of Commissioner (Board) approved policies and procedures regarding employment and personnel issues. The policies and procedures in this manual are intended to ensure County employees are afforded fair and consistent treatment, and equal opportunity in accordance with applicable law.

The Hubbard County Board of Commissioners expects employees to conform to the policies and procedures defined within this manual and to accept full accountability while striving for personal productivity, integrity, and professionalism.

***This manual and its specific contents, statements, and positions are not intended to create a contract between the county or any of its employees. It is understood that employment with the county is at-will, and employees may terminate their employment with the county at any time for any reason. The county reserves the same right (at will employment) regarding discontinuation of employment. The terms of this manual are implemented and applied at the sole discretion of the county or its representative and may be modified or withdrawn at any time. This manual supersedes any prior policies, past practices, or oral representations made by the county or its designees.***

### **Scope**

Subject to the requirements of state and federal law, and any provision of a collective bargaining unit, the policies within this manual apply to all employees.

### **Expected Behavior**

Our main purpose is to provide services, to the public and to each other, with a tone of behavior that manifests respect and would be perceived as commendable. Each and every employee is expected to show a kind and courteous demeanor towards the general public and also towards fellow employees. Violent, offensive or rude behavior shall not be tolerated nor condoned.

### **Policy Responsibility**

**Board of County Commissioners** - responsible for the approval and revisions of personnel policies; final arbitrator in questions of interpretation and application of NON Contract polices.

**Personnel Committee** - responsible for offering recommendations to the Board of County Commissioners on personnel policy related issues.

**County Administrator** - responsible for the administration of all personnel and benefit policies in the County. (Human Resource Manager is a subset of the Coordinator)

**Department managers/supervisors** - responsible for the application of personnel policies within departments and for employees under their immediate supervision; may develop operational departmental procedures.

## **Terminology**

**Benefit Eligible:** Seasonal and Temporary employees (Section 3) are eligible for only holiday pay with on-call employees (Section 3) receiving no benefits.

A. Health coverage eligibility: A **benefit eligible** employee must be hired to work a minimum of 30 hours per week in a regular and recurring 12-month per year position. (Section 16.01 B1)

B. Paid Time Off (PTO): An employee must be regularly scheduled and remain in pay status a minimum of 20 hours per week, annually. (Section 16.03 A1)

**Class or Classification:** All positions sufficiently similar in duties, authority, and responsibility to permit grouping under a common title with equity of common standards of selection.

**Collective Bargaining Agreement (Union Contract):** A contract negotiated between the County and a union representing a defined group of employees outlining wages, benefits, and terms and conditions of employment.

**Continuous Service:** Shall consist of no break in employment by resignation or termination.

**Union Employee:** An employee within a defined bargaining unit and governed by a collective bargaining agreement (union contract).

**Department manager:** Those elected or appointed officials who are responsible for management of a department.

**Exempt Positions:** Those positions that by the Code of Federal Register (CFR) 29 are exempt from overtime and minimum wage law or requirements. See Addendum V.

**Full-time Employee:** An employee who is regularly scheduled, on an annual basis, to work 40 hours per week and remains in pay status.

**Full Year of Employment:** Non-Exempt - The completion of a minimum of at least 2080 regular, non-overtime hours in pay status over a twelve month period and Exempt - The completion of a minimum of at least 52 weeks in pay status over a twelve month period.

**Grant Employee:** An employee who works for the county under a grant will be considered a county employee and is eligible for applicable county benefits as allowed by policy or grant.

**Hire Date:** Hire date shall be defined as the date an employee's employment with Hubbard County begins and consists of continuous service with the county not to include on-call positions.

**Independent Contractor:** An individual, firm, or business who provides services for the county under a purchase of service agreement or other contract, and is not eligible for any county benefits.

**Kindred:**

**First Degree of Kindred:** Spouse, child, parent, parent-in-law, step-parent, step-children and foster children.

**Second Degree of Kindred:** Sister and sister-in-law, brother and brother-in-law, grandparent, spouse's grandparents and grandchild.

**Third Degree of Kindred:** Aunt, uncle, niece, nephew, great-grandparent, and great grandchild (including spouse's third degree of kindred).  
See Addendum I

**Non Union Employee:** An employee who is not represented by a third party or governed by a collective bargaining agreement (union contract).

**Non Exempt Positions:** Those positions that by CFR 29 are not exempt from overtime and minimum wage law requirements. See Addendum V.

**On-Call Employee:** An employee who is hired to work for the county on an intermittent basis, is not regularly scheduled nor accrues any benefits and whose position is expected not to exceed 30 days of employment in one given department periodically. (Section 3)

**Part-time Employee:** An employee who remains in pay status and is regularly scheduled to work, on an annual basis, less than 40 hours per week.

**Position:** A group of duties and responsibilities requiring the full-time or part-time employment of one person.

**Probationary Period:** A specified period of time during which an employee is required to demonstrate suitability for the position for which they were hired, with suitability of employee for continued employment to be determined by the department manager. (Section 4)

**Promotion:** The movement of an employee to a higher rated job position with the consent of the employee and employer and the completion of a job description for that posted position.

**Reclassification:** The re-rating of an existing job with more or less duties where the essential job functions have remained in tact. (Section 6)

**Regular Position:** A position which is continuous in nature and is more than six (6) months in duration.

**Seasonal Position:** A position which is seasonal in nature based on the duties of the position and does not exceed a continuous six (6) months in a calendar year, and includes paid holidays. (Section 3)

**Temporary Position:** A position which is either limited by the duration of the work, limited by duration of funding, is an intern or a student and includes paid holidays. (Section 3)

**Total Years County Employment Served:** Shall consist of total years of employment with the county, with or without a break in service.

**Transfer:** A change of an employee from one position to another position in the same class or a comparable class in the same pay range.

**Veteran:** Applicants and employees who are entitled to a veteran's preference as outlined in M.S.A. §197.45 - 197-481. Provisions of this law shall supersede any provisions of the policies outlined this policy manual.

**Volunteer:** An individual who volunteers to perform services for the county and does not receive compensation of any kind and such services performed are not the same type of services an individual is employed to perform.

## **SECTION 3.00: EMPLOYMENT**

### **3.00 Policy**

Hubbard County establishes and maintains consistent practices in the recruitment and selection of employees, complying with policies and procedures administered County-wide, and all applicable employment laws and regulations. The County is an Equal Opportunity Employer. (*M.S. §363A.08, §181.535, §364, as amended; Genetic Information Nondiscrimination Act (GINA).*)

Employees are recognized as a valuable asset and hired to provide the best possible services to the public in an efficient manner.

### **3.01 Recruitment**

Human Resources shall administer the recruitment process and systems.

#### **A. Requisition**

1. A department manager shall notify the Human Resources Department of their request to fill a vacant, budgeted position approved by the County Board. Requested changes to a vacant, budgeted position, or creation of a new position, etc., must be reviewed with the Human Resources Director.

#### **B. Job Posting**

1. Human Resources shall post vacant positions a minimum of 7 days. Postings may be posted internally for Hubbard County employees and/or externally to applicants of the public. At the discretion of the department manager and/or supervisor, the posting process may run simultaneously.

#### **C. Selection**

1. At the time of posting a position, the department manager and/or supervisor, working with Human Resources, shall develop the selection process.
2. Applications are processed by Human Resources and moved through the selection process in conjunction with the department manager and/or supervisor.
3. Nepotism and conflict of interest in reporting relationships with relatives and individuals who have a pertinent personal relationship may be prohibited from working in situations where one will exercise or directly influence the recruitment, employment, salary, performance reviews, or other employment actions of the other. Employees must disclose all apparent nepotism and/or conflict of interest at the time of occurrence or as soon thereafter as possible. Identified nepotism and/or conflict of interest will be evaluated by the Human Resources Director and/or County Administrator and department manager.

4. The County shall not inquire, consider, or require disclosure from any source the pay history of an applicant for employment for the purpose of determining wages, salary, earnings, benefits, or other compensation for that applicant. Applicants may voluntarily and without asking, encouraging, or prompting, disclose pay history for the purposes of negotiating wages, salary, benefits, or other compensation. If an applicant voluntarily discloses pay history, the County may consider that information to support a wage or salary higher than initially offered. (M.S. §363A.08, Subd. 8, as amended)
5. The County shall not inquire, consider, or require disclosure of the criminal record or criminal history of an applicant for employment until the applicant has been selected for an interview or before a conditional offer of employment is made to the applicant, unless otherwise required by law. (M.S. §364.021, as amended)

### **3.02 Probationary and Trial Periods**

Employees shall serve a probationary or trial period to assess their ability to meet the performance and conduct expectations of the position.

- A. Initial Probationary Period for newly hired employees shall be 6 months of active service (excluding Sheriff's Department essential positions are defined as 12 months of active service). The department manager shall determine whether regular employment status is to be granted prior to completion of the probationary period. If not granted, the department manager may dismiss the employee any time during the initial probationary period with prior review with the Human Resources Director.

An extension of the probationary period may be granted by the department manager, with prior review with the Human Resources Director. An extension may be granted up to an additional 3 months of active service.

Newly hired employees who accept another position while serving their initial probationary period shall complete a full, initial probationary period in the new position before being granted or not granted regular status.

- B. Trial Period is applied when a county employee internally moves from one position into a different position within County service, and the employee previously completed their initial new hire probationary period. A trial period shall serve 30 days for that position.

If the employee fails to meet the position expectations, the employee may apply for their prior position as a new applicant.

### **3.03 Separation from Employment**

The County and the employee have certain obligations when an employee

separates employment with the County. An employee's employment may end by either voluntary or involuntary separation.

#### A. Voluntary Separation

Employees who wish to separate employment in good standing shall provide their department manager and/or supervisor with written notice of their last workday. Employees in non-supervisory positions shall provide a minimum of 10 working days' notice. Employees in supervisory positions shall provide a minimum of 20 working days' notice. A department manager may, due to extenuating circumstances beyond the control of the employee, allow a shorter notice period.

The department manager shall provide written notification of acceptance to the employee's notice of separation. An employee who does not submit a notice in compliance with these provisions may be considered as having not separated employment in good standing.

An employee absent from work for a period of 3 or more days without notifying their department manager and/or supervisor of the reasons for the absence and receiving permission to remain away from work, shall be considered as having separated employment without notice and not in good standing. This shall also apply to an employee who fails to return within 3 days of the expiration of an authorized leave. If the failure to contact the department manager and/or supervisor was caused by unavoidable circumstances, this provision may be waived.

An employee voluntarily separating employment shall be entitled to 100% of their PTO benefits, up to 480 hours:

- A PTO balance that has a value greater than \$1,000 will be paid by 100% deposit of that amount to the Minnesota State Retirement System (MSRS) Health Care Savings Plan (HCSP).
- A PTO balance that has a value equal to or less than \$1,000 will be paid its value.

Severance Reserve benefits shall be 100% deposited in the MSRS HCSP. Extended illness bank (EIB) hours will not be compensated.

#### B. Involuntary Separation

1. An employee may be involuntarily separated from employment in such cases where corrective and/or disciplinary action has failed to improve unacceptable performance, obtain compliance with policies and practices, correct inappropriate conduct, or where the unacceptable conduct is

determined severe to warrant involuntary separation as the most appropriate disciplinary action, including cases without prior corrective action or discipline.

No employee shall be involuntarily separated from employment without prior review by the Human Resources Director.

An employee involuntarily separated from employment is not eligible for their accrued PTO balance, extended illness bank (EIB), or severance reserve.

## 2. Layoff

When a reduction in the workforce is necessary, the County intends to follow consistent methods to achieve a reduction in staff. Voluntary layoffs will be sought before any involuntary layoffs.

- Order of Layoff and Notice

The County shall implement a layoff by classification within each department, with the order of layoff determined by considering the employee's performance and seniority. The County will provide affected employees with a notice of reduction in workforce at least 14 days prior to the effective date of layoff. Except in the instance of a government shut down, termination of a grant, or like instance, layoffs may be effective without notice.

- Recall List

For a period of 1 year from the effective date of layoff, an employee will be placed on a recall list for the classification most recently held.

- Employees will retain their seniority accrued prior to layoff but shall not accrue additional seniority during layoff status.
- Accrued PTO, compensatory time, any severance reserve shall be paid out via regular payroll timelines, policy and procedures.

- Recall from Layoff

Recall shall be by classification within department, in inverse order of layoff.

The employee's seniority and leave accrual rate shall be reinstated to those in place immediately prior to the layoff.

- Failure to Report to Work following Recall

If an employee does not return to work upon recall on the scheduled date as directed by the County, or an extended date mutually acceptable to the employee and the County, the employee shall have automatically terminated their employment.

## **SECTION 4.00: PROBATIONARY PERIOD**

This section eliminated effective January 6, 2026.

## SECTION 5.00: CLASSIFICATION AND COMPENSATION PLANS

### 5.00 Policy

Hubbard County maintains a job evaluation system that assigns grades to positions of comparable worth. Positions are evaluated using specific criteria to achieve internal equity between positions. Ongoing maintenance of the evaluation system will be performed within a periodic cycle to ensure classifications are evaluated regularly as changes may occur.

The compensation plan provides procedures used as the basis for uniform compensation administration. The County shall conduct regular review of the compensation plan by performing market competitive analysis within a periodic cycle to maintain a competitive structure, remain within budget parameters and internal equity.

The plans ensure compliance with the Minnesota Local Government Pay Equity Act (M.S. §471.991 – §471.999, as amended).

### 5.01 Classification Plan

Each approved position shall be defined by a job description, including a description of the position, reporting relationships, essential job duties, qualifications, and working conditions. In coordination with Human Resources, Department managers shall develop and maintain current job descriptions. It is an inherent managerial duty to design, redesign, restructure and create new positions to meet the objectives and changing needs of the County (M.S. §179A.07, as amended).

The job evaluation process will assign a classification to each position within the County, unless excluded by statute. This classification may be reviewed for any of the reasons listed below. Human Resources will inform the Department manager and job incumbent(s) of the results of the classification review. The classification is not grievable under collective bargaining contracts or County Policy. A job incumbent(s) may appeal the classification, with approval of the Department manager, within 5 business days of the date of the results from Human Resources. The Human Resources Director will coordinate the appeal with the outside review agency.

**A. New Position/Reorganization** When a Department manager requests a new position or restructures work within the department, positions may require new job descriptions and evaluation for appropriate classification. New Positions/ Reorganization Reviews ensure classifications are maintained when a structural or functional change is planned.

**B. Request for Review and Reconsideration** A Department manager may submit a request to the Human Resources Director for a review and reconsideration of an existing classification. Only one request for review and reconsideration opportunity will be provided regardless of how many employees are in the classification.

The request should precisely identify the changes to the job description. There should be considerable change to warrant the review. The request will determine whether a job evaluation is a **reallocation** (a reclassification resulting from significant changes over a period of time in the position's duties and responsibilities) or a **change in allocation** (a reclassification resulting from abrupt, management imposed changes in duties and responsibilities). A reallocation generally requires the incumbent to have been performing duties and responsibilities for greater than 6 months; this does not initiate a job posting process. A change in allocation initiates the job posting process.

- C. Ongoing Maintenance** of the evaluation system will be performed within a periodic cycle to ensure classifications are evaluated regularly as changes may occur.

The Human Resources Director shall notify Department managers of the positions in their department when scheduled for Ongoing Maintenance. Review of job descriptions will be performed to ensure accuracy of the job description.

- D. Changes to Position Classification** Unless addressed in a collective bargaining agreement, implementation of a change to a position classification shall be as follows and will be applied to job incumbent(s) actively working within the classification:

1. If the job incumbent(s) current grade is equal to the new grade, the job incumbent(s) will move to the same step on the new pay grade as current step.
2. If a position is evaluated to a higher grade, the job incumbent(s) will receive a salary increase from their current grade and step to the new pay grade which is equal to or next higher than their current step.
3. If a position is evaluated to a lower grade, the job incumbent(s) will move from their current grade and step to the new pay grade which is equal to or next higher than their current grade and step but not above the pay range of the new pay grade. If the current grade and step is above the new pay range, the base pay shall be frozen until the new range exceeds the base pay, at which time the job incumbent(s) will again be eligible for pay increases.
4. Classification and pay grade changes that result from New Position/ Reorganization, Request for Review and Reconsideration, or Ongoing Maintenance shall be effective the beginning date of the first regularly scheduled pay period following completion of the evaluation process.

## **5.02 Compensation Plan**

The county will maintain a compensation schedule that includes position grades and step increases.

For compensation market analysis the County establishes the benchmark entities of the following Counties: Aitkin County, Becker County, Beltrami County, Cass County, Clearwater County, Crow Wing County, Itasca County, Otter Tail County, and Wadena County for this purpose, with a 10% totality of compensation, ranging from 5% below to 5% above benchmarks, to be considered competitive.

- A. Starting Compensation** will be based upon a review of the candidate's education and work experience or other factors as they relate to the preferred qualifications for the position. A higher wage up to midpoint is upon recommendation of the Department manager and review by the Human Resources Director. The County Administrator shall approve a wage higher than midpoint.
- B. Transfer to a Higher Classification** position of an employee will reflect at least a 4% increase in compensation but not above the new compensation grade range. Placement beyond a 4% increase will take into consideration the employee's previous education, work experience, or other factors that may warrant a higher wage. A wage placement beyond a 4% increase but up to midpoint is upon recommendation of the Department manager and review by the Human Resources Director. The County Administrator shall approve a wage placement higher than midpoint.
- C. Transfer to an Equivalent Classification** position within the employee's current position compensation grade range will remain within the grade range with wage placement taking into consideration the employee's previous education and work experience or other factors that may warrant a higher step placement than current. A step placement up to midpoint is upon recommendation of the Department manager and review by the Human Resources Director. The County Administrator shall approve a step placement higher than midpoint.
- D. Transfer to a Lower Classification** position of an employee will be placed within the new compensation grade range which may reflect a reduction in wage. The wage decision shall take into consideration the employee's education and previous work experience or other factors on a case by case basis, up to midpoint upon recommendation of the Department manager and review by the Human Resources Director. The County Administrator shall approve a wage higher than midpoint.
- E. Step Increases** will be awarded from the employee's **hire date** to completion of a **full year of employment**, until reaching the maximum of the respective grade range. A **part-time employee** will be awarded step increases from the employee's **hire date** to completion of 2080/2184 regular hours of employment, until reaching the maximum of the respective grade range. Employees with out of pay status will have their step date re-established upon completing 2080/2184 hours in pay status.

Annual employee performance evaluations must be submitted to Human Resources. An evaluation submitted prior to an employee's step date which does not meet the performance expectations will not be awarded a step increase.

**F. Work Out-of-Classification** of an employee assigned for more than 20 working days to perform work at a higher classified position will be placed within the higher classified position grade range which reflects at least a 10% increase in compensation but not above the new compensation grade range, effective on the assignment date.

**G. Seasonal, Temporary** compensation during the hiring process is normally the minimum of the compensation schedule. The decision to authorize a higher starting wage or grade shall take into consideration the position, the candidate's education and work experience or other factors that may warrant a higher wage or grade. A higher wage or grade is upon recommendation of the Department manager and review by the Human Resources Director.

**H. Effective date** of wage is the implementation date. Employees actively working in or assigned to the classification are eligible for wage adjustment.

### **5.03 Overtime/Compensatory Time compensation:**

**A. Non-exempt employees** who meet the 29 CFR §516.2 criteria shall be compensated for time worked in excess of a workweek (Sunday through Saturday) in accordance with the Federal Fair Labor Standards Act (FFLSA).

1. Recorded hours in excess of 40 hours per workweek (other than essential law enforcement) shall receive overtime pay equal to 1.5 times their regular pay. Compensatory time may be accrued at 1.5 hours for each hour of overtime incurred in lieu of overtime pay, as mutually agreed to in advance by the employee and department manager or supervisor (29 CFR §553.23(a)).
2. Essential law enforcement employees regularly scheduled to work 2080 hours or more annually, shall receive overtime pay equal to 1.5 times their regular pay for all hours worked beyond their regular work shift or compensatory time at 1.5 hours for each hour of overtime incurred in lieu of overtime pay.
3. Overtime shall be calculated in 15-minute increments.

Compensatory time:

- shall be taken in 15-minute increments
  - shall not be accrued in excess of 80 hours
  
  - an employee may request monetary compensation of accrued compensatory time, paid at the regular hourly wage.
4. Holidays and Paid Time Off (PTO) shall count toward the calculation of overtime.

**B. Exempt employees** shall not be eligible for additional paid compensation for hours worked in excess of 40 hours per week.

**5.04 Payroll** is processed on an annual payroll schedule, with bi-weekly pay periods, through system administration by Human Resources.

1. **Non-exempt employees** record hours to the nearest ¼ hour increment.
2. **Exempt employees** record leave hours claimed to the nearest half day (29 CFR §541.710).
3. Direct deposit is mandatory for all employees (M.S. §471.426, as amended).
4. Payroll shall be issued in accordance with Minnesota Law when an employee terminates, whether by resignation or discharge (M.S. §181.13, §181.14, as amended).
5. False time reporting or acknowledgement of false time reporting may be subject to disciplinary action up to and including termination.

#### **5.05 Longevity Pay**

Employees (Full-time, Part-time) shall be paid longevity pay for their years of continuous service. The effective date shall be the employee's date of hire.

Years of continuous service:	Percentage of Longevity pay added to base pay:
10 years	1.5%
15 years	2.5%
20 years	3.5%
25 years	4.5%
30 years	5.5%
35 years	6.5%

#### **5.06 Sheriff's Department Essential Employees**

**A. Shift differential** pay shall be paid to employees working between 6:00 p.m. and 6:00 a.m., administered uniformly within the Sheriff's Department.

**B. Field Training Officer (FTO) and Peace Officer Standards and Training (POST) certified training** pay shall be paid to employees training a new employee to the position, administered uniformly within the Sheriff's Division of the Sheriff's Department.

**C. Training** pay shall be paid when training a new employee to the position, administered uniformly within the Corrections Division of the Sheriff's Department.

**5.07 Wage Disclosure Protection (M.S. §181.172, as amended)**

Under the Minnesota Wage Disclosure Protection law, employees have the right to tell any person the amount of their own wage. The County cannot retaliate against an employee for disclosing their own wage(s). Remedies under the Wage Disclosure Protection law are to bring a civil action against the employer and/or file a complaint with the Minnesota Department of Labor and Industry.

## **SECTION 6.00: COMPENSATION PLAN**

This section eliminated effective December 19, 2023. Please see Section 5.01.

**SECTION 7.00: EMPLOYEE PERSONNEL RECORDS**

This section eliminated effective July 16, 2024.

## **SECTION 8.00: PAYROLL**

This section (Payroll) eliminated effective August 16, 2022 with Board approval.  
(See Section 5.10)

## **SECTION 9.00: HOURS OF WORK**

### **9.00 Policy**

Hubbard County establishes work schedules to provide public service on business days, per M.S. §373.052, as amended. The County's public service hours on business days are inclusive of 8:00 a.m. to 4:30 p.m.

### **9.01 Hours of Work**

An employee's work schedule is assigned by the department manager and/or supervisor to accomplish the workload needs of the County, within the work week measured from Sunday through the following Saturday. Employee attendance, not in compliance with an assigned work schedule, may be subject to disciplinary action up to and including termination.

### **9.02 Meal Break (M.S. §177.254, as amended)**

An employee\* working 6 or more consecutive hours must be allowed a meal break of at least 30 minutes, to be scheduled by the department manager and/or supervisor. The meal break is unpaid, except for essential employees working in the Sheriff's Department shall be compensated.

### **9.03 Rest Breaks (M.S. §177.253, as amended)**

An employee\* must be allowed a compensated rest break of at least 15 minutes or enough time to utilize the nearest convenient restroom, whichever is longer, within each 4 consecutive hours of work, to be scheduled by the department manager and/or supervisor.

**\*Employee:** Relevant exclusions from the definition of "employee" include: (M.S. §177.23, Subdivision 7, as amended)

- Exempt employee
- Elected officials
- Law enforcement officers (police)
- Employees not eligible for PERA membership
- Volunteers

## SECTION 9 – APPENDIX B TELECOMMUTING

### **Purpose Statement**

To allow employees to telecommute when doing so will benefit both the employee and the County and to set forth the obligations of the employee and the County. Telecommuting arrangements should be capable of demonstrating improved customer service and potential cost savings.

### **Definition of Telecommuting**

For purposes of this policy, employees who work from a home office on a regularly scheduled basis will be considered telecommuters. This does not include employees who work from their home on an infrequent basis.

#### Part-Time Telecommuter

The employee will be scheduled to work from home 60% or less of the work week. They will agree to share their county workstation with one or more other telecommuters on a pre-arranged basis. The number of telecommuters that will share a workstation depends on the amount of time scheduled in the County workstation.

One computer workstation and desk will be provided in the shared space. A lockable, private storage area for each telecommuter may be provided which may or may not be in the immediate work area.

#### Full-Time Telecommuter

The employee will be scheduled to work from home 80% of the work week. The telecommuter will agree to give up their personal County workstation and share a commuter site with up to four other telecommuters.

#### Temporary Telecommuter

The employee will be scheduled to work from home at least 80% of the time on a temporary basis due to unique and unusual circumstances, such as temporary physical mobility issues or a temporary shortage of County office space. The duration of the agreement will be determined by the employee and the supervisor/department manager, with prior review by the Human Resources Director, prior to authorization and may be extended if agreed upon by all parties.

### **Employees may telecommute if:**

- a. Client service does not decrease.
- b. The employee's performance, work habits, and abilities are conducive to working from home.
- c. Working from home does not increase the workload for other staff.
- d. Working from home does not disrupt the work of other staff.
- e. Their duties can be fulfilled from within the working-at-home structure.

### **Terms and Conditions**

- a. All State and Federal statutes and rules and all County policies and procedures (including the County data security guidelines) will be followed while working at home.
- b. The employee and supervisor/department manager will read and sign the County Telecommuting Agreement attesting that the employee and supervisor/department manager have received and reviewed these guidelines. Any on-going arrangement to work at home will be requested by the supervisor and/or the employee and approved by the supervisor and Department Head. Such approval is at the sole discretion of the County.
- c. Employees will be expected to participate in all meetings and training related to the performance of their job.

## SECTION 9 – APPENDIX B

### TELECOMMUTING

- Supervisors may allow employees to attend by alternate means such as videoconference.
- d. Working at home is a voluntary agreement between the County and the employee. It is neither a benefit nor a right; it is a privilege. Employees have the option not to participate. Permission for the arrangement may be withdrawn at the sole discretion of the Department Head.
  - e. This arrangement does not change the basic terms and conditions of employment. The employee's salary, benefits, work status, and responsibilities will not change as a result of working at home.
  - f. Telecommuters may not receive any advantage or disadvantage for purposes of position upgrade or promotion because of the telecommuting arrangement.
  - g. The employee must agree to a telecommuting arrangement for a period of at least six months (unless the situation has been defined as "temporary"). After that time, the employee must give at least thirty days' notice of intent to discontinue along with the reason. This must be approved by the supervisor. The arrangement may be discontinued by the County at any time with or without notice.
  - h. The work at home arrangement will be reviewed on a regular basis (along with the employee's annual review and/or when the supervisor or department head deems it appropriate) to determine if the telecommuting guidelines and the agreement are being met and if the arrangement should be continued. Such determination will be at the sole discretion of the Department Head or designee. If the guidelines are not being met, the telecommuting arrangement will be discontinued. Any County equipment provided to the employee will be returned.
  - i. Employees may not conduct customer/client meetings or interview in their homes. Such interviews may be conducted via videoconference in accordance with department policy.
  - j. Telecommuters will manage child/dependent care and personal responsibilities in the same way they meet these responsibilities while working at the County-owned work station and in a way that allows them to successfully meet job responsibilities. Employees who are working at home need to work in an environment free from family or personal distractions. Telecommuting is not to be used as a substitute for full-time dependent care.
  - k. Telecommuters will work with their supervisors to set regularly scheduled days and hours for working at home and at the County work station. Changes may be made to the schedule, if needed, with the approval of the supervisor.
  - l. Commuting mileage or County time to your county office is never reimbursable or paid. Employees are eligible for mileage reimbursement to meet with clients and to attend meetings or trainings outside their home office or their county office. Mileage will be determined based on the shortest distance from either the home office to the client/meeting/training or from the county office to the client/meeting/training. The mileage rates will be determined as per County policy. When called in for emergency meetings, emergency hearings, or when called in by the supervisor to the county office on a scheduled telecommuting day, mileage will not be paid but travel will be on County time.
  - m. Telecommuting is not intended for individuals who are on medical leave due to a doctor's prohibition.
  - n. Employees will be required to report the hours worked just as they would if they were working in the office. Supervisors are responsible for monitoring and approving any overtime work performed off-site.
  - o. Each supervisor should decide upon how they will handle leave status or hours-worked issues relating to weather emergencies (snow storms, flooding, etc.) and other extenuating circumstances (power outages, non-functioning PC, etc.) that impact the telecommuter's safety and ability to work. The exception to this would be when County offices are closed due to weather conditions.

#### Section 5 - Performance

- a. Supervisors are responsible for effectively monitoring and measuring the work performed by employees. The work at home arrangement should be approved only when this is possible.
- b. This arrangement will not be approved for employees who have absenteeism or work performance issues.
- c. Employees will keep their supervisor informed of progress on assignments worked on at home and of any problems experienced. Employees will also communicate as needed to ensure meeting the needs of their

## SECTION 9 – APPENDIX B

### TELECOMMUTING

supervisors, co-workers, clients, and customers.

#### Section 6 – Equipment/Supplies

- a. County will provide computer/laptop for equipment. Other office supplies required for job function will be provided by County and will be obtained during the employee's in-office work hours. County will **not** reimburse for the cost to install internet or the monthly internet access cost.
- b. Equipment, software, and other supplies furnished by County remain the property of County and are subject to the same business use restrictions as if located at a county work site. No personal software may be loaded onto County owned equipment. Employees shall comply with the County's Electronic Mail & Internet Access Acceptable Use Policy (Section 27) during all work hours.
- c. If County owned equipment requires maintenance or repair, the employee should contact their supervisor and the Information Technology Department (IT). IT personnel will make arrangements for maintenance or repair of the County owned equipment and software.
- d. Employees should not transport County owned equipment without prior approval from the IT Department.
- e. County cannot provide technical support to the employee's personally owned hardware or software.
- f. County does not assume responsibility for any loss, damage, or wear to employee-owned equipment or furnishings.

#### Section 7 – Work Space

- a. The employee agrees to provide a safe at-home work space and to comply with ergonomic guidelines. To ensure that the safe working conditions exist, County reserves the right to make inspections of the at-home work space at mutually agreed upon times.
- b. The employee will be responsible for any costs related to remodeling of work space, utilities, and office furniture.
- c. The employee's designated at-home work space will be considered an extension of the employee's primary work-site. The designation of the at-home work space shall be agreed upon by the employee and the supervisor before the County Telecommuting Agreement is finalized. The designation of the at-home work space may not be changed without prior written approval of the supervisor.
- d. Any tax implications related to the at-home work space are the responsibility of the employee.

#### Section 8 – Inventory

- a. The description and asset number of any County equipment in the employee's possession will be placed in the County Telecommuting Agreement as verification that the employee has the equipment at their home.
- b. The employee agrees to sign the County Telecommuting Agreement upon their receipt and/or exchange of the equipment. The form(s) will be kept by the County and will be available to the employee upon request.

#### Section 9 – Liability

- a. County assumes no liability to third parties for injuries or property damage occurring at the employee's home. Employees remain liable for such injuries and damages. The employee agrees to carry homeowner's or renter's liability insurance when having County owned equipment in their home.
- b. Telecommuters are responsible for submitting claims for stolen or damaged County owned equipment to their homeowner's or renters insurance company and for filing a police report with the local police department. The supervisor should be consulted in the event of any damage to or loss of County owned property.
- c. The employee is responsible for establishing a safe and secure work environment, for requesting an ergonomic review of the designated work space, and for adhering to ergonomic guidelines. However, if the employee sustains an injury during the course and scope of performing assigned work responsibilities,

## **SECTION 9 – APPENDIX B**

### **TELECOMMUTING**

County will provide worker's compensation benefits subject to its review of the injury and applicable law. The employee is obligated to provide prompt notice of an injury to the Human Resources Department.

- d. County continues to be responsible for job-related accidents to the employee occurring during agreed-upon working hours in the designated work space. The employee continues to be obligated to provide prompt notice of any injury.

#### **Section 10 – Data Privacy**

- a. The legal status of all data used by the employee remains unchanged by the employee's work location.
- b. Employees will take all necessary precautions to secure and prevent unauthorized access to all data used in the performance of their work responsibilities and agree to follow all pertinent policies, laws, and rules regarding data privacy.
- c. Documents, reports, data, and software products created as a result of work-related activities are the property of County and are subject to County policies and state law.
- d. Handling and disposal of documents, reports, and data will be in accordance with County policy and the Minnesota Government Data Practices Act (M.S. Chapter 13, as amended).

**SECTION 9 – APPENDIX B**  
**TELECOMMUTING**

**TELECOMMUTING AGREEMENT**

I, \_\_\_\_\_ have read and hereby agree to comply with the terms of the County's Telecommuting Policy. I understand that the County may terminate my telecommuting privileges and require me to work from a county worksite at any time, with or without cause.

I understand and agree that all County data must be kept secure at all times. Family members and visitors to my home may not access government data or use any County equipment, including County computer systems/laptops. I understand that I will be subject to disciplinary action for failing to secure the data and equipment of the County and its clients.

I am responsible for ensuring a safe work space. I am responsible for the ergonomic set up of my desk, chair and other equipment and for communicating with my employer regarding any assistance that I may need.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Employee  
Job Title: \_\_\_\_\_  
Department: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Supervisor

Dated: \_\_\_\_\_

\_\_\_\_\_  
Department Head

Telecommuting schedule:

Monday     Tuesday     Wednesday     Thursday     Friday

Asset number:

Computer/laptop: \_\_\_\_\_

## **SECTION 10.00: OVERTIME**

This section (Overtime) eliminated effective August 16, 2022 with Board approval.  
(See Section 5.09)

## **SECTION 11.00: SEVERANCE OF EMPLOYMENT**

**A. POLICY STATEMENT:** It is the policy of Hubbard County to provide terminal benefits to employees, in good standing, voluntarily terminating employment with proper notice. An employee's effective date of severance is the last work day and shall not be considered extended by use of banked leave. ***HUMAN RESOURCES MUST BE INVOLVED IN ANY AND ALL HIRING, DISCIPLINARY, AND SEVERANCE PROCEEDINGS.***

### **VOLUNTARY SEVERANCE**

1. Resignation with proper notice: Proper notice shall be defined as department manager's receipt of written notification at least ten days prior to the effective date unless, due to extenuating circumstances beyond the control of the employee, he/she is unable to do so and the department manager agrees the circumstances are extenuating. The signed notice shall state the effective date of severance and the reason/s for resignation.

### **INVOLUNTARY SEVERANCE**

1. Discharge: Refer to Section 4, Probationary Period, and Section 18, Discipline, for policies regarding discharge of employment.
2. Layoff: In the event the Board of Commissioners determines conditions require a reduction of staff, a method is established to accomplish such reductions in a fair and equitable manner. Considerations are given to an employee's performance and tenure. Voluntary layoffs will be sought before any involuntary layoffs.
  - a. Within each department and job class selected for a reduction in staff, the order of layoff is determined by considering the employee's performance and seniority.
  - b. The department manager shall give the employee written notice of any proposed layoff. The notice shall be submitted to the employee at least fourteen (14) calendar days prior to the effective date of layoff. Except in the instance of a government shut down or termination of a grant in which event the layoff may be effective without notice.
  - c. The laid off employee shall be paid out for accrued PTO with the employee's final pay check that is direct deposited.
3. Recall From Layoff: Employees who have been selected for layoff will have recall rights for one (1) year following the effective date of the layoff.
  - a. Within each department, employees on recall will be offered open and available positions prior to the position being posted, provided the employee meets minimum qualifications.

- b. Laid off employees requested to return to work are required to report to work 14 days after accepting a position.
- c. Laid off employees who do not report to work within 14 days, or who decline a position lose their recall rights.
- d. Consideration will be given to employees on recall who are interested and qualified as determined by the County for the open position in another department.

## **TERMINAL BENEFITS**

Paid Time Off (PTO): Regular employees who terminate their employment because of disability, retirement, or written resignation with proper notice accepted by the County, shall be entitled to payment of 100% of PTO benefits up to 480 hours provided the following are valid:

Be in good standing.

Provide a minimum, two week written notice of resignation unless, due to extenuating circumstances beyond the control of the employee, he/she is unable to do so and the department manager agrees the circumstances are extenuating. The signed notice shall state the effective date of severance and the reason for resignation.

The value of PTO shall be the mathematical product obtained by multiplying the employee's hourly rate of pay at the time of severance times the employee's unused accumulated PTO hours, not to exceed 480 hours.

An employee leaving the employment of Hubbard County with a PTO balance that has a value greater than \$400 will be paid its value (D.1.c.), by 100% deposit of that amount to a Minnesota State Retirement System (MSRS) Health Care Savings Plan (HCSP).

An employee leaving the employment of Hubbard County with a PTO balance that has a value less than \$400 will be paid its value (D.1.c.) in cash.

When an employee is laid off, the employee shall be paid for accrued PTO via regular payroll timelines.

Employees who resign without proper notice, or who are discharged, are not eligible for their accrued PTO balance.

In the event of the death of an employee, accrued PTO shall be paid to the employee's beneficiary.

PTO pay reflects payment to which an employee is entitled at the time of termination of their employment.

PTO pay does not extend the employee's effective date of termination beyond the last work day.

When an employee transfers from one department to another within the County the accrued PTO time shall be charged back to the department where the PTO time was accrued.

Accrued PTO shall be paid upon severance including severance during probationary period.

Health and Life Insurance: The County shall pay for employee coverage through the last day of the calendar month of the effective date of termination. For continuation of insurance after termination, see Section 16.

**SEVERANCE RESERVE** – In the event of an extended Family Medical Leave qualifying event, an employee may re-purchase hours held in Severance Reserve to remain in pay status. The value of the Severance Reserve will be divided by the employee's current wage if re-purchase is necessary and shall be only in the event no other leave is available.

1. Upon termination of employment all Severance Reserve benefits will be deposited in the MSRS HCSP.

## **SECTION 12.00 - PAID TIME OFF (PTO)**

**Eliminated A-C effective 02/21/2023 with Board approval - see section 16.03.**

**Eliminated D-F effect 11/18/2025 with Board approval – see section 16.03.**

**G. EXTENDED ILLNESS BANK (EIB)** – history provided in Addendum VIII: Extended Illness bank (EIB) hours (current balance of available hours may be found in the digital time card system) may be used after the use of twenty-four (24) hours of PTO, with the approval of the department manager or supervisor, for any of the following reasons:

1. Illness or injury to the employee, causing absence from work.
2. Illness or injury to the employee's child, adult child, spouse, sibling, parent, grandparent, grandchild, mother-in-law and father-in-law, or step parent, which requires the employee's presence, subject to the limitations of Minnesota Statutes, Section §181.9413 (as amended).
3. Pregnancy related accommodation (M.S, §181.9414).
4. An employee may use EIB hours after utilization of a minimum of twenty-four hours of PTO for themselves or for the relatives listed in G.2., for the purpose of "safety leave" as defined in Minnesota Statutes, Section §181.9413 (as amended).
5. Employees claiming a need for use of EIB may be required to file adequate, written evidence that they have been absent as authorized. Use of EIB for safety leave as outlined in G.2 above will not exceed 160 hours in any 12-month period (unless approved by the department manager).
6. EIB may also be used for a relative living with the employee immediately preceding their illness or injury. If the EIB is used for said relative and exceeds five (5) consecutive days, it is understood that approval will be granted only upon satisfactory review of the work schedule.
7. Subsequent absences as a result of an event requiring intermittent leave, whether FMLA qualified or not, will be exempt from the twenty-four (24) hour minimum PTO utilization requirement and the access to EIB will be considered met by the initial occurrence.
8. An event requiring the employee's in-patient care will be exempt from the twenty four (24) hour minimum PTO utilization requirement and access to EIB will be from the date of hospital admittance.

9. Employees having been incapacitated for a major portion of the EIB used, may be required to provide evidence by a certified medical professional of being physically, mentally and emotionally able to perform their duties before returning to work.
10. Election of the **CASH OUT Option** will not prevent the employee from accessing their EIB, if necessary.
11. When an employee has incurred a work-related injury and will be missing work, the first three (3) days are not paid under workers' compensation unless the employee will miss more than ten (10) days of work.

Therefore, the 24-hour paid time off benefit waiting period will be waived allowing the employee to use their EIB without using any PTO. If the injured employee will be missing more than ten (10) days of work, then worker's compensation starts from day one.

12. PTO and EIB can be bought back from the County once a determination is made that the employee is eligible for workers compensation wage benefits. In addition, employees receiving Worker's Compensation may use EIB until exhausted and then PTO to supplement workers' compensation in an amount not to exceed their current wage.
13. Claiming EIB when not eligible within the provisions of this policy, may be cause for disciplinary action, including cancellation of EIB benefits, suspension, demotion or termination.
14. No compensation of EIB hours remaining at the time of employee's separation from employment from Hubbard County will be provided.

**H. SEVERANCE RESERVE – history provided in Addendum VIII: Severance Reserve (SR) hours shall be administered as outlined below:**

1. In the event of an extended Family Medical Leave qualifying event, an employee may re-purchase hours held in Severance Reserve to remain in pay status. The value of the Severance Reserve will be divided by the employee's current wage if re-purchase is necessary and shall be only in the event no other leave is available.
2. Upon termination of employment all SR benefits will be deposited in the MSRS HCSP.

## **SECTION 13.00 HOLIDAYS**

This section eliminated effective December 20, 2022. Please see Section 16.05.

## **SECTION 14.00 VACATION, SICK & PERSONAL LEAVE**

This section eliminated effective January 1, 2016, with the ratification of the Teamsters Local 320 Collective Bargaining Agreement representing the group's move to Paid Time Off (PTO).

## **SECTION 15.00: LEAVE OF ABSENCES**

This section eliminated effective February 4, 2025. See Section 16.06.

## SECTION 16.00: BENEFITS

**16.00 Policy** is to offer an employee benefits program, inclusive of the overall compensation plan. The County shall conduct regular review of the benefits program to maintain a competitive structure and remain within budget parameters.

### 16.01 Group Benefit Program

- A.** County Board members may participate in any group benefit program instituted by the County Board for County officers and employees (M.S. §375.055, Subdivision 5, as amended).
- B.** Health coverage is available to **benefit eligible** employees, as established by the County Board (M.S. §471.61, as amended).
1. **Eligibility:** A **benefit eligible** employee must be hired to work a minimum of 30 hours per week in a regular and recurring 12-month per year position.
  2. **Coverage:** Benefits become effective the first of the month following 30 days of **benefit eligible** employment.
  3. **Contribution:** The County will provide an employer contribution, with said contribution reviewed annually and communicated within the annual Employee Benefits Summary.

Elect County group health coverage: Employer contributions will first be applied (less the Health Savings Account (HSA) annual Internal Revenue Service (IRS) minimum limit at time of open enrollment) to a health coverage option with an HSA or a Voluntary Employee Beneficiary Association (VEBA). Remaining dollars, if any, are eligible for participation in the Cafeteria Plan\* of an HSA, Flexible Spending Account (FSA) – medical and/or dependent care, other voluntary/ancillary benefits (pre-tax) such as accident and critical illness, dental, and vision insurances. There shall be no cash back option.

- Pro-rated contribution:
  - Minimum of 30 but less than 35 hours per week: 75% of contribution.
  - 35 or more hours per week: 100% of contribution.

Waive County group health coverage: **Benefit eligible** employees enrolled in other alternate health coverage may elect to waive, upon providing proof of said coverage. Employer contribution will be designated to a VEBA (limited scope) (contribution is the HSA annual, single IRS minimum limit at time of open enrollment) (divided monthly). Employee dollars are eligible to participate in the

Cafeteria Plan (FSA – medical and/or dependent care, other voluntary/ancillary insurance (pre-tax)) and other voluntary/ancillary insurance (post-tax). **Benefit eligible** employees who have a spouse who also works for the County may not be double covered under the County group health plan. The Waive contribution is provided to a non-enrolling **benefit eligible** employee.

*\*Cafeteria Plan is an employer sponsored plan through which **benefit eligible** employees may select benefits available through the Cafeteria Plan on a tax favored basis.*

Out of pay status: A **benefit eligible** employee will continue to receive the employer contribution when on an unpaid leave an entire calendar month. Thereafter, an employee in out of pay status shall no longer be eligible for coverage and shall be responsible for the full cost of coverage (16.01 B2), except as required pursuant to Minnesota law including Minnesota’s Pregnancy and Parenting Leave law (M.S. §181.941, as amended) or Minnesota law regarding Pregnancy Accommodations (M.S. §181.939, as amended) and federal law under the Family and Medical Leave Act (FMLA) or the Affordable Care Act (ACA) look-back measurement rules.

4. Look-back benefit eligible: An employee not **benefit eligible** for health coverage shall be put into a look-back measurement method, per federal law, to establish health coverage eligibility. Based on a 12-month look-back measurement period, an employee that works an average of 30 or more hours per week (or the equivalent of 130 hours or more per month), may be deemed look-back benefit eligible and will be treated as a benefit eligible employee for health coverage for the stability period.

**Look-back measurement period(s)**

New hire (12-month look-back from hire date)	Employee is offered the employer single contribution for health coverage, effective the following month for the stability period (12-month period), per federal law.
Annual (12-month look-back established by the County from October –October)	Employee is offered the employer single contribution for health coverage, offered annually at open enrollment and effective for the next plan year.

5. Safe harbor: The County establishes the federal poverty level option to determine affordability.
6. Other group benefit coverage may be offered by the County, as available, as an after-tax benefit. Employee dollars used to participate in such coverages may include hospitalization, short-term disability, long-term disability, voluntary life insurance.

7. **Benefit eligible** employees are responsible to inform Human Resources of changes due to qualifying events (*i.e. marriage, divorce, birth or adoption of a child, death, child turning 26, and losing coverage*).

C. Life insurance: The County will provide a term life and accidental death and dismemberment insurance policy to **benefit eligible** employees. The employer shall pay the cost of the monthly premium.

**Coverage & Eligibility**

\$10,000 basic life	Minimum of 30 but less than 35 hours per week
\$20,000 basic life	35 or more hours per week

D. Continuation of coverage:

When eligibility for coverage is lost, the coverage ends as of the last day of the month for which a premium has been paid. For certain coverages you may be able to continue the coverage for a period.

Pursuant to federal law, Consolidated Omnibus Budget Reconciliation Act (COBRA), and state law (M.S. §62A, as amended), when health coverage is lost due to a qualifying event (such as termination of County employment), there is generally an opportunity to continue coverage.

Pursuant to state law (M.S. §61A.092, as amended), when group term life insurance coverage is lost due to a termination of employment, there is generally an opportunity to continue coverage.

In general, the employee will be required to pay the full cost of the coverage monthly.

Additional information will be provided regarding continuation coverage (*i.e. eligibility, responsibility for payment, etc.*) when a qualifying event occurs.

E. Elected Officials' County Sponsored Major Medical Coverage:

The County Board, having reviewed the County practice of subsidizing the cost of elected officials' County sponsored major medical coverage upon the elected officials leaving office (as reflected in Resolution No. 12181805 (Resolution)), discontinues the practice of making the County subsidy (reflected in said Resolution) available for County officials newly elected to a County office on or after June 20, 2023.

The County Board shall continue the practice of making the County subsidy (reflected in said Resolution) available for current County officials in elected office, except Term of Benefit in said Resolution shall sunset on December 31, 2023, for accrual of benefit. Said Resolution is superseded if and to the extent required by this Policy.

An individual newly elected to a County office on and after June 20, 2023, (1) shall be entitled to stay on the County sponsored major health coverage to the extent required under M.S. §471.61, Subdivision 2b, as amended; but (2) shall be responsible for paying the entire cost of such major health coverage without contribution or subsidy from the County.

This Policy does not negate or otherwise impact the right of an individual newly elected to a County office on and after June 20, 2023, to (1) stay on the County sponsored major health coverage to the extent required under M.S. §471.61, Subdivision 2b, as amended; and (2) receive all or a portion of the cost of such County sponsored major medical coverage to the extent required under M.S. §471.61, Subdivision 2b, as amended, paid through a source other than the County or due to circumstances other than those reflected in said Resolution.

Current elected officials in office on the effective date of the Policy shall remain covered under said Resolution, with the exception listed above regarding the sunset of the accrual of benefit.

#### **16.02 Wellness Program and Employee Recognition (M.S. §15.46, as amended)**

- A. Wellness Program:** The County will establish a Wellness Committee that is responsible for creating healthy worksite goals, developing and implementing supporting wellness programs for employee participation, and providing wellness information on a regular basis. All employees are eligible to participate in the wellness events.
- B. Employee Recognition:** The County has established employee recognition services for its employees. The County recognizes the benefits of employee longevity and seeks to incentivize longevity of its employees to achieve the objectives of the County's employee recognition services.
  - 1. Recognition and Service Awards:** Annually the County will hold an Employee Recognition Event. Recognition awards will be provided to employees for continuous years of service within five-year increments. For purposes of calculating service awards, length of service with the County is calculated from the date of hire. Employees hired from a temporary position, without a break in employment, may be credited with time worked in the temporary position. The County may contribute a reasonable amount toward the expenses of such gathering (i.e. coffee and cake).

The County Board may approve other recognition events as appropriate.

- 2. Retirement Recognition:** A public gathering may be held in recognition of an employee who has resigned or retired in good standing. The County may

contribute a reasonable amount toward the expenses of such gathering (i.e. coffee and cake).

- C. The Program shall be reviewed annually by the Human Resources Director and County Administrator.
- D. **Medica Dollars Wellness Policy:** The purpose is to encourage, support, and offer health-related programs through funds available through the contractual relationship between the County and Medica. Funds will assist employees and elected officials in improving their own physical, mental, and emotional wellbeing. Dollars are temporary in nature, depending entirely upon the initial and continuing availability of funds through the contractual relationship between the County and Medica, subject to applicable law.
1. This Policy is intended to be operated in accordance with applicable federal law regarding wellness programs including but not to COBRA, the Code, ADA, ADEA, GINA, HIPAA nondiscrimination, and the ACA.
  2. To facilitate the purpose of this Policy, the County's contract with Medica includes the provision of funds for two types of wellness programs, both of which are addressed through this Policy. Participation is voluntary.

Medica Invest: Eligibility applies only to employees and elected officials of the County covered under a County-sponsored group health plan insured or administered by Medica. This program provides points, with a maximum value determined by and communicated by Medica, for participating in certain activities identified by Medica in its *Medica Invest* program terms and conditions.

Periodically, the points are converted to dollars. The dollars are provided to the County, and the County is responsible only for the allocation of funds provided by Medica. The County makes non-elective contributions to either the HRA (VEBA) or HSA of the employee or elected official, to the extent permitted under applicable law, including the Code.

County identified and operated wellness initiatives ("County Initiatives"): Medica provided dollars to the County to be used to provide additional Medica health promotion and wellness programs. The County will provide a reimbursement of up to \$50.00 to employees and elected officials of the County who participate in any of the activities under *Medica Invest* or separate activities sponsored by the County, to be identified and communicated to employees and elected officials as such activities become available. Employees and elected officials may be reimbursed for certain items from designated vendor(s) that include a designated Hubbard County logo. Reimbursement under the County Initiatives is taxable income to the employee or elected official.

**16.03 Paid Time Off (PTO) (pending additional revisions from Section 12 i)**

**A. Eligibility**

1. An employee must be regularly scheduled and remain in pay status a minimum of 20 hours per week, annually.

**B. Accrual**

1. PTO accrues from the **Hire Date** or date of Eligibility, and credited accordingly with step placement, **Section 5.01 Starting Compensation** (i.e. step 5 placement receives Second year of service through 5<sup>th</sup> year accrual).

Schedule:	Accrual (per hour in pay status):
Date of hire through 1st year	.0692 (approx. 144 hours)
Second year of service through 5th year	.0808 (approx. 168 hours)
Sixth year of service through 10th year	.0923 (approx. 192 hours)
Eleventh year of service through 15 <sup>th</sup> year	.1039 (approx. 216 hours)
Sixteenth year of service through 20 <sup>th</sup> year	.1154 (approx. 240 hours)
Twenty-first year of service through 25 <sup>th</sup> year	.1269 (approx. 264 hours)
Twenty-sixth year of service and after	.1385 (approx. 288 hours)

2. Accrual will commence on the effective **Hire Date** or Eligibility (16.03 A1, B1).
3. PTO accrues on every hour in regular pay status. The accrual balance is reflected on the digital pay statement.
4. A new accrual rate (Schedule of Accrual rate above) will commence on the first day of the pay period which includes the anniversary **Hire Date** or date of Eligibility (16.03 A1).
5. During an unpaid leave of absence, no PTO is accrued.

**C. Administration**

1. One hour of PTO shall be equal to the employee's regular hourly straight time earnings.
2. PTO hours shall count toward the calculation of overtime.
3. PTO may be taken in ¼-hour increments.
4. Except for PTO taken for an ESST eligible reason, PTO may not be taken until earned, which is the beginning of the following pay period.

PTO requests for ESST eligible reasons will be subject to the ESST rules regarding usage, notice, and documentation. (Section 16.04).

5. The first annual payroll cycle after a full year of employment full-time employees will be required to take a minimum of 40 or 42 (depending on work schedule) regularly scheduled hours of PTO per annual payroll cycle. PTO for part-time employees will be prorated based on status of employment.

In the event an employee does not meet the minimum leave requirement, the difference in time taken to time required will be deducted from the employee's PTO accruals at the beginning of the next annual payroll cycle.

#### **D. Maximum Annual PTO Balance**

Employees shall be allowed to accumulate PTO up to a maximum of 480 hours.

An employee's PTO balance that exceeds the maximum 480 hours on the first pay date of the following year or at the time of an employee's separation of employment will be forfeited unless:

1. Cash Out Option: An employee may cash out a minimum of 8 hours but no more than 40 hours of PTO.
  - A PTO Distribution Form (Cash Out Option) is on file with the Human Resources Department by December 1 of the year prior to the actual payment; and
  - Have a minimum of 240 hours in their PTO bank; and
  - Has used 80 hours of PTO in the prior annual payroll cycle, at the time the Cash Out commitment is made.
  - Payment will be made the first payroll in December of the following year at the rate of pay of the time of payout. Election is irrevocable.
2. Deferred Compensation Option: An employee may elect to deposit the value of excess PTO in a deferred compensation plan.
  - A PTO Distribution Form (Deferred Compensation Option) is on file with the Human Resources Department by December 1 prior to the year the PTO balance is expected to exceed the maximum; and
  - The employee must meet the requirement of C5 above; and

- The contribution amount may not exceed 64 hours and will use the employee's rate of pay effective on December 1.
- The contribution amount will be subject to maximum deferral regulations of the IRS and compliance will be the responsibility of the employee.

**16.04 Earned Sick and Safe Time (ESST) (M.S. §181.9445 – 181.9448, as amended)**

**A. Eligibility**

1. Employees that are PTO benefit eligible (16.03) may use any or all of their PTO for the statutory ESST purposes set forth in Section 16.04(C)(1), and for those family members set forth in Section 16.04(D). Employees using PTO for an ESST eligible use must follow all County policies regarding use of ESST time, including but not limited to notice and documentation requirements.
2. Employees that are not PTO benefit eligible (16.03) and are anticipated by the County to perform work for the County at least 80 hours in a year shall be ESST eligible.
3. For purposes of ESST eligibility, the term "employee" does not include an individual who is an elected official or a person who is appointed to fill a vacancy in an elected office.

**B. Earning ESST (16.04 A2)**

1. For employees who are not PTO benefit eligible, the County adopts the accrual of hours for ESST eligible employees as accruing one hour of ESST for every 30 hours worked, up to a maximum of 48 hours a year, with carryover of accrued but unused hours up to a total of 80 hours.
2. ESST shall accrue on hours worked, which excludes holidays not worked, compensatory time taken, PTO taken, unpaid status, etc.
3. A year shall be calendar year from January 1 through December 31. The first partial year of employment shall constitute a year for the purposes of this policy.

**C. ESST Use (identified by M.S. §181.9447, Subdivisions 1 and 12, as amended)**

1. Accrued ESST may be used for:
  - An employee's own or family member's need for mental or physical illness, injury, or other health condition; need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; need for preventive medical or health care.

- An employee's own need to make arrangements for or attend funeral services or a memorial or address financial or legal matters that arise after the death of a family member.
- Absence due to domestic abuse, sexual assault, or stalking of an employee or their family member to seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking; obtain services from a victim services organization; obtain psychological or other counseling; seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault, or stalking; seek legal advice or take legal action, including preparing for or participating in an civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking.
- Closure of the employee's workplace due to weather or a public emergency or an employee's need to care for a family member whose school or place of care has been closed due to weather or other public emergency, subject to the following exception:
  - An employee may not use ESST for this purpose if:
    - The employee's preassigned or foreseeable work duties during a public emergency or weather event would require the employee to respond to the public emergency or weather event.
    - The employee is a peace officer subject to licensure under M.S. §626.84-626.863, as amended; a 911 telecommunicator as defined in M.S. §403.02, Subdivision 17c, as amended; a guard at a correctional facility, or holds a commercial driver's license, and
    - One of the following two conditions are met:
      1. The employee is represented by a union and the collective bargaining agreement or memorandum of understanding governing the employee's position explicitly references closure of the employee's workplace due to weather or a public emergency or an employee's need to care for a family member whose school or place of care has been closed due to weather or other public emergency under M.S. §181.9774, Subdivision 1(4), as amended, and clearly and unambiguously waives application of that use of ESST time for the employee's position, or
      2. The employee is not represented by a union and the employee is needed for the County to maintain minimum staffing requirements.

- Employee's inability to work or telework because the employee is:
    - prohibited from working by the employer due to health concerns related to the potential transmission of a communicable illness related to a public emergency;
    - seeking or awaiting the results of a diagnosis test for, or a medical diagnosis of, a communicable disease related to a public emergency and employee has been exposed to a communicable disease or the employee's employer has requested a test or diagnosis.
  - When determined by health authorities having jurisdiction or a health care professional determines that the presence of the employee or family member in the community would jeopardize the health of others because of the exposure of the employee or family member of the employee to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.
2. ESST leave shall be taken in 15-minute increments.
  3. Payout or transfer of ESST hours
    1. Any accrued and unused ESST hours are not required to be paid out when an employee leaves employment, either voluntary or involuntary.
    2. An employee transferring to a PTO benefit eligible position retains their accrued ESST hours.

#### D. Definition of Family Member

1. For the purpose of using ESST time, an employee's family member shall include those individuals identified by M.S. §181.9445, Subdivision 7, as amended. The employee's, their spouse's, or their registered domestic partner's:
  - child, foster child, adult child, legal ward child the employee is legal guardian, or child the employee stands or stood in loco parentis;
  - spouse or registered domestic partner;
  - sibling, stepsibling, foster sibling;
  - biological, adoptive, or foster parent, stepparent, or a person who stood in loco parentis when employee was a minor child;

- grandchild, foster grandchild, or step grandchild;
- grandparent or step grandparent;
- child of a sibling of employee;
- sibling of the parents of the employee;
- child-in-law or sibling-in-law;
- any other individual related by blood or whose close association with the employee is equivalent of a family relationship;
- up to one individual annually designated by the employee.

#### **E. Request for ESST Leave**

Employees shall request PTO and ESST from their supervisor prior to the start of the work day when leave is not foreseeable, or as soon thereafter as possible in an emergency situation. Requests shall be made by direct contact with the supervisor.

When leave is foreseeable the employee shall request leave as far in advance as possible, preferably 7 calendar days, and shall schedule appointments so as to have the least impact on the business of the employer.

#### **F. Documentation**

When an employee uses ESST or PTO for an ESST eligible use for more than 2 (effective January 1, 2026) consecutive scheduled work days the County may require reasonable documentation that the use of ESST is consistent with an eligible use set forth in 16.04(C)(1), consistent with the requirements of M. S. §181.9447, Subdivision 3, as amended.

The employer may designate ESST or PTO time used for an FMLA qualifying event as FML and may request a certification of a health care provider.

For the use of ESST for domestic abuse, sexual assault, stalking, or other qualifying reasons, the employer may request verification consistent with the requirements of M.S. §181.9447, Subdivision 3, as amended.

#### **G. Retaliation Prohibited**

The County shall not retaliate against an employee for using or requesting ESST leave or otherwise exercising their rights under the Earned Sick and Safe Time law,

M.S. §181.9445-9448. If an employee believes they have been retaliated against or improperly denied leave, they can file a complaint with the Minnesota Department of Labor and Industry or file a civil action in court for violation of the Earned Sick and Safe Time law.

**16.05 Holidays (M.S. §645.44, Subdivision 5, as amended)**

**A. Eligibility**

1. An employee must be regularly scheduled and remain in pay status a minimum of 20 hours per week. Employees who work more than 20 hours per week but less than 40 hours per week shall have their holiday pay prorated based on status of employment.
2. Employees must be in a pay status the last regular shift to which they would have been assigned prior to the holiday and first regular shift to which they would have been assigned following the holiday.

**Official paid holidays**

<b>New Year's Day</b> (January 1)	<b>Labor Day</b> (1 <sup>st</sup> Monday in September)
<b>Martin Luther King Day</b> (3 <sup>rd</sup> Monday in January)	<b>Veterans' Day</b> (November 11)
<b>President's Day</b> (3 <sup>rd</sup> Monday in February)	<b>Thanksgiving Day</b> (4 <sup>th</sup> Thursday in November)
<b>Friday before Easter</b>	<b>Day after Thanksgiving</b>
<b>Memorial Day</b> (last Monday in May)	<b>Christmas Eve</b> (12:30 p.m. to 4:30 p.m. when December 24 <sup>th</sup> is Monday through Thursday.
<b>Juneteenth Day</b> (June 19)	<b>Christmas Day</b> (December 25)
<b>Independence Day</b> (July 4)	

**B. Administration**

1. When a holiday falls on a Saturday, the previous Friday shall be designated as the official holiday. When a holiday falls on a Sunday, the following Monday shall be designated as the official holiday.
2. A work shift that begins on an official holiday receives holiday pay for the duration of the shift. A work shift that ends on an official holiday does not receive holiday pay.
3. When an eligible employee works an official holiday, the employee shall receive time and one-half times the hourly rate of pay for hours worked in addition to regular holiday pay.
4. Paid holiday hours shall count toward the calculation of overtime.

## **16.06 Leave of Absence**

### **A. Bereavement Leave for an immediate family member**

Employees are allowed up to three days off from regularly scheduled duty with regular pay in the event of the death of an employee's spouse, domestic partner, child, stepchild, foster-child, parent, stepparent, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother, sister, stepbrother, stepsister, or an adult who stood in loco parentis to the employee during childhood. Part-time employee will receive pro-rated pay. The County reserves the right to request verification of the need for bereavement leave under this policy. This paid leave is provided separately from, and in addition to, employee's PTO or ESST.

Due to an employee's individual circumstances, up to four additional days may be granted following the death of an immediate family member. Employees must follow the County and department policies for requesting paid earned leave off. For those employees who have an extended illness bank (EIB), utilization of EIB may also be authorized.

### **B. Funeral Leave**

Full-time employees may take up to one day off with pay to attend the funeral for other family relations and of a close non-family member. Part-time employees will receive pro-rated pay. The County reserves the right to request verification of the funeral for additional leave taken under this policy. This paid leave is provided separately from, and in addition to, employee's PTO or ESST.

### **C. Jury Duty (M.S. §593.50, as amended)**

An employee called for jury duty shall receive their normal compensation for days they are scheduled to work. To receive regular pay for time served on jury duty, the employee shall be required to submit any compensation received for jury duty, minus mileage and other expense reimbursement, to the County.

Employees are required to notify their supervisor as soon as possible after receiving notice to report for jury duty.

Employees excused or released from jury duty during their regular working hours shall report to their regular work duties as soon as reasonably possible or make arrangement with their supervisor to use earned time or unpaid status.

### **D. Military Leave (M.S. §192.26, as amended; Federal USERRA)**

In accordance with federal and state laws, for qualifying military training or active service in accordance with official military orders or related authority, an employee shall receive full pay at base wage rate for a period not to exceed 15 days per

calendar year. The employee may choose when to take all or part of the 15 paid days for required service throughout the year. Military leave in excess of 15 days in a calendar year may be provided without pay.

Extended Military Leave: In accordance with federal and state laws, an employee shall be entitled to a military leave of absence without pay of up to 5 years or longer in certain situations set forth in law for service in the armed forces of the United States. Reinstatement shall be made upon the request of an employee and within the timeframes outlined in Minnesota Statutes and in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA).

**E. Election Day – Time off to Vote (M.S. §204C.04, as amended)**

An employee eligible to vote in an election has the right to be absent from work for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election or during the time period allowed under

M.S. §203B.081, as amended, for voting in person before election day, without penalty or deduction from salary or wages because of the absence.

An employee shall notify their supervisor prior to leaving and upon return.

**F. Election Judge – Time off to Serve (M.S. §204B.195, as amended)**

An employee selected to serve as an election judge may be absent from work for serving as an election judge without penalty, provided the employee gives their supervisor at least 20 days written notice, accompanied by a certification from the appointing elections authority stating the hourly compensation to be paid to the employee for services as an election judge and the hours the employee will serve.

In order to receive regular pay for the time served as an election judge, the employee shall be required to submit any compensation received for this duty, minus mileage and other expense reimbursement to the County.

**G. School Conference and Activities Leave (M.S. §181.9412, as amended)**

Employees are entitled to take up to 16 hours of leave during any 12-month period to attend their children's school conferences or school-related activities, provided the conferences or school-related activities cannot be scheduled during nonwork hours. If the employee's child receives child care services (defined in M.S. §142E.01, as amended) or attends a prekindergarten regular or special education program, the employee may use the leave time provided in this section to attend a conference or activity related to the employee's child, or to observe and monitor the services or program, provided the conference, activity, or observation cannot be scheduled during nonwork hours. Eligible activities must be school, early childhood

or child-care related and do not include community or private extracurricular programs.

When the leave cannot be scheduled during nonwork hours and the need for the leave is foreseeable, the employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as to not unduly disrupt the operations of the employer. This leave may be unpaid leave; however, an employee may substitute any accrued paid leave.

#### **H. Bone Marrow and Organ Donation Leave (M.S. §181.945 and §181.9456, as amended)**

An employee who works an average of 20 or more hours per week who seeks to undergo a medical procedure to donate bone marrow and/or donate an organ or partial organ shall be provided paid leaves. The combined length of paid leaves shall be determined by the employee, but may not exceed 40 work hours for a bone marrow donation and may not exceed 40 work hours for each donation for an organ or partial organ donation, unless additional paid leave is agreed to by the employer. The County may require verification by a physician for the purpose and length of each leave required by the employee. A medical determination that the employee does not qualify as a donor does not result in forfeiture of the paid leave of absence granted to the employee prior to the medical determination.

#### **I. Family and Medical Leave Act (FMLA) (Federal law, as amended)**

The FMLA provides unpaid job-protected leave to eligible employees. The County posts the mandatory FMLA Notice as required by the United States Department of Labor and also provides all new hires with general notice information regarding the FMLA.

##### **A. Eligibility**

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

- The employee must have worked for the County at least 12-months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations or when there is a written agreement, including collective bargaining agreement, stating the County's intention to rehire the employee after the service break.

AND

- The employee must have worked at least 1,250 hours during the preceding 12-month period. For purposes of this Policy, this includes hours worked and does not include such hours as paid leave, unpaid leave, compensatory time taken, and FMLA.

## B. Types of Leave Covered

1. Birth of a child and to care for/bond with the newborn child within 1-year of birth; \*
2. Placement with the employee of a child for adoption or foster care and to care for/bond with the newly placed child within 1-year of placement; \*
3. To care for the employee's spouse, child, or parent who has a serious health condition;
4. A serious health condition that makes the employee unable to perform the essential functions of their job, including incapacity due to pregnancy and for prenatal medical care;
5. Qualifying exigency when the employee's spouse, child, or parent is on covered active duty or under an impending call to covered active duty;
6. Military caregiver leave for the employee's spouse, child, parent, or "next of kin" of a covered servicemember with a serious injury or illness.

*\* Both mother and father have the same right to take leave for the placement of a child and to care for/bond with the child.*

## C. Length of Leave

- Up to 12-weeks in a 12-month period.
- Military caregiver leave (B6): Up to 26-weeks during a single 12-month period.
- The 12-month period is measured backward from the date the employee's first FMLA leave begins.
- Leave may be taken:
  - In one block of time;
  - When medically necessary as intermittent or a reduced schedule.

- Leave to care for/bond with a newborn or newly placed adopted or foster child may be intermittent only when the schedule is mutually agreed upon by the County, unless leave is concurrent with MNPL.
- If both parents are employees of the County, their total combined leave allowed will be no more than 12-weeks to care for/bond with a newborn or newly placed adopted or foster child or care for the employee's parent with a serious health condition, unless leave is concurrent with MNPL.

#### D. Coordination of Leave

##### 1. Notice - Employee

- Employees do not have to specifically ask for FMLA leave but do need to provide enough information so the County is aware the leave may be covered by the FMLA.

The County maintains its right to designate leave as qualifying under the FMLA when the County determines the leave is covered under the FMLA.

If the County does not timely designate FMLA, the County may retroactively designate all or some portion of the absence as FMLA leave if the County provides appropriate notice to the employee and the retroactive designation does not cause harm to the employee.

- When foreseeable, employees must provide written or verbal notice to Human Resources at least 30 days prior to the date the leave is to commence.

When 30 days' notice is not possible, employees must provide notice to Human Resources as soon as practicable, absent unusual circumstances that would prevent the employee from doing so.

##### 2. Benefits

- An employee taking FMLA leave will be required to substitute accrued paid for unpaid leave. If an employee exhausts their accrued leave while on FMLA leave, the remainder of the FMLA leave shall be unpaid.
- FMLA leave and other qualifying leave, including Minnesota Pregnancy and Parenting Leave and Minnesota Paid Leave, will run concurrently.

- During FMLA leave the County must maintain the employee's County group health coverage, which shall include medical, dental, and vision plans, on the same terms as if the employee had continued to work.
- Leave under FMLA will count toward years of service and longevity with the County.

### 3. Notice - Employer

The Human Resources Director or designee is responsible to administer the applicable Notices and Certifications to employees, according to the Act. A Certification exception applies for leave to bond with a healthy newborn child or a child placed for adoption or foster care.

### 4. Return to work

- Prior to returning to work from a continuous FMLA leave, an employee shall be required to provide a fitness for duty (FFD) clearance from the treating health care provider whenever the leave is for the employee's own health condition. Failure to provide the FFD certification in a timely manner may eliminate or delay the employee's right to reinstatement under the FMLA.

If an employee is utilizing intermittent leave and reasonable safety concerns exist related to return to regular job duties, an FFD certification may be required as frequently as every 30 days during periods when the employee has used intermittent leave.

- Employees returning from FMLA will generally be reinstated to the same position held prior to their FMLA protected leave, or to a position equivalent in pay, benefits, and other terms and conditions of employment. However, no greater right to reinstatement or to other benefits, terms or conditions of employment exist than if the employee had been continuously employed during the FMLA leave period.

The County may refuse to grant reinstatement to key employees (highest paid 10% of the County's salaried employees) when deemed necessary to prevent "substantial and grievous economic injury" to the County's operations.

- The County may require an employee on FMLA leave to report periodically regarding the employee's status and intent to return to work.
- If an employee fails to return to work, the County has the right to seek reimbursement for its share of the employee's medical insurance unless

the reason the employee does not return to work is due to the continuation, recurrence, or onset of either a serious health condition of the employee or the employee's family member, or a serious injury or illness of a covered servicemember, which would otherwise entitle the employee to leave under the FMLA; or other circumstances beyond the employee's control.

**J. Nursing Mothers, Lactating Employees, and Pregnancy Accommodations (M.S. §181.939, as amended)**

The County complies with state law and the Women's Economic Security Act (WESA) which gives pregnant and lactating employees certain legal rights as set forth herein and in M.S. § 181.939. It is against the law for the County to retaliate, or to take negative action against an employee for exercising their rights under this law. The County cannot require an employee to take a leave or accept an accommodation. Employees who believe their rights have been violated under this law can contact the MN Department of Labor and Industry's Labor Standards Division. Employees also have the right to file a civil lawsuit for relief.

**1. Nursing Mothers and Lactating Employees**

Lactating employees have the right to reasonable break times each day to express milk. The break times may run concurrently with regular break times already provided to the employee. An employee's compensation will not be reduced for time used for the purpose of expressing milk.

A clean, private, and secure space that is in close proximity to the employee's work area will be provided to express milk. This space will be a room other than a bathroom, will be shielded from view, will be free from intrusion from coworkers or the public, and will include access to an electrical outlet.

**2. Pregnancy Accommodations**

Employees have the right to reasonable accommodations for health conditions related to pregnancy or childbirth upon request, with the advice of a licensed health care provider or certified doula, unless accommodation would impose an undue hardship on the operation of the County.

A pregnant employee shall not be required to obtain the advice of a licensed healthcare provider or certified doula, nor may the County claim undue hardship for the following accommodations: more frequent or longer restroom, food, and water breaks; seating; and limits on lifting over 20 pounds.

The County and the employee shall engage in an interactive process with respect to an employee's request for a reasonable accommodation.

"Reasonable accommodation" may include, but is not limited to, temporary transfer to a less strenuous or hazardous position, temporary leave of absence,

modification in work schedule or job assignments, seating, more frequent breaks or longer break periods, and limits to heavy lifting.

During any leave provided under this section, continuation of employer provided group insurance, including health insurance, along with continuation of any employer contributions as if an employee were not on leave, will be provided.

The employee will continue to be required to pay their portion of premium, if any, for such benefits.

#### **K. Pregnancy and Parenting Leave (M.S. §181.941, as amended)**

The County will grant an unpaid leave of absence of up to 12 weeks to an employee who is a biological or adoptive parent in conjunction with the birth or adoption of a child; or for a female employee for prenatal care or incapacity due to pregnancy, childbirth or related health condition. Additional leave must be agreed to by the County.

- Parental leave due to birth or adoption of a child must begin within 12-months of the birth or adoption. However, if a child must remain in the hospital longer than the mother, the leave must begin within 12-months after the child leaves the hospital.
- The 12-weeks of pregnancy or parental leave may be taken consecutively or intermittently, as permitted by law.
- Time taken off work to attend prenatal care medical appointments will not be counted against the employee's 12-week leave entitlement.
- Employees are required to provide reasonable notice to the Human Resources Department of the date the leave will begin and the estimated duration.
- Continuation of employer provided group insurance, including health insurance, along with continuation of any employer contributions as if they were not on leave, will be provided. The employee will continue to be required to pay their portion of premium, if any, for such benefits.
- If an employee is eligible for both the Minnesota Pregnancy and Parenting Leave, Minnesota Paid Leave, and/or FMLA, the leaves will run concurrently.
- The employee is entitled to return to work in the same position and at the same rate of pay that the employee was receiving prior to commencement of the leave.

## **L. Minnesota Paid Leave**

Effective January 1, 2026, eligible employees may qualify for paid leave under the Minnesota Paid Leave (MNPL) law, which provides partial wage replacement to eligible employees.

- The County will deduct the employee's portion of the premiums for MNPL from the employee's wages.
- Employees may, but are not required to, use accrued ESST, PTO, compensatory time off, or other accrued paid leave to supplement or "top off" the partial wage replacement benefits provided under MNPL. The combined leave benefit of the partial wage replacement and any supplemental paid leave shall not exceed an employee's regular wage or salary.
- Eligible employees may apply for MNPL benefits based on qualifying events for medical care related to pregnancy, childbirth, bonding leave, family care, military family leave, safety leave, or the employee's own serious health condition as set forth in Minnesota law. Paid leave will be administered by the County's equivalent plan provider.
- When an employee's need for MNPL is foreseeable, the employee must provide at least 30 days advance notice to the County. If 30 days advance notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. Notice must be given in writing to the Human Resources Department.
  - An employee requesting leave taken intermittently shall provide a schedule of needed workdays off as soon as practicable and must make a reasonable effort to schedule the intermittent leave so as not to disrupt unduly the operations of the County. Intermittent leave may be taken in 15-minute increments.
- FMLA leave and Minnesota Pregnancy and Parenting Leave shall run concurrently with MNPL when taken for the same qualifying purpose.

## **M. Medical Leave**

A medical or disability leave of absence may be granted to an employee who is either ineligible or has exhausted their entitlement to applicable mandated leaves (i.e. FMLA, MN Pregnancy and Parental Leave, MNPL, etc.).

- An employee requesting a medical or disability leave of absence should contact the Human Resources Department. A leave of absence may be granted as a

reasonable accommodation that will enable the employee to perform the essential functions of the job, after consultation with their supervisor. Such leave will be evaluated through the interactive process and based on the specific facts of each case. The status of the leave will be reviewed at approximately 30-day intervals or as deemed appropriate based on the facts of the specific case.

- Requests for such leave will be subject to prior certification by the attending healthcare provider. The employee may be required to submit documentation from the healthcare provider stating the need for the leave, the expected duration of the leave, and a general explanation of the nature of the medical condition or disability including its impact on ability to perform the job, as well as an explanation of how the leave of absence will assist the employee in being able to return to work and perform the essential functions of the job.
- Employees are required to use all accrued earned leave prior to converting to an unpaid leave of absence.
- Returning employees shall be required to submit certification from the healthcare provider of their ability to safely perform the essential functions of the position.

#### **N. Personal Leave**

An employee may request a personal leave of absence (for reasons other than disability) in writing. A Department Head may approve a personal leave of absence for a maximum of 10 workdays. A request for leave of more than 10 workdays shall require approval of the County Administrator or designee.

Accrued earned leave accruals, including PTO and compensatory time, must be exhausted prior to approval of any unpaid personal leave.

An employee shall have the right to reinstatement to their position or equivalent position, provided they return to work upon the conclusion of the approved leave period, unless their position is abolished during the leave of absence period, in which case, reinstatement will no longer be available.

#### **O. Candidate for Public Office**

An employee may be a candidate for partisan or nonpartisan public office provided that no employee shall campaign for such office during actual work hours. Any employee seeking public office must notify their department head so that a determination, by the County Administrator, can be made as to whether the position that the employee occupies with the County would be in conflict with the candidacy for the public office the employee is seeking. If the employee fails to

provide proper notification of their candidacy, the County Administrator shall determine if there is any conflict of interest. If a finding of a conflict is made, the employee shall be required to take a leave of absence without pay until the first business day following the day on which the outcome of the election is determined. Accrued unused paid time off benefits may be used to supplement unpaid leave.

Upon election, the employee must immediately notify their department head and the County Administrator in writing. If the County Administrator determines the duties of the elective office conflict with the proper discharge of County responsibilities, the employee will be required to separate from County service or take a leave of absence. Any non-elected department head or employee seeking public office shall devote their time and energies to normal County employment and cannot campaign during scheduled working hours.

**P. Elected Office – Time off for Public Office Meetings (M.S. §211B.10, as amended)**

An employee elected to a public office must be permitted time off from regular employment to attend meetings required by reason of the public office. The time off may be without pay, with pay, or made up with other hours, as agreed between the employee and employer, subject to applicable collective bargaining agreements.

**16.07 Expense Reimbursement**

**A. Mileage incurred while using private transportation for County business will be reimbursed at the rate established by the Internal Revenue Service (IRS) throughout the year. Employees are encouraged to use County vehicles whenever possible.**

Non-reimbursed mileage includes:

- Mileage incurred while traveling between the employee's residence and normal work location, including repeat trips.

Reimbursed mileage includes:

- Mileage incurred while traveling between the employee's normal work location to another work site(s) and back.
- Mileage driven in excess of the employee's normal commute if stopping at a work site while traveling between the employee's residence and normal work location.

- Mileage driven in excess of the employee's normal commute when the employee drives from their residence, to another work site (i.e. conference), and then returning to their residence.
  - Mileage will be determined by calculating the distance from the employee's home or work location, whichever is shortest, to the destination and back.
- B. Meals and incidental expense (M&IE including taxes and tips) reimbursement rates follow the U.S. General Services Administration (GSA) standards ([www.gsa.gov/perdiem](http://www.gsa.gov/perdiem)) for business purposes, outside of the County. Reimbursed meals are taxable income, unless an overnight stay is involved.**
- Breakfast: If an employee's direct travel requires them to leave their place of work prior to 6:00 a.m.
  - Lunch: Period between 11:00 a.m. - 2:00 p.m.
  - Dinner: If an employee's direct travel requires them to return to their place of work after 6:30 p.m.

Each meal reimbursement is for one meal on one receipt.

**C. Administration:**

1. Expenses incurred while performing duties required by the County (i.e. travel, meals, lodging, registration fees, parking, public transportation fare, etc.) will be reimbursed. Out-of-state travel requires prior approval by the County Board, excluding regional out-of-state travel.
2. Original, itemized receipts and/or other detailed documentation are required with submittal of claim for expense reimbursement (M.S. §471.38, Subdivision 1, as amended).
3. Liquor expenses are not reimbursed.
4. Expenses not submitted within 60 days of claim will be deemed waived by the employee.
5. The department manager and/or supervisor shall be responsible for authorizing business travel and approving M&IE reimbursements.

**D. Elected Officials' Out-of-State Travel (M.S. §471.661, as amended)**

The event, workshop, conference or assignment must be approved in advance by the County Board at an open meeting and must include an estimate of the cost of

the travel. In evaluating the out-of-state travel request, the Board will consider the following:

- Whether the elected official will be receiving training on issues relevant to the County or to their role as the County Commissioner, County Attorney or County Sheriff.
- Whether the elected official will be meeting and networking with other elected officials from around the country to exchange ideas on topics of relevance to the County or on the official roles of county elected officials.
- Whether the elected official will be viewing a facility or function that is similar in nature to one that is currently operating at, or under consideration by the County where the purpose for the trip is to study the facility or function to bring back ideas for the consideration of the full board.
- Whether the elected official has been specifically assigned by the County Board to testify on behalf of the County at the United States Congress or to otherwise meet with federal officials on behalf of the County.
- Whether the County has sufficient funding available in the budget to pay the cost of the trip.

Administration:

1. No reimbursement will be made for attendance at events sponsored by or affiliated with political parties.
2. The County may make payments in advance for airfare (coach rate), lodging and registration if specifically approved by the Board. Otherwise, all payments will be made as reimbursements to the elected official.
3. The County will reimburse for transportation, lodging, meals, registration, and incidental costs in accordance with the current County approved reimbursement rates (16.07).
4. Mileage will be reimbursed at the County approved rate (16.07 A). If two or more elected officials travel together by car, only the driver will receive reimbursement. The County will reimburse the cost of renting an automobile if necessary to conduct County business.
5. Receipts are required, consistent with 16.07 C, and the reimbursement process, (excluding liquor expenses, personal telephone calls, costs associated with the attendance of a family member, rental of luxury vehicles, and meal expenses

included in the cost of registration, pay per view entertainment or recreational expenses).

6. The Board may make exceptions to the policy on a case-by-case basis.

**16.08 Employee Assistance Program (EAP)** is a risk management program designed to help employees identify and resolve challenges that may impair their performance at work. The voluntary program is short term, at no cost, and confidential (to the extent allowable by law) that can assist the employee, spouse and dependents with difficult personal issues through access to professional counselors.

The EAP Program is a service provided by the Minnesota Counties Intergovernmental Trust (MCIT) who contract with an outside professional counseling resource. Further services of the program extend to coaching for supervisors faced with an individual or staff as a whole needing help and law enforcement employees, spouse and dependents facing the unique emotional and psychological challenges.

The Human Resources Director is the County contact for the program.

## **SECTION 17.00 EXPENSE REIMBURSEMENT**

- A. EXPENSE REIMBURSEMENT** – Eliminated – See Section 16.06 Expense Reimbursement
- B. MEAL REIMBURSEMENT** – Eliminated – See Section 16.06 Expense Reimbursement
- C. AUTHORIZATION** – Eliminated – See Section 16.06 Expense Reimbursement
- D. PROCEDURE FOR REIMBURSEMENT** – Eliminated – See Section 16.06 Expense Reimbursement

## **CONFERENCE & SEMINAR EXPENSES/EDUCATIONAL TUITION REIMBURSEMENT**

- A. POLICY STATEMENT:** Hubbard County seeks to assure the delivery of quality services by supporting the professional growth and development of its employees and elected officials. All employees and elected officials will be afforded opportunities and resources for continuing education, technical training updates, required training, and other experiences which fit within the approved budget.

It is the policy of Hubbard County to allow regular employees educational opportunities that are directly related to the employees' current position and intending to update and enhance an employee's ability to perform the responsibilities of their current position.

### **B. ALLOWABLE EXPENSES**

1. Fees for seminars, conferences, or conventions, including additional required materials, directly related to the current position.
2. Travel expenses incurred, per policy.
3. Travel time as defined in Section 10, D,6.
4. Fees, tuition, or expenses for education opportunities which are not directly related to an employee's current position are approved on a case by case basis by the Board of Commissioners.

### **C. EDUCATIONAL TUITION REIMBURSEMENT**

1. Employees who work (32) hours or more per week on an ongoing basis and have completed their probationary period may be eligible for tuition reimbursement. Resignation or termination of the employee automatically terminates their eligibility for educational assistance benefits.

2. Education assistance will be provided for courses offered by technical institutes, trade schools or accredited colleges or universities. The classes chosen must be related to the employee's development in their current position, improve their job skills and knowledge and/or prepare the employee for advancement within county government. Under this plan, an employee will be reimbursed up to \$300/year providing monies are available within the current year's county training budget with prior approval as outlined below. Textbooks purchased as a requirement of a course of instruction will be paid for by the employee.
3. Approval of reimbursement must be granted in advance of enrollment in the course. A request by the employee must be completed and submitted to the Department manager including the following: 1) course name, brief description and how the proposed course relates to the employee's current or future position; 2) sponsoring organization; 3) time element involved; 4) credit to be received; 5) location where course is conducted; 6) cost; 7) employee's intention regarding time off and travel. The Department manager must acknowledge 1) the education is required by Hubbard County to keep the employee's present position (salary, status or job) and serves a bona fide business purpose of Hubbard County, or 2) the education maintains or improves skills needed in the employee's present or future work. The Department manager will forward the request and their recommendation to the County Board for final authorization.
4. All requests must be pre-approved before employee enrollment at the beginning of each quarter to be considered for this reimbursement. All request approvals shall be on an individual basis based on the employee's attendance, work history, and other contributing employment factors. Once authorized, and upon satisfactory completion of the course (Grade "C" or better, "Pass" on "Pass/Fail" grading system and/or Certification of Completion or Attendance), the employee will submit reimbursement documentation to the Coordinator's Office. The employee will be required to submit a receipt of payment and a certificate of participation or credit earned before reimbursement will be paid. Reimbursement will not be given when an employee has not satisfactorily completed a course or received a failing grade.
5. Employees wishing to participate in the educational reimbursement program shall do so on their own time. Attendance at classes is not reimbursable under this policy. Time used to attend courses of study during normally scheduled work hours must have prior department manager approval and utilization of flex time in accordance with the Fair Labor Standards Act may be authorized to make up any hours used for class attendance if available.
6. **Retention Period:** The retention period is considered a twelve-month period after the completion of the reimbursed course. It is understood and agreed to by the employee that the employee will reimburse the county in full if voluntary resignation occurs within one (1) year of completion of the course unless forced to resign for health reasons verified by a licensed physician, or due to department head failing to be reappointed or re-elected to the position resulting in the employee's loss of county employment. If any

of these criteria have not been met after county monies have been extended for such purposes, the employee will make full restitution of all county funds expended. This reimbursement shall be paid to the county either by direct payment, or the employee may sign a release agreement to withhold the amount from their wages.

#### **D. AUTHORIZATION**

1. Educational opportunities directly related to the employee's current position, and offered in-state, must be approved by the Department manager (B.1).
2. Educational opportunities that are either not directly related to the employee's current position, or are out-of-state, must receive prior approval by the Department manager and the Board of Commissioners (B.4.).
3. Attendance shall not be related to union activities.

#### **EMPLOYEE PER DIEM**

**E. POLICY STATEMENT:** It is the policy of Hubbard County to reimburse employees while attending committee meetings when they are Board appointed and when their representation is not related to the employee's Hubbard County employment.

#### **F. PAYMENT OF PER DIEM**

1. Per diem will be paid, as set annually by the Board, for attendance at committee meetings, as a Board appointed, non-employee representative, not held during work hours.
2. Attendance of county employees at committee meetings, as a Board appointed, non-employee representative held during work hours, will be dealt with as follows:
  - a. Employee attendance at a committee meeting while in Hubbard County employee pay status, will not be entitled to a per diem.
  - b. An employee who uses vacation, personal leave, or compensatory time in order to attend a committee meeting, shall be entitled to per diem.

## **SECTION 18.00: DISCIPLINE**

- A. POLICY STATEMENT:** It is the policy of Hubbard County to administer discipline consistently in an effort to improve an employee's performance and/or conduct as needed. *THE HUMAN RESOURCES DIRECTOR MUST BE INVOLVED IN ANY AND ALL HIRING, DISCIPLINARY, AND TERMINATION PROCEEDINGS.*
- B. PROCESS:** Discipline may be in any one of the following forms, depending upon the nature and severity of the conduct and the employee's prior discipline history. Nothing in this policy shall be construed as requiring the County to impose discipline in any particular order.
1. Oral reprimand
  2. Written reprimand
  3. Suspension
  4. Demotion
  5. Discharge

Documentation of oral reprimands, written reprimands, notices of suspension, notices of demotion, and notices of discharge are to become a part of the employee's personnel file. Employees will receive notices of such discipline. The signature of the employee does not mean that he or she agrees with the discipline.

Prior to any discharge proceedings, the department manager must confer with the Human Resources Director to review and confirm all relevant information to determine if discharge is in compliance with county policy and applicable law.

Employees who are being considered for discharge shall be advised in writing of the impending action and the reasons for it. The employee is then given an opportunity to respond to the charges prior to the decision to discharge.

Employees who are veterans and qualify for the Veterans Preference Act are allowed additional rights under the act. Veterans must be provided with a written notice detailing the charges and the right to request a hearing within 60 days consistent with Minnesota Statutes §197.46, as amended.

In the event of a discharge, the supervisor and/or department manager, and Human Resources Director will meet with the employee to be terminated. The reasons for termination will be discussed with the employee and documented. The employee and supervisor/department manager shall receive copies of the termination document and the original shall be placed in the employee's personnel file.

A discharged employee will receive their final paycheck including any terminal benefits on the next scheduled payday.

Nothing in this policy shall be construed as altering the at-will nature of employment.

## SECTION 19.00 GRIEVANCES

**POLICY STATEMENT:** It is the policy of Hubbard County to provide employees a means of communicating disagreements or disputes involving the interpretation or application of the personnel policies and procedures approved by the Board of County Commissioners. The established formal procedure ensures employees access to all levels of management, complete and impartial hearings, and expedient, objective resolutions to problems.

### LEVELS OF APPEAL

- ▶ Level 1            Immediate supervisor
- ▶ Level 2            Department manager
- ▶ Level 3            Human Resource Manager/Board of Commissioners

### GRIEVANCE PROCEDURE

<b>Step 1</b>	<b>TIME LIMIT</b>
An employee, or group of employees having a grievance shall discuss the problem with the immediate supervisor within five (5) working days of the situation precipitating the grievance.	5 Working Days
After a thorough investigation of the problem, the supervisor shall provide the employee with a verbal answer, not later than five (5) working days after the initial discussion of the grievance. The response should reflect a thoughtful justification of the situation or a course of action to resolve the problem.	5 Working Days
If the grievance is not resolved in Step 1 and the employee wishes to further appeal the grievance, refer to Step 2.	
<b>Step 2</b>	<b>TIME LIMIT</b>
The employee shall submit a signed statement of the grievance to the department manager within three (3) working days of the supervisor's response. The written statement shall include the date of the incident precipitating the grievance, the nature of the grievance, and the desired settlement. In the event the immediate supervisor is the department manager, all provisions of this procedure shall nonetheless be followed.	3 Working Days
After a full investigation of the problem and the facts involved, the department manager shall submit a written response to the employee within ten (10) working days of receipt of the written grievance. If the department manager believes the situation discussed in the grievance was justifiable, the response should contain facts or arguments	

supporting its justification. If the department manager believes the situation was not justifiable, the response should thank the employee for raising a valid question and indicate a means of resolving the problem. 10 Working Days

If the grievance is not resolved in Step 2 and the employee wishes to further appeal the grievance, refer to Step 3.

<b>Step 3</b>	<b>TIME LIMIT</b>
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The employee shall submit a signed statement of the grievance to the human resources manager within three (3) working days of the department manager's written response. 3 Working Days

The human resources manager shall, within ten (10) working days, include discussion of the grievance on the agenda for the next meeting of the Board of County Commissioners. 10 Working Days

The Board of County Commissioners shall conduct a hearing and investigation, submitting a written decision to all involved parties.

The board shall have authority to call any County employee for testimony pertinent to the grievance.

The Board may investigate any department for the purpose of resolving the grievance.

The decision of the Board shall be final. 10 Working Days

### **PROVISIONS TO THE GRIEVANCE PROCEDURE**

1. If an employee does not present the grievance within the time periods established, the grievance shall be considered waived.
2. If a grievance is not appealed to the next step within the time period established, the grievance shall be considered settled on the basis of the last answer.
3. If a supervisor or department manager does not answer a grievance within the time period established, the employee may consider the grievance denied and immediately appeal the grievance to the next step.
4. The time limit in each step may be extended by mutual agreement of the employee and the county authority involved in the step.

**E. PROTECTION OF EMPLOYEE RIGHTS:** No employee shall be subject to harassment, reduction of employment status, benefits or pay, or loss of advancement opportunities as a result of participating in a grievance procedure or testifying in a grievance proceeding.

## **SECTION 20.00 POLICY AGAINST OFFENSIVE CONDUCT, HARASSMENT & VIOLENCE**

**GENERAL STATEMENT OF POLICY** It is the policy of Hubbard County (hereinafter "County") to maintain an environment that is free from offensive conduct, harassment and violence based on race, national origin, gender, religion, disability, age, marital status, status with regard to public assistance or sexual orientation. The County prohibits any form of religious, racial, sexual, gender, marital status, age, national origin, status with regard to public assistance, sexual orientation or disability discrimination, harassment and violence.

It shall be a violation of this policy for any employee, agent, officer, commissioner or other elected official of the County to engage in offensive or harassing verbal or physical conduct of a sexual nature or regarding race, national origin, gender, religion, disability, age, status with regard to public assistance, marital status or sexual orientation towards any County employee, officer, agent, or member of the public seeking public services or public accommodations.

It shall be a violation of this policy for any County employee, agent, officer commissioner or other elected official to inflict, threaten to inflict, or attempt to inflict sexual violence or violence based on religion, race, gender, marital status, status with regard to public assistance, sexual orientation, age, national origin or disability, upon any employee, agent, officer or member of the public seeking services or accommodation from the County.

The County will act to investigate all complaints, either formal or informal, verbal or written, of offensive, harassing or violent conduct of a sexual nature or based upon religion, national origin, race, gender, sexual orientation, marital status, status with regard to public assistance age, or disability, and to discipline or take appropriate action against any employee, agent, officer, commissioner or other elected official who is found to have violated this policy.

### **OFFENSIVE CONDUCT, HARASSMENT AND VIOLENCE DEFINED**

#### **1. Sexual Gender Based Offensive Conduct or Harassment Definition:**

Sexual/Gender based offensive conduct/harassment includes unwelcome physical or verbal conduct relating to an individual's gender or directed at an individual because of gender; unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual or gender biased nature when:

- a. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, public services or public accommodations;
- b. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individuals employment, public services or public accommodations; or

- c. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or use of public services or public accommodations or creating an intimidating, hostile or offensive employment, public service or public accommodation environment.

Examples of sexual/gender harassment may include but are not limited to:

- ◆ unwelcome verbal remarks, jokes or innuendoes of a sexual nature or based upon gender;
- ◆ unwelcome pressure for sexual activity;
- ◆ unwelcome, sexually motivated or inappropriate patting, pinching, or other physical contact;
- ◆ unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or access to public services or public accommodations;
- ◆ unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises or preferential treatment with regard to an individual's employment or access to public services or public accommodations;
- ◆ any sexually motivated unwelcome touching;
- ◆ distribution or display of written materials, pictures or other graphics of a sexual or gender biased nature;
- ◆ other unwelcome behavior or words directed at an individual based of gender.

2. **Sexual Violence Definition:** Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts including the genital area, groin, inner thigh, buttocks or breasts, as well as the clothing covering these areas.

Sexual violence may include, but is not limited to:

- ◆ touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
- ◆ coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;

- ◆ coercing, forcing or attempting to coerce or force a sexual act on another; or
- ◆ threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

3. **Race/National Origin Based Offensive Conduct/Harassment and Bias Definition:** Racial/national origin harassment and/or bias occurs when:

- ◆ submission to conduct or communications of a derogatory, harassing or biased nature based on race/national origin is made a term or condition, either explicitly or implicitly, of obtaining, or retaining employment, or of obtaining or retaining access to public services or public accommodations;
- ◆ submission to or rejection of conduct or communications of a derogatory, harassing or biased nature based on race/national origin by an individual is used as a factor in decisions affecting that individual's employment or access to public services or public accommodations; or
- ◆ the conduct or communication of a derogatory, harassing or biased nature based on race/national origin has the purpose or effect of substantially interfering with an individual's employment or use of public services/ accommodations or creating an intimidating, hostile or offensive employment or public service/ accommodation environment.

4. **Racial/National Origin Violence Definition:** Racial/National Origin violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race or national origin.

5. **Religion Based Offensive Conduct/Harassment and Religious Bias Definition:** Religious harassment/bias occurs when:

- ◆ submission to conduct or communications of a religiously derogatory, harassing or biased nature is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining or retaining public services/ accommodations;
- ◆ submission to or rejection of conduct or communications of a religiously derogatory, harassing or biased nature by an individual is used as a factor in decisions affecting that individual's employment or access to public services/accommodations; or

- ◆ the conduct or communication of a religiously derogatory, harassing or biased nature has the purpose or effect of substantially interfering with an individual's employment or use of public services/accommodations or of creating an intimidating, hostile or offensive employment or public service/accommodation environment.

6. **Religious Violence Definition:** Religious violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion.

7. **Disability Based Offensive Conduct/Harassment and Disability Bias Definition:**

Disability based harassment and/or bias occurs when:

- ◆ submission to conduct or communications of a derogatory, harassing or biased nature which is based on an individual's disability is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining or retaining public services/accommodations;
- ◆ submission to or rejection of conduct or communications of a derogatory, harassing or biased nature based on an individual's disability, by an individual is used as a factor in decisions affecting that individual's employment or access to public service/accommodations; or
- ◆ the conduct or communication of a derogatory, harassing or biased nature based on an individual's disability has the purpose or effect of substantially interfering with an individual's employment or use of public service/accommodations or of creating an intimidating, hostile or offensive employment or public service/accommodation environment.

8. **Age Based Offensive Conduct/Harassment and Age Bias Definition:**

Age based harassment and/or bias occurs when:

- ◆ submission to conduct or communications of a derogatory, harassing or biased nature which is based on an individual's age is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining or retaining public services/accommodations submission to or rejection of conduct or communications of a derogatory, harassing or biased nature based on an individual's age, by an individual is used as a factor in decisions affecting that individual's employment or access to public services/accommodations; or
- ◆ the conduct or communication of a derogatory, harassing or biased nature based on an individual's age has the purpose or effect of substantially interfering with an individual's employment or use of public

services/accommodations or of creating an intimidating, hostile or offensive employment or public service/accommodation environment.

**9. Marital Status Based Offensive Conduct/Harassment and Marital Status Bias**

**Definition:** "Marital status" means whether a person is single, married, remarried, divorced, separated or a surviving spouse, and in employment cases includes protection against discrimination on the basis of the identity, situation, actions or beliefs of a spouse or former spouse.

Marital status based harassment and/or bias occurs when:

- ◆ submission to conduct or communications of a derogatory, harassing or biased nature which is based on an individual's marital status is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining or retaining public services/ accommodations;
- ◆ submission to or rejection of conduct or communications of a derogatory, harassing or biased nature based on an individual's marital status, by an individual is used as a factor in decisions affecting that individual's employment or access to public services/accommodations; or
- ◆ the conduct or communication of a derogatory, harassing or biased nature based on an individuals' marital status has the purpose or effect of substantially interfering with an individual's employment or use of public services/ accommodations or of creating an intimidating, hostile or offensive employment or public service/accommodation environment.

**10. Status With Regard to Public Assistance Based Offensive Conduct/Harassment and Bias Definition:**

"Status with regards to public assistance" means the condition of being a recipient of federal, state or local assistance, including medical assistance, housing subsidies, AFDC or general assistance.

Public assistance status based harassment and/or bias occurs when:

- ◆ submission to conduct or communications of a derogatory, harassing or biased nature which is based on an individual's status with regard to public assistance, as defined above, which is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining or retaining public services/accommodations;
- ◆ submission to or rejection of conduct or communications of a derogatory, harassing or biased nature based on an individual' status with regard to public assistance, by an individual is used as a factor in decisions affecting that individuals employment or access to public services/accommodations; or

- ◆ the conduct or communication of a derogatory, harassing or biased nature based on an individual's status with regard to public assistance has the purpose or effect of substantially interfering with an individual's employment or use of public services/accommodations or of creating an intimidating, hostile or offensive employment or public service/accommodation environment.

**11. Sexual Orientation Based Offensive Conduct/Harassment and Bias Definition:**

"Sexual Orientation" means having or being perceived as having an emotional, physical or sexual attachment to another person without regard to the sex of that person or being perceived as having an orientation for such an attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include physical or sexual attachment to children by an adult.

Sexual orientation based offensive conduct/harassment and/or bias occurs when:

- ◆ submission to conduct or communications of a derogatory, harassing or biased nature which is based on an individual's sexual orientation, as defined above, is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining or retaining public services/accommodations;
- ◆ submission to or rejection of conduct or communications of a derogatory, harassing or biased nature based on an individual's sexual orientation, by an individual is used as a factor in decisions affecting that individual's employment or access to public services/accommodations; or
- ◆ the conduct or communication of a derogatory, harassing or biased nature based on an individual's sexual orientation has the purpose or effect of substantially interfering with an individual's employment or use of public services/accommodations or of creating an intimidating hostile or offensive employment or public service/accommodation environment. See also Section 21 B, 1, Sexual Harassment.

**12. Sexual Orientation Based Violence Definition:** Sexual orientation violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, that individual's actual or perceived sexual orientation.

**13. Assault: Definition. Assault is:**

- ◆ an act done with intent to cause fear in another of immediate bodily harm or death;
- ◆ the intentional infliction of or attempt to inflict bodily harm upon another; or

- ◆ the threat to do bodily harm to another with present ability to carry out the threat.

#### **14. Applicability: Offensive conduct, harassment or bias may occur**

- ◆ Between a supervisor and an employee;
- ◆ Between co-employees;
- ◆ Between an employee or supervisor and a member of the public seeking to obtain or use public services/accommodations;
- ◆ Between a commissioner or other elected official and an employee or member of the public receiving or seeking public services/accommodations;
- ◆ Between an agent of the County and an employee, Supervisor, elected official or member of the public.

**REPORTING PROCEDURES:** Any person who believes he or she has been the victim of offensive conduct of a sexual nature, sexual harassment or harassment or bias based on race, national origin, gender, religion, disability, age, marital status, status with regard to public assistance or sexual orientation by an employee, agent, official, commissioner or other elected official of the County, or any person with knowledge or belief of conduct which may constitute such harassment or bias toward an employee, official or member of the public seeking or receiving public services or accommodations, shall report the alleged conduct immediately to an appropriate County official designated by this policy.

The County encourages the reporting party or complainant to use the report form available from the County Human Resource office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the County Human Rights Officer.

#### **1. In Each County Department**

- a. The department head of each department is the person responsible for receiving oral or written reports of all types of offensive conduct, harassment and bias described in Section II, page 1 at the department level.
- b. Any supervisory employee, whether or not the person is a department head, who receives a formal or informal, oral or written report of harassment, bias or violence is defined in this policy, shall inform the department head immediately without screening or investigating the report, unless the department head is involved in the alleged harassment, bias or violence. In the event that the

department head is involved the report shall be made directly to the County Human Rights Officer or Alternate Human Rights Officers as described below. Failure of a supervisory employee to forward such a report to the appropriate party shall be grounds for discipline, including immediate discharge of employment.

- c. Upon receipt of a report, the department head must notify the County Human Rights Officer immediately, without screening or investigating the report. The department head may request, but may not insist upon, a written complaint by the complainant. A written statement of the facts alleged will be forwarded as soon as practicable by the department-head to the Human Rights Officer. If the report was given verbally, the department head shall personally reduce it to written form within 24 hours and forward it to the Human Rights Officer. Failure to forward any harassment or violence report or complaint as provided herein will result in disciplinary action against the department head.
- d. If the complaint involves the department head, the complaint shall be made or filed directly with the County Human Rights Officer by the reporting party of complainant.

## **2. County-Wide**

- a. The County Board hereby designates the County Administrator, 301 Court Ave., Park Rapids, Minnesota, 56470, (218)732-2336, as the County Human Rights Officer(s) to receive reports of sexual harassment and of offensive conduct, harassment and violence based on race, national origin gender, religion, disability, age, marital status, status with regard to public assistance or sexual orientation.
  - b. If the complaint involves the Human Rights Officer, the complaint shall be filed directly with one of the Alternative Human Right Officers Gregory D. Larson, County Attorney, P. O. Box 486, Park Rapids, Minnesota, 56470, (218)732-4133 and/or County Board Chairman, 301 Court, Park Rapids, Minnesota, 56470, (218)732-2336. The County shall conspicuously post the name of the Human Rights Officer and Alternative Human Rights Officer, including mailing address and telephone number.
3. Submission of a good faith complaint or report of offensive or harassing conduct of a sexual nature or offensive conduct, harassment, bias or violence based on race, national origin, gender, religion, disability, age, marital status, status with regard to public assistance or sexual orientation shall not affect the reporter's future employment or access to public services or public accommodations.
  4. Use of formal reporting forms is not mandatory.

5. The County will process complaints made under this policy as discreetly as possible, consistent with the County's legal obligations and the necessity to investigate allegations of discriminatory harassment and violence and take disciplinary action when the conduct has occurred.

## **INVESTIGATION**

1. By authority of the County Board, the Human Rights Officer or Alternative Human Rights Officer, upon receipt of a report or complaint of offensive or harassing conduct of a sexual nature or offensive conduct, harassment, bias or violence based on race, national origin, gender, religion, disability, age, marital status, status with regard to public assistance or sexual orientation, shall undertake or authorize an investigation. The investigation may be conducted by County officials or by a third party designated by the County.
2. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.
3. In determining whether alleged conduct constitutes a violation of this policy, the County should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and the surrounding circumstances.
4. In addition, the County may take immediate steps, at its discretion, to protect the complainant and other employees or members of the public pending completion of the investigation.
5. The County Human Rights Officer shall make a written report to the County Human Resource Manager. If the complaint involves the Human Resource Manager, the report may be filed directly with the County Board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

## **COUNTY ACTION**

1. The County will take such action as appropriate based on the results of the investigation. In the event that the investigation establishes that a violation of this policy has occurred, disciplinary action may be taken.

2. Consistent with the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes §13.01 et. seq., the results of the County's investigation will be made available to the complainant.

**REPRISAL:** The County will discipline or take appropriate action against any employee officer, commissioner, agent or other elected official who retaliates against any person who reports alleged harassment, bias or violence under this policy or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such harassment, bias or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

**DISCIPLINE:** Any county action taken against an individual pursuant to this policy shall be consistent with the requirements of;

1. Applicable Collective Bargaining Agreements;
2. County Policies;
3. State and Federal Law.

The County will take such disciplinary action it deems necessary and appropriate, including warning, suspension immediate discharge or other appropriate action to end discriminatory harassment and violence and prevent its recurrence.

#### **DISSEMINATION OF POLICY**

1. This policy shall be conspicuously posted in each County building in areas accessible to employees and members of the public.
2. This policy shall be distributed to all employees upon its adoption and to all new employees upon hire.

**PROMOTION OF RESPECTFUL BEHAVIORS:** As employees working in Hubbard County, we believe everyone plays a role in reducing violence. Violent crime, abuse, and injustice occur in families and in places of work, learning, and play. The resources of the entire community are needed to identify the multiple causes of violence, to diminish the harm inflicted by violence, and to create relationships that promote peace and safety. Networking, cooperation, and collaboration are required to promote respectful interactions, which in turn will result in the reduction of violence.

Therefore...

We promise and ask all to join us, to practice and promote the following respect policies at home, at work, at our schools, and within our communities.

We agree:

### **To Respect Self and Others**

To respect myself, to affirm others; to avoid uncaring criticism, hateful words, physical attacks, and self-destructive behavior.

### **To Communicate Effectively**

To share my feelings honestly, to look for safe ways to express my anger, and to work at solving problems peacefully.

### **To Listen**

To listen carefully to others, especially those who disagree with me, and to consider others' feelings and needs rather than insisting on having my own way.

### **To Forgive**

To apologize and make amends when I have hurt another, to forgive others, and to keep from holding grudges.

### **To Be Courageous**

To challenge disrespect in all forms whenever I encounter it, whether at home, at church, at school, at work, within the community or wherever it might exist, and to stand with others who are treated unfairly.

## **SECTION 21.00 CONFLICTS OF INTEREST**

- A. POLICY STATEMENT:** It is the policy of the County of Hubbard to prohibit its employees from engaging in any activity practice, or act which conflicts with or appears to conflict with the interests of the county or its citizens. Examples of conflicts of interest that should always be avoided are set forth below.
- B. PERSONAL GAIN:** The following actions by an employee of the County shall be deemed to be conflicts of interest and subject to disciplinary action as appropriate:
1. Use or attempted use of the employee's official position to secure benefits, privileges, exemptions, or advantages for the employee or the employee's immediate family or an organization with which the employee is associated which are different from those available to the general public.
    - a. If an employee or a member of the employee's immediate family has a financial interest in a firm that does business with the County, the employee must not represent the county in such transactions.
    - b. No employee shall accept gifts from any person or firm doing or seeking to do business with the county other than plaques or similar mementos recognizing individual services in a field of specialty or to a charitable cause; payment of reimbursement expenses for travel or meals, not to exceed actual expenses incurred, which are not reimbursed by the County of Hubbard, and which have been approved in advance by the employee's supervisor as part of the employee's work assignment; honoraria or expenses paid for papers, talks, demonstrations or appearances made by employees on their own time for which they are not compensated by the County of Hubbard; advertising novelties such as pens, pencils, calendars, or other gifts of nominal value.
    - c. An employee of the County of Hubbard shall not use confidential information to further the employee's private interest, and shall not accept outside employment or involvement in a business or activity that will require the employee to disclose or use confidential information.
    - d. An employee shall not use or allow the use of county time, supplies, or county owned or leased property and equipment for the employee's private interest or any other use not in the interest of the county, except as provided by law.
    - e. No employee shall, directly or indirectly, give, offer, or promise anything of value to any representative of any financial institution in connection with any transaction or business that the county may have with such financial institution.

## **C. OUTSIDE EMPLOYMENT**

1. No employee of the County of Hubbard shall accept other employment or contractual relationship that will affect the employee's independence of judgment in exercise of official duties.
  - a. No employee shall accept full time, part time, or temporary employment in any organization that does business with the county. The county recognizes the right of its employees to spend their non-working time away from the job as they please. It does, however, require that activities away from the job must not compromise the public interest or adversely affect the employee's job performance and ability to fulfill all responsibilities to the county.

**D. CODE OF ETHICS:** The Code of Ethics and Implementation Guidelines of the American Society of Public Administration shall be an integral part of this policy and employees of the County of Hubbard are expected to familiarize themselves with it and subscribe to it. (See Addendum III, to this Policy.)

**E. VIOLATIONS:** Violations of the provisions of this policy shall be grounds for disciplinary action against an employee.

It is the policy of Hubbard County that close personal or intimate relationships between employee and supervisor are not permitted because of potential conflicts of interest, as well as potential issues of liability pursuant to state and federal laws and Section 20 of this policy. Any such conduct or behavior in violation of this policy shall be subject to discipline pursuant to Section 18 of this policy.

## SECTION 22.00: SUBSTANCE ABUSE POLICY

- A. POLICY STATEMENT:** Hubbard County recognizes that alcoholism and other drug dependencies are a significant social problem and highly detrimental to the safety and productivity of individuals in the County workplace. In accordance with the Drug-Free Workplace Act of 1988, Hubbard County has a responsibility to maintain a drug free working environment.

The County recognizes that drug dependency may be an illness. Consistent with this understanding, however, the County has an obligation to ensure that individuals perform their jobs efficiently, safely and in a professional business-like manner. The purpose of this policy is to set forth Hubbard County's position regarding alcohol and other drug use and possession in the workplace.

This policy is applicable to all employees, independent contractors and volunteers or any individual representing the County in any capacity and shall be referred to as individuals hereafter within this policy.

- B. SCOPE:** The county at its discretion may, because of a reasonable suspicion, have any individual tested for any controlled substance in accordance with Minnesota Statutes §181.950-957 (1987), the Minnesota Drug and Alcohol Testing in the Workplace Act. Individuals do have the following rights: 1. To refuse a substance abuse test; 2. To have a positive test re-tested at the individual's expense; or 3. To provide evidence as to why the test was positive by providing prescription medication the individual is currently taking or other relevant information. An individual who refuses to be tested will be treated the same as an individual with a positive test and afforded the same rights. Questions regarding the policy should be referred to the Coordinator's Office.

### C. PROHIBITIONS

1. No individual shall report to work under the influence of alcohol, marijuana, controlled substances, or other drugs which affect the individual's alertness, coordination, reaction, response, judgment, decision-making or safety. Said conditions hereafter referred to as *substance abuse*. The County encourages individuals in safety sensitive positions to notify their supervisor if they are taking medically prescribed drugs that may impair job performance. *Under the influence of alcohol* shall mean a test result is determined to be equal to or greater than a .04 blood alcohol level.

2. No individual shall unlawfully manufacture, distribute, dispense, possess\*, transfer\* or use any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, anabolic steroid or any other controlled substance, as defined in Schedules I-V of Section 202 of the Controlled Substance Act (21 USC 812) and as further defined by regulation at 21 C.F.R. 1300.15, during work hours, on County owned property or wherever the County's work is being performed. \*The only exception being Law Enforcement Personnel transporting amounts used for evidence or for training purposes.
3. No individual shall operate, use or drive any equipment, machinery or vehicle owned or leased by Hubbard County while impaired due to substance abuse.

#### **D. REQUIREMENTS**

1. Each individual is required to notify their supervisor of the following: 1. Any criminal drug statute conviction for a violation occurring in the workplace, no later than five (5) days of such conviction or 2. Any alcohol statute violation that would affect their legally operating a county owned vehicle upon return of the individual to work after the event. The County will notify any contracting/granting agency within ten (10) days of receipt of an individual conviction notice.
2. Hubbard County individuals have a responsibility to abide by the provisions of this policy. Any supervisor and/or individual who observes an individual in violation of these provisions shall document the circumstances, facts and observations made, with individuals making their report to their supervisor. Department heads or supervisors shall notify the appropriate law enforcement agency when they have reasonable suspicion to believe an individual may have illegal drugs in their possession at work or on County premises.
3. Upon a report of reasonable suspicion to the Coordinator and agreement of the Department manager and Coordinator that a reasonable suspicion of substance abuse does exist, the individual in question will be given a Substance Abuse Form stating his/her choices, prior to completion of a substance abuse test. In the event the Coordinator and/or Department manager are not available when an observable offense exists, or when there is a strong reasonable suspicion that an offense does exist, a supervisory level individual may document the situation and have the suspected person(s) complete the testing form and proceed with appropriate action. It is encouraged that at least two people of supervisory level or above observe or investigate

an alleged observation of abuse, and both must concur with the action to be taken. **This action MUST be kept confidential, and reporting individuals should be directed NOT to divulge any investigation or testing.**

4. Tests will be obtained by Dakota Clinic in Park Rapids. Tests during off hours or anytime the clinic is closed will be done by St. Joseph's Hospital, Park Rapids. The County will be billed directly for such services and shall be the responsibility of the department involved. The employee to be tested must be driven to the testing facility by the appropriate law enforcement personnel and accompanied by management, if possible.

**E. CONSEQUENCE OF VIOLATIONS:** Violations of any of the provisions of this policy shall constitute cause for disciplinary action, up to and including termination. Each situation will be evaluated on a case by case basis depending upon the severity and circumstances involved.

**F. EMPLOYEE ASSISTANCE:** Hubbard County will take an active role in educating employees of the danger involved in substance abuse.

Individuals who voluntarily admit to having substance abuse problems may be eligible for paid and/or unpaid time off to participate in a rehabilitation program. Such a leave will be granted if the individual abstains from use of the problem substance while on leave, abides by all organization policies, rules, and prohibitions relating to conduct in the work place, and if the County will not suffer an undue hardship as a consequence of granting the leave.

Hubbard County recognizes that individuals may wish to seek professional assistance in overcoming substance abuse problems. Please contact the Coordinator's Office for more information about benefits potentially available under the individual medical benefit plans and any possible referral sources.

**G. DATA DISCLOSURE:** Disclosure of information regarding individual substance abuse in the workplace will be consistent with applicable collective bargaining agreements and law. Questions in this area should be directed to the Coordinator's Office.

**H. HUBBARD COUNTY**

**SUBSTANCE ABUSE FORM**

It has been determined that there is reasonable suspicion to believe \_\_\_\_\_  
\_\_\_\_\_ should be tested per the Hubbard County Substance Abuse  
Policy.

The county has determined there is a need for the above-named employee to be substance  
abuse tested in accordance with Minnesota Statutes §181.950-957 (1987).

The individual has the following rights regarding a substance abuse test request and shall be  
read these rights before completing this form:

Their rights are:

1. to refuse the test and/or
2. to have a positive substance abuse test re-tested at their own expense and/or
3. to provide evidence as to why the test was positive by providing prescription  
medication the employee is currently taking or other relevant information.

An individual that refuses to be tested will be treated the same as a positive test and afforded  
the same rights.

I have heard, read and understand the above. Furthermore, I acknowledge the above  
information to be a portion of Section 22, Substance Abuse Policy as set forth in the Hubbard  
County Personnel Policy.

\_\_\_\_\_ I am participating in a substance abuse test voluntarily, as requested.

\_\_\_\_\_ I refuse to participate in a substance abuse test, which has been requested of  
me.

Individual Name (printed): \_\_\_\_\_

Individual signature: \_\_\_\_\_

Date: \_\_\_\_\_

**SECTION 22:00      APPENDIX B DRUG AND ALCOHOL POLICY  
COMMERICAL DRIVER'S LICENSE (CDL)  
DEPARTMENT OF TRANSPORTATION (DOT)**

**TABLE OF CONTENTS**

<b>SECTION 1.</b>	<b>POLICY</b>
<b>SECTION 2.</b>	<b>DEFINITIONS</b>
<b>SECTION 3.</b>	<b>RESPONSIBILITIES</b>
<b>SECTION 4.</b>	<b>PROHIBITED DRUG AND ALCOHOL RELATED CONDUCT</b>
<b>SECTION 5.</b>	<b>OTHER ALCOHOL RELATED CONDUCT</b>
<b>SECTION 6.</b>	<b>TYPE OF TESTING REQUIRED</b>
<b>SECTION 7.</b>	<b>TESTING PROCEDURES</b>
<b>SECTION 8.</b>	<b>REFUSAL TO SUBMIT TO TESTING</b>
<b>SECTION 9.</b>	<b>APPLICANT/EMPLOYEE RIGHTS TO A SPLIT SAMPLE TEST</b>
<b>SECTION 10.</b>	<b>DISCIPLINE</b>
<b>SECTION 11.</b>	<b>FMCSA CONSEQUENCES TO EMPLOYEES ENGAGING IN PROHIBITED CONDUCT</b>
<b>SECTION 12.</b>	<b>LOSS OF CDL LICENSE FOR TRAFFIC VIOLATIONS IN COMMERCIAL AND PERSONAL VEHICLES</b>
<b>SECTION 13.</b>	<b>CONFIDENTIALITY/RECORDKEEPING</b>
<b>SECTION 14.</b>	<b>COMMERICAL DRIVER'S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE REPORTING REQUIREMENT</b>
<b>SECTION 15.</b>	<b>TRAINING AND ASSISTANCE</b>
<b>SECTION 16.</b>	<b>DESIGNATED EMPLOYER REPRESENTATIVE (DER)</b>

**APPENDIX A      EMPLOYEE OR APPLICANT ACKNOWLEDGEMENT OF RECEIPT  
OF EMPLOYER POLICY**

**APPENDIX B      DRIVER CONSENT FOR: LIMITED QUERIES OF THE FEDERAL  
MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA) DRUG AND  
ALCOHOL CLEARINGHOUSE**

**SECTION 1. POLICY**

Hubbard County (the "County") recognizes applicants and employees who are required to hold a Commercial Driver's License (CDL) to perform safety-sensitive duties are subject to the drug and alcohol testing provisions mandated by the Omnibus Transportation Employee Testing Act of 1991. To the extent federal statute or regulations change, the policy shall be construed as consistent with those changes. Because changes in applicable law and the County's practices and procedures may occur from time to time, this policy may change in the future, and nothing in this policy is intended to be a contract, promise, or guarantee the County will follow any particular course of action, disciplinary, rehabilitative or otherwise, except as required by law. this policy does not in any way affect or change the status of any at-will employee.

This policy is established to maintain a drug and alcohol free workplace, including testing for controlled substances and alcohol as mandated by Title 49 CFR Part 382. Work performance and safety suffers when employees use or abuse drugs and/or alcohol. The County wishes to provide a safe workplace for employees, customers and the general public. The County also has a separate Policy on Controlled Substance and Alcohol Testing for employees not covered by DOT regulations.

**SECTION 2. DEFINITIONS**

The following definitions shall define the terms as used in this policy and are referenced in CFR Part 382.107. In the event any conflict should arise between the definitions of terms herein and the definitions of those terms in DOT rules, regulations interpretations or guidance, the definitions herein shall be deemed superseded and the DOT rules, regulations interpretations or guidance shall control.

**Accident** means an occurrence involving a CMV operating on a public road which results in:

1. Fatality; or,
2. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or,
3. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

**Actual knowledge** means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the driver, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or a controlled substance, or a driver's admission of alcohol or controlled substance use under the provisions of Sec. 382.121. Direct observation as used in this definition means observation of alcohol or controlled substance use and does not include observation of driver behavior or physical characteristics sufficient to warrant reasonable suspicion testing under Sec. 382.307.

**Adulterated Specimen** means a specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

**Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.

**Alcohol Concentration** means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an alcohol test conducted under 49 CFR Part 40.

**Alcohol Confirmation Test** means a subsequent test using EBT, following a screening test with a result of 0.02 or greater that provides quantitative data about the alcohol concentration.

**Alcohol Screening Device (ASD)** means a breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration and appears on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the model specifications of NHTSA.

**Alcohol Screening Test** means an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

**Alcohol Use** means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication) containing alcohol.

**Breath Alcohol Technician (BAT)** means a person who instructs and assists employees in the alcohol testing process and operates an Evidential Breath Testing Device (EBT).

**Chain of Custody** means a procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).

**Collection site** means a place designated by Hubbard County, where individuals present themselves for the purpose of providing a urine specimen for a drug test.

**Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse)** means the FMCSA database that 49 CFR Part 382, Subpart G requires employers and service agents to report information to and to query regarding drivers who are subject to the DOT controlled substance and alcohol testing regulations.

**Commercial Motor Vehicle (CMV)** means a motor vehicle or combination of motor vehicles used to transport passengers or property if the vehicle:

1. Has a gross combination weight rating (GCWR) of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
2. Has a gross vehicle weight rating (GVWR) of 26,001 or more pounds, or
3. Is designed to transport 16 or more passengers including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, (49 USC 5103(b)) and which requires the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, Subpart F).

**Confirmation (or confirmatory) drug test** means a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

**DHHS** is the Department of Health and Human Services or any designee of the Secretary of the Department of Health and Human Services.

**Dilute Specimen** means a specimen with creatinine and specific gravity values that are lower than expected for human urine.

**Disabling Damages** means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

1. *Inclusions.* Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
2. *Exclusions.*
  - a. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
  - b. Tire disablement without other damage even if no spare tire is available.
  - c. Headlight or taillight damage.

- d. Damage to turn signals, horn or windshield wipers which make them inoperative.

**Driver** means any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors. All “drivers” are “employees” for purpose of this policy.

**Drugs (or Controlled Substances)** means the substance for which laboratories are required to test for under 49 CFR Part 40 and FMCSA regulations as each may be amended from time to time.

**Employee** means any person who is designated in a DOT Agency regulation as subject to drug testing and/or alcohol testing. For purposes of drug testing, the term employee has the same meaning as the term “donor” does in connection with Custody and Control Forms and Department of Health and Human Service regulations and guidance.

**Evidential Breath Testing Device (EBT)** means a device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentration, and appears on ODAPC’s Web page for “Approved Evidential Breath Measurement Devices” because it conforms with the model specifications available from NHTSA.

**FMCSA** is the Federal Motor Carrier Safety Administration.

**Initial Drug Test (also known as a screening drug test)** means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolite.

**Laboratory** means any US laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of HHS Mandatory Guidelines for Federal

Workplace Drug Testing Programs; or in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

**Licensed medical practitioner** means a person who is licensed, certified, and/or registered, in accordance with applicable federal, state, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

**Medical Review Officer (MRO)** means a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results.

**Negative return-to-duty test result** means a return-to-duty test with a negative drug test result and/or and alcohol test with an alcohol concentration of less than 0.02 as described in 49 CFR Part 40.305.

**Prescription Medications** means the use (by a driver) of legally prescribed medications issued by a licensed medical professional familiar with the driver's work related responsibilities.

**Random selection** means a mechanism for selection of employees for testing where each employee has an equal chance of being selected each time selections are made.

**Reasonable suspicion** means that the employer believes the appearance, behavior, speech, etc. of an employee are indicative of the use of a drug or alcohol based on the observation of at least one supervisor or official who has received training in the identification of behaviors indicative of drug and/or alcohol use.

**Safety-sensitive function** means all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
2. All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations, or otherwise inspecting, servicing, or conditioning any CMV at any time;
3. All time spent at the driving controls of a CMV in operation;
4. All time, other than driving time, in or upon any CMV except time spent resting in a sleeper berth;
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;

**Screening Test Technician (STT)** means anyone meeting the requirements for a BAT that may act as a Screening Test Technician, provided that the individual has demonstrated proficiency in the operation of a non-evidential screening device.

**Service Agent or Third Party Administrator** means any person or entity, other than an employee of the employer, who provides services specified under this part to employers and/or employees in connection with DOT drug and alcohol testing requirements.

**Substance Abuse Professional (SAP)** means a person who evaluates employees who have violated a DOT alcohol and drug regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

**Substituted Specimen** means a specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

### **SECTION 3. RESPONSIBILITIES**

All employees are strictly prohibited from using, possessing, selling, transferring, transporting, or being under the influence of drugs or alcohol while working, performing job duties, while on the employer's premises, or while operating the employer's vehicles or equipment.

It is the County's responsibility to provide testing that is in compliance with all federal and state laws and regulations, and within the provisions of this policy. The County will retain all records related to this testing. The County's designated person(s) to retain records, monitor, facilitate, and answer questions pertaining to these procedures is the Hubbard County Human Resources Director or designee(s).

The supervisor(s) of drivers is responsible to be able to make reasonable suspicion observations to determine if the driver is impaired in some way, and be prepared to implement the requirements of this policy if necessary.

The driver is responsible for complying with the requirements set forth in this policy. The driver will not use, have possession of, abuse, or have the presence of alcohol or any controlled substance in excess of regulation-established threshold levels while on duty. The driver will not use alcohol within 4 hours prior to performing a safety-sensitive function, while performing a safety-sensitive function, or immediately after performing a safety-sensitive function, or as required under post-accident testing.

The driver must submit to alcohol and controlled substances tests administered under Part 382.

The driver is responsible to inform their supervisor of any prescription medication use prior to performing a safety-sensitive function which may have an effect on their driving ability. The driver may be required to present written evidence from a health care professional which describes the effects such medications may have on the driver's ability to perform safety-sensitive functions. The County reserves the right to seek additional opinions from qualified medical personnel concerning the potential effects of the prescribed medication on a driver's ability to perform safety-sensitive functions, and to prohibit a driver from performing safety-sensitive functions while they are taking prescription medications. Any such prohibition will be

without prejudice and the driver will be allowed to return to duty upon ceasing use of the medication or when the County determines safety-sensitive duties will not be affected upon review of sufficient information provided by qualified medical personnel.

#### **SECTION 4. PROHIBITED DRUG AND ALCOHOL RELATED CONDUCT**

The following drug and alcohol related activities are prohibited by the FMCSA for operators of CMV(s):

1. Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
2. Being on duty or operating a CMV while possessing alcohol, unless that alcohol is manifested as a part of a shipment. This includes the possession of medicines containing alcohol (prescription or over the counter), unless the package seal is unbroken.
3. Using alcohol while performing safety-sensitive functions.
4. Performing safety-sensitive duties within four hours of using alcohol.
5. When required to submit to a post-accident test, using alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.
6. Refusing to submit to a drug or alcohol test required by post-accident, random, reasonable cause, return-to-duty, or follow-up testing requirements.
7. Reporting for duty or remaining on duty, requiring the performance of safety-sensitive functions, when the driver uses any drug, except when instructed to by a licensed medical professional who has advised the driver that the substances do not adversely affect the driver's ability to operate a CMV.
8. Reporting for duty, remaining on duty, or performing a safety-sensitive function after testing positive for drugs.

#### **SECTION 5. OTHER ALCOHOL RELATED CONDUCT**

FMCSA rules require that in the event of an alcohol test result equal or greater than 0.02 BAC, but less than 0.04 BAC the employee will not be permitted to perform safety-sensitive duties for a minimum of 24 hours.

## SECTION 6. TYPE OF TESTING REQUIRED

**Pre-employment Testing (Sec. 382.301):** All applicants, including employees currently employed by the employer, applying for a job where duties include operating a CMV, are required to submit to pre-employment testing for controlled substances, if a contingent job offer is made. The offer is contingent upon all of the following:

1. A negative result of the drug test.
  - a. Diluted specimens: A Positive diluted specimen verified and reported by the MRO will be treated as a verified positive test. A Negative diluted specimen verified and reported by the MRO will be directed to immediately take another test. The test of any second test conducted shall be the final test result.
2. The applicant's written agreement authorizing all former employers to release to the employer all information about the applicant concerning the following items within the last three years:
  - a. alcohol tests with result of 0.04 BAC or greater,
  - b. positive test results for drugs,
  - c. refusals to be tested,
  - d. any SAP referrals or evaluations.
3. The receipt of acknowledgements from all former employers in a manner satisfactory to the employer indicating that none of the items referenced in paragraph 2 above have occurred with respect to the applicant.
4. Verification that applicant has submitted electronic consent through the Commercial Driver's License Drug and Alcohol Clearinghouse granting access to the applicant's Clearinghouse records to determine whether the Driver:
  - a. Has a verified positive, adulterated, or substituted controlled substances test result;
  - b. Has an alcohol confirmation test with a concentration of 0.04 or higher;
  - c. Has refused to submit to a test in violation of §382.211;
  - d. That an employer has reported actual knowledge, as defined at §382.107;
  - e. That the driver used alcohol on duty in violation of §382.205;

- f. That the driver used alcohol before duty in violation of §382.207;
  - g. That the driver used alcohol following an accident in violation of §382.209;
  - h. That the driver used controlled substance in violation of §382.213.
5. Completion of a successful query of the Commercial Driver's License Drug and Alcohol Clearinghouse indicating that none of the items referenced in paragraph 4 above have occurred with respect to the applicant.

An applicant who submits a specimen which the MRO verifies and reports to be an adulterated or substituted specimen will have refused to submit to testing.

The employer will not consider an applicant for employment who receives a verified positive test result.

An applicant who refuses to submit to a controlled substance test shall be disqualified from further consideration for the conditionally offered position.

**Post-accident Testing (Sec. 382.303):** If a driver is involved in an accident, the driver shall immediately notify their Supervisor. The driver is subject to post-accident testing if the accident involved:

1. a fatality,
2. bodily injury with immediate medical treatment away from the scene,
3. disabling damage to any motor vehicle requiring tow away, or
4. the driver receiving a citation.

The driver may also be subject to post-accident testing at the discretion of the supervisor without meeting the above listed reasons.

The driver will be tested for drugs and alcohol as soon as possible following the accident. The driver must remain readily available for testing. If the driver isn't readily available for alcohol and drug testing, the driver may be deemed as refusing to submit to testing. A driver involved in an accident may not consume alcohol for 8 hours or until testing is completed.

If the alcohol test is not administered within 2 hours following the accident, the Designated Employer

Representative (DER) or designee(s) will prepare a report and maintain a record stating why the test was not administered within 2 hours.

If the alcohol test is not administered within 8 hours following the accident, all attempts to administer the test will cease. The DER or designee(s) will prepare a report and maintain a record stating why the test was not administered within 8 hours.

The drug test must be administered within 32 hours of the accident. If the test could not be administered within 32 hours, all attempts to test the driver will cease. The DER or designee(s) will prepare and maintain a record stating why the test was not administered within 32 hours.

**Random Testing (Sec 382.305):** Random testing will be spread reasonably throughout the calendar year. All random drug and alcohol tests will be unannounced, with each driver having an equal chance of being tested each time selections are made. The selection of drivers for random alcohol and controlled substances testing will be made by a scientifically valid method as described in Sec. 382.305(i). At least the minimum percent of the average number of driver positions as required by FMCSA will be tested each year.

A driver may be tested for alcohol while performing a safety-sensitive function, just before performing a safety-sensitive function, or just after completing a safety-sensitive function.

The driver must proceed immediately to the assigned collection site when notified of being randomly selected for testing.

**Reasonable Suspicion Testing (Sec. 382.307):** If the driver's supervisor or another official designated to supervise drivers believes a driver is under the influence of alcohol or drugs, the driver will be required to undergo a drug and/or alcohol test. Reasonable suspicion alcohol testing is only authorized if the observations are made during, just preceding, or after the driver is performing a safety-sensitive function.

The basis for requiring testing will be specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. In the case of controlled substance, the observations may include indications of the chronic and withdrawal effects of a controlled substance. A written record of the observations leading to an alcohol or controlled substance reasonable suspicion test, signed by the supervisor or official who made the observation, will be completed within 24 hours of the observed behavior or before the results of the alcohol or controlled substances test are released, whichever is first.

The driver's supervisor or another official will immediately remove the driver from any and all safety-sensitive functions and take the driver or make arrangements for the driver to be taken to a testing facility.

If an alcohol test is not administered within 2 hours following a reasonable suspicion determination, the DER or designee(s) will prepare and maintain a record stating the reasons why the test was not administered within 2 hours. If the test was not administered within 8 hours after a reasonable suspicion determination, all attempts to administer the test shall cease. A record of why the test was not administered must be prepared and maintained.

Notwithstanding the absence of a reasonable suspicion test, no driver may report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol use, nor will the County permit the driver to perform or continue to perform safety-sensitive functions until (1) an alcohol test is administered and the driver's alcohol concentration is less than .02; or (2) 24 hours have elapsed following the determination of reasonable suspicion.

**Return-to-duty Testing (Sec 382.309):** The County reserves the right to impose discipline against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policy and collective bargaining agreements. Except as otherwise required by law, the County is not obligated to reinstate or requalify such drivers for a first positive test result.

Should the County consider reinstatement of a DOT covered driver, the driver must undergo a SAP evaluation and participate in any prescribed education/treatment, and successfully complete return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or or a controlled substance test with a verified negative result, before the driver returns to duty requiring the performance of a safety-sensitive function. The SAP determines if the driver has completed the education/treatment as prescribed.

The employee is responsible for paying for all costs associated with the return-to-duty test. The controlled substance test will be conducted under direct observation.

**Follow-up- Testing (Sec. 382.311):** The County reserves the right to impose discipline against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policies and collective bargaining agreements. Except as otherwise required by law, the County is not obligated to reinstate or requalify such drivers.

Should the County reinstate a driver following a determination by a SAP that the driver is in need of assistance in resolving problems associated with alcohol use and/or use of controlled substance, the County will ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substance testing. The number and frequency of such follow-up testing will be directed by the SAP and will consist of at least 6 tests in the first 12 months following the driver's return to duty. Follow-up testing will not exceed 60 months from the date of the driver's return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first 6 tests have been administered, if the SAP determines such test is no longer necessary. The employee is responsible for paying for all costs associated with follow-up tests.

Follow-up alcohol testing will be conducted only when the driver is performing safety-sensitive functions, or immediately prior to or after performing safety-sensitive functions.

**Cost of required testing:** The County will pay for the cost of pre-employment, post-accident, random, and reasonable suspicion controlled substance and alcohol testing requested or

required of all job applicants and employees. The driver must pay for the cost of all requested confirmatory re-tests, return-to-duty, and follow-up testing.

## **SECTION 7. TESTING PROCEDURES**

All testing shall be conducted in accordance with 49 CFR Part 40 and any published guidance, interpretation or amendments. If any conflict arises between the procedure described below and the currently effective provisions of 49 CFR Part 40, the currently effective provision shall control.

**Drug Testing Process:** Drug testing is conducted by analyzing an applicant's or employee's urine specimen. Laboratory analysis of specimens consists of testing for the following classes of drugs at the cutoff levels determined by DOT:

1. Amphetamines/Methamphetamines
2. Cocaine
3. Opioids
4. Phencyclidine (PCP)
5. THC (marijuana, hashish, etc.)

In accordance with FMCSA regulations, the urine specimens will be collected using the split sample collection method. The employee will provide a urine sample at an employer designated collection site. The collection site personnel will then pour the sample into two sample bottles, labeled "primary" and "split", seal the specimen bottles, complete the chain of custody form (CCF), and prepare the specimen bottles for shipment to the testing laboratory for analysis. The specimen preparation shall be conducted in sight of the applicant or employee.

Once the specimen is received by the testing laboratory, the laboratory will inspect the specimen bottles and the CCF for the presence of any fatal or correctable flaws. The laboratory will then conduct the initial testing on the specimen to determine if the specimen contains sufficient quantity of any drug to warrant further testing. The testing laboratory will also conduct validity testing on the specimen to determine whether certain adulterants or foreign interfering substances are present in the urine, if the urine was diluted, or if the specimen was substituted.

If the results of the initial drug test are negative, no further testing will be conducted. If the results of the initial drug test are positive, the laboratory will perform a confirmation test on the specimen for each of the substances identified in the initial test. The results of any confirmation tests will be the laboratory's final test result.

Drug test results are reported directly to the MRO by the testing laboratory. The MRO reviews the laboratory results, verifies the results, then reports the results directly to the employer. If the laboratory results are negative, the MRO performs an administrative review only. If the laboratory's test result is confirmed positive, adulterated or substituted the MRO performs an administrative review and interviews the employee in order to provide an opportunity to explain the test result. The MRO will contact the employee directly, on a confidential basis, to determine whether the employee wishes to discuss the test result. The MRO will determine whether a legitimate medical explanation exists to explain the laboratory result. If no legitimate medical explanation is offered for the laboratory's test

result the MRO shall verify the test results as positive for drugs, or as a refusal to test because of adulterated or substituted and report the results to the employer.

The MRO shall notify each employee that the employee has 72 hours in which to request a test of the split specimen. If the employee requested an analysis of the split specimen within 72 hours of having been informed of a verified positive test, the MRO shall direct the laboratory, in writing, to transfer the split specimen to another DHHS-SAMHSA certified laboratory for analysis. If the employee has not contacted the MRO within 72 hours, the employee may present the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the employee from timely making contact. If the MRO concludes that there is a legitimate explanation for the employee's failure to contact him or her within 72 hours, the MRO will direct the analysis of the split specimen.

If after making reasonable efforts and documenting those efforts, the MRO is unable to reach the employee directly, the MRO must contact the employer, who shall direct the employee to contact the MRO.

The MRO may verify a test positive without having communicated directly with the employee about the test results under the following circumstances:

1. The employee expressly declines the opportunity to discuss the test results.
2. Neither the MRO nor the employer is able to reach the employee within 10 days of the date on which the MRO received the test result from the laboratory.
3. The employee has not contacted the MRO within 72 hours of being instructed to do so by the employer.

### **Special Urine Specimen Collection Situations**

#### *The Observed Collection*

In most circumstances the employee will provide the urine specimen in a private enclosure. However, in limited situations the employee is required to be observed while providing the

required urine specimen. A direct observation collection is required in the situations listed below:

1. For all Return-to-Duty and Follow-up drug tests;
2. If the collector observes materials brought to the collection site or if the employee's
3. conduct clearly indicates an attempt to tamper with a specimen;
4. If the employee provides a specimen with a temperature out of range;
5. If the employee provides a specimen that appears to have been tampered with;
6. If the laboratory reported to the MRO that a specimen was invalid, and the MRO reported to the employer that there was not an adequate medical explanation for the result, the employee must submit a second specimen under direct observation;
7. If a positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed, then the employee must submit a second collection under direct observation; and
8. If the laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2mg/dL but less than or equal to 5 mg/dL, then the employee must submit to a second collection under direct observation.

In an observed collection, a person of the same gender will accompany the donor into the urination area to observe the urination process. The observer is required to direct the donor to raise their shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that the donor does not have a prosthetic device. The observer must then watch the donor urinate into the collection container. Specifically, the observer must watch the urine go from the donor's body into the collection container

*Employee is unable to provide sufficient specimen*

If the employee is unable to provide the appropriate quantity of urine, the collection site person will instruct the employee to drink up to 40 ounces of fluids distributed over a period of up to 3 hours or until the employee has provided a sufficient sample. If the employee is still unable to provide a complete sample, the test shall be discontinued and the employer notified. The employee will be instructed to obtain, within 5 working days, an evaluation from a licensed physician acceptable to the MRO to determine if the employee's inability to provide a specimen is genuine or constitutes a refusal to test.

**Testing Laboratory:** All drug testing will be conducted by a laboratory certified by DHHS-SAMHSA to perform drug testing for DOT regulations. The laboratory shall be chosen by the employer or its service agent.

**Alcohol Testing Process:** The FMCSA alcohol test rules require alcohol screening tests to be administered by a breath alcohol technician (BAT) using an evidential breath testing device (EBT) or alcohol screening device (ASD); or by a screening test technician (STT) using an ASD. The technician will first administer an alcohol screening test. Any result less than 0.02 alcohol concentration is considered a “negative” test. If the alcohol concentration is 0.02 or greater, a second test, an alcohol confirmation test, must be performed. The alcohol confirmation test must be conducted on an EBT administered by a BAT. The test must be conducted within 15–30 minutes of the alcohol screening test. The results of the alcohol confirmation test will be the final test result. If the employee attempts and fails to provide an adequate amount of breath, the employer will direct the employee to obtain written evaluation from a licensed physician to determine if the employee’s inability to provide a breath sample is genuine or constitutes a refusal to submit to testing. Alcohol test results are reported directly to the employer.

## **SECTION 8. REFUSAL TO SUBMIT TO TESTING**

An employee subject to this policy shall have refused to submit to testing when they:

1. Fails to appear for a test after being directed to do so by the employer;
2. Fails to remain at the test site until the test is completed;
3. Fails to provide a urine specimen for a required drug test or fails to attempt to provide a breath or saliva specimen for a required alcohol test;
4. Fails to permit the direct observation or monitoring of the provision of their urine specimen for drug test when required by DOT regulations;
5. Fails to provide a sufficient amount of urine or breath for a drug or alcohol test and it has been determined through a medical evaluation that there was not adequate medical explanation for the failure;
6. Fails or declines to take a second test that the employer or collector has directed the employee to take;
7. Fails to undergo a medical examination as directed by the MRO as part of the result verification process or as directed by the employer as part of the DOT required insufficient specimen procedure;
8. Fails to sign the certification statement at Step 2 on the Alcohol Testing Form (for an alcohol test);

9. Fails to cooperate with any part of the testing process (e.g. refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector);
10. For an observed collection, fails to follow the observer's instructions to raise clothing above waist, lower clothing and underpants, and turn around to permit the observer to determine if the donor has any type of prosthetic or other device that could be used to interfere with the collection process;
11. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
12. Admits to the collector or MRO that they adulterated or substituted the specimen;
13. Has a test result that is verified by the MRO as adulterated or substituted.
14. Engages in any other conduct that clearly obstructs the test process.

**Consequences of Refusal to Submit to Testing:** An employee who refuses to submit to an alcohol and/or controlled substance test required by this policy will not be permitted to perform safety-sensitive functions and will be considered insubordinate which will result in disciplinary action, up to and including immediate termination from employment.

**Adulterated/Substituted Specimens:** An employee who submits a specimen which the MRO verifies and reports to be an adulterated or substituted specimen will have refused to submit to testing.

**Diluted Specimens:** Any employee which the MRO verifies and reports as a positive diluted specimen will be treated as a verified positive test.

An employee who submits a specimen which the MRO verifies and reports as a negative diluted specimen will be directed to immediately take another test. The test of any second test conducted shall be the final test result.

## **SECTION 9. APPLICANT/EMPLOYEE RIGHTS TO A SPLIT SAMPLT TEST**

All applicants and employees subject to the controlled substance testing provisions of this policy that receive a confirmed positive test result for the use of controlled substances have the right to request, at employee or applicant expense, a confirming retest of the split urine sample.

If the confirming retest is negative, no adverse action will be taken against the employee, and an applicant will be considered for employment.

## **SECTION 10. DISCIPLINE**

Any employee found to be in violation of this policy is subject to disciplinary actions, up to and including termination of employment. Nothing in this policy limits or restricts the right of the employer to discipline or discharge an employee for conduct which violates the employer's policies or rules. Except as otherwise required by law, the County is not obligated to reinstate or requalify such drivers for a first positive test result.

## **SECTION 11. FMCSA CONSEQUENCES TO EMPLOYEES ENGAGING IN PROHIBITED CONDUCT**

Employees who have engaged in prohibited conduct are subject to the following consequences according to FMCSA rules:

1. The employee will be immediately removed from safety-sensitive functions;
2. The employee will not be permitted to perform safety-sensitive functions;
3. The employee will be referred to a SAP and advised by the employer of the resources available to them in evaluating and resolving problems associated with the misuse of alcohol and/or the use of drugs;
4. If the employer retains the employee, the employee must complete an initial evaluation by a SAP who will determine what assistance the employee needs in resolving problems associated with alcohol misuse and/or drug use;
5. The SAP will make a recommendation for education or treatment and refer the employee to an appropriate educational or treatment program;
6. The employee must complete a follow-up evaluation with the SAP to determine if the employee has successfully carried out the SAP's educational or treatment recommendations;
7. If the SAP believes any ongoing services are needed to assist an employee to maintain sobriety or abstinence from drug use after the employee resumes the performance of safety-sensitive duty, the employee must comply with these recommendations and the employer or its agent may monitor and document the employee's participation in the recommended services;
8. Before the employee will be allowed to return to performing safety-sensitive functions, they must undergo a return-to-duty testing. If the conduct involved the use of alcohol, the employee must submit to an alcohol test with a result indicating breath alcohol level of less than 0.02. If the conduct involved the use of drugs, the employee must submit to a drug test with a verified negative test result received;

9. The employee shall also be subject to unannounced follow-up alcohol and/or drug testing.

## **SECTION 12. LOSS OF CDL LICENSE FOR TRAFFIC VIOLATIONS IN COMMERCIAL AND PERSONAL VEHICLES**

Effective August 1, 2005, the FMCSA established strict rules impacting when CDL license holders can lose their CDL for certain traffic offenses in a commercial or personal vehicle. Employees are required to notify their supervisor immediately if the status of their CDL license changes in anyway (Sec. 391.11 – 391.15).

## **SECTION 13. CONFIDENTIALITY/RECORDKEEPING**

All driver alcohol and controlled substance test records are considered confidential (Sec. 382.401). For the purpose of this policy/procedure, confidential recordkeeping is defined as records maintained in a secure location with controlled access.

Driver alcohol and controlled substance test records will only be released in the following situations (Sec. 382.405):

1. to the driver, upon their written request;
2. upon request of a DOT agency with regulatory authority over the County;
3. upon request of state or local officials with regulatory authority over the County;
4. upon request by the United States Secretary of Transportation;
5. upon request by the National Transportation Safety Board (NTSB) as part of a crash investigation;
6. upon request by subsequent employers upon receipt of a written request by a covered driver;
7. to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results). Additionally, an employer may disclose information in criminal or civil actions in accordance with 49 CFR § 40.323(a)(2).
8. upon written consent by the driver authorizing the release to a specified individual.

In the event of a post-accident test, the drug and/or alcohol test result(s) may also be provided to the worker's compensation insurance carrier.

## **SECTION 14. COMMERCIAL DRIVER'S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE REPORTING REQUIREMENT**

As required by 49 CFR Part 382, Subpart G, the following information will be reported to the Commercial Driver's License Drug and Alcohol Clearinghouse:

- 1) A verified positive, adulterated, or substituted drug test result;
- 2) An alcohol confirmation test with a concentration of 0.04 or higher;
- 3) A refusal to submit to a drug or alcohol test;
- 4) An employer's report of actual knowledge of, as defined at 49 CFR §382.107:
  - a. On duty alcohol use pursuant to 49 CFR §382.205;
  - b. Pre-duty alcohol use pursuant to 49 CFR §382.207;
  - c. Alcohol use following an accident pursuant to 49 CFR §382.209
  - d. Drug use pursuant to 49 CFR §382.213;
- 5) A SAP's report of the successful completion of the return-to-duty process;
- 6) A negative return-to-duty test; and
- 7) An employer's report of completion of follow-up testing.

## **SECTION 15. TRAINING AND ASSISTANCE**

**Driver Education and Training (Sec. 382.601):** All drivers will be given information regarding the requirements of Part 382 and this policy by Human Resources or their supervisor.

**Training for Supervisors (Sec. 382.603):** The County shall ensure all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under § 382.307. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.

**Referral, Evaluation, and Treatment (Sec. 382.605):** A list of substance abuse professionals will be provided to all drivers who fail an alcohol test or test positive for drugs.

All cost associated with referral, evaluation, and treatment is the sole responsibility of the driver/employee.

**Employee Assistance Program (EAP):** The County has in place a formal EAP to assist employees with addressing serious personal or work related problems at any time. The County's EAP provides confidential, cost-free, short-term counseling to employees and their families. Employees who have an alcohol or drug abuse problem are encouraged to seek assistance before a problem affects their employment status. Employee Assistance Programs are available through Sand Creek Group Ltd. at 1-800-550-6248 or [www.sandcreekeap.com](http://www.sandcreekeap.com).

## **SECTION 16. DESIGNATED EMPLOYER REPRESENTATIVE (DER)**

The DER will coordinate the implementation, direction, and administration of the alcohol and drug testing policy for the employer. The DER is the individual(s) employed by the employer who are identified by the employer as able to receive communications and test results from service agent and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation process. Employee questions concerning this policy should be directed to the DER.

The County's Designated Employer Representative (DER):

**APPENDIX A  
TO  
CDL DRUG AND ALCOHOL POLICY**

**Employee or Applicant Acknowledgement of Receipt of Employer Policy**

I, \_\_\_\_\_, acknowledge that I have received a copy of the Hubbard County Commercial Driver's License Drug and Alcohol Policy. I have read, understand and agree that I will abide by the Employer policies. I also understand that the Employer has the right to modify this policy as changes in regulation, law or as the Employer otherwise determines is necessary.

**EMPLOYEE:**

I understand that violation of the DOT regulations and/or Employer policies would be an act of misconduct and/or gross misconduct, and failure to comply is grounds for disciplinary action, up to and including termination.

I further acknowledge that I have voluntarily signed this document below and that my signature is evidence of my agreement to and acceptance of these terms and conditions of my employment.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

**APPLICANT:**

I understand my conditional job offer will be withdrawn if I refuse to test or test positive for a controlled substance.

I further acknowledge that I have voluntarily signed this document below and that my signature is evidence of my agreement to and acceptance of these terms and conditions of my pre-employment testing.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

**APPENDIX B**

**TO  
CDL DRUG AND ALCOHOL POLICY**

**Driver Consent for:  
Limited Queries of the Federal Motor Carrier Safety Administration (FMCSA)  
Drug and Alcohol Clearinghouse**

I, \_\_\_\_\_, provide consent to Hubbard County to conduct limited queries of the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) to determine whether drug or alcohol violation information about me exist in the Clearinghouse.

I understand that if a limited query conducted by Hubbard County indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to Hubbard County without first obtaining additional specific consent from me.

I further understand that if I refused to provide consent for Hubbard County to conduct a limited query of the Clearinghouse, Hubbard County must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA's drug and alcohol program regulations.

This consent will remain in effect through the duration of my employment with Hubbard County and authorizes Hubbard County to conduct limited queries as often as needed, but at least once a year, to comply with FMCSA requirements.

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

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

\_\_\_\_\_  
Date

**SECTION 22**

**APPENDIX C – DRUG AND ALCOHOL POLICY  
FEDERAL TRANSIT ADMINISTRATION (FTA)**

**FEDERAL TRANSIT ADMINISTRATION (FTA)**

**DRUG AND ALCOHOL  
PROGRAM POLICY**

**FOR**

**HUBBARD COUNTY  
HEARTLAND EXPRESS**

## FTA DRUG AND ALCOHOL TESTING PROGRAM

### TABLE OF CONTENTS

1. PURPOSE .....	3
2. APPLICABILITY.....	3
3. DEFINITIONS.....	3
4. EDUCATION AND TRAINING.....	6
5. PROHIBITED SUBSTANCES.....	6
6. PROHIBITED CONDUCT.....	7
7. DRUG TESTING PROCEDURES.....	8
8. ALCOHOL TESTING PROCEDURES.....	9
9. PRE-EMPLOYMENT TESTING.....	10
10. REASONABLE SUSPICION TESTING.....	11
11. POST-ACCIDENT TESTING.....	11
12. RANDOM TESTING.....	12
13. RETURN-TO-DUTY TESTING.....	13
14. FOLLOW-UP TESTING.....	13
15. RESULT OF A NEGATIVE DILUTE DRUG TEST.....	14
16. BEHAVIOR THAT CONSTITUTES A TEST REFUSAL.....	15
17. RESULT OF POSITIVE DRUG OR ALCOHOL TESTING.....	16
18. DISCIPLINARY ACTION.....	16
19. GRIEVANCE AND APPEAL.....	16
20. INFORMATION DISCLOSURE.....	17
21. SAFETY-SENSITIVE POSITIONS.....	18
22. POLICY MODIFICATION.....	18
23. CONTACT INFORMATION.....	18

## 1. PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect employees, passengers, and the public from the risks posed by the misuse of alcohol and use of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing drug and alcohol testing programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has published Title 49 Code of Federal Regulations (CFR) Part 655, that mandates urine drug testing and breath alcohol testing for employees that perform a safety-sensitive function and prohibits performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also published Title 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655. Any covered employee who refuses to comply with a request for testing shall be removed from duty and referred for evaluation by a Substance Abuse Professional (SAP) in accordance with Part 40, as amended.

## 2. APPLICABILITY

This policy applies to all covered employees (full-time or part-time) of Hubbard County (Employer) Heartland Express while performing any safety-sensitive functions.

A drug test can be performed any time a covered employee is on duty. An alcohol test can be performed just before, during, or just after the performance of a safety-sensitive job function.

## 3. DEFINITIONS

*Accident.* An occurrence associated with the operation of a vehicle, if as a result:

- ◆ An individual dies;
- ◆ An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- ◆ One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle.

*Adulterated specimen.* A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

*Alcohol.* The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, or medication.

*Alcohol Concentration (BAC).* Expressed in terms of grams of alcohol per 210 liters of breath as measured by a breath-testing device.

*Canceled Test.* A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be canceled. A canceled test is neither positive nor negative.

*Commercial Driver's License (CDL).* Vehicles with sixteen or more passengers (including the driver), and vehicles with a Gross Vehicle Weight of more than 26,000 pounds, are considered a commercial motor vehicle, which requires the driver to have a commercial driver's license to operate that vehicle.

*Covered Employee.* An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function.

*Designated Employer Representative (DER).* An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Part 40, as amended. Service Agents cannot act as DERs.

*Department of Transportation (DOT, The Department, DOT Agency).* These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of this part, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes only since the USCG regulation does not incorporate Part 40 for its alcohol testing program. These terms include any designee of a DOT agency.

*Dilute specimen.* A specimen with creatinine and specific gravity values that are lower than expected for human urine.

*Disabling damage.* Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs.

- Disabling damage includes damage to vehicles that could have been operated, but would have been further damaged if so operated.
- It does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even

if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that make them inoperative.

*Evidential Breath Testing Device (EBT).* A device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

*Medical Review Officer (MRO).* A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

*Negative test result.* A verified presence of the identified drug or its metabolite below the minimum levels or absence of same as specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02 BAC is a negative test result.

*Non-negative drug test result.* A test result found to be adulterated, substitute, invalid, or positive for drug metabolites. Non-negative results are considered a positive test or refusal to test if MRO cannot determine legitimate medical explanation.

*Performing a safety-sensitive function.* A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

*Positive test result.* A verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04 BAC or greater.

*Revenue Service Vehicles.* All transit vehicles that are used for passenger transportation service or that require a CDL to operate. Includes all ancillary vehicles used in support of the transit system.

*Safety-sensitive functions* means any of the following duties, when performed by employees of recipients, sub-recipients, operators, or contractors:

- Operation of a revenue service vehicle, including when not in revenue service
- Operation of a non-revenue service vehicle when required to be operated by a holder of a Commercial Driver's License (CDL)
- Controlling the movement of a revenue service vehicle

- Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used on revenue service
- Carrying a firearm for security purposes

*Substance Abuse Professional (SAP).* A licensed physician (medical doctor or doctor of osteopathy) or state licensed or certified family and marriage therapist, psychologist, social worker, employee assistance professional, or addiction counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

*Substituted specimen.* A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

*Verified negative drug test.* A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (DHHS).

*Verified positive drug test.* A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40, as amended.

*Validity testing.* The evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants of foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

#### **4. EDUCATION AND TRAINING**

Every covered employee will receive a copy of this policy and will have access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel or company officials who are in a position to determine covered employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable prohibited drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

## 5. PROHIBITED SUBSTANCES

Prohibited substances addressed by this policy include the following.

- A. The illegal use of Controlled Substances is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Food and Drug Administration. Prohibited use includes use of any prohibited drug, misuse of legally prescribed drugs, and the use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which can cause drug or drug metabolites to be present in the body above the minimum thresholds, is a violation of this policy.

Federal Transit Administration regulations (49 CFR Part 655) require that all covered employees be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy. Illegal use of these drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- B. Prescription and Over-the-Counter Medications (Rx/OTC): The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. The employee is responsible to inform their supervisor of any prescription medication use prior to performing a safety-sensitive function which may have an effect on their driving ability. The employee may be required to present written evidence from a healthcare professional which describes the effects such medications may have on the employee's ability to perform safety-sensitive functions. The County reserves the right to seek additional opinions from qualified medical personnel concerning the potential effects of the prescribed medication on an employee's ability to perform safety-sensitive functions, and to prohibit an employee from performing safety-sensitive functions while they are taking prescription medications. Any such prohibition will be without prejudice and the employee will be allowed to return to duty upon ceasing use of the medication or when the County determines safety-sensitive duties will not be affected upon review of sufficient information provided by qualified medical personnel.

Effective January 1, 2018, a MRO may review the use of Rx/OTC medications that may create a "significant safety risk" and may deem the employee to be "medically unqualified." In such cases, the MRO must provide the employee up to five (5) business days, after reporting a verified negative result, to facilitate a discussion with the prescribing physician in order to determine if the medication can be changed to one that does not make the employee medically unqualified, or that does not pose a significant safety risk, before reporting the significant safety concern to the employer.

- C. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. An alcohol test can be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions.

## **6. PROHIBITED CONDUCT**

- A. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- B. Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report to duty.
- C. The employer shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
- D. Each covered employee is prohibited from the performance of safety-sensitive functions while having a breath alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
- E. No covered employee shall consume alcohol for eight (8) hours following an involvement in an accident or until they submit to the post-accident drug and alcohol tests, whichever occurs first.
- F. No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

## **7. DRUG TESTING PROCEDURES**

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedures, and the validity of the test result.

The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine

specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Federal Drug Testing Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified laboratory.

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. The employer is responsible that the split specimen test will be conducted in a timely manner (49 CFR Part 40.173, as amended).

#### PAYMENT OF SPLIT SPECIMEN TESTING COSTS

The employer will ensure testing is conducted as required and the results released appropriately (49 CFR Part 40.173, as amended) and per Policy (COST OF REQUIRED TESTING).

#### COST OF REQUIRED TESTING

The County will pay for the cost of pre-employment, post-accident, random, and reasonable suspicion controlled substance and alcohol testing requested or required of all job applicants and employees. The employee must pay for the cost of all requested confirmatory tests, split specimen, return-to-duty, and follow-up testing.

#### OBSERVED COLLECTIONS

Consistent with 49 CFR Part 40, as amended, observed collections are required in the following circumstances:

- A. Anytime the laboratory reports to the MRO that a specimen is invalid and the MRO reports that there was not an adequate medical explanation for the result;
- B. Anytime that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- C. Anytime the collector observes materials brought to the collection site or the covered employee's conduct clearly indicates an attempt to tamper with a specimen;
- D. Anytime the temperature on the original specimen was out of the accepted temperature range of 90°F – 100°F,
- E. Anytime the original specimen appeared to have been tampered with;
- F. Anytime the specimen is negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reports the

specimen as negative-dilute and requires a second collection under direct observation (see §40.197(b)(1)); or

#### G. All Return-To-Duty and Follow-up Tests

The covered employee who is being observed will be required to raise their shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collector, by turning around that they do not have a prosthetic device.

### 8. ALCOHOL TESTING PROCEDURES

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing Device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device, which is also approved by NHTSA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT printout, along with Federal Alcohol Testing Form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee.

A covered employee who has a confirmed breath alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The employee will be immediately removed from safety-sensitive duties and will be referred to a SAP for evaluation.

Any covered employee who refuses to test for drugs or alcohol, as required, shall be removed from performing safety-sensitive duties and referred to a SAP for evaluation. Employee will be considered insubordinate which will result in disciplinary action, up to and including immediate termination from employment.

A test result for a covered employee who has a confirmed breath alcohol concentration of 0.02 or greater, but less than 0.04 is not considered positive, however the employee shall still be removed from performing safety-sensitive duties for at least eight (8) hours, unless a retest results in the employee's alcohol concentration of less than 0.02.

A breath alcohol concentration of less than 0.02 will be considered a negative test.

### 9. PRE-EMPLOYMENT TESTING

All applicants for covered safety-sensitive positions shall undergo urine drug testing prior to hire or transfer into a covered position that requires the performance of a safety-sensitive function.

- A. All offers of employment of covered positions shall be extended conditional upon the applicant passing a drug test. An applicant shall not be hired into a covered position unless the applicant takes a drug test with a verified negative result.
- B. A non-covered employee shall not be placed, transferred or promoted into a covered position until the employee takes a drug test with a verified negative result.
- C. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a Substance Abuse Professional.
- D. When an employee, being placed, transferred, or promoted from a non-covered position to a covered position, submits to a drug test with a verified positive result, the transfer/promotion offer will be rescinded, the employee will be referred to a Substance Abuse Professional, and the employee shall be subject to disciplinary action.
- E. If a pre-employment/pre-transfer test is cancelled, the applicant will be required to take another pre-employment drug test with a verified negative result.
- F. In instances where a covered employee is on extended leave for a period of ninety (90) consecutive calendar days or more and is taken out of the random testing pool, the employee will be required to take a pre-employment drug test under 49 CFR Part 655.41 and have a verified negative test result prior to performing a safety-sensitive job function.
- G. Applicants are required to report previous DOT-regulated employment, in accordance with 49 CFR Part 40, as amended. Failure to do so will result in the employment offer in a covered position being rescinded.
- H. All applicants that have had a prior DOT positive drug test result, a DOT breath alcohol test result with a concentration 0.04 or greater, or have refused a previous DOT drug or alcohol test request must provide the employer proof of having successfully completed a referral, evaluation, and treatment administered under DOT regulations.

## **10. REASONABLE SUSPICION TESTING**

All covered employees shall be subject to a drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

A covered employee who refuses an instruction to submit to a drug and/or alcohol test will be removed from performing safety-sensitive duties and referred to a Substance Abuse Professional (SAP) in accordance with Part 40, as amended. Employee will be considered insubordinate which will result in disciplinary action, up to and including immediate termination from employment.

A written record of the observations which led to a drug and/or alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor or other company official trained in making these observations. This written record shall be maintained by the Designated Employer Representative (DER).

## **11. POST-ACCIDENT TESTING**

All covered employees will be required to undergo urine and breath testing if they are involved in an accident associated with the operation of a vehicle that results in a fatality regardless of whether or not the vehicle is in revenue service. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance cannot be completely discounted as a contributing factor to the accident. In addition, post-accident testing will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility or one or more vehicles incurs disabling damage; unless the operator's performance can be completely discounted as a contributing factor to the accident. The accident definition may include some incidents where an individual is injured even though there is no vehicle collision.

- A. As soon as practicable following an accident, as defined in 49 CFR Part 655, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for testing. The supervisor will make the determination using the best information available at the time of the accident.
- B. The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours after the accident for alcohol, and within 32 hours for drugs. If a drug or alcohol test is not performed within two (2) hours of the accident, the supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within eight (8) hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

- C. Any covered employee involved in an accident must refrain from alcohol use for at least eight (8) hours following the accident, or until they undergo a post-accident alcohol test.
- D. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of their location if they leave the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
- E. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
- F. In the rare event that the employer is unable to perform an FTA drug and/or alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), the transit system may use drug and alcohol post-accident test results administered by state and local law enforcement officials in lieu of the FTA test. The state and local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with state and local law.

## **12. RANDOM TESTING**

All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees.

- A. The number of covered employees randomly selected for drug and alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations identified in 49 CFR Part 655.45(b).
- B. Each covered employee in the pool shall have an equal chance of selection each time the selections are made.
- C. The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year during all days of the week and hours of the day that safety-sensitive functions are performed.
- D. Random drug tests can be conducted at any time a covered employee is on duty. Random alcohol tests can be performed just before, during, or just after the performance of a safety-sensitive function.

- E. Employees are required to proceed immediately to the collection site upon notification to report for a random drug and/or alcohol test.

### **13. RETURN-TO-DUTY TESTING**

The County reserves the right to impose discipline against employees who violate applicable FTA or DOT rules or this policy, subject to applicable personnel policy and collective bargaining agreements. Except as otherwise required by law, the County is not obligated to reinstate or requalify such employees for a first positive test result. Should the County consider reinstatement of a covered employee the employee will comply with all mandated Return-to-Duty testing as follows:

All covered employees who previously tested positive for a prohibited drug on a DOT drug test or had a breath alcohol test result 0.04 or greater, or refused a test, must test negative for drugs, alcohol (below 0.02 BAC), or both and be evaluated and released by the SAP in accordance with 49 CFR Part 40, Subpart O before returning to perform a safety-sensitive function. For an initial positive drug test, a return-to-duty drug test is required and an alcohol test is allowed. For an initial breath alcohol test 0.04 or greater, a return-to-duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. Before scheduling the return-to-duty test, the SAP must assess the employee and determine if the required treatment has been successfully completed.

The employee is responsible for paying for all costs associated with the return-to-duty test. The controlled substance test will be conducted under direct observation.

### **14. FOLLOW-UP TESTING**

The County reserves the right to impose discipline against employees who violate applicable FTA or DOT rules or this policy, subject to applicable personnel policy and collective bargaining agreements. Except as otherwise required by law, the County is not obligated to reinstate or requalify such employees for a first positive test result. Should the County consider reinstatement of a covered employee the employee will comply with all mandated Follow-up testing as follows:

Covered employees will be required to undergo frequent, unannounced drug and/or alcohol testing following their return to performing a safety-sensitive function. The follow-up testing will be performed for a period of one to five years with a minimum of six (6) tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

Follow-up alcohol testing will be conducted only when the employee is performing safety-sensitive functions, or immediately prior to or after performing safety-sensitive functions.

#### **15. RESULT OF A NEGATIVE DILUTE DRUG TEST**

When a negative dilute drug test result is reported to the Medical Review Officer with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, the covered employee will be required to undergo another test. The MRO will direct the test to be conducted under direct observation. Should the second test result in a negative dilute result, the test will be considered negative and no additional testing will be required unless directed to do so by the MRO.

A drug test with the result of a negative dilute (dilute level greater than 5 mg/dL) will be re-tested. Collection will be unobserved. The result of the second test will be the test of record. No additional testing will be conducted unless directed to do so by the MRO.

## 16. BEHAVIOR THAT CONSTITUTES A TEST REFUSAL

As noted below, refusal to submit to a drug or alcohol test shall be considered a positive test result

Behavior that Constitutes a Test Refusal	Drug Test	Alcohol Test
1) Failure to appear for a test in the time frame specified by the employer.**	X	X
2) Failure to remain at the testing site until the testing process is complete.**	X	X
3) Failure to provide a urine specimen, saliva, or breath specimen, as applicable.	X	X
4) Failure to permit the observation or monitoring of specimen donation when so required.	X	X
5) Failure to provide sufficient amount of urine or volume of breath without a valid medical explanation for the failure.	X	X
6) Failure to take an additional test when directed by the employer or collector.	X	X
7) Failure to undergo a medical examination when directed to do so by the MRO or employer.	X	X
8) Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).	X	X
9) For an observed collection, failure to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.	X	
10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.	X	
11) Admit to the collector or MRO that you adulterated or substituted the specimen.	X	
12) When the MRO reports a verified adulterated or substituted test result.	X	
13) Failure to sign the certification on Step 2 of the Alcohol Test Form.		X
14) Failure to refrain from the use of alcohol for eight (8) hours following an accident without first having submitted to post-accident drug and alcohol testing.		X
15) Failure to remain readily available for post-accident testing, including notifying a supervisor of their location if they leave the scene of the accident prior to submission to such tests.	X	X

**\*\*For pre-employment tests only, failure to appear, aborting the collection before the test commences, or failure to remain at site prior to commencement of test is NOT a test refusal.**

## **17. RESULT OF POSITIVE DRUG OR ALCOHOL TEST**

Any covered employee who tests positive for the presence of prohibited drugs, tests for alcohol with a BAC at or above .04, or refuses to submit to testing, will be immediately removed from safety sensitive duties and referred for evaluation by a Substance Abuse Professional (SAP) in accordance with Part 40, Subpart O.

A SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional, a state-licensed or certified marriage and family therapist, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP.

- A. As soon as practicable after receiving notice of a verified positive drug test result, a confirmed alcohol test result at or above 0.04, or a test refusal, the Designated Employer Representative will contact the employee's supervisor to have the employee cease performing any safety-sensitive function.
- B. The employee shall be referred to a SAP for an assessment. In accordance with 49 CFR Part 40, Subpart O, the SAP will evaluate the employee to determine what assistance is necessary to resolve problems associated with prohibited drug use or alcohol misuse.
- C. Refusal to submit to a drug and/or alcohol test shall be considered a positive test result.

## **18. DISCIPLINARY ACTION**

Any employee found to be in violation of this policy is subject to disciplinary actions, up to and including termination of employment. Nothing in this policy limits or restricts the right of the employer to discipline or discharge an employee for conduct which violates the employer's policies or rules. Except as otherwise required by law, the County is not obligated to reinstate or requalify such employees for a first positive test result.

## **19. GRIEVANCE AND APPEAL**

The consequences specified by 49 CFR Part 40, §40.149 paragraph (a) (5) and paragraph (c) for a positive test or test refusal are not subject to arbitration.

## 20. INFORMATION DISCLOSURE

Drug and alcohol testing records shall be maintained by the Designated Employer Representative (DER) and, except as provided below or by law, the results of any drug and/or alcohol test shall not be disclosed without express written consent of the tested covered employee.

- A. The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP referrals and follow-up testing plans.
- B. Records of a verified positive drug and/or alcohol test result shall be released to the Drug and Alcohol Program manager, Department supervisor, and Human Resources Director or designee only on a 'need to know' basis.
- C. Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- D. Records of an employee's drug and/or alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug or alcohol test. The records will be released to the decision maker in the preceding. The information will only be released with binding stipulation from the decision maker will only make it available to parties in the preceding.
- E. Records will be released to the National Transportation Safety Board during an accident investigation.
- F. Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- G. Records will be released if requested by a Federal, state or local safety agency with regulatory authority over the employer or the employee.
- H. If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of CFR Part 40, as amended, necessary legal steps to contest the issuance of the order will be taken.
- I. In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

## 21. SAFETY-SENSITIVE POSITIONS

Listed below are the job titles of those that perform a safety-sensitive function, 49 CFR Part 655.15:

1. Transit Driver

## 22. POLICY MODIFICATION

This policy may be modified if changes in regulation or law occurs.

## 23. CONTACT INFORMATION

FTA regulations require that a single contact person be identified to answer questions for this policy. Any questions regarding this policy or any other aspect of the substance abuse program should be addressed to the following representatives:

### **Designated Employer Representative (DER): Drug and Alcohol Program Manager (DAPM)**

Name:	Designee
Title:	Human Resources Director
Street Address:	301 Court Ave
City/State/Zip Code	Park Rapids, MN
Telephone number:	218-732-2324
Fax # or Email:	

### **EMPLOYEE ASSISTANCE PROGRAM**

Company Name:	Sand Creek Group Ltd.
Contact Name:	
Street Address:	610 Main St N #200
City/State/Zip Code	Stillwater, MN 55082
Telephone Number:	800-550-6248
Fax# or Email:	sandcreekeap.com

## **SECTION 23.00: INCLEMENT WEATHER POLICY**

**A. POLICY STATEMENT:** It is the policy of Hubbard County that all County facilities remain open during normal business hours. In the event of inclement weather, the County Board Chairman has the authorization per Minnesota Statute §373.052, to close all or part of Hubbard County's facilities.

**B. NOTIFICATION:** In the event of a county facility closure prior to the beginning of a regular work day, the closure will be announced over the local radio stations, KDKK/97.5 FM and KPRM/870 AM prior to 7:15 a.m.

1. In the event of a county facility closure during a regular work day, the County Administrator and/or the County Auditor/Treasurer will make the Inclement Weather Policy announcement upon direction of the County Board Chairman.

**C. COMPENSATION:** In the event of a county facility closure prior to the beginning of a regular work day all employees will be paid regular time for hours missed due to closure.

1. In the event of a county facility closure during a regular work day any employee currently at work will be paid regular time for hours missed due to closure.
2. In the event an employee chooses to remain at home due to inclement weather and the county facilities remain open, the employee will be required to use paid time off (union employee benefits are set forth in the applicable collective bargaining agreement) to remain in pay status.
3. If an employee has chosen to stay home due to inclement weather and during the course of the day the county facilities are closed, the employee will be paid regular time for those hours missed after the county facilities have closed.
4. Due to inclement weather conditions, employees may be advised to remain on the premises after working hours due to safety concerns. Such action would not entitle employees to overtime or compensatory compensation.

## **SECTION 24.00 COLLECTIVE BARGAINING PRINCIPLES**

This section eliminated effective February 4, 2025.

**SECTION 25.00: SAFETY EYEGLOSS POLICY**

- A. POLICY STATEMENT:** It is the policy of Hubbard County to ensure the safety of its employees by providing ANSI Z-87 and OSHA approved safety eyeglasses for those in positions where they are required. Hubbard County will pay up to \$50.00 every two years towards the purchase of ANSI Z-87 and OSHA approved prescription safety eyeglasses.
- B. ELIGIBILITY:** To be eligible, the employee must be in a regular position in a job class listed below and require prescription lenses. Temporary or on-call employees are not eligible.

**1. Eligible Job Classes:**

Maintenance Superintendent	NR Manager	Engineer
Building & Grounds Maint. Mgr.	LIST Deputy County Surveyor	Signman
NR Mgr./Parks Supervisor/Ag Insp	Land Commissioner	Survey Tech I
Solid Waste Officer	Maintenance Technician	
Transfer Station Certified Attendant	Engineering Specialist	Custodian
Assistant Shop Foreman	Assistant Engineer	Shop Foreman
Engineer Aide I, II & III	Maintenance II	
or other job class as required by OSHA		

- 2. If an employee's safety eyeglasses are damaged or destroyed during work, the county will pay the cost of repair or to replace with a comparable package.

**C. PROCEDURE**

- 1. The eligible employee will make an appointment with either Bruhn Optical, Park Rapids or Park Rapids Eye Clinic and indicate participation in Hubbard Counties safety eyeglass program. The employee is responsible to pay for the cost of the eye exam.
- 2. The employee or clinic will present the claims for their safety glasses to their Department manager. The Department manager will process appropriate payment through the Auditor/Treasurer's office.
- 3. Department managers will be responsible to maintain records of the safety eyeglass program utilization for employees in their department.
- 4. If the employee chooses to select a safety eyeglass package which costs more than the amount the county will cover, the employee is responsible to pay the difference.

## **SECTION 26.00 FIREARMS POLICY**

**A. POLICY STATEMENT:** It is the policy of Hubbard County that employees using county vehicles, shall not transport, carry or use firearms during normal work hours unless required to perform the employee's normal job functions.

1. No firearms shall be allowed within county owned structures.

**B. DISCIPLINARY PROCEDURES:** Any employee found not to be in compliance with this policy shall be subject to disciplinary action up to and including dismissal.

## **SECTION 27.00 ELECTRONIC MAIL INTERNET POLICY**

### **PURPOSE**

As computers used by employees are electronically connected, internal policies, standards and guidelines for use become essential. The purpose of this policy is to provide clear guidelines to all County employees regarding the sending and receiving of electronic mail (e-mail), and the accessing and downloading of Internet files along with acceptable use of County owned equipment.

### **SCOPE**

Hubbard County has network technology and infrastructure which provides for County electronic data communications and access to network resources. As such, these tools are County-owned and publicly funded. The computer systems and the software and information contained on or conveyed through them, are County property. Access, and use of these resources, shall be governed by this Acceptable Use Policy established by the Technology Committee. The Technology Committee will have the responsibility to review and recommend updates to this policy to the County Board for approval.

### **HUBBARD COUNTY ELECTRONIC MAIL SYSTEM**

The Hubbard County Electronic Mail System is designed to facilitate County business communication between County employees and other business partners for messages, memoranda, and the distribution of various electronic documentation and files.

All e-mail messages and attachments that are sent, received, or accessed by means of any County computer system, including any e-mail system, are County property and subject to federal and state laws, such as the Minnesota Government Data Practices Act (MS Chapter 13), which govern the collection, creation, storage, maintenance, dissemination, and access to data created or maintained by the County. All employees must exercise care in addressing messages to ensure they are sent to the proper addressee.

Transmission of confidential data should be limited. However; when necessary, it must be done using the County's encryption solution as not all of our e-mail messages are automatically encrypted. Encryption is vitally important to protect the data covered under HIPPA or the Data Privacy Act, but is unnecessary for the majority of our messages. It is up to the user to determine whether the information contained in his/her e-mail message should be encrypted or not.

Employees should consider all e-mail as public information which may be stored indefinitely anywhere and could potentially be discoverable in litigation. E-mail messages must never be considered confidential and all messages have the potential to be viewed by anyone. Employees are advised that an electronic form of e-mail always exists and can be traced.

## **INTERNET ACCESS, INTERNET E-MAIL AND OTHER NETWORK SYSTEMS**

The Internet is a collection of computers, computer networks, communication protocols, information systems, and personal and organizational information retrieval systems connected together in a global community. As such, the Internet provides the County with significant access and distribution of information to individuals outside of Hubbard County.

Access to computer systems and networks owned or operated by Hubbard County impose certain responsibilities and obligations on County employees. Inappropriate use will result in disciplinary action. Department managers will deem what is inappropriate use.

In general, acceptable use of Internet resources is always ethical, reflects honesty, and shows restraint in the consumption of shared resources. County employees shall demonstrate respect for intellectual property, ownership of information, system security mechanisms, and their co-workers' right to privacy and freedom from intimidation, harassment, and unwarranted annoyance.

## **PERSONAL USE**

The Hubbard County Electronic Mail System and Internet were designed to be utilized for the purpose of conducting County related business.

Limited personal usage of the County's computer, Internet and e-mail systems may be allowed if the followings guidelines are adhered to:

- a. Is done on the employee's personal time, not County time;
- b. Does not interfere with business usage;
- c. Does not interfere with the employee's job activities;
- d. Is not for political or religious purposes, personal financial profit, and does not result in excessive consumption of County resources;
- e. Does not result in incremental expense for the County;
- f. Does not disrupt network users, services or equipment. Disruptions include, but are not limited to, propagation of computer viruses;
- g. Does not make illegal copies of copyrighted software or other mediums;
- h. Does not contain or imply threatening, obscene or abusive content.

Limited personal use of the County computer systems, including Internet and e-mail, is a privilege. Employees who use any County computer system for personal use have no expectation of privacy in any information that is stored, processed, or transferred by any of the County's computer systems, including but not limited to, e-mail and information accessed on the Internet.

Excessive personal usage will be determined by the employee's department manager and/or supervisor and may subject the employee to disciplinary actions.

## **MONITORING**

Hubbard County reserves the right to use any means available to access, inspect, review, and monitor its computer systems and computer systems data including, but not limited to, computer files, e-mails and Internet access information at any time and without further notice.

## **PASSWORDS/SECURITY**

Although individual employee passwords are confidential, Hubbard County reserves the right to override passwords and codes at any time. If individual department managers, or their designee, request their employee's password(s), then the password(s) must be disclosed. When passwords are shared with the department manager, the department manager assumes responsibility for their privacy and setting up procedure for notification, revisions, and safeguarding any password updating.

## **SOCIAL MEDIA**

Social media should not interfere with employees' responsibilities at Hubbard County. Business use of social media may be allowed at the discretion of the department manager. Personal use of social media networks is prohibited and could result in disciplinary action.

## **SECTION 28.00: LOBBYING POLICY**

1. If you choose to lobby on a policy issue that would affect the operations of the county, you are expected to confine your efforts to the county's current legislative agenda.
2. Your participation should be immediately communicated to the county's legislative coordinator and the county administrator.
3. If the issue has not been addressed by the county's legislative agenda, a county board position should be sought prior to any lobbying effort on your part.
4. If you lobby in a professional capacity, either at the request of a legislator or a professional association, you must note in your testimony that you speak as a professional, not as a county representative. Then any testimony you give or any contacts that you make should be communicated to the legislative coordinator or county administrator.
5. The legislative coordinator, county administrator, or designated personnel will organize the county's efforts. Do not presume that you speak for the county board, unless you have perused their positions or have checked with them on specific issues.
6. When the county is paying the dues for membership in a professional association, employees shall not take a position with that professional association that is inconsistent with county board policy.
7. All employees and appointed representatives shall notify the county board of a pending appointment to an advisor board or task force initiated outside the scope of county board authority.

Your employment or appointment, by a public entity, has cast a responsibility upon you, you speak for the people, all the people.

## **SECTION 29.00: NURSING MOTHERS**

This section eliminated effective February 4, 2025. See Section 16.06 J.

**SECTION 30.00: IDENTIFICATION BADGE**

This section eliminated effective July 16, 2024.

## **SECTION 31.00: WORKPLACE EMERGENCY PLAN**

This section eliminated effective 11/18/2025

**ADDENDUM I: RELATIONSHIPS & DEGREES OF KINDRED ACCORDING TO THE CIVIL LAW**

This section eliminated effective 07/16/2024.

**ADDENDUM II: TENNESSEN WARNING FOR EMPLOYEES**

This section eliminated effective July 16, 2024.

### **ADDENDUM III: AMERICAN SOCIETY FOR PUBLIC ADMINISTRATION CODE OF ETHICS & IMPLEMENTATION GUIDELINES**

- **Demonstrate the highest standards of personal integrity; truthfulness, honesty and fortitude in all our public activities in order to inspire public confidence and trust in public institutions.**

Perceptions of others are critical to the reputation of an individual or a public agency. Nothing is more important to public administrators than the public's opinion about their honesty, truthfulness, and personal integrity. It overshadows competence as the premier value sought by citizens in their public officials and employees. Any individual or collective compromise with respect to these character traits can damage the ability of an agency to perform its tasks or accomplish its mission. The reputation of the administrator may be tarnished. Effectiveness may be impaired. A career or careers may be destroyed. The best insurance against loss of public confidence is adherence to the highest standards of honesty, truthfulness and fortitude.

Public administrators are obliged to develop civic virtues because of the public responsibilities they have sought and obtained. Respect for the truth, for fairly dealing with others, for sensitivity to rights and responsibilities of citizens, and for the public good must be generated and carefully nurtured and matured.

If you are responsible for the performance of others, share with them the reasons for the importance of integrity. Hold them to high ethical standards and teach them the moral as well as the financial responsibility for public funds under their care.

If you are responsible only for your own performance, do not compromise your honesty and integrity for advancement, honors, or personal gain. Be discreet, respectful of proper authority and your appointed or elected superiors, sensitive to the expectations and the values of the public you serve. Practice the golden rule: doing to and for others what you would have done to and for you in similar circumstances. Be modest about your talents, letting your work speak for you. Be generous in your praise of the good work of your fellow workers. Guard the public purse as if it were your own.

Whether you are an official or an employee, by your own example give testimony to your regard for the rights of others. Acknowledge their legitimate responsibilities, and don't trespass upon them. Concede gracefully, quickly, and publicly when you have erred. Be fair and sensitive to those who have not fared well in their dealings with your agency and its applications of the law, regulations or administrative procedures.

- **Serve in such a way that we do not realize undue personal gain from the performance of our official duties.**

The only gains you should seek from public employment are salaries, fringe benefits, respect and recognition for your work. Your personal gains may also include the pleasure of

doing a good job, helping the public and achieving your career goals. No elected or appointed public servant should borrow or accept gifts from staff of any corporation which buys services from or sells to, or is regulated by, his or her governmental agency. If your work brings you in frequent contact with contractors supplying the government, be sure you pay for your own expenses. Public property, funds and power should never be directed toward personal or political gain. Make it clear by your own actions that you will not tolerate any use of public funds to benefit yourself, your family or your friends.

➤ **Avoid any interest or activity which is in conflict with the conduct or our official duties.**

Public employees should not undertake any task which is in conflict or could be viewed as in conflict with job responsibilities.

This general statement addresses a fundamental principle that public employees are trustees for all the people. This means that the people have a right to expect public employees to act as surrogates for the entire people with fairness toward all the people and not a few or a limited group.

Actions or inactions which conflict with, injure or destroy this foundation of trust between the people and their surrogates must be avoided.

Ironically, experience indicates that conflict of interest and corruption often arise not from an external affront, but as a result of interaction between persons who know each other very well. To strengthen resistance to conflict of interest, public employees should avoid frequent social contact with persons who come under their regulation or persons who wish to sell products or services to their agency or institution.

Agencies with inspectional or investigative responsibilities have a special obligation to reduce vulnerability to conflict of interest. Periodic staff rotation may be helpful to these agencies.

Individuals holding a position recognized by law or regulation as an unclassified or political appointment (e.g. Cabinet level and Governor's appointment positions) have a special obligation to behave in ways which do not suggest that official acts are driven primarily or only by partisan political concerns.

Public employees should remember that despite whatever preventive steps they might take, situations which hold the possibility for conflict of interest will always emerge. Consequently, the awareness of the potentiality of conflict of interest is important. Public employees, particularly professors in public administration, have a serious obligation to periodically stimulate discussion on conflicts of interest within organizations, schools and professional associations.

- **Support, implement and promote merit employment and programs of affirmative action to assure equal employment opportunity by our recruitment, selection and advancement of qualified persons from all elements of society.**

Oppose any discrimination because of race, color, religion, sex, national origin, political affiliation, physical handicaps, age, or marital status, in all aspects of personnel policy. Likewise, a persons lifestyle should not be the occasion for discrimination if it bears no reasonable relation to his or her ability to perform required tasks.

Review employment and personnel operations and statistics to identify the impact of organizational practices on "protected groups." Performance standards should apply equally to all workers. In the event of cutbacks of staff, managers should employ fair criteria for selection of employees for separation and humane strategies for administering the program.

Any kind of sexual, racial or religious harassment should not be allowed. Appropriate channels should be provided for harassed persons to state their problems to objective officials. In the event of a proven offense, appropriate action should be taken.

- **Eliminate all forms of illegal discrimination, fraud and mismanagement of public funds, and support colleagues if they are in difficulty because of responsible efforts to correct such discrimination, fraud, mismanagement or abuse.**

If you are a supervisor, you should not only be alert that no illegal action issues from or is sponsored by your immediate office, you should inform your subordinates at regular intervals that you will tolerate no illegalities in their offices and discuss the reasons for the position with them. Public employees who have good reason to suspect illegal action in any public agency should seek assistance in how to channel information regarding the matter to appropriate authorities.

All public servants should support authorized investigative agencies, the General Accounting Office in the federal government, auditors in the state or large local governments, C.P.A. firms or federal or state auditors in many other cases. We should support the concept of independent auditors reporting to committees independent of management. Good fiscal and management controls and inspections are important protection for supervisors, staff and public interest.

In both government and business inadequate equipment, software, procedures, supervision and poor security controls made possible both intentional and unintentional misconduct. Managers have an ethical obligation to seek adequate equipment, software, procedures and controls to reduce the agency's vulnerability to misconduct. When an agency dispenses exemptions from regulations, or abatement of taxes or fees managers should assure periodic investigatory checks.

The "whistle blower" who appears to his/her immediate supervisors to be disloyal, may actually be loyal to the higher interests of the public. If so, the whistle blower deserves

support. Local, state and federal governments should establish effective dissent channels to which whistle blowers may report their concerns without fear of identification.

Supervisors should inform their staff that constructive criticism may be brought to them without reprisal or may be carried to an ombudsman or other designated official. As a last resort, public employees have a right to make public their criticism but it is the personal and professional responsibility of the critic to advance only well founded criticism.

- **Serve the public with respect, concern, courtesy and responsiveness, recognizing that service to the public is beyond service to oneself.**

Be sure your answers to questions on public policy are complete, understandable and true. Try to develop in your staff a goal of courteous conduct with citizens. Devise a simple system to ensure that your staff gives helpful and pleasant service to the public. Wherever possible, show citizens how to avoid mistakes in their relations with government.

Each citizen's question should be answered as thoughtfully and as fully as possible. If you or your staff do not know the answer to a question, an effort should be made to get an answer or to help the citizen make direct contact with the appropriate office.

Part of servicing the public responsively is to encourage citizen cooperation and to involve civic groups.

Administrators have an ethical responsibility to bring citizens into work with the government as far as practical, both to secure citizen support of government, and for the economics or increased effectiveness which will result.

Respect the right of the public (through the media) to know what is going on in your agency even though you know queries may be raised for partisan or other non-public purposes.

- **Strive for personal professional excellence and encourage the professional development of our associates and those seeking to enter the field of public administration.**

Staff members throughout their careers, should be encouraged to participate in professional activities and associations such as ASPA. They should also be reminded of the importance of doing a good job and their responsibility to improve the public service.

Administrators should make time to meet with students periodically and to provide a bridge between classroom studies and the realities of public jobs. Administrators should also lend their support to well planned internship programs.

- **Approach our organization and operational duties with a positive attitude and constructively support open communication, creativity, dedication and compassion.**

Americans expect government to be compassionate, well organized and operating within the law. Public employees should understand the purpose of their agency and the role they play in achieving that purpose. Dedication and creativity of staff members will flow from a sense of purpose.

ASPA members should strive to create a work environment which supports positive and constructive attitudes among workers at all levels. This open environment should permit employees to comment on work activities without fear of reprisal. In addition, managers can strengthen this open environment by establishing procedures ensuring thoughtful and objective review of employee concerns.

➤ **Respect and protect the privileged information to which we have access in the course of official duties.**

Much information in public offices is privileged for reasons of national security, or because of laws or ordinances. If you talk with colleagues about privileged matters, be sure they need the information and you enjoin them to secrecy. If the work is important enough to be classified, learn and follow the rules set by the security agency. Special care must be taken to secure access to confidential information stored on computers. Sometimes information needs to be withheld from the individual citizen or general public to prevent disturbances of the peace. It should be withheld only if there is a possibility of dangerous or illegal or unprofessional consequences of releasing information.

Where other governmental agencies have a legitimate public service need for information possessed by an agency, do all you can to cooperate, within the limits of statute law, administrative regulations and promises made to those who furnish the information.

➤ **Exercise whatever discretionary authority we have under law to promote the public interest.**

If your work involves discretionary decisions you should first secure policy guidelines from your supervisor. You should then make sure that all staff who "Need to Know" are informed of these policies and have an opportunity to discuss the means of putting them into effect.

There are occasions when a law is unenforceable or has become obsolete; in such cases you should recommend to your superior or to the legislative body that the law be modernized. If an obsolete law remains in effect the manager or highest official should determine if the law is or is not to be enforced, after consultation with the agency's legal advisor.

There are occasions where a lower level employee must be given considerable discretion. Try to see that such employees are adequately trained for their difficult tasks.

Tell yourself and your staff quite frequently that every decision creates a precedent, so the first decisions on a point should be ethically sound; this is the best protection for staff as well as for the public.

- **Accept as a personal duty the responsibility to keep up to date on emerging issues and to administer the public's business with professional competence, fairness, impartiality, efficiency and effectiveness.**

Administrators should attend professional meetings, read books and periodicals related to their field, and talk with specialists. The goal is to keep informed about the present and future issues and problems in their professional field and organization in order to take advantage of opportunities and avoid problems.

Serious mistakes in public administration have been made by people who did their jobs conscientiously but failed to look ahead for emerging problems and issues. A long list of washed out dams, fatal mine accidents, fires in poorly inspected buildings, inadequate computer systems or economic disasters are results of not looking ahead. ASPA members should be catalysts to stimulate discussion and reflection about improving efficiency and effectiveness of public services.

- **Respect, support, study and when necessary, work to improve Federal and State constitutions and other laws which define the relationships among public agencies, employees, clients and all citizens.**

Familiarize yourself with principles of American constitutional government. As a citizen work for legislation which is in the public interest.

Teach constitutional principles of equality and fairness.

Strive for clear division of functions between different levels of government, between different bureaus or departments and between government and its citizens. Cooperate as fully as possible with all agencies of government, especially those with overlapping responsibilities. Do not let parochial, agency or institutional loyalty drown out considerations of wider public policy.

**ADDENDUM IV: EMPLOYEE ASSISTANCE PROGRAM (EAP) POLICY**

This section eliminated see Section 16.07

**ADDENDUM V: HUBBARD COUNTY EXEMPT POSITIONS**

This section eliminated effective July 16, 2024.

**ADDENDUM VI: HUBBARD COUNTY REIMBURSEMENT SCHEDULE**

This section eliminated see Section 16.06.

**ADDENDUM VII: HUBBARD COUNTY CAFETERIA CONTRIBUTION**

This section eliminated see Section 16.01.

## **ADDENDUM VIII: SEVERANCE RESERVE ESTABLISHMENT**

**HISTORY:** Beginning January 1, 2012, Hubbard County implemented a Paid Time Off (PTO) benefit for all non-union employees hired by the county who qualified for accrued benefits.

Beginning August 1, 2012, Hubbard County provided all non-union employees hired prior to January 1, 2012, with a method of conversion to move from the benefits of Vacation, Sick and Personal Leave to PTO. The method of conversion included a Severance Reserve and an Extended Illness Bank (EIB) for those that qualified. The conversion method implemented was scheduled to sunset on December 1, 2013.

On June 4, 2013, the Hubbard County Board approved the mandatory transfer of all non-union employee benefits of Vacation, Sick and Personal Leave accruals that had not been transferred to PTO effective by the first pay date in 2014. All accrued vacation and personal leave were transferred to PTO with all sick accrued leave transferred to an Extended Illness Bank (EIB).

**SEVERANCE RESERVE VALUE:** The value of the Severance Reserve was determined for those employees with sick leave in excess of 240 hours, as follows:

- The Severance Reserve for employees with less than ten years of service at time of conversion qualified for 40% of the sick leave hours with a value to be determined by the employee's hourly wage at end of employment with the county.
- The Severance Reserve for those employees whose sick leave balance at time of conversion met or exceeded 1000 hours qualified for 50%, 60%, 70%, or 80% of the sick leave hours, determined by years of service with the county. The value of the Severance Reserve will be determined by the employee's hourly wage at end of employment with the county.
- Effective 04/16/13 the Severance Reserve for those employees having at least twenty-five (25) years of service, but less than the maximum 1000 hours at time of conversion shall receive 80% of their balance with a value to be determined by the employee's hourly wage at end of employment with the county. Exception: The value of the severance reserve for one employee that converted prior to 04/16/13 will be frozen at their rate of pay as noted on the conversion form completed and not at the end of employment wage authorized after 04/16/13.
- The Severance Reserve for those employees qualifying for 50%, 60% or 70% of their sick leave hours at time of conversion will be determined by the employee's hourly wage on December 31, 2013, when the conversion was implemented.

**EXTENDED ILLNESS BANK (EIB):** The remaining accrued sick hours for those employees that qualified for a Severance Reserve were deposited in an Extended Illness Bank (EIB). An EIB was created for those employees with less than 240 hours of accumulated sick leave, regardless of number of hours or length of time with the county.

The following Extended Illness Banks of record were established as outlined above on or before December 14, 2013. The following Severance Reserve balances were established as outlined above on or before December 14, 2013.

<b>Employee</b>	<b>Hours of Severance Reserve</b>	<b>Rate used to determine Severance Value</b>	<b>Severance Reserve Value to be determined (TBD) by wage rate at time of satisfactory resignation of employment or retirement</b>
Aslesen, Aaron	268.2		TBD
Buitenwerf, Eric	305.60		TBD
Carter, Donna	800		TBD

The value of the Severance Reserve shall be paid to the employee, by the county by 100% deposit to a Minnesota State Retirement System (MSRS) Health Care Savings Plan (HCSP).