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QUAY COUNTY
ORDINANCE No. 20

AN ORDINANCE ADOPTING THE QUAY COUNTY
PERSONNEL CODE AND RESCINDING ORDINANCE NO. 11

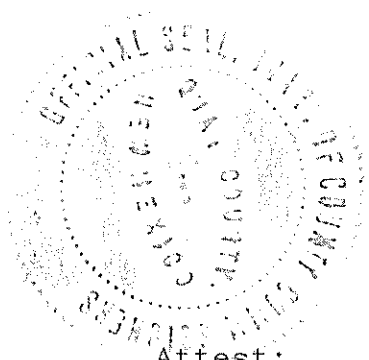
WHEREAS, the Board of Commissioners of Quay County, New Mexico wish to adopt an Ordinance revising the Quay County Personnel Code pursuant to §4-38-13 to 4-38-19, NMSA 1978, and

WHEREAS, the Board of Commissioners of Quay County, New Mexico have the authority to adopt such policies, rules and regulations pursuant to §4-37-1 to 4-37-9, NMSA 1978.

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of Quay County that the Quay County Personnel Code attached hereto and incorporated herein as Exhibit A is approved and adopted, and

BE IT FURTHER ORDAINED that all previous rules and regulations of Quay County Personnel Ordinance No. 11 are rescinded and abolished.

ADOPTED this 11th day of April 1994.



BOARD OF COMMISSIONERS OF
QUAY COUNTY, NEW MEXICO

Glenn Briscoe
Glenn Briscoe, Chairman

Attest:

Jeannette Maddaford
Jeannette Maddaford, County Clerk



STATE OF NEW MEXICO } SS
COUNTY OF QUAY }
I hereby certify that this instrument was filed
for record at 10:50 o'clock A.M. on
FEB 10 1995
Misc. 893-919 page 92 of the record
Jeannette Maddaford County Clerk
By: _____ Deputy

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PERSONNEL CODE REVISIONS

ARTICLE I INTRODUCTION

Section 1 Title and Authority

This Ordinance shall be known as the Quay County Personnel Code and is adopted pursuant to Section 3-13-4 NMSA 1978 and Sections 4-37-1 through 9, NMSA 1978.

Section 2 General Authority to Manager

This Personnel Code is subject to unilateral change by the Quay County Board of Commissioners at anytime, including changes to benefits provided and personnel practices. Such changes would apply to present and future employees of the County. This Personnel Code does not and is not intended to create a contract between Quay County and any employee.

Section 3 Authority to Promulgate Policies, Rules and Regulations

The County Commission shall have authority to adopt such policies, rules and regulations as are reasonably necessary to implement the purposes of this Ordinance.

Section 4 Table of Organization

The County Commissioners shall from time to time adopt by Resolution a Table of Organization, and may transfer employees and/or service functions within the County government through the revised Table Organization.

Section 5 Coverage of Service

A. All employees holding positions in County service shall be covered by the Personnel Ordinance and the Personnel Rules and Regulations. All the previous policies, rules and regulations of the Quay County Personnel Ordinance No. 11 are hereby rescinded and abolished.

B. Organizational Activity

No employee shall be intimidated, coerced, threatened, or pressured into joining or not joining any organization. No organization or its representatives may interrupt or interfere with the normal conduct of County business.

ARTICLE II RECRUITMENT

Quay County desires to obtain the best possible employees and affords equal opportunity for employment to all. In order to achieve this goal, the following recruitment procedure shall apply.

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Section 1 Application Procedures

- A. Each applicant for employment with the County shall fill out an application form, which will be kept active for a period of six (6) months.
- 1) If an applicant desires to apply for more than one position at a time, the applicant will request the application be considered for other positions. A copy of the original application will be placed in an applicant file for those additional positions.
 - 2) All applications shall be signed, dated, and the truth of all statements contained therein certified by the applicant's signature.
 - 3) Any false statement of fact made on the application shall be grounds for rejection or dismissal from employment. All applicants will be required to sign a release of information form which will be sent to past employers.

B. General Requirements

Evidence of job performance and capability, experience, education, training, skills, and other abilities are carefully considered in reviewing individual qualifications. Applicants shall submit documented proof of the possession of any license, certificate, degree, or any other documentation of qualifications stated in the job description at the time interviewed. Applicants must meet all State and County employment requirements for the position.

C. Information Requested

No questions on the application shall be worded to elicit information concerning the race, national, or ethnic origin of the applicant or his political or religious opinions or affiliations, except that information required to assist with Equal Employment Opportunity efforts. Nor shall inquiry be made concerning such origin, opinions, or affiliation during any interview. All such disclosures shall be disregarded.

D. Drug Testing

Quay County has adopted a Drug-Free workplace policy requiring all applicants selected for employment to be tested for the presence of illegal drugs. Refusal to take the test or positive test results shall be considered a reasonable basis for withdrawal of the job offer.

Section 2 Upward Mobility Positions

A. Posting

When a position is vacant for which a regular full-time employee may qualify, an elected official or department head may choose to post the vacancy as an Upward Mobility position. All employees seeking promotion or transfer into the position must meet the basic qualifications for the position for which they are applying and complete any physical or performance examinations generally required for the position. Each employee must update his/her resume or list of job qualifications as part of an upward mobility application.

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B. Job Announcement

If the elected official or department head does not find an acceptable candidate for the position after interviewing the qualified applicants for the Upward Mobility posting, the position will be advertised for open recruitment.

Section 3 Posting and Advertising

For each vacancy within the County, a job announcement will be prepared listing the position and basic qualifications. All job announcements shall be posted for at least ten calendar days on designated bulletin boards in the County offices and other County work sites. Job announcements shall indicate a closing date, after which applications will not be accepted. All vacant positions which are not posted as Upward Mobility positions shall also be advertised in a newspaper of general circulation in Quay County at least five days prior to the closing date.

Article III Selection Procedures

Section 1 Performance Tests

The appointing authority may determine that all candidates for a specific position may be required to take a performance test which measures skills or abilities needed to perform the essential functions the position. The requirement to take a performance test will be posted as part of the job announcement and/or advertisement and will apply to all candidates for the position.

Section 2 Physical Examinations

After making an offer of employment to a job applicant and before the applicant begins his or her employment with the County, the applicant shall be required to take a physical examination. Physical examination shall be performed by a licensed physician chosen and paid by the County. An offer of employment with Quay County is conditioned on certification of eligibility for appointment to the position by the examining physician.

Section 3 Interview

Interviews will be scheduled with at least the top ten percent of the candidates meeting the minimum qualifications for the position. The hiring elected official or department head may choose to interview more than the minimum number of candidates before making a final selection.

Section 4 Basis for Final Selection

Final selection for a position will be made by the department head or elected official and will be based upon the following: 1) Skills and/or proficiency tests; 2) Education, background and experience; 3) Physicians certification; and 4) Personal interview.

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A. Initial Employment

When an offer of employment is made, a Quay County employment form must be signed by the applicant and the appropriate elected official or department head stating the proposed rate of pay and starting date. The County Manager will certify the employment process and present the results to the Commission at their next regularly scheduled meeting.

B. Discrimination

No person shall on the grounds of age, race, color, national origin, religion, disability, gender, political affiliation or marital status be denied the benefit of employment or be subject to discrimination by Quay County.

Section 5 Ineligibility

Applicants will be considered ineligible for employment and/or disqualified from further employment for any of the following:

- a) Making a false statement on employment application;
- b) Failure to complete the employment physical, or failure to be certified as able to perform the duties of the position by the examining physician.
- c) Failure to fulfill the statutory requirement of 4-41-8, NMSA 1978 if applying for a position as deputy sheriff;
- d) Failure to meet criteria for insurance or bonding as required by county or state law;
- e) Previous dismissal from county service as a disciplinary measure;
- f) Conviction for a felony offense or a misdemeanor involving moral turpitude where the criminal conviction directly relates to the employment position under the provision of the Criminal Offender Employment Act, (NMSA 1978 Section 28-2-1).
- g) Applicants for positions where the job description includes driving county vehicles or equipment if the applicant has been convicted of DWI or other drug related crimes within the past three years.

Section 6 Nepotism Policy

- a) No person elected or appointed to any public office or position under the laws of this state or by virtue of the Quay County Personnel Ordinance, will employ as clerk, deputy, or assistant whose compensation is to be paid out of public funds, persons related by consanguinity (of the same blood; related by birth) or affinity (relationship by marriage, i.e., father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, including nieces and nephews) within the third degree to the person

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giving such employment, unless such employment shall first be approved by the Board of County Commissioners. This provision shall not apply where the compensation of such clerk, deputy, or assistant shall be \$600.00 or less per year (NMSA 1978, Section 10-1-10, 1987 Repl. Pam.).

- b) Employees who are working for the County when a newly elected or appointed official takes office and who are related by consanguinity or affinity to said officials are exempt from the provisions of this section.

Section 7 Return to Employment

Re-employment consideration will be given in the following order provided that the applicant meets the basic qualifications:

1. Employees returning from military service
2. Employees on an approved leave of absence or medical leave
3. Employees laid off as a result of a reduction in force
4. Former full-time and part-time employees who left County employment in good standing
5. Temporary employees

ARTICLE IV EMPLOYMENT

Section 1 Job Description

A position is the aggregate of the duties and responsibilities requiring the services of one individual. A job description is a listing of these duties and responsibilities, along with other factors affecting the position, such as pay range, line of authority, and qualifications. The purpose of the job description is to allow the individual holding a particular position to know what is required of him by his employer. Job descriptions may be frequently updated and revised as the duties and responsibilities of the position change. Due to the size of Quay County and the small number of employees, employees may be called upon to perform varied work assignments. On-the-job training and cross training can be expected in many positions.

A. Revision of Job Descriptions

Supervising department heads/elected officials shall provide a comprehensive description of the duties and responsibilities of each position in their respective departments to the County Manager, and shall notify the Manager in writing of each permanent change of duties, responsibilities, authority or work assignment for positions under their supervision. The County Manager shall audit the actual or suggested duties and shall recommend a job description and salary grade to the County Commission for their final approval and adoption.

B. Appointment

No person may be appointed or promoted into a position until a job description and salary grade has been adopted by the Commission.

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C. Incumbents

When a job description is revised, a regular full time employee holding the previously described position shall continue to hold the position.

Section 2 Salary

All starting salaries and salary increases shall be recommended by the elected officials or department heads to the Board of County Commissioners, who approve all salary requests based on the Quay County Compensation Plan. In certain circumstances, the hiring authority may request that a new employee start at a higher salary than recommended by the Board of Commissioners because of the employee's extraordinary related work experience.

A. Pay Raises

Pay raises will be considered in conformance with the Compensation Plan.

B. Final Approval

Final approval of employee compensation lies with the Board of County Commissioners.

Section 3 Types of Employment

All positions of trust, compensation or employment in the service of Quay County are hereby divided into unclassified or classified service.

A. Unclassified

An unclassified employee may be either a full-time employee who is exempt by definition under the requirements of the Fair Labor Standards Act OR may be a newly hired employee on probation OR an employee who works less than 1,560 hours per year. Unclassified service shall consist of:

- 1) All Elected Officials
- 2) One Chief Deputy employed by the Assessor
- 3) One Chief Deputy employed by the Clerk
- 4) One Chief Deputy employed by the Treasurer
- 5) One Under-Sheriff and an Executive Secretary both employed by the Sheriff
- 6) the County Manager
- 7) the Road Superintendent
- 8) Detention Center Administrator
- 9) Assistant Detention Center Administrator
- 10) All probationary employees
- 11) All part-time employees
- 12) All temporary employees

Unclassified employees shall not earn overtime pay nor accrue compensatory time-off. In cases where a full-time classified employee is promoted to an unclassified position, his/her accumulated compensatory time shall remain on record and may be used with the approval of his/her supervisor.

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B. **Classified**

Classified service shall include all regular full-time positions not listed in section 4 C.1. A Classified employee is covered by the Fair Labor Standards Act.

Section 4 Initial Probationary Period

All persons hired to fill positions in classified service shall serve a probationary period of one hundred and eighty consecutive calendar days with the exception of employees in the Sheriff's Department. Employee in the Sheriff's Department shall serve a probationary period of one year. A probationary period shall not include time served as a temporary or part-time employee. A probationary employee may not apply for transfer or promotion until they have completed the probationary period.

A. **Probationary Discharge**

Dismissal During Initial Probation - the supervising elected official or department head may at any time during the initial probationary period of an employee discharge said employee. Upon written notification to the employee, the discharge shall be considered final with no right of appeal.

B. **Promotional Probationary Period**

Any classified employee promoted from one position to another in a higher salary grade shall be subject to a probationary period of ninety (90) consecutive calendar days.

C. **Voluntary Return to Previous Position**

At any time during the promotional probationary period, an employee shall have the express right to request and receive approval to return to the previous position and corresponding salary held immediately prior to promotion.

D. **Failure of Promotional Probationary Period**

The appointing department head/elected official may at any time during an employee's promotional probationary period return an employee to the position and salary held immediately prior to the promotion.

Section 5 Regular Full-Time Status

A. **Appointment**

Appointment to regular full-time status following the probationary period shall be based on satisfactory performance and evaluation by the immediate supervisor. It shall be the responsibility of the supervisor to prepare a written performance evaluation before the completion of the employee's probationary period.

B. **A Full-Time employee regularly works forty (40) hours per week and is paid an hourly wage or annual salary and full benefits.**

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Section 6 Part-Time and Temporary Employees

A. Definition - Part-Time

A Part-Time employee is one who works twenty (20) hours or less per week for an hourly wage and whose total hours worked do not exceed 1,560 hours in any twelve consecutive month period.

B. Benefits

A Part-Time employee is not eligible for employment benefits i.e. leave, PERA or insurance.

C. Definition - Temporary

A Temporary employee shall be defined as any employee who is employed for a specific period of time not to exceed eight (8) consecutive calendar months or who is employed on a seasonal or as-needed basis.

- 1) Temporary employees may be paid at an hourly rate or a set amount for a specific job.
- 2) A Temporary employee who works more than twenty (20) hours a week is required to become a member of PERA.
- 3) A Temporary employee is not eligible for benefits such as (but not limited to) leave, or insurance.

ARTICLE V CONDITIONS OF EMPLOYMENT

Section 1 Hours of Work

- A. Full-time employees shall work forty (40) hours per week, except for Sheriff's Deputies, who shall work a tour of duty as set by the Sheriff. Actual working hours may fluctuate at the discretion of elected officials or department heads.
- B. The Road Department shall work four ten-hour days. The working hours of the Road Department are subject to change by the Road Superintendent.
- C. The Courthouse Maintenance Department will work a minimum eight-hour day divided between a morning and evening shift.
- D. Employees of the Detention Center work twelve (12) hour shifts in four and three day combinations for an average forty-two hour work week.

Section 2 Attendance and Absenteeism

- A. Employees are expected to report for work promptly and consistently. Absence should be reported to the employee's immediate supervisor prior to the time the employee is to report to work, or as soon thereafter as is practical.

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- B. An absence is authorized when the employee notifies the supervisor and the supervisor grants permission for the employee to be absent.
- C. Unauthorized absences are those not approved by the employee's department head, supervising elected official, or immediate supervisor.
 - 1) Unauthorized absences from work for three (3) consecutive work shifts will be considered an automatic resignation.
 - 2) Any unauthorized absences will be grounds for disciplinary action up to and including dismissal.
- D. Supervisors shall maintain a written record of tardiness and absences. These records will be kept in the employee's personnel time sheet folder in the County Manager's Office.

Section 3 Dress and Personal Appearance

County employees are constantly on view by the public. It is important therefore that employees present the best possible image to the public, and they should always be dressed cleanly and as neatly as work assignments allow.

Section 4 Employee Safety Manual

All employees are required to read and abide by the safety rules and regulations established in the Quay County Safety Manual and any supplemental safety rules set forth by their supervisor. Failure to follow these rules and regulations is grounds for disciplinary action.

A. Unsafe Conditions

Unsafe conditions existing in the work environment shall be reported immediately to the supervisor in order that corrective action may be taken. Machinery and/or equipment which is unsafe to operate should be labeled in order that it will not be used until necessary repairs have been made

B. Accidents and Injuries

Accidents and injuries shall be reported to the supervisor immediately and a "First Report of Injury" form shall be filed within twenty-four (24) hours. This report shall be signed by the employee and his immediate supervisor and forwarded to County Manager's office. All accidents and injuries shall be reported, however minor. Failure to report an accident will be grounds for disciplinary action.

C. Personal Protective Equipment

Protective equipment for certain jobs will be required by supervisors and must be worn by employees during the duration of the job which requires protective equipment. Failure to do so when it has been prescribed will be grounds for disciplining action. On assignments requiring personal protective equipment, the required equipment shall be issued to the individual employee, and he shall be responsible for same until it is returned at the completion of the job. Supervisors may grant exceptions to the return policy for personnel equipment which has been individually fitted to an employee.

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Section 5 Performance Evaluations

All probationary employees will be given an employment evaluation before the end of their probationary period. Additional evaluations will be conducted annually before adoption of the new fiscal year budget.

Section 6 Reduction-in-Force

- A. The Board of Commissioners may order a reduction in personnel by layoff due to lack of work, lack of funds, reasons of economy, termination of a program/project or reorganization. In the event that a layoff is deemed necessary, the employees affected shall be given two (2) weeks notice of such action. Layoffs shall be made in the following order:
- 1) Temporary employees
 - 2) Probationary employees
 - 3) Part-time employees
 - 4) Regular full-time employees
- B. When more than one employee holding the same or similar positions are to be laid off, the order of discharge will be based on the following criteria:
- 1) Versatility in job skills and/or knowledge of departmental procedures
 - 2) Overall job performance and evaluations;
 - 3) Length of service with the County
- C. Reductions-in Force are not grievable.

Section 7. BREAKS

Lunch breaks are normally one (1) hour except for the Road Department which has established a thirty (30) minute lunch break. Supervisors may limit or delay breaks if continuous work is required on a specific day. The remainder of the break or the delayed break shall be taken at a later time determined by the supervisor. There is accrual of break time.

Section 8 Resignation

An employee wishing to voluntarily terminate employment with Quay County shall submit a written letter of resignation to his/her supervisor at least ten (10) days prior to the last day at work stating the effective date of the resignation, proposed last day at work and the reason for leaving county employment.

- A. The County Manager after discussion with the supervising department head/elected official may alter or amend the actual termination date as proposed by the employee.
- B. Failure of any employee in giving the required ten day notice shall be recorded on his/her service record and shall be cause for denial of future employment with the county.

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ARTICLE VI LEAVE

Leave is any authorized absence, with or without pay, during regularly scheduled work hours which is approved by the employee's supervisor.

Section 1 Annual Leave

A. Every official or employee in County service except part-time and temporary personnel shall accrue annual leave with pay for each full pay period of paid continuous employment at the following rates:

<u>Total Years of County Service</u>	<u>Accrual Rate Per Pay Period</u>	<u>Annual Maximum</u>
One year but less than five	3.077 hours	10 days
Five years but less than ten	4.616 hours	15 days
Fifteen or more	6.153 hours	20 days

B. After fifteen (15) years of continuous employment, an employee may accrue up to thirty (30) days of annual leave which the County will pay upon retirement or resignation.

C. Annual leave shall not be granted prior to the completion of one year of continuous service.

D. Annual leave shall be requested and approved in advance of absence. Reasonable efforts will be made to accommodate employee requests in line with operational requirements of the department.

E. Upon approval by the supervisor and the elected official or department head, accrued annual leave may be authorized to be taken all at one time or divided into different times at the request of the employee.

F. Designated County holidays occurring during an employee's vacation shall not be considered or charged as part of the annual leave.

G. All annual leave accrued as of the end of a calendar year must be taken within the following calendar year or it shall be forfeited. Upon receiving a timely request from an employee, the County Commission may during a regularly scheduled Commission meeting grant special approval for accrued leave to carry forward.

H. Upon termination, an employee who is eligible to accrue annual leave will be paid for any accrued unused annual leave.

I. Annual leave shall not accrue while an employee is on leave without pay.

J. The provisions of section 1.A. are considered minimum leave standards for Elected Officials.

Section 2 Sick Leave

All employees in the County service, except part-time and temporary employees, shall accrue sick leave with pay at the rate of 3.69 hours per pay period.

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- A. Sick leave may only be used by an employee when unable to perform job duties due to sickness, injury or quarantine.
- B. Sick leave credit may be accrued without limit and such leave may be granted in periods of not less than one hour.
- C. Employees using sick leave shall notify their supervisor as soon as possible of their absence and estimated date of return to duty. After use of sick leave in excess of five (5) consecutive work days, a supervisor may require a physician's certification that the employee may return to work.
- D. Sick leave shall not be charged on days designated as County holidays which occur during an employee's absence on sick leave.
- E. Payment for unused sick leave shall not be made.
- F. Reinstated employees shall not receive credit for previously unused sick leave except in cases of reinstatement from dismissal or in cases of full-time employees who succeed to County elected office and then return to full-time employment.

Section 3 Family and Medical Leave

In conformance with the Family and Medical Leave Act (FMLA), eligible employees will be granted up to twelve (12) weeks of leave for the following reasons:

- a) The birth of a child, the adoption of a child;
 - b) The placement of a foster child;
 - c) The care of a sick spouse, child, or parent if that individual has a serious health condition; or
 - d) Due to the employee's own serious health condition.
- A. For the purpose of this ordinance, a serious health condition means an illness, injury, impairment, or physical or mental condition that involves in-patient care in a hospital, hospice, or residential care facility or continuing treatment by a health care provider.
 - B. An employee must have been employed by the County for at least twelve (12) months and for at least 1,250 hours during that twelve month period to be eligible for Family or Medical leave.
 - C. An employee will not be eligible for additional Family or Medical leave for a period of twelve months after the initial leave begins.
 - D. An employee is required to substitute all available accrued annual leave, sick leave or compensatory time at the beginning of Family or Medical leave. Once all paid leave is used, the remainder of the twelve weeks shall be leave without pay.
 - E. Leave taken for the birth, adoption or placement of a foster child may not be taken on an intermittent or on a reduced leave schedule without the authorization of the employee's supervisor.

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- F. Where Family or Medical leave is taken to care for a sick family member with a serious health condition or due to the employee's own serious health condition, the leave may be taken intermittently or on a reduced schedule when medically necessary.
- G. When the necessity for leave is foreseeable, the employee must provide at least thirty (30) days notice of the intention to take leave. If the date of leave is not foreseeable, the employee must provide notice as soon as practicable.
- H. The County shall require that a leave request based on a family member's illness or the employee's own serious health condition be supported by a physician's certification. The certification must contain:
 - 1) The date the serious health condition began, the probable duration of the condition, the appropriate medical facts regarding the condition;
 - 2) If the leave is based on care of a spouse, child or parent, a statement that the employee is needed to care for the individual and the estimated amount of time needed for that care.
 - 3) If the leave is based on the employee's own illness, a statement that the employee is unable to perform the functions of the job;
 - 4) In the case of intermittent or reduced leave for planned medical treatment, the dates the treatment is expected to be given and the duration of treatment.
- I. An employee who takes Family or Medical leave is entitled to be restored to his or her previous position or to an equivalent position. An employee is not entitled to an accrual of seniority or PERA or to group life or disability insurance for the leave period.

Section 4 Injury Leave

Any full-time Classified or Unclassified employee who suffers an on-the-job injury which results in inability to perform the duties of the position in which that person is employed, shall be placed on Injury-Leave-Without-Pay status after seven (7) consecutive calendar days incapacitation or absence from work. The first seven (7) calendar days absence or incapacitation shall be classified as Injury-Leave-With-Pay.

- A. Injury-Leave-Without-Pay shall terminate:
 - a) Upon any lump sum award of Worker's Compensation benefits
 - b) Upon return to work
 - c) Upon lump sum award of Worker's Compensation benefits and return to work
 - d) Upon termination of weekly Worker's Compensation benefits
 - e) upon the worker's death

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- B. In no event may an employee receive both a salary and weekly Worker's Compensation benefits. On receipt of any lump sum award of Worker's Compensation benefits or upon termination of weekly Worker's Compensation benefits, the employee must either return to work or be subject to termination from employment.
- C. An employee who is certified by a licensed physician to be partially disabled due to an on-the-job injury and who desires to return to work after termination of weekly Worker's Compensation benefits or receipt of lump sum award shall receive every practicable consideration by the County for placement in a position compatible with the disability. If the County is unable to place the employee, employment may be terminated involuntarily without prejudice.

Section 5 Military Leave

Any regular full-time employee who presents official orders requiring attendance for a period of training or other active duty as a member of the United States Armed Forces or the New Mexico National Guard shall be entitled to military leave with pay for a period or periods not exceeding a total of fifteen (15) calendar days in any one calendar year.

- A. Any regular full-time employee who leaves a County position for the purpose of entering the Armed Forces of the United States, or enters service as a member of the New Mexico National Guard or as a member of any of the reserve components of the Armed Forces of the United States shall, if discharged, separated, or released from such active military service under honorable conditions be restored to employment in the same position as held at the time of induction, enlistment or order to active Federal or State military duty or service if still physically qualified to perform the duties of such position.
- B. Employees voluntarily or involuntarily ordered to active duty, beyond the paid military leave period, shall be granted military leave of absence without pay for the amount of time necessary to complete any emergency period or training program. All benefits, seniority and County employment status for such employees shall be retained up to a period of two years, or in the case of an extension of such military service at request of the federal or state government, for the duration of the extended period of service providing the employee requests reinstatement within sixty (60) days of discharge. Any employee granted military leave of absence without pay shall not continue to accrue wages, annual leave, sick leave, seniority or Public Employees' Retirement Act service credit or other benefits conditioned upon actual service of performance of the job.
- C. Any employee reporting back to County employment after military leave of absence without pay shall provide the county with written documentation that the employee is physically fit to continue employment with the County. Such documentation shall be in the form determined by the County Manager or the employee's Department Head/Elected Official.

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Section 6 Convalescent Duty/Leave

If after injury or illness a physician releases a regular full-time employee to return to his regular position for at least four (4) hours daily, but less than full-time, the County may allow the employee to return to work on a shortened schedule for a time period not to exceed ninety (90) days. Compensation and benefits will be paid on a pro rate basis. Any employee wishing this consideration should submit a written request along with the physician's statement to his supervisor.

Section 7 Bereavement Leave

In the event of death of a member of an employee's immediate family, the employee will be entitled to a bereavement leave with pay not to exceed four (4) working days.

- A. Immediate family members are defined as follows: spouse, son, daughter, father, mother, sister, brother, grandparent, mother or father-in-law.
- B. One day off will be granted for bereavement leave for grandchildren, aunt, uncle, cousin, niece, or nephew.

Section 8 Court Leave or Jury Duty

Employees will be granted Court Leave with pay for the purpose of serving as juror or witness in federal court, state court, or the court of any political subdivision within the state. However, jury fees received (other than meals or travel allowances) shall be returned to the County.

- A. Court leave with pay will be authorized only during a regularly scheduled working day. If excused by the court during a working day, the employee is expected to return to duty if at least four (4) hours of county duty can be served in the work day. If the employee does not return to work, the balance of the day will be charged to annual leave or leave without pay.
- B. If an employee is required to attend Court as a witness on behalf of the county or in his/her official capacity on a regular day off, the employee will be given compensation time, upon presentation to their supervisor a bona fide citation or summons indicating the employee's required attendance.

Section 9 Administrative Leave

- A. Supervisors may allow employees time to donate blood to Community blood drive.
- B. Administrative leave with pay shall be granted for up to two (2) hours for voting in national, state, or local elections when the polls are not open at least two (2) hours before or after the employee's scheduled hours of work.

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Section 10. Leave-Without-Pay

Leave-Without-Pay - all authorized absences from duty other than those specified above shall be considered leave-without-pay.

- A. Leave-without-pay may be granted by the County Commissioners upon written request of the employee and with concurrence of the supervising elected official or department head.
- B. All benefits (such as annual and sick leave accrual and PERA) will cease while an employee is on leave-without-pay. If the employee wishes to maintain insurance for which a payroll deduction is made, the employee will be required to submit monthly payment to cover such insurance to the County Manager's office.
- C. An employee indicted with a felony, or with a misdemeanor involving moral turpitude or charged with theft, fraud or embezzlement from the county shall be placed on leave-without pay pending final disposition of the case

ARTICLE VII DISCIPLINARY AND GRIEVANCE PROCEDURE

Section 1 Discharge, Suspension, Demotion

- A. Probationary, Temporary and Part-time employees may be discharged at will.
- B. The elected official/department head having supervisory authority over a regular full-time employee may on approval of the County Manager order the discharge, disciplinary suspension or demotion of the employee for any cause or causes for disciplinary action including but not limited to those listed in the following section.

Section 2 Causes for Disciplinary Action

The following shall constitute causes for disciplinary action up to and including a written reprimand, suspension, demotion or discharge from County service:

- A. Consistent negligence or incompetence in the performance of the duties of the position in which employed to the point that continued employment is deemed unwarranted;
- B. Reporting to work under the influence of intoxicants, drugs, narcotics or hallucinogens; the only exceptions are medications prescribed by a physician and reported to the employee's direct supervisor;
- C. Use of intoxicants, drugs, narcotics or hallucinogens while on duty; the only exception is the use of medication prescribed by a physician and reported to the direct supervisor;
- D. Theft of County property or embezzlement of county funds;

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- E. Repeated care~~less~~ or negligent use, operation ~~and~~ care of County property;
- F. Use of County equipment, materials or supplies for personal gain or advantage;
- G. Insubordination or refusal to accept any lawful and reasonable official rule, regulation or order given by a supervisor where such violation or failure to obey amounts to a serious breach of proper discipline;
- H. Conduct prejudicial to good order such as habitual tardiness and absences; inability to work with other employees and/or the general public;
- I. Wantonly offensive conduct or language, harassment including sexual harassment of the public, fellow employees or officials.
- J. Falsification of County records including but not limited to time sheets, travel vouchers, or requests for reimbursements;
- K. Absence without notification and approval.
- L. Willful and/or repeated violation of county safety rules and procedures.
- M. Failure to report an accident occurring to oneself or a fellow employee while on duty;
- N. Conviction of a felony while employed by the county;
- O. Conviction of a misdemeanor involving moral turpitude;

Section 3 Disciplinary Action

All potential disciplinary action of suspension, demotion or discharge will be brought to the attention of the County Manager prior to any action being taken. After the Manager has certified the disciplinary process, the immediate supervisor will notify the employee in writing of the proposed action.

ARTICLE VIII GRIEVANCE PROCEDURE

The purpose of the grievance process is to provide employees with an equitable and impartial method to resolve problems or conditions which may affect the employee.

Section 1 Applicability

This Grievance Procedure and PreDisciplinary Hearing process applies only to regular full-time employees of the County.

Section 2 Definition

Grievances are complaints by an employee of alleged improper actions or treatment by supervisors or management.

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Section 3 Initial Steps in Formal Grievance Procedure.

This formal grievance procedure is applicable for suspensions, demotions or dismissals only.

Section 4 Written Notification. The employee's supervisor shall present the employee with written notification of intent to suspend, demote, or dismiss at least five (5) working days in advance of the proposed action. The written notification must explain the reasons for the proposed action and the employee's right to a predisciplinary hearing. The notice of the anticipated action shall be hand-delivered to the employee and initialed by him/her or sent by certified mail, return receipt requested.

Section 5 Immediate Suspension. In cases where County Property, other employees, or citizens are at risk as a result of the employee's actions, the employee's supervisor shall put the employee on administrative leave with pay while the appropriate action is contemplated and until the predisciplinary hearing is held and the decision is rendered.

Employees who have filed grievances and employees required to give testimony as witnesses in a grievance hearing shall be given time off with pay if such meetings are scheduled during their regularly scheduled work hours. Former employees, or employees on suspensions, layoff, or other unpaid status will not receive pay to attend grievance meetings or hearings.

Section 6 Predisciplinary Hearings. Employees must pursue grievances according to the rules contained herein.

a) Within three (3) working days of the receipt of notification of the disciplinary measure, the employee is required to notify in writing the Department Head or the Elected Official in whose office the employee is employed and advise whether or not the employee wants to participate in the predisciplinary hearing.

b) Immediately upon receipt of the employee's written statement that the employee will participate in the predisciplinary hearing, the Department Head or the Elected Official shall set the time, place, and date of the predisciplinary hearing. The employee and the employee's supervisor must be advised of the scheduled hearing in writing.

c) The Department Head or the Elected Official shall meet with the employee and if the employee wishes, the employee's representative at the appointed time. At this predisciplinary hearing, the employee shall have the opportunity to respond to the proposed disciplinary action. The hearing will be held within five (5) working days of the receipt of the request for the predisciplinary hearing unless a continuation is mutually agreed upon by both parties in writing.

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d) The Department Head or the Elected Official will issue a decision in writing within five (5) days of hearing. The written decision shall include the time, date, and location of the meeting; persons present; and the determination. The written decision shall be either delivered directly to the employee (obtaining employee's signature of receipt of the decision) or be sent by certified mail, return receipt requested.

Section 7 Employee Notification. Within ten (10) days of receipt of the written decision, the grievant must notify the County Manager of the employee's intent to pursue a post-disciplinary hearing by sending a written request for a grievance hearing to the County Manager's office.

Section 8 Post-Disciplinary Hearing Scheduled. Within fifteen (15) days the County Manager shall schedule a grievance hearing. The parties must agree in writing to any postponement of the grievance hearing beyond this date. At this hearing, the grievant shall have an opportunity to present witnesses, physical evidence, and cross-examine the County's witnesses. The grievant and the Department Head may be represented by legal counsel.

Section 9 Grievance Board.

a) The Grievance Board shall consist of three (3) members elected to represent Office Employees, Non-Office Employees and Supervisors.

1. County employees in the following departments are eligible to vote for one representative on the Grievance Board:

- a. County Assessor's office
- b. County Clerk's office
- c. County Treasurer's office
- d. County Manager's office
- e. Secretarial and clerical employees in the County Sheriff's office, the Detention Center or the Road Department.

2) County employees (except clerical and secretarial) in the following departments are eligible to vote for one representative of the Grievance Board:

- a. Sheriff's Office
- b. County Road Department
- c. County Janitorial and Building Maintenance
- d. Detention Center

3) Elected Officials, Chief Deputies, Department Heads and the Undersheriff are eligible to vote for one representative on the Grievance board.

4) The County Manager may not serve as a member or alternate to the Grievance Board

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b) All persons desiring to be considered for election to the Grievance Board must be employees of the County for two (2) consecutive years preceding the date of the election and must submit a letter of interest to the County Manager.

c) All members of the Grievance Board shall be elected by the employees within the respective department. Election procedures shall be established by the County Manager. Those persons receiving the second highest number of votes for each elected position shall be the alternate for that position.

Alternates will serve as Board members if the elected member is disqualified for any reason, such as on leave. If the board member is the aggrieved employee or the supervisor of the aggrieved employee, the County Manager will notify the alternate. If the alternate is asked to serve, they will serve as member until disposition of that grievance is achieved.

d) No member of the Grievance Board shall serve two (2) consecutive terms on the Grievance Board.

e) Upon election, the three (3) member board will select a chairman and an alternate for the position of chairman.

Section 10 Grievance Board Term. The terms of the members of the Grievance Board shall be two (2) years.

Section 11 Grievance Board Duties. The Grievance Board shall hear appeals of demotions, suspensions, and dismissals, receive evidence and make a written recommendation to the County Manager suggesting upholding, overruling, or modifying any action causing a grievance to be filed. The County Manager will then present the Board's recommendations to the Quay County Commission for approval.

Section 12 Quorum. A quorum of the Grievance Board consists of two (2) members.

Section 13 Hearing Rules of Procedure

a) The Grievance Board will determine the date and time of hearings and any continuances. Such hearings will be conducted at a time and place which is mutually convenient to all parties concerned. Requests for continuances of hearings shall be made at least three (3) working days prior to the scheduled hearing, absent extenuating circumstances. Requests for continuances of hearings shall be made in writing directly to the Grievance Board with copies to all parties involved.

b) Post-disciplinary hearings shall be conducted as open meetings with notice given to the public pursuant to the New Mexico Open Meetings Act. The aggrieved employee has the right to close the hearing under this New Mexico Open Meetings Act.

c) The Grievance Board shall:

1) Make rulings on the procedural and substantive issues of the hearing.

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2) Determine the admissibility of evidence and testimony all of which must have a direct bearing on the issue before the Grievance Board and shall follow the evidentiary standard for administrative agencies.

3) Issue a written ruling.

d) The following persons are required to present at all grievance proceedings unless otherwise excused by the Grievance Board or by agreement of the parties: the grievant, grievant's representative (if any), the County Manager and the department's designated representative. The Grievance Board may be advised by representative from the Quay County District Attorney's office or independent legal counsel.

e) The parties shall stipulate to the facts and issues to the greatest extent possible prior to the hearing.

f) Prior to the hearing, representatives shall prepare copies of all exhibits and evidence which are expected to be presented. Representatives shall stipulate to exhibits to the extent possible and bring to the hearing adequate copies for the Grievance Board as well as the opposing representative.

g) At least seven (7) calendar days prior to the hearing, all parties must submit to the Grievance Board: a statement identifying the issues to be heard, a witness list, and a complete list of documents to be admitted as evidence.

h) Witnesses in grievance hearings are not admitted into the hearing room until called upon to testify. This ban excludes those individuals listed above.

i) Notice of the hearing will be sent by certified mail to the grievant and postmarked at least ten (10) days prior to the scheduled hearing. Copies of the hearing notice shall be sent concurrently to all relevant parties.

j) A record of all post disciplinary grievance hearings will be made.

Section 14 Conduct of Hearings.

a) The grievant, who carries the burden of proof by a preponderance of the evidence, shall present his statements of issues involved in the case, followed by the County. Opening statements are limited to the pertinent issues of fact.

b) Order of Presentation:

1) The grievant will present his case to the Grievance Board. Witnesses for the grievant may be called and questioned on their involvement in, or knowledge of, the case. Following each witness' testimony, the County will have the opportunity to cross-examine the witness. The Grievance Board will then have the opportunity to question the witness on matters related only to the witness's testimony. The Grievance Board will make every attempt to restrict the questions to clarify the testimony previously given. Follow-up or redirect questioning will be allowed at the discretion of the Board Chairman.

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2) Witnesses for the County may be called and questioned on their involvement in, or knowledge of, the case. Following each witness' testimony, the grievant will have the opportunity to cross-examine the witness. The Grievance Board will then have the opportunity to question the witness on matters related to the witness' testimony. The Grievance Board will make every attempt to restrict the questions to clarify the testimony previously given. Follow-up or redirect questioning will be allowed at the discretion of the Board Chairman.

3) Following presentation of the county's position, the grievant may offer rebuttal testimony. Such testimony shall be brief, and shall address only the issues brought forth in the county's presentation.

4) The grievant's closing statement shall be presented, followed by that of the County. These statements shall not exceed ten (10) minutes without the permission of the Grievance Board, and at a minimum shall contain a request for the desired outcome. The grievant shall have the opportunity to make a final statement, not to exceed five (5) minutes, and which shall be limited to issues brought forth in the County's closing statement.

Section 15 Communication of Grievance Board's Decision. The Grievance Board's decision will be issued within ten (10) days of the hearing, and will be signed by the Grievance Board Chairman and transmitted to the grievant, Department Head, and the County Manager for dissemination to the appropriate parties and officials. The record of the proceedings will be retained by the County Manager's office for a period of not less than one (1) year from the hearing date, along with all of the physical evidence admitted by the Grievance Board.

Section 16 Appeal of Decision. If the grievant or the County is dissatisfied with the decision made by the Grievance Board, they may within thirty (30) calendar days after receipt of the written recommendation of the Board, file an appeal to the decision in District Court.

Section 17 Informal Procedure For Grieving Working Conditions and Other Work Related Problems An employee may discuss any nongrievable action, such as written reprimands or working conditions with the employee's supervisor in an attempt to work out a solution. If the employee is not satisfied with the proposed solution, the employee may address the problem to the County Manager; or, the elected official under whom the employee serves. The elected official's or County Manager's decision will be final.

Section 18 Non Grievable Actions

The following actions are not grievable:

1. Discharge of at-will or unclassified employees
2. Reductions-in-Force (Lay-offs)
3. Transfers which do not reduce an employee salary
4. Failure to Promote

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ARTICLE IX HARASSMENT

Harassment, including sexual harassment, is contrary basic standards of conduct between individuals and is prohibited by the Equal Employment Opportunity Commission and state regulations. Employees are prohibited from engaging in any of the acts or behaviors defined below, and such misconduct will subject an employee to disciplinary action up to and including immediate discharge.

Section 1 Violations

It shall be violation of the County rules and regulations for any employee or official to:

- a) Make unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature to any subordinate or fellow employee;
- b) Make submission to such conduct through threats of retaliation explicitly or implicitly a term or condition of an individual's employment;
- c) Use coercive sexual behavior to control or affect the career, salary or performance evaluation of another employee;
- d) Unreasonably interfere with an individual's work performance or create an intimidating, hostile or offensive working environment based on an individual's gender, race, religion, age or national origin.
- e) Disregard or fail to investigate allegations of harassment whether reported by an employee who is the subject of the alleged harassment, or a witness, and to fail to take immediate corrective action in the event misconduct has occurred.

Section 2 Reporting

Complaints of harassment of any type should be reported to the alleged offender's immediate supervisor and/or to the County Manager.

ARTICLE X CONFLICTS OF INTEREST

An employee or official of the county shall disqualify himself from participating in any official act directly affecting a business in which he or she has a financial interest. For the purposes of this policy, a financial interest represents an interest greater than twenty (20) percent.

- A. When the public interest requires the participation of an employee or official who may have a conflict of interest, the County Commission may grant a special exception during a regularly scheduled Commission meeting. The motion to grant the special exception shall include the public purpose served in granting the exception.
- B. No employee or official shall request or receive and accept a gift or loan if acceptance would influence or appear to influence him/her in the discharge of official duties. This section does not apply to:
 - 1) An occasional nonmonetary gift, insignificant in value;