



# **BAXTER COUNTY PERSONNEL POLICY**

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## **1. Introduction and Purpose**

Welcome to employment with Baxter County, Arkansas (the County). The purpose and intent of this County Personnel Policy is to establish at-will employment as the default employment policy for the County and to state the general employment policies issued by the County Quorum Court in its capacity as the legislative branch of County government. *See* Ark. Const. Amend. 55 §§ 1 & 4; Ark. Code Ann. § 14-14-805(2). The Policy is also intended to establish uniform personnel policies and benefits for all County employees.

County employees are “at-will” employees. County employment is not for a specific period and employment may be terminated at any time, with or without notice, and with or without cause. The provisions set forth in this Personnel Policy do not guarantee any fixed terms or conditions of employment. The Policy neither creates an expectancy of future employment nor establishes grounds upon which employee discipline or dismissal must be based. At any time, the County Quorum Court may revise, supplement, or rescind the policies, practices, and benefits set forth in the Policy subject to, or as may be required by, applicable law.

Consistent with the day-to-day administrative responsibility of his or her elected office, a County elected official may adopt executive employment policies to apply to the employees of that office. Such executive employment policies shall not conflict with this uniform Personnel Policy adopted by the Quorum Court. A County elected official has discretion to determine the application, meaning, and intent of the provisions of the Personnel Policy as they relate to the employees of that official’s office. *See* Ark. Code Ann. § 14-14-805(2).

Any County employee is entitled to request a hearing before the County Grievance Committee in the event the employee believes that the executive decision of a County elected official or other supervisor violates the state or federal constitution, state or federal law, state public policy, or this County Personnel Policy duly adopted by the County Quorum Court.

We are serious about the important work of the County. We are equally serious about adhering to the procedural and substantive requirements of applicable law. County employees are expected to read, understand, and comply with the policies set forth in the County Personnel Policy. Any questions should be directed to a supervisor.

## **2. County Policy Directives**

A. The County and its officials will treat all employees and citizens in a manner that is: (i) rationally related to the effectuation of legitimate County objectives; and (ii) uniformly applied to all persons similarly situated.

B. County officials and employees shall not misuse or abuse governmental power.

C. County officials and employees shall not engage in any intentional act that is illegal (contrary to applicable statutes or judicial decisions) or unconstitutional (contrary to the Arkansas Constitution or the United States Constitution).



D. County officials and County employees shall not omit the performance of any duty that is affirmatively required by applicable law (statutes and judicial decisions).

E. County officials and employees shall not participate in any County contract or transaction in which they have a direct or indirect personal interest. County officials and employees shall not accept or receive any property, money, or anything of value in exchange for or arising out of any County contract or transaction. *See* Ark. Code Ann. § 14-14-1202.

F. County officials and employees shall not engage in any act that would constitute corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office. *See* Ark. Code Ann. § 14-14-1311.

G. Each County elected official shall administer the day-to-day administrative affairs of his or her County office in a lawful and constitutional manner, and in accordance with applicable law (statutes and judicial decisions), the U.S. Constitution and Arkansas Constitution, and this County Personnel Policy.

H. The use of deadly force against a person by the Sheriff or any employee of the Sheriff is limited to the following:

(1) to make an arrest or to prevent the escape from custody of an arrested person when the officer reasonably believes: (i) there is probable cause to arrest the felony suspect; (ii) the felony suspect cannot be otherwise apprehended; *and* (iii) the felony suspect used deadly force in the commission of a felony or the felony suspect would use deadly force against the officer or others if not immediately apprehended;

(2) to defend himself/herself or a third person from what he/she reasonably believes to be the imminent use of deadly force.

### **3. County Employment Policies**

#### **A. At-Will Employment.**

(1) Under its authority as the legislative branch of County government, the County Quorum Court adopts “at-will” employment as the default employment policy for each County employee. County employment is not for a specific period and employment may be terminated at any time, with or without notice or liability of any kind (except for wages earned and unpaid), and with or without cause.

(2) A County employee serves at the pleasure of the elected County official who hires and supervises the employee. Newly elected County elected officials have the discretion to rehire County employees who served under a predecessor. County employees have no expectancy of continued employment or property interest in future employment under a newly elected County official.



B. Claims of Property Interest in Employment. If, notwithstanding the express provisions to the contrary in this County Personnel Policy, a County employee contends that he or she has a property right in his or her employment or a substantial expectancy of continued employment, or that the County or supervising elected County official must have just cause for reduction in pay or removal of position, then the employee must assert such contention at a grievance hearing requested in the time and in the manner set forth in this Policy.

C. Equal Employment Opportunity. It is the policy of the County to provide equal employment opportunity for all County employees. Accordingly, the County will not engage in any form of employment discrimination based on race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any other legally-protected status. The County hereby affirms its desire to maintain a work environment for all County employees that is free from all forms of unlawful employment discrimination. Employment discrimination based on race, sex or gender, color, national origin, religion, age, disability, veteran or military status, genetic information, or any other legally-protected status is a violation of County policy as well as federal and state law, and will not be tolerated.

(1) If you believe you have been the subject of unlawful employment discrimination, you should **immediately** report the problem to your supervisor. If the conduct or condition allegedly involves your supervisor, you should report it immediately to the elected County official under whom you serve. If the conduct or condition allegedly involves the elected County official, you should immediately report the conduct or condition to the County Judge. If the conduct or condition allegedly involves the County Judge, you should immediately report the conduct or condition to the County Grievance Committee. If you are not satisfied with the action taken or if the conduct or condition continues, you should report the conduct or condition to the County's Prosecuting Attorney or a Deputy Prosecuting Attorney. "Immediately" normally means the same day of the alleged discrimination. The failure to make a timely report of alleged discrimination may be a factor used in deciding the merits of the allegation. Your complaint will be promptly investigated. All County employees are expected to cooperate fully in such investigations. To the extent feasible, all internal investigations and/or actions taken to resolve complaints of unlawful employment discrimination will be confidential.

(2) Retaliation against any County employee for making a complaint under this policy or for providing information during an investigation under this policy is strictly prohibited, will not be tolerated, and is a violation of this policy.

(3) Any County employee who violates this policy will be subject to appropriate discipline, up to and including termination. Any supervisor who knowingly permits discrimination or retaliation to take place in his or her areas of supervision will be subject to appropriate discipline, up to and including termination.

D. Anti-Harassment Policy. The County provides a workplace free from harassment based on race, color, national origin, sex or gender, religion, age, veteran or military status, genetic information, disability, or any legally-protected status. Harassment includes any verbal or other



conduct that demeans, insults or intimidates an employee or group of employees because of their race, color, national origin, gender, religion, age, veteran or military status, genetic information, disability, or other legally-protected status. Prohibited conduct includes, but is not limited to, jokes, labels, names, verbal abuse, ridicule or stories offensive to a protected group of persons.

(1) Because of the County's strong disapproval of offensive or inappropriate sexual behavior at work, all employees must avoid any action or conduct which could be viewed as sexual harassment, including:

1. Unwelcome sexual advances, including unwelcome requests for dating and requests for sexual acts or favors.
2. Verbal abuse of a sexual nature, including sexually-related comments or joking and graphic or degrading sexual comments about another's appearance.
3. Nonverbal abuse of a sexual nature, including suggestive or insulting noises, leering, whistling or making obscene gestures, e.g., giving someone the finger, and the display of sexually suggestive objects or pictures.
4. Physical conduct of a harassing nature, including inappropriate touching or brushing the body of another.
5. Any other verbal, nonverbal or physical conduct of a harassing nature.

(2) If you believe you have been the subject of harassment by anyone, including supervisors, elected County officials, co-workers, citizens, or vendors, you should **immediately** report the conduct to your supervisor. If the conduct allegedly involves your supervisor, you should immediately report it to the elected County official under whom you serve. If the conduct allegedly involves the elected County official, you should immediately report the conduct to the County Judge. If the conduct allegedly involves the County Judge, you should immediately report the conduct to the County Grievance Committee. If you are not satisfied with the action taken or if the conduct continues, you should report the conduct to the County's Prosecuting Attorney or a Deputy Prosecuting Attorney. "Immediately" normally means the same day of the alleged harassment. The failure to make a timely report of alleged harassment may be a factor used in determining the merits of the allegation. Your complaint will be promptly investigated. All County employees are expected to cooperate fully in such investigations. To the extent feasible, all internal investigations and/or actions taken to resolve complaints of harassment will be confidential.

(3) Discrimination or retaliation against any County employee for making a complaint under this policy or for providing information during an investigation is strictly prohibited, will not be tolerated, and is a violation of this policy.

(4) Any County employee who violates this policy will be subject to appropriate discipline, up to and including termination. Any supervisor who knowingly permits harassment or retaliation to take place in his or her areas of supervision will be subject to appropriate discipline, up to and including termination.

E. Disabilities Policy. The County will provide reasonable accommodations to



qualified individuals with disabilities, unless to do so would cause an undue hardship. An accommodation is a change in the work environment or in the way things are customarily done that is not unreasonable and that enables an individual with a disability to enjoy equal employment opportunity. Generally, an individual with a disability must inform his or her immediate supervisor that an accommodation is needed. When the disability and need for accommodation are not obvious, the County may require the individual to provide documentation from a medical provider concerning the disability and the need for a reasonable accommodation.

F. Genetic Information Nondiscrimination Policy. The County complies with the Genetic Information Nondiscrimination Act (GINA) and the Genetic Information in the Workplace Act (GIWA). GINA and GIWA prohibit employers and other entities covered by these laws from requesting or requiring the disclosure of genetic information of an employee or family member of an employee, except as specifically allowed by these laws. To comply with these laws, employees should not, directly or indirectly, disclose any “Genetic Information” to the County at any time. “Genetic Information” includes an employee’s family medical history, the results of an employee’s or family member’s genetic tests, the fact that an employee or an employee’s family member sought or received genetic services, and genetic information of a fetus carried by an employee or an employee’s family member or an embryo lawfully held by an employee or family member receiving assisted-reproductive services.

G. Immigration Reform and Control Acts. The County complies with the Immigration Reform and Control Acts of 1986 and 1990. Every newly-hired County employee shall complete an I-9 Form before commencing employment.

H. Political Activity. County employees are encouraged to participate in the election process, but assistance to candidates or issues must only be rendered on the employees’ own time and County property must not be involved. County employees are not to endorse candidates or issues in their official capacities as County employees, or on behalf of the County or any County office. The legal provisions are summarized as follows: (1) County employees are prohibited from engaging in partisan political activity during the hours they are performing work for the County, excluding personal leave time; (2) political banners, posters, or literature should never be allowed or displayed in a County office; (3) political bumper stickers or decals should never be displayed on County property or any County-owned vehicle; County-owned vehicles must not be used during or after work hours to promote or assist the candidacy of any person or any ballot issue; (4) no County employee shall approach other County employees for any political purpose or use threats or coercion to require or persuade any employee to contribute to a particular candidate or cause. In the discretion of the County Judge or other elected County official who supervises a County employee, a County employee may be granted leave without pay for an extended absence to participate in a campaign.



I. Social Media Policy. Social media includes all means of communicating or posting information or content of any sort on the Internet. The same principles and guidelines applicable to County employee conduct also apply to County employees' activities online. Any conduct that adversely affects an employee's job performance, the performance of fellow employees, or otherwise adversely affects the interests of the County may result in disciplinary action up to and including termination. This policy applies to comments made under the employee's name or under a pseudonym used by the employee as a username. Harassment and cyber-bullying of any County employee will prompt an investigation conducted by the appropriate Elected Official and may result in disciplinary action up to and including termination. Racist or sexist comments or comments that target the religious beliefs of others will prompt an investigation conducted by the appropriate Elected Official and may result in disciplinary action up to and including termination. County employees should avoid posts, "likes," or other social media activity during work hours and on County-owned equipment, unless authorized to do so by a supervisor or consistent with County policy. State law prohibits electioneering by public servants during work hours. Employees should consider any political activity to be electioneering—employees should follow the County's Political Activity Policy with all online posts.

J. Freedom of Information Act. The County complies with the Arkansas Freedom of Information Act (FOIA). Upon receiving a FOIA request, a County employee shall immediately notify his or her supervisor of the FOIA request. Any County official receiving notice of a FOIA request shall take steps to ensure timely compliance with the FOIA request.

K. County Property. The County's telephones, fax machines, photocopying equipment, computers, vehicles, and other property are to be used for business purposes only. County property is restricted to business use to assist County employees in the performance of their jobs. Occasional de minimis use of County property for personal, non-business purposes is permitted—however, such personal use should not negatively affect the use of County property for business purposes or negatively affect employee performance. All business equipment, software, computer systems, electronic systems and all information stored, transmitted, received, initiated, or contained in the County information system are County property. The County reserves the right to monitor, copy, use, delete, publish, and log all network, Internet or local activity including email, software use, or other activity with or without notice—County employees should have no expectation of privacy when using these resources.

#### **4. Hiring, Promotion and Demotion, Transfer, and Termination**

The County Employment Policies set forth in this County Personnel Policy (§ 3 above) apply equally to hiring, promotion and demotion, transfer, and termination.

A. Hiring. The County Quorum Court shall establish the number and compensation of all County employees. The job title, classification, and annual pay rate shall be specified for each position of a County department or County office in the annual budget. New positions cannot



be advertised as vacancies, nor may persons be hired into new positions, until new positions are authorized by the Quorum Court. The County Judge shall hire all County employees except those employed by other County elected officials as permitted by Ark. Const. Amend. 55, section 3. Policies regarding hiring and firing adopted by the Quorum Court shall be only advisory upon County elected officials and employees hired by them as required by Ark. Const. Amend. 55. Employment policies of a general nature adopted by the Quorum Court shall be the decision of the County and binding as permitted by Ark. Const. Amend. 55, section 1 and Ark. Code Ann. § 14-14-805 (2).

B. Reduction or Removal of Pay or Position. A County elected official may reduce or remove pay or position for any reason that is rationally related to the effectuation of any conceivable legitimate County objective. It is not possible to list all conceivable rational bases for reduction or removal of pay or position; however, examples include but are not limited to:

- (1) Misrepresentation, dishonesty, or self-dealing conduct;
- (2) Intemperate conduct;
- (3) Insubordination, including the failure or refusal to follow the legal orders of an elected County official or other supervisor;
- (4) Negligent, reckless, knowing, or intentional destruction of County property;
- (5) Abuse or misuse of your position as a County employee;
- (6) Any conduct, act, or omission that interferes with or impairs your ability to properly and effectively perform your duties as a County employee;
- (7) Any rational change in the mode or manner of operations, including any rational decision regarding the persons selected by an elected County official or supervisor for the delivery of County services.

C. Constitutionally-Protected Conduct.

(1) It is the policy of the County to comply with the Constitutions and laws of the State of Arkansas and the United States, and the public policy of the State of Arkansas. These laws include: (i) laws prohibiting unlawful discrimination based on race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any other legally-protected status; (ii) laws prohibiting retaliation for exercising a constitutionally-protected liberty right (e.g., free speech, free association, political patronage, access to courts, privacy, etc.); and (iii) laws requiring that governmental action be rationally related to a conceivable legitimate government objective.

(2) Should any applicant, employee, or person requesting County assistance or services contend that he or she is the victim of unlawful discrimination, unlawful retaliation, or



unlawful arbitrary government action, he or she shall request, in the time and manner set forth in this County Personnel Policy, a hearing before the County Grievance Committee to provide the County's final policymaker with notice of the alleged unlawful discrimination or unlawful retaliation or unlawful arbitrary government action, and the opportunity to voluntarily conform the conduct of the County, County officials, and County employees to the requirements of County policy (including conformity with the Constitutions and laws of the State of Arkansas and the United States, and the public policy of the State of Arkansas).

(3) Each full-time Baxter County Employee shall be permitted the privilege of carrying a firearm on County property, pursuant to Act 1259 of the State of Arkansas, within the guidelines of the plan created for Baxter County, Arkansas, as approved by the Baxter County Quorum Court on Ordinance No. 2016-14.

- Must possess a Concealed Carry license and provide the Baxter County Judge's Office with a copy of the license
- Must successfully achieve qualification through the Civilian Response to Active Shooter (CRASE) class offered by the Baxter County Sheriff's Office

D. Background Investigations. Background investigations may be performed on department heads, any position with access to County funds, and upper-level employees as determined by the hiring elected official. Background investigations may be conducted for other positions at the discretion of the hiring elected official. All background investigations will be performed in compliance with the law.

E. Drug-Free, Alcohol-Free and Tobacco-Free Workplace Policy. The County is committed to protecting the safety, health, and wellbeing of all employees and the public in our workplace. The County has established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol-free and drug-free environment. The purpose of this policy is to assure worker fitness for duty and to protect the County's employees, passengers, and the public from the risk posed by misuse of alcohol and use of prohibited drugs. This policy is intended to comply with all applicable federal regulations governing workplace anti-drug and anti-alcohol programs. Baxter County prohibits the use of all tobacco products in all County-owned facilities and vehicles, plus offers to all County employees and officials an opportunity to attend a tobacco cessation training program.

(1) Testing. To ensure the accuracy and fairness of drug and alcohol testing, all testing will be conducted by a Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory, according to SAMHSA guidelines, in accordance with procedures required by the U.S. Department of Transportation where applicable, and in compliance with all applicable laws and regulations. Prohibited controlled substances are those defined by the Federal Controlled Substances Act and applicable Arkansas statutes governing controlled substances. An employee whose initial drug test result is positive and who requests a test of the split sample will be suspended without pay until the County receives the result of the split test. The split test will be paid by the County to be reimbursed to the County by the employee via withholding from the employee's paycheck. A negative result from the split test will render



the first test invalid and the employee will be reinstated with back pay and reimbursement for the cost of the split test.

(2) Prescription Drugs, Over-the-Counter Drugs, and Medical Marijuana. Prescription drugs and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician’s prescription—however, a safety-sensitive employee who has been prescribed a medication that might cause drowsiness or otherwise impair the employee’s ability to safely perform job functions shall notify the employee’s supervisor and provide a written statement from the prescribing practitioner certifying that such use will not impair the employee’s ability to safely perform his or her essential job functions. When proper notification is made and a licensed medical practitioner’s statement is provided, the employee may continue working in the same position. If a statement is not provided or if a provided statement does not certify that the employee’s use of the prescription will not impair the employee’s ability to safely perform job functions, a reasonable effort will be made to temporarily assign the employee to another position, if available. The illegal or unauthorized use of prescription drugs is prohibited. Medical marijuana usage under the Arkansas Medical Marijuana Amendment is subject to Act 593 of 2017, which restricts an employee in a safety-sensitive position from performing those duties if a positive test result occurs even if the employee is a qualifying patient under the Amendment and/or holds a registry identification card.

(3) “Safety-Sensitive Positions” include, but are not limited to, positions involving a safety-sensitive function pursuant to regulations governing drug and alcohol testing adopted by the U.S. Department of Transportation and the Arkansas General Assembly. Safety-sensitive positions typically involve job duties where impairment may present a clear and present risk to co-workers or other persons. A safety-sensitive position includes any position where a momentary lapse in attention could result in injury or death to another person. A safety-sensitive position includes, but is not limited to, a position in which a drug or alcohol impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to:

- (i) carry a firearm;
- (ii) perform life-threatening procedures;
- (iii) work with confidential information or criminal investigations;
- (iv) work with controlled substances;
- (v) maintain a commercial driver’s license;
- (vi) drive a vehicle or operate heavy equipment as part of normal duties;
- (vii) serve as a mechanic on County vehicles;
- (viii) serve as a dispatcher for law enforcement or emergency services; or
- (ix) be prepared to use justified physical force against persons to maintain order or security for persons detained by the county.

(4) Testing of Safety-Sensitive Employees. Safety-sensitive employees are subject to testing to detect the presence of alcohol and controlled substances, including:

- (i) post-offer / pre-employment testing;
- (ii) random testing;
- (iii) reasonable-suspicion testing;



- (iv) post-accident testing; and
- (v) return-to-duty testing and follow-up testing.

(5) Random Testing of Safety-Sensitive Employees. Employees in safety-sensitive positions will be subject to random, unannounced testing. A computerized program shall determine the individual safety-sensitive employees to be randomly tested.

(6) Reasonable-Suspicion Testing of Safety-Sensitive Employees. A safety-sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of alcohol or drugs, or not fit for duty, shall be suspended from job duties with pay pending an investigation and verification of condition. Only an elected County official or supervisor who has been trained in reasonable-suspicion testing requirements may initiate reasonable-suspicion testing.

(7) Post-Accident Testing. A County employee shall be suspended with pay pending an investigation and verification of condition, and screened for the presence of controlled substances and alcohol, as soon as practicable, following his or her involvement in an accident involving a County vehicle or equipment, under the following situations:

- (i) an accident that results in the loss of human life;
- (ii) an accident that results in the County employee receiving a moving violation citation;
- (iii) an accident that involves bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or,
- (iv) an accident that involves one or more vehicles incurring disabling damage as a result of the accident (requiring any vehicle to be transported away from the scene).

(8) Disciplinary Action. The following shall result in immediate discharge:

- (i) refusal to take a mandated test for drugs or alcohol;
- (ii) a positive drug test (once the time limit for requesting a split test has expired, or upon receipt of a positive result from the split test); or
- (iii) a positive alcohol test.

(9) Records. All records regarding the County's Drug-Free and Alcohol-Free Workplace Policy shall be confidentially maintained, in a secure location with controlled access. Although records maintained by the County will remain confidential, such records may be used in legal proceedings in defense of the County, its agents, and employees, and such records may be otherwise disclosed as required or allowed by law.

## **5. Employee Classification, Attendance, and Compensation**

A. Employee Classifications. The County's office hours for normal business are 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding holidays. A full-time County employee is an



employee who occupies a full-time position with the County and who works a full-year schedule for the County. Full-time County employees are expected to work during County office hours, with a 30-minute unpaid lunch break each day and two paid breaks each day of up to 15 minutes per paid break. Employees will have work schedules determined by the respective Elected Officials and/or Department Heads.

A regular part-time employee is hired to work less than a full workweek on a non-seasonal basis, and will be permitted to work no more than 29 hours per workweek. A seasonal part-time employee is hired to work less than a full workweek during seasonal and/or peak periods—the temporary employment period must be less than 90 days. Regular part-time and seasonal part-time employees are not eligible for benefits (other than those required under state and federal law) that are afforded to regular full-time employees.

B. Employee Compensation. County employees are paid on a biweekly basis (pay period every two weeks; 26 pay periods annually). Each pay period covers the two weeks prior to the week of payment, but not the week of payment. After termination of employment, a County employee will be paid through the employee's final working day in the payment for the pay period following termination of employment.

There are written descriptions of all positions in Baxter County Government. These descriptions detail the principal function, major duties, and responsibilities, along with the educational and experience requirements and working conditions of each position. In addition, for an employee to know what the County expects of him/her in the performance of the position, performance standards have been developed for each position. These standards of performance are measurable criteria by which each employee's professional performance is evaluated. All positions are classified based on duties and responsibilities, skill required, and job demands. Elected Officials may request for the Personnel Committee to evaluate and approve position reclassifications as needed. For every classification, a salary range has been assigned giving the minimum, midpoint and maximum pay rates for the position.

Baxter County has established Pay Grade and Pay Range system for placing all employees on a pay scale in an effort to compare salaries within and between departments, as well as comparison with other similar businesses.

Adjustments to an employees' base pay will not exceed the maximum of the salary range. Any increase beyond the maximum salary range will be paid out in a single lump sum upon their anniversary date and will not be added to the employee's base pay. Employees who exceed the maximum salary range of base pay prior to January 1, 2020 will be grandfathered in at their current base with single lump sums added to their base for all future increases. Any future changes to the pay grade structure and its effect on those who may have previously reached maximum will be addressed on an individual basis.

The Pay Grade scale is not published in this manual, as it is subject to periodic change. A copy of the current schedule can be obtained from the County web site and/or Human Resources office.



A new employee meeting the job description criteria may be hired between the minimum and midpoint of the approved salary range for the position (dependent upon budget fund availability). The elected official will document the justification for any starting pay rate above minimum rate on the Notification of Personnel Action form. The Quorum Court Personnel Committee will be asked to approve any requests for any starting pay rates above the midpoint of the pay range (dependent upon budget fund availability).

Annual raises are not guaranteed and annual budgets must be approved by the Quorum Court. If annual raises are budgeted by the Quorum Court, Elected Officials will be responsible for allocation of the budgeted funds to the employees within their department using a merit-based format. Raise justification will be based on the employee's performance which will be documented on each employee's annual evaluation form. Raise information will be communicated to each employee during their performance review which is conducted on the employee's anniversary date.

C. Employee Attendance. County employees are expected to be on the job during their regular work hours. Unexcused and excessive tardiness and/or absenteeism may result in disciplinary action, up to and including termination. County employees will be permitted absence without prior authorization under only the following conditions: (1) emergency, (2) family sickness or funeral, (3) County business, (4) inclement weather conditions where the employee is unable to travel safely; (5) other, if subsequently approved by the employee's supervisor. Excused absences with prior or contemporaneous authorization are governed by the leave policies set forth separately below.

D. Overtime Work and Compensatory Time. The County complies with the Fair Labor Standards Act (FLSA).

(1) Any County employee who makes less than the minimum pay amount set by the FLSA is, regardless of job duties, eligible for overtime compensation.

(2) Otherwise, only County employees defined by the FLSA as "non-exempt"—which means not employed in a bona fide "executive, administrative, or professional capacity"—are eligible for overtime compensation.

(3) The fact that an employee is paid a "salary" has nothing to do with whether an employee is (or is not) eligible for overtime compensation.

(4) As authorized by the FLSA, the County's non-exempt employees who are eligible for overtime compensation shall receive, in lieu of overtime pay, compensatory time off at the rate of one and one-half hours of compensatory time for each hour of overtime worked.

(5) The normal work period shall be 40 hours per week for all non-exempt County employees. Salaried exempt employees are expected to work whatever hours are required to accomplish their duties, even if it exceeds their normal work week. No overtime premium pay will be paid in most circumstances.



(6) Overtime shall only be worked in emergencies or when public health, welfare, and the safety of the community is in danger. Overtime shall not be worked without the approval of the elected County official or supervisor designated by the elected County official to approve overtime. This includes checking emails and/or phone messages outside business hours— non-exempt employees shall not check emails and/or phone messages, or otherwise work outside of business hours without approval. Overtime worked shall be compensated as set forth in this policy whether approved in advance or not, but employees who work overtime without approval as set forth in this policy are subject to discipline up to and including termination.

(7) No non-emergency service employee shall accrue more than 40 hours of compensatory time. After a non-emergency service employee accrues the maximum 40 hours of compensatory time, the employee shall be paid any additional overtime (subject to normal withholdings for taxes, etc.) at a rate of one and one-half times the employee's normal hourly rate, for each hour of overtime worked. At the end of each year, all accrued but unused compensatory time will be paid in full. Compensatory time can be carried over to the next year with Elected Official's approval. Emergency Services Employees may accrue a maximum of eighty (80) hours of compensatory time in lieu of overtime pay. Overtime hours worked during the normal work period may be accrued as compensatory time, up to forty (40) hours for non-emergency service employees and eighty (80) for emergency service employees, after which overtime hours will be either paid at one and one-half their hourly rate or accrued as additional compensatory time, at the discretion of the Elected Official or Department Head.

(8) An employee who has accrued compensatory time shall, upon termination of employment, be paid for the unused compensatory time at the employee's average hourly rate during the last three years of employment, or the employee's final hourly rate, whichever is higher.

(9) An employee who has accrued compensatory time off and who has requested the use of compensatory time off shall be permitted to use such time within a reasonable period after making the request if the use of compensatory time does not unduly disrupt the operation of the County or employing department. The County requests that any compensatory time incurred in a 28-day work period (for law enforcement, 911 and jailers) be used by the employee during the next 28-day work period, not to exceed one-hundred fifty (150) days, without the approval of the County Judge.

(10) All County elected officials and department heads will utilize the electronic time keeping system. If the electronic time keeping system is inoperable, all County elected officials and department heads will maintain time sheets to be filled out by each non-exempt employee daily and submitted to the County Clerk bi-weekly per the payroll schedule. All time sheets shall be signed or electronically signed under oath by the non-exempt employee and signed or electronically signed by the elected official or department head. If an elected County official or department head fails to provide the required and approved time sheets to the County Clerk, the County Clerk shall not issue subsequent paychecks. Electronic signatures within an electronic time keeping system are allowed to replace physical time sheets.

(11) Paid leave days shall not count toward time worked in a work period for calculating overtime. Only time worked by an employee shall count toward calculating overtime (including time worked on a holiday).



(12) A person who accepts employment with the County or continues in employment with the County shall be deemed to have agreed to receive compensatory time off in lieu of overtime compensation as set forth in this policy.

E. Overtime and Leave Time Liability Control Procedure.

(1) Employees Required to Personally Sign and Certify Timesheets. Each non-exempt County employee shall *personally* sign or *electronically* sign his or her time sheet, certifying: “My signature or e-signature certifies that the above recorded hours worked and leave taken are correct.”

(2) County Clerk to keep Employee Time Sheets as a Permanent Record. The signed/certified employee time sheets shall be timely provided to the County Clerk’s Office at the end of each pay period to be kept as a permanent record (for at least five years). Electronic time data will be stored indefinitely in the County Electronic Back-up Storage. Hard copies of the electronic time data will be printed annually and provided to the County Clerk’s Office to be kept as a permanent record (for at least five years).

(3) County Clerk to Calculate Payroll from Non-Exempt Employee Time Sheets. The County Clerk will calculate payroll for non-exempt employees, including overtime pay, vacation leave pay, sick leave pay, and holiday pay, based on the signed or e-signed/certified time sheets and in reliance upon the employees’ signed or e-signed certification that the hours worked and the leave time taken are correct.

(4) County Clerk Not to Issue Check without Signed or e-signed/Certified Timesheet. The County Clerk shall not issue a paycheck to a non-exempt employee if the required employee time sheet(s) is/are not signed or e-signed and certified by the employee (personally) or are not timely provided to the County Clerk.

(5) Tracking of County’s Total Overtime Liability. The County Clerk shall keep a record of accumulated compensatory time, sick leave time, and vacation leave time, showing all such time earned and all such leave time taken by the employees who have earned such leave time.

(6) Report Total County Overtime Liability Monthly. The County Clerk shall provide a monthly report to the County Treasurer, the County Judge, and the Quorum Court, reporting the amount of the County’s accrued compensatory time debt.

(7) Payout Overtime When Required by Policy. The County Clerk shall issue an overtime check to an employee any time the employee’s total hours of accrued compensatory time exceed the compensatory time limit set by the Quorum Court in the County’s Personnel Policy. Any hours over 40 for non-emergency service employee and any hours over 80 for emergency service employees will be paid out as OT on their next paycheck.

(8) Accumulated Compensatory Time Debt Paid in Full by the End of the Year. Accrued compensatory time accumulated by County employees throughout the year shall



be paid in full at the end of each year. Compensatory time can be carried over to the next year with Elected Official's approval.

(9) Quorum Court to Manage the County's Compensatory Time Debt from Month to Month. The Quorum Court shall use its appropriation power (including re-appropriation power) to modify the County's budget throughout the year so that the County has the funds to pay the compensatory time debt that has accumulated throughout the year at the end of the year.

F. No County Gifts. The Arkansas Constitution prohibits the County from using public money to confer a private benefit. Ark. Const. Art. 12, § 5. County elected officials, department heads, and supervisors shall comply with this constitutional provision and shall not offer or award more paid leave time (holiday, vacation, sick, personal or compensatory) than authorized by this County Personnel Policy.

G. Travel Policy (*Ordinance No. 2017-53*). Section 111 of the 1977 Acts of Arkansas allows that Elected Officials and County Employees shall be reimbursed for reasonable travel expenses in the conduct of county affairs where such incurrence of expense is not discretionary in the conduct of duties assigned by law; and allows for the reimbursement of expense for meals, lodging and travel.

- County Elected Officials and employees shall be entitled to receive a daily allowance for lodging for any individual while traveling within the State of Arkansas at a rate of not to exceed \$150.00 per day (pre-tax), and at a rate not to exceed \$175.00 per day (pre-tax) while traveling beyond the borders of the State of Arkansas. In extraordinary circumstances, the County Judge may approve an amount in excess of these limits.
- Reimbursement for the purchase of meals shall be based on reasonable actual expense, not to exceed \$50.00 per day. Elected Officials have the option to set individual reimbursement per meal rate, based on circumstance of travel. Meals provided as part of a registration fee shall not be a reimbursable expense.
- When a personally owned vehicle is used for County business travel, expenses shall be reimbursed at the current rate of reimbursement (*obtainable by contacting the Clerk's Office*). Such travel expense claims shall show location of travel, purpose of the trip, and total number of road miles traveled between beginning and ending locations using the shortest route between the two locations.
- When County business requires travel by airline, bus or rail, actual expenses will be allowed. In the case of air travel, only economy class accommodations will be allowed.
- The *Baxter County Travel Reimbursement* form shall be completed and accompanied by receipts and/or registration copy, and attached to the affidavit when reimbursement for travel expense is being requested.
- Each employee shall request reimbursement for his/her own travel. An Elected Official or County Employee may include the expenses of another county employee on his/her *Baxter County Travel Reimbursement* form, only if the submitting employee shows documentation that he/she has paid a reimbursable expense for the specifically named employee.



- If an Elected Official is host to a guest from another governmental agency, an industrial prospect, or other county-related visitor, expense reimbursement for meals, lodging or other related expense may be allowed, provided the guest will not be reimbursed by any other source, and provided the circumstances are thoroughly documented.
- Meals or lodging shall not be reimbursed to an Elected Official or County Employee for expense within Baxter County, unless documentation is provided, (see *Baxter County Travel Reimbursement* form details listed above)

## 6. Administrative Leave and other Benefits

A. Group Insurance Programs: The County offers group insurance programs for full-time County employees. Baxter County currently pays for the full-time employee's premiums for group insurance programs. All insurance benefits are subject to change at any time. This Personnel Policy does not guarantee continuation of any group insurance benefits.

B. Holiday Leave. The County will be closed and all County employees will be granted paid leave to observe the eleven legal holidays listed below. Additional holidays may be proclaimed by the County Judge.

- (1) New Year's Day—January 1
- (2) Martin Luther King Jr. Day
- (3) Presidents Day—3<sup>rd</sup> Monday in February
- (4) Memorial Day—Last Monday in May
- (5) Independence Day—July 4
- (6) Labor Day—1<sup>st</sup> Monday in September
- (7) Veterans Day
- (8/9) Thanksgiving Day—4<sup>th</sup> Thursday in November and the Friday following
- (10) Christmas Eve—December 24
- (11) Christmas Day—December 25

- (i) When a holiday falls on a Sunday, the following day will be observed as a holiday. When a holiday falls on a Saturday, the preceding day will be observed as a holiday.
- (ii) To receive holiday pay, employee must work the regularly scheduled working day before and the regularly scheduled working day following said holiday unless the time off before or after the holiday is an approved leave as detailed in the guidelines of this policy.



- (iii) Permanent full-time employees are due paid leave for holidays at a rate equal to their normal work day.
- (iv) Seasonal or part-time employees are not eligible to receive paid holidays.

C. Vacation Leave. Vacation leave is a benefit like salary that each full-time County employee earns, and that accrues to all eligible employees in accordance with the schedule set out in this section. Vacation leave begins to accrue with the 1<sup>st</sup> anniversary date of the full-time employee, and employees are not eligible to request vacation leave before completing one year of continuous full-time, regular employment with the County. Vacation leave shall be granted by the employee’s appropriate supervisor in advance of the leave and at such time, or times, as will least interfere with the efficient operation of the County. Vacation leave may be taken in increments as low as .25 hours (15 minutes). No vacation leave may be taken unless earned—employees are not permitted to borrow against leave days to be accrued in the future. Accrued vacation leave may not exceed 200 hours. Any vacation leave above 40 hours at the employee’s anniversary date will be automatically forfeited. Employees will be paid for accrued but unused vacation leave (up to the maximum accrual of 200 hours) at his/her most current hourly rate of pay, following termination of employment. Vacation leave shall accrue as follows:

<b>Service Credit</b>	<b>Vacation Accrual per Year</b>
1-year anniversary	40 hours
2-year anniversary	80 hours
5-year anniversary	120 hours
15-year anniversary	160 hours

D. Sick Leave. Sick leave is a benefit like salary that each full-time County employee earns, and that accrues to all eligible employees at the rate of eight hours per month with a maximum benefit of ninety-six (96) hours per year. Sick leave begins to accrue the first of the month following thirty (30) days of employment. Sick leave shall be granted by the employee’s appropriate supervisor in advance of the leave whenever possible and at such time, or times, as will least interfere with the efficient operation of the County. Sick leave shall be deducted from the employee’s accrued sick leave based on the number of accrued sick leave hours requested and granted. Sick leave may be taken in increments as low as .25 hours (15 minutes). No sick leave may be taken unless earned—employees are not permitted to borrow against leave days to be accrued in the future. Accrued sick leave may not exceed seven hundred and twenty (720) hours. Any sick leave above 720 hours will be automatically forfeited. Any employee who works for the County for five (5) consecutive years or longer and leaves the County’s employment for any reason, other than termination, shall be entitled to payment for unused sick days at a rate of one (1) day of pay for each four (4) accumulated days.

Any employee who works for the County for ten (10) years or longer who leaves or retires shall be entitled to one (1) day pay for each two (2) days accumulated sick time.

Example:

Employee has five (5) years service and leaves with sixty (60) days (480 hours) accrued sick time:  $480 \div 4 = 120$  hours x his/her current rate of pay.



Example:

Employee has ten (10) years service and leaves with eighty (80) days (640 hours) accumulated sick time:  $640 \div 2 = 320$  hours x his/her current rate of pay.

E. Personal Days. All regular full-time employees will receive two (2) paid personal days the first of the month following thirty (30) days of continuous employment. These two Personal Days shall be awarded annually on the anniversary date of the employee. Eligible employees should submit their request for time off for these days within a reasonable period of time, and approval given by the immediate supervisor. Personal days off not used within one year may not be carried over past the employee's anniversary hire date.

F. Donation of Paid Leave. Baxter County Government allows employees to donate vacation leave and accrued compensatory (comp) hours to other county employees who do not have sufficient accumulated paid leave credits to meet a verifiable, catastrophic circumstance as noted below. While the County establishes a mechanism for such leave transfers, participation is entirely voluntary and donations are anonymous, unless donors elect otherwise. The supervising Elected Official shall make the final decision to either approve or disapprove applications for the donation of paid leave.

Situations in which the donation of paid leave may be requested include:

- Catastrophic illness or injury of an employee;
- To care for a catastrophically ill or injured family member;
- To deal with the death of a family member;
- To address a catastrophic casualty loss suffered due to a terrorist attack, fire, or other natural disaster

(1) Definitions

- a. Catastrophic Illness or Injury: An illness or injury that is physically debilitating or life threatening and requires the employee's absence from work.
- b. Family Members: For the purposes of this program, a family member is defined as: spouse, domestic partner, children (including children of employee's domestic partner), parents, siblings, grandparents and grandchildren. Step-relatives, in-laws, and relatives by adoption are included.
- c. Paid Leave Credits: For the purposes of this program, only vacation leave and compensatory (comp) hours may be donated. Sick leave may not be donated.
- d. Recipient: The employee who is eligible to accrue and use vacation, has exhausted all paid leave credits, and is in need of extending his/her salary and benefits temporarily.
- e. Donor: The employee who is donating vacation time to another employee.



(2) Qualifying Situations

- a. The DONOR (donating employee) must:
  - i. Be an employee of Baxter County Government
  - ii. Be in a position that accrues vacation leave
  - iii. Have accrued sufficient vacation leave and/or compensatory time to cover the amount of the donation to be made (leave may not be donated prior to accrual)

(3) The RECIPIENT (receiving employee) must:

- a. Be an employee of Baxter County Government
- b. Have obtained non-probationary employee status
- c. Have exhausted all paid leave credits (including sick, vacation, compensatory time, and all other paid leave)

(4) Minimum and Maximum Donations

- a. Each donation of vacation leave must be a minimum of 1 hour, with any additional time donated in whole-hour increments.
- b. The recipient may receive vacation time up to, but not exceeding, their regular scheduled hours. In other words, the recipient's paycheck should not exceed the amount of their regular paycheck.

(5) Pay Level of Donating or Receiving Employee

- a. Contributions can be made to employees at a higher or lower pay level because donations are transferred on an hour-for-hour basis (not on a dollar-for-dollar basis).

(6) Responsibility of Department Head, Elected Official, or Designee

- a. Determine if the recipient is eligible to participate in the program and obtain documentation verifying the specific need.
- b. Verify that all paid leave has been exhausted by the recipient and that the donor has sufficient paid vacation leave and/or compensatory hours.
- c. Complete the *Application for Donation of Vacation Leave* form (available from Human Resources) and attach supporting documentation.
- d. All completed applications with required attachments must be signed by the Elected Official and then submitted to the Payroll Office for processing. The Payroll Office will ensure that the appropriate transfers are made and paid leave account balances are updated accordingly.

(7) Responsibility of Recipient

- a. Obtain the appropriate medical verification and submit to the supervising Department Head, Elected Official, or Human Resources.
- b. Agree to use the paid leave credits donated; and if any credits are not used, it is understood that they must be returned to the Donor.

G. FMLA Leave. The County complies with the Family and Medical Leave Act (FMLA). The eligibility criteria and general guidelines used in administering this policy are set



forth below. Interpretation of circumstances not specifically covered in this policy will be made in accordance with applicable law. The FMLA was designed to promote our country's interest in preserving family unity while accommodating the legitimate interests of employers. The FMLA seeks to minimize the potential for employment discrimination on the basis of gender consistent with the Equal Protection Clause of the Fourteenth Amendment by assuring that leave is available for both women and men.

(1) Employee Eligibility Criteria. To be eligible for FMLA leave, employees must have been employed by the County at least 12 months, whether consecutive or intermittent, and worked at least 1,250 hours during the twelve 12-month period. All absence from work for covered military service is counted in determining an employee's eligibility for FMLA leave. The County will grant up to 12 weeks of unpaid FMLA leave per year to eligible employees.

(2) Qualifying Events for FMLA Leave. FMLA leave may be taken for any one, or a combination of, the following reasons:

- Care of the employee's child (birth or placement for adoption or foster care);
- Care of the employee's spouse, dependent child, or parent with a serious health condition;
- Serious health condition that makes the employee unable to perform the essential functions of his/her job;
- A "qualifying exigency" resulting from the covered active duty or the call or order to covered active duty of the employee's spouse, son, daughter, or parent who is a military member of the National Guard and Reserves or the Regular Armed Forces; and,
- Care of the employee's spouse, son, daughter, parent, or next of kin, who is a covered service member with a serious illness or injury incurred or aggravated by service in the line of duty. (Employees eligible for this type of leave may be eligible for up to 26 workweeks of leave, rather than the usual 12.)

(3) "Serious Health Condition." A "serious health condition" is an illness, injury, impairment, or physical or mental condition that requires inpatient care at a medical facility, including any period of incapacity, or any subsequent treatment regarding such inpatient care, or a condition that requires continuing care by a licensed health care provider. This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a regimen of continuing treatment to resolve or alleviate the condition *or* treatment two or more times by a health care provider within 30 days of the incapacity. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

(4) Pay Status During FMLA Leave. FMLA leave is unpaid leave. However, employees will be required to use available sick and vacation leave to cover all or a portion of pay until the employee's available paid leave is exhausted. Once an employee's paid benefits are exhausted, he/she will be in an unpaid status during the remainder of his/her FMLA leave. Any time off related to a serious health condition that results from a Workers' Compensation absence will be required to be taken concurrently with the FMLA leave.



(5) How Much FMLA Leave May be Taken. An eligible employee taking FMLA leave is entitled to up to 12 workweeks of unpaid leave during a 12-month period for any FMLA qualifying event(s) as listed above. The 12-month period is a rolling 12-month period measured backward from the date an employee uses any FMLA leave. Leave to care for a seriously injured or ill active-duty military member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period. When both spouses are employed by the County, they are together entitled to a combined total of 12 workweeks of FMLA leave within the designated 12-month period for the birth, adoption, or foster care placement of a child with the employees, and to care for a parent (but not in-law) with a serious health condition. Each spouse may be entitled to additional FMLA leave for other FMLA qualifying reasons.

(6) Intermittent or Reduced Work Schedule Leave. FMLA leave may be taken intermittently or on a reduced work schedule when medically necessary due to the employee's or family member's illness. Leave to care for a newborn or for a newly placed child may not be taken intermittently or on a reduced work schedule. If an employee takes leave intermittently on a reduced work schedule basis, the employee must, when requested, attempt to schedule the leave so as not to unduly disrupt County operations. When an employee takes intermittent or reduced work schedule leave for foreseeable planned medical treatment, the County may temporarily transfer the employee to an alternate position with equivalent pay and benefits for which the employee is qualified and which better accommodates recurring periods of leave.

(7) Notice. An employee should request FMLA leave by completing required paperwork and submitting it to the employee's supervisor as soon as practicable. When leave is foreseeable, the employee must provide the County with at least 30 days' notice.

(8) Medical Certification. An eligible employee is required to submit medical certification from a health care provider to support a request for FMLA leave for the employee's or a family member's serious health condition. The County may have a designated individual contact the employee's health care provider to clarify or authenticate the initial certification with notice to the employee; and/or require the employee to obtain a second opinion by an independent County-designated provider at the County's expense. If the initial and second certifications differ, the County may, at the County's expense, require the employee to obtain a third, final and binding certification from a jointly selected health care provider. During FMLA leave, the County may request that the employee provide recertification of a serious health condition at intervals in accordance with the FMLA. The employee must provide the County with periodic reports regarding the employee's status and intent to return to work when requested. If the employee gives the County notice of his/her intent not to return to work, the employee will be considered to have voluntarily resigned. Before the employee returns to work from FMLA leave for the employee's own serious health condition, the employee may be required to submit a fitness for duty certification from the employee's health care provider, with respect to the condition for which the leave was taken, stating that the employee is able to resume work. FMLA leave or return to work may be delayed or denied if the appropriate documentation is not provided in a timely manner. Failure to provide requested documentation may lead to termination of employment.

(9) Designation of FMLA Leave. The County will notify the employee whether leave has been designated as FMLA leave and how much leave will be counted against the



employee's leave entitlement. The County may provisionally designate the employee's leave as FMLA leave if the County has not received medical certification or has not otherwise been able to confirm that the employee's leave qualifies as FMLA leave. If the employee has not notified the County of the reason for the leave, and the employee desires that leave be counted as FMLA leave, the employee must notify the County within two business days of the employee's return to work that the leave was for an FMLA reason.

(10) Continuation of Benefits. During FMLA leave, the County will continue an employee's group insurance coverage under the same conditions as if the employee were working. An employee on FMLA leave will continue to be responsible for his/her portion(s) of group insurance premiums. FMLA leave is not a "qualifying" event under COBRA. If the employee does not return to work, the employee shall be liable to the County for repayment of insurance premiums paid by the County during the employee's FMLA leave.

(11) Return from FMLA Leave. Upon return from FMLA leave, the County will place the employee in the same or equivalent position with equivalent pay, benefits, and other terms and conditions of employment. An employee is entitled to reinstatement only if he/she would have continued to be employed had FMLA leave not been taken. Thus, an employee is not entitled to reinstatement if, because of layoff, reduction in force, or other reasons, the employee would not be employed at the time job restoration is sought. The County reserves the right to deny reinstatement to exempt, eligible employees who are among the highest paid ten percent of the County's employees ("key employees") if such denial is necessary to prevent substantial and grievous economic injury to the County's operations. An employee returning to work must be able to perform the essential functions, with or without reasonable accommodations, of the position the employee held before the leave or an equivalent position with equivalent pay, benefits, and other employment terms. The County may require a fitness for duty report before allowing an employee to return to work.

(12) FMLA Rights and Obligations. The County will not: (1) interfere with, restrain, or deny the exercise of any right provided under the FMLA; or (2) discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA. The FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law providing greater family or medical leave rights.

H. Leave Without Pay. Leave without pay may be granted at the discretion of an employee's supervising elected official or department head. An employee on leave-without-pay retains all earned vacation leave and sick leave, but does not accumulate leave time, does not participate in County group insurance programs (at County expense), and does not receive pay for legal holidays or otherwise. An employee on leave-without-pay shall have the right to reinstatement to the position vacated or an equivalent position upon the conclusion of the approved leave-without-pay period. An employee on leave-without-pay may pay the total cost of any County group insurance program during such leave and be fully reinstated into such program(s) on return, where the program allows this.



I. Military Leave. The County complies with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), which protects applicants and employees who serve in the military from discrimination in the areas of hiring, job retention, and advancement. USERRA provides job and benefit protection for employees who serve in the military, and it provides certain reemployment rights to any employee who has been absent from work due to service in the United States uniformed services. The County will grant a military leave of absence to any employee who is required to miss work because of service in the United States uniformed services in accordance with USERRA. You must notify the County if you receive notice that you will require a military leave of absence unless providing such notice is precluded by military necessity, impossible, or unreasonable. You should provide the County with a copy of your official orders. When you receive notice that you will need a military leave of absence, please contact your supervisor for further information regarding your rights and responsibilities under USERRA.

J. Jury Duty or Witness Leave. A County employee called to serve on a jury or as a witness must notify his/her supervisor immediately upon notice so that his/her work schedule can be modified to accommodate the employee's absence. A full-time County employee serving as a juror or witness in state or federal court, outside their official duty, shall be entitled to a leave-without-pay for jury service, and such service or necessary appearances in court shall not be counted as vacation leave or sick leave, though an employee may choose to use vacation leave, compensatory time or personal leave to be paid for absence necessitated by jury duty or as a witness.

K. Emergency Leave. Emergency leave with pay up to a maximum of three (3) calendar days in case of death or imminence of death in the immediate family may be granted. Two (2) days travel time may be granted upon prior approval of the supervising Elected Official, in addition to the three (3) days, when the employee must travel a long distance. Any additional leave will be considered unpaid leave of absence. Immediate family may be defined as spouse, parent, brother, sister, child, grandparent, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law.

L. Occupational Injury Leave/Accidental Injury Leave. Any employee who is on leave arising from occupational injury while performing work for the County shall receive full salary for the first seven (7) days. The County shall have the employees name placed on an inactive status without pay, unless additional circumstances justify action by the Quorum Court. If an employee is covered by the County's health and accident insurance and is eligible to receive payment from that policy for loss of work time due to an accident, the employee will receive the difference between regular salary and the amount payable under the insurance coverage. Such payment for sick leave will last as many days as the employee has accumulated and the amount of sick leave charged to the employer is determined by the ratio of regular salary to the amount received for loss of work time under the County's policy.

M. Service Awards. Baxter County desires to recognize the dedication and devotion to the County through appropriate service awards. Employees will receive monetary awards for service at a rate of \$50.00 per year at 5, 10, 15, 20, 25, 30, 35, 40, 45 and 50 years, as follows:

5 years - \$250.00                      30 years - \$1,500.00



10 years - \$500.00	35 years - \$1,750.00
15 years - \$750.00	40 years - \$2,000.00
20 years - \$1,000.00	45 years - \$2,250.00
25 years - \$1,250.00	50 years - \$2,500.00

- (i) Service awards are determined by total years worked since adjusted employment date. Employment dates are determined by subtracting significant leaves of absence and minor broken service absences.
- (ii) The Human Resources Department is responsible for the administration of this program.
- (iii) Eligible employees will receive their monetary service award in a separate check on the regular pay day, according to the pay period in which their anniversary hire date occurs.
- (iv) Each department is encouraged to implement a ceremony (either formal or informal) to recognize employees who receive service awards in their respective departments.

N. Retiree Medical Benefits (A.C.A. 24-12-128). When any county official or county employee retires and either is age 55 or older and vested in the County Division of the Arkansas Public Employees’ Retirement System or has 30 or more years of actual service or 35 years of credited service in the County Division regardless of age, the official or employee may continue to participate in the county healthcare plan as long as the official or employee pays both employer and employee contributions to the healthcare plan. Retirees who are Medicare eligible and employee spouses who are Medicare eligible will not be able participate in the County’s Medical Benefits Plan.

**7. Informal Procedure for Reporting/Resolving Perceived Harassment and other Job-Related Complaints**

A. Purpose. The purpose of this section is to provide a procedure for reporting any conduct or condition perceived to be discrimination, harassment, retaliation, violation of state or federal law, or other job-related complaints and to enable the County to act affirmatively, if needed, to assure compliance with the law. Any County employee may also utilize the Grievance Hearing Procedure below to bring such a matter before the County Grievance Committee. Any County employee may also informally raise a grievance with the County Judge as a mediator—if the County employee is dissatisfied with the County Judge’s informal resolution, the County employee may still utilize the Grievance Hearing Procedure. The County may, in its discretion, hold a hearing prior to any decision or deprivation.

B. Affirmative Duty to Report. If a County applicant or employee considers the conduct of a County official, agent, or employee, or a workplace condition, to constitute prohibited discrimination, harassment, or retaliation, or a violation of state or federal law, the applicant or employee has a duty to report it immediately to the applicant or employee’s supervisor, supervising elected official, or the County Judge. If the conduct or condition allegedly involves the employee’s



supervisor, supervising elected official, and/or the County Judge, the employee shall report the conduct or condition to the County Grievance Committee. If the person reporting the alleged harassment or other condition is not satisfied with the action taken or if the alleged harassment or other condition continues, the person shall report the matter to the County's Prosecuting Attorney or a Deputy Prosecuting Attorney.

C. Affirmative Duty to Act. Any County supervisor, elected official, or the County Judge receiving any report of discrimination, harassment, retaliation, or violation of state or federal law has a duty to take appropriate action and report the matter to either the supervising elected official, the County Judge, or the County Grievance Committee so that appropriate action can be taken and the person originating the report can be informed of the action taken.

D. Continuing Duty to Report. If the person reporting the alleged discrimination, harassment, retaliation, or violation of state or federal law is not satisfied with the action taken or if the alleged discrimination, harassment, retaliation, or violation of law continues, the reporting person shall report the matter to the County Grievance Committee.

E. Confidentiality. Except to the extent necessary to implement this policy and remedy the alleged discrimination, harassment, retaliation, or violation of law, the identification of the person reporting the conduct or condition shall remain confidential.

F. No Adverse Employment Action. **The County shall not take adverse action against a person for reporting conditions or conduct reasonably believed to be prohibited discrimination, harassment, or retaliation, in violation of the law or the state or federal Constitution, or in violation of state public policy.**

## 8. Grievance Hearing Procedure

### A. Purpose.

(1) The purpose of this Grievance Hearing Procedure is to establish a procedure for resolving grievances of County applicants and County employees to enable the County, through its Grievance Committee, to: (i) hear about alleged violations of the law, the state or federal Constitution, or state public policy, and (ii) have the opportunity to take affirmative action to enable the County to voluntarily conform the conduct of County officials and County employees to the requirements of the law, the state or federal Constitution, and state public policy.

(2) If an applicant or employee does not follow this affirmatively required Grievance Hearing Procedure, the County will raise waiver and estoppel as affirmative defenses to any claims against the County filed by the applicant or employee via any administrative or judicial procedures otherwise available for redress of grievances.

(3) Any decision of the Grievance Committee regarding an employee hired by the County Judge shall be advisory to the County Judge, but not binding on the County Judge.



Any decision of the Grievance Committee regarding an employee hired by any other County official shall constitute the decision of the County and shall be binding.

B. County Grievance Committee.

(1) The County Quorum Court may appoint the membership of the County Grievance Committee as a standing Personnel Committee—such appointment of the Grievance Committee membership must be done by ordinance, and members of the Grievance Committee must be designated by position (not by name). If the Quorum Court has not appointed a Grievance Committee, then the Grievance Committee shall be the Quorum Court. The persons to serve for any hearing will be the persons holding the committee position at the time the discipline or dismissal decision was made for which a hearing is requested.

(2) If the Grievance Committee determines that an executive decision or action of a County official violates the law or the Constitution, the Grievance Committee shall declare the decision or action to be illegal or unconstitutional and direct the County official (or advise the County Judge) to modify the decision or action to conform to the law, the state or federal Constitution, or state public policy.

(3) The Grievance Committee shall not substitute its operational judgment for that of a County elected official if the official's decision or action does not violate the law.

(4) With respect to employees hired by the County Judge, the decision of the County Grievance Committee shall be only advisory as required by Ark. Const. Amend. 55, section 3. For all other employees, the decision of the County Grievance Committee shall be the decision of the County as permitted by Ark. Const. Amend. 55, section 1.

(5) If a County official refuses to abide by the Grievance Committee's decision, the Grievance Committee must access the courts to seek an order enjoining the supervisory official from acting contrary to the law, the state or federal Constitution, or state public policy—if the Grievance Committee fails to seek a court injunction, the Grievance Committee may be deemed to have acquiesced to the decision of the supervisory official and the decision of the supervisory official may be deemed the County's final decision with respect to the employment action taken.

C. Timely Grievance Hearing Request Required. A grieving applicant or employee must submit a written grievance hearing request after any claimed deprivation of the applicant or employee's property, liberty, or statutory/constitutional rights. A written grievance hearing request must be delivered to the County Grievance Committee in care of the County Judge no later than the close of business on the third full business day (weekends and holidays excluded) after any claimed deprivation for which a hearing is requested. The written grievance hearing request must state: (1) the grievance for which a hearing is requested; (2) the alleged factual basis of the grievance; and (3) the relief sought. If an applicant or employee fails to submit a timely hearing request as required under this section, the County will raise waiver and estoppel as affirmative defenses to any claims against the County filed by the applicant or employee via any administrative or judicial procedures otherwise available for redress of grievances.



D. Automatic Suspension with Pay for Terminations. Any termination of employment shall automatically be a suspension with pay for three full business days (weekends and holidays excluded) during which the terminated employee may request a pre-deprivation grievance hearing, which shall be granted if requested. If the employee requests a hearing under this section, the suspension with pay shall continue until the conclusion of the hearing before the County Grievance Committee. If the employee requests a continuance of the pre-deprivation grievance hearing under this section, a continuance may be granted at the discretion of the Grievance Committee, but the employee will not be paid for the period of the continuance. In no event shall a suspension with pay status continue for more than 14 days unless extended by decision of the Grievance Committee. All accrued but unpaid leave time (vacation leave, compensatory time, etc.) will automatically run concurrent with the period of suspension with pay, unless the employee prevails in his or her grievance, in which case the employee will not forfeit any unpaid leave time during the period of suspension with pay.

E. Written Response to Hearing Request Required. The County Grievance Committee shall provide a written response to all timely grievance hearing requests. If the hearing request is granted, the Committee's response shall state the date, time, and location of the hearing. If the hearing request is denied, the Committee's response shall state the reason(s) for the denial.

F. Mediator Role of County Judge. Upon receiving notice of a request for a hearing before the County Grievance Committee, the County Judge may choose to conduct an informal hearing of the dispute to mediate a solution acceptable to both the grieving applicant or employee and the supervising County official(s). The mediation will be concluded by the County Judge before the hearing before the County Grievance Committee begins. The mediation may be conducted in any manner the County Judge believes will offer the best opportunity for resolving the dispute informally and by agreement.

G. Hearing Procedure.

(1) The hearing shall be held in public if required by law (such as under the FOIA). The employee may, at any time, decline or end the hearing and accept the intended discipline or termination.

(2) The hearing shall be transcribed by a court reporter (not merely a tape recorder) upon request by the grieving employee or the employee's supervising elected official at the expense of the requesting party. At the hearing, on the record, the parties shall suggest any desired hearing procedures and state any complaints regarding: (i) the notice; (ii) the date, time, or location of the hearing; (iii) the opportunity to refute charges; and (iv) the impartiality of any decisionmaker(s).

(3) Informal rules of procedure and evidence shall be followed at hearings: (i) witnesses shall testify under oath; (ii) parties shall be allowed to be represented by legal counsel at their own expense; (iii) parties shall be allowed to examine and cross-examine witnesses; (iv) parties should be granted a reasonable continuance if requested prior to the hearing in writing and if reasonably necessary for stated reasons to prepare adequately for the hearing.



(4) The Grievance Committee will hear the evidence and argument offered by the parties and vote without public discussion or deliberation. Only the Grievance Committee's decision, but not the factual or legal reasoning, shall be announced publicly.

(5) Public access to applicant or employee grievance records is authorized only if approved by the applicant or employee or authorized by the Arkansas FOIA.

## **9. Grievance Hearing Issues and Burdens of Proof**

A. Property Interest Hearing—Claim of Property Interest in Employment. The grieving employee has the burden of proving by a preponderance of the evidence that he or she has a legitimate claim of entitlement to his or her employment—despite the County's at-will employment policy—and not a mere subjective or unilateral expectancy of continued employment. If the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that there is just cause for the intended discipline or dismissal.

B. Liberty Interest Hearing—Claim of Unconstitutional Retaliation. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she has engaged in constitutionally-protected conduct that was a substantial or motivating factor in an adverse employment decision, discipline, or dismissal. If the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the adverse employment decision, discipline, or dismissal would have occurred in the absence of the constitutionally-protected conduct.

C. Liberty Interest Hearing—Claim of Disability Discrimination. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is a qualified individual with a disability who, because of the disability, has been treated or affected differently than another person regarding job application, procedures, advancement, dismissal, compensation, training, or other terms, conditions, or privileges of employment. If the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the difference in treatment or effect is job-related and necessary to effectuate a legitimate County objective, that performance of the job cannot be accomplished by reasonable accommodation, or that the needed accommodation would cause the County undue hardship.

The following definitions apply to claims of disability discrimination:

(1) "Disabled" or "disability": A physical or mental impairment that substantially limits one or more major life activities of an individual; having a record of such impairment; or being regarded as having such an impairment. Being "regarded as having such an impairment" may include individuals with conditions such as obesity or cosmetic disfigurement and individuals perceived to be at high risk of incurring a work-related injury.

(2) "Discrimination" includes: (i) limiting, segregating, or classifying a job applicant or employee in a manner that adversely affects his or her opportunities or status; (ii)



participating in contractual or other arrangements that have the effect of subjecting individuals with disabilities to discrimination; (iii) using standards, criteria, or methods of administration in such a manner that results in or perpetuates discrimination; (iv) imposing or applying tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the test or selection criteria are job-related and consistent with County necessity; (v) failing to make reasonable accommodations to the known limitations of a qualified individual with a disability unless an accommodation would impose an undue hardship on the operation of the County; or (vi) denying employment opportunities because a qualified individual with a disability needs reasonable accommodation.

(3) “Reasonable accommodation” examples include: (i) making existing facilities used by County employees readily accessible to the disabled; (ii) restructuring non-essential elements of the job; (iii) flexible or modified work schedules/locations; (iv) reassignments to other positions; (v) acquisition or modification of equipment or devices; and (vi) permitting the use of vacation or an unpaid leave of absence.

(4) “Undue hardship” is an action requiring “significant difficulty or expense,” considering: (i) the overall size of the County with respect to the number of employees, number and type of facilities, and size of the budget; (ii) the type of operation maintained by the County including the composition and structure of the workforce; and (iii) the nature and cost of the accommodation needed.

(5) “Qualified individual with a disability”: An individual with a disability who, with or without reasonable accommodation, can perform the “essential functions” of the employment position held or desired.

(6) “Essential functions”: Job tasks that are fundamental but not marginal (not every job task is to be included in determining the essential functions).

D. Liberty Interest Hearing—Claim of No Rational Basis for Different Treatment. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she has been treated differently than another similarly-situated person. If the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the different treatment is rationally related to the effectuation of a legitimate County objective.

E. Liberty Interest Hearing—Claim Arbitrary Decision—No Legitimate County Objective. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that the action taken against him or her is not rationally related to the effectuation of any conceivable legitimate governmental objective of the County. If the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the action taken is rationally related to the effectuation of a conceivable governmental objective of the County.

F. Liberty Interest Hearing—Claim Arbitrary Decision—Violation of State Public Policy. The grieving applicant or employee has the burden of proving by a preponderance of the



evidence that he or she is being treated in a manner that violates the public policy of the State of Arkansas as established by the Arkansas General Assembly or the Arkansas Supreme Court. If the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the adverse employment decision, discipline, or dismissal is not in violation of the established public policy of the State of Arkansas.

G. Name Clearing Hearing—Claim of Deprivation of Liberty Interest in Future Employment. The grieving applicant or employee has the burden of alleging that a “stigmatizing charge” has been publicly communicated by the County or a County official or employee and requesting an opportunity to publicly clear his or her name. If the applicant or employee meets his or her burden, the County shall provide the applicant or employee a public hearing opportunity to clear his or her name.

## **10. Issues Not Addressed in the Personnel Policy**

Questions or issues may arise that are not specifically addressed in the County’s Personnel Policy. As explained above, the County elected officials and County Judge have discretion to determine the application, meaning, and intent of the provisions of the Personnel Policy as they relate to the employees of that County elected official’s office. Consistent with that discretion, the County elected officials and County Judge may issue policy memorandums to County staff to address questions or issues that are not addressed in the County Personnel Policy.

## **11. Employee Acknowledgement**





## **EMPLOYEE ACKNOWLEDGMENT**

### **IN RECEIPT OF BAXTER COUNTY POLICY MANUAL**

I acknowledge that I have received a copy of the Baxter County Personnel Policy and as an employee of Baxter County, Arkansas, I agree to abide by the policies as set forth therein.

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EMPLOYEE'S PRINTED NAME



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EMPLOYEE'S SIGNATURE

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DATE SIGNED

