



# Essex County

## *Policy Manual*

Effective: February 5, 2024  
Resolution #38 of 2024

## *Changes in Policy*

This Manual supersedes all previous employee manuals and any associated resolutions regarding policy and procedures, within the confines of any Federal, State or Local Laws. This Manual is meant to serve only as a guide and is not intended to be a contract of employment for any purpose or any duration and does not grant or create any rights. The Manual is written to comply with applicable law. If it is inconsistent with applicable law, the law will govern.

Unless otherwise provided by law or in a separate written contract, all employees are employed at will. Nothing contained in this Manual will in any way restrict or alter the County's right to discipline or terminate any employee, which rights will be governed solely by the Civil Service Law and other State and Federal law to the extent each is applicable. If a provision in a collective bargaining agreement or employment agreement conflicts with this Manual, the collective bargaining agreement or agreement will control.

While every effort is made to keep the contents of this document current the Essex County Board of Supervisors reserves the right to modify, suspend, or terminate any of the policies, procedures, and/or benefits described in the manual with or without prior notice to any employee. Employees will have electronic access to the most up-to-date version of the Manual on the County's website.

# *Ownership of the Manual*

*This Manual is the property of Essex County, upon termination, or retirement from service with the County, this Manual is to be returned to the Personnel Office. Failure to do so may result in a delay in the processing of final payroll or benefit claims.*

# Table of Contents

1	Introduction .....	8
	1.01 Authority .....	8
	1.02 Forward .....	8
	1.03 Scope .....	8
2	Acknowledgement of Receipt of Handbook .....	9
3	Personnel .....	10
	3.01 Personnel Files .....	10
	3.02 Time Records .....	11
4	Employment Policies .....	11
	4.01 Statement of Policy .....	11
	4.02 Equal Employment Opportunity .....	11
	4.03 Employee Background Check .....	12
	4.04 Change of Personal Data .....	12
	4.05 Safety .....	12
	4.06 Weather Related and Emergency Related Closings .....	12
5	Employment .....	13
	5.01 Employee Classifications .....	13
	5.02 Full-Time Employees .....	13
	5.03 Regularly Scheduled Part-Time Employees .....	14
	5.04 Probationary Employees / Probationary Term .....	14
	5.05 Provisional Employee .....	15
	5.06 Temporary Employee .....	15
	5.07 On-Call Employee .....	15
	5.08 Grant Personnel .....	15
	5.09 Physical Examination .....	15
	5.10 Promotions .....	15
	5.11 Reassignments .....	16
	5.12 Demotion / Grade Change .....	16
	5.13 Transfers .....	17
	5.14 Seniority .....	18
	5.15 Part Time Employment .....	18
	5.16 Shift Differentials .....	18
	5.17 Terminations .....	18
	5.18 Layoff and Recall .....	19
	5.19 Transitional Duty Program .....	20
6	Compensation .....	21
	6.01 Pay Periods .....	21
	6.02 Rules for Administration of the Salary Plan .....	21
	6.03 Overtime Pay .....	22
	6.04 Compensatory Time .....	22

	6.05	Expense Procedures .....	22
	6.06	Deductions .....	28
7		Working Conditions .....	29
	7.01	Conditions of Employment.....	29
	7.02	Outside Employment.....	31
	7.03	Hours of Work.....	31
	7.04	Departmental Work Rules .....	34
8		Grievance Procedure for County Employees.....	34
	8.01	Statement of Policy .....	34
	8.02	Declaration of Basic Principles.....	34
9		Performance Evaluation System .....	35
	9.01	Statement of Policy.....	35
	9.02	Purpose.....	35
	9.03	Scope .....	35
	9.04	Frequency of Performance Evaluation.....	35
10		Employee Leave Time Benefits .....	36
	10.01	Statement of Policy .....	36
	10.02	Paid Holidays .....	36
	10.03	Vacation Leave .....	40
	10.04	Sick Leave.....	42
	10.05	Sick Leave Bank.....	44
	10.06	Personal Leave.....	47
	10.07	Bereavement Leave.....	48
	10.08	Jury and Court Appearances.....	49
	10.09	Military Leave.....	49
	10.10	Fire and Ambulance Leave .....	50
	10.11	Unpaid Leaves of Absence .....	50
	10.12	Family and Medical Leave Act.....	50
	10.13	Bone Marrow and Blood Donation Leave .....	55
	10.14	Cancer Screening Leave .....	55
	10.15	Time Off to Vote.....	56
	10.16	Volunteer Emergency Responder Leave .....	56
	10.17	Leave for Victims of Domestic Violence .....	56
	10.18	Rights of Nursing Mothers .....	57
11		Group Health and Related Benefits.....	59
	11.01	Statement of Policy.....	59
	11.02	Health Insurance Guidelines .....	59
	11.03	Health Insurance Notification Requirements .....	60
	11.04	Health Insurance Buy Out .....	60
	11.05	COBRA Notification .....	61
	11.06	Voluntary Dental Program .....	61
	11.07	Cafeteria Plan.....	61
	11.08	New York State Disability Insurance .....	62

	11.09	Workers' Compensation .....	63
	11.10	Accident Reports .....	63
12		Retirement Benefits .....	64
	12.01	Statement of Policy.....	64
	12.02	Retirement Health Insurance Benefits.....	64
	12.03	Retirement Health Insurance Benefits for Elected and Appointed Essex County Officials.....	65
13		Deferred Compensation.....	66
	13.01	Statement of Policy.....	66
14		Alcohol and Drug Free Workplace.....	66
	14.01	Statement of Policy.....	66
	14.02	Drug Policy - Definitions.....	68
	14.03	Drug Policy - Pre-Employment Screening / Testing .....	71
	14.04	Drug Policy - Rules & Conditions of Employment .....	71
	14.05	Drug Policy - Implementation.....	73
	14.06	Drug Policy - Screening & Testing Procedures.....	75
	14.07	Drug Policy - Discipline / Rehabilitation.....	78
	14.08	Drug Policy - Review & Appeal.....	80
	14.09	Drug Policy - Severability .....	80
15		Use of Vehicles .....	80
	15.01	Statement of Policy.....	80
	15.02	Use and operation of County Vehicles .....	80
	15.03	Use of Personal Vehicle.....	83
	15.04	County Air Truck.....	84
16		Acceptable Use of Information Technology.....	84
	16.01	Statement of Policy.....	84
	16.02	Purpose of this policy is to:.....	85
	16.03	Acceptable Use Policy - Definitions .....	85
	16.04	Computer System Administration .....	86
	16.05	Access to System .....	86
	16.06	Use of County Computer System .....	88
	16.07	Prohibited Use .....	89
	16.08	Privacy & Retention of E-mail & Internet Records.....	90
	16.09	County Rights.....	93
	16.10	Social Media.....	94
	16.11	Use of Social Media on Behalf of the County.....	95
	16.12	Implementation .....	97
17		Disciplinary Actions .....	98
	17.01	Statement of Policy.....	98
	17.02	Employee Responsibility.....	98
	17.03	General Provisions regarding Disciplinary Actions .....	98

18	Department Head, Management Confidential & Elected Officials.....	101
	18.01 Statement of Policy.....	101
	18.02 Definition of Department Head .....	101
	18.03 Application of Policy Manual to Department Heads .....	102
	18.04 Definition of Management Confidential.....	102
	18.05 Application of Policy Manual to Management Confidential.....	103
	18.06 Definition of Elected Officials .....	104
	18.07 Application of Manual to Elected Officials .....	104
19	Harassment Policy .....	105
	19.01 Statement of Policy .....	105
	19.02 Sexual Harassment.....	106
	19.03 Reporting Procedure.....	108
	19.04 Investigation procedure .....	109
	19.05 Prohibition of Retaliation.....	111
	19.06 Bystander Intervention.....	112
	19.07 Legal Protections and External Remedies .....	112
	19.08 Liability.....	114
20	Workplace Violence Prevention Policy .....	115
	20.01 Policy Statement.....	115
	20.02 Risk Assessment.....	116
	20.03 Training of Employees .....	117
	20.04 Confidentiality.....	118
	20.05 Retaliation .....	119
	20.06 Recordkeeping.....	119
21	Tobacco Policy .....	120
	21.01 Policy Background .....	120
	21.02 Prohibition of Tobacco Use.....	120
	21.03 Procedure .....	120
	21.04 Compliance .....	121
	21.05 Tobacco Use Cessation .....	121
22	Use of Cellular Phones .....	121
	22.01 Statement of Policy .....	121
	22.02 Procedures.....	121
23	Closing Statement .....	124
24	Appendix: Forms.....	125
	24.01 Sample Performance Evaluation Form .....	125
	24.02 Complaint Form for Reporting Sexual Harassment .....	129
	24.03 Workplace Violence Incident Report Form.....	132

# 1 Introduction

The Essex County Attorney's Office and the Essex County Personnel Office developed this policy manual to familiarize Essex County Employees and to provide information regarding working conditions, key policies, procedures, and benefits affecting employment with Essex County.

## 1.01 Authority

This manual covering Personnel Policy was approved by the Board of Supervisors, Essex County, New York on February 5, 2024.

The Board of Supervisors by resolution is authorized to make amendments to this Manual. If any provisions of this Manual or any application of the Agreement to any employee or group of employees shall be found contrary to law, then such provisions or application shall not be deemed valid except to the extent permitted by law, but all other provisions or applications shall continue in full force and effect.

## 1.02 Forward

This Manual presents policies governing the management of personnel and labor relations activities for Essex County, New York. It provides for the uniform application and interpretation of its provisions to matters pertaining to rights, privileges and responsibilities accruing from employment with Essex County.

## 1.03 Scope

- A. This Personnel Policy Manual shall apply to all existing positions and positions hereafter created in the County's Classified Service.
- B. For employees covered by a collective bargaining agreement, this Manual will be applicable only to the extent that it is not superseded by a provision of that agreement.
- C. Other departmental rules, which are applicable only to employees within a particular department, may be promulgated providing they are not in conflict with this Policy Manual.



*Upon hire, all employees are required to sign this acknowledgement and return the signed acknowledgement to Personnel.*

## **2 Acknowledgement of Receipt of Handbook**

I acknowledge I have been provided electronic access, or a paper copy, to the Essex County Policy Manual dated \_\_\_\_\_, 2024, and understand it sets forth the terms and conditions of my employment as well as the duties, responsibilities, and obligations of employment with the County.

I understand that, as a county employee, it is my responsibility to read the Manual and abide by the rules, policies, and standards set forth therein and any revisions made to it. I also understand that if I have any questions concerning the content of the Manual, it is my responsibility to address them with my immediate work supervisor or the Personnel Office.

The County reserves the right to modify the content of the Manual at any time. All such revisions, deletions, or additions will be updated and posted for electronic access and no oral statements or representations can change the provisions of the Manual. I understand that failing to remain current on the content of the Manual will not excuse noncompliance. Additionally, non-compliance with policy expectations may result in disciplinary action up to and including termination.

I understand and acknowledge that I will have continual electronic access to the most current version of the Manual which I can review whenever I choose. By updating the Manual and providing employees with electronic access, the County expressly revokes all previous policies and procedures that are inconsistent with those contained therein. I understand that the Manual provided via electronic access supersedes all prior practices, oral or written representations, or inconsistent statements.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Employee's Name (Printed)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

## 3 Personnel

### 3.01 Personnel Files

- A. The Personnel Department shall keep a personnel file on each employee. This file shall include (but not be limited to) the following: retirement records, employment history, employment application, employment eligibility verification forms, periodic formal evaluations and written disciplinary actions. Medical records will be maintained in a separate confidential file. Individual departments are encouraged to maintain departmental records of oral discussions with employees and observations relating to the employees' work performance.
- B. An employee shall have the right to examine the contents of their personnel file (except pre-employment application and letters of reference) upon filing a written request for review with the Personnel Department or may give written authorization to a representative to examine the file, who shall file a request for review with the Personnel Department. The employee and the Personnel Department shall mutually agree on a time and place for a review.
- C. The County shall furnish copies of any material in the file requested by the employee or their representative at the usual fee for copying established by the Office of the Clerk of the Board of Supervisors.
- D. The employee has the right to make a written response to any information in the personnel file. The response must be submitted within five workdays of the employee's receipt of the information. If timely submitted, the response will be attached to the material and placed in the employee's personnel file.
- E. Before any material of a derogatory nature is placed in an employee's personnel file, the affected employee shall first have the opportunity to review it. Once the employee has been given the opportunity to review the material, they shall sign a statement indicating only that they have been given that opportunity, not necessarily agreeing to the contents thereof. A copy of the same shall be provided to the employee.
- F. The employee may submit a statement regarding said derogatory material and that statement shall be affixed to the material referenced above.

- G. If a counseling memorandum is placed in an employee's file, said memorandum shall be removed after eighteen (18) months provided the problem identified in the memorandum has been corrected, and provided no counseling memorandum involving similar conduct have subsequently been placed in the file.
- H. If any derogatory material originates from a source other than the affected employee's Department Head, the Department Head will investigate to determine that the derogatory material is valid. It shall be placed in the employee's personnel file along with a counseling memorandum.

### **3.02 Time Records**

- A. The Personnel Department shall maintain accurate records regarding sick leave, personal leave, vacation leave, and compensatory and overtime accruals.
- B. It will be the employee's personal responsibility to maintain their individual time sheets. Time sheets and written requests for payment of compensatory time and overtime must be checked and approved by the Department Head and filed in the Personnel Department not later than the tenth (10th) of the following month.
- C. The Personnel Department will provide a monthly and hourly accrual computer report to each department. It will be the responsibility of the Department Head to make these reports available to the department employees for their review.

## **4 Employment Policies**

### **4.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

Assure fair treatment of applicants and employees in all aspects of personnel administration.

### **4.02 Equal Employment Opportunity**

It is the policy of the Essex County to provide equal employment opportunity to all people without regard to race, color, national origin, sex, age, religion, creed, disability, genetic predisposition, sexual orientation, gender identity or expression, familial status, marital status, pregnancy-related condition, prior arrest or conviction record, military status, domestic violence victim status,

citizenship, or other factors which cannot be lawfully used as the basis for employment decisions.

In addition, the County will not discriminate or retaliate against an employee based on the reproductive decision making of the employee or their dependent. Reproductive health decision making includes, but is not limited to, the decision to use or access a particular drug, device or medical services related to reproductive health. The County will not access an employee's personal information regarding reproductive health decision making of the employee or their dependents without the employee's prior affirmative written consent. The County will not require an employee to sign a waiver or other document that attempts to deny them the right to make their own reproductive health decisions.

#### **4.03 Employee Background Check**

Prior to making an offer of employment, Essex County may conduct a job-related background check including a criminal record check. A comprehensive background check may consist of prior employment verification, professional reference check, and educational confirmation.

#### **4.04 Change of Personal Data**

Any change in an employee's name, address, telephone number, marital status, dependents, insurance beneficiaries, emergency contact, or a change in the number of tax withholding exemptions, must be reported in writing without delay to the Personnel Office.

#### **4.05 Safety**

Essex County is committed to the safety and health of its employees. Every effort is made to comply with all Federal and New York State workplace safety requirements. Each employee is expected to obey safety rules and exercise caution and common sense in all work activities. Questions regarding safety policy should be directed to the Essex County Safety Officer.

#### **4.06 Weather Related and Emergency Related Closings**

- A. In the event adverse weather conditions impair the use of a county facility or for other extraordinary circumstances, the Chairman of the Board, the Vice Chairman of the Board, or County Manager may at their discretion direct an employee, or group of employees not to report to work, or to leave work. The employee(s) so directed shall be deemed to be absent with pay and shall not be charged for any time and leave credits due to such excused absence.
- B. Any employee who is required to remain at work after the

Chairman of the Board, the Vice Chairman of the Board, or County Manager has determined that adverse weather conditions or extraordinary circumstances exist for that geographic area, facility, or location within Essex County, shall receive equivalent compensatory time off at straight time, hour for hour, as the employees who were sent home or directed not to work.

- C. No employee who was previously scheduled off for vacation, reported sick, or took personal time, will be entitled to the additional time off provided for by this Section.
- D. Any release of employees from work as described in paragraph A above does not create any right to equivalent time off by any other employee or group of employees, whether directly or indirectly affected, not so released.
- E. The existence of such extraordinary conditions during the employee's next regular workday, by itself, shall not automatically relieve the employee from work. It shall be the obligation of the employee to communicate with the employee's Department Head to ascertain whether the employee must report to work. Such communication by the employee shall be prior to the employee's normal starting time.
- F. The Chairman of the Board or the Vice Chairman of the Board's discretion shall not be reviewable.

## 5 Employment

### 5.01 Employee Classifications

Essex County designates each employee as either exempt or non-exempt in compliance with applicable Federal and State Law.

- A. Employees who are designated as **exempt** are paid a fixed salary and are not entitled to overtime pay.
- B. Employees who are designated as **non-exempt** are entitled to overtime pay for all hours worked over forty (40) hours in a workweek, as required by Federal and State Law.

### 5.02 Full-Time Employees

- A. An employee hired on a permanent basis who works forty (40) hours five (5) days a week (full workweek).
- B. An employee hired on a permanent basis who works thirty-seven

and one-half (37 ½) hours five (5) days a week (full workweek).

- C. An employee hired on a permanent basis who works thirty-five (35) hours five (5) days a week (full work week).
- D. An employee within the Sheriff's Department hired on a permanent basis who works one work week of 36 hours followed by a 48-hour work week for a total of 84 hours for 12 hours per day.

### **5.03 Regularly Scheduled Part-Time Employees**

- A. An employee hired on a permanent basis who works twenty-four (24) hours three (3) days a week (3/5 workweek).
- B. An employee hired on a permanent basis who works twenty-two and one-half (22 ½) hours three (3) days a week (3/5 workweek).
- C. An employee hired on a permanent basis who works twenty-one (21) hours three days a week (3/5 workweek).

### **5.04 Probationary Employees / Probationary Term**

- A. Except as herein otherwise provided, every permanent appointment from an open competitive list, and every original appointment to a position in the non-competitive, exempt or labor class shall be for a probationary term of not less than eight (8) nor more than twenty-six (26) weeks.
- B. The probationary term for a Trainee position, in which an appointee is required to serve a specified training term, shall not be less than twelve (12) nor more than fifty-two (52) weeks.
- C. The probationary term for Deputy Sheriff and Correction Officer positions shall be not less than twelve (12) nor more than fifty-two (52) weeks.
- D. The probationary term for Social Service Workers and Caseworkers shall be not less than eight (8) weeks nor more than fifty-two (52) weeks.
- E. Every permanent appointment from a promotion eligible list shall be for a probationary period of twelve (12) weeks. Upon written notice of the appointing authority (see section 18, Department Head), the probationary period upon promotion may be waived and the appointee given a permanent appointment.
- F. An appointment shall become permanent upon the retention of the probationer after their completion of the maximum period of

probation or upon earlier written notice following completion of the minimum period of probation that their probationary term is successfully completed. A copy of such notice shall be sent to the Personnel Officer.

- G. If the conduct or performance of a probationer is not satisfactory, their employment may be terminated at any time after the completion of the minimum period of probation, and or before completion of the maximum period of probation. The County shall not give such an employee a reason for dismissal other than unsatisfactory probation.

#### **5.05 Provisional Employee**

An employee appointed to a competitive position, pending results of Civil Service Testing procedures.

#### **5.06 Temporary Employee**

An employee appointed for a limited time period pursuant to Civil Service Law (Section 64).

#### **5.07 On-Call Employee**

An employee (Temporary) whose name is listed on an authorized roster in a department for a specific title may be requested to work in an emergency.

#### **5.08 Grant Personnel**

An employee appointed pursuant to a Federal or State Grant. Benefits shall be paid if included in the grant or required by law. The Board of Supervisors may by resolution extend benefits to such employees.

#### **5.09 Physical Examination**

- A. An employee shall report to a health care provider designated by the County for a pre-employment physical examination, the cost of which shall be borne by the County insurance plan.
- B. Employees will be required to attest to the truthfulness of statements contained in the pre-employment physical examination form. Information withheld or falsified will constitute grounds for disciplinary action up to and including dismissal.

#### **5.10 Promotions**

- A. A promotion is a recognition that the employee has been successful in their current level of job responsibilities and deserves to advance to a higher position title with more responsibility to

earn a higher rate of pay.

- B. When an employee is promoted to a position title in a higher grade, said employee's rate of pay shall be increased to the starting rate of the higher grade.
- C. If the approved starting rate of the higher grade is less than 4% more than the employee's current rate of pay, then the increase in pay will be an amount equal to 4% above their current rate.
- D. If the approved starting rate of the higher grade is less than what the employee currently earns, then the affected employee shall be entitled to an amount equal to 4% above their current rate.

#### **5.11 Reassignments**

- A. Reassignment is the movement of an employee from one position to another position within a department or division under the same appointing authority (see section 18, Department Head).
- B. There shall be no immediate change in the hourly rate of an employee assigned to a new position unless their hourly rate is below the approved starting hourly rate of the new position.
- C. If the employee's hourly rate is below the approved starting hourly rate, then that employee's hourly rate will be raised to the approved starting hourly rate for the position.

#### **5.12 Demotion / Grade Change**

- A. When a permanent employee holding a provisional promotion or a probationary employee reverts to a lower graded position due to the inability of that employee to satisfy Civil Service testing or probationary requirements of their new position, then said employee's salary shall revert to the level it was paid at prior to their promotion to the higher grade. If necessary, an upward adjustment to their prior salary level will be made based on any percentage or contractual rate increases they would have received had they remained in the lower position.
- B. If an employee accepts demotion to a lower graded position due to a disciplinary settlement, then such employee shall be paid at the approved starting rate of the lower graded position.
- C. If a grade change is made to a position title due to a wage rate survey or salary grade assessment, which results in a downward adjustment in the starting hourly rates of the position, then the employees in the position title at the date of enactment will be permitted to retain their current rate of pay.
- D. If a grade change is made to a position title due to a wage rate survey or salary grade assessment, which results in an upward



adjustment in the starting hourly rates of the position, then those employees whose current hourly rate at the date of enactment is lower than the new hourly rate will have their hourly rates adjusted upward to the new starting hourly rate.

- E. If a grade change is made to a position title due to a wage rate survey or salary grade assessment, which results in an upward adjustment in the starting hourly rates of the position, then the hourly rate of those employees whose current hourly rate at the date of enactment is higher than the new hourly rate will not change. However, these employees will be entitled to any contractual agreed increases as they are applied to all employees.
- F. If an employee voluntarily requests a demotion to a lower graded position, and the request is approved by the appointing authority and the Personnel Officer, then said employee shall be paid at the approved starting rate of the lower graded position.
- G. If the voluntary demotion is two (2) grades or less in reduction, then the employee's hourly rate shall revert to the level paid prior to their promotion to the higher grade. If necessary, an upward adjustment to their prior salary level will be made based on any percentage or contractual rate increases they would have received had they remained in the lower position.
- H. A demotion means a change of a permanent employee from a present position to a position in a lower grade with a lower maximum salary. The appointing authority may demote a permanent employee for disciplinary reasons subject to the provisions of Section 75 of the Civil Service Law, if applicable. If the employee is not covered under Section 75 of the Civil Service Law, the appointing authority may demote such employee by filing a Notice of Personnel Change (form MSD-428) with the Personnel Department with a copy going to the employee.

### **5.13 Transfers**

- A. Transfers are the movement of an employee from one department under one appointing authority to another department under a different appointing authority.
- B. A transfer must be approved by both Department Heads and the Personnel Officer.
- C. An employee who transfers in the same position title from one department to another department shall be allowed to carry their current rate of pay even if their current rate of pay is above the starting rate for the new position of the same title.
- D. If a current employee applies for and is offered appointment to a

new position in a different title, then that appointment shall be considered a new appointment, and the terms of the new appointment section shall apply: the employee shall be paid the starting hourly rate for the new position's approved grade level.

- E. Employees who transfer shall serve a twelve (12) week probationary period and will return to their former department if transferee's work is not satisfactory during such probationary period.

#### **5.14 Seniority**

- A. An employee who leaves county employment and is rehired shall have their prior seniority reinstated in terms of benefit levels. Employees must have received benefits at the time of previous employment to qualify under this provision.
- B. Should a management/confidential position be changed to a bargaining unit position, the incumbent holding such position shall retain their seniority with no break in service.

#### **5.15 Part Time Employment**

All rates prescribed in the current rates of pay are the standard rates of pay authorized for full-time (full workweek) employment. When employment is on a less than full workweek basis, only the proportionate amount of time actually employed shall be paid, and at the minimum rate for the grade in which employed, unless otherwise authorized by the Board of Supervisors.

#### **5.16 Shift Differentials**

Except for the Sheriff's Department, there shall be a forty cent (\$0.40/hour) shift differential for those employees who work either the 3 p.m. to 11 p.m. or 11 p.m. to 7 a.m. shift, provided that the position the employee holds is also a position required for normal work hours. The Sheriff's Department shall be on a fifty cent (\$0.50/hour) shift differential.

#### **5.17 Terminations**

- A. Employees leaving the County must comply with the rules set forth below. All employees must return all County property in their possession including, but not limited to, electronic equipment, cell phones, computers, tablets, laptops, flash drives, keys, ID, key fobs, vehicles, uniforms. In addition, employees must provide the County with all passwords required to access any electronic device or system.
- B. Retirement
  - (1) Employees who wish to retire should contact the Personnel

Department for further information regarding benefits under the County Plan.

- (2) An employee planning to retire should notify the Department Head, Personnel Department and New York State Retirement System in writing at least thirty (30) days prior to the date of retirement.

C. Resignation

- (1) Resignation is separation of an employee from the County service by reason of the employee's voluntary action.
- (2) Any employee wishing to leave the County service in good standing shall submit a written notice of resignation to their appointing authority at least two (2) weeks in advance of the date of resignation.
- (3) Employees may not withdraw their resignation without written consent of the appointing authority.

**5.18 Layoff and Recall**

A. Competitive Class Employees

- (1) Layoff and recall of employees within the competitive class is governed by the "Essex County Rules for the Classified Civil Service -rule 24 - Layoff of Competitive Class Employees", a copy of which is available in the Essex County Personnel Office.

B. Non-Competitive and Labor Class Employees

- (1) All permanent non-competitive and labor classified employees shall be eligible for layoff and recall in accordance with the following:
  - (a) Layoff shall be by department and title classification only. The least senior employee shall be laid off within each title in the affected department when a reduction in force is necessary. When laid off in their current title, an employee shall be allowed to use their departmental seniority to bump an employee in the next lower title or same grade within the affected department. If an employee refuses to displace the junior incumbent, the said employee will be laid off. If an employee is unable to bump vertically within their title in the department, the employee may be allowed to bump into a lower title in the department,

providing the Department Head deems said employee qualified. Said employee must have more department seniority than the employee being bumped. The decision of the Department Head shall be final. Recalls from layoff shall be made in the reverse order of layoff.

- (b) All part-time employees shall be laid off prior to full-time employees. The above procedure shall be used in the event of layoff of part-time employees.
- (c) In the event employees have the same hire date and seniority with Essex County, then the tie breaking procedure will be by use of the last four (4) digits of their respective social security numbers. Employees with the highest numerical value of the four digits will be laid off first, each additional layoff for tied employees will be in descending order of the last four digits.
- (d) A laid off employee who refuses to return to a position offered within fourteen (14) calendar days of notification, forfeits all rights to the position and employment. It shall be the responsibility of the employee on layoff to provide the Personnel Office with a current mailing address. The County shall notify the employee by certified mail at their mailing address when a recall is to take place.
- (e) Laid off employees shall maintain recall rights to the position and department for a period of three (3) years after the date of layoff.

#### **5.19 Transitional Duty Program**

- A. To create an environment that will facilitate employee recovery from injury or illness, and to improve operational efficiency of Essex County, a program of Transitional Duty has been established for Essex County Employees.
- B. On a case-by-case basis, this program covers all Essex County personnel who sustain a work-related disabling injury. Essex County may make temporary and reasonable accommodations which will enable the employee to gradually return to his/her position at full duty. Transitional Duty will never be offered as a permanent alternative.

- C. This program may also apply voluntarily, on a case-by-case basis, to employees who have sustained disabling injury or illness from non-work-related activity, if and when Transitional Duty tasks become available. Work-related injuries will receive priority if transitional duty work is limited. A complete copy of the Essex County Transitional Duty Program is available in the Essex County Personnel Office. Essex County Board of Supervisors reserves the right to amend or change the existing Essex County Transitional Program/Policy.

## 6 Compensation

### 6.01 Pay Periods

- A. County employees are paid on a two (2) week payroll cycle.
- B. Employees shall be paid on the Friday after each pay period. Exceptions to the above may be approved by the County Treasurer.
- C. All employees will be paid on a lag payroll, meaning employees receive a check at the end of the pay period for service performed in the two (2) week pay period that began four (4) weeks earlier than the check date and ended two (2) weeks earlier than the check date.
- D. When pay days fall on a holiday, payment will be made the day before such holiday.

### 6.02 Rules for Administration of the Salary Plan

- A. Hiring Rate
  - (1) The pay rate established for a position within the salary grade plan is the normal appointment rate for new employees.
  - (2) In the event there are no applicants available who meet the minimum training and experience for the title, the appointing authority may request appointment of a selected applicant as a trainee. In such case, the employee may be hired at a designated lower grade until such time as the minimum experience requirements are met. Civil Service Rules provide for a period not to exceed one year.
- B. General Adjustments

Any general adjustments to the pay rates of the salary plan shall

be by approval of the Board of Supervisors subject to any applicable collective bargaining agreement.

### **6.03 Overtime Pay**

Non-exempt employees shall receive one and one-half (1 ½) times their normal rate of pay for approved hours of actual work in excess of forty (40) hours in any week. Employees who work unauthorized overtime may be subject to discipline.

### **6.04 Compensatory Time**

- A. Only those employees who are entitled to compensatory pay pursuant to the Fair Labor Standards Act shall be entitled to claim and receive such compensation.
- B. The use of accrued compensatory time shall be scheduled at the mutual convenience of the employee and the Department Head.
- C. The maximum amount of accrued compensatory time shall be capped at an hourly equivalent of 10 days based on the employee's normal workday for the department, and any compensatory time that exceeds the 10 days shall be paid at the accrued earned rate. Such payment shall be made within two pay periods from the time determined to be due. Any exception to this section must be approved by resolution of the Essex County Board of Supervisors.
- D. Full-time employees who are exempt from the overtime provisions of the Federal Fair Labor Standards Act (FLSA Exempt) shall be granted compensatory time only pursuant to the Essex County Exempt Compensatory Time Policy adopted on April 4, 2005.

### **6.05 Expense Procedures**

#### A. Review by County Auditor

The County Auditor is designated by the Board of Supervisors to approve or disapprove all expense vouchers presented for payment. All expenses on County business shall be incurred according to the regulations established by the Essex County Auditor and as approved by the Essex County Board of Supervisors.

#### B. Vouchers Required

All expense vouchers must be itemized and shall:

- (1) describe the place where, the time when, the reason for and the amount of the expenditure; and

- (2) have the original receipt attached showing the amount of the expenditure, the date of expenditure, and the name and location of the place where the expenditure was incurred; and
- (3) be submitted only by the employee or officer incurring the expense(s), and only for the expense(s) incurred for such employee or officer; and
- (4) be approved, prior to submission to the Auditor, by:
  - (a) the County Manager, for expense vouchers of Department Heads, County Attorney, Clerk of the Board, and elected County officers, or
  - (b) Department Heads, for expense vouchers submitted by the employees of their department, or
  - (c) the Chairman of the Board or at least two out of the three members of the Audit Committee, for expense vouchers submitted by members of the Board of Supervisors, or
  - (d) the Chairman of the Board of Supervisors, for expense vouchers submitted by the County Manager, County Attorney, Clerk of the Board, and elected County officers; and
- (5) be submitted to the Auditor within thirty (30) days of incurring or paying the expense. For expense(s) charged to a credit card, the voucher must be submitted not later than thirty (30) days after receiving the first bill listing the expense.

Notwithstanding any other provision of this section, vouchers for mileage expenses incurred by members of the Board of Supervisors for travel to and from County Board and/or Committee meetings or hearings may be submitted directly to the Auditor and are not required to have prior approval of the Chairman of the Board or the Audit Committee.

If any of the foregoing requirements are not complied with, reimbursement shall not be allowed, and the employee or officer seeking reimbursement shall waive any right to seek or obtain reimbursement for such expense(s) from Essex County.

#### C. Prior Approval of Overnight Expense

It is required that all overnight attendance on County business as well as the attendance of any County officer and/or employee at any conference, convention or school conducted for the betterment of Essex County must

be approved prior to attending by:

- (1) the County Manager or the Chairman of the Board of Supervisors for all County employees and Department Heads, as well as elected County officers (other than members of the Board of Supervisors), the County Attorney and Clerk of the Board, or
- (2) the Chairman of the Board or two out of three members of the Audit Committee, for members of the Board of Supervisors and the County Manager.
- (3) the Chairman of the Board of Supervisors, for the County Manager.

D. Expenses Generally

- (1) Only the actual and necessary expenses essential to the ordinary comforts of a traveler in the performance of official duties will be reimbursed. Reimbursement for the following expense(s) shall not be allowed and is prohibited:
  - (a) expense(s) incurred for meals or refreshments for employees attending in-house workshops, conferences, meetings, or similar events; and/or
  - (b) expense(s) incurred for the purchase or consumption of alcoholic beverages, whether incurred during official travel or while attending any conference, school, meeting, or similar event; and/or
  - (c) expense(s) incurred for or on behalf of persons who are neither County employees nor officials; and/or
  - (d) expense(s) incurred or paid more than 45 days prior to the date of submission for reimbursement, although the County Manager may approve expenses greater than 45 days old if less than \$1,000.00.

E. Transportation Expense

- (1) Travel by Air - The purchasing department will book and pay for all air travel. County employees will not be reimbursed for air travel.
- (2) Taxicab charges - are allowable expenses when circumstances dictate and which are substantiated by an original receipt or other internet App (i.e., Uber, Lyft) account statement.



(3) Transportation by personally owned vehicle

- (a) The official use of personally owned cars shall be restricted to such cases where it is to the advantage of the County.
- (b) Charges:
  - (1) Parking charges - meter; day and overnight charges. When an employee is in an official travel status, necessary parking charges will be allowed. Parking meter charges will be allowed when the rate and the place it is incurred is listed on account. Receipts are required for day parking and overnight parking; such receipts shall be attached to reimbursement vouchers.
  - (2) Charges for gasoline, accessories, repairs, depreciation, antifreeze, towage, and other similar expenditures for personally owned will not be allowed.
- (c) Mileage Reimbursement: The rate of reimbursement for those employees required to drive their own personal vehicle while acting within the scope and in furtherance of official County business shall be the maximum rate allowed by the Internal Revenue Service, provided that such reimbursement shall be limited to actual and necessary mileage only.

Thruway or highway tolls: reimbursement will be allowed for tolls actually paid, but only if a receipt, or E-ZPass account statement, is submitted.

F. Travel to Non-County Work Sites

County employees who, as part of their regular County employment duties, travel directly from their respective residences to non-County work sites at the beginning of their workday and/or return to their respective residences directly from a non-County work site at the end of their workday shall be governed by the following:

- (1) The transportation of passengers is prohibited, except that the Department Head may grant permission for the transportation of the following persons in the course and furtherance of County business:

- (a) other County employees, or
  - (b) in extraordinary circumstances, clients.
- (2) The employee shall be reimbursed at the mileage rate authorized by the Internal Revenue Service, for actual and necessary mileage in accordance with the following, provided that a properly completed County travel voucher is submitted:
- (a) where the distance to the first non-County work site from the employee's residence, and/or from the last non-County work site to the employee's residence, is further than the distance between the employee's residence and the County offices in Elizabethtown, the round trip distance between the employee's residence and said County offices shall be subtracted on the voucher from the actual mileage traveled by said employee to and from their residence and during that workday, and the County shall reimburse the employee for the mileage in excess of said round trip distance; and
  - (b) in all other cases, travel mileage shall start at the first visit of the day, or at the assigned office, and shall end at the last visit of the day, or at the assigned office.
- (3) Time shall start at the first visit of the day, or at the assigned office, and shall end at the last visit of the day, or at the assigned office.
- (4) The employee shall assume responsibility for their own insurance on their personal vehicles, and a copy of the insurance card and a copy of the employee's current driver's license shall be on file with the County.
- (5) Notwithstanding any of the foregoing, if a County vehicle is assigned for use by an employee and an employee chooses to use their own personal vehicle instead, the employee shall not be paid mileage for that day. Actual mileage shall be recorded on the daily time and travel sheet with the notation "do not pay mileage," and under no circumstances shall this mileage be included on the monthly mileage log.

G. Meals and Lodging

No reimbursement for meal or lodging expenses shall be allowed except

in accordance with the following:

- (1) only those meal and/or lodging expenses incurred in connection with travel outside of Essex County and with a pre-approved "Essex County Request for Travel" form shall be reimbursed; and
- (2) the amount of reimbursement sought and paid:
  - (a) shall be the actual and necessary expense incurred;
  - (b) shall not exceed the IRS Maximum Federal Per Diem Rate allocated 20% to breakfast, 30% to lunch and 50% to dinner; and
  - (c) shall be reduced by the amount of any third-party contribution or allowance; and
- (3) reimbursement for meals shall only be allowed or paid when the following requirements are met:
  - (a) the employee must attach the original itemized meal receipt to the travel voucher;
  - (b) the original receipt, or an attachment to such receipt, must contain the following minimum information:
    - (1) full name, and the address and/or telephone number (including area code) of the restaurant or other meal provider;
    - (2) date and time of meal; and
    - (3) number of persons served; and
  - (c) when either:
    - (1) the time of departure from home or the official work site at the beginning of the trip occurs **before** the following hours for the meals indicated:

Breakfast	--	7:00 AM
Lunch	--	12:00 noon
Dinner	--	6:00 PM
    - (2) the time of return to home or the official work site at the conclusion of the trip occurs **after** the following hours for the meals indicated:

Breakfast	--	8:00 AM
Lunch	--	1:00 PM
Dinner	--	7:00 PM; and

(4) reimbursement for meal expenses may include taxes and a reasonable gratuity, provided that in no event shall the amount sought or paid exceed the allowable rate(s); and reimbursement for lodging expenses may not include taxes other than taxes for which the County is not exempt by law **including**, but not limited to, local county or city occupancy, hotel or bed taxes, and taxes imposed by other states or foreign countries.

H. Miscellaneous Charges

Expenses for laundry, valet service, theater tickets, sporting events, typing of travel vouchers, and entertainment are personal charges for which reimbursement is prohibited.

I. Travel Expenses to Foreign Countries

The expenses incurred for travel to foreign countries including, but not limited to, Canada will be subject to a discounted reimbursement after application of the prevailing exchange rate (to the nearest 5t percentile), subject to compliance with the other provisions of this section.

J. Exceptions; Review by Audit Committee

Any employee or officer whose application for reimbursement has been denied, in whole or in part, may appeal to the Audit Committee for review of such denial. The determination of the Audit Committee shall be final and binding upon the parties. Reversal or modification of a denial by the Audit Committee must be unanimous. All determinations of the Audit Committee shall be in writing and shall state the reason(s) for such determination and the vote of each member in connection therewith.

**6.06 Deductions**

A. The County shall deduct from employees' wages the following:

- (1) Federal Withholding Taxes
- (2) State Withholding Taxes
- (3) Social Security
- (4) Union Dues (as applicable)

- (5) Retirement payments for contributing employees
  - (6) Disability Insurance
  - (7) Health Insurance Premiums
  - (8) Other deductions authorized by the Board of Supervisors
  - (9) Other deductions required by law.
- B. The County shall deduct from employees' wages upon the written request of the employee of one or more of the following:
- (1) Union Insurance Programs
  - (2) Volunteer Benefit Program Premiums
  - (3) Retirement Arrears
  - (4) Federal Credit Union
  - (5) Deferred Compensation
  - (6) Other deductions authorized by the employee.

## 7 Working Conditions

### 7.01 Conditions of Employment

A. Nepotism

No County employee may appoint, employ, promote, advance, or recommend a relative to any position over which they have work supervisory control unless they make full disclosure to the appointing authority, Personnel Officer, and the Chairman of the Board of Supervisors. Any individual who is related to the employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepsister, stepbrother, half-brother, or half-sister, or person residing in the same household shall be considered a "relative" for the purpose of this section.

B. Code of Ethics

Essex County adopted Local Law No. 6 of 2010, Essex County Ethics and Disclosure Law, in compliance with Article 18 of the New York State General Municipal Law. All employees, appointees and elected officials are to abide by and comply with

this law. The intent of this ethics law is to prohibit any public official or employee from having interests, from engaging in business activities, or from incurring any obligations which is in substantial conflict with the proper discharge of their duties in the public interest. In addition to any penalty contained in Local Law No. 6 of 2010, or the General Municipal Law, any other provision of law, any such county employee, appointee or public official who shall knowingly and intentionally violate any of the provisions of the law may be fined, suspended, or removed from office or employment in the manner provided by law.

#### Conflict of Interest

Conflicts of interest as defined in the General Municipal Law are prohibited.

### C. Use of Property

#### (1) Definition and Policy

“County Property” shall be defined as being any material, supply or any other article of value obtained with County funds for use by the County or gifts to the County for use by the County. Employees are prohibited from using County property outside the scope of their county employment with the following exceptions:

- (a) Where off-duty service of County employees requires wearing of uniform and/or operation of County equipment for identification as a county employee at public gatherings, at parades, or exhibitions. Such action must be properly authorized by the Department Head.
- (b) County employees who furnish their personal tools in the performance of their duties may use such tools after their official duty hours in performing jobs of a private nature, provided that no County supplies are used on such jobs.

#### (2) Vehicles

Use and operation of County owned vehicles shall be governed by Chapter 15 of this policy manual.

#### (3) Stationery/Postage

County stationery or postage shall be used for official correspondence only. Employees may not use County stationery or postage for personal correspondence which is unrelated to the transaction of official County business.

**7.02 Outside Employment**

- (1) No employee shall accept outside employment or engage in any private business if such outside employment or private business interferes with the normal conduct of their regular County position or will impair their independence of judgment in the exercise of their official duty.
- (2) No employee shall perform outside employment during County work time.
- (3) Employees shall ensure that county assets are used only for the benefit of the county and the people served. Assets include funds, equipment, inventory, and office supplies, but also concepts, business plans and strategies, information about people served, financial information, computer property rights, and other business information about the county.
- (4) Employees shall not use county assets for personal gain or give them to any other persons or entities, except in the ordinary course of business as part of an approved transaction.
- (5) Any employee accepting outside employment shall plan with their outside employer to be relieved from their duties should they be called for an emergency by the County. Any employee accepting such employment shall agree to respond to any emergency should their Department Head determine it to be necessary.
- (6) All employees who sustain injuries while performing outside employment duties are to report them to their immediate county superior prior to the next regularly scheduled workday.
- (7) Prior to engaging in outside employment, county employees shall seek advice from their department head, and review the Ethics Law, concerning the appropriateness of the activity.

**7.03 Hours of Work**

- A. Employees shall be required to work the work week as listed below which shall be scheduled Saturday through Friday.

Department	Hours	Lunch Period	Department	Hours	Lunch Period
Aging	7.5	One half Un-paid	Motor Vehicles	7	One Hour Un-paid
County Clerk	7	One Hour Un-paid	Community Resources	7.5	One half Un-paid

District Attorney	7	One Hour Un-Paid	Probation	8	One half Un-paid
DPW/Highway	8	One half Un-paid	Public Health	7.5	One half Un-paid
Emergency Services	8	One half Un-paid	Real Property	8	One half Un-paid
E911 Dispatchers	Varies		Transportation	8	One half Un-paid
Fisheries	8	One half Un-paid	Social Services	7	One Hour Un-paid
Information Systems	8	One half Un-paid	Treasurer	7	One Hour Un-paid
Mental Health	7	One Hour Un-paid			

- B. Lunch periods have statutory requirements per New York State Labor Law as follows:
- (1) Every employee must be provided with at least thirty (30) minutes for the noonday meal.
  - (2) The noonday meal period is recognized under New York State Labor Law as extending from 11:00 o'clock in the morning to 2:00 o'clock in the afternoon.
  - (3) An employee who works a shift of more than six (6) hours, which extends over the noon day meal period, is entitled, and required to have at least thirty (30) minutes off within that timeframe for the meal period.
- C. Flexing of the Lunch Periods shall be provided for based upon the following:
- (1) A Department Head may allow employees of their department to take their lunch period anytime between 11:00 o'clock in the morning and 2:00 o'clock in the afternoon based upon operational needs of the department.
  - (2) For those departments who currently are defined as one-hour unpaid lunch periods, such lunch periods may be shortened to the minimum of thirty (30) minutes upon request of the employee and approval of the Department Head on an intermittent basis or in limited cases as a permanent change to the schedule based upon the following conditions:
    - (a) If a request to shorten the lunch period is a permanent change to the schedule for individual positions, then the approval of the County Manager must be obtained with justification.



- (b) If a request to shorten the lunch period is a permanent change to the schedule for all employees of the department, then the Department Head must request approval from the Board of Supervisors in the form of a resolution.
  - (c) If an intermittent change is approved by the Department Head, the following condition will apply: the starting and stopping time of the employee must be adjusted to reflect the normal work hours as defined for the department. For example, the employee either comes to work 30 minutes later or leaves work 30 minutes earlier.
- D. Working a lunch period shall not be allowed for the purpose of shortening the workday of the employees, unless an emergency occurs which requires the employee to work through the lunch period. In the event of such an emergency, the Department Head may allow the employee to leave early or provide comp time for the lunch period which had to be worked through. Such practice shall be on a limited basis only.
- E. Departments who work shift work may continue such practice. With the approval of the County Manager, a Department Head may establish flexible starting and stopping times for the department based upon the following:
  - (1) The hours of operation must meet all statutory requirements related to hours open to the public.
  - (2) Such starting and stopping times must not result in any employee earning additional paid or comp time, and such overall hours must conform to reflect the normal work hours as defined for the department.
- F. Nothing contained herein shall prevent the County from instituting summer hours consisting of four (4), ten (10) hour days per week or some combination of the same to arrive at a normal work week for the requesting department, anytime during the period May 1 to October 1, provided with at least two (2) weeks prior notice.
- G. Except as otherwise specified, an employee who is called back to work after the employee's regular hours of work have been completed and after the employee has left, shall be guaranteed a minimum of four (4) hours pay at the appropriate rate.
- H. Current employees who hold positions that are based on a thirty-five (35) hour work week but are working either a thirty-seven and one-half (37 ½) or forty (40) hour work week shall be paid at

the thirty-five (35) hour work week hourly rate.

#### **7.04 Departmental Work Rules**

Departments are authorized and encouraged to establish certain work rules and regulations governing their operations regarding hours of work, employee conduct, and work procedures so long as these rules do not conflict with those specified in this Manual, the collective bargaining agreement and local and state law. Copies of such rules shall be filed with the County Manager, the Clerk of the Board of Supervisors, the County Attorney, and the Personnel Officer. All employees are required to adhere to Departmental Rules as they are to all County rules of policy and procedure. Violations of these rules on the part of the employee may result in disciplinary action.

## **8 Grievance Procedure for County Employees**

### **8.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY:

That all grievances be resolved and at the earliest possible state of the grievance procedure. The procedure is available without any fear of discrimination because of its use. Informal settlements at any stage shall bind the immediate parties to the settlement but shall not bar procedures in a later grievance proceeding.

### **8.02 Declaration of Basic Principles**

- A. Efforts should be made to resolve an alleged grievance at the informal stage by submitting a grievance to the employee's immediate work supervisor before resorting to the formal steps of the grievance procedure.
- B. If the employee and immediate work supervisor are unable to resolve, then the employee and immediate work supervisor shall each submit a written statement to the cognizant Department Head in accordance with the procedures outlined in the current CSEA Agreement, and General Municipal Law section 684, free from coercion, restraint, discrimination, or reprisal.

## 9 Performance Evaluation System

### 9.01 Statement of Policy

IT IS THE POLICY OF ESSEX COUNTY TO:

Provide a performance evaluation system with a uniform procedure for the evaluation of services performed by employees of the County.

### 9.02 Purpose

The purpose of the evaluation system is to permit work supervisory personnel and employees to evaluate the performance of employees in accomplishing their assigned duties and responsibilities and to determine how and to what extent employee performance relates to the requirements of each position involved. This information is collected with the object of assessing employee performance and work supervisory support, and thereby improving the numerous services rendered by the County.

### 9.03 Scope

- A. This system is applicable to all employees.
- B. Each department must use either the system described here, or may formulate their own system, if it is founded on sound performance evaluation principles.

### 9.04 Frequency of Performance Evaluation

The evaluation of an employee's performance is an ongoing and continuous process. However, a formal written performance evaluation is necessary to provide a permanent record of an employee's work history.

- A. Probationary Employees
  - (1) For employees on probation, the department will complete a performance evaluation between the sixth and seventh week of probation and at least two (2) weeks before the completion of the probationary period.
  - (2) Additional evaluations at earlier periods of time are encouraged if, in the opinion of the Department Head, the additional information would enhance the accuracy and/or completeness of the employee's evaluation.
- B. Permanent Employees
  - (1) For permanent employees, the Department Head will complete at least one annual evaluation per employee.

- C. The evaluation should be completed not later than August 31st of each year and submitted to the Personnel Office to be incorporated in the employee's personnel folder. The employee has the right to make a written response to the evaluation within five (5) workdays of their receipt of the evaluation. If timely submitted, the response will be attached to the material and placed in the employee's personnel file.

9.05 Sample Performance Evaluation Form  
See Appendix.

## 10 Employee Leave Time Benefits

### 10.01 Statement of Policy

IT IS THE POLICY OF ESSEX COUNTY:

To provide fair and equitable treatment of employees with respect to leaves of absence with pay and leaves of absence without pay. Unauthorized leave (off payroll) is not allowed, and such shall be considered as grounds for termination of said employee in accordance with due process of the Law.

### 10.02 Paid Holidays

- A. Holidays include:

New Year's Day	Columbus Day
Martin Luther King Day	Veterans Day
Presidents' Day	Thanksgiving Day
Memorial Day	Day After Thanksgiving
Independence Day	Christmas Day
Labor Day	Floating Holiday
Juneteenth	

- B. Holiday benefits defined for employees working a Standard Work Week defined as Monday through Friday shall be based upon the following conditions:

- (1) For all holidays, other than Thanksgiving, Christmas, and New Year's Day, such employees shall be entitled to the following benefits:

- (a) All employees who work on the holiday will receive

(1.5) times their normal hourly rate for actual hours worked on such holiday or designated as the holiday.

(b) The designated holiday will count as hours worked for the week. If the hours worked exceed the requirement for overtime based on the Fair Labor Standards Act or other such conditions agreed to in this contract, then the employee must be paid for those hours actually worked over the limit.

(c) Actual hours worked for the week will not include actual hours worked on the holiday. Actual hours worked on the holiday will be paid out as described below.

(2) For Thanksgiving, Christmas, and New Year's Day such employees shall be entitled to the following benefits:

(a) All employees who work on the holiday will receive (2.0) times their normal hourly rate for actual hours worked on such holiday or designated as the holiday.

(b) The designated holiday will count as hours worked for the week. If the hours worked exceed the requirement for overtime based on the Fair Labor Standards Act or other such conditions agreed to in this contract, then the employee must be paid for those hours actually worked over the limit.

(c) Actual hours worked for the week shall not include actual hours worked on the holiday. Actual hours worked on the holiday will be paid out as described below.

C. Holiday Benefits defined for employees working a Non-Standard Work Week such as the twenty-four-hour departments or other such shift work departments, shall be based upon the following conditions:

(1) For all holidays, other than Thanksgiving, Christmas, and New Year's Day, such employees shall be entitled to the following benefits:

(a) Should an employee be scheduled to work on the day designated as the holiday, the employee will

receive equivalent comp time for all hours worked on the designated holiday.

- (b) Shall be paid at an hourly rate of (1.5) times for all hours worked on the holiday or such designated holiday.
- (c) Should an employee be scheduled to work on the holiday(s) as identified above and also be scheduled to work on the day designated as the holiday the following would apply:
  - (1) The designated day would be treated as a comp day and the employee shall be paid at a rate of (1.5) times their normal hourly rate for all hours worked on such designated day.
  - (2) The holiday would be treated as a normal day because the designated day becomes the holiday for the purposes of this benefit, therefore the employee shall be paid their normal hourly rate for all hours worked on such holiday.
  - (3) The designated holiday will not count as hours worked for the purpose of this section as the employee is earning equivalent holiday comp that can be used at another time.
  - (4) If such double schedule results in the hours the employee actually works within a work week exceeding the requirement for overtime based upon the Fair Labor Standards Rules or other such condition agreed to within this contract, then the employee must be paid overtime for those hours actually worked over the limits.

(2) For Thanksgiving, Christmas, and New Year's Day, such employees shall be entitled to the following benefits:

- (a) Should an employee be scheduled to work on the day designated as the holiday, the employee will receive equivalent comp time for all hours worked on the designated holiday.
- (b) Shall be paid at an hourly rate of (2.0) times their

normal hourly rate for all hours worked on the holiday or such designated holiday.

- (c) Should an employee be scheduled to work on the holiday(s) as identified above and also be scheduled to work on the day designated as the holiday the following would apply:
  - (1) The designated day would be treated as a comp day and the employee shall be paid at a rate of (2.0) times their normal hourly rate for all hours worked on such designated day.
  - (2) The holiday would be treated as a normal day because the designated day becomes the holiday for the purposes of this benefit, therefore the employee shall be paid their normal hourly rate for all hours worked on such holiday.
  - (3) The designated holiday will not count as hours worked for the purpose of this section as the employee is earning equivalent holiday comp that can be used at another time.
  - (4) If such double schedule results in the hours the employee works within a work week exceeding the requirement for overtime based upon the Fair Labor Standards Act or other such conditions agreed to within this contract, then the employee must be paid overtime for those hours actually worked over the limits.
- D. If a holiday(s) falls within an employee's vacation period, the vacation period of such employee shall be extended by the holiday(s) that fall within such vacation.
- E. When a holiday falls on a Saturday, employees shall be given Friday off. When a holiday falls on a Sunday, employees shall be given Monday off. In place of Lincoln's Birthday there shall be a Floating Holiday to be taken in the calendar year by mutual agreement with the Department Head.
- F. For employees defined as Part Time with Benefits, such benefits as detailed above will be provided prorated based upon the appropriate percentage of time they work of their respective department's hours.

### 10.03 Vacation Leave

- A. Employees shall be entitled to vacation time in accordance with the following categories:
  - (1) Category One: Twenty (20) days per year.
    - (a) Employees hired prior to January 1, 1999. Employees must have seven (7) creditable years or more of service with the County.
  - (2) Category Two: Eighteen (18) days per year.
    - (a) Employees hired after January 1, 1999. Employees must have eight (8) creditable years or more of service with the County.
  - (3) Category Three: Fifteen (15) days per year.
    - (a) Employees hired prior to January 1, 1999, and have at least five (5) complete years or more but less than eight (8) creditable years of service with the County.
  - (4) Category Four: Twelve (12) days per year.
    - (a) Employees hired prior to January 1, 1999, and have at least three (3) creditable years but less than five (5) complete years of service with the County.
    - (b) Employees hired after January 1, 1999. Employees must have three (3) creditable years or more but less than eight (8) creditable years of service with the County.
  - (5) Category Five: Nine (9) days per year.
    - (a) Employees hired after January 1, 1999, with less than three (3) creditable years of service with the County.
- B. All vacation time will be based on a calendar year. Vacation time will be credited in January and available for use at that time.
- C. If an employee is due to move to a category with a higher benefit level within the ensuring calendar year that employee will be given the credit for the higher category.
- D. New employees will be credited a prorated amount of vacation time at the date of hire in their first year. Vacation time will be prorated in an employee's last year of employment.



- E. New employees hired on or before the fifteenth (15<sup>th</sup>) of the month will be credited with an anniversary date as of the first day of that month. New employees hired after the fifteenth (15<sup>th</sup>) day of the month will be credited with an anniversary date as of the first day of the next month. These dates will be used for the purpose of determining the prorated amount of vacation time available in their first and last years.
- F. Employees shall be entitled to accrue a maximum of thirty (30) days of vacation time. Except, employees hired after January 1, 2018, shall be limited to accrue a maximum of twenty (20) days, during their first five (5) years of service with the County. After five (5) years of continuous service with the County the employee can then accrue thirty (30) days of vacation time.
- G. No employee can have more than the maximum allowable accrued vacation time on the books on December 31 of each calendar year; any amount above 30 days (or 20 days for newly hired employees) on December 31 of each calendar year will be lost. In other words, the employee must use any accrued vacation time above the 30-day maximum (or 20 days for newly hired employees) within the current calendar year prior to December 31 to avoid losing that vacation time. An employee who has 30 days of accrued vacation time on December 31, (or 20 days for newly hired employees), shall continue to accrue vacation credit for the upcoming calendar year starting January.
- H. If an employee is in danger of exceeding the maximum amount of vacation time and their Department Head is unable or unwilling to schedule the time necessary to get below the maximum, the employee may appeal to the County Manager to schedule the necessary time off to reduce or remove the amount of time above such maximums.
- I. If an employee leaves the service of the County, either by voluntary resignation (not termination by the County), retirement or in the event of death, said employee shall be entitled to receive a cash payment for any accrued vacation time earned and retained in the previous calendar year, plus a prorated amount of time for the current calendar year based upon the date the employee leaves service, provided that under no circumstances shall said time exceed the maximums as defined above. If an employee leaves service and receives payment for accrued vacation but returns to County Service within thirty (30) days, the employee may buy back their vacation time by repaying the amount received;

otherwise, the employee shall not be entitled to accrue or use any vacation time for the remainder of the year.

- J. Employees requesting the use of vacation time which equals or exceeds five (5) consecutive days in length, shall be notified by the Department Head of the approval or disapproval of such request within five (5) business days. All other requests for use of vacation time in increments less than five (5) days shall be processed by the Department Head in a timely manner.
- K. All references to days in this Article shall be converted to equivalent hours. The hourly credit for these days will be calculated based on the appropriate days multiplied by the hour of a normal workday for that employee's department.

#### **10.04 Sick Leave**

- A. The sole purpose of this provision is to provide sick leave for those employees who suffer from a personal illness and/or injury and are unable to perform their job function, except that sick leave may be utilized for an illness or injury in an employee's immediate family; *i.e.*, spouse, domestic partner, and children, and for health care provider and dental appointments for the employee. Any employee who claims sick leave under false pretenses may be subject to immediate disciplinary action.
  - (1) Upon request employees may have to provide evidence of domestic partner which may be demonstrated by providing three or more of the following:
    - (a) A domestic partnership agreement
    - (b) A joint mortgage or lease;
    - (c) Designation of his or her partner as beneficiary for life insurance and retirement contracts;
    - (d) Designation of his or her partner as primary beneficiary in the Employee's Will;
    - (e) Durable power of attorney for property and health care; and/or
    - (f) Joint ownership of a motor vehicle, joint checking, or joint credit account.
  - (2) An Affidavit of Domestic Partnership is available at the Personnel Office.

- B. Employees hired on or prior to March 23, 1989, shall be granted eighteen (18) sick days per year. Employees hired after March 23, 1989, shall be granted thirteen (13) sick days per year.
- C. All sick leave time will be based on a calendar year. Sick leave time will be credited in January and available for use at that time.
- D. New employees will be credited a prorated amount of the thirteen (13) days of sick leave time at the date of hire in their first year. Sick leave will be prorated in an employee's last year of employment.
- E. New employees hired on or before the fifteenth (15<sup>th</sup>) of the month will be credited with an anniversary date as of the first of that month. New employees hired after the fifteenth (15<sup>th</sup>) day of the month will be credited with an anniversary date as of the first day of the next month. These dates will be used for the purpose of determining the prorated amount of sick time available in their first year.
- F. All references to days in this manual shall be converted to equivalent hours. The hourly credit for days will be calculated based on the appropriate days multiplied by the hours of a normal workday for that employee's department.
- G. Upon becoming sick or disabled, an employee shall, during their sickness or disability, be granted sick leave with pay to the extent of the unused sick leave time accumulated.
- H. Sick leave time shall be considered for all purposes as continuous service. In the case of retirement, the provisions of Section 41-j under the New York State Retirement System shall prevail.
- I. Any employee who is incapable of performing her duties because she is pregnant or has a pregnancy related disability may utilize accumulated sick leave credits during such absence. Maternity leave shall be considered to commence on the date when the employee is no longer capable of performing her regular duties and shall end on the date that the employee can resume the performance of her regular duties. The employee may be requested or required to bring in a health care provider notice to verify the date when the employee is not capable of performing her duties or when the employee is capable of returning to work.
- J. When an employee is absent from work because of sickness or disability, the Department Head may require a Physician's Certificate (available from the Personnel Office), an examination or

other acceptable medical evidence for any absence. If an examination by a health care provider is called for, it shall be paid for by the County provided the results establish a bona fide illness or disability.

- K. When such a certificate is required, it will be noted on the employee's time record. When the illness or disability is five (5) days or longer in duration, a Physician's Certificate (available at Personnel Office) is required at the end of the fifth day and for each five (5) workdays of continuous absence thereafter (this requirement is waived when an employee is confined to a hospital). The certificate shall confirm the date and time on which the employee was examined by the health care provider and the expected date of return to work.
- L. Employees shall be entitled to accumulate up to a maximum of the equivalent hours for two hundred forty-five (245) days of sick leave. For those employees who have accumulated more than the equivalent hours of two hundred forty-five (245) days of sick leave, they shall not be allowed to accumulate more sick leave until such time that they have less than the equivalent hours for two hundred forty-five (245) days. The exception to this maximum amount is covered under Section M of this Article.
- M. Employees who retire from county service shall be entitled to one hundred per cent (100%) of their normal daily rate for each day of accumulated sick leave over one hundred sixty-five (165) workdays, however, under no circumstances will an employee be entitled to receive compensation for more than the equivalent of thirty-five (35) sick days.
- N. When an employee is absent from work due to illness or injury, said employee will make every reasonable effort to notify the appropriate County official (*i.e.*, Department Head) prior to the beginning of the workday or as soon thereafter as feasible.
- O. Any unused personal time may be converted to sick time at the end of the year even if it results in exceeding or adding to more than the equivalent hours of two hundred forty-five (245) sick days accumulated.

#### **10.05 Sick Leave Bank**

- A. It is the understanding and policy of Essex County to encourage every employee to recognize leave time as a negotiated benefit and to utilize such leave for the purpose for which it is intended. It is

further understood that there may be circumstances in which an employee would require additional leave time to accommodate a serious illness or temporary disability. It is on this basis that an agreement has been reached to establish a Sick Leave Bank. Sick Leave Bank time cannot be used to supplement Workers' Compensation except as provided below:

- (1) In the event a Workers' Compensation Claim is denied, the employee may request time from the bank until such time as a decision is reached regarding the controverted claim. If the controverted claim results in a back payment of sick time such payment shall be used to repay the Sick Leave Bank.
- (2) In the event an employee is determined to be able to do transitional duty to supplement their Workers' Compensation Claim, but the County is unable to find a transitional duty assignment, then the employee may apply to the Sick Leave Bank Committee (refer to 10.05B(1)) for possible Sick Leave Bank time.
- (3) In the event of a catastrophic illness / injury to an employee's spouse, domestic partner, or child, Sick Bank time may be requested by the employee for care of such spouse, domestic partner (see 10.04A(1) above) , or child in an amount not to exceed forty-five (45) days. Such request shall be made in accordance with the Administrative Procedures of the Sick Leave Bank as detailed below.

B. Administrative Procedures

- (1) The Sick Leave Bank shall be administered by the Personnel Director and the County Manager, or their designees, and two representatives designated by the applicable Bargaining Unit. This group will become the Sick Leave Bank Committee (SLBC).
- (2) Each request for Sick Leave Bank time will be reviewed and a decision will be reached by a majority vote of the SLBC.
- (3) To break a tie vote among the committee, a list of ten (10) people will be created, five (5) from the applicable Unit and five (5) from the County. One member of the list of ten (10) will be randomly selected by use of Random Ware software or other such similar computer random generation software

program. This selected member will be the tie breaking vote within the committee.

- (4) The Committee's decision is final and is not subject to appeal or the grievance procedure.
- (5) The Committee will determine the number of days to be granted, not to exceed fifty (50) workdays per request, or a total of one hundred and fifty (150) lifetime days per employee.
- (6) New employees with less than one year of service shall only be entitled to a maximum of twenty-five (25) days.
- (7) Request to use Sick Leave Bank time automatically allows the SLBC members to review the requesting employee's leave time record without further authorization.
- (8) The Committee shall meet within ten (10) working days from the receipt of the request in the Department of Personnel.
- (9) The employee and the Department Head shall be notified in writing within five (5) working days of the Committee's final determination.

C. Sick Leave Bank Time Procedures

- (1) The Sick Leave Bank is a mandatory participation program.
- (2) One day of sick leave time will be deducted from the employees total Sick Leave Accruals in January of each year and credited to the Sick Leave Bank, unless previously determined by the SLBC to be not necessary. (The SLBC will meet no later than November of each year to review the amount of time available in the Bank. If no donation is needed for the following year, employees will be notified.)
- (3) New employees hired before September 1<sup>st</sup> of the calendar year will contribute a prorated number of hours based upon the number of months which they will be employed by Essex County prior to the start of the new year.
- (4) New employees hired after September 1<sup>st</sup> of the calendar year will be allowed to postpone their contribution until January of the following year.
- (5) Less than full-time employees will be required to donate

based upon a prorated amount of their percentage of a normal workday and/or weekly schedule.

- (6) The SLBC will meet in June of each year to determine if an additional canvas of time will be needed to supplement the bank for the remainder of the calendar year. No more than one additional canvas may be done within any calendar year.
- (7) Employees have the option to donate some or all of their accumulated sick time to the Sick Leave Bank when they voluntarily leave the County.
- (8) Lost sick time due to the death of an employee will be applied to the Sick Leave Bank to help maintain a sick leave time balance.

D. Application Procedures:

- (1) All accrued leave credits, including sick, vacation and personal time must be depleted prior to using leave from the Sick Leave Bank.
- (2) Each request shall be made on a prescribed form (available through the Personnel Office) with a Physician's Certification form (available through the Personnel Office).
- (3) Approved sick leave will be applied only during a current or future payroll period. It shall not be applied retroactively if the payroll period is complete prior to the Committee's decision.
- (4) All documents shall be submitted first to the Department Head and then to the Personnel Office.

**10.06 Personal Leave**

- A. The purpose of personal leave is to provide employees with time off for conducting personal matters that could not otherwise be conducted outside the normal work hours. Examples of proper use would be for important family matters, doctor, or dental appointments, conducting personal legal affairs, family illness and conducting personal business matters.
- B. Personal leave must be approved by the employee's Department Head and, except in the case of emergencies requiring the employee's presence, will not be granted if such absence will interfere in the proper conduct of governmental functions

necessitating the presence of the employee.

- C. Requests for personal leave shall be made to the Department Head as soon as possible with at least twenty-four (24) hours notice, except in the case of a personal emergency.
- D. The intent is to provide five (5) days of personal leave non-cumulative per year for employees after their third year of service.
- E. New employees shall receive two (2) days of personal leave in their first year. Such two (2) days shall be prorated based upon the date of hire within the first year. They shall receive three (3) days in their second year and four (4) days in their third year. Thereafter, they will receive five (5) days.
- F. Personal leave time will be credited in January and available for use at that time. Departing employees will not be given credit for potential personal leave time after their date of departure.
- G. All personal leave is non-cumulative.
- H. Unused personal leave shall be credited to sick leave annually on December 31<sup>st</sup>.
- I. All references to days in this Article shall be converted to equivalent hours. The hourly credit for these days will be calculated based on the appropriate days multiplied by the hours of a normal workday for that employee's department.

#### **10.07 Bereavement Leave**

- A. Employees will be permitted to use a maximum of three (3) calendar days (commencing the calendar day after the death unless notification of the death occurs prior to the start of the workday in which case the bereavement leave shall commence the day of the death) per death in the immediate family without loss of pay or deduction from any other accumulated credits. Use of such days shall be subject to approval of the Department Head based upon funeral arrangements as appropriate.
- B. Should an employee be notified of a death in their immediate family during the workday, then said employee shall be permitted to take the remainder of the workday off without any charges to their leave credits nor shall that day count toward their three (3) bereavement days as spelled out above.
- C. Immediate family shall be defined as father, mother, sister, brother, son, daughter, mother-in-law or father-in-law, sister-in-



law, brother-in-law of present marriage, spouse residing in employee's household, certified domestic partner (see 10.04A(1) above), stepparents, and stepchildren.

- D. Employees will be permitted to use a maximum of two (2) workdays for a death of the employee's grandmother, grandfather, grandchildren, aunt, uncle, niece, or nephew without loss of pay or deductions from other accumulated credits.
- E. In the event a burial takes place at another time, due to seasonal conditions, then the employee will be allowed to utilize the day(s) necessary for the burial at that time subject to approval by the Department Head. The Department Head may request verification by way of obituary notice or other such acceptable proof of burial date.

#### **10.08 Jury and Court Appearances**

- A. County employees shall be entitled to their usual salary for the days served as a juror. The employee shall retain the mileage fee.
- B. An employee subpoenaed as a witness which involves testimony on the County's behalf relating to the employee's regular duties shall be granted leave with pay, without deduction from any accumulated leave time. The employee may retain witness fees.
- C. Any other Court appearance except as noted above shall be without pay unless the employee uses personal leave or vacation credits.
- D. If released from jury duty four (4) or more hours before the end of their normal work shift, the employee is expected to return to work.
- E. A form must be submitted to the Personnel Office, signed by the Commissioner of Jurors as proof of your presence at jury duty.

#### **10.09 Military Leave**

- A. Employees who are recalled to active duty shall receive full pay plus any pay received from the Military as governed by applicable Federal and/or State Laws. This shall be for a maximum period of thirty (30) calendar days per year.
- B. Employees who serve in U.S. military organizations or state militia groups such as the National Guard may take necessary time off to fulfill this obligation and will retain all legal rights for continued employment under existing laws.

### 10.10 Fire and Ambulance Leave

Employees requesting release time to respond to a fire department call or an ambulance call may be given time off with pay at the discretion of the Department Head.

### 10.11 Unpaid Leaves of Absence

- A. A Leave of Absence for a specified time, not to exceed one (1) year, without pay, for a sufficient reason may be granted to an employee by the County Manager upon the written request of the employee upon at least two (2) weeks written notice to the Department Head.
- B. The Department Head shall review the application and submit the application along with a recommendation to the County Manager two (2) workdays following receipt of such application.
- C. The granting or denial of all leaves of absence beyond five (5) days, except as required by law, shall be at the discretion of the County Manager or the Chairman of the Board of Supervisors provided any denial shall not be for arbitrary and capricious reasons.
- D. Service credit shall not be afforded to an employee during their authorized unpaid leave of absence.
- E. If the request for unpaid leave is denied, the matter may be referred to the County Personnel Committee only for the purpose of determining if the denial was arbitrary and capricious. The denial of a leave of absence shall not be an item for grievance.

### 10.12 Family and Medical Leave Act

#### A. Employee Eligibility

To be eligible for FMLA benefits, an employee *must*:

- (1) work for Essex County;
- (2) have worked for Essex County for at least a total of 12 months;
- (3) have worked at least 1,250 hours over the prior 12 months;  
*and,*
- (4) work at a location where at least fifty employees are employed by Essex County within 75 miles.

B. Leave Entitlement

A covered employer must grant an eligible employee up to a total of 12 workweeks of *unpaid* leave during any 12-month period for one or more of the following reasons:

- (1) for the birth or placement of a child for adoption or foster care;
- (2) to care for an immediate family member (spouse, child, or parent) with a serious health condition as defined in the FMLA; or
- (3) to take medical leave when the employee is unable to work because of a serious health condition as defined in the FMLA;
- (4) Qualifying exigency (*e.g.*, military events, arranging for alternative childcare, addressing financial and legal arrangements, attending certain counseling sessions, caring for the parents of a military member on active duty, and attending post-deployment briefings) when the employee's spouse, child, or parent is a military member who is deployed or has been notified of an impending deployment to a foreign country.

A covered employer must grant an eligible employee up to a total of 26 workweeks of *unpaid* leave during any 12-month period to care for a covered service member (spouse, child, parent, or next of kin) with a serious injury or illness. A covered servicemember is a current member of the military (including the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is on the temporary retired list, for a serious injury or illness. It also includes a veteran who was discharged or released from military service under condition other than dishonorable at any time during the five (5) year period prior to the first date the employees take FMLA to care for the covered veteran and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness.

C. Intermittent Leave

Under some circumstances, employees may take FMLA leave intermittently - which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.

Certification from a health care provider may be required to

support intermittent or reduced schedule leaves. Leave may not be taken on an adoption unless on a reduced work schedule when used to care for the employee's own child during the first year following birth, or to care for a child placed with the employee for foster care or adoption, unless the County and employee have expressly agreed to this leave in writing.

When planning medical treatment, employees must consult with the County and make reasonable efforts to schedule leave so as not to unduly disrupt the County's operations. While the employee is taking recurring leave on an intermittent or reduced schedule basis for foreseeable, planned medical treatments, the County may temporarily transfer or assign the employee to another position or an alternative position that better accommodates the recurring leave and that has equivalent pay and benefits.

D. Substitution of Paid Leave

Subject to certain conditions, employers may choose to use or require the use of accrued *paid* leave (such as sick or vacation leave) to cover some or all the otherwise unpaid FMLA leave.

E. Request for FMLA Leave

The proper forms necessary for requesting the Family Medical Leave Time are available at the Essex County Personnel Office. All requests for use of Family Medical Leave Time must be submitted to the Essex County Personnel Officer accompanied by a Certification by Physician or Practitioner form, available in the Essex County Personnel Office. Employees must provide thirty (30) calendar days advance notice of the need to take FMLA leave when the leave is foreseeable. When thirty (30) calendar day notice is not possible, the employee must provide notice as soon as practicable.

Employees must provide sufficient information for the County to determine if the leave may qualify for FMLA protection and the anticipated duration of the leave. Employees will be required to provide a health care provider certification and periodic recertification supporting the need for the leave.

The Personnel Officer shall provide a written response granting or denying such requests by way of the Employer Response to Employee Request for Family Medical Leave Time form. If the employee is not eligible for FMLA, the County will provide the reason.

F. Benefits

- (1) During FMLA leave, the County must maintain the employee's health insurance coverage on the same terms as if the employee had continued to work. The employee must continue to make payments for their portion of the coverage costs. Employees are responsible for making payment arrangements with the Personnel Office if amounts are not being withheld via payroll deduction.
- (2) The employee's coverage, including for all dependents, will be terminated if the payment of the employee's portion of the premium is more than 30 calendar days late. If payment is not received, this will result in a loss of COBRA rights.
- (3) A leave of absence pursuant to the Family and Medical Leave Act will run concurrently with a leave of absence pursuant to Civil Service Law Section 71 or 73, if applicable.

G. Medical Certification

- (1) An employee requesting leave based on the serious health condition of the employee or the employee's spouse, child, or parent will be required to submit a "Certification of Health Care Provider" form completed by the health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition. Forms are available from the Personnel Office. If an employee is requesting qualifying exigency leave or leave to care for a covered service member, the employee must also provide the appropriate certification.
- (2) When the employee requests leave, the County will notify the employee of the certification requirement and when it is due. The employee must provide the certification to the County within fifteen (15) calendar days after the request, unless it is not practicable to do so despite the employee's diligent, good faith efforts. Failure to provide the certification in a timely manner may result in denial of the leave until it is provided.
- (3) The employee certification must be complete and sufficient. If it is not, the County will advise the employee, in writing, what additional information is necessary to make the certification complete and sufficient. The employee will

then be given seven (7) calendar days (unless not practicable despite the employee's diligent, good faith efforts) to cure the deficiency. If the deficiencies are not cured in the resubmitted certification, the County may deny the employee's request for FMLA leave.

- (4) The County may require verification of the need for leave by requesting that the employee obtain a second or third medical opinion. Failure to obtain the second or third medical opinion, where applicable, will result in the denial of FMLA leave. The County may also require employees to provide periodic recertification or annual certification supporting the need for leave. Failure to provide the requesting certification within fifteen (15) days or a request, unless it is not practicable to do so despite the employee's diligent, good faith efforts, may result in a delay of further FMLA leave.
- (5) Medical certification or fitness for duty before returning to work may be required if the leave was due to the employee's own serious health condition.
- (6) Failure to comply with the requirements may result in delay or denial of leave, or disciplinary action. Providing false or misleading information or omitting material information in connection with FMLA leave may result in disciplinary action.

#### H. Restoration to Active Employment

An employee eligible for FMLA leave (except for employees who qualify as "key employees," those among the highest paid 10 percent of all employees) will be restored to their prior position or a position with equivalent pay, benefits, and other terms and conditions of employment. The County will determine whether a position is an "equivalent position" in accordance with applicable law.

#### I. Return from Leave

An employee must notify the Personnel Office before they can be returned to active status. If the leave was taken due to the employee's own serious health condition, the employee will need to provide the Personnel Office with a certification from the employee's health care provider that the employee is able to resume work while also outlining work restrictions, if any.

J. Failure to Return from Leave

- (1) The failure of an employee to return to work upon the expiration of FMLA leave may subject the employee to termination unless an extension of FMLA is granted. An employee who requests an extension must submit a request in writing to the Personnel Office. This written request should be made as soon as the employee realizes that they will not be able to return to work as planned.
- (2) If the employee has exhausted their FMLA entitlement and remains unable to work because of their medical condition, the County will treat the request for an extension as a request for reasonable accommodation. Following the expiration of the FMLA leave, the County's obligation to maintain group health benefits ends, subject to any COBRA rights.

**10.13 Bone Marrow and Blood Donation Leave**

- A. Full-time and eligible part-time employees who work an average of at least twenty (20) hours per week, who undergo a medical procedure to donate bone marrow will be granted up to 24 hours of time off without pay in accordance with applicable law. To qualify for leave, the employee must provide to the Personnel Office a medical certification from a health care provider for the purpose and length of leave requested.
- B. Full-time and eligible part-time employees will be eligible for blood donation leave. Employees seeking to take leave will be permitted, at the County's option, to: (1) take a leave of absence of up to three hours once during any 12-month period; or (2) donate up to two times per year during work hours at a convenient time and place determined by the County, including allowing an employee to participate in a blood drive at the County's facilities.

**10.14 Cancer Screening Leave**

All employees may take paid leave to undertake a cancer screening. The paid leave may not exceed four hours on an annual basis. The entire period of the leave of absence granted pursuant to this section will be excused leave and will not be charged against any other leave. An employee must notify their Department Head/immediate superior when a medical appointment is scheduled. Furthermore, to receive payment for this benefit, employees must submit a health care provider's note certifying the purpose for the leave.

### **10.15 Time Off to Vote**

Employees may take up to two (2) hours of paid time off to vote if the employee does not have at least four (4) hours of non-work time either before or after the employee's shift when polls are open. This leave does not apply to school or special district elections. The employee must request voting leave at least two (2) and not more than ten (10) working days before the elections and coordinate with their work supervisor.

### **10.16 Volunteer Emergency Responder Leave**

During a time that the Governor declares a state of emergency, employees may request an authorized absence, without charge to accruals, to engage in the actual performance of their duties as a volunteer firefighter or enrolled member of a volunteer ambulance service. This leave includes travel to and from the duties performed by the employee in their capacity as a volunteer. Requests for leave must be approved by the employee's work supervisor, or designee, and only to the extent that the leave will not interfere with the proper conduct of County functions.

### **10.17 Leave for Victims of Domestic Violence**

- A. Absent undue hardship, the County will provide an employee who is the victim of domestic violence with time off from work for a reasonable period of time for any of the following reasons:
- (1) Seeking medical attention for injuries caused by domestic violence, including for a child who is the victim of domestic violence, provided that the employee is not the perpetrator of the domestic violence against the child;
  - (2) Obtaining services from a domestic violence shelter, program, or rape crisis center because of domestic violence;
  - (3) Obtaining psychological counseling related to an incident or incidents of domestic violence, including for a child who is a victim of domestic violence, provided that the employee is not the perpetrator of the domestic violence against the child;
  - (4) Participating in safety planning and taking other actions to increase safety from future incidents of domestic violence, including temporary or permanent relocation; or
  - (5) Obtaining legal services, assisting in the prosecution of the offense, or appearing in court in relation to the incident or incidents of domestic violence.



- B. Employees requesting time off for these reasons must provide the Personnel Office with reasonable advance notice of their absence unless advance notice is not feasible. If advance notice is not feasible, the employee must, within a reasonable period of time, provide the County with one of the following types of certifications:
  - (1) A police report indicating that the employee or their child was the victim of domestic violence;
  - (2) A court order protecting or separating the employee or their child from the perpetrator of an act of domestic violence;
  - (3) Other evidence from the court or prosecuting attorney that the employee appeared in court; or
  - (4) Documentation from a medical professional, domestic violence advocate, health care provider, or counselor that the employee or their child was undergoing counseling or treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence.
- C. Employees requesting time off under this policy will be required to utilize all eligible leave prior to taking time off without pay.
- D. An employee with a physical or mental disability resulting from domestic violence can request reasonable accommodations and will be treated in the same manner as any other employee with a disability.
- E. To the extent permitted by law, the County will maintain the confidentiality of information regarding an employee's status as a victim of domestic violence.

#### **10.18 Rights of Nursing Mothers**

- A. The County will provide reasonable unpaid break time and will permit an employee to use paid break time or mealtime each day to allow such employee to express breast milk for nursing her child for up to three years following childbirth. The employee and her immediate work supervisor should agree on the times for these breaks, when possible.
- B. Non-exempt employees will be permitted to take unpaid break time, paid break time or mealtime each day to express breast milk. Any break time taken in excess of paid break or mealtime will be unpaid. If the time taken is to be unpaid, the employee can elect to

start work before or after her normal shift to make up the amount of time used during the unpaid break times so long as such additional time requested falls within the County's normal work hours. In addition, if the time taken is to be unpaid, the non-exempt employee may substitute leave time in place of unpaid break time.

- C. Employees may also utilize paid break or mealtimes to express breast milk and at the election of the employee unpaid break time may run concurrently with regularly scheduled paid break time or meal periods.
- D. The County has designated a room(s) or other location for lactation breaks, in accordance with applicable law. These rooms must be:
  - (1) In close proximity to the work area;
  - (2) Well lit;
  - (3) Shielded from view;
  - (4) Free from intrusion by other individuals.
  - (5) The room must, at a minimum, have a chair, working surface, nearby access to running water, and an electrical outlet.
  - (6) The room cannot be a restroom.
- E. Employees should reference Essex County Lactation Policy for more information.

# 11 Group Health and Related Benefits

## 11.01 Statement of Policy

IT IS THE POLICY OF ESSEX COUNTY:

To provide a comprehensive health and related benefits program for eligible employees. The benefits are summarized in documents called *summary plan descriptions* which are available in the Essex County Personnel Office. The details of each benefit are contained in separate legal documents known as the *plan documents*, which take precedence over anything contradictory in the summaries.

## 11.02 Health Insurance Guidelines

- A. Individual Plan coverage will be provided for employees, where both spouses are employed by the County and there are no dependents, or Family Plan coverage will be provided for employees, where both spouses are employed by the County and there are dependents. Individual Plan coverage will also be provided for all other employees with no dependents.
- B. The County shall pay quarterly a sum equal to the current monthly Federal Medicare charge as the employer's share of the cost of coverage for each retiree and dependent covered under the Health Insurance Plan who is enrolled in both parts A and B of the Medicare Program. (TEFRA)
- C. County employees may enroll pursuant to the plan documents of the current carrier.
- D. Paid coverage for any employee and their dependent(s) shall cease without notice at the end of the month after the date of termination of their status as an employee (except retirement). The status of any employee shall be deemed to terminate upon their severance from the payroll, except during any period of authorized leave of absence without pay. An employee shall be required to pay the extra charge (both the employee's and the employer's contribution) while on a leave of absence or as set forth within the limits as provided by COBRA.
- E. In the event of the death of an employee or retired employee, the coverage of their spouse and/or dependent(s) shall continue for the seven (7) bi-weekly payroll periods next succeeding the payroll period in which the employee's death occurs, or, in the case of an employee paid other than bi-weekly, the coverage shall continue for the three (3) month period next succeeding the month in which the employee's or retired employee's death occurs. The un-remarried spouse and/or dependent(s) may elect to continue

coverage in the Health Insurance Plan beyond this point but shall be required to pay the entire charge (both the employee's and the employer's contributions) for such coverage.

### **11.03 Health Insurance Notification Requirements**

All employees must immediately notify the Personnel Department when any of the following occur:

- A. Spouse dies
- B. Employee becomes divorced
- C. Employee, under single coverage, marries
- D. Employee's dependent reaches age 19
- E. Employee adopts, or otherwise acquires, a dependent with a different last name
- F. Dependent student graduates, marries, drops out of school, or becomes 25 years of age
- G. Employee on unpaid Leave of Absence
- H. Add dependent.

### **11.04 Health Insurance Buy Out**

- A. Employees who are entitled to Family Plan health insurance coverage through the County and opt to drop that coverage will be entitled yearly to one-half the annual premium of the rate of the Plan, up to a maximum of \$5,000.00 subject to proportional calculation in the event the employee makes their election other than at the beginning of the County's fiscal year; or
- B. Employees who are entitled to Individual health insurance coverage through the County will be entitled yearly to one-half the annual premium of the rate of the Plan, up to a maximum to \$3,000.00, subject to proportional calculation in the event the employee makes their election other than at the beginning of the County's fiscal year.
- C. Cash payments will be made on the first non-payroll Friday in December each year.
- D. Eligibility for the Health Insurance Buy Out shall be pursuant to current and revised rules established by the Board of Supervisors. The Personnel Officer shall determine eligibility and the amount to be paid to eligible employees.
- E. To obtain the health insurance buy-out, the employee must document to the County that other health insurance is available,

and the employee must sign a release to the County waiving any rights to health insurance coverage and releasing the County from any other health related liability.

- F. Employees who participate in health insurance under State or Federal low-income benefit programs, such as Family Health Plus, Child Health Plus, or other such government sponsored health benefit programs, will not be eligible for a buyout from the County.
- G. If an employee who has elected the buyout option loses their health insurance coverage, they must immediately notify the Personnel Office and their coverage will be reinstated upon the employee making the appropriate payment of the premium, if such premium is due, and otherwise satisfies any eligibility requirements.

#### **11.05 COBRA Notification**

According to the Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, in the event of termination of employment with Essex County or loss of eligibility to remain covered under Essex County's group health insurance program, employees and their eligible dependents may have the right to continued coverage under Essex County's group health insurance program for a limited period of time at their own expense. Contact the Essex County Personnel Office for details regarding your rights under COBRA.

#### **11.06 Voluntary Dental Program**

The County agrees to provide a Voluntary Dental Program with premium costs of such plan to be paid by the Employees either as a pretax or after-tax payroll deduction. The County currently provides the Guardian Dental Plan as the voluntary option for the employees. Details of the plan and the cost of premiums are available in the Essex County Personnel Office.

#### **11.07 Cafeteria Plan**

The County will offer the following benefits as allowed under Section 125 of the Internal Revenue Code:

- A. Premium Only Plan (POP)  
The County will offer a Premium Only Plan (POP) whereby those employees who pay a portion of their health insurance premium shall have their portion paid in pre-tax dollars through payroll deductions.
- B. Flexible Spending Account  
The County will allow employees, at their option, to create individual Flexible Spending Accounts (FSAs) which allow the employees to pay for qualified unreimbursed medical expenses

with pre-tax dollars. The minimum contribution level for an FSA shall be up to the IRS Limit.

C. Dependent Care Account

The County will allow employees to set up a Dependent Care account whereby employees may contribute up to \$5,000.00 annually (set up as monthly contributions) toward paying for qualified Dependent Care.

### 11.08 New York State Disability Insurance

The County agrees to provide a New York State Disability Insurance Plan based on the following:

- A. Participation is mandatory for all County Employees.
- B. Employees will be charged .60 cents per week, (\$1.20 biweekly payroll deduction) as their share of the premium cost.
- C. The County will pay the additional cost of the premium.
- D. Disability Insurance provides for Short Term Disability payments for sickness or off the job injury and is based on the following:
  - (1) 50% of weekly salary, rounded to the nearest \$1, for a maximum benefit of \$170.00 per week. Minimum benefit is \$20.00 or average weekly earnings, if less than \$170.00.
  - (2) Benefits begin on the 8<sup>th</sup> day of injury and/or the 8<sup>th</sup> day of sickness.
  - (3) The benefit period for both injury and sickness is limited to 26 weeks for any one period of disability during a period of 52 consecutive weeks.
- E. If the employee chooses to use accumulated sick, personal or vacation time during the term of the disability claim, then payment of the benefit will go directly to the County which, upon the completion of the claim, will credit the employee's personal or vacation time in an amount equal to the percentage received in benefit payment; *i.e.*, 10 days of personal or vacation time paid at 50% rate of salary will result in a five (5) day return of personal or vacation time to the employee. New York State Disability Benefits Law does not permit the reimbursement of sick time.
- F. If an employee is out of sick time the employee will be allowed to remain on County payroll during the term of the approved disability claim for the purpose of maintaining benefit levels, however only the disability benefit payment will be paid to the employee during this period.

- G. The specific plan requirements as regulated by the New York State Disability Benefits Law are available in the Essex County Personnel Office.

### **11.09 Workers' Compensation**

Essex County provides Workers' Compensation Benefits to all eligible employees of the County, through the Essex County self-insurance plan, pursuant to the Workers' Compensation Law of the State of New York.

- A. The County shall continue to provide Workers' Compensation insurance for all County personnel. Any employee injured while on duty as an employee of the County is required to file an accident report (Initial Report) with their Department Head immediately, or as soon as possible following said accident. Proper forms are available in the office of the heads of departments.
- B. Employees entitled to receive Workers' Compensation benefits may elect to use sick leave in lieu of the Workers' Compensation payment for the first fourteen (14) days of their entitlement. Lump sum payments or settlements received by the employee for injury or disability shall be retained by such employee.
- C. When the Department is reimbursed by the Workers' Compensation Insurance carrier for remunerating employees under the sick leave policy of the County, the employee will receive credit for the loss in sick leave at a two-thirds reimbursement rate or in an amount as determined by the New York State Workers' Compensation Board.
- D. Should an employee receive Workers' Compensation for more than one (1) calendar month, then said employee will be contacted by the Personnel Office to arrange for installment payments for health insurance premiums or other employee paid benefit coverage, which may be required to maintain coverage.

### **11.10 Accident Reports**

A County employee involved in an accident while operating a vehicle on County business must do the following:

- A. Immediately inform the State Police or Sheriff's Department of the accident.
- B. Obtain information as to vehicle license numbers, name and address of owner, name, and address of driver of other vehicle involved and name of insurance carriers.
- C. Obtain the name and address of witnesses if any.
- D. Make no statements, oral, written or otherwise, except to a police

officer, a county representative, an accredited representative of the County's insurance carrier or personal insurance carrier, if appropriate.

- E. Do not make a settlement or sign any documents.
- F. Notify your Department Head of the accident as soon as possible and give pertinent details.
- G. Submit a completed Accident Report form to the Department Head who shall forward it to the insurance company.
- H. In accordance with the Safety Officer's investigation, submit to drug and alcohol tests.

## **12 Retirement Benefits**

### **12.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

Provide for retirement of employees pursuant to New York State Retirement and Social Security Law Sections 75g, 41j and 60b.

### **12.02 Retirement Health Insurance Benefits**

- A. To be eligible for the benefit provided herein, the employee must have the following:
  - (1) Twenty (20) years of service as an employee of Essex County.
  - (2) Be eligible for and activate their retirement benefit provided by the New York State Retirement System upon terminating service with the County.
  - (3) A one-year grace period will be provided for the employee to decide if they will or will not activate their New York State Retirement which would entitle them to the Retirement Health Insurance Benefit. Failure to activate the New York State Retirement within the one-year grace period will relieve the County of the obligation to provide a Retirement Health Insurance Benefit.
  - (4) The County will not be required to provide Health Insurance Coverage during the grace period; however, the employee will be allowed to maintain coverage by paying the full cost of the County's premium during the one-year grace period.



- (5) Employees with twenty-five (25) or more years of service shall be entitled to Retirement Health Insurance without the requirement of activating their New York State Retirement benefit as detailed in subsection two (2) above. Such employees shall be allowed to request coverage at the time they choose to activate their New York State Retirement benefit.
- B. Except as provided below, employees who retire will continue to pay the same percentage amount they were contributing toward their active premium at the time of their retirement.
- C. If health insurance premiums increase after retirement, the retiree's percentage contribution amount shall be increased yearly based upon the Cost-of-Living Adjustment (COLA) percentage as determined by the U.S. Social Security Administration.
  - (1) The Social Security Act specifies a formula for determining each COLA. In general, a COLA is equal to the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) from the third quarter of one year to the third quarter of the next.
- D. Should a retiree choose to switch health insurance plans after their date of retirement, said retiree's contribution toward premium payments shall be made in accordance with B. and C. above. Said employee's contribution shall be determined as if the employee were retiring at the time of this switch.

### **12.03 Retirement Health Insurance Benefits for Elected and Appointed Essex County Officials**

To be eligible for the benefit provided herein, all elected and appointed Essex County officials must have the following:

- A. Ten (10) years of service for any elected or full-time appointed Essex County official who was elected or appointed prior to January 1, 2009.
- B. Fifteen (15) years of service for any elected or full-time appointed Essex County official who was elected or appointed after January 1, 2009. (Appointed Official is one approved by the by the Board of Supervisors or works 'at will' of the Department Head.)

## **13 Deferred Compensation**

### **13.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

Offer the opportunity to its employees to enroll in a deferred compensation plan which has been approved by the Board of Supervisors of Essex County. A copy of the Plan Documents may be obtained from the Personnel Office.

## **14 Alcohol and Drug Free Workplace**

### **14.01 Statement of Policy**

- A. Essex County is committed to the safety and well-being of its employees and the public, and to the provision of a variety of services to the People of Essex County in the public trust. An efficient and productive workforce is vital to carry out those obligations, and the public has a reasonable right to expect persons employed by the County to perform their duties free from the effect of drugs, including alcohol. The County has an obligation to ensure public safety through the actions of its employees, and to expect its employees to report for work fit for duty, free from the effects of drug and/or alcohol use. Furthermore, employees of the County have a reasonable right to work in a safe environment free from the effects of drug and/or alcohol use. The County recognizes that an employee's physical condition affects job performance, and that drug and/or alcohol abuse ranks as one of the major health problems in our society.
- B. Essex County is concerned with those situations where use of alcohol, intoxicating substances, or other drugs is detrimental to the public trust or to the safety of employees or citizens. The County is committed to the rehabilitation/detoxification of employees who abuse drugs and alcohol by referral to appropriate substance and chemical dependency/abuse programs and professionals.
- C. The County recognizes drug dependency as a major problem. The County also recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use the Employee Assistance Program.

- D. Early recognition and treatment of chemical dependency problems is important for successful rehabilitation/detoxification, to improve job performance, and to reduce personal, family, and social disruption. Employees who participate in a program for the purpose of treating alcoholism or drug addiction may do so without jeopardizing their employment with the County, provided they stop all involvement with alcohol or other drugs; except that participation in such programs will not automatically prevent disciplinary action for incidents that have already occurred. Should a rehabilitation/detoxification program be necessary, leaves of absence may be used in accordance with current policies.
- E. It is the intent of this policy to:
- (1) express the County's viewpoint on drug and alcohol usage exhibited by behavioral and medical disorders;
  - (2) encourage an enlightened viewpoint toward behavioral and medical disorders directly or indirectly related to the use of drugs, including alcohol;
  - (3) provide guidelines for consistent handling of situations arising from behavioral and medical disorders directly or indirectly related to the use of drugs, including alcohol;
  - (4) maintain a work environment which is free from drug use, including alcohol, and from the unlawful possession of controlled substances, on municipal premises; and
  - (5) comply with the Federal Drug-Free Workplace Act of 1988, the Omnibus Transportation Employee Testing Act of 1991, and the regulations promulgated and adopted in furtherance thereof.
- F. This policy is intended to be a unilateral expression of the general policies, procedures, and guidelines concerning substance abuse and the County's personnel program. It is not intended to create any contractual rights of employment, whether express or implied, between the County and its employees. The County reserves the right to change the provisions of the personnel program and this policy at any time.

- G. This policy will be implemented in compliance with the New York Marijuana Regulation & Taxation Act (MRTA) and Labor Law section 201-d.

**14.02 Drug Policy - Definitions**

As used in this policy, the following terms shall have the meanings set forth below, unless the context clearly indicates that a different meaning is intended:

- A. "Areas of Observation" shall mean:
  - Demeanor: Agitated - aggressive - passive - cooperative
  - Speech: Slurred - loud - quiet - rambling - incoherent-normal
  - Eyes: Bloodshot - dilated - closed - moist - normal
  - Breath: Alcohol odor - marijuana odor - normal
  - Coordination: Fumbling - jerky - slow reacting - normal
  - Actions: Talkative - threatening - calm - erratic - normal
  - Skin: Sweaty - flushed - pale - clammy - normal
  - Walking: Unsteady - staggering - slow - normal
  - Standing: Swaying - rigid - feet wide apart - normal

Any other notable observations.

- B. "Controlled Substance" shall mean any substance listed under the Uniform Controlled Substances Act of the State of New York.
- C. "County" shall mean Essex County.
- D. "Covered Employee" shall mean:
  - (1) employees subject to drug and alcohol testing pursuant to the Omnibus Transportation Employee Testing Act of 1991 and 49 CFR Part 382;
  - (2) employees who are authorized or required to operate County vehicles, or their own personal vehicles, in the course of their employment with the County; and
  - (3) employees who are authorized or required to operate motorized equipment in the course of their employment with the County.
- E. "Drug and Alcohol Testing" may include, but shall not be

limited to, urinalysis, breath-analysis, or blood sample testing.

- F. "Illegal Drugs" shall mean drugs for which the possession, use, sale, or distribution is unlawful pursuant to the laws of the State of New York, or of any Federal Law or Regulation. For this policy, "illegal drugs" include drugs that are not legally obtainable as well as drugs that are legally obtainable but have been obtained illegally.
- G. "Intoxicating Substance" shall mean any substance that produces changes in one's physical, mental, or emotional state or behavior, and shall include but not be limited to glue, paint thinner, alcohol and other substances.
- H. "Refuse to Submit to a Drug and/or Alcohol Test" shall mean that an employee either (1) fails to provide an adequate amount of breath and/or urine for testing without a valid medical explanation after they received notice of the requirement for testing in accordance with this policy; or (2) engages in conduct which obstructs the testing process.
- I. "Reportable Incident" shall mean an occasion where:
  - (1) there is reasonable suspicion that an employee who reports for work on County premises or work sites is under the influence of drugs or alcohol based upon any of the following criteria:
    - (a) an employee seems disoriented;
    - (b) confirmed reports from police, citizens or other employees of drug or alcohol use or abnormal, potentially dangerous behavior;
    - (c) medical or physical information such as track marks;
    - (d) absenteeism or tardiness;
    - (e) any articulable facts leading work supervisors or department heads to believe an employee is in possession of drugs or alcohol, or under the influence of drugs or alcohol; or
    - (f) the accumulation of facts based upon areas of observation or other similar factors that indicate an employee, because of alcohol or

drug abuse, is unfit for duty; or

- (2) an employee is involved in an accident while operating a county motor vehicle, or while operating a motor vehicle not owned by the County during the course of an employee's employment; or
- (3) an employee, while engaged in the course of employment with the County or while traveling to or from such employment, is issued a traffic ticket, summons, appearance ticket or other similar document or instrument charging such employee with a violation of one or more laws regulating the use or operation of a motor vehicle while under the influence, impaired or intoxicated; or
- (4) an employee, while engaged in the course of employment with the County, is involved in an occurrence resulting in damage to property or whereby the employee, a co-employee or any other person sustains a personal injury.

J. "Substance Abuse Problem" shall mean a dependency upon or periodic use of alcohol, drugs or any other intoxicating substance, or any combination of substances.

K. "Under the Influence of Alcohol" shall mean that because of the consumption of alcohol an employee's ability to perform their job is impaired to any appreciable degree. For the purposes of this definition, either:

- (1) a blood alcohol level of .05% alcohol in the blood by weight; or
- (2) a breath alcohol level of .02 grams of alcohol per 210 liters of breath shall be sufficient to establish that an employee is under the influence.

However, an employee having a lesser alcohol level may still be under the influence of alcohol if job performance is impaired to any appreciable degree.

L. "Under the Influence of Drugs or other Intoxicating Substances" shall mean that because of the use, consumption, inhalation, or injection of any combination of alcohol, drug or any other intoxicating substance, or any combination of substances, an employee's job performance is impaired to any appreciable degree.

### **14.03 Drug Policy - Pre-Employment Screening / Testing**

All persons seeking employment in the County shall be required to submit to drug and alcohol screening and testing. The County will not hire any applicant who tests positive on a detection test for illegal drugs or alcohol. Any person who tests positive, or who refuses to submit to screening, will be prohibited from employment with the County for one year, unless they provide certified documentation of successful completion of a substance abuse rehabilitation/detoxification program. Applicants who have completed a rehabilitation/ detoxification program will be subject to drug screening prior to being employed.

### **14.04 Drug Policy - Rules & Conditions of Employment**

To implement this policy, the following rules are established as conditions of employment with the County:

- A. Any County employee who is involved in a reportable incident shall be directed to undergo a drug and/or alcohol detection test to aid in determining fitness for duty.
- B. A determination that reasonable suspicion exists under 14.02I(1) (above) shall be made by the appropriate work supervisor or Department Head, at their sole discretion, and the same shall not be grievable or otherwise reviewable. If any employee has reasonable suspicion that a work supervisor is under the influence of drugs or alcohol, the observations shall be reported to the work supervisor's immediate work supervisor. If the employee believes that reporting these observations in this manner would adversely affect working conditions, the report may be made to the Personnel Department.
- C. An employee who refuses to participate in a required drug or alcohol detection test will (1) be subject to disciplinary action, up to and including termination from employment, (2) immediate suspension from employment with or without pay pending disciplinary proceedings, and (3) be required to successfully pass a drug and/or alcohol test prior to return to duty.
- D. Employees are expected to report to work on time and in appropriate mental and physical condition for work. Employees are not to report to work under the influence of intoxicants (alcoholic beverages or illegal drugs) and shall not consume, use, or possess intoxicants at any time during their scheduled workday, on County property, or in any County vehicle (while traveling to or from County property while on duty).

- E. The use, sale, possession or distribution of a narcotic, an intoxicating substance, any illegal drug, or alcohol while on County premises, at a County-sponsored event, while conducting County business off premises, or otherwise while at work is absolutely prohibited and will subject an employee to disciplinary action, up to and including termination. All illegal drugs discovered during an investigation will be given to the appropriate law enforcement agency and may result in criminal prosecution.
- F. If a work supervisor has reasonable cause to believe that an employee has reported to work under the influence of intoxicants, the work supervisor, with the approval of the Department Head, has the right to request the employee to submit to an alcohol or drug screening test at the County's expense.
- G. Except as provided in paragraph (H) of this section, no employee shall be subject to discipline for the appropriate use of legal nonprescription or prescribed legal drugs for the treatment of illness or injury. The use of a legally controlled substance as part of a prescribed medical treatment by a licensed health care provider will not subject an employee to disciplinary action or denial of employment if that treatment does not adversely affect job performance. Prescribed use must be substantiated by a health care provider's report or statement. If the use of prescribed drugs adversely affects an employee's job performance or is detrimental to the public trust or safety of other employees or citizens, it may be in the best interest of the employee and the County for the employee to be placed on a leave of absence. Leaves of absence will be used in accordance with current policies.
- H. Notwithstanding the provisions of paragraph (G) of this section, if an employee knows or should know that use of a nonprescription or prescribed drug does or could impair the employee's ability to operate a county vehicle or equipment, or otherwise perform their job duties, the employee shall share this information with their immediate work supervisor. Violation of this section of the policy may subject the employee to disciplinary action.
- I. Employees must, as a condition of employment, abide by the terms of this policy and report any conviction under a criminal drug statute, or under any statute regulating or prohibiting alcohol or drug use, consumption, or blood content, for violations



occurring on or off county premises and/or whether or not the employee was conducting county business at the time of the occurrence. A report of a conviction must be made within five days after the conviction to the Personnel Department so that the County may comply with the Drug-Free Workplace Act of 1988 and notify the Federal and/or State Government of such conviction.

- J. An employee who has a substance abuse problem may submit voluntarily to drug testing prior to testing directed by the County. Upon positive testing, the employee shall submit to the rehabilitation program outlined in section 14.07 (below) provided that the employee is not subject to disciplinary charges for reasons other than positive testing.
- K. All covered employees who are required to participate in drug and alcohol testing under this policy shall attend a minimum sixty (60) minute training class on this policy, review the Employee Assistance Policy, and discuss the signs and effects of drugs and alcohol in the workplace. In addition to such training, all work supervisory personnel shall be trained to recognize any behavior indicating an employee's substance abuse.

#### **14.05 Drug Policy - Implementation**

This policy shall be implemented under the following guidelines:

- A. Work supervisors shall take appropriate action to protect County personnel, County property and the public by removing from the work premises or site any individual not in condition to perform assigned work in a normal and safe manner. An employee who appears to be under the influence of drugs or alcohol shall be taken to an authorized facility for drug and alcohol testing. Employees shall not be allowed to drive any vehicle if it appears that they are under the influence of drugs or alcohol.
- B. The County shall:
  - (1) publish a statement notifying employees and applicants for employment that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the County's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - (2) establish a drug-free awareness program to inform employees about:

- (a) the dangers of drug abuse in the workplace;
  - (b) the County's policy of maintaining a drug-free workplace;
  - (c) any available drug counseling, rehabilitation/ detoxification, and employee assistance programs; and
  - (d) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) make it a requirement that each applicant and employee to be engaged in the performance of any Federal or State grant, or any contractor related thereto, be given a copy of the statement required by paragraph (1) above;
- (4) notify the employee in the statement required by subparagraph (1) above that as a condition of employment the employee will:
  - (a) abide by the terms of the statement; and
  - (b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- (5) notify the U.S. Department of Housing and Urban Development, or other granting agency or contracting agency, within ten (10) days after receiving notice under subparagraph (4)(b) from an employee or otherwise receiving actual notice of such conviction (this is a requirement of the Drug-Free Workplace Act of 1988 that applies to recipients of grants);
- (6) take one of the following actions, within thirty (30) days of receiving notice under subparagraph (4)(b), with respect to any employee who is so convicted:
  - (a) take appropriate personnel action against such an employee, up to and including termination; or
  - (b) require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation / detoxification program

approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

C. the Personnel Department will:

- (1) assist work supervisors in policy implementation, day-to-day administration, and with disciplinary action arising from implementation of the policy;
- (2) provide a training program to assist work supervisory personnel in identifying drug and alcohol use among employees. The training will be directed towards helping work supervisors recognize the conduct and behavior that give rise to a reasonable suspicion of drug or alcohol use;
- (3) schedule the screening of applicants and employees during normal working hours, except that Department Heads will assume responsibility for scheduling employees for testing when employees of the Personnel Department are not available.
- (4) furnish a copy of this policy to each existing and prospective employee.

D. Drug or alcohol test results will be used for administrative purposes only and will be kept confidential, except for purposes of disciplinary proceedings or subpoenaed because of legal action.

#### **14.06 Drug Policy - Screening & Testing Procedures**

In keeping with the County's goal to establish and maintain a work environment free from the effects of drugs and intoxicating substances, and to ensure the safety of citizens, the workplace and the workforce, the following procedures are established:

A. The County shall contract with a private firm to act as a Third-Party Administrator (TPA), who shall be responsible for:

- (1) Scheduling random drug and alcohol testing;
- (2) Collecting all drug and alcohol samples at a testing site(s);
- (3) Providing all drug and alcohol testing devices, instruments, operators, laboratory supplies, facilities, and equipment, the same to comply with all Federal and State requirements;

- (4) Keeping all necessary records associated with the services provided;
  - (5) Providing guidance and counseling; and
  - (6) Providing all necessary training and education, including updates and refresher sessions, required by Federal and State Law or Regulation.
- B. The Personnel Office shall schedule pre-employment testing/screening of all applicants for employment.
- C. Upon the occurrence of a reportable incident, the work supervisor or department head of the employee involved in such incident shall notify the Personnel Office, which shall immediately notify the TPA. The TPA shall immediately schedule and conduct the appropriate drug and/or alcohol detection test.
- D. Drug and/or alcohol screening and detection testing shall include a urinalysis and may also include a breath analysis and blood sample testing. Any positive readings following urine testing will be confirmed by an alternate or split sample testing method before any management action is taken.
- E. To deter drug and alcohol use and to ensure a drug and alcohol-free workforce and workplace, covered employees shall be subject to drug and alcohol testing on an unannounced and random basis as follows:
- (1) From a pool consisting of all covered employees, the TPA shall prepare at random a list those covered employees who shall be tested, and such list shall be furnished to the Personnel Office;
  - (2) The Personnel Office shall, in conjunction with the respective Department Heads of the covered employees on the list, promptly notify and schedule the employee(s) that have been randomly selected to participate in drug and/or alcohol testing that day. Every attempt shall be made to test randomly selected employees within two (2) hours of notification.
  - (3) Each Department Head shall be responsible for ensuring that the requisite forms are furnished to the covered employee(s) selected and are completed, including completion by the employee(s) of the acknowledgment

portion of the form(s).

- (4) If a covered employee selected for random testing is unavailable due to illness, injury, or authorized time off (such as jury duty, leave of absence, vacation), it shall be considered an approved excuse for non-participation.
  - (5) The covered employees selected shall comply with all protocols and procedures of the TPA. If a selected employee refuses to submit to random testing, fails to show up for testing, or otherwise fails to comply with the TPA's test protocols and procedures, the same shall be considered as a positive test and shall result in appropriate disciplinary and/or other action.
- F. All screening and detection tests will be conducted by certified operators employed by the TPA, or by the medical group or groups responsible for administering pre-employment physical examinations, and shall comply with the following:
- (1) the integrity of the urine or blood sample being tested, or the breath test record card, will be insured by an explicit chain of custody procedure developed by the TPA, medical group or laboratory;
  - (2) any testing, testing-related documents, and test results will be kept confidential and will only be released to the employee or applicant, the Personnel Department, a Department Head, or an authorized representative of the County's rehabilitation / detoxification program;
  - (3) except as provided in subparagraph F(2) above, further disclosure of such information is prohibited unless written authorization is obtained from the employee or applicant, and any breach of confidentiality will subject the employee responsible to disciplinary action up to and including termination;
  - (4) all positive urine or blood samples, and breath test records, will be retained by the County in a confidential file, medical group, or laboratory for one year, or for a longer period if an appeal or court action is in process.
- G. Upon report of a positive test, the employee or applicant:
- (1) will be notified of the test results and provided with an opportunity to explain any positive results; and

- (2) may, within five (5) days of such notification, request a retest of the original sample to be performed at the employee's or applicant's own expense at a laboratory of the employee's or applicant's choice that has been preapproved by the County and which shall have chain of custody procedures to ensure proper identification, labeling and handling of test samples and proper exchange with and return of the samples to the original medical group or laboratory.

#### **14.07 Drug Policy - Discipline / Rehabilitation**

- A. Positive testing is *prima facie* evidence of misconduct and may be cause for disciplinary action and/or rehabilitation in accordance with the following:
- B. Based on the results of the investigation and drug or alcohol detection testing, the employee may be subject to mandatory participation in a rehabilitation/ detoxification program through the Employee Assistance Program and to disciplinary action in accordance with this policy. If enrollment in a drug or alcohol rehabilitation/ detoxification program is required, employees will be referred to the Personnel Department. An employee's fitness to continue in their current position while enrolled in such a rehabilitation/ detoxification program will be determined on a case-by-case basis. Employees who have completed a rehabilitation/ detoxification program will be subject to random drug screening thereafter.
- C. Prior to institution of disciplinary proceedings, a preliminary meeting shall be held with the employee's Department Head and a representative of the Personnel Office to determine whether the employee may participate in a voluntary program of rehabilitation/ detoxification at the employee's expense. If the employee chooses not to participate, they shall be subject to formal disciplinary proceedings.
- D. An employee who agrees to voluntarily participate in a rehabilitation/ detoxification program at their expense shall be allowed to charge sick leave or annual leave credits while such employee participates in a rehabilitation/ detoxification program. If no leave credits are available, such employee will be placed upon a leave of absence without pay for the period of the rehabilitation/ detoxification program. Upon certification of successful completion of such program and a retest that

demonstrates that the employee is not using illegal drugs, abusing controlled substances, or consuming alcoholic beverages, the provisions of Civil Service Law section 73 shall apply, and the employee shall be reinstated or placed on a preferred list.

- E. An employee who is reinstated following successful completion of a rehabilitation/detoxification program may be subject to periodic retesting. If such employee tests positively upon completion of the rehabilitation/detoxification program or on any subsequent occasion, they shall be terminated without further hearing or formal charges unless otherwise required by law.
- F. An employee who chooses not to voluntarily participate in a rehabilitation/detoxification program will be subject to formal disciplinary charges and a hearing. If it is determined upon completion of the hearing that the employee has violated this policy, one or more of the following penalties may be imposed (unless otherwise set forth in applicable law):
  - (1) Termination;
  - (2) suspension;
  - (3) period retesting, including retesting before a return to duty or reinstatement;
  - (4) participation in and successful completion of a rehabilitation/ detoxification program at the employee's expense; and/ or
  - (5) Any penalty set forth in Civil Service Law Section 75.
- G. Notwithstanding any other provision of this policy, employees who are subject to disciplinary charges because of conduct other than positive testing pursuant to this policy:
  - (1) may not elect to participate in a voluntary rehabilitation/ detoxification program pursuant to this policy; and/ or
  - (2) may not use positive testing for drugs or alcohol as a defense in such disciplinary proceedings.
- H. Notwithstanding any other provision of this policy, any work-related accident or injury involving County vehicles, equipment and/ or property, or involving personal injury to any person, where it can be demonstrated that the use of alcohol, drugs or

other intoxicants may have been a contributing factor, will result in formal discipline of the employee which can include penalties up to and including termination of employment.

#### **14.08 Drug Policy - Review & Appeal**

Employees who have disciplinary action taken against them because of a positive drug/alcohol test may appeal such action in accordance with the available review and appeal procedures allowed by law.

#### **14.09 Drug Policy - Severability**

The provisions of this policy are severable. If any provision of this policy or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this policy which can be given effect without the invalid provisions or application.

## **15 Use of Vehicles**

### **15.01 Statement of Policy**

It is the intent of the County to provide a comprehensive guide regarding the use of County owned and/or Private owned vehicles for County business. Any Department Head or authorized representative who approves use of these vehicles should be familiar with this policy and should only authorize uses that are legitimate, reasonable and comply with the provisions of this section.

### **15.02 Use and operation of County Vehicles**

- A. Only authorized employees who hold a valid New York State driver's license shall drive County vehicles. No employee shall operate a County vehicle requiring a special class of license unless they hold such a special class license issued by the State of New York.
- B. No person, other than the employee to whom a particular County vehicle has been assigned, shall operate, use, or ride in a County vehicle. This prohibition includes, but is not limited to, volunteers, hitchhikers, clients, friends, members of employees' families, and other County employees who are not specifically authorized to operate, use, or ride in such County vehicle.
- C. County vehicles shall only be utilized in the course and furtherance of an employee's performance of their official County duties. Use or operation of a county vehicle for any purpose including, but not limited to, private or personal purposes, is prohibited.
- D. Authorization is hereby granted for the following individuals to



take County vehicles home on a daily basis due to the nature of their duties:

- (1) Highway Department
  - (a) Superintendent of Highways
  - (b) Personnel assigned by the Superintendent in writing to patrol County roads.
- (2) Public Health Nursing Services
  - (a) All nurses, upon approval of the Director of Public Health Nursing Services.
- (3) Sheriff's Department
  - (a) Essex County Sheriff
- (4) Emergency Preparedness/Civil Defense
  - (a) Director/Fire Coordinator
- (5) Weights and Measures
  - (a) Director of Weights and Measures
- (6) Except as provided in paragraph 15.02(A) above, no County employee who has received authorization to operate and use a County vehicle shall take such vehicle to their private residence overnight without the written approval of the Chairman of the Essex County Board of Supervisors or County Manager, which written approval shall be granted only after consultation with the appropriate Department Head and the Chairperson of the appropriate Board of Supervisors' supervisory Committee. Approval for the taking of a County vehicle to a private residence overnight shall only be granted upon a written justification for such use, stating that the employee shall take all necessary precautions and measures to safeguard the vehicle and prevent it from being used or operated contrary to these regulations.
- (7) County vehicles shall be driven only to and from the assigned employee's place of residence to their work site. No personal use (e.g., grocery store) shall be allowed.

- E. Department Heads seeking authorization for themselves or any of their employees to use County vehicles shall first request such authorization with sufficient justification from their respective Board of Supervisors' Supervisory Committee. If this request is approved, it shall then proceed to the Ways & Means Committee

for consideration and action; and upon the approval by Ways & Means Committee, the matter shall be referred to the regular board for consideration and action.

- F. All County vehicles, other than those used by County undercover law enforcement personnel and Social Services fraud investigators, must be properly marked with identifying insignia of the County. In all cases, except for the Sheriff's Department, the County insignia may be obtained from the Essex County Department of Public Works. Vehicles leased by the County for official use shall have an insignia affixed to the vehicle which will not damage the vehicle's finish, and which can be removed upon expiration of the lease without causing such damage.
- G. Daily logs for all County vehicles shall be maintained setting forth all points of travel, mileage, and times of operation. The employee to whom a County vehicle has been assigned, and their Department Head, shall be jointly and severally responsible for the maintenance of such log. Copies of all daily logs shall be filed monthly with the Essex County Auditor.
- H. A list of employees authorized to take County vehicles shall be placed on file with the Essex County Clerk of the Board of Supervisors. This list shall also include the employee's name, position, title, and vehicle license plate number of all vehicles assigned to such employee. Department Heads will be responsible for updating the list on a bi-weekly basis.
- I. No County employee shall take possession of a County vehicle, and use or operate the same, without first having signed a statement agreeing to comply fully with these regulations. The original statement so signed shall be filed with the Personnel Department, and copies shall be filed with the Clerk of the Essex County Board of Supervisors.
- J. Under no circumstances shall a County vehicle be used, operated, or driven by any person while under the influence of intoxicants or any drug or in violation of any Federal, State, or local law, rule, or regulation.
- K. Under no circumstances shall any County vehicle be parked at, or in the parking lot of, any bar, tavern, liquor store, or other place of business where alcoholic beverages are sold and/or served.
- L. Any person operating, using, or riding in a county vehicle must properly use and wear a seatbelt (including shoulder strap).
- M. Every employee operating or using a County vehicle or their own vehicle in the performance of the duties of their

employment with the County shall always comply with all laws, rules and regulations governing such operation and use, and shall operate such vehicle(s) in a cautious, competent, and safe manner.

- N. The violation of one or more of these regulations may result in
  - (1) the revocation or suspension of an employee's right to operate and use a County vehicle by their Department Head, County Manager, or in the case of a Department Head by the Chairman of the Board of Supervisors; and/or
  - (2) disciplinary action, up to and including termination.

### **15.03 Use of Personal Vehicle**

- A. County employees who, as part of their regular County employment duties, travel directly from their respective residences to non-County work sites at the beginning of their workday and/or return to their respective residences directly from a non-County work site at the end of their workday shall be governed by the following:
  - (1) The transportation of passengers is prohibited, except that the Department Head may grant permission for the transportation of the following persons in the course and furtherance of County business:
    - (a) other County employees, or
    - (b) in extraordinary circumstances, clients.
  - (2) The employee shall be reimbursed at the mileage rate authorized by the collective bargaining agreement in accordance with the following, provided that a properly completed County travel voucher is submitted:
    - (a) where the distance to the first non-County work site from the employee's residence, and/or from the last non-County work site to the employee's residence, is further than the distance between the employee's residence and the County offices in Elizabethtown, the round trip distance between the employee's residence and said County offices shall be subtracted on the voucher from the actual mileage traveled by said employee to and from their residence

and during that workday, and the County shall reimburse the employee for the mileage in excess of said round trip distance; and

- (b) in all other cases, travel mileage shall start at the first visit of the day, or at the assigned office, and shall end at the last visit of the day, or at the assigned office.
- (3) Time shall start at the first visit of the day, or at the assigned office, and shall end at the last visit of the day, or at the assigned office.
- (4) The employee shall assume responsibility for their own insurance on their personal vehicles, and a copy of the insurance card and a copy of the employee's current driver's license shall be on file with the Personnel Office.
- (5) Notwithstanding any of the foregoing, if a County vehicle is assigned for use by an employee and an employee chooses to use their own personal vehicle instead, the employee shall not be paid mileage for that day. Actual mileage shall be recorded on the daily time and travel sheet with the notation "do not pay mileage," and under no circumstances shall this mileage be included on the monthly mileage log.

#### **15.04 County Air Truck**

Notwithstanding any other provision of this chapter, members of volunteer fire companies located in Essex County are authorized to house at their respective fire houses, and to use and operate the County Air Truck in the course and furtherance of firefighting and emergency rescue operations provided that such members are pre- approved therefor by the County Director of Emergency Services.

## **16 Acceptable Use of Information Technology**

### **16.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

Develop, establish, and continue to improve and provide a computer system for use by all County Officials and Employees in the performance of their respective official County duties. Essex County has established several Local

Area Networks (LANs) which give County officials and employees the ability to communicate with each other and with third parties by electronic mail, to remotely access larger computer servers, printers and systems, and to obtain information from the internet, all for the purpose of improving the functional efficiency of Essex County Government and the provision of governmental services. Essex County recognizes that without proper controls, the computer system can be misused, County data and governmental functions can be impaired and subject to unnecessary risks and dangers.

**16.02 Purpose of this policy is to:**

- A. Prevent inadvertent or unauthorized access to data, County programs and functions, and/or County communications;
- B. Provide the County with an ability to determine persons having access at any given time to the County computer system, and/or who have made changes to specific databases and/or programs;
- C. Promote the use of e-mail as an efficient communication and data gathering tool to improve the way the County conducts its governmental functions by providing a quick and cost-effective means to create, transmit and respond to messages and documents electronically, by expediting governmental communications, by reducing paperwork, and by automating routine office tasks, all for the purpose of increasing productivity and reducing costs;
- D. Provide internet connection and services to obtain and exchange information efficiently while performing and completing official County duties, functions, and services;
- F. Ensure that e-mail systems used by County officials and employees, and access to and use of the internet by such officials and employees, is in the furtherance of the official duties of such persons and County governmental purposes and functions.
- G. This policy applies to all County officials and employees, as well as to any third parties doing business with the County who have been granted access to the County's computer system.

**16.03 Acceptable Use Policy - Definitions**

For this policy, the terms below shall be defined as follows:

- A. "Computer System" shall mean all computer hardware, equipment, software, cables, and wires, as well as electronic mail and internet services and connections, and network.
- B. "Electronic Mail" shall mean electronic transfer of information in

the form of electronic messages, memoranda and attached documents from a sending party to one or more receiving parties via an intermediate telecommunications system. Electronic mail shall also be referred to as "e-mail."

- C. LAN shall mean Local Area Network which is a collection of devices connected together within relatively close proximity.

#### **16.04 Computer System Administration**

Administration of the County Computer System shall be the responsibility of the Information Systems Department, and shall be in accordance with the following:

- A. The System Administrators for the County computer system and for all LANs shall be appointed by the Information Systems Director;
- B. The System Administrators shall be responsible for determining and controlling access to the County computer system and/or LANs as provided for in this policy, and their duties shall include assigning authorization(s) for access to the system and/or LANs based on need, investigating attempts to breach security, terminating authorization(s) when a person no longer has need for access, assisting in the development of security policy and advising the Information Systems Director of needs for changes, problems, security violations and similar activities;
- C. User access requirements will be determined by the Information Systems Director and Department Head for each County official and/or employee, and the Information Systems Director may promulgate and adopt forms for user access;
- D. Selected county staff will be provided with an elevated privileged user account which shall only be used to perform tasks when those privileges are needed, and the account should NOT be used to operate on any computer systems as a daily or general use account. Failure to abide by this puts the County Computer System at risk of attack.

#### **16.05 Access to System**

Access to the Essex County Computer System and/or any LAN shall be in strict conformance with the following:

- A. Only authorized users will be granted access;
- B. Each authorized user will have only one User ID which will be

unique to that user; and

- C. Each authorized user will have a unique password, which shall:
  - (1) change every 60 days;
  - (2) be at least six characters long;
  - (3) be chosen by the user;
  - (4) not be an expired password;
  - (5) not be written down or recorded;
  - (6) not be given to co-workers or work supervisors;
  - (7) known only to the user but can be reset by System Administrator upon request.
- D. Access to the computer system and/or any LAN will only be permitted during your regularly scheduled shift. Access outside of your regularly scheduled shift may be granted by your department head based on need and good cause;
- E. Log-in to the LANs will only be permitted when the user is in the immediate vicinity of the computer terminal, and the user shall lock their workstation or log off the network when leaving the terminal or area for any reason or time-period;
- F. Workstations will automatically lock after predetermined time limits. These time limits will vary on a department-by-department basis, be determined based upon State and Federal insurance guidelines, and will be designated by the Department Head;
- G. The System Administrator shall be notified whenever the system refuses to allow access to any site following four consecutive unsuccessful log-in attempts, and no further access shall be granted or permitted except by the System Administrator;
- H. Department Heads shall immediately notify the Information System Department in writing whenever an official, employee or other user with access is:
  - (1) terminated;
  - (2) leaves County service or employment; or
  - (3) no longer authorized to have access to the County Computer System. This is to ensure:
    - (a) Password access is immediately revoked;

- (b) Access to all systems and applications is revoked;
- (c) Removal of employee's access to any systems or applications which process sensitive information;
- (d) The return of any computing equipment, resources, documentation, or other assets issued to the employee;
- (e) Any tokens or smart cards issued are disabled and returned;
- (f) Any keys and IDs provided during their employment are returned; and
- (g) The workforce member is not provided any access to their desk or office or, if provided, access is limited and carefully supervised.

#### **16.06 Use of County Computer System**

Use of the computer system and/or any component thereof shall be in strict conformance with the following:

- A. Use shall only be for the performance of official County business and the furtherance of official County governmental purposes and functions;
- B. E-mail and internet services shall only be used by Department Heads and such other County officials and employees who are authorized by their respective Department Head to use such services;
- C. County officials and employees shall be allowed to use e-mail to communicate with persons other than County officials and employees only when such communications are related to the performance by such County officials and/or employees of their respective County duties;
- D. No unauthorized software shall be permitted on the system or any component part thereof;
- E. Personal software is not allowed on the Computer System, or any component part thereof;
- F. Only County approved, County-issued removeable storage devices including, but not limited to, USB flash drives and SD cards may be connected to the computer system. If a County issued storage device is given to an external entity, it shall not be



reintroduced into the County's secure environment, or connected to the computer system, or any component part thereof;

- G. Respect the privacy and confidentiality of other users;
- H. Respect the legal protection provided to computer programs, software and data by copyright and license;
- I. Protect data from unauthorized use or disclosure as required by State and Federal Laws and County policies;
- J. Respect the integrity of the Computer System and/or any component thereof;
- K. Safeguard employee accounts and passwords and change passwords only in accordance with guidelines for valid passwords refer to 16.05C above;
- L. Report any observations of attempted security violations, and/or violations of this policy.

#### **16.07 Prohibited Use**

The following uses and activities in connection with the County computer system are prohibited:

- A. Use of e-mail services for the sending and/or receipt of personal or private messages, and/or access to internet sites for personal or private purposes;
- B. Connecting unauthorized peripheral devices (including, but not limited to, keyboards, mice, printers, USB flash drives, personal cell phone) to the computer system, or any component part thereof;
- C. Obtaining access to another user's e-mail without such user's express knowledge, permission, and consent;
- D. Use for purposes other than for the performance of such user's official County duties, the performance of official County business, and the furtherance of official County governmental purposes and functions;
- E. Use for any illegal, disruptive, unethical, or unprofessional purpose;
- F. The transmission of threatening, obscene or harassing materials or correspondence;
- G. Unauthorized distribution, disclosure, dissemination or release of

- County data, information, documents, and records;
- H. Interference with or the disruption of the computer system, any LAN, or any computer equipment or services;
  - I. Use for any private purposes including, but not limited to:
    - (1) business or marketing transactions;
    - (2) personal communications or transactions;
    - (3) religious or political causes or transactions;
    - (4) unauthorized transactions or communications for or on behalf of not-for-profit entities not directly affiliated with the County;
    - (5) advertising of private products or services; and/or
    - (6) any other use or activity intended for personal gain.
  - I. Intentionally seeking information on, obtaining copies of, or modifying files or data belonging to the County, unless written permission to do so has been obtained from the Information Systems Director;
  - J. Intentionally seeking information on, obtaining copies of, or modifying files or data belonging to other County users, unless written permission to do so has been obtained from such other user(s);
  - K. Use or development of programs that harass other users, infiltrate the computer system or any component thereof, and/or damage or alter the software components of the computer system or any component thereof;
  - L. Share accounts and/or passwords with any other person without authorization from the Department Head or the Information Systems Director.

#### **16.08 Privacy & Retention of E-mail & Internet Records**

All e-mail and internet transmissions and records shall be governed by and subject to the following:

- A. E-mail and internet transmissions and records are not the personal or private property of any user, and pursuant to the Electronic Communications Privacy Act of 1986 (18 USC 2510 *et seq.*) notice is hereby given that there are no facilities provided by the County

computer system for sending or receiving private or confidential electronic communications.

- B. System administrators shall have access to all e-mail, internet, and user access requests, and shall have the right to monitor messages and internet access records as necessary to ensure efficient performance and appropriate use of the system, in accordance with the following:
  - (1) although e-mail system administrators will not routinely monitor an employee's e-mail or internet access and will take reasonable precautions to protect the privacy of e-mail and internet use, access to an employee's e-mail and internet access records is authorized:
    - (a) for a legitimate business purpose, such as the need to access information when an employee is absent for an extended period of time;
    - (b) to diagnose and resolve technical problems involving system hardware, software, or communications; and/or
    - (c) to investigate misuse of e-mail and/or internet access when there is reasonable suspicion, or in conjunction with an authorized investigation, of abuse.
  - (2) Messages relating to or in support of illegal activities will be reported to appropriate authorities.
- C. E-mail transmissions and records of an official nature, as well as those which are personal in nature, may be:
  - (1) disclosable to the public under the Freedom of Information Law (New York Public Officer's Law Article 6);
  - (2) subject to specific measures to comply with the Personal Privacy Protection Law; and/or
  - (3) subject to discovery proceedings in legal actions.
- D. E-mail security shall be the joint responsibility of the Information Systems Department and e-mail users, and it shall be the responsibility of all users to take all reasonable precautions, including safeguarding and changing passwords, to prevent access to e-mail by unauthorized persons.

- E. E-mail created in the normal course of official County business is a record and is evidence of official County policies, actions, decisions, or transactions and so is subject to records management requirements under the New York Arts and Cultural Affairs Law and may be subject to specific program retention requirements.
- (1) Examples of emails which are subject to retention include:
    - (a) policies and directives;
    - (b) correspondence or memoranda related to official business;
    - (c) work schedules and assignments;
    - (d) agendas and minutes of meetings;
    - (e) any document that initiates, authorizes, or completes a business transaction;
    - (f) final reports or recommendations.
  - (2) Emails which may not be subject to retention include:
    - (a) personal messages and announcements;
    - (b) copies or extracts of documents distributed for convenience or reference;
    - (c) phone message slips;
    - (d) announcements of social events.
- F. Records communicated or transmitted by e-mail shall be:
- (1) identified, managed, protected, and retained if they are needed to meet operational, legal, audit, research, or other requirements;
  - (2) retained, managed, and accessible in an existing filing system outside the e-mail system in accordance with the appropriate departmental standard practices as may be recommended by the Information Systems Department;
  - (3) disposed of within the record keeping system in which they have been filed in accordance with a Records Disposition Authorization (RDA) approved by the New York State Archives and Records Administration (SARA), information about which program managers may obtain from the Essex

County Clerk who serves as the County Records Management Officer.

## 16.09 County Rights

Notwithstanding any other provision of this policy, the County:

- A. Reserves the right to log computer system use and monitor file server space utilization by users and assumes no responsibility or liability for files deleted due to violation of file server space allotments;
- B. Reserves the right to remove a user from the computer system, from any LAN, County database, or from any e-mail or internet service;
- C. Shall not be responsible for:
  - (1) any information obtained by a user, such information being obtained at the user's sole and exclusive risk and it being the responsibility of the user to have the County install anti-virus/anti malware software on the user's computer terminal or LAN;
  - (2) any damages including, but not limited to, the loss of data resulting from delays, non-deliveries, or service interruptions whether or not caused by negligence, errors, or omissions of the County;
  - (3) any costs, liabilities or damages caused by the way the user chooses to use internet service;
  - (4) any consequences of service interruptions or changes, even those arising from circumstances under the control of the County; and/or
  - (5) any costs or charges incurred as a result of seeking or accepting advice or information received by a user from a source outside of Essex County government unless the same was authorized and approved in writing by the Department Head;
- D. Makes no warranties, either express or implied, with regard to software obtained from or installed on the computer system, with respect to e-mail or internet service, or for the content of any advice or information received by a user from a source outside of Essex County government;

- E. Reserves and retains the right to amend, modify or change this policy or any provision hereof.

#### **16.10 Social Media**

- A. It is the policy of Essex County to permit departments to utilize social media sites and social networking sites to further enhance communications with residents and various stakeholders in the support of County goals and objectives. In general, social media posts shall inform citizens about government services and how to access them, make the operations of County departments transparent and accessible to the public, create a forum for the receipt of candid comments from residents about how government can be improved and encourage civic engagement.
- B. This policy applies to social networking technologies that are accessed using an Essex County email address. Employees are responsible for the on-line activities that are conducted with an Essex County email address. This policy addresses: employee access, account management, acceptable use, employee conduct, content, security, legal issues, and citizen conduct.
- C. With the increased use of social media technology, it is important to understand the appropriate use of such technology as an employee of the County. This policy is not intended to restrict the flow of useful and appropriate information but is instead designed to protect the County from the unauthorized disclosure of information and to otherwise protect the County, its employees, and customers from any harm that might result through employee misuse of social media.
- D. "Social Media" is an umbrella term that defines the various activities that integrate technology, social interaction, and the construction of words, pictures, videos, and audio, and includes blogs, Facebook, X formerly known as Twitter, LinkedIn, Instagram, TikTok, and similar tools. The absence of, or lack of, explicit reference to a specific social media platform does not limit the extent of the application of this policy.
- E. Nothing in this policy is intended to, or will, limit or infringe on rights otherwise protected by applicable law.
- F. Employees are reminded of the following guidelines and best practices for social media use:
  - (1) An employee's use of social media may be subject to one or more of the County's policies regarding appropriate

workplace conduct including, but not limited to, policies on harassment, prohibited conduct, confidentiality of information, information security, County property, and use of technology.

- (2) If an employee chooses to identify themselves as an employee of the County on social media, they should make it clear that they are sharing their own views and not speaking on the County's behalf.
  - (3) Employees must maintain the confidentiality of the County's private or confidential information.
  - (4) Employees should keep in mind that they are more likely to resolve complaints about work by speaking directly with their co-workers, work supervisor, or other management-level personnel than by posting complaints on the Internet.
  - (5) Employees should have no expectation of privacy while using social media as postings may be viewed by anyone.
- G. At the discretion of the County Manager, the use of social media on the County computer system may be restricted if there is reason to believe that the use of said platforms would compromise the security of the County Network or increase the risk of privacy violations.

#### **16.11 Use of Social Media on Behalf of the County**

- (1) The County uses social media to convey information about the County's services, issues or respond to breaking news, and discuss County activities and events.
- (2) The County must ensure that those who use social media on its behalf maintain its integrity and reputation while minimizing actual or potential legal risks, whether used inside or outside the workplace.
- (3) From time to time, the County may create Social Media accounts, pages, sites, or blogs on which designated employees may post. Their creation requires the approval of the Information Systems department and the County Manager. Such social media accounts must be created by the Information Systems Department so that ownership is under the County Manager and not individuals working on behalf of the County.
- (4) Department Heads must contact the Information Systems

Department for approval on any social media accounts. This includes requests for vendor accounts or other user/organizations outside the County organization. If approved, the Information Systems Department will create the Social Media account on behalf of the requesting department. Approved vendor or external user accounts will have minimal permissions necessary to conduct relevant business activities on behalf of the Department/County.

- (5) The following rules and guidelines apply to use of social media on behalf of the County:
  - (a) Accounts established on behalf of the County must be established using a county email address and must identify the County as the account holder or subscriber.
  - (b) Upon request, employees authorized to use social media on the County's behalf must disclose passwords for County Social Media accounts. Employees must also relinquish all right to access such accounts upon termination of employment or transfer from position.
  - (c) Only authorized employees can prepare and modify content posted on the County's Social Media accounts. Maintaining an official county social media site will be considered an official job responsibility for each administrator and they will be allowed to do this on County time.
  - (d) Content must be relevant and add value.
  - (e) Department Heads and the County Manager are responsible for ensuring all content posted on or through the County's Social Media accounts complies with the County's policies. Department Heads and the County Manager are authorized to remove any content that exposes the County to potential liability, does not comply with this or any other County policy, or that may be illegal. Removal of content will be done without permission of or advance warning to the blogger/poster.
  - (f) Departments permitted to set up and maintain an



official social media site will be required to ensure the site remains up to date with accurate and timely information as well as to ensure offensive or non-factual comments are removed in a timely manner.

- (g) The County retains exclusive and unilateral right to change administrative rights and passwords and block access to County Social Media accounts.

## **16.12 Implementation**

This policy shall be implemented as follows:

- A. The County Manager shall insure implementation by the County Departments;
- B. Department Heads, in conjunction with the advice and recommendations of the Information Systems Department, the Records Retention Officer and the Public Information Officer(s), shall:
  - (1) develop and/or publicize record keeping practices in their area of responsibility including the routing, format, and filing of records communicated via e-mail;
  - (2) train departmental staff in:
    - (a) the responsibility for the security of the computer system and all data and records thereon; and
    - (b) the proper use of the computer system and all component parts thereof; and
  - (3) report any violations of his policy to the County Manager and the Information Services Director; and
- C. the Director of Information Systems shall answer questions about specific uses and/or security issues not enumerated in this policy.

# 17 Disciplinary Actions

## 17.01 Statement of Policy

IT IS THE POLICY OF ESSEX COUNTY TO:

Provide a well-defined system of discipline which sets forth standards and conduct and guidelines for disciplinary actions and which will be applied to all employees equitably, without bias or prejudice. It is the intent of the County that discipline should be characterized as corrective and constructive rather than punitive, and that disciplinary action be utilized as an element of the overall program to educate and motivate employees to exhibit behavior which will contribute to individual growth and development and to the successful operation of County government.

## 17.02 Employee Responsibility

To continue operating in a safe, orderly, and efficient manner, certain rules are necessary. Rules are guides for the employees in how to conduct themselves and what employees' responsibilities are while working for the employer. Employees who fail to abide by these established rules will be subject to corrective discipline or discharge. Corrective discipline may range from an oral or written warning for minor offenses, and reprimand, suspension, fine, demotion in grade or termination from employment for more serious or repeated infractions.

## 17.03 General Provisions regarding Disciplinary Actions

- A. Any County employee may be disciplined for misconduct or incompetency. New York State Civil Service Law Section 75 sets forth disciplinary procedures for covered employees. It affords a covered employee certain rights and protections when charges of incompetence or misconduct have been made against the employee by the County.
- B. The need for disciplinary action may arise because of various kinds of action on the part of the employee such as, but not limited to:
  - (1) Failure to perform their job in a satisfactory manner or unsatisfactory performance as one or more of the requirements of their job.
  - (2) Infractions of rules, regulations, policies, or procedures as established by the County or the department.
  - (3) Offenses, insubordination, or misconduct which violate general rules of behavior or are specifically prohibited by law.
- C. The following types of infractions, offenses or misconduct

represent typical reasons for disciplinary action and are not meant to be the only permissible reasons for such actions:

- (1) Absence without authorization;
- (2) Disregard or violation of safety rules;
- (3) Distracting other employees;
- (4) Failure to report an injury;
- (5) Failure to report an accident;
- (6) Failure to keep work area tidy;
- (7) Failure to follow instructions;
- (8) Gambling while on duty;
- (9) Late for work without valid reason: being late for work even with a valid reason may also be cause for disciplinary action, if excessive.;
- (10) Leaving work area without permission;
- (11) Insubordination;
- (12) Incompetence or inefficiency in performance of assigned duties;
- (13) Use of another employee's equipment without permission;
- (14) Involvement in an accident chargeable to an employee while operating a county vehicle or equipment. Negligence on the part of the employee should be the determining fact as to whether disciplinary action is appropriate;
- (15) Unauthorized use or unsafe operation of county property, equipment, or vehicle;
- (16) Abuse of county vehicle or equipment;
- (17) Operating a county vehicle or equipment without a proper valid driver's or chauffeur's license;
- (18) Extension of lunch period or break periods;
- (19) Abuse of sick leave privileges;
- (20) Conduct unbecoming a county employee;

- (21) Leaving a job without permission;
- (22) Possession, or drinking, of alcoholic beverages or use of drugs on the job;
- (23) Reporting to work when intoxicated or under the influence of drugs;
- (24) Giving false information or refusing to give testimony in connection with an investigation regarding the scope of the employee's job;
- (25) Sleeping on the job;
- (26) Threatening co-worker or work supervisor;
- (27) Use of abusive language to an employee, co-worker, work supervisor or public;
- (28) Conviction and imprisonment for a felony or misdemeanor directly related to the position held;
- (29) Excessive accidents resulting in injury to self, others, or damage to County equipment;
- (30) Falsifying application or concealing information during screening and processing;
- (31) Falsifying attendance or leave records or other work-related documentation;
- (32) Failure to be available for a reasonable amount of overtime assignments;
- (33) Fighting on the job or engaging in any intentional act which may inflict bodily harm on anyone;
- (34) Theft or removal from County locations without proper authorization of any County property or property of any County employee;
- (35) Violating the Code of Ethics;
- (36) Unauthorized display or possession of a firearm or concealed weapon while operating a county vehicle;
- (37) Harassment or workplace violence while in performance of County duties; or
- (38) Sale of narcotics or alcohol.

# 18 Department Head, Management Confidential & Elected Officials

## 18.01 Statement of Policy

IT IS THE POLICY OF ESSEX COUNTY TO:

Provide policies for Elected Officials, Department Heads, and other Management/Confidential Employees to include benefits at least equal to Union Membership wherever possible.

## 18.02 Definition of Department Head

Department Heads shall be defined as employees elected or appointed by the Board of Work supervisors and having APPOINTING AUTHORITY which includes the following titles:

- A. Clerk, Board of Supervisors
- B. Auditor/Financial Officer
- C. Director of Real Property Tax
- D. County Attorney
- E. Personnel Officer
- F. Commissioners of Election
- G. Superintendent of Public Works
- H. Information Systems Director
- I. Probation Director
- J. Emergency Services Director/Fire Coordinator
- K. Public Health Director
- L. Director of Community Mental Health Services
- M. Commissioner of Social Services
- N. Director, Office for the Aging
- O. County Planner
- P. Public Defender
- Q. Conflict Public Defender
- R. Weights and Measures
- S. And other titles that may be added from time to time by the

Board of Supervisors.

### 18.03 Application of Policy Manual to Department Heads

Employees designated as Department Heads shall have all sections of this Policy Manual apply to them except the following:

A. Section 7.03- Hours of Work

Department Heads shall not be limited to working the same hours employees work, but they are expected to maintain accurate records regarding days worked, sick leave, personal leave, and vacation leave. Such records shall be filed in the Personnel Department not later than the tenth (10th) of the following month.

B. Section 7.04- Departmental Work Rules

Department Heads are not included in departmental work rules drafted by the Department Head.

C. Section 10.10- Fire and Ambulance Leave

This section shall not apply to Department Heads except if they are at a fire or ambulance call prior to the start of the workday, then this is a valid reason to be late for work.

### 18.04 Definition of Management Confidential

Management/Confidential employees shall be defined as provided by Article 14, Section 201.7(a) of the Civil Service Law to include appointed officials, exempt employees, Department Heads, employees of the Personnel Office, employees of the Office of County Manager (other than those employees working in Information Systems), employees of the Clerk of the Board and the following titles:

Administrative Assistant (Mental Health)	Director Community Mental Health Services
Administrative Officer of Essex County	Director of Nursing
Administrative Officer (Social Services)	Director of Patient Services
Assistant Civil Engineer	Director of Preventive Services
Assistant Director of Nursing	Director of Public Health
Assistant Director of Community Mental Health Services	Director of Staff and Organizational Development
Assistant Director of Real Property	Commissioner of Social Services
Chief Deputy, Sheriff's Department	Election Clerk
Child Support Coordinator	EMS Coordinator

Commissioner of Elections	Environmental Manager
County Administrator/Manager	Enhanced 911 Coordinator
County Attorney	Head Social Services Examiner
County Auditor	Health and Safety Officer
Assistant County Attorney	Home Health Agency Administrator
Deputy County Auditor	Information Systems Coordinator
Deputy County Clerk	Motor Vehicle Work supervisors
Deputy Director of Emergency Services	Payroll Specialist
Deputy Director of Real Property Tax Services	Public Health Nursing Comptroller
Deputy Superintendent for Public Works	Public Health Program Coordinator
Deputy Treasurer (Principal Account Clerk)	Secretary to the County Attorney
Assistant County Attorney	Secretary to the District Attorney
Deputy County Planner	Senior Programmer/Analyst (Deputy Director)
Deputy Commissioner of Social Services for Administrative Services	Senior Engineering Technician
Deputy Commissioner of Social Services for Programming	Social Services Fiscal Services Administrator
Deputy Director of Administrative Services	Social Services Attorneys
Deputy County Planner	Superintendent of Public Works
Deputy Information Systems Director	Supervising Public Health Nurses
Director of Administrative Services	Supervising Psychiatric Social Worker
Director of Community Affairs	Systems Programmer / Web Developer

- A. And other titles that may be added from time to time by the Board of Supervisors.

### **18.05 Application of Policy Manual to Management Confidential**

Employees designated as Management/Confidential shall have all sections of the Policy Manual apply to them except as follows:

- A. Section 7.03- Hours of Work

Employees in this group will be notified by their Department Head about the hours of work. Employees are expected to maintain accurate records regarding days worked, sick leave, personal leave, and vacation leave. Time sheets and written requests for payment of compensatory time and overtime, if the employee is so entitled under the Fair Labor Standards, must be

checked, and approved by the Department Head and filed in the Personnel Department not later than the tenth (10<sup>th</sup>) of the following month.

B. Section 10.10- Fire and Ambulance Leave

This section shall not apply to Management Confidential employees except if they are at a fire or ambulance call prior to the start of the workday, then this is a valid reason to be late for work.

**18.06 Definition of Elected Officials**

Elected Officials shall be defined to include the following titles:

- A. District Attorney
- B. County Treasurer
- C. County Sheriff
- D. County Clerk
- E. Coroner(s)
- F. Board of Supervisors

**18.07 Application of Manual to Elected Officials**

Persons identified as Elected Officials shall not have the Policy Manual apply to them except for the following sections:

- A. Section 3.01- Personnel Files
- B. Section 6.05- Expenses
- C. Section 6.06- Payroll Deductions
- D. Section 7.01- Conditions of Employment
- E. Sections 11.01-11.07- Health Insurance – unless a better plan is available under the Town Plan.
- F. Sections 12.01-12.02 – Retirement – unless a better plan is available under the Town Plan.
- G. Section 0- Harassment Policy



# 19 Harassment Policy

## 19.01 Statement of Policy

- A. The County is committed to maintaining a workplace free of discrimination, harassment, and retaliation, and in furtherance of that commitment has adopted this policy prohibiting workplace harassment. Harassment and retaliation constitute misconduct and will not be tolerated. This policy is one component of the County's commitment to a discrimination-free work environment.

Unwelcome conduct, whether physical, verbal, visual, or written, that is directed at an individual because of, or relating to, their membership in a protected class violates County policy and may violate the law. Protected classes include race (including traits historically associated with race), color, religion, sex, disability (including pregnancy-related conditions), genetic information, reproductive health decision making (including the decision to use or access a particular drug, device, or medical service), predisposition or carrier status, national origin, citizenship, ancestry, age, marital status, familial status, sexual orientation, gender identity or expression, the status of being transgender, military status, the status of being a victim of domestic violence, known relationship or association with any member of a protected class, or any other class or status protected by applicable law.

The County prohibits harassment of or against its applicants, interns (whether paid or unpaid), employees, volunteers, contractors, subcontractors, vendors, consultants, and other persons providing services in the workplace pursuant to a contract. Harassment is prohibited in all aspects of the employment relationship including recruitment, hiring, placement, promotion, transfer, training, compensation, benefits, and activities.

This policy prohibits not only behavior that constitutes unlawful harassment, but also other inappropriate or unprofessional behavior that may reasonably be considered offensive or otherwise objectionable.

Conduct prohibited by this policy is unacceptable in the workplace, at County functions whether on or off County premises, and in each situation that may impact the work environment, including business trips, business meetings, and business-related social events. Similarly, prohibited conduct is unacceptable when it occurs on calls, texts, emails, and social media, even if it occurs away from the workplace, on personal devices, when working remotely from home, or during non-work hours.

In furtherance of the County's commitment to maintain a harassment-free workplace, the County will provide this policy to all employees as part of its annual training, post it prominently in all work locations (to the extent practicable), and provide it to new employees upon hiring.

Complaints of harassment will be investigated in the same manner as those alleging sexual harassment.

## **19.02 Sexual Harassment**

- A. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination.
- B. Sexual harassment includes harassment based on sex or gender, gender identity or gender expression, self-identified or perceived sex, sexual orientation, and the status of being transgender. Sexual harassment can occur between any individuals, regardless of their sex or gender. Conduct is unlawful when:
  - (1) submission to that conduct or those advances or requests is made either explicitly or implicitly a term or condition of an individual's employment; or
  - (2) submission to or rejection of the conduct or advances or requests is used as the basis for employment decisions affecting the individual; or
  - (3) the conduct or advances or requests have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, even if the individual is not the intended target; or
  - (4) the conduct has the purpose or effect of subjecting an individual to inferior terms, condition, or privileges of employment because of their sex or gender, gender identity, gender expression and/or sexual orientation.
- C. Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender

will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some persons may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace.

- D. Sexual harassment can occur between any individuals, regardless of their sex or gender and can be verbal (*e.g.*, jokes, insults, gestures or teasing), visual (*e.g.*, offensive posters, symbols, cartoons, drawings, computer displays, text messages, social media posts or e-mails) or physical conduct (*e.g.*, unwanted touching, physically threatening another) that denigrates or shows hostility or aversion towards an individual based on sex or gender, gender identity, gender expression and/or sexual orientation.
- E. While it is not easy to define precisely what constitutes sexual harassment, examples of prohibited behavior include:
  - (1) unwelcome sexual advances, flirtations, leering, whistling, touching, pinching, blocking normal movement, coercion, assault;
  - (2) requests and/or demands for sexual favors in exchange for favorable treatment;
  - (3) obscene or vulgar gestures, or comments;
  - (4) sexual jokes or comments about a person's body, sexual prowess, or sexual deficiencies;
  - (5) propositions, or suggestive or insulting comments of a sexual nature;
  - (6) derogatory cartoons, posters, and drawings;
  - (7) sexually explicit e-mails, text messages, social media posts or voicemails;
  - (8) conversation about one's own or someone else's sex life;
  - (9) conduct or comments consistently targeted at only one gender, even if the content is not sexual;
  - (10) teasing or other conduct directed toward a person because of the person's gender;

- (11) hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity or status of being transgender, such as bullying, yelling, or name calling, and sabotaging or otherwise interfering with an individual's work;
- (12) sex stereotyping which involves treating an individual differently because their conduct or personality traits do not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look; and/or
- (13) repeated requests for dates or romantic gestures, including gift giving.

### **19.03 Reporting Procedure**

- A. Preventing sexual harassment is everyone's responsibility. Essex County cannot prevent or remedy sexual harassment unless it knows about it. Any employee or non-employee<sup>1</sup> who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a work supervisor or the Essex County Manager or the Essex County Attorney. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a work supervisor, or the Essex County Manager or the Essex County Attorney.
- B. An employee or individual who feels that he or she has been the victim of sexual harassment as herein described.
- C. Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.
- D. All work supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such

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<sup>1</sup> A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

suspected sexual harassment to the Essex County Manager or the Essex County Attorney. In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, work supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

- E. Individuals are expected to report all suspected violations of this policy, regardless of the offender's identity or position. Anyone who believes they are being or have been subjected to conduct in violation of this policy, or who witnesses or otherwise becomes aware of conduct that violates this policy, must report such conduct to the individual's Department Head (other than the suspected wrongdoer), the Essex County Manager or the Essex County Attorney, either verbally or in writing. If the report involves the work supervisor, or the reporting individual believes it would be inappropriate to discuss the matter with their work supervisor, the employee may report it directly to the Personnel Office.
- F. A form for submission of a written report is available in the Appendix. Individuals are encouraged, but not required, to use this form.
- G. The availability of this reporting procedure does not preclude individuals who believe they are being subjected to conduct in violation of this policy from promptly advising the offender that their behavior is unwelcome and requesting that it be discontinued.
- H. If an individual makes a report as provided for above, and the person to whom the report is made does not respond in a manner the individual deems satisfactory or consistent with this policy, the reporting individual is expected to report such to another appropriate management representative other than the alleged wrongdoer and the representative to whom the previous report was made.

#### **19.04 Investigation procedure**

- A. Upon receiving a report that this policy has been violated, the Essex County Manager and the Essex County Attorney will conduct a fair, thorough, and timely investigation and will ensure due process for all parties. The County will endeavor to keep the reporting-individual's concerns confidential. However, complete confidentiality may not be possible in all circumstances. All

involved parties are required to cooperate in investigations conducted pursuant to this policy. If a complaint is made orally, the complainant should be encouraged to complete the "Complaint Form" in writing. If they refuse, prepare a Complaint Form based on the oral reporting.

- B. All involved parties, including all work supervisory personnel, are required to cooperate with the County's investigation. Investigations will generally include: an immediate review of the allegations and, where appropriate, interim actions; obtaining, reviewing, and preserving relevant documentation; interviewing all parties involved, including relevant witnesses; and documenting the investigation and its resolution and preserving such.
- C. Once a determination regarding the reported behavior is made, it will be communicated to the individual(s) who reported the conduct and the individual(s) who were subjected to the conduct (if different), though the County may not disclose all details of the action(s) taken. If it is determined that a violation of the policy has occurred, the Essex County Manager, the appropriate Department Head or the Essex County Board of Supervisors, as the case may be, shall be responsible for enforcing this policy and for determining what remedial/corrective or disciplinary actions must be undertaken which may include, but not limited to, reprimand, suspension, reassignment, training, loss of accrued time, loss of pay, demotion, or termination. This is not an exhaustive list; each case will be judged on its own merits. Appropriate action will also be taken to deter any future policy violations.
- D. The County will not tolerate discrimination, harassment, or retaliation. Any employee found to have violated this policy will be considered to have engaged in employee misconduct and will be subject to disciplinary action, up to and including termination. Similarly, if the County concludes that a non-employee has subjected an individual to conduct in violation of this policy, prompt and effective action will be taken to stop the prohibited conduct and to deter any future policy violations. Similarly, if it is concluded that a non-employee has subjected an individual to conduct in violation of this policy, prompt and effective action will be taken to stop the prohibited conduct and to deter any future policy violations. Individuals who engage in conduct that rises to

the level of a violation of law can be held personally liable for such conduct.

- E. If, after investigating a report of harassment or unlawful discrimination, the County determines that the report was not made in good faith or that an employee did not participate or cooperate in the investigation in good faith, disciplinary action may be taken against the person who made the report or who did not participate or cooperate.

#### **19.05 Prohibition of Retaliation**

- A. No person covered by this Policy shall be subject to adverse employment action including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint.
- B. Retaliation is illegal and will not be tolerated. Retaliation includes any conduct (whether workplace- or employment-related) that is directed at an individual who engages in protected activity, and that might deter a reasonable worker from making or supporting a charge of discrimination or harassment.
- C. Protected activity includes: making a good faith report of harassment, discrimination, or other violation of this policy; serving as a witness in the investigation of a report of such; opposing discrimination, harassment, or retaliation by reporting such to management; reporting that another individual has been subjected to conduct in violation of this policy; encouraging another individual to report a suspected policy violation; and otherwise participating in an investigation of a suspected policy violation.
- D. Examples of retaliation may include, but are not limited to:
  - (1) Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;
  - (2) Publicly releasing personnel files;
  - (3) Undermining an individual's immigration status; or
  - (4) Reducing work responsibilities or passing them over for a promotion.

- E. Any employee of Essex County who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination.
- F. Any employee paid or unpaid, intern, or non-employee working in the workplace who believes they have been subject to retaliation, or is aware of such, should inform a work supervisor, or the County Manager or the County Attorney. Any employee, paid or unpaid intern or non-employee who believes they have been a victim of such retaliation may also seek compensation in other available forums, as explained below in the section 19.07 Protections and External Remedies.

### **19.06 Bystander Intervention**

- A. Any employee witnessing harassment as a bystander is encouraged to report it. A work supervisor who is a bystander to harassment is **required** to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.
  - (1) A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
  - (2) A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
  - (3) A bystander can record or take notes on the harassment incident to benefit a future investigation;
  - (4) A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
  - (5) If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.
- B. Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace.

### **19.07 Legal Protections and External Remedies**

- A. Harassment is prohibited not only by the County; it is also prohibited by State, Federal, and, where applicable, Local Law.



Aside from the internal process described in this policy, individuals may also choose to pursue legal remedies with the following governmental entities at any time.

- B. The New York State Division of Human Rights (DHR) enforces the Human Rights Law (HRL), codified as N.Y. Executive Law, Art. 15, section 290 *et seq.*, which applies to employers in New York State and protects employees, paid or unpaid interns, and non-employees providing services in the workplace pursuant to a contract, regardless of immigration status. A complaint alleging a violation of the HRL may be filed either with DHR, subject to a one-year statute of limitations (three years in cases of sexual harassment), or in New York State Supreme Court, subject to a three-year statute of limitations. Complaining internally to your employer does not extend the time to file with DHR or in court. The one year or three years is counted from the date of the most recent incident of harassment. An attorney is not needed to file a complaint with DHR, and there is no cost to file with DHR. The DHR will investigate the complaint to determine if unlawful harassment occurred. If unlawful harassment is found after a hearing, the DHR or the court may award relief, which may include requiring your employer to take action to stop the harassment, and to redress the damage caused by paying monetary damages, attorney's fees, and civil fines. The DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, NY 10458; (718) 741-8400; [www.dhr.ny.gov](http://www.dhr.ny.gov). The DHR can also be contacted at (888) 392-3644. DHR also maintains a confidential hotline to provide individuals with complaints of workplace sexual harassment counsel and assistance. That number is 1-800-HARASS-3 (1-800-427-2773). More information about filing a complaint is available at [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint). The website has a complaint form and contact information for DHR's regional offices across New York State.
- C. The United States Equal Employment Opportunity Commission (EEOC) enforces Federal Anti-Discrimination Laws, including Title VII of the 1964 Federal Civil Rights Act (codified as 42 U.S.C. section 2000e *et seq.*). An employee must file a charge with the EEOC within 300 days of the conduct giving rise to the complaint. There is no cost to file a complaint with the EEOC. The EEOC also investigates complaints but does not hold hearings or award relief. The EEOC may take other action, including pursuing cases in Federal Court on behalf of complaining parties or issuing a Right

to Sue Letter that allows an individual to pursue claims in Federal Court. Federal Courts may award remedies if discrimination is found to have occurred. The EEOC can be contacted at 1-800-669-4000 (1-800-669-6820 [TTY]), via email at [info@eeoc.gov](mailto:info@eeoc.gov), or by visiting their website at [www.eeoc.gov](http://www.eeoc.gov). If an individual files an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in Federal Court.

- D. Many localities enforce laws protecting individuals from harassment and discrimination. An individual may contact the county, city, or town in which they live to find out if such laws exist.
- E. If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department or the New York State Police.

#### **19.08 Liability**

The County does not consider conduct in violation of this policy to be within the course and scope of employment or the direct consequence of the discharge of one's duties. Accordingly, to the extent permitted by law, the County reserves the right not to provide a defense or pay damages assessed against employees for conduct in violation of this policy.

## 20 Workplace Violence Prevention Policy

### 20.01 Policy Statement

- A. The County is committed to providing its employees with a work environment that is safe, secure, and free from violence. Workplace violence is any physical assault (*e.g.*, hitting, pushing), threatening, intimidating, or aggressive behavior, or verbal abuse or harassment occurring where a public employee performs any work-related duty during his or her employment including, but not limited to:
- (1) An attempt or threat, whether verbal or physical, to inflict physical injury upon the employee;
  - (2) Any intentional display of force which would give an employee reason to fear or expect bodily harm;
  - (3) Intentional and wrongful physical contact with a person without his or her consent that entails injury; and
  - (4) Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.
- B. Any incident of workplace violence or imminent danger must be promptly reported to the Department Head who should thereafter report the incident to the Health and Safety Officer or to the Personnel Officer. A report form is in the Appendix.
- C. For cases involving imminent danger, -- **call 911** - the Police should be contacted immediately.
- D. Employees are prohibited from possessing firearms or weapons (*e.g.*, guns, knives (except for pocketknives used in the normal course of the employee's job), explosives, and other items with the intent to inflict harm) in the workplace, even if the employee is licensed to carry the weapon. The only exceptions are law enforcement and security personnel. An employee who has knowledge that a coworker or visitor possesses a weapon on County property must report this to a Department Head immediately.
- E. Allegations of workplace violence will be thoroughly investigated in accordance with this Policy and appropriate action will be taken, including involving law enforcement authorities when

warranted. Violations of this policy will result in appropriate remedial, disciplinary, and/or legal action, according to the circumstances. An employee will not be subject to criticism, reprisal, retaliation, demotion, discrimination, disciplinary action, or other adverse employment action for making a good faith report of acts pursuant to this policy.

- F. All employees are responsible for helping to create and maintain an environment of mutual respect, assisting in maintaining a safe and secure work environment, and following all policies and procedures.
- G. This policy is designed to meet the requirements of New York State Labor Law Art. 2 section 27-b and highlights some of the elements that are found within our Workplace Violence Prevention Program.

## **20.02 Risk Assessment**

- A. The Health and Safety Officer, or designee, and the Incident Response Team will, at a minimum, annually conduct a risk assessment. The risk assessment will include, but not be limited to, entrances/exits to County buildings, public access, entrances of public restroom facilities, parking lots, workstations, and an examination of the locations of closed-circuit surveillance cameras. The assessment will also review risk factors including, but not limited to, identifying which employees work in public settings, work late at night or early in the morning, exchange money with the public, work alone or in small numbers, work in a location with uncontrolled public access, and areas previously identified as security risks or problems.
- B. As part of the annual assessment, the Health and Safety Officer, or designee, will separately review records of workplace violence incidents, disciplinary incidents, log of work-related illnesses or injuries, and workers' compensation cases from the prior 12-month period. The purpose of this review is to identify patterns in the type and cause of injuries, particular areas of the workplace, specific operations involved, or specific individuals involved. The County will also review the effectiveness of any prior mitigating action to reduce or eliminate workplace violence. Lastly, the County will review its practices, procedures, and policies that may impact risk of workplace violence to determine whether they should be revised.
- C. Following the assessment, the Health and Safety Officer, or

designee, and the Incident Response Team will document the following:

- (1) The risk factors identified in the risk assessment;
- (2) The methods that the County will use to address the risks identified in the risk assessment;
- (3) The methods that the County will use to prevent workplace violence incidents;
- (4) Controls that will be used to eliminate or reduce risks including, but not limited to:
  - (a) Engineering Controls (for example a physical barrier);
  - (b) Work Practice Controls (for example a policy or procedure); and
  - (c) Personal Protective Equipment (for example a bulletproof vest for law enforcement).

### **20.03 Training of Employees**

- A. Employees will receive workplace violence prevention training following their initial date of hire and at least annually thereafter. The training will, at a minimum, include:
  - (1) A review of this policy and the related forms;
  - (2) The requirements of the New York workplace violence regulations;
  - (3) The risk factors identified in the risk assessment;
  - (4) The measures that employees can take to protect themselves from the identified risks;
  - (5) A review of steps that the County has taken to reduce or eliminate identified risks (for example procedures, work practices, and security alarms);
  - (6) Notification and reporting procedures; and
  - (7) The location of the Workplace Violence Prevention Policy, related forms, and how employees may obtain copies.
- B. It is the responsibility of all employees to promptly report any incident that the employee in good faith believes to constitute workplace violence. All incidents are to be reported to the Health

and Safety Officer, or designee, within 24 hours of when the incident occurred. If the incident involves the Health and Safety Officer, the incident is to be reported to the appropriate Department Head. While the report can be in any form, it is preferable that the employee use the Workplace Violence Incident Report form.

- C. Work supervisors and all Incident Response Team members are responsible for the observation of all personnel and identification of potential workplace violence exposures. Work supervisors and Incident Response Team members must report observed incidents of workplace violence and potential risks.
- D. The report must include the following information:
  - (1) The workplace location where the incident occurred;
  - (2) The time of day/shift when the incident occurred;
  - (3) A detailed description of the incident including the events leading up to it and how it occurred;
  - (4) The names and job titles of the employees involved;
  - (5) The name or other identifier of other individual(s) involved;
  - (6) If applicable, nature and extent of injuries from the incident; and
  - (7) Names of witnesses.
- E. All workplace violence reports will be fully investigated by an investigator designated by the County Manager or County Attorney. The investigator's findings will be presented to the County Attorney, or designee, for review and response.
- F. If needed, in response to any workplace violence finding, the County Manager, or designee, (or, if applicable, the County Attorney), and Incident Response Team will review the plan that was developed following the last risk assessment and determine whether modifications are needed.

#### **20.04 Confidentiality**

- A. Documentation related to the risk assessment or workplace violence incidents will not be subject to disclosure if it would:
  - (1) interfere with law enforcement investigations or judicial proceedings;

- (2) deprive a person of a right to a fair trial or impartial adjudication;
  - (3) identify a confidential source or disclose confidential information relating to a criminal investigation;
  - (4) endanger the life or safety of any person; or for any other lawful reason.
- B. The County will treat workplace violence incidents involving the following injuries or illnesses as privacy concern cases:
- (1) An injury or illness to an intimate body part or the reproductive system;
  - (2) An injury or illness resulting from a sexual assault;
  - (3) Mental illness;
  - (4) HIV infection;
  - (5) Needle stick injuries and cuts from sharp objects that are or may be contaminated with another person's blood or other potentially infectious material; and
  - (6) Other injuries or illnesses, if the employee independently or voluntarily requests that his or her name not be entered on the Workplace Incident Report.
- C. Prior to disclosing a copy of a Workplace Incident Report that is a privacy concern case, the County will redact the name of the employee who was the alleged victim and instead enter "PRIVACY CONCERN CASE." This requirement does not apply to disclosures to the New York State Commissioner of Labor.

### **20.05 Retaliation**

The County prohibits retaliation against employees who in good faith report workplace violence or participate in an investigation into an allegation of workplace violence. Employees may be subject to discipline for; *e.g.*, submitting a report in bad faith or misrepresenting information during the County's investigation.

### **20.06 Recordkeeping**

Records regarding workplace violence incidents will be prepared and maintained in accordance with New York State Labor Law section 27-a and N.Y.C.R.R. Part 801.

# 21 Tobacco Policy

## 21.01 Policy Background

- A. The County has a Tobacco Policy to provide all employees and visitors with a healthy, productive, safe, and clean environment.
- B. “Tobacco Products” means all manufactured products containing tobacco or nicotine including, but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, and electronic cigarette cartridges (e-cigarettes).

## 21.02 Prohibition of Tobacco Use

- A. The use of Tobacco Products is always prohibited:
  - (1) in all interior space owned, rented, or leased by the County;
  - (2) in all vehicles owned, rented, leased, or operated by the County;
  - (3) on all outside property or grounds owned or leased by the County, including parking areas - this applies to private vehicles while they are on County property- **except in designated areas at each of the following locations:**
    - Fairgrounds, Route 9N, Westport
      - West side of the parking lot near campers
    - Main Campus, Court Street, Elizabethtown
      - Near the maintenance garage behind the parking lot of Court Street buildings
    - Mental Health; Court Street, Elizabethtown
      - The back corner of the lot on the grass
    - Public Safety Building; Stowersville Road, Lewis
      - East side of the building across from the road/ drive
    - Public Works & Transportation, Route 9, Lewis
      - North side of the salt shed.
  - (4) Designated tobacco use areas will be marked with a sign & tobacco waste receptacle.

## 21.03 Procedure

- A. This policy shall be distributed to all current and future employees and available for review upon request.
- B. Tobacco users are expected to leave no physical trace of tobacco use (like cigarette butts or matches) on County properties.



- C. Employees who choose to use tobacco products must do so on their regularly scheduled breaks or meal periods.
- D. Visitors who choose to use tobacco products must do so off County property or only in designated areas.

#### **21.04 Compliance**

- A. The County Tobacco Policy applies to everyone (including by not limited to employees, contractors, visitors, and clients). Compliance with this policy is mandatory.
- B. Employee policy violations shall be subject to standard disciplinary actions of the County.

#### **21.05 Tobacco Use Cessation**

The County is committed to providing support to all who want to stop using tobacco products. Resources to stop using tobacco are available through the County Public Health Department and the Personnel Department. Work supervisors are encouraged to refer employees to cessation services for which they are eligible.

## **22 Use of Cellular Phones**

#### **22.01 Statement of Policy**

It is the intent of the County to outline the use of personal cell phones at work, the personal use of business cell phones and the safe use of cell phones by employees while driving.

#### **22.02 Procedures**

- A. Personal Cellular Phones
  - (1) While at work employees are expected to exercise the same discretion in using personal cellular phones as is expected for the use of county phone and computer systems. Personal calls during the workday, regardless of the phone used, can interfere with employee productivity and be distracting to others.
  - (2) Employees should restrict their personal calls during work time and only use their personal cellular phones during scheduled breaks or scheduled lunch periods in non-working areas.
  - (3) In limited situations when an employee must make

personal calls during work time, flexibility will be provided in those circumstances demanding immediate attention, such as a family emergency or other such event.

- (4) Employees are to make friends and family members aware of the County's policy as it relates to personal use of their cellular phones, to avoid any unnecessary incoming personal calls.
- (5) The County will not be liable for the loss of personal cellular phones brought into the workplace.
- (6) If an employee is attending meetings, the cellular phones must be set to vibrate or silent. If a call is received during a meeting, every effort must be made not to disrupt the meeting. Unless the call is specifically related to the topic of discussion, talking on the cellular phone is not allowed. The employee should respectfully inform the caller that they are unable to talk at this time and hang up as soon as possible.
- (7) Use of cellular phone cameras and/or any other kind of recording device as equipped on a cellular phone is prohibited unless such use is for County business. If such use is for County business, the person, or persons subject to the recording or photo must be made aware that they are being photographed or recorded.

B. Personal Use of County Provided Cellular Phones

- (1) In cases where jobs or business needs demand immediate access to an employee, the County may issue a business cellular phone to an employee for work-related communications.
- (2) Use of such County issued phones are for County business only.
- (3) Employees in possession of County equipment such as cellular phones are expected to protect the equipment from loss, damage, or theft.
- (4) Upon resignation or termination of employment, or at any time upon request by their Department Head, the employee may be asked to produce the phone for return or inspection.
- (5) Any employee unable to produce the phone in good working order within the time requested may be subject to disciplinary action and/or may be expected to bear the cost

of a replacement phone.

- (6) Employees who separate from service with the County with outstanding debts for equipment loss or unauthorized charges will be considered to have left employment on unsatisfactory terms and may be subject to legal action for recovery of the loss.

C. Safety Issues for Cellular Phone Use

- (1) When driving a vehicle, employees are expected to comply with all New York State Laws as it relates to cellular phone use.
- (2) Employees charged with traffic violations resulting from the use of their phones, either County owned or personally owned while driving, will be solely responsible for all liabilities that result from such actions.

D. Special Responsibilities for Management Staff

- (1) Management staff should serve as role models for proper compliance with the provisions of this policy and are encouraged to remind employees of their responsibilities in complying.
- (2) Supervising staff should address proper cellular phone etiquette with the employees and should monitor employees to make sure the presence of cellular phones in the workplace provides optimal benefits for the County, without being disruptive to County operations.

## **23 Closing Statement**

Successful working conditions and relationships depend upon successful communication. It is important that employees remain aware of changes in procedures, policies, and general information. Essex County encourages employees to communicate ideas, suggestions, or problems as they affect work.

It is important to understand that this document represents the most up to date information that the County has at the time of publication of this manual. There will be changes and modifications from time to time as it relates to this document, which will be kept track of in the Personnel Office. Any questions regarding any sections of this manual should be directed to the Personnel Office for the most current information.

## 24 Appendix: Forms

### 24.01 Sample Performance Evaluation Form

Department:

Date:

Employee:

Job Classification:

Time Under Rater's Supervision:

This rating sheet provides a practical method through which the ability of the individual can be judged with a reasonable degree of accuracy and uniformity. Indicate your opinion of this employee by placing an "X" in the block by the phrase which fits the person best. Please follow these instructions carefully:

1. Use your own independent judgment.
2. Disregard your general impression of the person and concentrate on one factor at a time.
3. When rating an employee, call to mind instances that are typical of their work and way of acting. Do not be influenced by unusual situations that are not typical.
4. Make your rating with the utmost care and thought. Be sure that it represents an unbiased opinion. Do not allow personal feelings to govern your rating.

#### A. ATTENDANCE

##### 1. Punctuality

- a.  Usually on time (5)
- b.  Occasionally late for no reason (4)
- c.  Often tardy (3)
- d.  Always tardy (2)

##### 2. Dependability

- a.  Rarely absent (5)
- b.  Frequently absent-but for cause (4)
- c.  Frequently absent-but for no cause (3)
- d.  Unsatisfactory-work suffers (2)

##### 3. Notification

- a.  Always notifies in time (5)
- b.  Occasionally late or absent without notification (4)
- c.  Requires inquiry as to why late or absent (3)

B. PERSONAL QUALIFICATIONS

4. Ability to deal with the public.

- a.  Patient and cooperative-willing to extend beyond normal requirements (5)
- b.  Attentive gives good impression (4)
- c.  Acceptably effective in satisfying public eye (3)
- d.  Detracts from public image of department (2)

C. CAPACITY

5. Ability to learn.

- a.  Learns with exceptional rapidity (5)
- b.  Grasps instructions readily (4)
- c.  Average ability to learn new things (3)
- d.  Somewhat slow in learning (2)
- e.  Limited in learning new duties (1)

6. Initiative

- a.  Always finds extra work to do (10)
- b.  Pushes work through on own initiative (8)
- c.  Normal supervision required-not a self-starter (6)
- d.  Needs considerable supervision (4)
- e.  Must always be told what to do (2)

7. Judgment

- a.  Outstanding ability to reach sound and logical conclusions (5)
- b.  Action generally based on good reasoning (4)
- c.  Average judgment (3)
- d.  Usually makes decisions without considering all alternatives (2)
- e.  Conclusions often faulty (1)

8. Flexibility

- a.  Always willing to put in extra duty (5)
- b.  Generally available-always good reason for not coming (4)
- c.  Generally available-not always willing (3)
- d.  Shows unwillingness to work other than regular hours for no reason (2)

D. ATTITUDE TOWARD JOB

9. Interest

- a.  Shows intense enthusiasm and interest in all work (5)
- b.  Shows considerable interest (4)
- c.  Acceptable, rarely shows enthusiasm (3)
- d.  Dislikes work (1)

10. Cooperation

- a.  Makes every effort to cooperate (10)
- b.  Promotes cooperation and good will (9)
- c.  Moderately successful in cooperating with others (6)
- d.  Cooperates reluctantly and sometimes causes dissension (4)
- e.  Uncooperative, often breeds trouble (2)

11. Responsibility

- a.  Seeks additional responsibilities (5)
- b.  Willingly accepts additional responsibilities (4)
- c.  Reluctant to accept additional responsibilities (3)
- d.  Avoids responsibility (2)
- e.  Cannot be depended upon (1)

12. Response to supervision

- a.  Accepts willingly most of the time (5)
- b.  Reluctantly accepts (4)
- c.  Never accepts supervision (3)

E. JOB PERFORMANCE

13. Accuracy

- a.  Rarely makes mistakes (10)
- b.  Above average (8)
- c.  Average (6)
- d.  Below average (4)
- e.  Highly inaccurate (2)

14. Quality of Work

- a.  Strives for quality and accomplishment in work (10)

- b.  Work usually good (8)
- c.  Apparently lacks sense of accomplishment (6)
- d.  Not interested in result of work (4)

15. Performance

- a.  Produces good work in minimum of time (10)
- b.  Work well, takes average time (8)
- c.  Work well, takes more time than average (6)
- d.  Average or less time spent, but work suffers (4)
- e.  Inordinate amount of time, work poor (2)

F. TOTAL:

Date discussed with employee:

Comments and observations:

Signed:

\_\_\_\_\_

Name

\_\_\_\_\_

Title

Employee Comments:

I agree with rating.

I disagree with rating, specifically:

Comments attached.

Signed:

\_\_\_\_\_

Employee

Department Head Comments:

Signed:

\_\_\_\_\_

Department Head



## 24.02 Complaint Form for Reporting Sexual Harassment

### Essex County, New York - Employer

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for employees to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to the Essex County Manager or the Essex County Attorney. Once you submit this form, Essex County must follow its sexual harassment prevention policy and investigate any claims.

If you are more comfortable reporting verbally or in another manner, Essex County is still required to follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

For additional resources, visit: [www.ny.gov/combating-sexual-harassment](http://www.ny.gov/combating-sexual-harassment)

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#### **Complainant Information:**

Name: \_\_\_\_\_ Email: \_\_\_\_\_

Home Address: \_\_\_\_\_

Work Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Select Preferred Communication Method (Please select one)  Home Phone  Work Phone  Email

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#### **Work supervisory Information:**

Work supervisory Person's Name: \_\_\_\_\_

Title: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Work Address: \_\_\_\_\_

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#### **Complaint Information:**

1. Your complaint of Sexual Harassment is made against:

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

Title: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Work Address: \_\_\_\_\_

2. Indicate the relationship the complaint is to you:

- Work supervisor       Subordinate       Co-Worker  
 Other (describe): \_\_\_\_\_

3. Please describe the conduct or incident(s) that is the basis of this complaint and your reasons for concluding that the conduct is sexual harassment. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

Describe:

4. Please list the date or dates the sexual harassment occurred:

Dates:

5. Is the sexual harassment continuing?       Yes       No

*The last series of questions are optional but may help facilitate the investigation.*

6. Have you previously complained or provided information (verbal or written) about sexual harassment at Essex County? If yes, when and to whom did you complain or provide information?

Describe Previous Incident:

Employees that file complaints with their employer might have the ability to get help or file claims with other entities including federal, state, or local government agencies or in certain courts.

7. Have you filed a claim regarding this complaint with a federal, state, or local government agency?  Yes  No

If so to whom and when?

8. Have you instituted a legal suit or court action regarding this complaint?  
 Yes  No

If so to whom and when?

9. Have you hired an attorney with respect to this complaint?  Yes  No

If so, would you provide the name and phone number of the Attorney (Optional):

10. If you hired an attorney with respect to this complaint, do you give us permission to contact the Attorney named above as it relates to this complaint?  Yes  No

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**Signature Authorization;**

*I request that Essex County investigate this complaint of sexual harassment in a timely and confidential manner as outlined with the Essex County Sexual Harassment Policy and advise me of the results of the investigation.*

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Signature:

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Date:

## 24.03 Workplace Violence Incident Report Form

ESSEX COUNTY

### Workplace Violence Incident Report Form

**This form must be used to document any reportable workplace violence incident.** For any Level I incident, an employee must submit this completed form to the Department Head within 48 hours of the occurrence. For all Level II and Level III incidents, this completed form must be submitted immediately. The Department Head is responsible for forwarding this form to the Health & Safety Officer or the Personnel Officer within the same time limits.

<b>Victim's Name</b>	
<b>Job Title</b>	
<b>Department / Location</b>	
<b>Date and Time of Incident</b>	
<b>Location of Incident</b>	
<b>Name / Job Title of Individual Completing Report</b>	
<b>Date Incident Report Completed</b>	
<b>Date Incident Report Received by Health &amp; Safety</b>	

The following are examples of **Level I** types of workplace violence incidents.

- Harassment
- Obscene language
- Verbal abuse
- Intimidation
- Shouting
- Obscene gestures
- Bullying
- False statements

The following are examples of **Level II** types of workplace violence incidents.

- Threatening with an object
- Verbal threats of assault
- Obscene or threatening calls
- Being followed or stalked

The following actions are examples of **Level III** types of workplace violence incidents.

- Pushing
- Striking with an Object
- Sexual Assault
- Homicide
- Grabbing
- Stabbing
- Shooting

Describe each incident separately, including dates, times, and locations. If you cannot remember exact dates, times, or locations, please provide approximations. Use additional pages if necessary.

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List any individuals who may have witnessed this incident:

Witness Name	Witness Job Title	Witness Work Phone Number

Assailant / Perpetrator	√	Name	Address	County	State
Member of the Public					
Employee's Spouse					
Employee's Significant Other					
Employee's Work supervisor					
Coworker					
Former employee					
Other (specify)					

\*I attest that the information I have provided is a true and accurate description of my complaint and that I have not willfully or deliberately made false statements. I understand that Essex County prohibits any individual from retaliating against me for filing a complaint and that I am to notify my Department Head, Health & Safety Officer, or Personnel Officer if I believe that I am a victim of retaliation.

\_\_\_\_\_  
EMPLOYEE SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DEPARTMENT HEAD SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
HEALTH & SAFETY OFFICER SIGNATURE

\_\_\_\_\_  
DATE

**For Internal County Use Only**

Did the police respond to the incident?            Yes            No  
 Was a police report filed?                            Yes            No      Police Report Number  
 Was the victim injured?                                Yes            No

If yes, please specify the injuries and the name and location of the facility that provided medical care:

\_\_\_\_\_

Did the victim lose any workdays?            Yes            No      If yes, number of days  
 Has the victim been informed of the crisis counseling services available?            Yes      No  
 Has the victim received counseling since this incident?                                Yes      No  
 Did the victim have any reason to believe that this incident might occur?            Yes      No

Are you aware of any measure that the County has taken to avert this incident from occurring in the future?      Yes      No      Please describe: \_\_\_\_\_

\_\_\_\_\_

Has the authorized employee representative been notified?      Yes (Date)      No      N/A

Indicate the steps that have been taken to mitigate future incidents of a similar nature:

Action Taken	Date Completed

Indicate any steps currently being taken by the County to mitigate future incidents and/or any interim protective measures being taken:

Action in Progress and/or Interim Protective Measures	Estimated Date of Completion

Indicate any other work sites, if applicable, that will require similar action to mitigate future incidents:


\_\_\_\_\_  
 DEPARTMENT HEAD SIGNATURE

\_\_\_\_\_  
 DATE

\_\_\_\_\_  
 HEALTH & SAFETY OFFICER SIGNATURE

\_\_\_\_\_  
 DATE