



**DATE:** April 10, 2017

**TO:** Mayor Teresa Jacobs  
-AND-  
Board of County Commissioners

**FROM:** *J. Ricardo Daye*  
J. Ricardo Daye, Director, Human Resources Division

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**SUBJECT:** Consent Agenda – April 25, 2017  
Revisions to the Orange County Policy Manual

The Human Resources Division continually reviews the Orange County Policy Manual to determine areas needing revision. The most recent review has resulted in proposed changes to the following policies:

- Employment Types (101)
- Salary Administration - Regular Employee Pay Plan (201)
- Other Leave Types (308)
- Drug and Alcohol Use (409)
- Disciplinary Action (413)
- Definitions (600)

A summary of the proposed revisions, as well as the affected policies, are attached for your review.

**Action Requested:**

**Approval of revisions to the Orange County Policy Manual: Employment Types (101), Salary Administration - Regular Employee Pay Plan (201), Other Leave Types (308), Drug and Alcohol Use (409), Disciplinary Actions (413), and Definitions (600) with an effective date of April 25, 2017.**

c: Ajit Lalchandani, County Administrator  
Eric Gassman, Chief Accountability Officer

### Summary of Proposed Policy Revisions – Effective April 25, 2017

Policy	Current	Revised	Comments
101.3 Temporary Employment	Identifies four classifications of temporary employees. Casual, Casual (FRS), On-Call and Student Interns.  For student interns, provides for an average working hour total of 19-hours per week.	Student interns should normally work 25 hours per week and may not exceed 1,500 hours per fiscal year.	Revised language to place a limit on the maximum number of hours student interns may work in a fiscal year in an effort to ensure County compliance with the Affordable Care Act (ACA) - - as it pertains to the offer of medical benefits to employees who work an average of 1,600 or more hours in a plan year.
201.4 Annual Salary Increases	All employees meeting performance standards and employed as of September 30 <sup>th</sup> , are eligible for the annual salary increase which becomes effective the first full pay period following Oct 1 <sup>st</sup> . <i>(Applies to non-union employees only)</i>	All employees hired between Oct – March who are not in a trainee status and who meet performance standards are eligible for annual salary increase as of the first full pay period following October 1 <sup>st</sup> . Employees hired between April – September become eligible the 1 <sup>st</sup> full pay period following their successful completion of their probationary period. <i>(Applies to non-union employees only)</i>	Revised language to make trainees ineligible for the annual salary increase and probationary employees eligible, only after their completion of their probationary period.
308 .1 Bereavement  308.7 – Relief of Duty	Provides for domestic partner use of bereavement leave.  References Department HR in policy.	Removes Domestic Partner eligibility.  Adds language which clarifies that employees on “Active Payroll” are eligible to use bereavement leave, even if currently on FML, Worker’s Comp or Personal/Term Leave. Similar to Holiday pay benefit.  Updates language to reflect HR Service Center	Revision is a result of changes to Florida Statute 741.212 which now provides for marriage between persons of the same sex.  Additional changes made to clarify bereavement leave eligibility when employees are on other paid leaves.

**Summary of Proposed Policy Revisions – Effective April 25, 2017**

<b>Policy</b>	<b>Current</b>	<b>Revised</b>	<b>Comments</b>
409 Drug and Alcohol Use	Requires employees to comply with Florida law and defines as it pertains to the County's Drug-Free Workplace program.	Adds language which requires employees to comply with both federal and state laws, as it pertains to a Drug-Free Workplace program. Also clarifies that an employee's adherence to the County's Drug-Free program applies, both on and off-duty.	Revised language to further clarify the County's position for employees due to the passage of the State of Florida Department of Health's Compassionate Medical Cannabis Act "Charlotte's Web" in 2014 for Low THC Cannabis, the Right to Try Act in early 2016 and the recent passage of Amendment 2.
413.1 Types of Disciplinary Actions	Provides for the use of a County approved form to issue Verbal/Oral Warnings. Also, allows management to make pre-determination hearing decisions without input from HR.	Adds language which requires the use of a County approved form for the issuance of written reprimands. Also requires that HR be included in the process prior to issuing discipline affecting an employee's pay.  Adds "Medical Separation" and "Unsatisfactory Work Performance" to the list of reasons discipline may be issued.	HR Representatives will be able to advise on compliance with administering fair and equitable discipline based on violation across the Department and County.
600 Definitions	Domestic Partner definition.	Removed Domestic Partner definition.	Based on 2016 Florida Statute 741.212 – Marriages between persons of the same sex. The term "Domestic Partner" is removed from policy.

# 101 Employment Types

## ***POLICY:***

The County achieves its mission and provides its services through the employment and/or appointment of qualified individuals. An employee may be appointed to fill an administrative position, hired to fill a regular (full or part-time) position, or employed in a temporary capacity. Additional terms and conditions of employment may be detailed in an employment agreement that is consistent with these policies.

### **101.1 Administrative Employment (Appointed)**

Several positions are appointed and are filled by individuals employed directly by an elected official of the County. These employees serve at the pleasure of the appointing official and are exempt from these policies unless otherwise specified by a particular policy and/or Executive Order. Approved administrative positions are paid from regular salary accounts. Executive employees are covered by these policies, but are exempt from Probationary Period, Layoff and Recall and the Discipline/Grievance Process (other than EEO/discrimination claims) policies of this Manual. Appointed employees fall within one of the following categories:

#### **Executive Employees**

Executive employees include the County Administrator, Deputy County Administrators, Department Directors, Deputy Department Directors, Division Managers, the County Attorney, Deputy County Attorney and the Executive Director and General Manager of the Convention Center. Employees in these positions are appointed and reappointed annually and are expected to communicate the organization's philosophy to employees in other classifications.

At the Mayor's discretion, executive employees who are not reappointed or whose reappointment is not approved by the Board as required by the County Charter may be given severance pay up to an amount equal to that which the employee would have earned in a six week period, but only if that severance pay represents settlement of an employment dispute. The severance amount may be paid over the course of the severance period (up to six weeks), or may be paid in a lump sum. The severance period would begin upon written notification to the employee of the severance. Executive employees may continue to receive County subsidized health insurance coverage during the severance period (up to six weeks from notification) or until a lump-sum payment is made.

Executive employees are subject to termination at any time, with or without cause, at the discretion of the County Mayor. When terminated by the County Mayor without cause, executive employees may receive the same severance pay and health insurance benefit as set forth above for non-reappointment. Executive employees are expected to give the County Mayor no less than forty-five (45) days written notice before resignation.

### **Mayor/Commission Staff**

Mayor/Commission Staff are those employees appointed to serve at the pleasure of the County Mayor or an individual County Commissioner. All Mayor and Commission Staff employees are entitled to membership in the Florida Retirement System, accrual of Personal and Term Leaves and other County sponsored benefits in accordance with established regulations and Executive Order Number 06.003, but are exempt from all other Orange County policies.

## **101.2 Regular Employment**

Regular employees may include full-time and part-time employees, those hired to share a position budgeted for six months or more, and those employees hired under an employment agreement. Regular employees receive full benefits. Continuous County service of a regular employee is established from the most recent date of hire. The service date may be adjusted as provided under other policies. Approved regular positions are paid from regular salary accounts.

### **Full-Time Regular Employees**

Full time employees are those employees scheduled to work thirty-five (35) or more hours per work week unless otherwise defined for a specific job classification, i.e. Head Start Teacher.

### **Part-Time Regular Employees**

Part time regular employees are those employees scheduled to work less than thirty-five (35) hours per week but not less than twenty (20) hours per week. Part time employees receive benefits with the exception of stand-by pay.

## **101.3 Temporary Employment**

Temporary employment provides the ability to staff a position that is not continuously budgeted and will not be authorized for more than six (6) months, and/or requires work to be performed intermittently or on an as-needed basis. The general terms and conditions of the specific Temporary Employment assignment are detailed in an employment agreement established and mutually endorsed by the hiring authority and the Temporary Employee. (Employees filling temporary positions do not receive benefits such as holiday pay, medical coverage, personal leave, term leave and other paid benefits, with the exception of FRS eligible positions.)

There are four (4) categories of Temporary Employment:

### **A. Casual Employment**

Casual Employment is established by departments/divisions to meet work demands that exist for no more than six (6) consecutive months. Casual employment positions are paid from an account other than regular salary accounts and work a regular schedule for a specific number of hours for a specific length of employment. Casual employment may be used to temporarily replace a regular employee. Examples of positions typically staffed by casual employees are Lifeguards and Summer Recreation Leaders.

### **B. Casual Employment-FRS Eligible**

Casual Employment-FRS Eligible is established by department/divisions to meet ongoing work demands that necessitate working fewer hours per week than what is required of a regular budgeted part-time position. Work demands must not exceed nineteen (19) hours per week. There is no limitation on the length of employment. FRS contributions are paid from the first day of employment. Casual Employment-FRS

Eligible positions are paid from an account other than regular salary accounts.

### **101.3 Temporary Employment (*Continued*)**

#### **C. On-Call Employment**

On-Call employment is established by departments/divisions to meet fluctuating workload demands. On-call positions are paid from an account other than regular salary accounts and employment is intermittent and ceases when the workload diminishes. Under normal circumstances, the on call employee will not be called and scheduled to work more than one-thousand and two-hundred (1,200) hours in a fiscal year. Examples of positions typically staffed by on-call employees are Event Set-up Worker, Event Utilities Technician (Prime Timers at Convention Center) and Substitute Teacher.

#### **D. Student Internships**

Student internships are a form of temporary employment established by departments/divisions for students enrolled in accredited academic college, high school or vocational programs. Student interns are paid from an account other than regular salaries. ~~There is no limitation on the number of hours eligible interns may work.~~ In general, student interns should normally work 25 hours per week and may not exceed 1,500 hours per fiscal year.

## **201 SALARY ADMINISTRATION — REGULAR EMPLOYEE PAY PLAN**

### ***POLICY:***

The Board of County Commissioners shall approve the Regular Employee Pay Plan and shall be authorized to approve adjustments to the minimum, midpoint and/or maximum rates of the salary grades.

The Board of County Commissioners assigns the County Administrator the responsibility of fairly and equitably administering the Regular Employee Pay Plan.

### **201.1 JOB CLASSIFICATION PLACEMENT IN SALARY RANGE**

All job classification assignments and reassignments must be within the existing pay plan approved by the Board of County Commissioners.

The Human Resources Division shall be responsible for making recommendations to the Board of County Commissioners for market adjustments to the minimum, midpoint and maximum rates of the salary grades.

The salary grade assignment for new job classifications reassignment of existing job classifications and job classification deletions shall be an administrative function under the authority of the Human Resources Division.

### **201.2 MOVEMENT THROUGH THE SALARY RANGE**

Changes to employees' salary may occur through promotion, transfer, reassignment, reclassification, special pay adjustment or annual salary increase.

The County Administrator or their designee shall have the authority to approve salary rates up to the maximum rate of the job classification's assigned salary range for existing employees and new hires.

### **201.3 PAY ABOVE ASSIGNED SALARY GRADE MAXIMUM RATE**

The County Administrator only shall have the authority to approve pay rates above the assigned pay range maximum

### **201.4 ANNUAL SALARY INCREASES**

The Board of County Commissioners may approve salary increases within budgetary constraints established each fiscal year. The granting of salary increases are always subject to the availability of adequate funds. In order to be eligible for salary increase the employee must meet all of the following criteria:

- Employee meets the performance standard for the applicable fiscal year.
- Employee is not a trainee. Trainees are eligible for increase only if there is a change in structure.
- Employee is not on probation.

- ✓ Employees hired between October- March will be eligible to receive the full salary increase for the next fiscal year (in October) assuming they will not be on probation at the time of implementation.
- ✓ Employees hired from April to September will be eligible to receive salary increase the first full pay period the month after completion of their probation period.

## **201.5 ANNUAL LUMP-SUM PAYMENTS**

Employees who have reached the maximum rate of their salary grade range (no longer eligible to receive annual increases to their base pay) may be eligible to receive an annual lump-sum payment equal to the amount of base pay increase awarded that year calculated as a percentage of the employee's annualized base pay.

Upon approval by the Board, employees whose base pay rates are nearing the maximum rate of their salary range will receive an annual adjustment in base salary up to the range maximum. If the amount of the percentage increase to base rate is higher than the base maximum base pay for the year, the employee will receive an increase up to the maximum base pay plus an additional annual lump sum payment that together with the increase in base pay equals the approved total base pay increase (base pay adjustment plus lump sum payment) approved by the Board.

## **201.6 SPECIAL SALARY PAY ADJUSTMENT**

The County Administrator may approve base salary increases when a legitimate need arises (significant job change, market driven, internal equity, significant project assignments, degree or training completion).

## **201.7 PROMOTIONAL INCREASE/ACTING PAY**

For promotions and acting pay, employees' rates of pay may be adjusted by 7 ½% or to the minimum of the new pay grade, whichever is greater.

A promotion is defined as the advancement of an employee from one job classification to another classification with a higher maximum salary rate. The promoted employee's pay rate shall be equal to or greater than the minimum of the new pay grade but may not exceed the maximum of the amount of the pay grade established for the new job classification.

An employee may be awarded acting pay when it is anticipated that the position will be vacant for a period of more than fourteen (14) calendar days. Acting Pay is approved by the County Administrator or their designee.

Non-exempt employees working in an acting capacity in an exempt position will be treated as non-exempt and will be paid for all hours worked to include overtime premium, calculated based upon the higher acting pay rate.

Paid time off to include holidays, personal leave and term leave taken while an employee is receiving acting pay will be paid at the higher acting pay rate.

## **201.8 CALL BACK PAY**

Call back pay compensates regular, non-exempt employees who are called to report to work on an unscheduled basis. An employee (excluding employees on stand-by) who is off duty and is called to report to work on an unscheduled basis is eligible for call back pay, if the reporting time is more than four (4) hours before the start of the employee's next regular shift. When an employee is on duty and

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Proposed



directed or assigned to continue or remain at work, the extra work time is considered as scheduled work, and the employee is not eligible for minimum call back pay.

An employee eligible for call back pay is paid for the actual hours worked or a minimum of three (3) hours straight time pay, whichever is greater.

## **201.9 SHIFT DIFFERENTIAL**

All exempt and non-exempt regular employees and temporary employees may be eligible to receive shift differential, for hours worked within designated time zones and meeting eligibility criteria.

### **Non-Exempt Employees: Regularly scheduled shifts of less than 12-hours**

#### **Second Shift Differential:**

To qualify for second shift differential pay, the following criteria must be met:

- Four or more hours of the shift must be worked between the hours of 3:00pm and 11:00pm

Those employees meeting the above criteria will receive thirty-five cents (\$0.35) per hour or any portion thereof in increments of 1/10<sup>th</sup> of an hour in addition to their regular rate of pay for only those hours worked in the second shift zone.

#### **Third Shift Differential:**

To qualify for third shift differential pay, the following criteria must be met:

- Four or more hours of the shift must be worked between the hours of 11:00 pm and 7:00 am.

Those employees meeting the above criteria will receive fifty cents (\$0.50) per hour or any portion thereof in increments of 1/10<sup>th</sup> of an hour in addition to their regular rate of pay for only those hours worked in the third shift zone.

### **Non-Exempt Employees: Regularly scheduled shifts of 12-hours or more**

To qualify for 12-hour evening shift differential pay, the following criteria must be met:

- Four or more hours of the shift must be worked between the hours of 6:00 pm and 6:00 am

Those employees meeting the above criteria will receive fifty cents (\$0.50) per hour or any portion thereof in increments of 1/10<sup>th</sup> of an hour in addition to their regular rate of pay for only those hours worked in the 12-hour or more shift zone.

### **Exempt Employees**

To qualify for shift differential pay, exempt employees scheduled to work and have worked a minimum of forty (40) hours per pay period between the hours of 6:00 pm and 6:00 am will be eligible for shift differential in the amount of forty dollars (\$40.00) for each qualifying pay period.

## **201.10 STAND-BY PAY**

A stand-by duty assignment requires the non-exempt employee to be immediately available for work due to the likelihood of an urgent situation arising during off-duty time. Stand-by assignments may include nights, weekends and holidays.

Non-exempt employees assigned to stand-by duty are eligible to receive two (2) hours of straight-time pay for regular workdays (24-hour period) and for regularly scheduled days off.

Stand-by pay is not considered as time worked for the purpose of calculating overtime pay. Employees receiving stand-by pay will be paid for actual hours worked when called to report to work, but are not eligible for minimum call back pay.

## 308 Other Leave Types

### ***POLICY:***

Orange County provides employees with additional leave types not charged to an accrued leave balance. These leave types are described below.

#### **308.1 Bereavement**

Employees on active payroll are granted up to the equivalent of a normal workweek not to exceed forty (40) hours paid bereavement leave to arrange for and/or attend funeral services or related matters for the death of the employee's spouse, mother, father, son, daughter, grandchild, sister, brother, legal guardian, mother-in-law, father-in-law, son-in-law daughter-in-law, stepparents, stepchildren and grandparents.

Bereavement occurring when an employee is receiving Personal/Term Leave is paid as Bereavement pay and will not be charged against the employee's accrued Leave balance.

Family and Medical Leave will be applied concurrently with Bereavement Leave, if applicable. Bereavement Leave may be used to supplement workers compensation payments in full or partial increments.

The request must be arranged through the Division Manager. At the discretion of management, verification for use of Bereavement Leave may be required.

#### **308.2 Jury Duty**

When an employee is required to serve on jury duty, the County shall pay the employee the amount that would have been received had the employee worked his/her regularly scheduled work hours. Every effort should be made to alter the working schedule of employees who work outside the normal working day if operationally possible; otherwise the employee is paid for all jury duty hours served. Employees must submit any payments received from the court for their jury duty appearance to the County. Hours spent serving jury duty does not count toward hours worked for premium overtime eligibility.

#### **308.3 Witness Duty**

When an employee is required to attend any legal proceedings on behalf of Orange County BCC, the County shall pay the employee as if he/she were working. When an employee involuntarily participates (i.e., is compelled by subpoena) in a legal proceeding against the County filed in state or federal court pursuant to an anti-discrimination law, the County shall pay the employee as if he/she were working. Employees must submit any payments received for the court appearance to the County.

#### **308.4 Time Off To Vote**

With management approval, employees may be granted a maximum of two (2) hours paid time off to vote in all official elections if the employee's voting location cannot be reached during off-duty hours and early voting was not otherwise available prior to the official election.

## **308 Other Leave Types (*Continued*)**

### **308.5 Time Off For Training, Examinations, Seminars, Conferences**

An employee may be granted paid time to attend County approved training, seminars, conferences or take examinations before a government agency or professional organization, provided attendance is required for continued County employment or employment enhancement and cannot be attended during the employee's normal working hours. Prior approval must be given. An employee who is ordered to appear for a physical examination for induction into the military service shall be granted paid time for this purpose.

### **308.6 Intentionally Left Blank**

### **308.7 Relief of Duty**

Relief of duty with or without pay may be required by management with the concurrence of an HR Service Center Representative for investigations, illness, safety concerns or when removal of an employee from a work location is necessary following notice of separations and/or a temporary assignment is unavailable. Written notice to the Human Resources Division Director is required when placing an employee on relief of duty. This relief may not exceed twenty (20) working days without the Human Resources Division Director's written approval. Employees may access applicable leave balances during this leave time if relief of duty is without pay.

### **308.8 Leave without Pay**

Employees may require leave without pay for unforeseeable absences when all available leave balances have been exhausted. Employees in a leave without pay status may be subject to disciplinary action up to and including termination if the absences are considered excessive or habitual. Leave without Pay should normally not exceed thirty (30) consecutive calendar days with the exception of Family & Medical Leave or Workers' Compensation related absences. A Leave of Absence request must be submitted in accordance with Policy 309 - Leave of Absence if the absence will exceed thirty (30) consecutive calendar days. Approval for Leave Bank pay does not hinder management's ability to discipline under this policy.

## 409 Drug and Alcohol Use

### ***POLICY:***

Orange County is committed to a Drug/Alcohol-Free work environment. The safety of the employee, fellow employees, the public, public property and equipment is placed in jeopardy when an employee is under the influence of drugs or alcohol. It is the policy of the County that the unlawful manufacture, sale, distribution, dispensation, possession or use of drugs or alcohol, as determined by federal law, whether on-duty or off-duty or being under the influence of drugs or alcohol in the workplace, on County property or as part of any County activities is expressly prohibited and constitutes grounds for termination of employment with Orange County. Drug testing of Orange County employees is compliant with the Drug-Free Workplace program outlined in both Federal and the Florida state laws. Statutes.

Employees are encouraged to obtain help from the Employee Assistance Program (EAP) before drug and/or alcohol problems surface in the workplace. Information will be made available to employees regarding accessing EAP services.

The County will not terminate an employee based solely on the employee's voluntarily seeking treatment for a drug or alcohol problem provided that the employee has self-identified to management and sought treatment prior to being required to test.

Orange County has designated two categories of employees for drug and/or alcohol testing: Commercial Drivers' License (CDL) Safety-Sensitive employees and all other County employees.

The County will take disciplinary action, up to and including termination, against any employee who violates this drug and alcohol policy.

### **409.1 Types of Testing**

To allay public concerns regarding drug and alcohol abuse by public employees and to mitigate the danger to the public and other employees in the workplace, employees or candidates for employment will be subject to the following types of drug and alcohol testing:

#### **Post Offer/Pre-employment**

All candidates for employment will be required to submit to a pre-employment drug screening at the time of the contingent job offer. If the testing results are positive, the candidate will be denied the ability to seek employment with Orange County for twelve (12) months. After twelve (12) months, the candidate may reapply for employment. All advertising and job postings will state that Orange County is a Drug-Free Workplace and will conduct drug and/or alcohol testing.

A person who transfers or is promoted from a non-CDL Safety-Sensitive function to a CDL Safety-Sensitive function will be required to submit to a drug screening. If the results are positive, the employee will be terminated.

## **409.1 Types of Testing (*Continued*)**

### **Post Accident**

Employees involved in any work-related accident, whether vehicular or non-vehicular, will be required to submit to a post-accident drug and or alcohol test if they have caused, contributed to, or been involved in an on-the-job accident while engaged in County business in which:

- Property damage has occurred, and/or
- A life is lost, and/or
- The employee was cited for a moving traffic violation as a result of the occurrence, and/or
- The employee's vehicle has been towed from the scene, and/or
- There has been bodily injury to any person, and as a result of this accident, medical attention is required

Post-accident drug testing is to be completed no later than twenty-four (24) hours following the injury/accident. Failure to complete this test within twenty-four (24) hours must be documented by management. Any positive result or refusal to test, which is the same as a positive result, will lead to termination and could lead to Workers' Compensation benefits being suspended.

If Post Accident alcohol testing is to be administered, it cannot be any later than eight (8) hours following the accident. Employees who are suspected of being under the influence of alcohol are to refrain from using alcohol for up to eight (8) hours following the injury/accident, or until testing has been completed. Failure to complete this test within eight (8) hours must be documented by management. Any positive result or refusal to test, which is the same as a positive result, will lead to termination and could lead to Workers' Compensation benefits being suspended.

Employees who are involved in a vehicular accident, who are not a CDL Safety Sensitive employee or a CDL Safety Sensitive employee not performing a safety sensitive function, while on duty who is suspected of being under influence of alcohol will have blood drawn to determine their blood alcohol content.

## **409.2 Workers' Compensation Notice of Injury**

When a notice of injury report is submitted, and the employee receives medical attention, the employee will be tested for the presence of drugs and/or alcohol.

If an employee is injured in the course of employment and the employee tests positive for drugs and/or alcohol, he or she may forfeit eligibility for medical and indemnity benefits provided under the Workers' Compensation Act, pursuant to Florida Statutes and the employee will be terminated.

### **409.3 Reasonable Suspicion**

Any employee may be required to submit to a reasonable suspicion alcohol and/or drug test as deemed appropriate by management. On the job accidents may be considered reasonable suspicion of drug/alcohol use.

Management will make a determination that a test is required based on specific observations concerning two or more of the following:

*Performance, Appearance, Behavior, Speech, and/or Body odors*

If an employee is observed using drugs and/or alcohol just before, or during the performance of their job function, he or she will be required to submit to a drug or alcohol screening.

Employees arrested for drug and or alcohol related charges will be subject to a reasonable suspicion testing.

### **409.4 Commercial Drivers License (CDL Safety-Sensitive)**

Employees who perform safety sensitive functions requiring a Commercial Driver's License (CDL) under the United States Department of Transportation (DOT) regulations are mandated by law to submit to random drug and alcohol screenings.

### **409.5 Routine Fitness for Duty**

For those employees who are required to have an annual Fitness for Duty Physical, a drug screen may be included.

### **409.6 Return-To-Duty Drug and/or Alcohol Testing**

Return-to-duty testing may be required for an employee who has:

- Returned to work after being absent from the work site for more than thirty (30) days.
- For CDL positions only - Employee has been suspended, with or without pay, following an alcohol test with a concentration of two-tenths (.02), but less than four-tenths (.04). Upon returning to work, the employee is required to have another alcohol screening and should the results of the retest be greater than two-tenths (.02), the employee will be terminated.

### **409.7 Rehabilitation Follow Up**

If an employee, in the course of employment, enters an employee assistance program for drug or alcohol-related problems, or enters a drug or alcohol rehabilitation program, the employee will be required to:

- Pass drug or alcohol tests administered under the program.
- Agree to participate and successfully complete any drug or alcohol evaluation, or rehabilitation program, and provide evidence of successful completion.
- Submit to periodic, unannounced drug or alcohol tests for a period of two (2) years.

#### **409.7 Rehabilitation Follow Up (*Continued*)**

CDL Safety-Sensitive employees are required to submit to a minimum of six (6) unannounced drug or alcohol tests within the first six (6) months after returning to work.

An employee, who tests positive at any time after entering a drug or alcohol rehabilitation program, whether during the follow-up testing period or later, will be terminated.

The County is not required to provide rehabilitation, pay for treatment, or reinstate the terminated employee when a drug or alcohol test result is positive.

#### **409.8 Testing Process and Results**

Employees, who have a confirmed positive test, refuse to be tested, submit false samples or tampers with test samples during the drug testing process for drugs and/or alcohol will be terminated.

CDL Safety-Sensitive employees found to have an alcohol Breathalyzer concentration of two-tenths (0.02), but less than fourth-tenths (0.04), will be removed from the CDL Safety-Sensitive function without pay for a period of twenty-four (24) hours. Prior to returning to duty, Orange County requires that another alcohol test be administered, and that the results must show an alcohol concentration of less than two-tenths (0.02). A retest of two-tenths (0.02) or greater or an initial alcohol test with an alcohol concentration of four-tenths (0.04) or greater will result in termination.

#### **409.9 Collective Bargaining Agreements (CBA) and Appeal Rights**

Employees who are covered by a collective bargaining agreement will be subject to the drug testing policy as stated in that agreement.

Employees have the right to appeal decisions to the Public Employees Relation Commission (PERC) or an applicable court.



## 413 Disciplinary Action

### ***POLICY:***

Orange County is committed to its work philosophies and expectations, which serve as guidelines for employee behavior and performance. If performance or behavior is inconsistent with these philosophies and expectations, management is expected to address these issues through a progressive disciplinary action process.

Management is expected to use its best judgment for the appropriate application of disciplinary action. The County's performance standards, policies and operational regulations serve as the foundation for disciplinary action decision-making.

A nine-hundred (900) Series Manager (or Manager equivalent) or an Assistant Manager (or Assistant Manager equivalent) within the employee's Department shall conduct a Predetermination Hearing (PDH) to review the facts surrounding an alleged violation of County Policy, Operational Regulations, Departmental Operating Procedures or Divisional Guidelines and to determine the appropriate disciplinary action if the discipline might affect the employee's pay. The PDH serves as due process and is extended to all non-probationary regular employees except as outlined elsewhere in these policies. Prior to administering discipline as a result of a PDH, written concurrence must be received from the HR Representative or the Human Resources Division as to adherence to due process. Circumstances may require the employee be relieved of duty with pay prior to the outcome of the PDH with the Human Resources Division Director's concurrence.

Newly hired probationary employees have no rights to a PDH for terminations.

### **413.1 Types of Disciplinary Actions**

Disciplinary action may include, but is not limited to the following:

#### **Verbal/Oral warning**

Verbal/oral warnings must be documented by the immediate supervisor on the appropriate County approved form in a timely manner. The employee will acknowledge receipt of the warning by signing the form.

#### **Written reprimand**

Written reprimands will be documented by the immediate supervisor on the appropriate County approved form in a timely manner and when less severe action has been unsuccessful or for situations of a more serious nature. The employee will acknowledge receipt of the reprimand by signing the form.

#### **Suspensions**

Suspensions are periods of time during which an employee may be relieved of duty as a form of disciplinary action for a founded policy violation. Suspensions shall be without pay and leave balances may not be used.

Suspensions shall be for a period of no less than the balance of the employee's shift on the day the action is taken and shall normally not exceed ten (10) consecutive working days or shifts. Multiple day suspensions must be taken consecutively. A Predetermination Hearing (PDH) is required prior to suspension. Management must confer with Human Resources

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prior to issuing this level of discipline.

#### **413.1 Types of Disciplinary Actions (*Continued*)**

##### **Involuntary Reassignment**

An employee may be involuntarily reassigned to a lower classification with a lower pay range when the employee's performance is less than acceptable and or less severe disciplinary action has not solved the problem. The employee's pay must be adjusted according to the guidelines in the pay plan. A PDH is required prior to the reassignment. Management must confer with Human Resources prior to issuing the PDH decision.

##### **Termination**

Employment may be terminated if there is a serious violation of policies or there are repeated offenses and other disciplinary actions have been unsuccessful. A PDH is required prior to termination unless otherwise stipulated elsewhere in policy. Management must confer with Human Resources prior to issuing the PDH decision.

A predetermination hearing (PDH) must be held before a suspension, involuntary reassignment or termination may be imposed as a form of disciplinary action unless an employee has allegedly been involved in serious violations of policy or law and any of the following apply:

- The nature of the alleged violation in relationship to the employee's regular and/or reassigned work duties warrant immediate removal of the employee from the workplace
- The employee poses a threat to himself or other employees
- Public perception and employee morale would be adversely affected
- The employee tests positive for drug/alcohol use.

The County retains the right to administer appropriate disciplinary action on a case-by-case basis. There may be behaviors that are considered so serious that termination may be the first course of action, regardless of an employee's length of service, prior conduct, or performance record.

It is the employee's responsibility to address and improve performance and behavior problems on which a disciplinary action is based.

#### **413.2 Types of Offenses**

Examples of offenses may include but are not limited to:

- Insubordination
- Physical harm/assault or threat of same
- Theft or pilfering
- Malicious or willful destruction or abuse of County property
- Fraud or dishonesty
- Drug or Alcohol use or possession
- Misuse of County time

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Proposed

#### **413.2 Types of Offenses (*Continued*)**

- Violation of the law
- Pleading guilty or no contest or being found guilty of a felony, job- related misdemeanor Violation of the County's code of conduct
- Failure to notify supervisor of an arrest or that an Information has been filed against the employee by a prosecuting official
- Conflict of interest
- Possessing a weapon on County property (unless considered a bona fide occupational requirement)
- Misconduct
- Sleeping on County compensated time
- Rudeness or acts of disrespect
- Excessive or habitual absenteeism, unauthorized absences, or tardiness
- Loss of minimum job qualifications or failure to report loss
- Leaving assigned work area without authorization
- Safety violations
- Abuse of County property
- Promotion of private business during County work time
- Harassment
- Medical Separation
- Unsatisfactory work performance

## **Definitions**

**Accident** - Work-related injury/illness requiring medical attention.

**Accrual Rate** - The rate at which an employee earns paid leave.

**Acting Pay** - Additional pay granted to an employee for assignment to and assumption of the full responsibilities of a classification in a higher pay grade for an extended period of time.

**Active Payroll** - An employee is on the active payroll if a paycheck is issued for any hours worked or paid leave hours taken during the pay period. Terminated employees receiving a final paycheck for lump-sum leave payouts are not considered to be on the active payroll.

**Adjusted Service Date** - Adjustment made to the employee's service date to give credit for prior service. Adjustments are also made to deduct service time due to periods of leave of absence without pay or layoff exceeding 30 calendar days.

**Adverse Working Conditions (AWC)** - Circumstances which may affect or compromise the safety and health of employees. Includes but not limited to equipment malfunction, building damages or threatening situations.

**Americans with Disabilities Act (ADA)** - Federal Act which prohibits discrimination against qualified individuals with disabilities in employment, public accommodation, and activities of local government.

**Bereavement Leave** - Paid Leave granted for the death of an employee's spouse, mother, father, son, daughter, grandchild, sister, brother, legal guardian, mother- and father-in-law, son- and daughter-in-law, stepparents, stepchildren, and grandparents. **Business Day** - Monday thru Friday from 8 a.m. until 5 p.m. except county designated holidays.

**Calendar Day** - Twenty-four (24) hour period from 12:00:00 A.M. until 11:59:59 P.M.

**Call Back Pay** - Additional compensation provided to eligible employees who are called to work on an unscheduled basis.

**Casual Employment** - Temporary employment established by departments/divisions to meet work demands.

**Commission Staff** - Employees appointed to serve at the pleasure of an individual County Commissioner and are exempt from Orange County policies unless otherwise specified within policy or by Executive Order of the County Mayor.

**Collective Bargaining Agreements** - A written document mutually agreed upon by the Union and Orange County for representation of employees in covered job classifications.

**Community Action Response Team - (CART)** — comprised of employees and/or volunteers that respond to the needs of the community immediately following an emergency situation.

**Conflict of Interest** - Exists when an employee's judgment is affected by a relationship between the private interests of the employee and the employee's public or work-related obligations.

## **Definitions**

**Continuous Service** - The length of time an employee has worked for the Orange County Board of County Commissioners and/or other elected offices with which the County has reciprocal agreements. Continuous service is calculated based on the most recent date of hire.

**Department Operations Center (DOC)** - A site from which respective ESF agencies direct, control, and coordinate activities to assist in managing their mission.

**Disciplinary Action** - Action taken by management to communicate with an employee to redirect inappropriate work habits, behaviors, or violations of County policy, Operational Regulations or Departmental Operating Procedures.

**Disability** - A physical or mental impairment which substantially limits one (1) or more major life activities, a record of having such an impairment, or being perceived as having such impairment as defined in the Americans With Disabilities Act of 1990.

**Due Process** - The process that establishes progressive disciplinary action and provides employees with the opportunity to respond to allegations of misconduct or policy violations.

**Educational Assistance** - Reimbursement of tuition expenses paid upon satisfactory completion of career-related coursework.

**Emergency Administrative Pay (EAL)** - Wages paid to non-exempt and exempt employees who are not required to respond when County offices and functions are closed during an impending or actual emergency/disaster.

**Emergency Essential** - Employees who are required to perform their regular work functions in order to support pre-disaster, disaster, or post-disaster recovery efforts.

**Emergency Non-Essential** - Employees who may not be required to report to their regular job assignment during a pre-disaster, disaster, and post-disaster phase of a declared emergency but may be reassigned to work in other emergency work activities as situations necessitate.

**Emergency Operations Center (EOC)** - A site from which local governments exercise direction and control during an emergency or disaster.

**Emergency Support Function 15 (ESF 15)** - Support position within the Emergency Operations Center which manages external volunteers and donated goods, as well as County employees who respond in other than their normal responsibilities in an emergency or disaster situation.

**Emergency Response Employees** - Certified employees performing emergency operations work assignments as Emergency Operations Center Coordinators, Field Operations Center Coordinator, Disaster Mental Health Counselors, Points of Distribution (POD) Managers, Staging Area Managers, Shelter Managers, Emergency Center Call Routers or Emergency Center supervisors.

**Employee Assistance Program (EAP)** - Confidential counseling service to assist employees and eligible family members in dealing with personal or work-related issues.

## **Definitions**

**Employment Agreement** - A written document mutually agreed upon by the hiring authority and the employee which details the terms and conditions of employment.

**Executive Employees** - Employees who are appointed annually by the County Mayor, confirmed by the BCC, and compensated under the Administrative Salary Plan.

**Exempt Employment** - Positions which are not subject to the overtime provisions of the Fair Labor Standards Act (FLSA).

**Fair Labor Standards Act (FLSA)** - A federal law defining and governing the eligibility for and payment of minimum wage and overtime earnings.

**Family and Medical Leave Act (FMLA)** - Federal Act which allows eligible employees to take job-protected, unpaid leave for up to twelve (12) workweeks in a twelve (12) month period for the serious health condition of the employee, a spouse, parent or child; or for the birth, adoption, or foster placement of a child.

**Fiscal Year** - The budgetary period of time from October first (1<sup>st</sup>) of one year through September thirtieth (30<sup>th</sup>) of the following year.

**Floating Holiday** - One (1) paid day off per calendar year provided to eligible employees.

**Grievance** - Formal hearing process for regular employees to address alleged job-related violations or misapplications of County Policy.

**Hiring Authority** - Individual responsible for making the decision to hire or appoint a new employee.

**Layoff** - A reduction in force resulting in the loss of employment.

**Lateral Transfer** - The transfer of an employee from one position to another position in the same pay grade. The job classification may or may not change.

**Leave of Absence** - A requested extended absence from work for personal reasons, such as continuing education, for a period not to exceed twelve (12) calendar months during which the employee/employer relationship still exists.

**Management** - Individuals with the authority to assign direct and review the work of others.

**Mayor Staff** - Employees appointed to serve at the pleasure of the County Mayor and are exempt from Orange County policies unless otherwise specified within policy or by Executive Order of the County Mayor.

**Mental Health Disaster Counselor** - Certified Mental Health Crisis Counselors who assist in mental health recovery processes.

**Military Leave** - Leave taken when an employee is called for active duty or training in the U.S. armed forces.

## **Definitions**

**Minimum Qualifications** - The work experience and/or education required to be considered as a qualified candidate for a particular position.

**Non-exempt Employment** - Positions classified as eligible for payment of overtime under the Fair Labor Standards Act (FLSA).

**Occupational Injury or Illness** - An injury or illness resulting from an accident or exposure that occurs during an employee's course of employment.

**On-Call Employment** - Temporary employment established by departments/divisions to meet fluctuating workload demands. Employment is intermittent and ceases when the workload diminishes.

**Operational Regulations** - Formal procedures written for the application of County Policy.

**Overtime** - Payment to non-exempt employees of one and one-half (1 1/2) times the regular rate of pay (as defined by FLSA) for hours worked in excess of forty (40) in a work week or other work period authorized under the Fair Labor Standards Act (FLSA).

**Pay Plan** - The official listing of approved job classifications and the corresponding assigned pay grades.

**Part-time** - Regular employees scheduled to work less than thirty-five (35) hours per week but not less than twenty (20) hours per week.

**Performance Standards** - Level of performance required to satisfactorily carry out job responsibilities.

**Personal Leave** - Paid time off accrued by eligible employees and used for vacation, illness, or other personal reasons. Accrual rates vary based on length of service.

**Predetermination Hearing (PDH)** - A formal hearing designed to review the facts surrounding an alleged violation of County Policy or Operational Regulations.

**Probationary Period** - The six (6) month period immediately following initial employment or promotion during which regular employees are provided the information and training needed to satisfactorily perform their job and permit management's observation of performance behaviors. The probationary period may be longer for some positions.

**Promotion** - Advancement of an employee to a job classification in a higher pay grade or to a pay grade with a higher maximum pay rate.

**Reassignment** - Voluntary or involuntary demotion of an employee to a job classification in a lower pay grade or a pay grade with a lower maximum pay rate.

**Regular Employees** - Employees hired to fill both full and part-time regularly, budgeted positions.

## **Definitions**

**Safety-Sensitive (CDL) Positions** - Positions that require a commercial driver's license (CDL) and require the employee to drive, inspect, service, unload or load a vehicle under the U.S. Department of Transportation (DOT) regulations.

**Service Date** - The most recent date of hire with Orange County Government.

**Shelter Manager** - Certified American Red Cross shelter personnel assigned to any County shelter in an emergency.

**Shift Differential** - Additional compensation provided to eligible employees who work a specified number of hours on the second or third shift.

**Sick Leave (Old)** - A benefit previously accrued for use in the event of personal illness or injury.

**Stand-by Duty Assignment** - Assigned duty requiring a non-exempt employee to be immediately available for work due to the likelihood of an urgent situation arising during off-duty time requiring the employee to report to work.

**Student Internship** - Temporary employment established by departments/divisions strictly for student interns. An intern is a student enrolled in an accredited educational or vocational program.

**Term Leave** - Paid time off accrued by eligible employees which may be used for an employee's extended illness or injury.

**Termination** - Voluntary or involuntary separation from employment.

**Trainee** - An employment class established for an employee who does not possess the minimum qualifications (education, training and/or experience) of a particular job and is expected to attain the full qualifications within six (6) months.

**Tuition** - Fees required by an educational institution on a per credit hour basis.

**Workday** (for Emergency Management) - Defined as the normal number of scheduled work hours between 12:01 a.m. and 11:59 p.m. each day.