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# BARNSTABLE COUNTY

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POLICIES AND PROCEDURES MANUAL



AUGUST 1, 2018  
BARNSTABLE COUNTY  
3195 Main Street  
Barnstable, MA 02630

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## **CHAPTER 1**

### **GENERAL PROVISIONS**

**1.1 AUTHORIZATION** The Barnstable County Policies and Procedures are adopted pursuant to Massachusetts General Laws, the Barnstable County Charter as enacted in Chapter 163 of the Acts of 1988, and the Barnstable County Administrative Code. These policies and any subsequent amendments are intended to be in compliance with all applicable State and Federal laws which prevail in the event of inconsistencies.

**1.2 PURPOSE** The purpose of these policies is to establish a system of administration governing the terms and conditions of employment within the Regional Government known as the County of Barnstable or any successor organization. The purpose of the policies and procedures for administration set forth herein is to promote the efficiency and economy of government, to promote the morale and well-being of County employees, to promote equitable employment opportunities for employees and candidates for employment, and to facilitate operations.

The policies and procedures have been written to provide information and guidance to all employees of the County, though it does not represent an exhaustive list of each of the employment practices. This manual, and its provisions, do not constitute a contract of any kind and make no guarantees or promises of employment, compensation, or benefits. It is not possible to anticipate every situation that may arise in the workplace, or to provide answers to every possible question. Policies and procedures listed in this manual may change from time to time.

Please note that employees covered under collective bargaining agreements should consult those agreements for information regarding certain working conditions that may override the provisions within this manual. This manual provides no additional rights or benefits to employees whose terms and conditions of employment are subject to a union collective bargaining agreement. Absent a written agreement to the contrary, your employment is as an employee at will and as such can be terminated either by the County or you at any time, with or without notice and with or without cause. The highlights of benefits contained in this manual are not intended to take the place of more detailed benefit plan documents. Descriptions in the plan documents will override the information in this manual in the event that information presented in the manual is inconsistent with information in the plan documents. If an employee has questions concerning this manual or the policies of the County, please contact the Office of Human Resources. The County will gladly assist any employee who is unable to understand its policies. If an employee does not request assistance, it will be assumed that he or she fully understands the policies in this manual.

**1.3 PRINCIPLES** The policies are based on the following principles:

- (a) Recruiting, selecting, and developing employees is done on the basis of their abilities, knowledge, and skills.

- (b) Equitable compensation is provided.
- (c) Employees are trained as needed to assure high quality performance in delivering quality services to the public.
- (d) Employees are retained on the basis of their performance
- (e) Equal treatment of applicants and employees is assured in all aspects of human resources.
- (f) Employees are protected against coercion and are prohibited from using their official duties and responsibilities in their positions in County government for political purposes.

**1.4 EQUAL EMPLOYMENT OPPORTUNITY** Barnstable County is an equal opportunity employer. It is the policy of the County to prohibit discrimination in hiring, promotion, discharge, compensation, benefits, job training or any other terms and conditions of employment on the basis of race, color, religion, gender, gender identity, national origin or ancestry, veteran status and national guard or reserve unit obligations, handicap, disability, age, sexual orientation, criminal history, genetics, or any other basis protected by applicable, federal, state or local laws. All employees, interns and volunteers shall not demonstrate any discrimination in any activity associated with the County. In addition, in accordance with applicable federal, state and local law protecting qualified individuals with known disabilities, the County will attempt to reasonably accommodate those individuals unless doing so would create an undue hardship on the County. Any qualified applicant or employee with a disability who requires an accommodation in order to perform the essential functions of their job should contact the Human Resources Department to request an accommodation.

**1.5 DISCRIMINATION** No person, on the basis of age, race, color, religion, gender, marital status, sexual orientation, national origin, disability, or veteran status shall be denied the benefits of, or be subject to discrimination under any activity provided by, the County of Barnstable unless based upon a bona fide occupational qualification.

**1.6 HARASSMENT** Please refer to Appendix A.

**1.7 SEXUAL HARASSMENT** Please refer to Appendix B.

**1.8 APPLICATION OF POLICIES** The provisions of these policies and procedures apply to every non-bargaining unit County employee except, elected officials, unless stated otherwise.

**1.9 AMENDMENT OF POLICIES** The Board of Regional County Commissioners at its sole discretion and from time to time, reserves the right to modify, supplement, rescind or

revise any provisions of the manual. Employees will be advised of any changes in published procedures and policies.

## *CHAPTER 2*

### **ADMINISTRATION OF POLICIES**

**2.1 COUNTY COMMISSIONERS** The County Commissioners are responsible for adopting, amending and revoking policies.

**2.2 COUNTY ADMINISTRATOR** The County Administrator is responsible for the following:

- (a) direction of the administration of the policies and procedures.
- (b) final decision-making authority and approval over all human resources matters.
- (c) interpretation of these policies.
- (d) establishing an employee Performance Appraisal System.

**2.3 HUMAN RESOURCES DIRECTOR** The Human Resources Director is responsible for the day-to-day administration of the policies and procedures under the direction of the County Administrator.

The Human Resources Director:

- (a) enforces provisions of the policies and procedures.
- (b) reports human resources actions to the County Administrator and/or County Commissioners.
- (c) makes recommendations to the County Commissioners on matters relating to human resources policies.
- (d) maintains an employee Performance Appraisal System.
- (e) reports to the County Administrator on the results of the Performance Appraisal System.
- (f) performs any other acts necessary to carry out the purpose of the human resources system and the provisions of the policies and procedures.
- (g) utilizes staff and consultants to implement specific human resources functions.

**2.4 DIRECTOR OF FINANCE** The Director of Finance serves as Treasurer in accordance with Massachusetts General Laws and maintains financial records in

accordance with State statues and County policies and ensures compliance with financial standards and requirements.

- 2.5 DEPARTMENT MANAGERS** Department Managers, with the approval of the County Administrator, have the responsibility to select, retain, transfer, terminate, discipline, and promote personnel in accordance with the Barnstable County policies and procedures. Department Managers are expected to effectively supervise their employees, evaluate performance of their staff, notify the County Administrator of changes in duties of their employees in order that the classification plan will be maintained, and to recommend salary actions to be acted upon by the County Administrator.
- 2.6 EMPLOYEES** All employees will be provided with a copy of the Policies and Procedures Manual. It is the responsibility of all employees to acquaint themselves thoroughly with the material in these personnel policies and any subsequent revisions. Employees are also encouraged to submit suggestions for changes in policies and procedures to the County Administrator.
- 2.7 PERSONNEL RECORDS** The Human Resources Director is responsible for maintaining the official personnel files for employees. Any employee may arrange to review his/her personnel and financial records. Information in an employee's personnel file is subject to Massachusetts General Laws, Chapter 149, Section 52C (Personnel Records Statute) and Chapter 66, (the Public Records Law), and is maintained in a manner consistent with these statutory provisions.
- 2.8 RETENTION OF RECORDS** Records are maintained for each active employee and in accordance with Massachusetts General Laws.
- 2.9 PUBLIC REVIEW OF RECORDS** Information in an employee's personnel file is subject to Massachusetts General Laws, Chapter 149, Section 52C (Personnel Records Statute) and Chapter 66, the Public Records Law.

## **CHAPTER 3**

### **DEFINITIONS**

**Americans with Disabilities Act (ADA) Coordinator** - The Human Resources Director serves as the ADA Coordinator for Barnstable County.

**Anniversary Date** - Date used to determine eligibility for step increases and certain benefits. An employee's anniversary date is defined as the first day of the same month of the date of hire or date of reclassification in the following year, provided that the employee served a minimum of ten (10) working days in that month. If fewer than ten (10) working days were served, the anniversary date is effective on the first day of the following month and this day becomes the "anniversary date" of the employee. The anniversary date of an employee who remains on leave without pay for twenty (20) working days or more is set back one month for every twenty (20) working days off the payroll without pay.

**Appointing Authority** - The Barnstable County Commissioners are the appointing authority for County employees. Appointing authority, with the exception of appointment of Department Managers, was delegated to the County Administrator, as voted by the Board of the County Commissioners on January 9, 2013.

**Applicant** - a person who applies for a specific employment vacancy.

**Compensation** - The salary or wages earned by any employee by reason of service in the position but excluding allowances for expenses authorized and incurred as incidents to employment.

**Contractor** – A person or business entity providing services to the County other than as an employee.

**Department** - A major functional unit of County government.

**Disciplinary Action** - An oral warning, written reprimand, suspension, demotion or dismissal made for cause by the appropriate authority.

**Employee, Emergency** - An employee who is required to report to work during emergency situations, not to exceed ninety (90) days.

**Employee, Essential** - an employee who is designated by the Department Manager to be critical to the continuation of key operations and services in the event of a suspension of operations.

**Employee, Exempt** - An employee who is exempt from certain provisions of the Fair Labor Standards Act. Exempt employees generally fall into one of three major categories: executive, administrative or professional.

**Employee, Full-time** - A person who is occupying a position and who regularly works a minimum of 37.5 hours per week.

**Employee, Non-Exempt** - An employee covered by the provisions of the Fair Labor Standards Act. (That is “not exempt” from certain provisions of the Act.)

**Employee, On Call** – A person employed from a maintained reserve list on an as needed basis to fill an existing regular or part-time position.

**Employee, Part-time** - A person who regularly works fewer than 37.5 hours per week in a 75 hour pay period or a person who regularly works fewer than 40 hours per week in a 80 hour pay period.

**Employee, Probationary** - An employee who has not completed his or her probationary period.

**Employee, Regular** – A person employed for a specific position greater than six months.

**Employee, Seasonal/Casual** - A person who works limited periods of time, (i.e. summer seasonal positions.)

**Employee, Temporary** - A person employed for a specific position which is time limited not to exceed six (6) months. This includes Seasonal, Casual, Intern and On Call employees.

**Employee, With Contract** - An employee subject to the terms and conditions of a written agreement in addition to the provisions of these policies and procedures. Where provisions may conflict, employee will be subject to terms of written agreement.

**Grievance** - A misunderstanding or disagreement with respect to the interpretation or meaning of an express provision of these policies and procedures and/or the employee contract.

**Intern** - A temporary, paid or unpaid position, in one of the many Barnstable County departments. Internships offer students work experience in a particular area that relates to their area of study. In some cases, interns can apply their work at Barnstable County to gain school credit. Position is time limited not to exceed six (6) months.

**Major Policy Making Position** – A position meeting State Ethics Commission criteria defined in M.G.L. 268B and regulations 930 CMR 2:00, requiring the appointed incumbent to file annual financial disclosure statements.

**Probationary Period** - A working test period of six (6) months, following a hire date and/or transfer, during which an employee is required to demonstrate, by conduct and actual performance of the duties, fitness for the position to which assigned. The probationary period can be extended at the discretion of the Department Manager.

**Week** - Unless otherwise stated, week means work week, or 5 calendar days (within the 7-day period from Sunday to Saturday).

## *CHAPTER 4*

### **CLASSIFICATION SYSTEM**

**4.1 POLICY** The policy of Barnstable County is to provide a uniform system to classify all non-union County positions into groups and classes doing substantially similar work or having substantially equal responsibilities; and to establish salary ranges to be paid to employees in positions so classified. Grades are allocated to positions in accordance with the approved job evaluation systems.

**4.2 JOB DESCRIPTIONS** Each position has a written description approved by the County Administrator or their designee. The job description consists of a statement of the nature of the work, the duties and responsibilities of the position, the required minimum education requirements, knowledge, skills, training, abilities, experience and information directly related and essential to job performance.

Job descriptions are intended to be representative of the positions in a class and provide illustrations of the type of work performed, and do not necessarily include all duties performed. Job descriptions are not intended to be restrictive or to limit the power of the administrative authority to appoint, to assign duties to, or to direct and control the work of any employee under the jurisdiction of such authority.

**4.3 GRADE LEVELS** A grade level is assigned to one or more positions so similar in level of duties and responsibilities that the same pay scale can be applied, and the positions can be treated equivalently for all human resources purposes. Grade levels are determined in accordance with the approved job evaluation systems.

**4.4 CLASSIFICATION PLANS** The classification plan is a list of positions by grade level supported by job descriptions, and subject to periodic audits for equity. The plan includes market, union and non-union rates.

**4.5 ADMINISTRATION OF CLASSIFICATION PLAN** The Human Resources Director is responsible for maintaining an official copy of the position classification plan. The official copy includes a schematic list of class titles and specifications.

(a) **New position** Creation of a new job requires justification, budgetary authorization, and the development of a job description. The job will then be internally evaluated for recommendation and assignment of a job grade and salary range for the new job. New jobs must have an approved job grade before recruitment.

(b) **Reclassification** When a position has changed substantially in the kind and/or level of work, the County Administrator or Department Manager, may initiate a request for reclassification by submitting a request to the Human Resources Director accompanied by a new job description. The Human Resources Director will document any changes in the position, its duties and/or responsibilities, and

will make a recommendation concerning the reclassification request to the County Administrator.

After review of the request and substantiating data, the County Administrator will take definitive action within sixty (60) calendar days from the date of original application. Their decision on reclassification will be final.

In a reclassification, there is a recognition that duties and responsibilities, as defined within the current job description, are no longer current or accurate. A reclassification either adds to or changes the employee's duties in addition to changing the employee's title. If an employee is reclassified to a higher grade, no pay diminution will occur. The employee will be placed in the step in the higher job grade which is closest to, but not less than, the total of the employee's current annual salary plus the increment between step 1 and 2 in the job grade to which the employee is being advanced.

A reclassification changes the anniversary date of an employee. The employee's new anniversary date will be determined by the effective date of the reclassification.

- (c) **Regrade** When the duties and responsibilities of a position warrant or dictate a new salary, the Department Manager may submit a request for a regrade of an existing position to the Human Resources Director with supporting documentation. The Human Resources Director will make a recommendation to the County Administrator who will take definitive action within sixty (60) calendar days from date that the original application was filed.

The actual title and duties of the position do not necessarily change. The regrade of a position is the determination that the position itself as defined by its current duties, should be assigned to a different salary range.

A regrade does not change the employee's anniversary date.

- (d) **Promotion** Elevation of an incumbent employee from an established position within a job grade to an established position within a higher job grade. If an employee is promoted to a higher grade, no pay diminution will occur. The employee will be placed in the step in the higher job grade which is closest to, but not less than, the total of the employee's current annual salary plus the increment between step 1 and 2 in the job grade to which the employee is being advanced.

A promotion does change the employee's anniversary date.

- (e) **Other** Changes other than reclassification, regrade or promotion do not affect the employee's anniversary date or compensation.

**4.6 AUTHORIZATION OF CLASSIFICATION** No employee is paid under the classification plan until the proper authorization on an appropriate form, signed by the County Administrator, is provided.



## *CHAPTER 5*

### **COMPENSATION PLAN**

**5.1 POLICY** The County Administrator is responsible for maintaining a uniform and equitable compensation plan which consists, for each grade of positions, of minimum and maximum rates of pay and such intermediate steps as are deemed appropriate.

**5.2 MAINTENANCE OF COMPENSATION PLAN** The wage and salary structure will be reviewed annually by the County Administrator. An independent/external wage and salary audit will be conducted periodically. When survey data and analysis of the current pay levels indicate a revision is in order, a recommended, revised plan of action will be developed and will be submitted to the County Commissioners.

A recommendation to modify or retain the existing structure will be approved in sufficient time each year so that any change can be reflected in budget planning for the following fiscal year. This does not preclude the presentation of such recommendations at other times during the year if required.

**5.3 APPROPRIATION** Adjustments provided under this Chapter are subject to the availability of appropriated funds by the County or granting authority.

**5.4 APPOINTMENT RATES** Employees appointed to positions are generally paid at the minimum rate of pay assigned to that grade. Before an offer is made, a Department Manager may recommend to the County Administrator compensation at a higher step rate within the grade level based on the following factors:

- (a) The degree to which the candidate's skills and qualifications exceed that of the minimum requirements of the position.
- (b) An analysis of the pay level of current employees in positions with similar skills and experience.
- (c) Market conditions which may be affecting the County's ability to recruit for the position.

**5.5 LONGEVITY PAY** After completing 5 years of service as an employee of Barnstable County, an employee shall be eligible for an annual longevity payment as follows:

After 5 years of service - \$200.00  
After 10 years of service - \$300.00  
After 15 years of service - \$400.00  
After 20 years of service - \$500.00

Said amounts shall be paid on the last payroll of the month of the employee's original hire date, as a lump sum and not considered part of the base pay. Part-time employees shall

receive a prorated payment based on their part-time hours in relation to a full-time schedule.

Longevity Pay applies to all non-bargaining unit County employees, with the exception of Cape Cod Commission employees. Bargaining units within the county adhere to longevity pay schedules, as stated within their contracts.

**5.6 STEP INCREASES** Employees are eligible to receive a step increase on their anniversary within the salary range of the position's assigned grade.

**NOTE--**The following factors affect the employee's eligibility for a step increase:

- (a) Availability of funding.
- (b) Satisfactory job performance in the previous 12 months served.
- (c) Regrading of a position to a higher job grade.
- (d) Promotion to a higher job grade.
- (e) Leave without pay for twenty (20) working days or more. (The anniversary date of an employee who remains on leave without pay for twenty (20) working days or more is set back one month for every twenty (20) working days off the payroll without pay.)

**5.7 REAPPOINTMENT RATE** Persons receiving re-employment or reinstatement to the same position may be paid at any step within the pay range contingent upon qualifications. If the returning employee's qualifications have been measurably strengthened during absence, he or she may be paid at a higher step with the approval of the County Administrator.

**5.8 TRANSFER** A position may be filled by transferring an employee from another position of the same or similar grade having the same maximum pay rate, involving the performance of similar duties, and requiring essentially the same basic qualifications. Interdepartmental transfers must be approved by the County Commissioners. The County reserves the right to transfer employees.

**Temporary Transfer** When the County Commissioners determine it is necessary to temporarily fill a higher position while the incumbent of the position is on leave or while the position is vacant, the employee assigned to the position will be placed in the step in the higher job grade which is closest to, but not less than, the total of the employee's current annual salary plus the increment between step 1 and 2 in the job grade to which the employee is being advanced.

Upon completion of a temporary transfer, the employee will return to his/her former position without loss of benefits. A temporary transfer does not serve as a claim for upgrading a regular position.

**5.9 PART-TIME EMPLOYEES** A part-time employee is compensated at the proper hourly rate for the appropriate classification.

**5.10 SEPARATION FROM SERVICE** An employee may be separated from service by any of the following methods:

- (a) **Retirement** is the separation of an employee in accordance with the provisions of the Barnstable County Retirement System under which the employee is eligible to receive benefits.
- (b) **Resignation** is the separation of any employee by his/her voluntary act. An employee may resign in good standing by submitting in writing the reasons therefore and the effective date to the Department Manager at least fourteen (14) calendar days in advance. The Department Manager may permit a shorter period of notice due to extenuating circumstances. The resignation is forwarded to the County Administrator with pertinent information concerning the reason for resignation. The Human Resource Director will make every effort to conduct an exit interview with each employee who resigns and will verify the employee's reasons for leaving if possible. Copies of any letter of resignation will be placed in the employee's human resources record.
- (c) **Failure to report to work** without valid reason for three consecutive workdays may cause the employee to be separated from service. It is the employee's responsibility to notify the Immediate Supervisor of absence from work.
- (d) **Layoff** is any involuntary removal from employment not involving delinquency, misconduct, inefficiency, or on the job injury.

If an employee is scheduled to be laid-off, the employee may be offered a transfer to a position of the same or lower grade if a vacancy exists and the employee is qualified to fill the position involved. An employee to be laid off is notified in writing by the Human Resources consistent with the process (identified below in Section 5.11).

- (e) **Loss of job requirements** Any employee who is unable to perform his/her job adequately because of loss of a necessary license or other requirement, may be terminated or transferred to a lower classification if a vacancy exists.
- (f) **Dismissals** are discharges or separations made for good cause as outlined in Chapter 13.3 (d).

- (g) **Death** Upon the death of employee while on the payroll or approved leave of Barnstable County, the employee's estate receives the decedent's: (1) accrued pay; (2) accrued vacation pay; (3) pay for accrued compensatory time; (4) pay for personal time; (5) 20% of the value of unused sick leave, up to a maximum of \$5,000; and in accordance with Massachusetts General Laws, Chapter 35, Section 19B.
- (h) **Involuntary Retirement** Employees who are involuntarily retired are subject to Massachusetts General Laws, Chapter 32, Section 16.

**5.11 DISMISSAL PROCESS** Any non-probationary employee, not covered by the terms of a collective bargaining agreement, may be dismissed from duty by the appointing authority; or their designee, subject to the provisions of Massachusetts General Law, if applicable. The appointing authority, or their designee, when acting to dismiss an employee will:

- (a) Send a written notice of the intent to dismiss an employee. The notice will include a statement of the cause or causes for dismissal. The notice will be delivered in hand to the employee or mailed by registered or certified mail to the employee's last known address.
- (b) Within five (5) calendar days of the date of the notice, the employee may request a hearing with the appointing authority. The request for a hearing must be submitted in writing to the appointing authority and a copy filed with the Human Resources Director.
- (c) The appointing authority, or their designee, will hold a hearing not less than seven (7) calendar nor more than fourteen (14) calendar days following the receipt of the request. The employee will be provided at least five (5) calendar days written notice of the hearing. The employee shall have the right to be represented by counsel at the hearing, call witnesses, examine witnesses, and introduce evidence at the hearing.
- (d) No more than fourteen (14) calendar days following the hearing the appointing authority, or their designee, shall take final action on the dismissal and immediately notify the employee of the decision
- (e) If a hearing is not requested by the employee, the appointing authority shall take final action on the dismissal within fourteen (14) calendar days of the delivery of the original notice of intent. The employee will be notified immediately of the decision.

**5.12 SEPARATION PAY** Remuneration due upon separation is determined as of the last day worked and includes all accrued and accruing leave, except sick leave. Such remuneration is paid to the employee on the scheduled pay date following his/her

termination date. An employee who is terminated involuntarily from the employment shall be paid in full on the day of their discharge, in accordance with M.G.L. c. 149, § 148.

Employees are not credited with any additional earned benefits after the last day worked.

## **CHAPTER 6**

### **EMPLOYEE BENEFITS**

**6.1 POLICY** Barnstable County intends to provide employee benefits that are comparable to those in the public sector on Cape Cod. Such benefits are an important part of the job package and require careful review and understanding by employees. Employees are responsible for notifying the Benefits Office regarding changes (i.e. marriage, divorce, birth of a child) that may impact their benefits. Notification should occur as soon as possible but no later than 30 days from the date of the event in order to qualify for additional benefits.

**6.2 HEALTH AND DENTAL INSURANCE** Full time, part-time, and temporary employees of the County who regularly provide services for twenty (20) hours or more per week are eligible to participate in the Barnstable County Group Insurance Plans in accordance with the provisions of Chapter 32B of the General Laws of the Commonwealth of Massachusetts. New employees must enroll within 30 days of date of hire or at open enrollment period. If such employee does not wish to participate, an official waiver must be filed with the Payroll/Benefits Office within 30 days of the date of hire. Insurance coverage will take effect sixty (60) days from the date of hire, unless the employee is enrolled in the same group insurance the County participates in and in accordance with MGL Chapter 32B. Participating employees will be required to contribute a percentage of the premium cost of health and dental plans, based on the rates in effect.

Seasonal and casual employees are not eligible.

**6.3 LIFE INSURANCE** Full time, part-time, and temporary employees of the County who regularly provide services for twenty (20) hours or more per week are eligible to participate in the Barnstable County Group Life Insurance Plan in accordance with the provisions of Chapter 32B of the General Laws of the Commonwealth of Massachusetts. New employees must enroll or waive their participation within 30 days of the date of hire with the Payroll/Benefits Office. Insurance coverage will take effect sixty (60) days after the date of enrollment. Participating employees will be required to contribute a percentage of the premium cost of the basic plan based on the rates in effect.

Additional voluntary coverage is available at full cost to the employee. Seasonal and casual employees are not eligible.

**6.4 PENSION BENEFITS** Full-time employees and regular employees working 25 or more hours per week are required by Massachusetts General Law, Chapter 32 to become members of the Barnstable County Retirement Association and as such are eligible for retirement benefits under these policies and procedures. Information on pension benefits is obtained from the Barnstable County Retirement Board. Seasonal, temporary and casual employees are not eligible for these pension benefits.

In accordance with the Omnibus Budget Reconciliation Act (OBRA) of 1990, part-time (less than 25 hours per week), temporary, seasonal and casual employees are required to participate in a deferred compensation plan in lieu of participation in the Barnstable County Contributory Retirement Plan.

County employees are not contributors to nor beneficiaries of the Federal Insurance Contributor's Act - the Social Security Law; however, employees hired after April 1986 are required to contribute a percentage of their total gross pay toward the Medicare portion. Any person who has retired from certain public service employment in the Commonwealth and returns to active service is subject to the provisions of M.G.L. Ch.32, s. 91(b).

- 6.5 OPTIONAL RETIREMENT COMPENSATION PROGRAM** Employees may participate in any of the Barnstable County optional retirement compensation plans.

This program permits an employee to set aside a portion of current earnings into an account for retirement. More information on the program may be obtained at the Payroll/Benefits Office.

- 6.6 UNEMPLOYMENT COMPENSATION** Employees of Barnstable County are covered under state statute which provides for the payment of unemployment compensation in the event of termination from work or reduction in hours. More information on the program may be obtained from the Human Resources Director.

- 6.7 OTHER INSURANCE COVERAGE** Barnstable County and a local insurance agent have arranged for voluntary payroll deductions for other insurance programs. Employees interested in participating in this program should contact the local insurance agent.

- 6.8 EMPLOYEE ASSISTANCE PROGRAM** Employees and their families may participate in the Barnstable County Employee Assistance Program (EAP). Information on the EAP is included in the Employee Handbook or may be obtained from the Human Resources Director.

- 6.9 WORKERS COMPENSATION** Workers Compensation coverage is provided by the County for all employees.

## *CHAPTER 7*

### **HOURS OF WORK, MINIMUM AND OVERTIME COMPENSATION**

- 7.1 WORK WEEK** The work week for employees is recommended by the County Administrator and approved by the County Commissioners.

Regular hours of operation are Monday through Friday, 8:00 a.m. to 4:30 p.m., unless otherwise approved by Department Manager. Regular work week for full time, non-bargaining unit employees, shall consist of thirty-seven and a half (37.5) hours per week. Employees are required to report to work during regular business hours, or be on leave consistent with Chapter 8. Unapproved absences may lead to disciplinary actions consistent with Chapter 13.

The workday includes one hour of unpaid break, unless a modified schedule has been approved by the Department Manager.

- 7.2 FLEXIBLE WORK SCHEDULES** Barnstable County recognizes that due to the nature of work performed by its various departments, it is often necessary for employees to work hours other than regular hours of operation.

The County recognizes that for some of its employees, a schedule other than the standard 8 am to 4:30 pm may be necessary due to the work requirements of the County or for the employees' personal circumstances. Suitability of employees to participate in flexible schedules will vary among departments, depending on the function and responsibilities of the employee. Department Managers are responsible for developing appropriate work schedules for their departments.

- 7.3 TELECOMMUTING POLICY** Please refer to Appendix H.

- 7.4 STRAIGHT OVERTIME** All non-exempt employees, who are approved to work more than thirty-seven and a half (37.5) hours a week and up to forty (40) hours per work week will be compensated at their regular hourly rate.

- 7.5 OVERTIME** It is the responsibility of the Department Manager to use judgement in authorizing overtime work by employees. Overtime must be authorized by the Department Manager or his/her designee in advance and kept within the appropriated funds. An employee who fails to obtain prior approval for overtime worked is subject to disciplinary action.

When overtime pay is granted by the Department Manager, the following conditions apply:

- (a) All non-exempt employees, who are approved to work more than forty (40) hours during a work week shall be compensated at one and one-half (1 ½) times their regular hourly rate for said work. In lieu of monetary payment, a Department

Manager may grant compensatory time at the rate of one and one-half times the number of hours worked over 40.

- (b) A non-exempt employee who worked over thirty-seven and a half (37.5) hours and is **required** to work by his/her Department Manager or their designee, on a Saturday, is compensated at one and one-half times his/her regular hourly rate; a non-exempt employee who worked over thirty-seven and half (37.5) hours and is **required**, by his/her Department Manager or their designee, to work on a Sunday shall be compensated at two times his/her regular hourly rate.

A non-exempt employee who worked over thirty-seven and a half (37.5) hours and voluntarily works, with department manager's prior approval, on a Saturday or Sunday, shall be compensated at their regular rate up to forty (40) hours and one and one-half times his/her regular hourly rate after forty (40) hours.

- (c) A non-exempt employee **required** to work, by his/her Department Manager or their designee, on a designated holiday, that is not a regularly scheduled work day is compensated at two times his/her normal hourly rate.
- (d) Unless specifically stated in a collective bargaining agreement, paid leave hours (i.e. sick leave, vacation, holiday, personal and compensatory leave) are not included as hours worked in the calculation of overtime.
- (e) Part time employees, exceeding their regular work hours will be compensated for hours worked in accordance with department's budget or receive compensatory time.

**7.6 COMPENSATORY TIME** Non-exempt employees who are approved to work more than 37.5 hours during the 7-day work period may be granted compensatory time off in lieu of overtime pay at the discretion of the Department Manager at the rate of one-hour (1) for each hour worked over 37.5 hours up to forty (40) hours per week and at the rate of one and one-half (1½) hours for each hour worked in excess of forty (40) hours. For the purpose of calculating earned compensatory time, hours worked includes all paid leave, except sick and earned compensatory leave.

- (a) Compensatory time must be authorized by the Department Manager or his/her designee in advance and may accrue up to a maximum of two hundred and forty (240) hours. It is the Department Manager's decision as to whether an employee accrues compensatory time or is required to adjust his/her work week to avoid accruing compensatory time. In conjunction with the County Administrator, Department Managers are responsible for managing their employees' accruals and usage of compensatory time.
- (b) The accrued compensatory time shall be used within three (3) months of the time it was earned. The Department Manager is responsible for enforcement of this

requirement. Compensatory time off must be scheduled in advance subject to approval by the Department Manager or his/her designee so that it will not interfere with department operations.

- (c) Upon termination of employment, an employee will receive compensation for accrued compensatory time at the current rate of pay up to a maximum of 240 hours.
- (d) Accrued compensatory time is to be used before the use of vacation or personal time, provided that the employee is still able to use the vacation or personal leave before the end of the fiscal year.
- (e) The Department Manager or his/her designee is responsible for submitting to the Department of Finance for each pay period (i) the number of hours of compensatory time earned each week by each employee; and (ii), the number of hours of compensatory time used each week by each employee

**7.7 EXEMPT EMPLOYEES** Managerial and supervisory employees and employees in other positions qualifying for executive, administrative, or professional exemption, are not entitled to overtime compensation consistent with the Fair Labor Standards Act (FLSA). The County Administrator and Department Managers are expected to use their discretion and good judgement in the management of their exempt employees' time consistent with the intent of the FLSA.

If an employee is transitioned from a non-exempt position to an exempt position, all accrued compensatory time must be used or paid out before the transition takes place at the current non-exempt status salary rate.

**7.8 EMERGENCY CLOSURE** In the event of a weather or other emergency, the County Administrator may cease, suspend or delay Barnstable County operations. All nonessential employees will be compensated for their regular workday.

Non-exempt essential employees who are required to report to work by their Department Manager will be paid overtime or credited compensatory time for hours worked as outlined in sections 7.5 and 7.6.

Employees who are not required to report to work by their Department Manager (nonessential employees) should not report to work and will not be compensated for hours worked in the event of the emergency closure.

No emergency closure compensation will be provided for employees who are on any leave (paid or unpaid) in the event of emergency closure.

**See Appendix C – Emergency Closure Procedures**

## CHAPTER 8

### LEAVE

**8.1 POLICY** Leave is any authorized absence during regularly scheduled work hours that is approved by the proper authority. Leave may be authorized with or without pay and is granted in accordance with applicable laws, on the basis of the work requirements of the departments and, whenever possible, the personal wishes of the employee. Employees are expected to notify their supervisor of any leave or follow the protocol established within their department. Failure to do so may result in disciplinary action.

**8.2 HOLIDAY LEAVE** The following days are recognized as legal holidays. Employees not required to maintain essential County services, as determined by the Department Manager, are excused from all duties:

New Year's Day	Martin Luther King Day	President's Day
Patriot's Day	Memorial Day	Independence Day
Labor Day	Columbus Day	Veteran's Day
Thanksgiving Day	Christmas Day	

Bunker Hill Day\*  
Floating Holidays

Evacuation Day\*                      Bunker Hill Day\*

\*Evacuation Day and Bunker Hill Day are not legal holidays in Barnstable County but may be taken as floating holidays/limited service days within 100 calendar days following the holiday.

#### Limited Service Days

The Barnstable County Commissioners may choose to identify and vote for a limited service day defined as a day during which all County offices are open, and all County services are provided. A Department Manager shall ensure minimum staffing is available to carry out necessary functions. Employees required to work on a limited service day shall be entitled to another day off which shall be taken within 60 calendar days of a limited service day or it will be forfeited. Skeleton Day, which is the day after Thanksgiving, shall be a limited service day.

If a Limited Service Day does not fall on an employee's regular scheduled day, the employee will not be granted a day off that is otherwise provided to the qualified employees.

An employee is entitled to these designated holidays on the following terms:

- (a) Eligibility for holiday pay:
  - (i) Full-time employees - Full holiday pay.
  - (ii) Part-time employees – holiday pay for shall be prorated based on the ratio of the average hours worked per week relative to the total number of full time work week hours, for the previous 60 days, regardless of which days are worked during the week.
  - (iv) On Call Employees are not entitled to Holiday Pay.
- (b) An employee who is on paid leave for any portion of the workday immediately preceding or immediately following a holiday on which he/she is scheduled to work will receive holiday pay.
- (c) An employee who is on unpaid family leave or is absent without pay for any part of the workday immediately preceding or immediately following a holiday will not receive holiday pay or a compensatory day for the holiday.
- (d) Whenever any of the above-named holidays falls on a Sunday, the holiday is observed on the following Monday. If the holiday falls on a Saturday, the holiday is observed on the preceding Friday.
- (e) Non-exempt employees who are required to work by their Department Manager on a holiday are compensated at two times their normal hourly rate of hours worked on that day.
- (f) Employees who are terminated or who resign will receive payment for floating holidays and/or limited service days earned, but not taken.

**8.3 VACATION LEAVE** The County provides vacation leave to full-time and regular part-time employees based on length of service and in accordance with the following policies:

- (a) Full-time employees in continuous employment accrue vacation leave based on length of service as of June 30<sup>th</sup> of each fiscal year as follows:

<u>Service</u>	<u>Vacation</u>
Less than 1 year	1 day for each month employed, not to exceed ten days.
1 - 4 1/2 years	Two weeks, 10 days
4 1/2 - 9 1/2 years	Three weeks, 15 days
9 1/2 - 19 1/2 years	Four weeks, 20 days

19 1/2 or more years

Five weeks, 25 days

Accrued vacation leave is available on July 1<sup>st</sup> to eligible employees.

Vacation time is cumulative and accumulates on the basis of:

- a. a 1,950 hour work year for a 75 hour pay period or a 2080 hour work year for a 80 hour pay period;
  - b. a five-day work week (unless working a condensed work week)
  - c. and from July 1<sup>st</sup> of every year
- (b) Part-time employees in continuous employment accrue prorated vacation leave as outlined in 8.3 (a) based on the proportion their hours worked relative to full-time employment.
  - (c) Temporary, seasonal and casual employees are not eligible for vacation leave.
  - (d) Vacation leave will accrue in the first month of employment if the new employee has worked ten (10) days or more.
  - (e) For the purpose of computing vacation status, "service" also means service in the Commonwealth or in any political subdivision thereof, excluding service as an elected official, before being employed by the County, provided that no break in service of three (3) years or more occurred between such termination of employment and entrance into County service. In order to credit such prior service a person must, (1) be employed by the County for six months, and (2) submit to the Human Resources Director documentation of such service, executed by the appropriate official of the Commonwealth or any of its political subdivisions.
  - (f) Employees must request vacation leave in writing, subject to prior approval of the Department Manager. Where multiple requests are made within a department for the same vacation period and only one employee can be absent, the employee who submitted the earlier request has preference. Where the requests are received on the same date, the more senior employee is given preference.

Department Managers' requests for vacation leave require prior approval by the County Administrator.

- (g) Vacation leave should be taken within the fiscal year. Full time employees may carry over up to 10 vacation days from one fiscal year to the next, part-time employees' vacation carry-over will be calculated based on the proportion of their hours worked relative to full-time employment.

Any additional carry over request beyond the 10 days must be submitted to Human Resources Director in writing by Department Manager for approval by the County Commissioners. Any additional carry over vacation must be used by September 30 or will be forfeited.

- (h) Employees who are terminated or who resign will receive payment for vacation leave accrued but not taken and for vacation leave accruing but not yet allocated. The last actual work day will be the last day for which leave may be accrued.
- (i) Upon the death of an employee who is eligible for vacation leave under this plan, payment is made in accordance with Massachusetts General Laws, Chapter 35, Section 19B.
- (j) An employee on unpaid leave or absent without pay is not eligible to accumulate vacation leave until he/she returns to continuous employment.
- (k) Newly hired employees are not entitled to use the allocated vacation leave during their probationary period.

**8.4 PERSONAL LEAVE** Regular employees are credited personal leave on July 1 of each year in accordance listed below. Part-time employees accrue prorated personal leave based on the proportion their hours worked relative to full-time employment.

Personal leave shall be taken during the following, with the approval of the Department Manager. Personal days are not cumulative:

On the payroll July 1 – October 31	Three (3) days
On the payroll November 1 – February 28	Two (2) days
On the payroll March 1 – June 30	One (1) day

Only Regular Employees are entitled to personal leave.

**8.5 SICK LEAVE** Sick leave is not considered a privilege which an employee may use at the employee's discretion but may be allowed only in case of illness or disability or for sickness prevention measures. In no event are earned sick days for illness or accident construed as additional vacation allowance.

- (a) Eligibility. A full-time employee is eligible to accrue one and one-quarter (1 1/4) days of paid sick leave, for each month of continuous employment during each fiscal year. Part-time employees accrue prorated sick leave based on the proportion of their hours worked relative to full-time employment. An employee is entitled to leave with pay only after such leave has been earned. An employee must notify

their immediate supervisor or Department Manager on the day when sick leave is being requested.

- (b) Temporary, seasonal and casual employees are not eligible for sick leave.
- (c) Sick leave will accrue in the first month of employment if the new employee has worked ten (10) days or more.
- (d) Certification of Illness. The Human Resources Director may require a certification from the attending physician for sick leave in excess of three (3) consecutive work days stating that such illness prevented the employee from working. Certification of illness shall include: explanation of why employee is unable to perform the essential functions of the job and anticipated duration of illness. The employee may not use sick leave if certification is not provided and other available leave shall be substituted. Leave without pay will be granted after all accrued leave has been exhausted. Where there is a pattern of excessive use of sick leave, as determined by the Human Resources Director, an employee may be required to submit documentation from their medical provider. If the Human Resources Director determines there is an abuse of sick leave, disciplinary action may be taken against the employee. In the event of absence due to accident or illness, prior to the employee's return to work, the County reserves the right to require a doctor's certification to confirm the employee's ability to perform the essential functions of the job.
- (e) When necessary, the Human Resources Director with the concurrence of the Department Manager, may allow use of sick leave in case of illness in the immediate family of the employee which requires the presence of such employee. Use of sick leave for a family emergency is limited to seven days, need not be consecutive calendar days, is allowed on an annual fiscal year basis and may not be accumulated if not used. Immediate family includes, spouse, domestic partner, children, step-children, parents, grand-parents, parent of a spouse, brothers or sisters, grandchildren, or other relatives with whom the employee is living in the same house.
- (f) Sick leave earned in public service other than Barnstable County government is not transferrable.
- (g) For employees recalled to service or rehired by Barnstable County within a period of six (6) months after being laid off will be credited with the balance of accrued sick leave as of their separation date.
- (h) Sick leave not used in the year in which it accrued is accumulated for use in a subsequent year.
- (i) Employees are expected to give notice of sick leave absence whenever possible on the first day of such absence, or otherwise at the earliest possible date.

- (j) An employee on unpaid Family Leave or absent without pay is not eligible to accumulate sick leave until he/she returns to continuous employment.
- (k) The County, subject to annual appropriation, provides a sick-leave buyback program to eligible employees. It is the responsible of the Department Manager to appropriate the necessary funds for this expense. The following criteria will apply:
  - (i) An employee who, at the time of completion of five years of continuous full-time service with the County, has accumulated at least 50 days of sick leave, may exchange up to 5 of these days to the County for one half day's pay per day exchanged. The total days exchanged to the County will be deducted from the employee's total accumulated sick leave.
  - (ii) An employee who, at the time of completion of ten years of continuous full-time service with the County, has accumulated at least 100 days of sick leave, may exchange up to 10 of these days to the County for one half day's pay per day exchanged. The total days exchanged to the County will be deducted from the employee's total accumulated sick leave.
  - (iii) An employee who, at the time of completion of fifteen years of continuous full-time service with the County, has accumulated at least 120 days of sick leave, may exchange up to 10 of these days to the County for two thirds day pay per day exchanged. The total days exchanged to the County will be deducted from the employee's total accumulated sick leave.
  - (iv) An employee who, at the time of completion of twenty years of continuous full-time service with the County, and every five years thereafter, has accumulated at least 150 days of sick leave, may exchange up to 10 of these days to the County for 1 (one) day's pay per day exchange. The total days exchanged to the County will be deducted from the employee's total accumulated sick leave.
  - (v) An employee wishing to sell sick leave to the County under the provisions of this section must give the County Payroll Office written notice of the employee's intention within 30 calendar days before the applicable eligibility date, i.e. the 5, 10, 15 or 20-year anniversary date. Failure to give the proper notice will constitute a waiver of the right to sell the sick leave at the particular eligibility date. An employee is eligible to participate in one sick leave buy back option for each defined anniversary.
- (m) Upon retirement, employees are eligible for payment of twenty percent (20%) of the dollar value of unused sick leave, up to a maximum of \$5,000. Payment is based upon the daily rate of compensation received by the employee at the time of retirement.

**8.6 SICK LEAVE BANK POLICY** Please refer to Appendix D.

**8.7 INJURY LEAVE** An employee injured on the job, however slightly, must immediately report the injury to his/her supervisor, and in no event later than twenty-four (24) hours after the occurrence of said injury. The supervisor or Department Manager must file a report of injury within forty-eight (48) hours to the County Administrator's office and to the Human Resources Director.

- (a) Injury leave is granted due to absence from duty caused by an accident, injury or occupational disease sustained directly in the performance of the employee's work. Accounting for time and payment of wages is determined by the provisions of Massachusetts General Laws.
- (b) Accrued leave, if available, is used for the first five days of injury leave or until lost wages are covered by Worker's Compensation Insurance. If it is determined that lost wages for the first five days will be paid through Worker's Compensation Insurance, an adjustment to restore used leave is made upon confirmation of said payment.
- (c) Compensation for lost wages due to a work-related injury is paid by the Department of Finance on regularly scheduled pay dates, and is not subject to tax assessments and payroll deductions. The employee is responsible for his/her share of group health, dental, and life insurance premiums. The County's obligation for payment of insurance will cease if the employee is more than thirty (30) days late with his/her monthly premium.
- (d) An employee absent due to a work-related injury accrues vacation and sick leave for the first ninety (90) days of leave.

**8.8 BEREAVEMENT LEAVE** This benefit enables an employee to take care of personal arrangements and issues related to death of a member of his/her immediate family. Employees other than those scheduled for another type of leave are eligible for bereavement leave for the death of a spouse, domestic partner, child, step child, parent, parent of a spouse, grandparents, brother or sister, grandchild, or a person living in the immediate household of the employee, for a period not exceeding four consecutive work days without loss of pay.

Part-time, temporary, and seasonal/casual employees are eligible for bereavement leave that will be calculated based on the proportion of their hours worked relative to full-time employment.

**8.9 MILITARY LEAVE** Regular full and part time employees are eligible for military leave of absence in compliance with the Uniformed Services Employment and Re-employment Rights Act ("USERRA") and all other applicable federal and state laws.

**8.10 CIVIC DUTY LEAVE** An employee summoned as a juror on behalf of the Commonwealth or any town, city or county of the Commonwealth or on behalf of the Federal government, will be granted a leave of absence with pay during the period of his/her jury duty upon submission of substantiating documentation to Payroll Office. An employee summoned as a witness as a result of employment with the County will be granted a leave of absence with pay during the period of his/her witness duty upon submission of substantiating documentation. An employee summoned as a witness not related to his/her employment with the County shall use his/her accrued leave. This does not apply to employees who are also in the employ of the Federal government or any private employer and who is summoned on a matter arising from that employment. Employees who receive their regular weekly salary from the County during the period of their jury/witness duty must remit to the County, immediately upon receipt, compensation for services (exclusive of pay for jury/witness duty on off-duty days.)

**8.11 FAMILY AND MEDICAL LEAVE (FMLA)** All employees who have been employed for at least one year, have completed at least 1,250 hours of service during the 12-month period immediately preceding the commencement of leave, and work at a worksite where at least 50 employees are employed by Barnstable County in a 75- mile radius, are eligible for leave under the Family and Medical Leave Act (FMLA). An eligible employee may request FMLA leave of up to 12 weeks based on a “rolling” 12-month period measured backward from the date of any FMLA leave usage. for any of the following reasons:

- (a) The birth or adoption of a child or the placement of a foster child with the employee, or to care for the employee's child during the first 12 months after birth or placement.
- (b) To care for the “serious health condition” of an employee's spouse, domestic partner (does not apply to MA residents), child, or parent. For purposes of this policy, a “serious health condition” is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the “continuing treatment” requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider; or one (1) visit and a regimen of continuing treatment; or incapacity due to pregnancy; or incapacity due to a chronic condition. Other conditions may meet the definition of “continuing treatment.”
- (c) The “serious health condition” of an employee that causes the employee to be unable to perform the functions of his or her position, including incapacity due to pregnancy, prenatal medical care, or child birth.

- (d) Any “qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on covered duty in the Armed Forces or National Guard or Reserves in support of a contingency operation. A “qualifying exigency” includes: (1) short notice deployment (limited to seven calendar days from date notified of deployment); (2) military events and related activities; (3) childcare and school activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation (limited to five days of FMLA leave); (7) post-deployment activities; and (8) additional activities, only as mutually agreed to by employee and Barnstable County.
- (e) Special leave entitlement relating to an employee’s family member in the Armed Forces:

A spouse, son, daughter, parent, or “next of kin” may request up to 26 workweeks of leave in a single 12-month period to care for a covered service member. A covered service member is: (a) a current member of the Armed Forces (including a member of the National Guard or Reserves) who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; in outpatient status; or on the temporary disability retired list; or (b) a veteran who: (i) has a serious injury or illness incurred in the line of duty on active duty (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty) for which the veteran is undergoing medical treatment, recuperation, or therapy and (ii) was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

### **Use of Leave**

The leave may be taken in one block of twelve (12) weeks, or if required, employees may take FMLA leave on an intermittent or reduced leave schedules (select days or hours, for example) when medically necessary to care for a seriously ill family member or a covered service member, because of the employee’s own serious health condition, or due to a qualifying exigency. Employees needing intermittent leave for planned medical treatment must make reasonable efforts to schedule the leave so as to not to unduly disrupt the Barnstable County’ operations.

### **Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. Such notice must be submitted in writing to the Human Resources Director. When 30 days’ notice is not possible, the employee must give notice of the need for such unforeseeable leave as soon as practicable under the facts and circumstances of the situation and generally must comply with Barnstable County’ regular call-in procedures for an absence or tardiness. Employees must provide sufficient information for Barnstable County to determine if the leave may qualify

for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform Barnstable County if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

### **Barnstable County Responsibilities**

Employees requesting leave will be advised whether they are eligible under FMLA. If they are, Barnstable County will provide notice of any additional information the employee needs to provide, as well as the employee's rights and responsibilities under the FMLA. If the employee is not eligible for the leave, Barnstable County will inform the employee and provide a reason for his/her ineligibility. The employee will also be informed if leave will be designated as FMLA-protected and the amount of leave that will be counted against the employee's leave entitlement, if possible. If it is determined that the leave is not FMLA-protected, Barnstable County will notify the employee of this fact, as well. An employee's failure to comply with Barnstable County's FMLA leave procedures can be grounds for delaying or denying an employee's request for FMLA-qualifying leave.

### **Use of Accrued Leave**

Employees must comply with Barnstable County's paid leave policies during an approved FMLA leave. All accrued available leave must be used during an approved FMLA leave prior to taking any unpaid leave.

### **Benefits and Protections**

During an approved FMLA leave, the employee's position will be held open to the extent required by the FMLA, and Barnstable County will maintain the employee's health coverage under any group health plan (if there is such coverage) on the same terms as if the employee had continued to work. Upon returning from FMLA leave, employees will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. Use of FMLA leave will not result in the loss of any available employment benefit that accrued prior to the start of the leave.

### **Unlawful Acts and Enforcement**

FMLA makes it unlawful for any employer to: interfere with, restrain, or deny the exercise of any right provided under the FMLA; or 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. An employee may file a complaint with the US Department of Labor or may bring a private lawsuit against an employer. (DOL contact information is: 1-866-487-9243; TTY 1-877-889- 5627; [www.wagehour.dol.gov](http://www.wagehour.dol.gov).) FMLA does not affect any federal or state law prohibiting

discrimination or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**8.12 LEAVE OF ABSENCE WITHOUT PAY :** An employee may request a leave of absence without pay for a specified period of time. A Department Manager is responsible for submitting all requests to the Human Resources Director for County Administrator's final decision.

During such leave, the employee will be eligible, at his/her own expense, to continue to participate in the Group Insurance Plan. Should the employee accept other employment during such leave, the balance of the leave is forfeited, and the employee terminated. Failure of the employee to report promptly at the expiration of such leave is considered a resignation. Leave without pay does not constitute a break in service. However, during leave without pay, vacation and sick leave do not accrue, and the employee's anniversary date may change as identified in Chapter 3, definition of "Anniversary".

**8.13 SMALL NECESSITIES LEAVE ACT** Employees who have been employed by Barnstable County for at least 12 months (July 1 - June 30) and for at least 1,250 hours in the previous 12 months may take up to a total of 24 hours of unpaid leave during any 12-month period. This leave may be taken intermittently or on a reduced leave schedule. If the leave is foreseeable, the employee must put the request in writing to his/her supervisor at least seven (7) days prior. If the leave is not foreseeable, written notice as soon as practical is required. The request for leave is in addition to the leave provided under the Federal Family and Medical Leave Act, to engage in such activities as:

1. Participating in school activities directly related to the educational advancement of the employee's children, such as parent-teacher conferences; or
2. Accompanying children to routine medical or dental appointments; or
3. Accompanying elderly relatives to routine medical or dental appointments or appointments for other professional services related to the elder's care.

**8.14 PARENTAL LEAVE** Requests for parental leave must be submitted in writing to the Human Resources Director, indicating the date the employee wishes to begin leave and expected date of return. Regular full-time employees are eligible for an unpaid parental leave upon completion of 90 days of employment.

Eligible employees are entitled to a leave of up to eight (8) weeks for the birth of his or her child, adopting a child under age 18 or adopting a person under age 23 who is mentally or physically disabled. This leave may run concurrently with any other leave where permitted by state and federal law.

Eligible employees are required to provide two weeks' notice of their expected departure date and intention to return to their job.

Employees may be required to provide proof of birth or adoption. Employees will be expected to return to work on the date indicated on their leave of absence request. If

employees wish to seek an extension in their leave of absence, they must send a written request to the Human Resources Director two weeks before the expiration of their leave.

While out on parental leave, employees shall be required to pay their portion of health insurance co-payment.

However, Barnstable County will hold the same or equivalent position for an employee to return to, provided the employee returns to work at the conclusion of the eight-week parental leave. If an employee should fail to return to work on scheduled date of return from parental leave, or work for another employer during leave, it will be deemed as a voluntary resignation from Barnstable County.

Employees covered by the Parental Leave Act are not required to use accrued paid time during their leave.

**8.15 DOMESTIC VIOLENCE LEAVE** Employees are eligible for domestic violence leave upon beginning employment in accordance with Domestic Violence Leave Act (M.G.L. c. 149, sec. 52E). An employee may take up to a maximum of 15 days off in a 12-month period, if either the employee or their family member as described below is:

- the victim of abusive behavior (such as domestic violence, stalking, sexual assault, or kidnapping);
- seeking medical attention, counseling, legal or other victim services directly related to the abusive behavior against the employee or family member of the employee.

For purposes of this policy, a family member includes not only legally married spouses but also:

- Persons "in a substantive dating or engagement relationship" AND who reside together;
- Persons having a child in common regardless of whether they have ever married or resided together;
- A parent, step-parent, child, step-child, sibling, grandparent or grandchild; or
- Persons in a guardianship relationship.

Employees must use accrued vacation; family/medical and/or other accrued leave to remain in paid status during a covered leave under this policy and use of such leave will run concurrently with leave under this policy. If no accrued leave is available, leave under this policy will be unpaid.

Human Resources Director shall request that advance notice of this leave (as required by the current leave policy) be made, unless there is an imminent danger or immediate health and safety risk to the employee (in which case - notification within 3 workdays that the leave was taken or is being taken must be provided). In the event that an employee takes this leave, documentation evidencing that the employee or family member has been a

victim of domestic violence or abusive behavior must be provided within 30 days of the leave request. Such forms of documentation may include:

- A court issued protective order
- An official document from a court, provider or public agency
- A police report or statement of a victim or witness provided to the police
- Official legal documentation attesting to the adjudication of the perpetrator
- Medical documentation of treatment for the abusive behavior
- A sworn statement from the employee attesting to being a victim of abusive behavior
- A sworn statement from a professional who has assisted the employee or the employee's family, for example, a counselor, a social worker or a member of the clergy

Alleged perpetrators of domestic violence are not entitled to leave under this statute.

## **CHAPTER 9**

### **RECRUITMENT AND SELECTION OF EMPLOYEES**

- 9.1 POLICY** Selection and appointment to all positions will be based solely upon job-related requirements and the applicant's demonstration that he/she possesses the skills, knowledge, abilities and other characteristics necessary for successful job performance, with reasonable accommodation in the case of disability. Employees who are laid off are given first consideration for subsequent vacancies for a period of six months provided their qualifications fulfill the requirements of the vacant position.

Employees may apply for any vacant position for which they meet the requirements. No Manager may prevent an employee from applying for a vacancy.

#### **9.2 RECRUITMENT PROCEDURES**

- (a) When a vacancy occurs, the Department Manager will review the functions, duties, responsibilities, and minimum qualifications of the position to ascertain whether the job description is still accurate or the job description needs to be updated. Any subsequent changes in the description or special qualification requirements for that position will be reported to the Human Resources Director along with a revised job description.
- (b) The Department Manager will determine if an employee within the department has the necessary qualifications to be promoted into the vacancy. If so, a recommendation of appointment will be forwarded to the Human Resource Director for County Administrator' approval. Recruitment procedures will then be followed for the vacancy created by the promotion.
- (c) The Department Manager submits a Notice of Job Vacancy to the Human Resources Director who is responsible for forwarding it to the County Administrator for County Commissioners approval.
- (d) The Human Resources Director posts the Notice of Job Vacancy on the bulletin board in the Superior Court House, and other designated posting areas, distributes to Department Managers for posting in each department and representatives of minority groups in Barnstable County. The Human Resources Director is responsible for directing the publication of the vacancy in such a manner as to ensure all interested and qualified individuals are informed of the title, duties and responsibilities, and salary range; minimum and special qualifications for the job; the time, place and manner of making application; and any other information which may be useful to applicants.

New positions and vacancies will be advertised at least once in a newspaper whose circulation area includes all of Cape Cod and when appropriate, be advertised in professional journals and newspapers with broader circulation.

Vacancies in a collective bargaining unit follow procedures established by the collective bargaining agreement governing that unit.

- 9.3 TEMPORARY EMPLOYMENT** Employees needed to meet conditions caused by seasonal workloads, special projects, illness, or absence of a regular employee may be hired on a temporary basis, not to exceed six (6) months. Temporary employees are released at the earliest possible time but no later than the return of the regular employee.
- 9.4 EMERGENCY EMPLOYMENT** In times of emergency, the County Administrator, or his/her designee, is authorized to hire emergency employees necessary to prevent the interruption of essential services of the department. The length of employment for an employee hired under this status will not exceed three (3) months.
- 9.5 APPLICATION FOR EMPLOYMENT** Each applicant for an advertised Job Vacancy must fill out and return a Barnstable County Employment Application. The application can be found on the County website at: [www.barnstablecounty.org](http://www.barnstablecounty.org) or can be provided by the County's Human Resources Director. Deliberately false or misleading statements and deception in attempting to secure employment will be grounds for rejecting an applicant and/or dismissal of an employee.
- 9.6 SELECTION PROCEDURES** The Department Manager will review the applications of all candidates who have applied for the position and will interview those candidates deemed best qualified to meet the established requirements.

The Department Manager will document the recommendation for selection and forward a Report of Filling a Position to the Human Resources Director. No selection and/or starting salary may be announced and no employee may begin work before approval and appointment by the County Commissioners or their designee.

If a retired County employee is selected for a position, his/her starting salary will be the first step within the grade for the position, unless otherwise determined by the County Commissioners.

Every effort will be made to inform the unsuccessful candidates within 30 days of filling a position.

A record of the recruiting and appointing process will be retained by the Human Resources Director after the vacancy is filled. This record will include: the job description; vacancy announcements; a listing of the source and methods of recruitment.

An offer of employment made to an applicant may be contingent upon the employee satisfactorily passing a physical examination by a certified physician acceptable to the County. The purpose of the examination is to determine if the prospective employee is medically qualified to perform the essential functions of the position.

An internal position transfer that requires substantially different job requirements as identified on the job description, may require a physical examination of the employee to ensure that the employee can perform the requirements of the position.

Certain positions may require a criminal history screening of the applicant. A Criminal Offender Record Information (CORI) check screening may be conducted in compliance with the Massachusetts Department of Criminal Justice Information Systems (DCJIS) regulations. Guidance on conducting a CORI screening is provided under Appendix E located at the back of this Manual.

**9.7 PROBATIONARY PERIOD** The probationary period is an integral part of the selection procedure allowing the supervisor, Department Manager and appointing authority to train, observe, and evaluate an employee's work in order to determine fitness for continuing in the position.

Each person promoted or appointed to a position is required to successfully complete a probationary period to enable the Department Manager to observe the employee's ability to perform the various principal duties of the position. The probationary period begins immediately upon original appointment and continues for six (6) months or, in the case of promotion, continues for three (3) months from the date of the appointment. The probationary period may be extended up to six (6) months. The probationary period is used to evaluate the employee's performance, conduct and work habits.

Before expiration of the probationary period the Department Manager notifies the Human Resources Director in writing that:

- (a) the employee's performance is satisfactory and the individual should be retained as a regular employee in the position; or
- (b) the employee's performance, due to extenuating circumstances, requires additional observation and the probationary period should be extended an additional six months; or
- (c) the employee's performance, conduct, and/or work habits are unsatisfactory, and his/her removal is proposed as of a specific date.

**9.8 REMOVAL OF A PROBATIONARY EMPLOYEE** At any time during the probationary period the Department Manager may recommend to the Human Resources Director and the County Commissioners the termination of a probationary employee. The employee will be notified of termination in writing stating the effective date of termination. An employee may be discharged during the probationary period at the will of the employer, with or without cause. The employee may not appeal this decision.

An employee may also be removed at any time if it is determined that information submitted before appointment was falsified.

## *CHAPTER 10*

### **PERFORMANCE APPRAISAL**

**10.1 PURPOSE**           The County recognizes the need for an effective performance appraisal system to:

- (a)    assess fairly and accurately an employee's strengths, weaknesses, and potential for growth;
- (b)    encourage and guide development of employees' special skills and work interests as well as recognize employees' outstanding accomplishments;
- (c)    award salary increases as appropriate;
- (c)    help strengthen the employee/supervisor relationships;
- (d)    provide a method of improving operational programs through employee input;
- (e)    identify professional development needs.

**10.2 PROCESS**    The annual appraisal is a summary of the supervisor's observations of the employee's performance during the past year (12 months) in terms of a variety of job-related factors. The annual performance appraisal should not be the employee's first exposure to feedback on his/her performance, but rather the information gathered throughout the year. The supervisor may seek the input from the Department Manager and any other supervisor that interacts with the employee and can comment on the employee's work performance. The appraisal may also include a plan to develop strengths, identify areas that need improvement and record the employee's observations of work assignments in the last year. Performance appraisals are conducted approximately forty-five (45) calendar days before an employee's anniversary date. This will allow the employee adequate time to appeal any decision prior to his/her anniversary date.

### **10.3 RESPONSIBILITIES**

The **Human Resources Director** is responsible for maintaining the employee performance appraisal in the employee's personnel file and for reviewing it to ensure consistency with the overall appraisal system.

The **County Commissioners** will conduct the performance appraisal of the County Administrator. They may also advise the County Administrator of all priority objectives they want a Department Manager to implement in the upcoming year.

The **County Administrator** will conduct the performance appraisal of County Department Managers and all the staff that he/she directly supervises.

**Multiples Member Bodies** are encouraged to utilize evaluation tools to establish goals and objectives internal to its structures for Department Managers working with them. Input is forwarded to the County Administrator for consideration in the Department Managers' performance evaluation.

The **Department Managers** are responsible for conducting performance appraisals for their employees in a timely manner. The Department Manager may seek input from the immediate supervisor(s) if needed.

#### 10.4 PROCEDURE

- (a) The supervisor will make a written evaluation of the employee's job performance considering any changes that have occurred in the job or other factors which might affect job performance and noting strengths and/or capabilities worthy of special mention and areas where improvement is needed. The written evaluation will also certify that the employee is performing either at an acceptable level or unacceptable level of competence for his/her position. Supervisors are encouraged to bring significant program observations and career development plans of employees to the attention of the appropriate Manager or Administrator.
- (b) The employee and supervisor will meet and begin the discussion with a review of the employee's current job description to clarify job requirements and duties assigned and to note any major changes which have taken place in the employee's job. The supervisor and employee should also discuss the employee's career development plans, special work interests, projects or assignments of interest, and training interests or needs. The employee's general observations of the department's programs and especially suggestions for improving assignments, functions and work procedures should be encouraged. The employee should take this opportunity to discuss any other performance related matters and may attach comments to the supervisor's evaluation. The employee will then certify that they have reviewed the appraisal and discussed it with their supervisor. If the employee refuses to sign, the supervisor should document this for the file. The employee's signature indicates the acknowledgment of receipt of the document only, not necessarily acceptance of its contents.
- (c) The Department Manager will sign the appraisal form and forward it to the Human Resources Director where it becomes part of the employee's personnel record.
- (d) Annual step increases are based on the employee's performance as provided in the written appraisal.
  - i. An employee receiving a completely satisfactory performance evaluation or higher is eligible for a step increase on his/her anniversary date.
  - ii. An employee receiving a less than satisfactory or unsatisfactory performance evaluation will have their step increase delayed and will be re-

evaluated within six months. The Supervisor is responsible for developing a Performance Improvement Plan as described below. If performance is brought up to a completely satisfactory level, the step increase will be awarded effective as of the date of the reevaluation. If performance remains below completely satisfactory, the step increase is denied.

- (e) The Appeals Process is defined in Chapter 14.2.

**10.5 PERFORMANCE IMPROVEMENT PLAN (PIP)** Any employee who exhibits substandard work performance shall be subjected to a Performance Improvement Plan (PIP) that may be included in the evaluation form or appended to it, and shall include:

- (a) the specific deficiencies observed in the employee's performance;
- (b) the necessary improvement;
- (c) the period of time in which improvement must occur; and
- (d) what further action will result if the employee fails to show satisfactory improvement.

The Performance Improvement Plan should be signed by both the employee and the supervisor and be maintained in the employee's personnel file. If the employee refuses to sign, the supervisor should document this for the file. The employee's signature indicates receipt of the document only, not necessarily acceptance of its contents.

If an employee continues to exhibit substandard work performance beyond the established time limits and below expected level, the options available to the supervisor include reassignment or termination.

## *CHAPTER 11*

### **PROFESSIONAL DEVELOPMENT**

**11.1 POLICY** It is the joint responsibility of the Department Manager and the County Administrator to foster and promote training programs, contingent upon funding, for the purpose of improving the quality of performance and aiding employees to equip themselves for advancement in County Service. Employees have the ultimate responsibility to seek and use appropriate development options to enhance their own career progress.

**11.2 IDENTIFYING TRAINING NEEDS** At the time of the supervisor-employee appraisal discussion, the supervisor and employee should discuss areas where training is needed or desirable for performance in the employee's present job or would be helpful in developing additional skills for growth into other positions in the County. The Department Manager should forward a written report of training needs to the County Administrator and include a request for funding these needs in the annual operating budget. Department Managers should keep themselves apprised of training programs that may be of help or interest both to themselves and their employees.

**11.3 ADMINISTRATION OF EMPLOYEE TRAINING PROGRAMS** The Human Resources Director coordinates information on training programs, provides assistance to departments in meeting their specific needs, develops supervisory and management training programs and assists in developing methods of evaluating training programs.

The Human Resources Director is responsible for keeping records of all approved training courses and programs and a record of employees who successfully complete such courses and programs.

**11.4 TUITION REIMBURSEMENT** In order to encourage County employees to further their educational, professional, and vocational development, the County may provide up-to 100% reimbursement of tuition and course related non-refundable registration fees for job related educational courses at the College Level and/or Graduate Level for full-time employees, contingent on the following:

- (a) The employee must have completed the probationary period prior to starting the course;
- (b) The employee must have the approval of the Department Manager and County Administrator prior to registering for the course;
- (c) The course must be taken from an accredited college, university, or technical school;
- (d) A passing grade, of 2.5 or the equivalent of a C grade, must be achieved;
- (e) The employee must remain with the county on a full-time basis at least twelve (12) months after the completion of the course. If an employee leaves County service or is no longer a full-time employee, within this 12 month window, the employee must reimburse the County in full for the cost of the course;
- (f) Availability of funds for the course;

- (g) Course attendance does not require time off from the job, which adversely affects the operation of the department;
- (h) The County will not reimburse an employee for his/her time or travel expenses to attend courses under this policy.

The County Administration has the discretion to limit an employee's eligibility for reimbursement to one class per semester/quarter.

**11.5 TUITION REIMBURSEMENT PROCEDURES** In order to effectively and equitably implement the County's tuition reimbursement policy, awards will be made based on the availability of funds on a per semester basis. Requests for tuition reimbursements are submitted to the Department Manager for County Administrator's approval. In order to allow for an equitable allocation between semesters, employees who plan on enrolling in a spring course should indicate their intentions during fall enrollment. All requests to attend classes on a reimbursement basis will include a course description.

**11.6 OTHER TRAINING** Other training opportunities, such as workshops, day long training or seminars, are encouraged. In these cases, Section 11.4 will not apply.

## *CHAPTER 12*

### **CONDUCT OF EMPLOYEES**

**12.1 POLICY** All persons employed by Barnstable County hold positions of public trust and must present themselves in a professional and appropriate manner. Employees are prohibited from engaging in any conduct which would reflect unfavorably upon the County. Employees who act in a manner not consistent with the standards described above will be subject to discipline.

If an investigation is warranted due to the conduct of an employee, the employee may be suspended with or without pay at the discretion of the County Commissioners upon recommendation by the Department Manager.

**12.2 ETHICS** County employees must avoid any action which may result in or create the appearance of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting County business. Employees are expected to adhere to conduct established by state law, M.G.L. 268A. Copies of M.G.L. 268A can be obtained from the Human Resources Director.

**12.3 RECEIPT OF GIFTS** Employees are expressly prohibited from soliciting or accepting gifts, gratuity, favors, entertainment, loans, or any other item of monetary value of \$50.00 or more from any person who has or may be seeking to obtain business with or privilege with the County, or from any person within or outside County employment whose interests may be affected by the employee's performance or nonperformance of official duties.

Acceptance of nominal gifts in keeping with special occasions, such as marriage, illness; food and refreshments in the ordinary course of business meetings; or unsolicited advertising or promotional material, e.g., pens, notepads, calendars of nominal intrinsic value is permitted.

**12.4 BUSINESS ACTIVITIES AND SOLICITATION** Employees are prohibited from engaging in any business other than their regular duties during working hours; this policy specifically forbids such activities as solicitation of fellow employees, lending of money for profit or any similar activity.

**12.5 OUTSIDE EMPLOYMENT** The County views a full-time employee's position with the County as his/her primary employment and any other employment as secondary. Such outside employment cannot in any manner interfere with proper and effective job performance, result in conflict of interest, or subject the County to public criticism or embarrassment.

**12.6 PRIVILEGED INFORMATION** Employees may deal with plans and programs of significant public interest. Employees must not use this privileged information for their own financial advantage or to provide friends and acquaintances with financial advantages,

or with information which could be used for financial advantage. If an employee finds that he/she has an outside financial interest which could be affected by County plans or activities, he/she must immediately report the situation to his/her supervisor. Each employee is charged with the responsibility of insuring that he/she releases only information that should be made available to the general public. Violation of privileged information or use for private gain is just cause for discharge of the employee.

**12.7 USE OF PROPERTY** Employees will not, directly or indirectly, use or allow the use of County property for other than official county business.

**12.8 POLITICAL ACTIVITY** All employees are entitled to exercise their rights as citizens, to express their opinions and to cast their votes.

Employees may not:

- (a) Engage in political activity during their working hours.
- (b) Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;
- (c) Directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.

## **CHAPTER 13**

### **DISCIPLINE**

**13.1 POLICY** All County employees are responsible for observing the policies and regulations set by the County Commissioners for the efficient operation of County departments. Failure to comply with standards of conduct or County rules and policies may result in discipline.

**13.2 DISCIPLINE** The County Administrator, Department Managers, and Supervisors are responsible for the proper and efficient operation of County departments and for enforcing all policies and regulations. Discipline will be carried out with the utmost concern for individuals involved and avoid intentionally embarrassing the employee being disciplined. The purpose of the procedure is to correct negative situations and enable the employee to achieve success on the job.

#### **13.3 PROCEDURES FOR DISCIPLINE**

- (a) Oral Reprimand A Department Manager may reprimand the employee for action warranting discipline. The warning is given with regard for minimizing embarrassment to the employee and includes suggestions as to how the behavior or performance can be improved. An oral reprimand is noted in the employee's personnel file.
- (b) Written Reprimand After an oral warning, or as otherwise warranted, the Department Manager can issue a written warning to the employee including reasons for the warning and an offer of assistance in correcting the unsatisfactory situation. A copy of the reprimand is placed in the employee's personnel file and carries a specified period in which the behavior will be improved. The employee may prepare his/her written response to accompany the written reprimand in the employee's personnel file.
- (c) Suspension A Department Manager may temporarily suspend an employee without pay for a maximum of five (5) working days. All suspensions will be reviewed by the County Administrator, or designee, within one business day for affirmation of the Department Manager's decision. The purpose of a suspension is to serve as a final warning to an employee that continued misbehavior or poor performance may result in discharge. Suspension is generally imposed only when prior warnings or reprimands have not caused the employee to bring his/her performance or behavior up to the expected standard. In some cases involving serious misconduct, suspension may be the first disciplinary action taken.

A Department Manager will document a suspension in writing and forward to the Human Resources Director for retention in the employees' personnel file.

- (d) Dismissal The County Commissioners, or their designee, may terminate an employee for good cause after consultation with the Department Manager recommending dismissal. The employee must be given a written notice signed by the Appointing Authority specifying the effective date of termination, the charge, the specific behavior and the dates (where appropriate) that support the charge, and any circumstances affecting the severity of the discipline. The employee is eligible for a hearing before the County Commissioners within fourteen (14) days of the date of dismissal. Employees having rights under M.G.L. Ch. 35, s.51 or under Ch. 32, S.16, are not to be dismissed except in accordance with the procedures of the applicable statute.
- (e) Discipline is generally a progressive procedure; however, suspension or dismissal may be the initial step taken depending upon the severity of the offense.

**13.4 PRIVACY OF INFORMATION** In all instances both the employee's right to privacy and the right of the public to have access to public information are preserved by the observance of the appropriate statutes and laws governing both.

## CHAPTER 14

### GRIEVANCE AND DISCRIMINATION COMPLAINT PROCEDURES

*The grievance provisions in this section do not apply to any employee who is subject to a collective bargaining agreement between the County and union employees.*

- 14.1 COMPLAINT POLICY** A complaint will be kept confidential to the maximum extent possible. If an employee is found responsible for wrongdoing, appropriate discipline will be taken against the offending employee.

The County of Barnstable prohibits any form of retaliation against an employee for filing a complaint under this policy or for assisting in a complaint investigation. However, if after investigating a complaint of harassment or unlawful discrimination, the County determines that the employee has knowingly provided false information regarding the complaint, discipline may be taken against the individual who filed the complaint or who knowingly gave false information.

- 14.2 GRIEVANCE AND DISCRIMINATION COMPLAINT RIGHTS** An employee who feels that he/she has received inequitable treatment because of some condition of employment or who feels he/she has been discriminated against on the basis of race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, ancestry or status as a veteran, or any other non-merit factor (except where such a factor is a bona fide occupational requirement); or who has experienced job-related harassment or intimidation based on sex, race, or another factor, may personally, or through his/her representative, appeal for relief from that condition. A non-selected applicant for employment who believes he/she was unlawfully discriminated against in the examining and selection may also appeal. It is understood that issues involving increase or decrease of general wage rates or salaries and issues not having to do directly and primarily with the day-to-day working life of the employee and relationships with his/her supervisor shall not be considered the subject of a grievance.

- 14.3 GRIEVANCE PROCEDURE** Related grievances may be consolidated and processed as a single issue. Every effort will be made to resolve the grievance at the lowest possible level. Unless otherwise provided for in an applicable labor agreement and except for probationary, seasonal or temporary employees, all grievances shall be handled in accordance with the following procedures:

- (a) The employee or representative presents in writing his/her grievance to the Department Manager within ten (10) calendar days of the action being grieved or the employee's knowledge of the grieved action. The Department Manager responds in writing to the employee within five (5) calendar days.
- (b) If such grievance is not resolved by the Department Manager to employee's satisfaction, within ten (10) calendar days, the employee or representative presents, in writing, to the County Administrator, information pertaining to the specific

section of the Plan which has been misapplied, the date and time, and any other pertinent facts or circumstances. The County Administrator or his/her representative responds within fourteen (14) days of the presentation of the grievance.

- (c) If the grievance remains unsettled, the employee must submit in writing to the Board of County Commissioners, within ten (10) days from the date of the County Administrator's decision, his/her request for a hearing. The County Commissioners or hearing officer will respond to the grievance within fourteen (14) days of the date of the hearing. This decision is final.

The Board of County Commissioners may elect to assign the responsibility for conducting the hearing to a hearing officer. The hearing officer shall be chosen by the Board of County Commissioners.

- (d) Failure by the employee to respond within the listed time frames is deemed an acceptance of the decision of the previous level.

**14.4 DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE**

Is described in Appendix A.

**14.5 SEXUAL HARASSMENT COMPLAINT PROCEDURE**

Is described in Appendix B.

**14.6 ADA POLICY AND PROCEDURES**

Is described in Appendix F

**14.7 ADA GRIEVANCE PROCEDURE**

Is described in Appendix G.

## ***LIST OF APENDICES***

- Appendix A Barnstable County Harassment of Individuals in Protected Classes Policy and Procedures
- Appendix B Barnstable County Sexual Harassment Policy
- Appendix C Barnstable County Emergency Closure Procedures
- Appendix D Barnstable County Sick Leave Bank Policy
- Appendix E Barnstable County CORI Policy
- Appendix F Barnstable County Americans with Disabilities Act Policy and Procedures
- Appendix G Barnstable County Americans with Disabilities Act Grievance Procedures
- Appendix H Barnstable County Telecommuting Policy
- Appendix I Barnstable County Drug and Alcohol-Free Workplace Policy
- Appendix J Barnstable County Social Media Policy
- Appendix K Barnstable County Vehicle Use Policy
- Appendix L Barnstable County Pregnancy and Pregnancy-Related Conditions Policy