

## VII. EMPLOYEE CONDUCT, DISCIPLINARY ACTIONS, AND GRIEVANCE PROCEDURE

- A. Standards of Conduct. All employees of the County of Utah, governed by these rules, are expected to comply with these standards and with specific policies established by their department head.
1. Employees are expected to apply themselves to their assigned duties during the full schedule for which they are being compensated.
  2. Employees should meet standards established by their individual department head and report conditions or circumstances that would prevent them from performing their job effectively or completing their assigned tasks. Also, employees should bring to their supervisor's attention unclear instructions or procedures.
  3. Employees are expected to make prudent and frugal use of County funds, equipment, building, and supplies.
  4. Employees shall observe workplace rules.
  5. Employees shall comply with general County administrative policies, rules and regulations.
- B. Drug and Alcohol Free Workplace Policy
1. Policy Statements
    - a. It is the policy of Utah County to foster and provide a drug and alcohol free workplace. A drug and alcohol free workplace protects the safety of the public as well as the County's workforce. Utah County believes that the abuse of drugs and/or alcohol creates a variety of workplace concerns including increased injuries on the job, increased absenteeism, increased financial burden on health and benefit programs, decreased employee morale, decreased productivity, and a decline in the quality of services rendered.
    - b. All employees are prohibited from using, possessing, buying, or selling drugs or alcohol in the workplace as specified by this policy, and are prohibited from reporting to work or being subject to work (specifically while on-call or on break) with prohibited drugs active in their systems or while under the influence of alcohol. Utah County also discourages the detrimental or illegal use of alcohol and/or drugs

by its employees when off duty.

- c. It shall be a condition of employment and continued employment that all employees, volunteers, prospective employees, and prospective volunteers comply with the provisions of this policy and all other relevant State and Federal Statutes. While the County will be supportive of those who seek help voluntarily, the County will be equally firm in identifying and disciplining those who continue to violate this policy and/or do not seek rehabilitative assistance.
- d. This policy is intended to conform to the requirements set forth in the Local Governmental Entity Drug-Free Workplace Policies Act, Utah Code Annotated, Title 34, Chapter 41, and all other relevant State and Federal statutes including the Americans with Disabilities Act. The provisions of any applicable law, statute, regulation, or ordinance (i.e. The Omnibus Transportation and Employee Testing Act of 1991 and the Federal Highway Administration and Department of Transportation rules of February 1994) shall prevail in the event of any conflict with the provisions of this policy.

## 2. Definitions

- a. “Alcohol”: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.
- b. “Alcohol Testing”: Testing by a certified breath-alcohol technician, using a Department of Transportation (DOT) approved breath-testing device or a DOT approved initial screening device.
- c. “Blanket or Unit Test”: Drug and/or alcohol tests conducted during work time where all employees within a chosen category are tested at the same time.
- d. “Controlled Substance” (herein referred to as “Drug”): Any controlled substance including those assigned by 21 U.S.C. 802 and all substances listed on Schedules I through V, as they may be revised from time-to-time (21 CFR 1308), or any substance recognized as a drug by other drug compendia, including Title 58, Chapter 37, Utah Controlled Substances Act, or supplement to any of those compendia. Controlled substances may include, but are not limited to:

- i. Marijuana
  - ii. Cocaine
  - iii. Opiates
  - iv. Phencyclidine (PCP)
  - v. Amphetamines
  - vi. Barbiturates
  - vii. Benzodiazepines
  - viii. Methadone
  - ix. Propoxyphene
- e. “Drug Testing”: The scientific analysis of a sample for the presence of drugs or their metabolites.
- f. “Employee”: Any person in the service of Utah County receiving compensation; this definition also includes officers and elected officials.
- g. “Medical Review Officer (MRO)”: A licensed physician with knowledge of drug abuse disorders that is employed or contracted to conduct reviews of drug test results.
- h. “Periodic Testing”: Preselected and preannounced drug and/or alcohol testing of safety sensitive employees or volunteers conducted on a regular schedule.
- i. “Positive Alcohol Test”: Test levels on both the initial screening test and the confirmation test showing an alcohol content of .04 grams per liter or greater.
- j. “Positive Drug Test”: Test levels on both the screening test and the confirmation test that are recognized as positive by the U.S. Department of Health and Human Services (DHHS) in its Mandatory Guidelines for the Federal Workplace Drug Testing Program. In the event that the DHHS issues subsequent rules or regulations regarding test levels, this policy will be amended to reflect those changes as necessary.
- k. “Prospective employee”: Any person who has made a written or oral application to become an employee of Utah County.
- l. “Random Testing”: The unannounced drug and/or alcohol testing of employees or volunteers who have been selected for testing by

using a method uninfluenced by any personal characteristic other than job category.

- m. “Reasonable Suspicion for Testing”: An articulated belief based on recorded, specific facts and reasonable inferences drawn from those facts that an employee or volunteer has the presence of drugs and/or alcohol in his/her system, or has used controlled substances or alcohol on County paid time.
- n. “Rehabilitation Testing”: Unannounced but preselected drug and/or alcohol testing done as part of a program of counseling, education, and treatment of an employee or volunteer in conjunction with this policy.
- o. “Safety sensitive position”: Any Utah County position involving duties which directly affects the safety of Utah County employees, the general public, or positions where there is access to controlled substances, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, during the course of performing job duties. This definition would include all positions assigned essential functions involving:
  - i. Direct health treatment services;
  - ii. Educational services or counseling of at-risk individuals (which includes jail inmates, children, youth, substance abuse clients, the elderly, the disabled or other similarly situated individuals);
  - iii. Emergency dispatch, fire fighting, sworn law enforcement activities, and other jail services requiring daily contact with inmates;
  - iv. Telecommunication support for emergency dispatch services;
  - v. Electrical work;
  - vi. The use of heavy and/or dangerous equipment in facility construction, maintenance, engineering, grounds and roads services;
  - vii. Janitorial services in the jail;

- viii. Maintenance and repair of heavy equipment;
  - ix. Operation of a motor vehicle to transport passengers; and
  - x. Operation of equipment requiring the driver to hold a CDL.
- p. “Sample”: Urine, blood, breath, saliva, perspiration, or hair sample gathered for the purpose of drug or alcohol testing.
  - q. “Use”: To consume, sell, purchase, manufacture, distribute, be under the influence of, report to work under the influence of, or be in the possession of drugs or alcohol. The term “use” shall also include the presence of drugs or alcohol in the body of the individual being tested, including the presence as a metabolite, and the use of a prescription drug without a current valid prescription from a licensed physician or using a prescription drug beyond the prescribed therapeutic dosage.
  - r. “Volunteer”: Any person who donates services to Utah County without pay or other compensation except for expenses actually and reasonably incurred that may be reimbursed.

3. Alcohol Rules - Prohibited Activities.

- a. The consumption of an alcoholic beverage by an employee on duty will result in immediate termination with no “Last Chance Agreement” as defined in Section 12. The possession of an open alcoholic beverage by an employee on duty shall be cause for disciplinary action up to and including termination. An exception to disciplinary action for the possession of an open alcoholic beverage while on duty is when the handling of an open alcoholic beverage is incidental to the employee’s assigned duties. Sworn law enforcement employees who are working in an undercover capacity and are on duty, working in the legitimate scope of their assignment, are exempt from this paragraph if following established undercover guidelines set forth in the Utah County Sheriff’s Office Policy and Procedure Manual.
- b. An employee will also be subject to disciplinary action and being placed on a Last Chance Agreement when the consumption of alcoholic beverages at a time proximate to his or her work time has an adverse effect on his or her work performance, causes impairment while on duty or while on-call, or creates a risk of harm to self, others, or County or private property.
- c. If an employee who is required to drive as part of his/her assigned

duties has his/her driver's license suspended or revoked, temporarily or permanently, due to an alcohol related offense, the employee must notify his/her supervisor of these circumstances when next reporting to duty. Failure to do so shall be cause for disciplinary action up to and including termination. Provisions of the Utah County Motorized Equipment and Vehicle Policy will be followed in cases of a suspended or revoked driver's license.

- d. The felony conviction of an employee as a result of alcohol while off County premises and not on duty shall be cause for disciplinary action up to and including termination.
- e. It is a violation of County policy to report to work or be in an on-call status while under the influence of alcohol at or above the alcohol content level of .04 grams per liter.

4. Drug Rules - Prohibited Activities.

- a. The unlawful use, manufacture, distribution, dispensation, or possession of a controlled substance by an employee in the work place or during work hours, including on-call time, is prohibited. Employees in violation of this policy will be terminated with no Last Chance Agreement. An exception to disciplinary action for the illegal possession of a controlled substance while on duty is when the handling of the substance is incidental to the employee's assigned duties. Sworn law enforcement e who are working in an undercover capacity and are on duty, working in the legitimate scope of their assignment, are exempt from this paragraph if following established undercover guidelines set forth in the Utah County Sheriff's Office Policy and Procedure Manual and in accordance with Utah Code Annotated, Title 58, Chapter 37, Section 8.(9b).
- b. The use of any drug which negatively affects performance or the ability of an employee to work in a safe manner may be cause for discipline where the employee knew or reasonably should have known that the drug would adversely diminish his/her capabilities to perform the job.
- c. Whenever an employee is prescribed a drug by a licensed health care provider or uses over-the-counter medication which may negatively affect his/her performance or ability to perform in a safe manner, the employee shall notify his/her supervisor. An employee who fails to notify his/her supervisor may be subject to disciplinary action and may be placed on a Last Chance Agreement when the use of such

drugs by that employee contributes to an accident or incident that results in property damage or injury to a person.

- d. The illegal possession or use of controlled substances while off County premises and while not on duty may be cause for disciplinary action up to and including termination where such conduct can be shown to have a direct and material adverse effect on the County's interests, including public image.
  - e. If an employee who is required to drive as part of his/her assigned duties has his/her driver's license suspended or revoked temporarily or permanently, due to a drug related offense, the employee must notify his/her supervisor of these circumstances when next reporting to duty. Failure to do so shall be cause for disciplinary action up to and including termination. Provisions of the Utah County Motorized Equipment and Vehicle Policy will be followed in cases of a suspended or revoked driver's license.
  - f. The felony conviction for the possession or being under the influence of controlled substances while off County premises and while not on duty shall be cause for disciplinary action up to and including termination.
  - g. The conviction of an employee for the sale or possession with intent to illegally sell controlled substances or abusable prescription drugs while off County premises and while not on duty is cause for immediate termination with no Last Chance Agreement.
  - h. Employees must notify their immediate supervisor of any personal drug related criminal conviction for a violation occurring in the work place no later than five (5) days after such conviction. Failure to notify the immediate supervisor shall result in disciplinary action.
5. Alcohol and Drug Testing Circumstances. Utah County maintains the legal right to require any employee, prospective employee, volunteer, or prospective volunteer to take a drug and/or alcohol test under the following circumstances:
- a. Pre-employment hiring or volunteer selection procedure. Once Utah County has made a conditional offer of employment or volunteer selection, the offer is contingent upon the prospective employee/volunteer passing a drug test. The Utah County Office of Human Resource will identify specific job classifications and/or duty location assignments that require an applicant selected as a new hire or prospective volunteer to take and pass a drug screening.

A positive result from the drug screening may result in the applicant not being hired or the prospective volunteer not being accepted.

- b. Post-accident. Utah County conducts drug and alcohol testing upon an employee or volunteer involved in, and contributing to, a serious work-related accident. A serious accident is defined as a casualty or any accident to which the employee or volunteer contributed that must be reported to the police and that results in one or more injury(ies) that require medical treatment beyond first aid or damage to property in excess of \$1000. Utah County may require testing after any accident when there is reasonable suspicion. Additionally, for Commercial Driver's License (CDL) holders, all drivers who are in an accident resulting in the loss of human life must be drug and alcohol tested; and CDL holders cited for an accident where there is an injury or a vehicle is towed must be tested for the misuse or abuse of drugs and alcohol.
- c. Reasonable Suspicion. Utah County may conduct, at its discretion and in accordance with the procedures described in Section 8, drug and alcohol testing when a trained supervisor or County officer / elected official observes and records behavior or appearance that is characteristic of alcohol or drug abuse.
- d. Preannounced Periodic Testing. Utah County may conduct, at its discretion, preselected and preannounced drug and alcohol testing on a regular schedule of safety sensitive employees or volunteers.
- e. Random testing in safety sensitive positions. Utah County may, at its discretion, randomly test employees in safety sensitive positions, conducted on a random, unannounced basis just before, during, or just after performance of work functions or work time. Additionally, CDL holders will be tested for drugs and alcohol in accordance with Department of Transportation rules.
- f. Rehabilitation programs. Utah County may, at its discretion, require unannounced tests as part of a program of counseling, education, and treatment of an employee or volunteer in accordance with this policy.
- g. Compliance with Federal Requirements. Utah County may conduct drug and alcohol tests in accordance with the Federal Drug Free Workplace Act of 1998 or other federally required drug policies.
- h. Deadly Force Incident Testing. Any safety sensitive employee or

volunteer employing deadly force resulting in a casualty and/or injury to an individual while serving in an official capacity, whether on or off duty, is subject to drug and alcohol testing immediately following the deadly force incident.

6. Medical Review Officer (MRO) Review

- a. If a drug screen is positive for a legal and prescribed controlled substance, the employee, volunteer, applicant or prospective volunteer must provide within 24 hours of request to the MRO, bona fide verification of a valid current prescription for the drug identified in the drug screen and it must be in the individual's name. The MRO will then determine the drug screen results. If the drug is one that is likely to impair the ability to perform job duties or if acceptable prescription verification is not provided, an applicant will not be hired or a volunteer will not be accepted.

7. Retest of Specimen

- a. If a positive drug test is reported, the tested individual shall have 72 hours from the time he/she is so notified to request at his/her option that the split urine sample be tested for the indicated drugs, the expense of which shall be divided equally between the tested individual and Utah County. If the tested individual declines to request testing of the split sample before the end of the 72 hour period, Utah County may, at its discretion, proceed to take appropriate action under this policy based upon a positive result. If the split sample tests negative for the presence of drugs, Utah County may consider the results negative. If the split sample is also positive, Utah County will proceed to take action as provided by this policy.

8. Reasonable Suspicion and Post-Accident Testing Steps for Employees and Volunteers

- a. Any supervisor evaluating an employee or volunteer for reasonable suspicion and/or post-accident testing shall complete the Utah County "Observation/Incident Report" form provided by the Department of Human Resources. Circumstances which may constitute a basis for determining a reasonable suspicion for testing may include, but are not limited to: a pattern of abnormal or erratic behavior (i.e. a significant change in the quantity or quality of work, unusual mistakes or errors of judgment, unusual absenteeism); a serious work-related accident as defined in

Section 5b. of this policy; the noticeable presence or physical symptoms of drug or alcohol use; or being informed by a County employee or other source that another employee or volunteer is believed to be using or under the influence of drugs or alcohol. Copies of completed Observation /Incident Reports shall be immediately sent to the appropriate department head and the Department of Human Resources.

- b. If it is determined that reasonable suspicion indicators exist, whether or not an accident occurred, the employee or volunteer shall be relieved of duty and transported, if necessary, to the drug testing specimen collection site for a drug and alcohol screening. Once the test sample is collected, Utah County will offer to make arrangements to have the employee or volunteer transported home. An employee or volunteer who is incapacitated to the point that he/she cannot provide a sample at the time of the incident shall later provide the necessary authorization for releasing hospital or medical reports that would indicate whether or not the employee or volunteer was under the influence of a drug and/or alcohol. Additionally, testing results conducted at the accident scene and/or in accordance with law enforcement procedures shall also be considered valid for purposes of this policy.
- c. An employee will remain on paid status until the test sample is collected. After the sample is collected due to the existence of reasonable suspicion indicators, whether or not an accident occurred, an employee will be placed on leave in the following order as leave benefits are exhausted (1. sick leave, 2. compensatory time, 3. vacation leave and personal preference day, and 4. leave without pay) until the County receives the final test results. If the final test results are negative, the County will return the leave utilized to the employee and/or pay the employee for any period of leave without pay.

9. Refusal to Test

- a. The refusal to submit to a drug and alcohol test or to provide the necessary authorization for releasing hospital or medical reports that would indicate whether or not the employee or volunteer was under the influence of a drug and/or alcohol shall be considered the same as a positive test result for a controlled substance. An employee determined to have tampered with, adulterated, or substituted his/her sample will also be considered to have the same as a positive test result for a controlled substance.

10. Action for a Volunteer's Positive Drug and/or Alcohol Test. A volunteer having a positive test result will be required to immediately cease volunteer service with and for Utah County and will not be cleared to volunteer with Utah County for a minimum of two (2) years from the testing date.
  
11. Employee Disciplinary Procedures for a Positive Drug and/or Alcohol Test
  - a. A test resulting in a positive screen for alcohol or the abuse and/or misuse of a controlled substance prescribed or available for retail purchase over-the-counter may result in the following actions (A positive drug screen will result in the action described in paragraph b. below unless the MRO validates an employee's claim that the controlled substance causing the positive screen is prescribed or purchased over-the-counter and this information is provided to Utah County.):
    1. First offense: Unless previously specified as an infraction resulting in immediate suspension without pay pending termination, the employee will receive a suspension without pay for a period of time based on the severity of the infraction and shall be required to sign and successfully complete the conditions of a Last Chance Agreement which includes rehabilitation and aftercare. At a minimum, receipt of a suspension without pay must be taken into account and considered when the employee's next performance appraisal is prepared.
    2. Second offense: The employee will be suspended without pay pending termination.
  - b. A test resulting in a positive screen for a controlled substance will result in the employee being suspended without pay pending termination, unless paragraph a. above applies and is followed.
  
12. Last Chance Agreement for Employees
  - a. Refusal to sign a Last Chance Agreement shall be considered just cause for termination. The Last Chance Agreement shall be the final step before suspension pending termination in the disciplinary process for violations of, and in accordance with, this policy. The prescribed treatment and aftercare portion of the Last Chance Agreement will be monitored for compliance by the Office of Human Resource Management.

- b. The Last Chance Agreement shall require at least the following:
- i. The employee to report to a state licensed drug and alcohol rehabilitation and/or treatment program provider within five (5) working days of employee notification of a positive drug and/or alcohol test.
  - ii. Compliance with and satisfactory completion of treatment in a Bureau of Alcohol and Drug Abuse certified rehabilitation program as recommended by the providing treatment coordinators. Monthly reports of attendance, reports indicating satisfactory completion of program requirements, random drug and alcohol test results, and any other documents relating to treatment compliance must be submitted to the Office of Human Resource Management.
  - iii. Enrollment and continued attendance in an aftercare program, as recommended. Monthly reports of attendance must be submitted to the Office of Human Resource Management.
  - iv. The employee must sign an initial and subsequent authorizations to release medical information to Utah County regarding patient records and all other substance abuse treatment program providers for the duration of treatment.
  - v. Certificate of fitness/return-to-duty form signed by the prescribing physician/state certified rehabilitation and treatment program provider releasing the employee to return to work. This form must be received by the Office of Human Resource Management prior to the date the employee returns to duty.
  - vi. A minimum of six (6) random drug and alcohol tests over a period of two (2) years from the date of returning to duty or, pursuant to the recommendations of a substance abuse professional, as many as thirty (30) random tests over a period of five (5) years from the date of returning to duty. Testing may be scheduled by the employee's department head and/or the Office of Human Resource Management any time the employee is on duty.
  - vii. Statement that failure to comply with all conditions of the Agreement will result in being suspended pending termination from County employment.

13. Employee Voluntary Request for Rehabilitation Treatment

- a. An employee may voluntarily seek rehabilitation treatment for any substance abuse problem at any time. An employee may ask for Utah County's financial assistance prior to the County first requesting a random, reasonable suspicion, or post-accident drug and/or alcohol test, and/or receiving a valid positive test result from another entity. A voluntary request for assistance will not be considered as a positive test and the request will not result in disciplinary action.
- b. Utah County may provide financial assistance to an employee as described in paragraph a. above by paying the portion of expenses not covered by the employee's insurance for an initial substance abuse evaluation.
- c. The employee will be required to sign and comply with the same employment conditions detailed in a Last Chance Agreement. Refusal to sign a Last Chance Agreement shall be considered just cause for termination.

14. Confidentiality

Medical reports, laboratory reports, test results, and Observation/Incident Reports shall not be filed in an employee's official employment file. Information of this nature will be contained in a separate confidential medical record that will be securely kept under the control of the Utah County Office of Human Resource Management. Utah County will not release such medical information to anyone without express written authorization of the tested individual unless ordered by means of proper legal procedure and appropriate legal authority, such as court ordered subpoena or in connection with a disciplinary proceeding.

15. Procedures - Testing

- a. Testing will occur during or immediately before or after work time of current employees or volunteers. Testing time will be deemed work time for the purposes of compensation for current employees.
- b. Except as required otherwise by Federal rules or when validated test results are made available to the County from another entity, testing will be done by the split urine samples method. A split urine sample shall consist of at least 45 ml of urine. The urine shall be divided into

two specimen bottles, with at least 30 ml of urine in one bottle and at least 15 ml of urine in the other. If processing of the 30 ml urine sample results in a positive drug and/or alcohol test, the tested individual shall have 72 hours from the time he/she is so notified to request at his/her option that the 15 ml urine sample be tested for the indicated drugs or alcohol, the expense of which shall be divided equally between the tested individual and Utah County. If the tested individual declines to request testing of the split sample before the end of the 72 hour period, Utah County may, at its discretion, proceed to take appropriate action under this policy based upon a positive result. If the split sample tests negative for the presence of drugs and alcohol, Utah County may consider the results negative. If the split sample is also positive, Utah County will proceed to take action as provided by this policy.

- c. The testing will be performed by an independent laboratory certified for employment drug testing by either the Substance Abuse and Mental Health Services Administration or the American College of Pathology. The instructions, chain of custody forms, and the collection kits including bottles and seals used for sample collection are prepared by the independent laboratory.
- d. The collection of samples will be performed under reasonable and sanitary conditions. Samples will be collected and tested in a manner that protects the privacy of the individual being tested and in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples. Sample collection will be appropriately documented to ensure that samples are labeled and sealed so as to reasonably preclude the probability of erroneous identification of samples and test results. Employees, volunteers, prospective employees, or prospective volunteers have the opportunity to provide notification of any information that they consider relevant to the test, including identification of currently or recently used prescription or nonprescription drugs or other relevant medical information. Sample collection, storage, and transportation to the place of testing will be performed in a manner that reasonably precludes the probability of sample misidentification, contamination, or adulteration.
- e. Sample testing will conform to scientifically accepted analytical methods and procedures. Before the result of any test may be used as a basis for any action by Utah County, it will verify or confirm any

positive initial screening test by gas chromatography, gas chromatography - mass spectroscopy, or other comparably reliable analytical methods and shall provide that the employee, prospective employee, volunteer, or prospective volunteer be notified as soon as possible by telephone or in writing at the last known address or telephone number of the results of the initial test, if it is positive; and told of his/her option to have the 15 ml urine sample tested, as an expense equally divided between the tested individual and Utah County. In addition to the initial test results, the test results of the 15 ml sample shall be considered in taking any subsequent disciplinary action.

- f. Utah County will pay all costs of the initial testing and verification process.

C. Incompatible Outside Activities

- 1. County employment shall be the principal vocation of full-time employees governed by these rules. However, an employee may engage in outside employment with their department head's approval (department heads engaging in outside employment must obtain approval from the County Commission); and subject to all of the following conditions:
  - a. The outside employment must not interfere with efficient performance of the employee's County position.
  - b. The outside job must not conflict with the interests of the department or of Utah County.
  - c. The outside employment must not be the type that would reasonably give rise to criticism or suspicion of conflicting interests of duties. In furtherance of this condition:
    - i. County employees involved in appraisal or assessment-related assignments shall not perform any private appraisal or assessment assignments within Utah County. County employees involved in appraisal or assessment-related assignments may perform private appraisal or assessment assignments in counties other than Utah County.
    - ii. County building inspectors shall not perform any private inspections within the unincorporated areas of Utah County.
    - iii. Other County employees who work in occupations having professional codes of ethics or standards of professional

responsibility shall adhere to those requirements in the performance of their County duties.

- d. The employee may not employ or supervise any County employees of the same County department as part of the outside employment without County Commission approval. As a condition of outside private sector employment, the employee may not employ or supervise anyone under the employee's direct or indirect supervision within the County.
  - e. Department Head approval of outside employment must be forwarded to the County Commission.
2. Employees shall not use their County position or any influence, power, authority, or confidential information derived therefrom or County time, equipment, property or supplies for private gain.
  3. Employees shall not receive outside compensation for their performance of County duties except in cases of:
    - a. Awards for meritorious public contribution, publicly awarded.
    - b. Receipt of honoraria or expenses paid for papers, talks, demonstrations, or appearances made by employees with the approval of the County Commission, or on their own time for which they are not compensated by the County, and which are not prohibited by these rules.
    - c. Receipt of usual social amenities, ceremonial gifts, or advertising gifts.
  4. When an employee is required by the responsibilities of his or her position to take an action or make a decision which could be interpreted as a conflict of interest, the employee shall declare the potential conflict and may be excused by the County Commission from so acting.

D. Political Activity

1. No person shall be denied the opportunity to become an applicant for a position under the merit system in any County department by virtue of political opinion or affiliation.
2. No person employed by the County under the merit system may be dismissed from service as a result of political opinion or affiliation.

3. A County career service employee may voluntarily contribute funds to political groups and become a candidate for public office.
4. No County officer or employee, whether elected or appointed, may directly or indirectly coerce, command, advise, or solicit any officer or employee covered under the merit system to pay, lend or contribute part of his or her salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No County officer or employee, whether elected or appointed, may attempt to make any officer's or employee's employment status dependent upon the employee's support or lack of support for any political party, committee, organization, agency, or person engaged in a political activity.
5. No officer or employee may engage in any political activity during the hours of employment nor shall any person solicit political contributions from County employees during hours of employment for political purposes, but nothing in this section shall preclude voluntary contribution by a County employee to the party or candidate of the employee's choice.
6. Nothing contained in this section shall be construed to permit partisan political activity of any County employee who is prevented or restricted from engaging in such political activity by the provision of the Federal Hatch Act.

E. Progressive Discipline

1. The primary purpose of disciplinary action is to change negative employee behavior and/or improve employee job performance.
2. Progressive discipline is defined as to include oral reprimand, one or more written reprimand(s), and thereafter more severe disciplinary action.
3. No employee who has satisfactorily completed probation may be demoted (unless returned to a position at the same salary step range formerly held as result of a trial period), involuntarily laterally transferred, suspended without pay, or terminated without just cause. Just cause may include, but not be limited to: inefficiency, incompetence, insubordination, moral misconduct, habitual or excessive tardiness or absenteeism, abuse of sick leave or authorized leaves, withholding services as a result of strike, and violation of established County rules and regulations or of departmental work rules or procedures. Prior to deciding to involuntarily laterally transfer an employee to another County department, a supervisor must provide that employee an opportunity to give his/her side of the story in response to the reasons.

4. A supervisor must be able to establish that the employee had a clear understanding of job duties, performance measures, and expectations related to behavior. This understanding can be documented through the use of written job descriptions, accurate performance standards and evaluations, orientation sessions, and familiarity with these regulations. Prior to deciding to administer disciplinary action to an employee, a supervisor must provide that employee an opportunity to give his/her side of the story in response to the charges.
5. Upon written request of the employee and the employee's department head to the Director of Human Resource Management, the employee shall have all written reprimands removed from his/her official employment file that were issued more than two (2) years prior to the request, provided that no ensuing progressive discipline occurred. Upon removal, the written reprimand will be sent to the employee.
6. If an employee is facing potential disciplinary action, he/she has the right to request another individual to accompany him/her to investigatory meetings to serve as a witness. Scheduled investigatory meetings are not subject to delay or rescheduling due to the unavailability of the individual selected by the employee to serve as a witness.
7. If employee conduct results in a situation which requires immediate removal of the employee from the work area, the employee may be placed on suspension with pay pending investigation. During a suspension with pay, the County must be able to contact the employee at any time during working hours. The employee shall promptly report to work when requested. An employee should not be in a suspension with pay status any longer than necessary to efficiently conduct the investigation and consider the degree of discipline, if any, to be administered.
8. Serious Behavior Problems. Serious behavior problems are normally characterized by the fact that even in isolated instances they can have an immediate and serious negative impact upon the County. Management intervention must always be immediate. The department head may elect to skip one or several steps in the progressive discipline model up to and including immediate termination without progressive discipline. At the earliest practical moment, both the Director of Human Resource Management and the County Commission will be advised of the problem and any other available information that is pertinent. If necessary, a formal investigation will be initiated.

Examples of serious behavior problems or rule violations include, but are not limited to:

- a. Unauthorized altering of time records, punching someone else's time card or falsification of any County record (this would include falsification of sick time requests. i.e. calling in sick for purposes that do not qualify as sick time);
- b. Absence from work in an unauthorized leave status for one (1) or more working day and up to three (3) consecutive working days. Pursuant to Section VIII.B. of these rules, an employee absent from work for three (3) or more consecutive working days in an unauthorized leave status will be deemed to have resigned;
- c. Release of confidential information without authorization;
- d. A verified positive drug or alcohol test or any other violation of the drug and alcohol free workplace policy;
- e. Fighting;
- f. Misrepresenting facts to his/her supervisor; or insubordination - refusal to carry out work instructions. (Employees may refuse to carry out a supervisor's order only when there is an immediate and bona fide threat to an employee's health or safety);
- g. Theft;
- h. Willful destruction of property;
- i. Gross misconduct;
- j. Any violation of law (excluding minor traffic offenses); or conviction of a crime relevant to the employee's position;
- k. Falsification, fraud, or omission of pertinent information when applying for a position; or falsification, fraud, or omission of pertinent information in the performance of assigned duties and/or provided to his/her supervisor;
- l. Any willful act which threatens the health, safety, or well-being of another person, self, or property;
- m. Any act which is of sufficient magnitude to impact the ability of the County to conduct its business, cause disruption of work, or cause gross discredit to the organization;

- n. Misuse of County property or funds;
  - o. Possession of firearms, fireworks, explosives, or any other weapon on County property without authorization by the employee's department head;
  - p. Acts of discrimination or harassment based on any category protected by law;
  - q. Acts of immoral or indecent conduct adverse to the County's rightful interest;
  - r. Failure by supervisor or other to report or take appropriate action after having knowledge of a serious behavior problem; and
  - s. Outside employment of County employees of the same County department by a County employee with any supervisory authority over the other County employees.
9. In the event that any elected official is found to have serious behavior or performance violations which would result in suspension, demotion, or termination for a merit employee, the elected official shall be publicly censured by the County Commission and referred to the County Attorney for investigation.

F. Progressive Discipline Steps

- 1. Oral Reprimand: An oral reprimand is a formal conversation between a supervisor and an employee about a specific aspect of the employee's performance and/or conduct. This step is taken when an employee has committed a relatively minor infraction.

During the private reprimand meeting the following items should be mentioned:

- a. The date of the incident(s);
- b. The specific rule(s) violated and performance and/or conduct concerns;
- c. The expected conduct and level of work performance;
- d. The fact that this meeting is an official oral reprimand; and
- e. The employee should consider this a warning that he/she must

correct the condition, specifying a time limit for making improvements, and if the condition is not corrected more serious disciplinary action may be taken. After the reprimand has been given verbally, the supervisor must summarize the meeting in writing, including the above cited elements in the summary, in the event that formal documentation will be required at a later date. This reprimand summary is to be maintained in the supervisor's employee incident file.

2. **Written Reprimand:** A written reprimand is a formal written notice to the employee regarding repeated offenses for which an oral reprimand has already been given, significant misconduct and/or specific inadequate performance.

The written reprimand notice shall include:

- a. The date of the incident(s);
  - b. The specific rule(s) violated and performance and/or conduct concerns;
  - c. A reference to previous oral reprimand(s), if applicable, and reference to prior training or coaching the employee received concerning appropriate work performance and conduct;
  - d. A statement indicating the specific improvements expected and a time limit within which the improvements must be made; and
  - e. A statement that the employee must correct the condition and failure to correct the condition may result in more severe disciplinary action. The employee is asked to acknowledge receipt of this reprimand by signing and dating the document. If the employee refuses to acknowledge receipt of the reprimand, a witness can sign and date the document stating the employee received a copy of this document. The original of this reprimand with the employee's, or witness', signature shall be sent to the Office of Human Resource Management for placement in the employee's official employment file.
3. **Suspension:** Suspension without pay is a severe disciplinary action administered by the hiring authority, but not by the department head whenever possible. A suspension is usually implemented after an oral reprimand and/or written reprimand have been given and expectations are not being met, or when an employee commits a serious violation of established

rules. The length of a suspension without pay typically ranges from one (1) to five (5) work days, but may be longer. Prior to deciding to suspend an employee without pay, a supervisor must provide that employee an opportunity to give his/her side of the story in response to the charges.

The suspension without pay written notice shall include:

- a. The effective date and duration of the suspension including the time and date the employee is to report back to work;
  - b. Details of the incidents or actions warranting the disciplinary action including the rule(s) and/or standards violated as well as the dates and nature of previous coaching, oral and written reprimands (as applicable);
  - c. A statement indicating the specific improvements expected and a time limit within which the improvements must be made;
  - d. Notification that failure to correct the condition and meet expectations may result in more severe disciplinary action up to and including termination of employment; and
  - e. Notice that this action is grievable under the Human Resource Rules and Regulations and the procedure and time limits therefore. The employee is asked to acknowledge receipt of this notice by signing and dating the document. If the employee refuses to acknowledge receipt, a witness can sign and date the document stating the employee received a copy of this document. The original of this notice with the employee's, or witness', signature shall be sent to the Office of Human Resource Management for placement in the employee's official employment file.
4. Demotion / Termination: Demotion or Termination can only be recommended by a hiring authority, but not by the department head whenever possible. Such action usually occurs when previous disciplinary steps have been taken and there has been inadequate change in performance and/or behavior, or when an employee has committed a serious violation not appropriately addressed by lesser forms of discipline. Prior to deciding to recommend demotion or termination, a supervisor must provide that employee an opportunity to give his/her side of the story in response to the charges.

A Career Service tenure employee who is recommended for demotion (unless returned to a position at the same salary step range formerly held as result of a trial period) or termination from County Service shall be given a written

statement setting forth the charges upon which the proposed demotion or termination is based.

The statement shall include:

- a. The effective date of “notice of proposed demotion” or “suspension without pay pending termination”;
- b. A statement of the reasons for the proposed demotion or termination detailing the incidents or actions warranting the discipline, the rule(s) and/or standards violated, and the dates and nature of previous coaching, oral and written reprimands, and suspensions (as applicable);
- c. An explanation of the employee’s right to a pre-hearing as provided by the Human Resource Rules and Regulations and the procedure and time limits therefore; and
- d. A statement that the decision to demote or terminate will be based on the findings of the pre-hearing. The employee is asked to acknowledge receipt of this notice by signing and dating the document. If the employee refuses to acknowledge receipt, a witness can sign and date the document stating the employee received a copy of this document. The original of this notice with the employee’s, or witness’, signature shall be sent to the Office of Human Resource Management for processing and placement in the employee's official employment file.  
NO DECISION TO RECOMMEND DEMOTION OR TERMINATION OF AN EMPLOYEE WILL BE MADE WITHOUT PRIOR CONSULTATION WITH THE DIRECTOR OF HUMAN RESOURCE MANAGEMENT AND THE COUNTY COMMISSION.

G. Basis for Grievance and Appeal Procedures

1. Purpose: It is the intent of this section to provide a means for the reasonable settlement of certain disputes between an employee and the County. All employees and supervisors should, however, make every possible effort to settle differences without making use of the procedures contained in this section.
2. Any Career Service tenure employee who has completed a probationary period may file a grievance as defined in Section I.C.2. of these Rules and Regulations. However, a Career Service tenure employee cannot appeal to the Career Service Council the action of being returned to a position at the same salary step range and to the step as was formerly held, or issues leading to that action, as result of a trial period.

3. No prejudicial, discriminatory, or retaliatory action may be taken, at any time, by the County against any person for his/her participation in or statements made in the investigation or settlement of a grievance.
4. A grievance shall be abandoned if not filed and processed by the employee in accordance with the time limitations contained in Section VII.H, VII.I, and VII.J.

#### H. Suspension and Transfer Grievance Procedure

1. Step 1. A grievance of a suspension or transfer shall be reduced to writing and submitted by the employee to the aggrieved employee's department head with a copy to the Director of Human Resource Management, within ten (10) working days of the effective date of suspension or transfer. The aggrieved employee's department head, after providing the employee an opportunity to meet with the department head and explain his/her side of the matter, shall promptly answer the grievance in writing.
2. Step 2. If the department head's decision is not accepted by the aggrieved employee, he/she shall, within five (5) working days after receipt of the department head's reply, file a request in writing to the Director of Human Resource Management for a grievance review before the Career Service Council. The Director of Human Resource Management will then forward the grievance to the Career Service Council, the employee's department head, and the County Attorney.

#### I. Demotion and Involuntary Termination Grievance Procedure

1. Step 1. Pre-Hearing: The employee who has been recommended for demotion or termination shall within five (5) working days, not including the day of receipt of notice recommending demotion or termination, request in writing a hearing before his/her department head, with a copy of the request sent to the Director of Human Resource Management. Failure on the part of the employee to request a hearing in writing before his/her department head or to appear at the scheduled pre-hearing will serve as a waiver of the employee's grievance. The employee will be given at least three (3) working days notice of the hearing date, time and location. The hearing officer shall be the department head or his/her respective designee. If desired by the employee, up to two (2) representatives of the employee's choice may attend this pre-hearing, and the employee shall provide to the Director of Human Resource Management the names of his/her representatives at least one (1) working day prior to the pre-hearing. Attendees of the hearing shall include the employee and his/her representative(s), the hearing officer, a

management representative, and a representative of the Office of Human Resource Management. If the employee is represented at the pre-hearing by counsel, the County Attorney may attend the pre-hearing. The hearing will not follow formal rules of evidence and will be conducted in an informal manner. The hearing will be conducted by the hearing officer. The management representative shall summarize the employee's disciplinary notice. The employee or his/ her representative may then respond to all specified charges.

The hearing officer will promptly render a decision in writing and forward to the employee and the Director of Human Resource Management a copy of the decision. The decision shall include a statement as to the reasons the demotion or termination was or was not imposed. If an employee has waived a pre-hearing, the department head shall issue a written notice to the employee and Director of Human Resource Management imposing or not imposing the demotion or termination.

2. Step 2. Post-Hearing: A Career Service tenure employee who is demoted, except as result of failing a trial period, or terminated shall within five (5) working days of receipt of the hearing officer's action appeal the decision to the Career Service Council by filing a written request for Career Service Council review with the Director of Human Resource Management. The Director of Human Resource Management will forward the request for Career Service Council review to the Career Service Council, the department head, and the County Attorney.

J. Grievance Procedure for the Application of Express Terms of these Rules and Regulations which Deprive a Career Service Tenure Employee of Accrued and/or Existing Pay and/or Benefits

1. Step 1. A Career Service tenure employee who believes that he/she has a grievance relating to the application of the express terms of these rules and regulations which deprive him/her of accrued and/or existing pay and/or benefits shall reduce the grievance to writing and submit it to the employee's department head, with a copy sent to the Director of Human Resource Management, within ten (10) working days of the alleged violation. The grievance shall state the violation and cite the rules and regulations section. Upon receipt of the grievance, the department head will provide the employee an opportunity to meet with him/her and will then promptly respond to the grievance in writing. The department head's grievance response must be consistent with County Human Resource systems, programs, procedures, and practices as established by these Rules and Regulations and/or by the Office of Human Resource Management.

2. Step 2. If the grievance is not settled at Step 1, the employee shall within five (5) working days of receipt of the decision make a written request to the Director of Human Resource Management for Career Service Council review. The Director of Human Resource Management will forward the request for Career Service Council review to the Career Service Council, the department head, and the County Attorney.

- K. Employee Complaint Procedure for Issues Not Grievable, Not Appropriately under the Jurisdiction of an Outside Entity, and Not Covered by a Different Appeal Procedure in these Rules and Regulations.

For matters not grievable under these Rules and Regulations, or for which no other appeal procedure is provided for in these Rules, or for matters not under the exclusive jurisdiction of an outside agency, a Career Service tenure employee may submit a written complaint to his/her supervisor for consideration. The supervisor shall promptly respond to the employee's complaint in writing. If the issue is not settled at this level, or if the employee's complaint is about his/her supervisor, the employee may submit the written complaint to the next level of supervision in the department for consideration. The procedure may continue in this manner until the issue is settled and/or the employee submits the written complaint to his/her department head for consideration. The department head shall promptly respond to the employee's complaint in writing and forward a copy of this response to the Director of Human Resource Management. The decision of the department head or his/her designee will be final and is not reviewable by the Career Service Council.

All complaint responses must be consistent with County policy, procedures, and practices. Additionally, if the complaint is related to employment matters, all complaint responses must be consistent with County Human Resource systems, programs, procedures, and practices as established by these Rules and Regulations and/or by the Office of Human Resource Management.

- L. Sexual Harassment Policy

1. Utah County considers sexual harassment in all forms to be a serious offense which will not be tolerated. This policy should not be construed as an intent on the part of the County to regulate the social interactions or relationships freely entered into by County employees. Each department head shall be responsible for the dissemination of this policy and ensure that its intent is complied with.
2. Sexual harassment defined: Sexual harassment is defined as unwanted sexual attention of a persistent or offensive nature, made by a person who knows or reasonably should know, that such conduct is unwanted. Sexual harassment

includes sexually oriented conduct that is severe or sufficiently pervasive to unreasonably interfere with an employee's job performance or creates an intimidating, hostile or offensive working environment. It also includes offensive behavior that is not clearly sexual in nature, but which occurs only because of the victim's gender. While sexual conduct can encompass a wide range of conduct, some common examples of specifically prohibited conduct include, but are not limited to:

- a. Making submissions to or rejection of sexual favors the basis for employment decisions.
  - b. Making sexual or romantic advances toward an employee, which are unwanted, and especially persisting in such advances despite rejection by the employee.
  - c. Engaging in sexually suggestive physical contact or touching another employee in a way that is unwelcome.
  - d. Non-verbal conduct which may include displaying sexually suggestive objects or pictures in a work area, making sexually suggestive sounds, leering, whistling, or making obscene gestures.
  - e. Verbal conduct which includes making jokes of a sexual nature, suggestive comments, sexual innuendoes, sexual propositions or threats.
  - f. Treating one gender differently than another gender or using "pet" names to one specific gender.
3. Sexual harassment can be physical and/or psychological in nature. A series of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be harassing. Sexual harassment can occur on employer premises or elsewhere, also during non-working hours. It can involve males or females being harassed by members of either sex. Although sexual harassment typically involves a person in a greater position of authority as the harassed, individuals of lesser or equal authority, and even persons who do not work for Utah County, can be found responsible for engaging in sexual harassment.
  4. Violations of the Sexual Harassment Policy may result in disciplinary action up to and including termination of employment. In addition, employees who willfully report a false claim may also be subject to disciplinary action.

5. Reporting and Investigating Claims:

- a. Employees. If employees believe that they have been subject to sexual harassment or unwanted sexual attention, they should:
  - i. Make their feelings directly and immediately known to the harasser, if they feel comfortable doing so;
  - ii. Make a written record of the date, time and nature of the incident, and the names of any witnesses, and;
  - iii. Report the incident immediately to any of the following: A supervisor in the employee's chain of command, the Director of Human Resource Management, any County Commissioner, or the County Attorney.
  - iv. All incidents must be reported regardless of their seriousness. There will be no retaliation against an employee who in good faith reports an incident of sexual harassment or against anyone who provides information about violations. Complaints may be submitted by any individual irrespective of whether the complainant was personally subjected to the offending behavior.
- b. Supervisors. Supervisors who knowingly allow or tolerate sexual harassment are in violation of this policy and are subject to disciplinary action up to and including termination of employment. Supervisors must deal quickly and fairly with allegations of sexual harassment, whether or not there has been a formal complaint. They are responsible to:
  - i. Make sure that Utah County's policy is communicated to subordinate employees; and
  - ii. In case of formal complaint, immediately report the matter to the Director of Human Resource Management so that the matter can be investigated.
- c. Office of Human Resource Management. The Office of Human Resource Management will promptly conduct a fair and impartial review of a complaint. All complaints will be handled with as much confidentiality as possible in order to encourage reporting and to protect the privacy of the parties. Based

on that review, one or more of the following actions may occur:

- i. If the incident was minor and no further investigation is warranted, ensure that the Utah County's Sexual Harassment Policy is explained to the individuals involved for the purpose of avoiding future problems or misunderstandings.
  - ii. If the conduct is deemed more serious in nature, the Director of Human Resource Management and/or the County Attorney (or their designees) will investigate the complaint and determine whether any disciplinary action is warranted. The investigation will normally include conferring with the parties, interviewing witnesses, and reviewing any other evidence. A written report will then be prepared summarizing the incident and the actions taken to correct the situation, if any.
6. Resolution. If the complainant is dissatisfied with the disciplinary action taken or not taken as a result of the official complaint determination, the individual may file a written appeal with the Career Service Council through the Director of Human Resource Management within ten (10) working days of receiving official notification of the case resolution from the Office of Human Resource Management and/or may have a statutory right to request an investigation by the Utah Division of Anti-discrimination and Labor.

M. Harassment Based on Other Protected Categories Policy.

1. Utah County considers harassment in all forms to be a serious offense which will not be tolerated.
2. Harassment based on other protected categories ("Other Harassment") is defined as harassment of any person because of age, race, color, national origin, religion, sex, pregnancy, childbirth, pregnancy-related conditions, disability, genetic information, sexual orientation, gender identity, or any other factor protected by law.
3. Other Harassment, as defined above, by Utah County employees is prohibited.
4. Violations of Utah County's Other Harassment Policy by a Utah County employee or official may result in disciplinary action up to and including termination of employment. In addition, employees or officials who willfully report a false claim may also be subject to disciplinary action.

5. Reporting and Investigating Claims:
- a. County Employees/Officials. If employees/officials believe that they have been subjected to Other Harassment they should:
    - i. Make a written record of the date, time and nature of the incident, and the names of any witnesses, and;
    - ii. Report the incident immediately to any of the following: A supervisor in the employee's chain of command, the Director of Human Resource Management, any County Commissioner, or the County Attorney.
    - iii. All incidents must be reported regardless of their seriousness. There will be no retaliation against an employee who in good faith reports an incident of Other Harassment or against anyone who provides information about violations. Complaints may be submitted by any individual irrespective of whether the complainant was personally subjected to the offending behavior.
  - b. Supervisors. Supervisors who knowingly allow or tolerate Other Harassment are in violation of this policy and are subject to disciplinary action up to and including termination of employment. Supervisors must deal quickly and fairly with allegations of Other Harassment, whether or not there has been a formal complaint. They are responsible to:
    - i. Make sure that Utah County's policy is communicated to subordinate employees; and
    - ii. In case of formal complaint, immediately report the matter to the Director of Human Resource Management so that the matter can be investigated.
  - c. Office of Human Resource Management. The Office of Human Resource Management will promptly conduct a fair and impartial review of a Other Harassment complaint. All such complaints will be handled with as much confidentiality as possible in order to encourage reporting and to protect the privacy of the parties. Based on that review, one or more of the following actions may occur:

- i. If the incident is determined to have been minor in nature and no further investigation is warranted, ensure that Utah County's Other Harassment Policy is explained to the individuals involved for the purpose of avoiding future problems or misunderstandings.
  - ii. If the conduct is deemed more serious in nature, the Director of Human Resource Management and/or the County Attorney (or their designees) will investigate the complaint and determine whether any disciplinary action is warranted. The investigation will normally include conferring with the parties, interviewing witnesses, and reviewing any other evidence. A written report will then be prepared summarizing the incident and the actions taken to correct the situation, if any.
6. Resolution. If the complainant is dissatisfied with the disciplinary action taken or not taken as a result of the official compliant determination, the individual may file a written appeal with the Career Service Council through the Director of Human Resource Management, within ten (10) working days of receiving official notification of the case resolution from the Office of Human Resource Management and/or may have a statutory right to request an investigation by the Utah Division of Antidiscrimination and Labor.