



# Essex County

## *Policy Manual*

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## *Changes in Policy*

This manual supersedes all previous employee manuals and any associated resolutions regarding policy and procedures, within the confines of any federal, state or local laws.

While every effort is made to keep the contents of this document current the Essex County Board of Supervisors reserves the right to modify, suspend, or terminate any of the policies, procedures, and/or benefits described in the manual with or without prior notice to any employee.

## *Ownership of the Manual*

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

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# 1 Introduction

This document has been developed by the Essex County Attorney's Office and the Essex County Personnel Office, in order to familiarize employees with Essex County and to provide information regarding working conditions, key policies, procedures and benefits affecting employment with Essex County.

## 1.01 Authority

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

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

## 1.02 Forward

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

All references in this Manual to employees of the male gender are used for convenience only and shall be construed to include both male and female employees.

## 1.03 Employees Relation Policy

It is the intent and policy of the Board of Supervisors, Essex County, to provide a personnel management system consistent with the following:

- A. Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment.
- B. Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and terminating those whose inadequate performance cannot be corrected in accordance with the appropriate law, rules, regulation and collective bargaining agreement.
- C. All decisions regarding recruitment, hiring, promotion and other conditions of employment shall be made without discrimination on grounds of race, color, national origin, sex, age, religion, creed, physical or mental handicap, or other factors which cannot be lawfully used as the basis for employment decisions.

#### **1.04 Scope**

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

#### **1.05 Organization and Administration**

The Board of Supervisors is the final authority to:

- A. Approve the Personnel Policy Manual and amendments thereto. It may also request the appropriate personnel to prepare amendments and revisions it deems necessary.
- B. Approve the salary schedule of the Pay Plan.
- C. Ratify collective bargaining agreements.
- D. Amendments to this Policy Manual must be initiated and investigated through the normal committee procedure as outlined in the Rules of Procedure of the Board of Supervisors.

#### **1.06 Definition of Employee**

- A. Full-Time Employees
  - (1) An employee hired on a permanent basis who works forty (40) hours five (5) days a week (full workweek); thirty-seven and one-half (37 ½) hours five (5) days a week (full workweek)
  - (2) An employee within the Sheriff's Department hired on a permanent basis who works one work week of 36 hours followed by a 48 hour work week for a total of 84 hours for 12 hour per day;
  - (3) An employee hired on a permanent basis who works thirty-five (35) hours five (5) days a week (full workweek);
- B. Regularly Scheduled Part-Time Employees
  - (1) An employee hired on a permanent basis who works twenty-four

- (24) hours three (3) days a week (3/5 workweek);
- (2) An employee hired on a permanent basis who works twenty-two and one-half (22 ½) hours three (3) days a week (3/5 workweek);
  - (3) An employee hired on a permanent basis who works twenty-one (21) hours three days a week (3/5 workweek).
- C. Part-Time Employees - an employee who works less than fifty percent of the time prescribed as a normal work week or wherein the employee earns not more than three thousand, two hundred and fifty dollars (\$3,250) annually.
- D. Probationary Employees
- (1) Probationary Term.
    - (a) Except as herein otherwise provided, every permanent appointment from an open competitive list, and every original appointment to a position in the non-competitive, exempt or labor class shall be for a probationary term of not less than eight nor more than twenty-six weeks.
    - (b) The probationary term for a Trainee position, in which an appointee is required to serve a specified training term, shall not be less than twelve nor more than fifty-two weeks.
    - (c) The probationary term for Police Officer, Firefighter and Corrections Officer positions shall be not less than twelve nor more than fifty-two weeks.
    - (d) The probationary term for Social Service Workers and Caseworkers shall be not less than eight weeks nor more than fifty-two weeks.
    - (e) Every permanent appointment from a promotion eligible list shall be for a probationary period of twelve weeks. Upon written notice of the appointing authority the probationary period upon promotion may be waived and the appointee given a permanent appointment.
    - (f) An appointment shall become permanent upon the retention of the probationer after his/her completion of the maximum period of probation or upon earlier written

notice following completion of the minimum period of probation that his/her probationary term is successfully completed. A copy of such notice shall be sent to the Personnel Officer.

- E. Provisional Employees - an employee appointed to a competitive position, pending results of Civil Service Testing procedures.
- F. Temporary Employees - an employee appointed for a limited period of time pursuant to Civil Service Law (Section 64).
- G. On-Call Employee - an employee (Temporary) whose name is carried on an authorized roster in a Department for a specific title who may be requested to work in an emergency situation.
- H. Grant Personnel - an employee appointed pursuant to a Federal or State Grant. Benefits shall be paid if included in the grant or required by law. The Board of Supervisors may by resolution extend benefits to such employees.

## **2 Personnel**

### **2.01 Personnel Files**

- A. The Personnel Department shall keep a personnel file on each employee. This file shall include (but not limited to the following): retirement records, employment history, employment application, health records, periodic formal evaluations, and written disciplinary actions. Individual departments are encouraged to maintain departmental records of oral discussions with employees and observations relating to the employees' work performance.
- B. An employee shall have the right to examine the contents of his or her personnel file (except pre-employment application and letters of reference) upon filing a request for review with the Personnel Department or may give written authorization to a representative to examine the file, who shall file a request for review with the Personnel Department. The employee and the Personnel Department shall mutually agree to a time and place for such review.
- C. The County shall furnish copies of any material in the file requested by the employee or his representative at the usual fee for copying established by the Office of the Clerk of the Board of Supervisors.
- D. The employee has the right to make a written response to any

information in the personnel file, and said response shall be placed in the employee's personnel file.

## **2.02 Time Records**

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

## **2.03 Confidentiality**

The personnel department shall assure employees of confidentiality of personnel records and discussions. A release form completed by the employee will be required before any personnel folder is released.

# **3 Employment Policies**

## **3.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

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

## **3.02 Equal Employment Opportunity**

It is the policy of the County of Essex to provide equal employment opportunity to all people without regard to race, color, sex, religion, age, national origin, disability, sexual preference or Vietnam Era Veteran status. (See Appendices)

## **3.03 Affirmative Action in Employment**

The County of Essex undertakes a program of Affirmative Action, to which good faith efforts will be directed as outlined in the "Affirmative Action Plan". ( See Appendices)

## **3.04 Americans with Disabilities Act**

It is the policy of Essex County to comply with all the relevant and applicable provisions of the Americans with Disabilities Act (ADA). Essex County will not

discriminate against any qualified employee or job applicant with respect to any terms, privileges, or conditions of employment because of a person's physical or mental disability.

### **3.05 Immigration Law Compliance**

All offers of employment are contingent on verification of the candidate's right to work in the United States. Every new employee will be asked to provide documentation verifying his or her right to work and, as required by federal law, to sign Federal Form I-9, Employment Eligibility Verification Form.

### **3.06 Employee Background Check**

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

### **3.07 Criminal Records**

When appropriate and within the confines of any applicable laws, a criminal record check may be performed to protect Essex County's interest and that of its employees and the public which it serves.

### **3.08 Change of Personal Data**

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

### **3.09 Safety**

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

### **3.10 Weather related and Emergency related Closings**

- A. In the event of adverse weather conditions that have impaired the use of or for other extraordinary circumstances, the Chairman of the Board or the Vice Chairman of the Board may at their discretion direct an employee, or group of employees either not to report to work, or to leave work. The employee(s) so directed shall be deemed to be absent with pay and shall not be charged for any time and leave credits due to such excused absence.
- B. Any employee who is required to remain at work after the Chairman of the Board or the Vice Chairman of the Board has dictated that extraordinary circumstances exist for that particular geographic area, or

location within Essex County, shall receive equivalent compensatory time off at straight time, hour for hour, as the employees who were sent home or directed not to work.

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

## 4 Employment

### 4.01 Statement of Policy

IT IS THE POLICY OF ESSEX COUNTY TO:

Recruit, select, advance and retain qualified employees on the basis of their ability, knowledge and skills.

### 4.02 Applications/Examinations

#### A. Filing Applications

All applications for employment in any County position shall be filed with the Department of Personnel.

#### B. Receipt and Duration of Applications

Applications shall be active for a term of one (1) year from the date said application is filed. After the expiration of one year the application and supportive documents, if not renewed, may be purged from the active files.

#### C. Examinations

Examinations for positions in the competitive class shall be scheduled by the Personnel Department. County employees are encouraged to take closed, promotional or non-competitive exams (in the interest of job security); and any County employee who takes such an exam during such employee's scheduled working hours shall not be required to use personal time.

#### **4.03 Position Vacancies**

- A. If there is no change in title the Department Head may fill all vacant positions caused by resignation, retirement or termination without following the procedure as outlined below in Sections C through J. The appropriate procedure to be followed in such case shall be requesting an eligible list for the Competitive Class and following the procedures as set forth in Section 4.04 for the Labor and Non-Competitive Class. (Note exception to this procedure 4.03 B).
- B. Section A of 4.03 shall not apply during an authorized job freeze; procedures as listed in Sections C through J should be followed in all such cases.
- C. In all other situations, (New Title, Reclassification, New Position) the Department Head must receive authorization from the full Board of Supervisors and/or the County Manager.
- D. In compliance with Civil Service Law (Section 22) and with reference to Resolution 315 of July 6, 1987, the Appointing Authority must submit to the Personnel Department, prior to any request for a new position, an additional position or a change in classification, (the reassignment of the duties of a position) a detailed description of the proposed position (form ECPO-222). Certification of Classification, as required by Law, is the statutory responsibility of the Personnel Officer and may only be completed after submission of this Civil Service prescribed form.
- E. The Personnel Officer shall recommend the appropriate grade if not presently graded.
- F. The Personnel Officer shall submit the finalized job description, title, class and grade to the Appointing Authority.
- G. If the Department's Committee approves of the creation of such a position, the Committee's decision together with all relevant backup material shall be submitted to the Ways and Means Committee.
- H. The Personnel Committee shall review all relevant material precertified by the Personnel Officer for County positions.



- I. The Ways and Means Committee shall review such request for availability of funds and justification of such position. Approval by the Ways and Means Committee shall be moved to the Regular Board Meeting for formal approval.
- J. The Clerk of the Board of Supervisors has the responsibility to include this matter on the agenda of the full Board of Supervisors for final action.

#### **4.04 Posting and Advertising**

- A. Definition of Posting and Advertising

Posting (Required by Union Contract) - Formal notice posted upon the department's bulletin board of job vacancies or openings by the Appointing Authority and announcement in the Personnel Department's monthly publication of "Job Vacancies or Openings"

and upon request or directive

Formal Notice provided by the Personnel Department to all Federal, State, County, Town, Village and School Administrative Offices in Essex County.

Advertising - In addition to the posting procedures, upon request or directive, the Personnel Department shall place in the six (6) designated newspapers authorized by the Board of Supervisors an Official Notice of such vacancy or opening. The cost of advertising shall be borne by the department in which the position(s) exists.

- B. The job may be filled temporarily with the approval of the Board of Supervisors pending posting and completion of requirements of this Section.
- C. Refer to Union Contract.

#### **4.05 Screening**

- A. Training and Experience Requirements

The training and experience of applicants for all vacancies will be screened by the Personnel Officer to determine whether the applicant satisfies minimum training and experience requirements as specified in the appropriate job description. Those applicants satisfying such requirements will be considered eligible for consideration for the vacancy (except as noted in 4.05 B), but eligibility does not assure applicant of either a referral or interview.

- B. Testing

The Personnel Department will conduct the testing of all competitive

class positions and will provide a list of eligible candidates to the Appointing Authority.

#### **4.06 Selection**

##### **A. Interviewing**

- (1) The Appointing Authority or designee upon receipt of the application or eligible list will arrange and schedule personal interviews with appropriate qualified applicants.
- (2) Interviews shall be conducted by the Appointing Authority or designee.
- (3) The Appointing Authority must notify interviewed candidates of decisions of selection or non-selection.

##### **B. Reference Check**

It will be the responsibility of the Personnel Officer to check the validity of licenses, certifications, etc., when required of those applicants who are being considered to fill vacancies.

The Appointing Authority is responsible for checking the references of those candidates as selected. Assistance in the proper procedures for checking references shall be provided by the Personnel Officer.

#### **4.07 Hiring Authority**

##### **A. Board of Supervisors**

The Board of Supervisors shall appoint all Department Heads, and other employees deemed appropriate by the Board of Supervisors, subject to the applicable laws and regulations.

##### **B. Department Heads**

The Department Heads are the appointing authority for all employees in the Classified Service, with the exception as noted in Section A above.

#### **4.08 Hiring Process**

##### **A. Personnel Sign-up**

- (1) Upon making a selection, the Appointing Authority shall immediately notify the Personnel Department as to which applicant has been selected for appointment by filing a Notice of Personnel Change (form MSD-428).
- (2) Upon receipt of the completed Notice of Personnel Change form (MSD-428), the Department of Personnel shall have the selected

applicant complete the necessary employment sign-up procedures. To the extent possible, employees sign-ups will be completed prior to the effective date of employment.

B. Physical Examination

- (1) An employee shall report to a physician as designated by the County for a pre-employment physical examination, the cost of which shall be borne by the County self-insurance plan.
- (2) Employees will be required to attest to the truthfulness of statements contained in the pre-employment physical examination form. Information withheld or falsified will constitute grounds for disciplinary action including dismissal.

C. Orientation by the Personnel Department

- (1) The Department of Personnel will, after completing sign-up procedures, provide new employees with the necessary basic information to aid in their transition to County employment.
- (2) This presentation will address the following subjects:
  - (a) Employee compensation and employee involvement in time sheets.
  - (b) The employee fringe benefits package.
  - (c) The status of employment (full-time, part-time, provisional, temporary, etc.).
  - (d) The purpose and duration of the probationary period, if applicable.
  - (e) The County's Personnel Policy and Procedures Manual.
  - (f) And other requirements as directed by the Personnel Officer.

D. Orientation by Department

The Department Head or his designee shall welcome and orient any new employee to their duties, responsibilities and departmental rules.

**4.09 Probationary Period / Permanent Employees**

- A. Except as herein otherwise provided, every permanent appointment from an open competitive list, and every original appointment to a position in the non-competitive, exempt or labor class shall be for a probationary

term of not less than eight nor more than twenty-six weeks.

- B. The probationary term for a Trainee position, in which an appointee is required to serve a specified training term, shall not be less than twelve nor more than fifty-two weeks.
- C. The probationary term for Deputy Sheriff's and Correction Officer positions shall be not less than twelve nor more than fifty-two weeks. The probationary term for Social Services Workers and Caseworkers shall not be less than eight weeks nor more than fifty-two weeks.
- D. Every permanent appointment from a promotion eligible list shall be for a probationary period of twelve weeks. Upon written notice of the appointing authority the probationary period upon promotion may be waived and the appointee given a permanent appointment.
- E. An appointment shall become permanent upon the retention of the probationer after his/her completion of the maximum period of probation or upon earlier written notice following completion of the minimum period of probation that his/her probationary term is successfully completed. A copy of such notice shall be sent to the Personnel Officer.
- F. If the conduct or performance of a probationer is not satisfactory, his/her employment may be terminated at any time after the completion of the minimum period of probation, and or before completion of the maximum period of probation in the manner as prescribed in "Essex County Rules for the Classified Civil Service - Rule 13 - Probationary Term." A copy of which is available in the Essex County Personnel Office.

#### **4.10 New Appointees**

A new employee appointed to a position shall be paid the minimum rate of pay for the grade unless the Department Head demonstrates to the County that it is impracticable to recruit for a position at the minimum rate of pay.

#### **4.11 Promotions**

- A. A promotion is a recognition that the employee has been successful in their current level of job responsibilities and deserves to advance to a higher position title with more responsibility in order to earn a higher rate of pay.
- B. When an employee is promoted to a position title in a higher grade, said employee's rate of pay shall be increased to the starting rate of the higher grade.
- C. If the approved starting rate of the higher grade is less than 3 ½ % more than the employee's current rate of pay, then the increase in pay will be in an amount equal to 3 ½ % above their current rate.

- D. If the approved starting rate of the higher grade is less than what the employee currently earns, then the affected employee shall be entitled to an amount equal to 3 ½ % above their current rate.

#### **4.12 Reassignments**

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

#### **4.13 Demotion / Grade Change**

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

hourly rate at the date of enactment is higher than the new hourly rate then there will be no change to the hourly rate of those employees. However these employees will be entitled to any contractual agreed to increases as they are applied to all employees.

- F. If an employee voluntarily requests a demotion to a lower graded position and the request is approved by the Appointing Authority and the Personnel Officer, then said employee shall be paid at the approved starting rate of the lower graded position.
- G. If the voluntary demotion is two (2) grades or less in reduction, then the employee's hourly rate shall revert to the level paid prior to their promotion to the higher grade. If necessary, an upward adjustment to their prior salary level will be made based on any percentage or contractual rate increases they would have received had they remained in the lower position.
- H. A demotion means a change of a permanent employee from a present position to a position in a lower grade with a lower maximum salary.
  - (1) The Appointing Authority may demote a permanent employee for disciplinary reasons subject to the provisions of Section 75 of the Civil Service Law, if applicable. If the employee is not covered under Section 75 of the Civil Service Law, the Appointing Authority may demote such employee by filing a Notice of Personnel Change (form MSD-428) with the Personnel Department and copies to the employee.

#### **4.14 Transfers**

- A. Transfers are the movement of an employee from one department under one appointing authority to another department under a different appointing authority.
- B. A transfer must be approved by both Department Heads and the Personnel Officer.
- C. An employee who transfers in the same position title from one department to another department shall be allowed to carry their current rate of pay even if their current rate of pay is above the starting rate for the new position of the same title.
- D. MSD - 450 Employee Transfer Request Form will be used for the purposes of allowing a transfer to take place. MSD-450 requires the signatures of the Personnel Officer, the Appointing Authority from the position the employee is leaving, the Appointing Authority from the position the employee is entering, and the transferring employee.
- E. If a current employee applies for and is offered appointment to a new

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

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

#### **4.15 Desk Audits**

- A. Desk Audits are the process by which the Essex County Personnel Officer determines if an employee is being asked to perform duties which are appropriate for the Title and Classification of the position being held by that individual. Section 61 subsection 2., of the New York State Civil Service Law provides, in part, *"that no person shall be appointed, promoted or employed under any title not appropriate to the duties to be performed"*.
- B. Desk Audits may result in one of three possible actions as follows:
  - (1) The work may be found to be appropriate for the position and no action needs to be taken.
  - (2) The work may be out of title and the employee may need to be moved to a different title, which in the competitive class may mean additional testing requirements. The movement of the employee may be in a higher, lower or equal grade level.
  - (3) The Appointing Authority may choose to adjust the work assignments to properly reflect the title which the employee holds.
- C. If an employee feels a Desk Audit is appropriate the process to request the same is as follows:
  - (1) Request in writing directly to the Appointing Authority for a Desk Audit, with a copy of such letter to be sent directly to the Personnel Officer
  - (2) Request in writing directly to the Personnel Officer for a Desk Audit, in this case the Personnel Officer will notify the Appointing Authority of such request.
- D. A Desk Audit may also occur by request of the Appointing Authority directly to the Personnel Officer.

#### **4.16 Part Time Employment**

All rates prescribed in the current rates of pay are the standard rates of pay authorized for full-time (full workweek) employment. When employment is on a less than full workweek basis, only the proportionate amount of time actually employed shall be

paid, and at the minimum rate for the grade in which employed, unless otherwise authorized by the Board of Supervisors.

#### **4.17 Shift Differentials**

- A. Except for the Sheriff's Department, there shall be a forty (40) cent shift differential for those employees who work either the 3 p.m. to 11 p.m. or 11 p.m. to 7 a.m. shift provided the position the employee holds is one that is also required for normal work hours. The Sheriff's Department shall be a fifty (50) cent shift differential.
- B. RN and LPN nurses employed in the Horace Nye Home who work either the 3 p.m. to 11 p.m. or the 11 p.m. to 7 a.m. shifts will be provided an additional one dollar and sixty cents (\$1.60) above the normal forty (40) cent shift differential, provided the position the nurse holds is one that is also required for normal work hours.

#### **4.18 Terminations**

##### **A. Retirement**

- (1) Employees who wish to retire should contact the Personnel Department for further information regarding benefits under the County Plan.
- (2) An employee planning to retire should notify the Department Head, Personnel Department and New York State Retirement System in writing at least thirty (30) days prior to the date of retirement.

##### **B. Resignation**

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

##### **C. Dismissal for Cause**

- (1) A dismissal for cause is any action taken by an Appointing Authority against any permanent employee to separate the employee from employment with the County in accordance with provisions of Section 75 of the Civil Service Law.



- (2) Probationary and non-permanent employees may be terminated without resort to procedures under Section 75.

D. Layoffs and Recall

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

E. Exit Interview

- (1) Interviews shall be conducted by the Personnel Officer, the Chairman of the Committee, the Chairman of the Board, the County Manager or their Designee. The purpose and intent of the exit interview is to provide management with information as to the nature and cause of termination of employment with the County. This information may, in turn, improve our system and help to reduce employee turn-over.
- (2) A confidential exit interview may be conducted with all permanent full-time employees. Reasons for the employee's termination will be ascertained, if possible and the employee's clearance forms will be completed stating the amount of vacation time to be paid, if any.

## 5 Compensation

### 5.01 Statement of Policy

IT IS THE POLICY OF ESSEX COUNTY TO:

Classify all positions according to duties, functions, responsibilities and required training and experience; and provide equitable and adequate compensation, in the form of both pay and fringe benefits, in order to attract and retain competent people and to reward superior performance.

### 5.02 Classification Plan

A. Job Descriptions

- (1) Each job description shall define the kind of work and level of responsibility normally assigned positions which may be allocated to the title. While the exact duties and responsibilities of positions

in a title may differ, all positions allocated to a title shall be sufficiently similar as to kind of work, level of difficulty or responsibility and qualification requirements to warrant like treatment for personnel purposes.

- (2) Job descriptions shall be composed of the following parts:
  - (a) TITLE - The official title given to the position which shall be used in all personnel accounting and budget records.
  - (b) CODE - The official number given to the position which shall be used in all personnel, accounting and budget records.
  - (c) MAJOR FUNCTION - Statement as to the kind of work and level of responsibility the title encompasses.
  - (d) ILLUSTRATIVE DUTIES - Statements of specific tasks and responsibilities which may be required of positions allocated to the title, but not intended to be restrictive or limiting.
  - (e) MINIMUM QUALIFICATIONS - Sets forth the knowledge abilities, skills, and minimum training and experience required of an applicant to successfully perform the duties of the title.

B. On-Site Position Study

On-site position studies may be conducted by the Personnel Department to obtain information relative to the kinds and complexity of duties and levels of responsibility assigned a position by personal interviews with an incumbent employee, the Supervisor, and other administrative officials as necessary and by observation of an employee in the performance of the work assigned.

C. Existing Titles

The Personnel Officer shall periodically review the classification of positions and recommend to the Board of Supervisors the appropriate and necessary amendments to the classification plan in the form of new titles, revisions of existing titles and the abolishment of titles no longer required in the plan.

D. New Titles

- (1) When a new position is established or when the duties assigned an existing position are significantly changed, the Appointing

Authority will submit a completed Employment Requisition (form MSD-220 or MSD-222) to the Personnel Officer, who will review such request and determine if the position would be allocated to an existing title or a new title.

- (2) In consultation with the Department Head new titles will be established by the Personnel Officer when he determines that there is not an existing title available that adequately describes the duties and responsibilities assigned to an approved position.

### **5.03 Salary Plan**

#### **A. Salary Schedule**

The salary schedule shall consist of codes, titles, pay grades, and the salary paid for all titles.

#### **B. Pay Grades**

Each title within the classification plan will be assigned a pay grade by the Board of Supervisors (subject to limitations of the Collective Bargaining Agreement) based upon the recommendations of the Personnel Officer.

#### **C. Salary Surveys**

The Personnel Department will periodically conduct or participate in local, state and regional surveys to review salaries and benefits provided County employees.

#### **D. Pay Periods**

- (1) County employees are paid on a two (2) week payroll cycle.
- (2) Employees shall be paid on the Friday subsequent to each pay period. Exceptions to the above may be approved by the County Treasurer.
- (3) All newly hired employees will be paid on a lag payroll.
- (4) When pay days fall on a holiday, payment will be made the day before such holiday.

### **5.04 Rules for Administration of the Salary Plan**

#### **A. Hiring Rate**

- (1) The pay rate established for a position within the salary grade plan is the normal appointment rate for new employees.

- (2) In the event there are no applicants available who meet the minimum training and experience for the title, the Appointing Authority may request appointment of the selected applicant as a trainee. In such case, the employee may be hired at a designated lower grade (customarily two or three grades lower) until such time as the minimum experience requirements are met. Civil Service Rules provide for a period not to exceed one year.

B. General Adjustments

Any general adjustments to the pay rates of the salary plan shall be by approval of the Board of Supervisors subject to the Collective Bargaining Agreement.

**5.05 Overtime Pay**

- A. Employees shall receive one and one-half (1 ½) times their normal rate of pay for approved hours in excess of forty (40) hours in any week.
- B. Employees at Horace Nye who perform patient related services shall have an eighty (80) hour pay period and shall receive one and one-half (1 ½) times their rate of pay for those hours worked in excess of eight (8) in any twenty-four (24) hour period. Applicable state rules and regulations shall apply regarding consecutive days of work.

**5.06 Compensatory Time**

- A. Only those employees who are entitled to compensatory pay pursuant to the Fair Labor Standards Act shall be entitled to claim and receive such compensation.
- B. The use of accrued compensatory time shall be scheduled at the mutual convenience of the employee and the Department Head.
- C. The maximum amount of accrued compensatory time shall be capped at an hourly equivalent of 10 days based on the employees normal workday for the department, and any compensatory time that exceeds the 10 days shall be paid at the accrued earned rate. Such payment shall be made within two pay periods from the time determined to be due. Any exception to this section must be approved by resolution of the Essex County Board of Supervisors.

**5.07 Out of Title Work**

CIVIL SERVICE LAW (Section 61,2) - Prohibition against out-of-title work. No person shall be appointed, promoted or employed under any title not appropriate to the duties to be performed and, except upon assignment by proper authority during the continuance of a temporary emergency situation, no person shall be assigned to perform the duties of any position unless he has been duly appointed, promoted, transferred or reinstated to such position in accordance with the provisions of this chapter and the rules prescribed

thereunder. No credit shall be granted in a promotion examination for out-of-title work.

Resolution 355 of 08/03/87 - Resolved that any variation knowingly made by an Appointing Authority of this Law shall be subject to appropriate disciplinary action.

## **5.08 Expense Procedures**

### **A. Review by County Auditor**

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

### **B. Vouchers Required**

All expense vouchers shall:

- (1) describe the place where, the time when, the reason for and the amount of the expenditure; and
- (2) have attached thereto the original receipt showing the amount of the expenditure, the date of expenditure, and the name and location of the place where the expenditure was incurred; and
- (3) be submitted only by the employee or officer incurring the expense(s), and only for the expense(s) incurred for such employee or officer; and
- (4) be approved, prior to submission to the Auditor, by:
  - (a) the County Manager, for expense vouchers of Department heads, County Attorney, Clerk of the Board, and elected County officers, or
  - (b) department heads, for expense vouchers submitted by the employees of his/her department, or
  - (c) the Chairman of the Board or at least two out of the three members of the Audit Committee, for expense vouchers submitted by members of the Board of Supervisors, or
  - (d) the Chairman of the Board of Supervisors, for expense vouchers submitted by the County Manager, County Attorney, Clerk of the Board, and elected County officers; and

- (5) Be submitted by county employees within thirty days of the date that the expense(s) was/were incurred or paid, with the expense(s) charged to a credit card being submitted not later than 30 days after the cardholder's receipt of the first bill therefor.

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

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

C. Prior Approval of Overnight Expense

- (1) No out-of-state, overnight travel shall be allowed or permitted by any County official or employee, and no County funds shall be used or expended therefor, unless such travel and the expense(s) thereof have first been approved and authorized by resolution of the Board of Supervisors duly adopted in advance of such travel.
- (2) It is required that all other over-night attendance on County business as well as the attendance of any County officer and/or employee at any conference, convention or school conducted for the betterment of Essex County must be previously approved by:
  - (a) the County Manager or the Chairman of the Board of Supervisors for all County employees and Department Heads, as well as elected County officers (other than members of the Board of Supervisors), the County Attorney and Clerk of the Board, or
  - (b) the Chairman of the Board or two out of three members of the Audit Committee, for members of the Board of Supervisors and the County Manager.
- (3) the Chairman of the Board of Supervisors, for the County Manager.

D. Expenses Generally

Only the actual and necessary expenses essential to the ordinary comforts of a traveler in the performance of official duties will be reimbursed. Reimbursement for the following expense(s) shall not be allowed and is

prohibited:

- (1) expense(s) incurred for meals or refreshments for employees attending in-house workshops, conferences, meetings or similar events; and/or
- (2) expense(s) incurred for the purchase or consumption of alcoholic beverages, whether incurred in the course of official travel or while attending any conference, school, meeting or similar event; and/or
- (3) expense(s) incurred for or on behalf of persons who are neither County employees nor officials.

E. Transportation Expense

- (1) Travel by Air - Air travel should be scheduled in those instances where it is clearly in the County's interests to do so. When traveling by air, however, the traveler should seek low cost coach accommodations where available.
- (2) Taxicab charges - Allowable expenses when circumstances dictate and are substantiated by an original receipt.
- (3) Transportation by personally owned vehicle
  - (a) The official use of personally owned cars shall be restricted to such cases where it is to the advantage of the County.
  - (b) Charges:
    - (1) Parking charges - meter; day and overnight charges. When an employee is in an official travel status necessary parking charges will be allowed. Parking meter charges will be allowed when rate and places incurred is listed on account. Receipts are required for day parking and overnight parking; such receipts shall be attached to reimbursement vouchers.
    - (2) Charges for gasoline, accessories, repairs, depreciation, antifreeze, towage and other similar expenditures for personally owned will not be allowed.
  - (c) Mileage Reimbursement:

The rate of reimbursement for those employees required to

drive their own personal vehicle while acting within the scope and in furtherance of official County business shall be the maximum rate allowed by the Internal Revenue Service from time to time, provided that such reimbursement shall be limited to actual and necessary mileage only.

(d) Thruway or highway tolls:

In addition to the mileage rate, reimbursement will be allowed for tolls actually paid as long as a receipt is submitted; provided, however, that if the duties of an employee are such that a savings can be effected by purchase of a permit, it is expected that such a permit be purchased.

F. Travel to non-County Work Sites

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

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



shall reimburse the employee for the mileage in excess of said round trip distance; and

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

G. Meals and Lodging

No reimbursement for meal or lodging expenses shall be allowed except in accordance with the following:

- (1) only those meal and/or lodging expenses incurred in connection with pre-approved travel outside of Essex County shall be reimbursed; and
- (2) the amount of reimbursement sought and paid
  - (a) shall be the actual and necessary expense incurred;
  - (b) shall not exceed the IRS Maximum Federal Per Diem Rate allocated 20% to breakfast, 30% to lunch and 50% to dinner and
  - (c) shall be reduced by the amount of any third party contribution or allowance; and
- (3) reimbursement for meals shall only be allowed or paid when the following requirements are met:

- (a) the employee must attach the original meal receipt to the travel voucher,
- (b) the original receipt, or an attachment to such receipt, must contain the following minimum information:
  - (1) full name, and the address and/or telephone number (including area code) of the restaurant or other meal provider,
  - (2) date and time of meal, and
  - (3) number of persons served; and
- (c) when either
  - (1) the time of departure from home or the official work site at the beginning of the trip occurs before the following hours for the meals indicated

Breakfast	--	7:00 AM
Lunch	--	12:00 noon
Dinner	--	6:00PM

OR

- (2) the time of departure from home or the official work site at the conclusion of the trip occurs after the following hours for the meals indicated

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

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

H. Telephone Charges

Claims for reimbursement for long distance calls must be documented. Information such as name of party called, place called, date of call and statement of official business should be noted on voucher.

I. Miscellaneous Charges

- (1) Claims for reimbursement of expenditures made for purchase of authorized supplies, stenographer and typewriting expenses not exceeding \$25.00 or similar charges incidental to travel shall be supported by explanation and itemized receipt.
- (2) Expenses for laundry, valet service, theater tickets, typing of travel vouchers, and entertainment are personal charges for which reimbursement is prohibited and will not be allowed.

J. Travel Expenses to Foreign Countries

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

K. Exceptions; Review by Audit Committee

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

**5.09 Deductions**

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

- (1) Federal Withholding Taxes.
- (2) State Withholding Taxes.
- (3) Social Security.
- (4) Union Dues
- (5) Retirement payments for contributing employees

B. The County shall deduct from employees wages upon the written request of the employee of one or more of the following:

- (1) Union Insurance Programs
- (2) Health Insurance Premiums
- (3) Volunteer Benefit Program Premiums
- (4) Retirement Arrears
- (5) Federal Credit Union
- (6) Deferred Compensation
- (7) Other deductions authorized by the Board of Supervisors

## **6 Working Conditions**

### **6.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

Apply uniform regulations governing working conditions, including those legal constraints which affect employees in the public service, and provide a safe and healthful workplace for employees and protection from hazardous substances, equipment and conditions.

### **6.02 Personal Conduct**

All County employees are expected to remain constantly aware of their responsibility to the public and of the fact that they are representative of the County. Employee appearance and conduct is expected to be such that will contribute to a positive public image of the County and its employees. Employees are expected to maintain an adequate knowledge of the operations of their Department; so that, if placed in a position of contact with the public they may give an accurate description of the functions of that Department. All employees are required to be courteous in their relationship with the inquiring public. If a question is asked about which the employee has no knowledge, he should then refer it to a superior rather than give the inquiring individual incompetent, inaccurate or misleading information. Employees are expected to remain at their appointed work station or place of duty on a regular basis through-out the work day or as required by the immediate supervisor. Employees shall visit departments, other than those in which they are employed, only on official business. Upon completion of such visit, the employee shall report back to his supervisor for further assignments. The above section is by no means an exhaustive statement of official policy in regards to all aspects of personal conduct. Other provisions of Departmental Policies relating to certain types of prohibited conduct should also be consulted as the situation requires.

### **6.03 Conditions of Employment**

- A. Residency/Domiciliary Requirements

Employees hired on a permanent basis after the establishment of this Policy Manual who are not domiciliaries shall become domiciliaries within one (1) year of appointment. If employees are domiciliaries of the County at the time of appointment they shall maintain such status during the term of their employment. The Board of Supervisors may waive such one year requirement in cases of emergency. (Domiciliary requirement are waived for positions where residency requirements have been waived.)

B. Nepotism

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

C. Code of Ethics

The intent of this code is to prohibit any public official or employee from having interests, from engaging in business activities, and from incurring any obligations which is in substantial conflict with the proper discharge of his or her duties in the public interest.

(1) Definitions

The term "County" shall mean any board, commission, district, council or other agency, department or unit of the government of Essex County. The term "County Employee" shall mean any officer, official, or employee of Essex County whether paid or unpaid, whether serving in a full-time, part-time or advisory capacity.

(2) Rule with respect to conflicts of interest

No County employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

(3) Standards

- (a) No County employee shall accept other employment which will impair his independence of judgment in the exercise of his official duties.
- (b) No County employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.
- (c) No County employee shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.
- (d) No County employee shall engage in any transaction as representative or agent of the County with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
- (e) A County employee shall not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.
- (f) Each County employee shall abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.
- (g) Each County employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.
- (h) No County employee employed on a full-time basis nor any firm or association of which such employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the County in which such employee serves or is employed.
- (i) Each County employee shall, to the extent that he is cognizant thereof, disclose any interest he may have in

legislation or other official matters pending before the County Board of Supervisors.

(4) Violations

In addition to any penalty contained in any other provision of law, any such County employee who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment in the manner provided by law.

Exceptions to the above include the following:

- (a) The acceptance of meals of nominal value on infrequent occasions in the ordinary course of business meetings.
- (b) The acceptance of loans from banks, or other financial institutions on normal terms to finance proper and usual activities; e.g. home mortgage, automobile purchase, etc.
- (c) The acceptance of unsolicited promotional goods such as pens, pencils, notepads, and calendars as long as such materials do not exceed a retail value of \$25.00.

D. Conflict of Interest

The employee should also take note that the General Municipal Law, Section 801, spells out conflicts of interest as follows: Except as provided in section eight hundred two of this chapter, (1) no municipal officer or employee shall have an interest in any contract with the municipality of which he is an officer or employee, when such officer or employee, individually or as a member of a board, has the power or duty to (a) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder (b) audit bills or claims under the contract, or (c) appoint an officer or employee who has any of the powers or duties set forth above and (2) no chief fiscal officer, treasurer, or his deputy or employee, shall have an interest in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the municipality of which he is an officer or employee.

E. Political Activities

- (1) No employee in the classified service shall:
  - (a) Use his authority to interfere with an election or to influence another employee's vote.
  - (b) Coerce another employee to contribute money for political

purposes.

- (c) "Command and advise" another employee as to where he/she might purchase goods and services or interfere in any other way with his/her personal rights.
- (2) Any employee may hold a public office which does not involve an interest or conflict that interferes with his regular employment, or is in violation of the Hatch Act.
- (3) Employees shall otherwise be permitted to participate in all aspects of political activity as long as such participation is conducted during off duty hours and does not conflict or interfere with job performance.

F. Use of Property

(1) Definition and Policy

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

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

(2) Vehicles

Use and operation of County owned vehicles shall be governed by Chapter 13 of this policy manual.

(3) Stationery/Postage

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



(4) Telephone Usage

- (a) Employees should not make telephone calls of a personal nature unless authorized by the Department Head. All such authorized calls are to be held to a minimum and are to be no longer than three minutes.
- (b) Long distance telephone calls are to be used only in the transaction of official County business. A complete record of all such calls must be maintained. County employees are strictly prohibited from making long distance telephone calls of a personal nature.

G. Outside Employment

- (1) No employee shall accept outside employment or engage in any private business if such outside employment or private business interferes with the normal conduct of his regular County position. Any employee accepting outside employment shall make arrangements with his outside employer to be relieved from his duties should he be called for an emergency by the County. Any employee accepting such employment shall agree to respond to any emergency should his/her Department Head determine it necessary.
- (2) All employees who sustain injuries while performing outside employment duties are to report them to their immediate County Supervisor prior to the next regularly scheduled work day.

**6.04 Hours of Work**

- A. Employees shall be required to work the work week as listed below which shall be scheduled Saturday through Friday at the Sheriff's Department; Sunday through Saturday at the Horace Nye Home and the Department of Public Health; and Monday through Sunday in all other Departments. Departments who work shift work may continue such practice. With the approval of the County Manager, a Department Head may establish flexible starting and stopping times for his/her departments except the Public Works Department. Prior to the implementation of a change in the work schedule, the Association shall be notified, and the Department Head and the CSEA representative shall discuss such schedule change.
- B. Unless otherwise specified, the normal workday shall be based on seven (7) hours with a one (1) hour unpaid meal period. In the month of April the Civil Service Employees Association may request a meeting with their respective department head to request consideration of summer work hours.

- C. Horace Nye Home the normal workday shall be based on eight (8) hours including a meal period.
- D. Department of Public Works - the normal workday shall be based on eight (8) hours with a one-half (½) hour unpaid meal period. DPW clerical employees' workday shall be based on eight (8) hours with a one-half (½) hour unpaid meal period.
- E. Public Health hours shall be thirty-seven and one-half (37 ½) hours per week, seven and one-half (7 ½) hours per day exclusive of one-half (½) hour for lunch.
- F. Sheriff's Department for Corrections Officers and Deputy Sheriff's assigned to the Jail Schedule as follows:
  - (1) Instead of two 40 hour work weeks in a two week pay period, there shall be one work week of 36 hours followed by a 48 hour work week for a total of 84 hours in the new pay period; and
  - (2) The amount of overtime to be paid to such employees during such 84 hour pay period shall be 4 hours; and
  - (3) The shift for each day of the work week will be changed from 8 hours to 12 hours, and for purposes of accruing time and the use of accrued time a day shall be considered as 12 hours; and
  - (4) Such employees will receive 12 hours of compensatory time for holidays worked; and
  - (5) Such employees will have every other weekend off provided that adequate staffing is available.
- G. Nothing contained herein shall prevent the County from instituting summer hours consisting of four (4), ten (10) hour days per week anytime during the period May 1 to October 1, provided at least two (2) weeks prior notice is given to the Association and the Association is given the opportunity to discuss the change with the County.
- H. Except as otherwise specified, an employee who is called back to work after the employee's regular hours of work have been completed and after the employee has left, said employee shall be guaranteed a minimum of four (4) hours pay at the appropriate rate. Employees assigned to Horace Nye who are required to work an extension of the work day or who are required to take in-service training on day(s) they are otherwise not required to work, shall be paid time and one-half (1 and ½) for the actual overtime work performed.
- I. Current employees who hold positions that are based on a thirty-five (35)

hour work week but are working either a thirty-seven and one-half (37 ½) or forty (40) hour work week shall be paid at the thirty-five (35) hour work week hourly rate.

#### **6.05 Departmental Work Rules**

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

## **7 Performance Evaluation System**

### **7.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

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

### **7.02 Purpose**

- A. The purpose of the evaluation system is to permit supervisory personnel and employees to evaluate the performance of employees in accomplishing their assigned duties and responsibilities and to determine how and to what extent employee performance relates to the requirements of each position involved. This information is collected with the object of assessing employee performance and supervisory support, and thereby improving the various services rendered by the County. More specifically this system:
- (1) Is one of the basis for either retaining or terminating an employee prior to the conclusion of his probationary period.
  - (2) Is used to estimate an employee's potential for promotion.
  - (3) Indicates to the employee how past performance has been evaluated by the immediate supervisor, brings out strong and weak points, serves as the basis for discussion of improving performance, and provides for counseling to the individual employee.

- (4) Calls attention to the need for training employees when evaluation indicates that their work performance warrants improvements and may indicate the special working area in which additional training is required.
- (5) Is used as one of the criteria for disciplinary action where the employee has not shown improvement.

### **7.03 Scope**

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

### **7.04 Frequency of Performance Evaluation**

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

#### **A. Probationary Employees**

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

#### **B. Permanent Employees**

- (1) For permanent employees, the Department Head will complete at least one evaluation per year per employee.
- (2) The evaluation should be completed not later than August 31st of each year and submitted to the Personnel Office to be incorporated in the employees personnel folder.

### **7.05 Evaluation Procedure**

- A. The procedure for evaluation shall be as follows:
  - (1) The immediate supervisor, most directly familiar with the employee's service during the evaluation period shall be charged with the rating responsibility unless otherwise assigned by the Department Head. If the employee has had more than **one**

supervisor during the rating period, all concerned supervisors should contribute to the performance evaluation.

- (2) Before rating the employee, the supervisor shall review the duties and responsibilities required of the position to assure full understanding of what is expected of the employee.
- (3) The appropriate supervisor shall initiate the evaluation in sufficient time so that the following sequence of events can occur in a timely fashion.
  - (a) Upon completion of the performance evaluation form (see Section 7.06 regarding specific instructions for completing the form) or the form formulated by the department, the supervisor shall obtain approval of the rating from the Department Head.
  - (b) Upon receipt of the Department Head's approval, the supervisor shall discuss and explain the completed evaluation form thoroughly and completely with the employee. This provides the supervisor the opportunity to review the position requirements with the employee and to discuss the employee's overall performance, covering both strong points and weak points. After the evaluation has been discussed, the employee should sign the review form. (The supervisor shall give the employee his copy at this time. If the employee refuses to sign the performance evaluation form, it should be so indicated in the space provided for his signature.)
  - (c) The signed performance evaluation forms shall be distributed by the Department Head; so that, one copy is received by the Personnel Department, one copy is given to the employee and the remaining copy is filed in the department.

#### **7.06 Guidelines for Supervisors - Completion of Evaluations**

- A. When completing the Performance Review Forms, the following guidelines should be kept in mind by all supervisors.
  - (1) Use the Employee Performance Evaluation form for all employees (See pages 33 through 35). Unless the department has developed its own form(s) consistent with 7.03 b.
  - (2) Each factor listed must be evaluated or marked as "not applicable".
  - (3) Complete the Performance Review Form without the employee being present.

- (4) Consider the evaluation in terms of the employee's present duties, not in terms of the duties of a different, higher or lower position.
- (5) Do not consider potential value or personal abilities of the employee except as they are actually revealed in and used on present work assignments. The supervisor's rating should reveal what the employee actually does in his present position.
- (6) Consider each factor separately, taking into account one factor at a time. A supervisor should not be influenced by his general opinion of the employee's overall performance. Do not consider performance for any factor which does not relate to the one being rated.
- (7) In rating individual factors, remember that it is entirely possible for the ratings to differ between factors. In most cases, an employee's performance in certain factors is better than it is in other factors.
- (8) Be a fair, impartial and objective judge in evaluating the employee so that the supervisor's selection of a particular graduation of rating will accurately describe the employee's performance in the particular area considered. The usefulness of any performance review depends almost entirely upon the understanding, impartiality and objectivity with which ratings are made.
- (9) Do not be influenced by one or two unusual incidents but rate in terms of the employee's regular day-to-day average performance during the period for which he is rated.
- (10) Remember that the ratings a supervisor gives reveal the supervisor's judgment of the employee's work performance not some other supervisor's judgment.
- (11) The supervisor must make any notations on the review form in the section reserved for comments for overall ratings of Out-standing, Unsatisfactory, and (1) for commending the employee for exceptional traits of performance or, (2) offering constructive criticism in areas where improvement is needed.
- (12) After having rated the employee on each factor of the Performance Review Form, and after making comments involving either praise or constructive criticism, the information should be examined as a whole, and an overall rating selected based on an overall viewpoint.
- (13) Remember that in rating employees the supervisor **SHOULD NOT EXPECT THE EMPLOYEE TO MEET PERFORMANCE**

REQUIREMENTS UNLESS THE SUPERVISOR HAS INSTRUCTED THE EMPLOYEE IN ALL THE JOB REQUIREMENTS. A supervisor can not hold an employee responsible for work accomplishment if he has not received understandable assignments and instructions. If an employee has an area of difficulty, the supervisor must ask himself if he has helped the employee solve the problems which have handicapped his performance. The supervisor has the direct and important responsibility to develop an employee with respect to total job performance. If the employee is not getting along, he should be told how and in what respect he is failing and how he can improve his performance. This is one of the supervisor's most fundamental responsibilities.

- (14) Remember that an Employee Performance Review is a personal and confidential matter. In no instance should any employee's performance review be discussed with his fellow employees.

#### **7.07 Appeal Procedure**

After discussion of a performance evaluation by the immediate supervisor with the employee, the employee who is not satisfied with the rating, may appeal to the Department Head.

Such appeal must be submitted in writing and set forth the specific factors on which the employee does not agree with the rating, together with whatever reasons or explanations may be appropriate.

The appeal must be submitted within seven (7) calendar days of the date on which the performance evaluation was discussed by the employee and the immediate supervisor. Failure to appeal shall be considered acceptance of the evaluation. The Department Head shall have a meeting with the employees within fourteen (14) calendar days following receipt of the appeal and shall issue a decision on the appeal within fourteen (14) calendar days following such meeting. The decision of the Department Head shall be final.

## 7.08 Sample Performance Evaluation Form

Department: \_\_\_\_\_ Date: \_\_\_\_\_

Employee: \_\_\_\_\_ Job Classification: \_\_\_\_\_

Time Under Rater's Supervision: \_\_\_\_\_

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

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

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### A. ATTENDANCE

1. Punctuality
  - a.  Usually on time (5)
  - b.  Occasionally late for no reason (4)



- c.  Often tardy (3)
- d.  Always tardy (2)
- 2. Dependability
  - a.  Rarely absent (5)
  - b.  Frequently absent-but for cause (4)
  - c.  Frequently absent-but for no cause (3)
  - d.  Unsatisfactory-work suffers (2)
- 3. Notification
  - a.  Always notifies in time (5)
  - b.  Occasionally late or absent without notification (4)
  - c.  Requires inquiry as to why late or absent (3)

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B. PERSONAL QUALIFICATIONS

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

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C. CAPACITY

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

- e.  Limited in learning new duties (1)
- 2. Initiative
  - a.  Always finds extra work to do (10)
  - b.  Pushes work through on own initiative (8)
  - c.  Normal supervision required-not a self starter (6)
  - d.  Needs considerable supervision (4)
  - e.  Must always be told what to do (2)
- 3. Judgment
  - a.  Outstanding ability to reach sound and logical conclusions (5)
  - b.  Action generally based on good reasoning (4)
  - c.  Average judgment (3)
  - d.  Usually makes decisions without considering all alternatives (2)
  - e.  Conclusions often faulty (1)
- 4. Flexibility
  - a.  Always willing to put in extra duty (5)
  - b.  Generally available-always good reason for not coming (4)
  - c.  Generally available-not always willing (3)
  - d.  Shows unwillingness to work other than regular hours for no reason (2)

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D. ATTITUDE TOWARD JOB

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

- d.  Dislikes work (1)
- 2. Cooperation
  - a.  Makes every effort to cooperate (10)
  - b.  Promotes cooperation and good will (9)
  - c.  Moderately successful in cooperating with others (6)
  - d.  Cooperates reluctantly and sometimes causes dissension (4)
  - e.  Uncooperative, often breeds trouble (2)
- 3. Responsibility
  - a.  Seeks additional responsibilities (5)
  - b.  Willingly accepts additional responsibilities (4)
  - c.  Reluctant to accept additional responsibilities (3)
  - d.  Avoids responsibility (2)
  - e.  Cannot be depended upon (1)
- 4. Response to supervision
  - a.  Accepts willingly most of the time (5)
  - b.  Reluctantly accepts (4)
  - c.  Never accepts supervision (3)

---

E. JOB PERFORMANCE

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

2. Quality of Work

- a.  Strives for quality and accomplishment in work (10)
- b.  Work usually good (8)
- c.  Apparently lacks sense of accomplishment (6)
- d.  Not interested in result of work (4)

3. Performance

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

---

TOTAL: \_\_\_\_\_

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Date discussed with employee: \_\_\_\_\_

Comments and observations: \_\_\_\_\_

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Signed: \_\_\_\_\_

Supervisor

Title

Employee Comments:  I agree with rating.

I disagree with rating, specifically.

Signed: \_\_\_\_\_

Employee

Department Head Comments: \_\_\_\_\_

Signed: \_\_\_\_\_

Department Head

## 8 Employee Leave Time Benefits

### 8.01 Statement of Policy

IT IS THE POLICY OF ESSEX COUNTY:

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

### 8.02 Paid Holidays

A. Holidays shall be granted as follows:

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

B. Employees who are required to work on any of the above holidays shall be entitled to equivalent time off for the holiday, plus pay at straight time for all hours worked on the holiday. Employees working on Thanksgiving, Christmas and New Year's Day will be entitled to pay for the holiday plus time and one-half (1 ½) for all hours worked on the holiday. The Department Head shall designate a twenty-four (24) hour work period for the celebration of the holiday.

C. If a holiday(s) falls within an employee's vacation period, the vacation period of such employee shall be extended by the holiday(s) that fall within such vacation.

- D. When a holiday falls on a Saturday, employees shall be given Friday off. When a holiday falls on a Sunday, employees shall be given Monday off. In place of Lincoln's birthday there shall be a Floating Holiday to be taken in the calendar year by mutual agreement with the Department Head.

**8.03 Vacation Leave**

- A. Employees shall be entitled to vacation time in accordance with the following categories:

**Category One: Twenty (20) days per year.**

*Employees hired prior to January 1, 1999. Employees must have seven (7) complete years or more of service with the County.*

**Category Two: Eighteen (18) days per year.**

*Employees hired after January 1, 1999. Employees must have eight (8) complete years or more of service with the County.*

**Category Three: Fifteen (15) days per year.**

*Employees hired prior to January 1, 1999. Employees must have three (3) complete years or more but less than seven (7) complete years of service with the County.*

**Category Four: Twelve (12) days per year.**

*Employees hired prior to January 1, 1999. Employees must have less than three (3) complete years of service with the County.*

*Employees hired after January 1, 1999. Employees must have three (3) complete years or more but less than eight (8) complete years of service with the County.*

**Category Five: Nine (9) days per year.**

*Employees hired after January 1, 1999. Employees must have less than three (3) complete years of service with the County.*

- B. All vacation time will be based on a calendar year. Vacation time will be credited in January and available for use at that time.
- C. If an employee is due to move to a category with a higher benefit level within the ensuring calendar year that employee will be given the credit for the higher category.
- D. New hires will be credited a prorated amount of vacation time at the date of hire in their first year.

- E. New employees hired on or before the fifteenth (15<sup>th</sup>) of the month, will be credited with an anniversary date as of the first of that month. New employees hired after the fifteenth (15<sup>th</sup>) day of the month will be credited with an anniversary date as of the first day of the next month. These dates will be used for the purpose of determining the prorated amount of vacation time available in their first year.
- F. Employees shall be entitled to accrued vacation time up to a maximum of thirty (30) days.
- G. An employee who has reached the maximum 30 days of accrual shall be entitled to his/her additional vacation credit for the upcoming calendar year as it is provided in January of each year. However, the employee must use the additional time above 30 days within that calendar year. The intent of the parties is that no employee will have more than 30 days of vacation on the books on December 31<sup>st</sup> of each calendar year. Any amount above 30 days on December 31<sup>st</sup> of each calendar year will be lost.
- H. If an employee is in danger of exceeding the 30 days and his/her department head is unable or unwilling to schedule the time necessary to get below the 30 days, the employee may appeal to the County Manager to schedule the necessary time.
- I. If an employee leaves the service of the County, either by voluntary resignation, retirement or in the event of death, said employee shall be entitled to receive a cash payment for any accrued vacation time provided that under no circumstances shall said time exceed thirty (30) days.
- J. All references to days in this Article shall be converted to equivalent hours. The hourly credit for these days will be calculated based on the appropriate days times the hour of a normal workday for that employees department.

#### **8.04 Sick Leave**

- A. The sole purpose of this provision is to provide sick leave for those employees who suffer from a personal illness and/or injury and are unable to perform their job function except that sick leave may be utilized for an illness or injury in an employee's immediate family and for doctor and dental appointments for the employee. Any employee who claims sick leave under false pretenses may be subject to immediate disciplinary action.
- B. Employees hired on or prior to March 23, 1989 shall be granted eighteen (18) sick days per year. Employees hired after March 23, 1989 shall be granted thirteen (13) sick days per year.
- C. All Sick leave time will be based on a calendar year. Sick leave time will

be credited in January and available for use at that time.

- D. New hires will be credited a prorated amount of the thirteen days of sick leave time at the date of hire in their first year.
- E. New employees hired on or before the fifteenth (15<sup>th</sup>) of the month, will be credited with an anniversary date as of the first of that month. New employees hired after the fifteenth (15<sup>th</sup>) day of the month will be credited with an anniversary date as of the first day of the next month. These dates will be used for the purpose of determining the prorated amount of sick time available in their first year.
- F. All references to days in this manual shall be converted to equivalent hours. The hourly credit for these days will be calculated based on the appropriate days times the hours of a normal workday for that employees department.
- G. Upon becoming sick or disabled, an employee shall, during his sickness or disability, be granted sick leave with pay to the extent of the unused sick leave time accumulated.
- H. Sick leave time shall be considered for all purposes as continuous service. In the case of retirement, the provisions of Section 41-j under the New York State Retirement System shall prevail.
- I.
  - 1) Any employee who is incapable of performing her duties because of maternity disability may utilize accumulated sick leave credits during such absence. A maternity leave shall be considered to commence on the date when the employee is no longer capable of performing her regular duties and shall end on the date that the employee can resume the performance of her regular duties. The employee may be requested or required to bring in a doctor's notice to verify the date when the employee is not capable of performing her duties or when the employee is capable of returning to work.
  - 2) When an employee is absent from work because of sickness or disability, the Department Head may require a physician's certificate, an examination or other acceptable medical evidence for any absence. If a doctor's examination is called for, it shall be paid for by the County provided the results establish a bona fide illness or disability.
  - 3) When such a certificate is required, it will be so noted on the employee's time record. When the illness or disability is five (5) days or longer in duration, a physician's certificate is required at the end of the fifth day and for each five (5) work days of continuous absence thereafter (this requirement is waived when an employee is confined to a hospital). Such certificate shall state the nature of the illness or disability and the expected date of return to work.



- J. Employees shall be entitled to accumulate up to a maximum of the equivalent hours for two hundred twenty-five (225) days of sick leave. For those employees who have accumulated more than the equivalent hours of two hundred twenty-five (225) days of sick leave, they shall not be allowed to accumulate any more sick leave until such time that they have less than the equivalent hours for two hundred twenty-five (225) days. The exception to this maximum amount is covered under Section M of this Article.
- K. Employees who retire from County service shall be entitled to one hundred per cent (100%) of their normal daily rate for each day of accumulated sick leave over one hundred sixty-five (165) work days, however, under no circumstances will an employee be entitled to more than the equivalent of thirty-five (35) sick days of compensation.
- L. When an employee is absent from work due to illness or injury, said employee will make every reasonable effort to notify the appropriate County official (i.e. Department Head) prior to the beginning of the work day or as soon thereafter as feasible.
- M. Any unused personal time may be converted to sick time at the end of the year even if it results in exceeding or adding to more than the equivalent hours of two hundred twenty-five (225) sick days accumulated.

#### **8.05 Sick Leave Bank**

- A. It is the understanding and policy of Essex County and CSEA to encourage every employee to recognize leave time as a negotiated benefit and to utilize such leave for the purpose for which it is intended. It is further understood that there may be circumstances in which an employee would require additional leave time to accommodate a serious illness or temporary disability. It is on this basis that an agreement has been reached to establish a Sick Leave Bank. Sick Leave Bank time cannot be used to supplement Workers Compensation except as provided below;
  - (1) In the event a Workers Compensation Claim is controverted, the employee may request time from the bank until such time as a decision is reached regarding the controverted claim. If the controverted claim results in a back payment of sick time such payment shall be used to repay the Sick Leave Bank.
  - (2) In the event an employee is determined to be able to do transitional duty to supplement their Workers Compensation Claim but the County is unable to find a transitional duty assignment, then the employee may apply to the Sick Leave Bank Committee for possible Sick Leave Bank time.

In the event of a catastrophic illness / injury to an employee's spouse or child, Sick Bank time may be requested by the employee for care of such spouse or

child in an amount not to exceed forty five (45) days. Such request shall be made in accordance with the Administrative Procedures of the Sick Leave Bank as detailed below.

B. Administrative Procedures

- (1) The Sick Leave Bank shall be administered by the Personnel Director and the County Manager or their designees and two representatives designated by the CSEA Unit President. This group will become the Sick Leave Bank Committee (SLBC).
- (2) Each request for Sick Leave Bank time will be reviewed and a decision will be reached by a majority vote of the SLBC.
- (3) For the purpose of breaking a tie vote among the committee, a list of ten people will be created, five from the CSEA and five from the County. One member of the list of ten will be randomly selected by use of Random Ware software or other such similar computer random generation software program. This selected member will be the tie breaking vote within the committee.
- (4) The Committee's decision is final and is not subject to appeal or the grievance procedure.
- (5) The Committee will determine the number of days to be granted, not to exceed 25 workdays per request, or a total of 150 days per employee.
- (6) New employees with less than one year of service shall only be entitled to a maximum of twenty five (25) days.
- (7) Request to use Sick Leave Bank Time automatically allows the SLBC members to review the requesting employee's leave time record without further authorization.
- (8) The Committee shall meet within ten (10) working days from the receipt of the request in the Department of Personnel.
- (9) The employee and the Department Head shall be notified in writing within five (5) working days of the Committee's final determination.

C. Sick Leave Bank Time Procedures

- (1) The Sick Leave Bank is a mandatory participation program.
- (2) One day of sick leave time will be deducted from the employees total Sick Leave Accruals in January of each year and credited to

the Sick Leave Bank, unless previously determined by the SLBC to be not necessary.

- (3) Current members of the Sick Leave Bank under the previous contract will not be required to contribute to the Sick Leave Bank in the first year (January 2004) of the new contract.
- (4) New employees hired before September 1<sup>st</sup> of the calendar year will contribute a prorated amount of hours based upon the number of months which they will be employed by Essex County prior to the start of the new year.
- (5) New employees hired after September 1<sup>st</sup> of the calendar year will be allowed to postpone their contribution until January of the following year.
- (6) Less than full time employees will be required to donate based upon a prorated amount of their percentage of a normal work day and/or weekly schedule.
- (7) The SLBC will meet in June of each year to determine if an additional canvas of time will be needed to supplement the bank for the remainder of the calendar year. No more than one additional canvas may be done within any calendar year.
- (8) Mandatory donation of time may not be necessary each year, the SLBC will meet no later than November of each year to review how much time is available in the Bank. If no donation is needed for the following year employees will be notified.
- (9) Employees have the option to donate some or all of their accumulated sick time to the Sick Leave Bank when they voluntarily leave the County after five (5) years of service.
- (10) Lost sick time due to the death of an employee will be applied to the Sick Leave Bank to help maintain a sick leave time balance.

D. Application Procedures:

- (1) All accrued leave credits, including sick, vacation and personal time must be depleted prior to using leave from the Sick Leave Bank.
- (2) Each request shall be made on a prescribed form (available thru the Personnel Office) with a Physician's Certification form (available thru the Personnel Office).
- (3) Approved sick leave will be applied only during a current or

future payroll period. It shall not be applied retroactively if the payroll period is complete prior to the Committee's decision.

- (4) All documents shall be submitted first to the Department Head and then to the Personnel Office.

#### **8.06 Personal Leave**

- A. The purpose for personal leave is to provide employees time off for conducting personal matters that could not otherwise be conducted outside the normal work hours. Examples of proper use would be for important family matters, doctor or dental appointments, conducting personal legal affairs, family illness and conducting personal business matters. Personal leave must be approved by the employee's Department Head and, except in the case of emergencies requiring the employee's presence, will not be granted if such absence will interfere in the proper conduct of governmental functions necessitating the presence of the employee. Requests for personal leave shall be made to the Department Head as soon as possible with at least twenty-four (24) hours notice, except in the case of an emergency.

The intent is to provide five (5) days of personal leave non-cumulative per year for employees after their third year of service.

- B. New hires shall receive two (2) days of personal leave in their first year, three (3) days in their second year and four (4) days in their third year. Thereafter they will receive five (5) days.
- C. Personal leave time will be credited in January and available for use at that time. New hires will be credited their personal leave time at the date of hire in their first year.
- D. All personal leave is non-cumulative.
- E. Unused personal leave shall be credited to sick leave annually on December 31<sup>st</sup>.
- F. All references to days in this Article shall be converted to equivalent hours. The hourly credit for these days will be calculated based on the appropriate days times the hours of a normal workday for that employees department.

#### **8.07 Bereavement Leave**

- A. Employees will be permitted to use a maximum of three (3) calendar days (commencing the calendar day after the death unless notification of the death occurs prior to the start of the work day in which case the bereavement leave shall commence the day of the death) per death in the immediate family without loss of pay or deduction from any other accumulated credits.

- B. Should an employee be notified of a death in his/her immediate family during the work day, then said employee shall be permitted to take the remainder of the work day off without any charges to his/her leave credits nor shall that day count toward his/her three (3) bereavement days as spelled out above.
- C. Immediate family shall be defined as father, mother, sister, brother, son, daughter, mother-in-law or father-in-law, sister-in-law, brother-in-law of present marriage, spouse residing in employee's household, step-parents and step-children.
- D. Employees will be permitted to use a maximum of two (2) work days for a death of the employee's grandmother, grandfather, grandchildren, aunt, uncle, niece, or nephew without loss of pay or deductions from other accumulated credits.
- E. In the event a burial takes place at a later time, due to seasonal conditions, then the employee will be allowed to utilize the day(s) necessary for the burial at that time. The Department Head may request verification by way of obituary notice or other such acceptable proof of burial date.

#### **8.08 Jury and Court Appearances**

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

#### **8.09 Maternity Leave**

- A. Any female employee, who is incapable of performing her regular duties because of a maternity disability may utilize accumulated sick leave and vacation credits during such absence.
- B. A maternity leave shall be considered to commence on the date when the employee is no longer capable of performing her regular duties and shall end on the date that the employee can resume the performance of her

regular duties.

- C. The employee may be requested or required to verify the above dates by a statement from her physician or from the County's physician.

#### **8.10 Military Leave**

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

#### **8.11 Fire and Ambulance Leave**

Employee requesting release time to fight fires or serve as E.M.T.'s on the ambulance may be given time off with pay at the discretion of the Department Head.

#### **8.12 Unpaid Leaves of Absence**

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

#### **8.13 Family and Medical Leave Act**

- A. Employee Eligibility

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

- (1) work for Essex County;
- (2) have worked for Essex County for at least a total of 12 months;
- (3) have worked at least 1,250 hours over the prior 12 months; *and*,
- (4) work at a location where at least 50 employees are employed by Essex County within 75 miles.

B. Leave Entitlement

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

- (1) for the birth or placement of a child for adoption or foster care;
- (2) to care for an immediate family member (spouse, child, or parent) with a serious health condition; or,
- (3) to take medical leave when the employee is unable to work because of a serious health condition.

C. Intermittent Leave

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

D. Substitution of Paid Leave

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

E. Request for FMLA Leave

The proper forms necessary for requesting the Family Medical Leave Time will be provided by the Essex County Personnel Office. All requests for use of Family Medical Leave Time must be submitted to the Essex County Personnel Officer. Such request must be accompanied by a *Certification by Physician or Practitioner* form, available in the Essex County Personnel Office.

The Personnel Officer shall provide a written response granting or denying such requests, by way of the *Employer Response to Employee*

## **9 Group Health and Related Benefits**

### **9.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY:

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

### **9.02 Health Insurance Guidelines**

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



other than bi-weekly, the coverage shall continue for the three month period next succeeding the month in which the employee's or retired employee's death occurs. The unremarried spouse and/or dependent(s) may elect to continue coverage in the Health Insurance Plan beyond this point but, shall be required to pay the entire charge (both the employee's and the employer's contributions) for such coverage.

### **9.03 Health Insurance Coverages**

#### County Health Insurance Contribution Rate Formula

- A. The County agreed under the January 1, 1999 thru December 31, 2003 Union contract to provide a contribution rate for Employees Health Insurance, this agreement has been extended to cover all Management Employees as well, by the Board of Supervisors. The formula is based upon the following;
- (1) The New York State Health Insurance Program's Empire Plan Core Plus Medical and Psychiatric Enhancements premium cost as of March 1, 1999 would serve as the base cost.
  - (2) In all years following 1999 the County agreed to absorb up to 9% of any increase in premium per year based upon the rates established for this plan by the State of New York. Any amount of increase over 9% is a cost absorbed by the employees.
  - (3) The additional 9% (or any amount less than 9%) in premium for the new year is then added to the previous years contribution rate to determine each years new contribution rate.

#### County Health Insurance Details

- B. Effective March 1, 1999, the County shall make the New York State Health Insurance Program's Empire Plan Core Plus Medical and Psychiatric Enhancements available for bargaining unit employees (subject to minimum participation requirements) and agrees to pay 100% of the premium rate (see attached as Addendum A) for all employees hired prior to March 23, 1989, and their dependents. All new employees hired after March 23, 1989 shall contribute 10% of the cost based on the 1999 Empire rates.
- (1) Effective January 1, 2000, and for each subsequent year, the County agrees to pay up to 9% of any increase in premium rates above that of the previous year's Empire rates. Any subsequent amendment of the Taylor Law which affects Section 209-a 1 (e) shall apply to this provision.
- C. In addition, the County shall provide the Blue Shield Of Northeastern New York Community Blue Plan 202 and the Blue Shield PPO Plan as

options for employees, but in no case shall the County pay higher premiums for such options than the Empire Plan premium rate, exclusive of administrative fees. If, over the term of the contract, the Community Blue plan rates equate to or exceed the Empire Plan rates, the same percentage as spelled out in B. and C., above shall apply to those affected employees covered by said plan.

- D. The County may offer additional alternative Health Insurance Plans which the employees on a volunteer basis can accept. If the alternative plans are lower in cost than the Empire Plan then an appropriate incentive as detailed in Section 9.04 will be offered.
- E. Part-time employees who average twenty (20) hours per week over a six (6) month period and those regular employees who work a 3/5 schedule shall be eligible for individual coverage by paying 10% of the premium cost for said individual coverage. These employees may opt for family coverage provided that any additional premium costs for said coverage shall be assumed by the employee and not the County. Regular employees who are "grand fathered in" under the 1996-1998 Union contract shall be covered by B., C., and E. above as if they were full workweek employees.
- F. In the event that married couples are both employees of the County, then the County hereby agrees to provide their Health Insurance plan premium free. Such provision shall not apply to the Blue Shield PPO Plan.

#### **9.04 Health Insurance Notification Requirements**

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

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

**9.05 Drug Card Benefit**

A. The County agrees to provide a self-insured prescription plan administered by Eckerd Drug, based upon the following copays:

Retail Plan - 30 Day Supply

Brand/Generic Copay	\$10.00
Preferred Copay	\$15.00
Non-Preferred Copay	\$30.00

Mail Service - 90 Day Supply

Brand / Generic Copay	\$15.00
Preferred Copay	\$20.00
Non-Preferred Copay	\$45.00

B. In the event the County chooses to move to an alternative Drug Card Plan, such plan shall be equal to or greater than in coverage, including co-pays and all terms and conditions.

**9.06 Health Insurance Incentive**

A. The County will make available a monetary incentive to employees who elect coverage under the Blue Shield Of Northeastern New York Community Blue Plan 202 based upon the following;

- (1) The County agrees under Section 9.02 - Health Insurance Contribution Rate Formula, Subsection A., to provide a contribution rate based on the following;
  - (a) The County will cover up to 9% of any increase in premium above the previous year's rate for the New York State Health Insurance Program's Empire Plan Core Plus Medical and Psychiatric Enhancements Plan.
  - (b) The additional 9% in premium cost is then added to the County's previous year's contribution rate to arrive at the new year's contribution rate.

Community Blue Family Plan Incentive

- Step 1. The Family Plan Incentive is arrived at by taking the amount the County agrees to contribute as detailed above.
- Step 2. The cost of the Blue Shield Of Northeastern New York

Community Blue Plan 202 Family plan premium or other such plan, subtracted from Step 1.

- Step 3. One-Half of the difference which results from subtracting Step 2., from Step 1., is provided as the Family Plan incentive to the employee.

#### Community Blue Individual Plan Incentive

- Step 1. The Individual Plan Incentive is based upon one-half of the Family Plan incentive.
- B. The annual incentive shall be calculated proportionately from the effective date that the employee makes his/her selection. For example, if the employee makes the selection effective July of any contract year, said employee's savings would be based on one-half the savings for the remaining six months of the County's fiscal year.
- C. The savings set forth above may be paid in cash to employees or may be placed in the employee's Flexible Spending Account on a pro rata basis for the number of months remaining in the County's fiscal year from the effective date of the selection.
- D. If, the Community Blue plan rates equate to or exceed the Empire Plan rates then the incentives would no longer be available to the employees.
- E. Incentive payments will be made the first non payroll Friday in December each year.

#### **9.07 Health Insurance Buy Out**

- A. Employees who have opted for health insurance coverage through the County and decide to drop that coverage, said employees shall be entitled yearly to one-half the annual premium of the rate of the Empire Plan, up to a maximum of \$3000.00 subject to proportional calculation in the event the employee makes his/her election other than at the beginning of the County's fiscal year; or
- B. Employees who are not currently covered but are eligible for health insurance coverage through the County, said employees will receive  $\frac{1}{2}$  of the annual premium based on the individual coverage rate of the Empire Plan.
- C. Cash payments will be made the first non payroll Friday in December each year.
- D. In order to obtain the health insurance buy-out, the employee must document to the County that other health insurance is available and the employee must sign a release to the County waiving any rights to health

insurance coverage and releasing the County from any other health related liability.

- E. If an employee who has elected the buy out option loses his/her health insurance coverage, he/she must immediately notify the personnel office and his/her coverage will be reinstated upon the employee making the appropriate payment of the premium, if such premium is due, and otherwise satisfies any eligibility requirements.

#### **9.08 COBRA Notification**

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

#### **9.09 Voluntary Dental Program**

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

#### **9.10 Cafeteria Plan**

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

##### Premium Only Plan (POP)

The County will offer a Premium Only Plan (POP) whereby those employees who pay a portion of their health insurance premium shall have their portion paid by pre-tax dollars through payroll deductions.

##### Flexible Spending Account

The County will allow employees, at their option, to create individual Flexible Spending Accounts (FSA's) which allow the employees to pay for qualified unreimbursed medical expenses with pre-tax dollars. The minimum contribution level for an FSA shall be \$10/per pay period and the maximum shall be \$134.62/per pay period (\$3500.00 annually).

##### Dependent Care Account

The County will allow employees to set up a Dependent Care account whereby employees may contribute up to \$5000 annually (set up as monthly contributions) toward paying for qualified Dependent Care.

### **9.11 New York State Disability Insurance**

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

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

### **9.12 Workers Compensation**

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

- A. The County shall continue to provide Worker's Compensation insurance for all County personnel. Any employee injured while on duty as an

employee of the County is required to file an accident report (Quick Fax Report) with his department head immediately, or as soon as possible following said accident. Proper forms are available in the office of the heads of departments.

- B. Employees entitled to receive Worker's Compensation benefits may elect to use sick leave in lieu of the Worker's Compensation payment for the first fourteen (14) days of their entitlement. Lump sum payments or settlements received by the employee for injury or disability shall be retained by such employee.
- C. When the Department is reimbursed by the Worker's Compensation Insurance carrier for remunerating employees under the sick leave policy of the County, the employee will receive credit for the loss in sick leave at a 2/3 reimbursement rate or in an amount as determined by the Workers Compensation Board.
- D. Should an employee be receiving Worker's Compensation for more than one (1) calendar month, then said employee will be contacted by the Personnel Office to arrange for installment payments for health insurance premiums or other employee paid benefit coverage, which may be required to maintain coverage.

### **9.13 Workers Compensation - Controverted Claims**

Any claims may be controverted by the Worker's Compensation Administration or the County Attorney who are authorized to investigate and inform the employee that the claim is controverted.

### **9.14 Accident Reports**

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

- A. Immediately inform the State Police or Sheriff's Department of the accident.
- B. Obtain information as to vehicle license numbers, name and address of owner, name and address of driver of other vehicle involved and name of insurance carriers.
- C. Obtain name and address of witnesses if any.
- D. Make no statements, oral, written or otherwise, except to: a policeman, a County representative, an accredited representative of the County's insurance carrier or your personal insurance carrier, if appropriate.
- E. Do not make a settlement or sign any documents.
- F. Notify your Department Head of accident as soon as possible and give

pertinent details.

- G. Submit a completed Accident Report form to the Department Head who shall forward it to the insurance company.

### **9.15 Unemployment Compensation**

Unemployment compensation is designed to provide a temporary income for those who are out of work through no fault of their own. Depending upon the circumstances, employees may be eligible for Unemployment Compensation upon termination of employment with Essex County. The New York State Department of Labor, Division of Unemployment Insurance, determines eligibility for all Unemployment Compensation. Essex County pays the entire cost of this insurance program.

### **9.16 Social Security**

The United States Federal Government operates a system of mandated insurance known as Social Security. As a wage earner, employees are required by law to contribute a set amount of weekly wages, based upon a set percentage, to the trust fund from which benefits are paid.

As an employer, Essex County is required to deduct this amount from each paycheck an employee receives. In addition, Essex County matches employee contribution dollar for dollar, thereby paying one half of the cost of our employees Social Security benefits.

### **9.17 Transitional Duty Program**

In the effort to create an environment that will facilitate employee recovery from injury or illness, and to improve operational efficiency of Essex County, a program of Transitional Duty has been established for Essex County Employees. (See Appendices)

On a case-by-case basis, this program covers all Essex County personnel who sustain a work related disabling injury. Essex County will make temporary and reasonable accommodations which will enable the employee to gradually return to his/her position at full duty. Transitional Duty will never be offered as a permanent alternative.

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

## **10 Retirement Benefits**

### **10.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:



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

#### **10.02 Eligibility for Retirement**

- A. All permanent full-time employees must join the retirement system.
- B. "Full-time" positions (for retirement purposes only) are those in which the employment is on a twelve month per year basis, with a work week of not less than thirty hours and in which appointment is not to a temporary position or limited to a temporary position of less than one year.
- C. Persons employed in temporary or part-time positions may apply for membership, but are not required to do so.
- D. When an employee begins thinking of retiring, they should inform their Department Head and the Essex County Department of Personnel of their intentions by mail or in person. The Personnel Department will provide pre-retirement counseling.
- E. Applications must be filed with the Retirement System at least thirty (30) days, but not more than ninety (90) days before the date on which retirement will occur.
- F. An employee's retirement date is always the first day following the last day for which they are paid and there can be no payment for work performed after that date.

#### **10.03 Retirement Guidelines**

- A. Retirement income from previous employment in private industry has no effect on the retirement rights or income of a person who later enters County employment.
- B. Tier 1 and Tier 2 members - persons employed in Competitive Class positions must join as of the date of permanent employment. Persons in Non-Competitive Class positions must join as of the date of their appointment. The employee does not contribute.
- C. Tier 3 member - persons employed in full-time positions on or after July 1, 1976 must be enrolled as retirement system members. The employee must contribute 3% of his/her salary. After ten (10) years of service credit Tier 3 members requirement for 3% contribution ends. Tier 3 members terminating service with the County will obtain counseling from the Department of Civil Service and Personnel as to their available options pertaining to their investments in the Retirement System prior to or on their separation date.
- D. Tier 4 member - Persons employed in full-time positions on or after September 1, 1983 must be enrolled as retirement system members. The

employee must contribute 3% of his/her salary. After ten (10) years of service credit Tier 4 members requirement for 3% contribution ends. Tier 4 members terminating service with the County prior to being eligible for retirement may not withdraw their contributions to the State Retirement System until age 62.

- E. The retirement benefits of each employee will depend upon their salary history, years of service and age at retirement.
- F. If a person, who is retired and is collecting retirement benefits from the New York State Employees' Retirement System is hired for a County position, they may earn up to the statutory amount as set forth by Law in any calendar year. Notification of and approval by the New York State Employees' Retirement System is the responsibility of the retiree prior to his/her re-employment.
- G. An employee who retires from the County and is rehired shall accrue seniority from the rehire date. Prior seniority shall not be reinstated.

#### **10.04 Retirement Disability Benefits**

- A. Two types of disability benefits are available through the retirement system:
  - (1) A benefit for accidental disability and,
  - (2) A benefit for ordinary disability.
- B. Definitions of ordinary and accidental benefits can be found in the information leaflets at the Department of Personnel.
- C. Multiple filings may be made simultaneously for accidental disability, ordinary disability and service retirement.

#### **10.05 Retirement Option 41j**

Allowable unused sick leave (prior to member's retirement) is limited to 165 days and is applied as additional service credit on a calendar basis. This time cannot be used to qualify member for a benefit.

#### **10.06 Retirement Option 60b**

Guaranteed minimum death benefit shall be as provided by the New York State Retirement System Laws.

#### **10.07 Questions Regarding Retirement**

All questions regarding retirement, coverage, forms, procedures, etc., should be directed to the Personnel Department or New York State Employees Retirement System in Albany.

#### **10.08 Retirement Health Insurance Benefits**

- A. In order to be eligible for the benefit provided herein, the employee must have the following:
- (1) Ten (10) years of service as an employee of Essex County.
  - (2) Be eligible for and activate his/her retirement benefit provided by the New York State Retirement System upon terminating service with the County.
  - (3) A one year grace period will be provided for the employee to decide if he/she will or will not activate their New York State Retirement which would entitle them to the Retirement Health Insurance Benefit. Failure to activate the New York State Retirement within the one year grace period will relieve the County of the obligation to provide a Retirement Health Insurance Benefit.
  - (4) The County will not be required to provide Health Insurance Coverage during the grace period, however the employee will be allowed to maintain coverage by paying the full cost of the County's premium during the one year grace period.
  - (5) Employee with twenty five (25) or more years of service shall be entitled to Retirement Health Insurance without the requirement of activating their New York State Retirement benefit as detailed in subsection two (2) above. Such employee shall be allowed to request coverage at the time they choose to activate their New York State Retirement benefit.
- B. Except as provided below, employees who retire effective January 1, 2004 and during the term of this Agreement beyond January 1, 2004 will continue to pay the same dollar amount they were paying at the time of their retirement.
- C. If health insurance premiums increase subsequent to retirement, the County will pay up to 9% of the premium increases on an annual basis. For premium increases that exceed 9%, the retirees share of the annual premium increase shall not exceed a cumulative monthly total as follows:
- (1) twenty-five (25) or more years of service, up to \$10 per month;
  - (2) twenty (20) or more years of service but less than 25, up to \$15 per month;
  - (3) fifteen (15) or more years of service but less than 20, up to \$20 per month;
  - (4) ten (10) or more years of service but less than 15, up to \$25 per

month;

- (5) less than ten (10) years of service, the County has no obligation to pay any portion of the health insurance premiums.
- D. The County will be responsible for any premium costs that exceed the contributions spelled out in C. 1. through C. 4. above.
- E. In the event the employee's contribution is less than five (5) dollars per month, the County reserves the right to waive said employee's contribution.
- F. Should a retiree choose to switch health insurance plans after his/her date of retirement, said retirees contribution toward premium payments shall be made in accordance with B. and C. above. Said employee's contribution shall be determined as if the employee were retiring at the time of this switch.

## **11 Deferred Compensation**

### **11.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

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

## **12 Drug Free Workplace**

### **12.01 Statement of Policy**

- A. Essex County is committed to the safety and well-being of its employees and the public, and to the provision of a variety of services to the People of Essex County in the public trust. An efficient and productive workforce is vital to carry out those obligations, and the public has a reasonable right to expect persons employed by the County to perform their duties free from the effect of drugs, including alcohol. The County has an obligation to ensure public safety through the actions of its employees, and to expect its employees to report for work fit for duty, free from the effects of drug and/or alcohol use. Furthermore, employees of the County have a reasonable right to work in a safe environment free from the effects of drug and/or alcohol use. The County recognizes that an employee's physical condition affects job performance, and that drug and/or alcohol abuse ranks as one of the major health problems in our society.
- B. Essex County is concerned with those situations where use of alcohol, intoxicating substances, or other drugs is detrimental to the public trust

or to the safety of employees or citizens. The County is committed to the rehabilitation/detoxification of employees who abuse drugs and alcohol by referral to appropriate substance and chemical dependency/abuse programs and professionals.

- C. The County recognizes drug dependency as a major problem. The County also recognizes drug abuse as a potential health, safety and security problem. Employees needing help in dealing with such problems are encouraged to use the Employee Assistance Program. Conscientious efforts to seek such help will not jeopardize any employee's job and will not be noted in any personnel record except where action follows a supervisory-initiated referral.
- D. Early recognition and treatment of chemical dependency problems is important for successful rehabilitation/detoxification, to improve job performance, and to reduce personal, family, and social disruption. Employees who participate in a program for the purpose of treating alcoholism or drug addiction may do so without jeopardizing their employment with the County, provided they stop all involvement with alcohol or other drugs; except that participation in such programs will not automatically prevent disciplinary action for incidents that have already occurred. Should a rehabilitation/detoxification program be necessary, leaves of absence may be used in accordance with current policies.
- E. It is the intent of this policy to:
  - (1) express the County's viewpoint on drug and alcohol usage exhibited by behavioral and medical disorders;
  - (2) encourage an enlightened viewpoint toward behavioral and medical disorders directly or indirectly related to the use of drugs, including alcohol;
  - (3) provide guidelines for consistent handling of situations arising from behavioral and medical disorders directly or indirectly related to the use of drugs, including alcohol;
  - (4) maintain a work environment which is free from drug use, including alcohol, and from the unlawful possession of controlled substances, on municipal premises; and
  - (5) comply with the Federal Drug-Free Workplace Act of 1988, the Omnibus Transportation Employee Testing Act of 1991, and the regulations promulgated and adopted in furtherance thereof.
- F. This policy is intended to be a unilateral expression of the general

policies, procedures and guidelines concerning substance abuse and the County's personnel program. It is not intended to create any contractual rights of employment, whether express or implied, between the County and its employees. The County reserves the right to change the provisions of the personnel program and this policy at any time.

## 12.02 Drug Policy - Definitions

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

A. "Areas of Observation" shall mean

Demeanor: Agitated - aggressive - passive - cooperative

Speech: Slurred - loud - quiet - rambling - incoherent - normal

Eyes: Bloodshot - dilated - closed - moist - normal

Breath: Alcohol odor - marijuana odor - normal

Coordination: Fumbling - jerky - slow reacting - normal

Actions: Talkative - threatening - calm - erratic - normal

Skin: Sweaty - flushed - pale - clammy - normal

Walking: Unsteady - staggering - slow - normal

Standing: Swaying - rigid - feet wide apart - normal

Other notable observations.

B. "Controlled Substance" shall mean any substance listed under the Uniform Controlled Substances Act of the State of New York.

C. "County" shall mean Essex County.

D. "Covered Employee" shall mean

(1) employees subject to drug and alcohol testing pursuant to the Omnibus Transportation Employee Testing Act of 1991 and 49 CFR Part 382;

(2) employees who are authorized or required to operate County vehicles, or their own personal vehicles, in the course of their employment with the County; and

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

- (2) an employee is involved in an accident while operating a County motor vehicle, or while operating a motor vehicle not owned by the County, during the course of such employee's employment; or
  - (3) an employee, while engaged in the course of employment with the County or while traveling to or from such employment, is issued a traffic ticket, summons, appearance ticket or other similar document or instrument charging such employee with a violation of one or more laws regulating the use or operation of a motor vehicle; or
  - (4) an employee, while engaged in the course of employment with the County, is involved in an occurrence resulting in damage to property or whereby the employee, a co-employee or any other person sustains a personal injury.
- J. "Substance Abuse Problem" shall mean a dependency upon or periodic use of alcohol, drugs or any other intoxicating substance, or any combination of substances.
- K. "Under the Influence of Alcohol" shall mean that as a result of the consumption of alcohol an employee's ability to perform his or her job is impaired to any appreciable degree. For the purposes of this definition, either (1) a blood alcohol level of .05% alcohol in the blood by weight or (2) a breath alcohol level of .02 grams of alcohol per 210 liters of breath, shall be considered to be sufficient to establish that an employee is under the influence. However, an employee having a lesser alcohol level may still be considered to be under the influence of alcohol if job performance is impaired to any appreciable degree.
- L. "Under the Influence of Drugs or other Intoxicating Substances" shall mean that as a result of the use, consumption, inhalation or injection of any combination of alcohol, drug or any other intoxicating substance, or any combination of substances, an employee's job performance is impaired to any appreciable degree.

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

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

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

In order to implement this policy, the following rules are established as conditions of



employment with the County:

- A. Any County employee who is involved in a reportable incident shall be directed to undergo a drug and/or alcohol detection test to aid in determining fitness for duty.
- B. A determination that reasonable suspicion exists under §12.02 I.(1) shall be made by the appropriate supervisor or department head, in their sole discretion, and the same shall not be grievable or otherwise reviewable. If any employee has reasonable suspicion that a supervisor is under the influence of drugs or alcohol, his observations shall be reported to the supervisor's immediate supervisor. If the employee feels that reporting these observations in this manner would adversely affect his working conditions, the report may be made to the Personnel Department.
- C. An employee who refuses to participate in a required drug or alcohol detection test will (1) be subject to disciplinary action, up to and including termination from employment, (2) immediate suspension from employment with or without pay pending disciplinary proceedings, and (3) be required to successfully pass a drug and/or alcohol test prior to return to duty.
- D. Employees are expected to report to work on time and in appropriate mental and physical condition for work. Employees are not to report to work under the influence of intoxicants (alcoholic beverages or illegal drugs) and shall not consume, use or possess intoxicants at any time during their scheduled workday, on County property, or in any County vehicle (while traveling to or from County property while on duty).
- E. The use, sale, possession or distribution of a narcotic, an intoxicating substance, any illegal drug or alcohol while on municipal premises, while conducting County business off premises, or otherwise while at work is absolutely prohibited and will subject an employee to disciplinary action, up to and including termination. All illegal drugs discovered during an investigation will be given to the appropriate law enforcement agency and may result in criminal prosecution.
- F. If a supervisor has reasonable cause to believe that an employee has reported to work under the influence of intoxicants, the supervisor, with the approval of the department head, has the right to request the employee to submit to an alcohol or drug screening test at the County's expense.
- G. Except as provided in paragraph (h) of this section, no employee shall be subject to discipline for the appropriate use of legal nonprescription or prescribed legal drugs for the treatment of illness or injury. The use of a legally controlled substance as part of a prescribed medical treatment by a licensed physician will not subject an employee to disciplinary action

or denial of employment if that treatment does not adversely affect job performance. Prescribed use must be substantiated by a physician's report or statement. If the use of prescribed drugs adversely affects an employee's job performance or is detrimental to the public trust or safety of other employees or citizens, it is in the best interest of the employee and the County for the employee to be placed on a leave of absence. Leaves of absence will be used in accordance with current policies.

- H. Notwithstanding the provisions of paragraph (g) of this section, if an employee knows or should know that use of a nonprescription or prescribed drug does or could impair the employee's ability to operate a County vehicle or equipment, or otherwise perform his or her job duties, the employee shall share this information with his or her immediate supervisor. Violation of this section of the policy may subject the employee to disciplinary action.
- I. Employees must, as a condition of employment, abide by the terms of this policy and report any conviction under a criminal drug statute, or under any statute regulating or prohibiting alcohol or drug use, consumption or blood content, for violations occurring on or off County premises and/or whether or not the employee was conducting County business at the time of the occurrence. A report of a conviction must be made within five days after the conviction to the Personnel Department so that the County may comply with the Drug-Free Workplace Act of 1988 and notify the federal and/or state government of such conviction.
- J. An employee who has a substance abuse problem may submit voluntarily to drug testing prior to testing directed by the County. Upon positive testing, the employee shall submit to the rehabilitation program outlined in §17.07 provided that the employee is not subject to disciplinary charges for reasons other than positive testing.
- K. All covered employees who are required to participate in drug and alcohol testing under this policy shall attend a minimum sixty (60) minute training class on this policy, the Employee Assistance Policy and on the signs and effects of drugs and alcohol in the workplace. In addition to such training, all supervisory personnel shall be trained to recognize any behavior indicating an employee's substance abuse.

#### **12.05 Drug Policy - Implementation**

This policy shall be implemented under the following guidelines:

- A. Supervisors shall take appropriate action to protect County personnel, County property and the public by removing from the work premises or site any individual not in condition to perform assigned work in a normal and safe manner. An employee who appears to be under the influence of drugs or alcohol shall be taken to an authorized facility for drug and alcohol testing. Employees shall not be allowed to drive any vehicle if it

appears that they are under the influence of drugs or alcohol.

B. The County shall:

- (1) publish a statement notifying employees and applicants for employment that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the County's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (2) establish a drug-free awareness program to inform employees about:
  - (a) the dangers of drug abuse in the workplace;
  - (b) the grantee's policy of maintaining a drug-free workplace;
  - (c) any available drug counseling, rehabilitation/detoxification, and employee assistance programs; and
  - (d) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) make it a requirement that each applicant and employee to be engaged in the performance of any federal or state grant, or any contract related thereto, be given a copy of the statement required by subparagraph (1);
- (4) notify the employee in the statement required by subparagraph (1) above that as a condition of employment the employee will:
  - (a) abide by the terms of the statement; and
  - (b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- (5) notify the U.S. Department of Housing and Urban Development, other granting agency or contracting agency, within ten (10) days after receiving notice under subparagraph (4)(B) from an employee or otherwise receiving actual notice of such conviction;
- (6) take one of the following actions, within thirty (30) days of receiving notice under subparagraph (4)(B), with respect to any

employee who is so convicted:

- (a) take appropriate personnel action against such an employee, up to and including termination; or
- (b) require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation/detoxification program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

C. the Personnel Department will:

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

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

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

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

- A. The County shall contract with a private firm to act as a Third Party Administrator (TPA), who shall be responsible for:
  - (1) Scheduling random drug and alcohol testing;
  - (2) Collecting all drug and alcohol samples at a testing site(s);
  - (3) Providing all drug and alcohol testing devices, instruments,

operators, laboratory supplies, facilities and equipment, the same to comply with all federal and state requirements;

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

due to illness, injury or authorized time off (jury duty, leave of absence, vacation, etc.), it shall be considered an approved excuse for non-participation.

- (5) The covered employees selected shall comply with all protocols and procedures of the TPA. If a selected employee refuses to submit to random testing, fails to show up for testing, or otherwise fails to comply with the TPA's test protocols and procedures, the same shall be considered as a positive test and shall result in appropriate disciplinary and/or other action.

F. All screening and detection tests will be conducted by certified operators employed by the TPA, or by the medical group or groups responsible for administering pre-employment physical examinations, and shall comply with the following:

- (1) the integrity of the urine or blood sample being tested, or the breath test record card, will be insured by an explicit chain of custody procedure developed by the TPA, medical group or laboratory;
- (2) any testing, testing-related documents, and test results will be kept confidential and will only be released to the employee or applicant, the Personnel Department, a department head, or an authorized representative of the County's rehabilitation/detoxification program;
- (3) except as provided in subparagraph (2) above, further disclosure of such information is prohibited unless written authorization is obtained from the employee or applicant, and any breach of confidentiality will subject the employee responsible to disciplinary action up to and including termination;
- (4) all positive urine or blood samples will be retained by the TPA, medical group or laboratory for one year, or for a longer period if an appeal or court action is in process.

G. Upon report of a positive test, the employee or applicant:

- (1) will be notified of the test results and provided with an opportunity to explain any positive results; and
- (2) may, within five days of such notification, request a retest of the original sample to be performed at the employee's or applicant's own expense at a laboratory of the employee's or applicant's choice that has been preapproved by the County and which shall have chain of custody procedures to ensure proper identification, labeling and handling of test samples and proper exchange with

and return of the samples to the original medical group or laboratory.

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

Positive testing is prima facie evidence of misconduct and may be cause for disciplinary action and/or rehabilitation in accordance with the following:

- A. Based on the results of the investigation and drug or alcohol detection testing, the employee may be subject to mandatory participation in a rehabilitation/ detoxification program through the Employee Assistance Program and to disciplinary action in accordance with this policy. If enrollment in a drug or alcohol rehabilitation/ detoxification program is required, employees will be referred to the Personnel Department. An employee's fitness to continue in his or her current position while enrolled in such a rehabilitation/ detoxification program will be determined on a case-by-case basis. Employees who have completed a rehabilitation/ detoxification program will be subject to random drug screening thereafter.
- B. Prior to institution of disciplinary proceedings, a preliminary meeting shall be held with the employee's department head and a representative of the Personnel Office to determine whether the employee chooses to participate in a voluntary program of rehabilitation/ detoxification at the employee's expense. If the employee chooses not to participate, he/she shall be subject to formal disciplinary proceedings.
- C. An employee who agrees to voluntarily participate in a rehabilitation/ detoxification program at his/ her expense shall be allowed to charge sick leave or annual leave credits while such employee participates in a rehabilitation/ detoxification program. If no leave credits are available, such employee will be placed upon a leave of absence without pay for the period of the rehabilitation/ detoxification program. Upon certification of successful completion of such program and a retest that demonstrates that the employee is not using illegal drugs, abusing controlled substances, or consuming alcoholic beverages, the provisions of Civil Service Law §73 shall apply, and the employee shall be reinstated or placed on a preferred list as the case may be.
- D. An employee who is reinstated following successful completion of a rehabilitation/ detoxification program may be subject to periodic retesting. If such employee tests positively upon completion of the rehabilitation/ detoxification program or on any subsequent occasion, he/she shall be terminated without further hearing or formal charges.
- E. An employee who chooses not to voluntarily participate in a rehabilitation/ detoxification program will be subject to formal disciplinary charges and a hearing. In the event that it is determined upon completion of the hearing that the employee has violated this

policy, one or more of the following penalties may be imposed:

- (1) termination;
  - (2) suspension;
  - (3) period retesting, including retesting before a return to duty or reinstatement;
  - (4) participation in and successful completion of a rehabilitation/detoxification program at the employee's expense.
- F. Notwithstanding any other provision of this policy, employees who are subject to disciplinary charges as a result of conduct other than positive testing pursuant to this policy:
- (1) may not elect to participate in a voluntary rehabilitation/detoxification program pursuant to this policy; and/or
  - (2) may not use positive testing for drugs or alcohol as a defense in such disciplinary proceedings.
- G. Notwithstanding any other provision of this policy, any work-related accident or injury involving County vehicles, equipment and/or property, or involving personal injury to any person, where it can be demonstrated that the use of alcohol, drugs or other intoxicants may have been a contributing factor, will result in formal discipline of the employee which can include penalties up to and including termination of employment.

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

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

#### **12.09 Drug Policy - Severability**

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

## **13 Use of Vehicles**

### **13.01 Statement of Policy**

It is the intent of the County to provide a comprehensive guide regarding the use of County owned and/or Private owned vehicles for County business. Any Department Head or authorized representative who approves use of these vehicles should be



familiar with this policy and should only authorize uses that are legitimate, reasonable and comply with the provisions of this section.

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

- A. Only authorized employees who hold a valid New York State drivers license shall drive County vehicles. No employee shall operate a County vehicle requiring a special class of license unless he/she holds such a special class license issued by the State of New York.
- B. No person, other than the employee to whom a particular County vehicle has been assigned, shall operate, use or ride in a County vehicle. This prohibition includes but is not limited to volunteers, hitchhikers, clients, friends, members of employees' families, and other County employees who are not specifically authorized to operate, use, or ride in such County vehicle.
- C. County vehicles shall only be utilized in the course and furtherance of an employer's performance of his/her official County duties. Use or operation of a County vehicle for any purpose, including but not limited to private or personal purposes, is strictly prohibited.
- D. Authorization is hereby granted for the following individuals to take County vehicles home on a daily basis due to the nature of their duties:
  - (1) Highway Department
    - (a) Superintendent of highways;
    - (b) Personnel assigned by the Superintendent in writing to patrol County roads.
  - (2) Public Health Nursing Services
    - (a) All nurses, upon approval of the Director of Public Health Nursing Services.
  - (3) Sheriff's Department
    - (a) Essex County Sheriff
  - (4) Emergency Preparedness/Civil Defense
    - (a) Emergency Preparedness/Fire Coordinator
  - (5) Weights and Measures
    - (a) Director of Weights and Measures

- (6) County Manager, upon approval of the Chairman of the Board and provided that the vehicle is not otherwise in use or required by other appropriate County officials.
  - (7) Except as provided in paragraph (a) above, no County employee who has received authorization to operate and use a County vehicle shall take such vehicle to his/her private residence overnight without the written approval of the Chairman of the Essex County Board of Supervisors, which written approval shall be granted only after consultation with the appropriate department head and the chairperson of the appropriate committee. Approval for the taking of a County vehicle to a private residence overnight shall only be granted upon a written justification for such use, and stating that the employee shall take all necessary precautions and measures to safeguard the vehicle and prevent it from being used or operated contrary to these regulations.
  - (8) County vehicles shall be driven only to and from the assigned employee's place of residence to his/her work site. No subsidiary trips (e.g. grocery store) shall be allowed.
- E. Department heads seeking authorization for themselves or any of their employees to use County vehicles shall first request such authorization from their respective Supervisory Committees. If approved by the Supervisory Committee, such request shall be referred to the Personnel Committee for investigation and action. If such a request is approved by the Personnel Committee, such request shall proceed to the Ways & Means Committee for consideration and action; and upon the approval by such Committee, the matter shall be referred to the regular board for consideration and action.
- F. All County vehicles, other than those used by County undercover law enforcement personnel and Social Services fraud investigators, must be properly marked with identifying insignia of the County. In all cases, with the exception of the Sheriff's Department, the County insignia may be obtained from the Essex County Department of Public Works. Vehicles leased by the County for official use shall have affixed to them insignia which will not damage the vehicle's finish and which can be removed upon expiration of the lease without causing such damage.
- G. Daily logs for all County vehicles shall be maintained setting forth all points of travel, mileage and times of operation. The particular employee to whom a County vehicle has been assigned, and his/her department head, shall be jointly and severally responsible for the maintenance of such log. Copies of all daily logs shall be filed on a monthly basis with the Essex County Auditor.

- H. A list of employees authorized to take County vehicles shall be placed on file with the Essex County Clerk of the Board of Supervisors. Such list shall also include employee's name, position, title, and vehicle license number of all vehicles assigned to such employee. Department heads shall be responsible for updating the list on a bi-weekly basis.
- I. No County employee shall take possession of a County vehicle, and use or operate the same, without first having signed a statement agreeing to comply fully with these regulations. The original statement so signed shall be filed with the Personnel Department, and copies shall be filed with the Clerk of the Essex County Board of Supervisors.
- J. Under no circumstances shall a County vehicle be used, operated, or driven by any person while under the influence of intoxicants or any drug, or in violation of any Federal, State or local law, rule or regulation.
- K. Under no circumstances shall any County vehicle be parked at, or in the parking lot of, any bar, tavern, liquor store, or other place of business where alcoholic beverages are sold and/or served.
- L. Any person operating, using or riding in a County vehicle must properly use and wear a seat belt (including shoulder strap).
- M. Every employee operating or using a County vehicle or their own vehicle in the performance of the duties of their employment with the County shall at all times comply with all laws, rules and regulations governing such operation and use, and shall operate such vehicle(s) in a cautious, competent and safe manner.
- N. The violation of one or more of these regulations may result in
  - (1) the revocation or suspension of an employee's right to operate and use a County vehicle by his/her Department head, or in the case of a Department head by the Chairman of the Board of Supervisors; and/or
  - (2) disciplinary action, up to and including termination.

### **13.03 Use of Personal Vehicle**

- A. County employees who, as part of their regular County employment duties, travel directly from their respective residences to non-County work sites at the beginning of their workday and/or return to their respective residences directly from a non-County work site at the end of their workday shall be governed by the following:
  - (1) The transportation of passengers is strictly prohibited, except that the department head may grant permission for the transportation of the

following persons in the course and furtherance of County business

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

### **13.04 Display of County Insignia**

All County vehicles, other than those used by County undercover law enforcement personnel and Social Services fraud investigators, must be property marked with identifying insignia of the County. In all cases, with the exception of the Sheriff's Department, the County insignia may be obtained from the Essex County Department of Public Works. Vehicles leased by the County for official use shall have affixed to them insignia which will not damage the vehicle's finish and which can be removed upon expiration of the lease without causing such damage.

### **13.05 County Air Truck**

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

## **14 Computer Use**

### **14.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

Essex County has developed and established, and will continue to improve and provide, a computer system for use by all County officials and employees in the performance of their respective official County duties. Essex County has established a number of Local Area Networks (LANs) which give County officials and employees the ability to communicate with each other and with third parties by electronic mail, to remotely access larger computer servers, printers and systems, and to obtain information from the internet, all for the purpose of improving the functional efficiency of Essex County Government and the provision of governmental services. Essex County recognizes that without proper controls, the computer system can be misused, County data and governmental functions can be impaired and subject to unnecessary risks and dangers.

### **14.02 Purpose of this policy is to:**

- A. Prevent inadvertent or unauthorized access to data, County programs and functions, and/or County communications;
- B. Provide the County with an ability to determine persons having access at any given time to the County computer system, and/or who have made changes to specific databases and/or programs;
- C. Promote the use of e-mail as an efficient communication and data gathering tool so as to improve the way the County conducts its governmental functions by providing a quick and cost-effective means to create, transmit and respond to messages and documents electronically, by expediting governmental communications, by reducing paperwork, and by automating routine office tasks, all for the purpose of increasing productivity and reducing costs;

- D. Provide internet connection and services to obtain and exchange information efficiently in the course of performing and completing official County duties, functions and services;
- F. Insure that e-mail systems used by County officials and employees, and access to and use of the internet by such officials and employees, is in the furtherance of the official duties of such persons and County governmental purposes and functions.
- G. This policy applies to all County officials and employees, as well as to any third parties doing business with the County who have been granted access to the County's computer system.

#### **14.03 Computer Use Policy - Definitions**

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

- A. "Computer System" shall mean all computer hardware, equipment, software, cables and wires, as well as electronic mail and internet services and connections, and network
- B. "Electronic Mail" shall mean electronic transfer of information in the form of electronic messages, memoranda and attached documents from a sending party to one or more receiving parties via an intermediate telecommunications system. Electronic mail shall also be referred to as "e-mail".

#### **14.04 Computer System Administration**

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

- A. The System Administrators for the County computer system and for all LANs shall be appointed by the Information Systems Director;
- B. The System Administrators shall be responsible for determining and controlling access to the County computer system and/or LANs as provided in this policy, and their duties shall include assigning authorization(s) for access to the system and/or LANs based on need, investigating attempts to breach security, terminating authorization(s) when a person no longer has need for access, assisting in the development of security policy and advising the Information Systems Director of needs for changes, problems, security violations and similar activities;
- C. User access requirements will be determined by the Information Systems Director and Department Head for each County official and/or employee, and the Information Systems Director may promulgate and adopt forms for user access.

#### **14.05 Access to System**

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

- A. Only authorized users will be granted access;
- B. Each authorized user will have only one User ID which will be unique to that user;
- C. Each authorized user will have a unique password, which shall
  - (1) change every 60 days,
  - (2) be at least six characters long,
  - (3) be chosen by the user,
  - (4) not be an expired password,
  - (5) not be written down or recorded,
  - (6) not be given to co-workers or supervisors;
- D. Access to the computer system and/or any LAN will only be permitted between the hours of 8 AM to 5 PM Monday through Friday, except that for good cause shown access at other times will be granted based on need;
- E. Log-in to the LANs will only be permitted when the user is in the immediate vicinity of the computer terminal, and the user shall log off the network when leaving the terminal or area for any reason or time period;
- F. The System Administrator shall be notified whenever the system refuses to allow access to any site following four consecutive unsuccessful log-in attempts, and no further access shall be granted or permitted except by the System Administrator;
- G. Supervisors shall notify the System Administrator whenever an official, employee or other user with access is
  - (1) terminated,
  - (2) leaves County service or employment, or
  - (3) no longer is authorized to have access.

#### **14.06 Use of System**

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

- A. Use shall only be for the performance of official County business and the furtherance of official County governmental purposes and functions;
- B. E-mail and internet services shall only be used by Department Heads and such other County officials and employees who are authorized by their respective Department Head to use such services;
- C. County officials and employees shall be allowed to use e-mail to communicate with persons other than County officials and employees only when such communications are related to the performance by such County officials and/or employees of their respective County duties;
- D. No unauthorized copies of software shall be permitted on the system or any component part thereof;
- E. Personal software will only be allowed on the computer system, or any component part thereof, provided that the software
  - (1) is licensed,
  - (2) does not compromise any security mechanisms implemented on the LANs or terminals, and
  - (3) has been approved in writing by the System Administrator;
- F. Respect the privacy and confidentiality of other users;
- G. Respect the legal protection provided to computer programs, software and data by copyright and license;
- H. Protect data from unauthorized use or disclosure as required by state and federal laws and County policies;
- I. Respect the integrity of computer system and/or any component thereof;
- J. Safeguard their accounts and passwords, and change passwords only in accordance with guidelines for valid passwords;
- K. Report any observations of attempted security violations, and/or violations of this policy.

#### **14.07 Prohibited Use**

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



- A. Use of e-mail services for the sending and/or receipt of personal or private messages, and/or access to internet sites for personal or private purposes;
- B. Obtaining access to another user's e-mail without such user's express knowledge, permission and consent;
- C. Use for purposes other than for the performance of such user's official County duties, the performance of official County business, and the furtherance of official County governmental purposes and functions;
- D. Use for any illegal, disruptive, unethical or unprofessional purpose;
- E. The transmission of threatening, obscene or harassing materials or correspondence;
- F. Unauthorized distribution, disclosure, dissemination or release of County data, information, documents and records;
- G. Interference with or the disruption of the computer system, any LAN, or any computer equipment or services;
- H. Use for any private purposes, including but not limited to
  - (1) business or marketing transactions,
  - (2) personal communications or transactions,
  - (3) religious or political causes or transactions,
  - (4) unauthorized transactions or communications for or on behalf of not-for-profit entities not directly affiliated with the County,
  - (5) advertising of private products or services, and/or
  - (6) any other use or activity intended for personal gain;
- I. Intentionally seeking information on, obtaining copies of, or modifying files or data belonging to the County, unless written permission to do so has been obtained from the Information Systems Director;
- J. Intentionally seeking information on, obtaining copies of, or modifying files or data belonging to other users, unless written permission to do so has been obtained from such other user(s);
- K. Use or development of programs that harass other users, infiltrate the computer system or any component thereof, and/or damage or alter the software components of the computer system or any component thereof;

- L. Share accounts and/or passwords with any other person without authorization from the Department Head or the Information Systems Director.

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

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

- A. E-mail and internet transmissions and records are not the personal or private property of any user, and pursuant to the Electronic Communications Privacy Act of 1986 (18 USC 2510 *et seq.*) notice is hereby given that there are no facilities provided by the County computer system for sending or receiving private or confidential electronic communications;
- B. System administrators shall have access to all e-mail, internet and user access requests, and shall have the right to monitor messages and internet access records as necessary to assure efficient performance and appropriate use of the system, in accordance with the following:
  - (1) although e-mail system administrators will not routinely monitor an employee's e-mail or internet access and will take reasonable precautions to protect the privacy of e-mail and internet use, access to an employee's e-mail and internet access records is authorized:
    - (a) for a legitimate business purpose, such as the need to access information when an employee is absent for an extended period of time,
    - (b) to diagnose and resolve technical problems involving system hardware, software, or communications, and/or
    - (c) to investigate possible misuse of e-mail and/or internet access when there is reasonable suspicion, or in conjunction with an authorized investigation, of abuse;
  - (2) Messages relating to or in support of illegal activities will be reported to the appropriate authorities;
- C. E-mail transmissions and records of an official nature, as well as those which are personal in nature, may be
  - (1) discloseable to the public under the Freedom of Information Law (New York Public Officer's Law Article 6),
  - (2) subject to special measures to comply with the Personal Privacy Protection Law, and/or

- (3) subject to discovery proceedings in legal actions;
- D. E-mail security shall be the joint responsibility of the Information Systems Department and e-mail users, and it shall be the responsibility of all users to take all reasonable precautions, including safeguarding and changing passwords, to prevent access to e-mail by unauthorized persons;
- E. E-mail messages, transmissions and records shall not be retained for extended periods of time, and shall be governed by the following:
  - (1) users shall remove all e-mail communications in a timely fashion and delete records which are not required to be retained by law or which are not normally retained in record keeping systems as evidence of agency activity,
  - (2) if a user needs to retain information in an e-mail message for an extended period, or if the message is required to be retained as provided in paragraph (f) of this section, such user shall transfer it from the e-mail system to an appropriate electronic or other filing system and dispose of copies such records in e-mail after such filing,
  - (3) E-mail administrators are authorized to remove any information retained in an e-mail system that is more than 30 days old;
- F. E-mail created in the normal course of official County business and retained as evidence of official County policies, actions, decisions or transactions are records subject to records management requirements under the New York Arts and Cultural Affairs Law, and may be subject to specific program retention requirements, such records
  - (1) including but not being limited to
    - (a) policies and directives,
    - (b) correspondence or memoranda related to official business,
    - (c) work schedules and assignments,
    - (d) agendas and minutes of meetings,
    - (e) any document that initiates, authorizes, or completes a business transaction,
    - (f) final reports or recommendations;
  - (2) not including

- (a) personal messages and announcements,
  - (b) copies or extracts of documents distributed for convenience or reference,
  - (c) phone message slips,
  - (d) announcements of social events.
- G. Records communicated or transmitted by e-mail shall be
- (1) identified, managed, protected, and retained as long as they are needed to meet operational, legal, audit, research or other requirements,
  - (2) retained, managed, and accessible in an existing filing system outside the e-mail system in accordance with the appropriate departmental standard practices as may be recommended by the Information Systems Department,
  - (3) disposed of within the record keeping system in which they have been filed in accordance with a Records Disposition Authorization (RDA) approved by the New York State Archives and Records Administration (SARA), information about which program managers may obtain from the Essex County Clerk who serves as the County Records Management Officer;

#### **14.09 County Rights**

Notwithstanding any other provision of this policy, the County:

- A. reserves the right to log computer system use and monitor file server space utilization by users and assumes no responsibility or liability for files deleted due to violation of file server space allotments;
- B. reserves the right to remove a user from the computer system, from any LAN, or from any e-mail or internet service;
- C. shall not be responsible for
  - (1) any information obtained by a user, such information being obtained at the user's sole and exclusive risk and it being the responsibility of the user to have the County install anti-virus software on the user's computer terminal or LAN,
  - (2) any damages, including but not limited to the loss of data resulting from delays, non-deliveries, or service interruptions whether or not caused by negligence, errors or omissions of the County,

- (3) any costs, liabilities or damages caused by the way the user chooses to use internet service,
  - (4) any consequences of service interruptions or changes, even those arising from circumstances under the control of the County, and/or
  - (5) any costs or charges incurred as a result of seeking or accepting advice or information received by a user from a source outside of Essex County government unless the same was authorized and approved in writing by the Department Head;
- D. makes no warranties, either express or implied, with regard to software obtained from or installed on the computer system, with respect to e-mail or internet service, or for the content of any advice or information received by a user from a source outside of Essex County government;
- E. reserves and retains the right to amend, modify or change this policy or any provision hereof.

#### **14.10 Implementation**

This policy shall be implemented as follows:

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

## **15 Disciplinary Actions**

### **15.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

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

### **15.02 Employee Responsibility**

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

### **15.03 Department Head Responsibility**

It is the responsibility of the Department Head to maintain proper standards of work and conduct. These standards are based on common sense and good business practices. Disciplinary action may be necessary to carry out the Department Head's responsibilities.

Each Department Head must:

- A. Take into consideration the seriousness of the offense.
- B. Consider how often the person has broken the rules in the recent past.
- C. Obtain all the facts. Be sure who did what, where it happened, when it occurred, why it happened as it did and who witnessed it, and establish a written documentation of the occurrence.
- D. Give a clear explanation of the offense to the offender.
- E. Give patient and thorough instructions on how to do the work correctly or about proper conduct.
- F. Consistently interpret the County's and Department's policies. A Department Head should not ignore several violations and then suddenly enforce the work rules to the detriment of an individual employee.

### **15.04 General Provisions regarding Disciplinary Actions**

- A. Any County employee may be disciplined for proper cause.

B. The need for disciplinary action may arise as a result of different kinds of action on the part of the employee, such as, but not limited to:

- (1) Failure to perform his/her job in a satisfactory manner or, unsatisfactory performance as one or more of the requirements of his/her job.
- (2) Infractions of rules, regulations, policies or procedures as established by the County or the department.
- (3) Offenses or misconduct which violate general rules of behavior or are specifically prohibited by law.

C. The following types of infractions, offenses or misconduct represent typical reasons for disciplinary action and are not meant to be the only permissible reasons for such actions:

- (1) Absence without authorization.
- (2) Disregard or violation of safety rules.
- (3) Distracting other employees.
- (4) Failure to report an injury.
- (5) Failure to keep work area tidy.
- (6) Failure to follow instructions.
- (7) Gambling while on duty.
- (8) Late for work without valid reason: being late for work even with a valid reason may also be cause for disciplinary action, if excessive.
- (9) Leaving work area without permission.
- (10) Incompetence or inefficiency in performance of assigned duties.
- (11) Use of another employee's equipment without permission.
- (12) Involvement in an accident chargeable to an employee while operating a County vehicle or equipment. Negligence on the part of the employee should be the determining fact as to whether or not disciplinary action is appropriate.
- (13) Operating a County vehicle or equipment without a proper valid driver's or chauffeur's license.

- (14) Extension of lunch period or break periods.
- (15) Abuse of sick leave privileges.
- (16) Conduct unbecoming a County employee.
- (17) Failure to report an accident.
- (18) Insubordination.
- (19) Leaving a job without permission.
- (20) Possession, or drinking, of alcoholic beverages or use of drugs on the job.
- (21) Reporting to work when intoxicated or under the influence of drugs.
- (22) Giving false information or refusing to give testimony in connection with investigation regarding the scope of the employee's job.
- (23) Sleeping on the job.
- (24) Threatening co-worker or supervisor.
- (25) Unauthorized use or unsafe operation of County property, equipment or vehicle.
- (26) Use of abusive language to an employee, co-worker, supervisor or public.
- (27) Abuse of County vehicle or equipment.
- (28) Conviction and imprisonment for a felony or a first degree misdemeanor directly related to the position held.
- (29) Excessive accidents resulting in injury to self, others or damage to County equipment.
- (30) Falsifying application or concealing information during screening and processing.
- (31) Falsifying attendance or leave records.
- (32) Failure to be available for a reasonable amount of overtime assignments.



- (33) Fighting on the job or engaging in any intentional act which may inflict bodily harm on anyone.
- (34) Theft or removal from County locations without proper authorization of any County property or property of any County employee.
- (35) Violating the Code of Ethics.
- (36) Unauthorized display or possession of a firearm or concealed weapon while operating a County vehicle.
- (37) Sexual harassment while in performance of County duties.
- (38) Sale of narcotics or alcohol.

#### **15.05 Delegation of Authority**

- A. The appointing authority is the person responsible to discipline all employees. All permanent competitive employees with one or more years of service and all non-competitive employees with five or more years of service are required to be charged in accordance with Section 75 of the Civil Service Law. All other employees of the County may be disciplined without presentation of charges.
- B. The County acknowledges that the preferring of charges against any employee is a highly technical and legalistic matter. Therefore, a Department Head or appointing authority requiring or anticipating the bringing of charges against any employee should request assistance from the County Attorney prior to bringing any charges against any employee.
- C. The County Attorney shall, under normal circumstances, represent the County and the Department Head in the presentation of the charges against the employee.
- D. The Appointing Authority (or his or her designee) shall sit as the Hearing Officer. The Appointing Authority shall make a determination on whether or not the charges are appropriate and what should be the appropriate penalty. The County Board of Supervisors recommends that the appointing authority appoint a designee other than himself as the hearing officer.
- E. Employees not subject to the procedures under Section 75 of the Civil Service Law, shall be disciplined by the appointing authority serving the employee with the appropriate disciplinary action.
- F. Refer to Civil Service Disciplinary Manual.

## 16 Grievance Procedure

### 16.01 Statement of Policy

It is the intent of the County and the Association that all grievances be resolved informally or at the earliest possible stage of this grievance procedure. However, both parties recognize that the procedure must be available without any fear of discrimination because of its use. Informal settlements at any stage shall bind the immediate parties to the settlement but shall not be procedures in a later grievance proceedings.

### 16.02 Definitions

- A. "Employee" shall mean a member of the bargaining unit covered by this Agreement.
- B. "Grievance" shall mean a claimed violation of a specific term or provision of this Agreement.
- C. "Day(s)" shall mean working days Monday through Friday, excluding holidays.
- D. "Grievance Form" shall be a mutually agreed upon form for the filing of grievances.
- E. "Class Action Grievance" shall mean a grievance filed by CSEA which alleges a violation of this Agreement and affects employees in more than one (1) department. It shall be initiated by Step 2 (Section 5) of the Grievance Procedure and must be filed with the County Manager within ten (10) days of when the CSEA knew or should have known of the events and conditions on which it is based.

### 16.03 Declaration of Basic Principles

- A. The County and the Association agree that efforts should be made to resolve alleged grievances at the informal stage before resorting to the formal steps of the grievance procedure.
- B. An employee or the Association shall have the right to present grievances in accordance with procedures provided herein, free from coercion, restraint, discrimination or reprisal and shall have the right to be represented only by the Association at all stages of the grievance procedure.
- C. Any and all time limitations herein set forth may be extended only by written mutual consent of the County and the Association.
- D. Ordinarily, grievance discussions, meetings, conferences and hearings will be conducted during the normal workday.

- E. The move to arbitrate on behalf of the employee shall require approval of the Association.
- F. Failure on the part of CSEA to pursue a grievance in a timely fashion shall constitute a waiver of said grievance. Failure on the part of the County to answer a grievance in a timely fashion shall allow the CSEA to move to the next step of the procedure.
- G. Department Head or County Manager as used in the Grievance Procedure shall include the Department Head's or County Manager's designee.

#### **16.04 Informal Stage**

- A. Before an employee files a formal written grievance, he/she shall first attempt to resolve the matter informally with his/her Department Head. A grievance shall be deemed waived unless it is discussed with the employee's Department Head within ten (10) days after the aggrieved party knew or should have known of the events or conditions on which it is based.
- B. If the matter is not resolved informally, the employee shall have five (5) additional days from the date which the employee's Department Head was notified to submit a formal written grievance to the Department Head which shall identify the aggrieved party, the provision of this Policy involved in the grievance, the time when and the place where the alleged events or conditions constituting the grievance existed, and if known, the identify of the person responsible for causing such events or conditions and a general statement of the grievance and the redress sought by the aggrieved party.

#### **16.05 Formal Stage - Step 1**

- A. Within five (5) working days from the receipt of the grievance form, the Department Head will discuss the alleged grievance with the affected employee and/or the Association representative and will make such investigation as he/she deems appropriate.
- B. Within ten (10) days after the receipt of the grievance form, the Department Head shall issue a written decision and communicate same to the affected employee and the Association.

#### **16.06 Formal Stage - Step 2**

- A. If the Association is not satisfied with the decision made by the Department Head, it may, within ten (10) days thereafter, request a review and determination of the grievance by the County Manager and/or designee. Such request shall be in writing and shall include all documents and statements presented at Step 1, including the decision of the Department Head, if applicable.

- B. The County Manager or designee shall, at the request of the Association, hold a meeting within ten (10) days after receiving the request. The aggrieved party and representative, if any, may appear at the meeting to present oral and/or written statements or arguments.
- C. Within five (5) days after the close of the meeting, or within fifteen (15) days after the grievance has been submitted to the County Manager, he/she shall issue a written decision and communicate same in writing to the Association

**16.07 Binding Arbitration Formal Stage - Step 3**

- A. If the Association is not satisfied with the decision at Formal Stage Step 2, then it may appeal to PERB for arbitration within ten (10) days from the receipt of the Step 2 decision and thereafter the parties shall be bound by PERB's procedures for arbitration.
- B. The fees and expenses of the arbitrator shall be borne equally by the parties.
- C. The arbitrator's decision will be in writing and will set forth his findings, reasoning and conclusions on the issues submitted and be binding on both parties on matters pertaining to the interpretation of Articles contained in this policy. Matters brought to arbitration that do not pertain to Articles in this policy shall not be binding on the parties. The arbitrator will be without power or authority to make any decision which requires the commission of an act prohibited by law or which is violative of the terms of this policy. The arbitrator shall have no power to alter, add or to detract from the provisions of this policy.

**16.08 Disciplinary Arbitration**

- A. If the Association wishes to appeal the decision of the County Manager or other such officer or body having the proper authority regarding a proposed disciplinary action, it shall notify the County Manager within five (5) days from the notice of the proposed discipline. The notice shall contain a statement of charges and penalty.
- B. If the grievance pertains to an employee(s) holding either a non-competitive or labor position, it may notify PERB of a disciplinary arbitration within five (5) days from the time the Association notified the County of its intention.
- C. If the grievance pertains to an employee(s) holding a competitive position, then the parties must first mutually agree before the matter can be appealed to arbitration. If there is no mutual consent to proceed to arbitration, then the matter may be pursued under Section 75 of the Civil Service Law.

- D. If the matter is referred to PERB, then the parties shall be bound by the PERB procedures for arbitration.
- E. The decision of the arbitrator shall be final and binding on the parties.
- F. The cost for the arbitrator shall be shared equally by the parties.
- G. The election to submit a grievance to arbitration shall be deemed a waiver of all other remedies or forums which otherwise might be available in resolving disputes under this policy.

## **17 Labor Relations**

### **17.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

Maintain a positive program of labor relations, in compliance with applicable law, for the purpose of promoting a harmonious and cooperative relationship between the County and its employees, and assuring the orderly and uninterrupted operations of government.

### **17.02 Delegation of Authority**

The Board of Supervisors of Essex County has designated the Personnel Officer and the County Attorney as the primary persons to represent the County in all labor relations matters.

### **17.03 Negotiations**

All collective bargaining in the County is to be conducted at the Board of Supervisors' level. The Chairman of the Board of Supervisors shall designate a chief spokesman and team for negotiations with appropriate representative of the bargaining unit. There shall be no negotiations at any other level of County government.

### **17.04 Contract Administration**

- A. The Chairman of the Board or his designee will provide orientation for supervisory and management personnel concerning interpretation and application of the terms of the County Collective Bargaining Agreement.
- B. The Chairman of the Board or his designee will be responsible for notifying appropriate Department Heads of those contract terms which have to be administered under their jurisdiction.
- C. Any questions concerning contract interpretation would be referred to the Personnel Officer or the Chairman of the Board of Supervisors.

### **17.05 Grievance & Arbitration Cases**

- A. Department Heads may request advice and assistance from the County Attorney or the Chairman of the Board or his designee regarding the handling of grievances.

- B. For grievances submitted to arbitration, the County Attorney or Labor Counsel will be responsible for preparing the County's case and representing the County at the arbitration hearing.

**17.06 Improper Practice Charge**

- A. The County Attorney and the Labor Counsel are responsible for defending the County in any improper practice charge which may be filed against the County with the Public Employment Relations Board (PERB).
- B. If any department receives a copy of an improper practice charge issued by PERB the County Attorney should be immediately notified of the charge and a copy of such charge immediately given to him.
- C. Questions regarding whether or not certain union activities are appropriate should be referred to the County Attorney, the Personnel Officer or Labor Counsel.

## **18 Department Head, Management Confidential & Elected Officials**

**18.01 Statement of Policy**

IT IS THE POLICY OF ESSEX COUNTY TO:

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

**18.02 Definition of Department Head**

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

- A. Clerk, Board of Supervisors
- B. Auditor/Financial Officer
- C. Director of Real Property Tax
- D. County Attorney
- E. Personnel Officer
- F. Commissioners of Election
- G. Superintendent of Public Works
- H. Information Systems Director

- I. Probation Director
- J. Emergency Services Director/Fire Coordinator
- K. Public Health Director
- L. Director of Community Mental Health Services
- M. Commissioner of Social Services
- N. Nursing Home Administrator
- O. Youth Bureau Director
- P. Director, Office for the Aging
- Q. County Planner
- R. Fish Hatchery Manager
- S. And such other titles that may be added from time to time by the Board of Supervisors.

### **18.03 Application of Policy Manual to Department Heads**

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

A. Section 6.04 - Hours of Work

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

B. Section 6.05 - Departmental Work Rules

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

C. Section 8.11 - Fire and Ambulance Leave

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

D. Sections 16.01-16.08 - Grievance Procedure

Department Heads may not file a grievance through this procedure but may utilize the procedure established under Article 16 of the General Municipal Law.

**18.04 Definition of Management Confidential**

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

Administrative Assistant (Mental Health)	Director of Administrative Services
Administrative Officer of Essex County	Director of Community Affairs
Administrative Officer (Social Services)	Director of Patient Services
Assistant Civil Engineer	Director of Nursing
Assistant Director of Nursing	Deputy Director of Emergency Services
Enhanced 911 Coordinator	Payroll Specialist
Assistant Director of Community Mental Health Services	Director of Public Health
Assistant Director of Real Property	Director of Social Services
Chief Deputy, Sheriff's Department	Election Clerk
Commissioner of Elections	Director Community Mental Health Services
County Administrator/Manager	Jail Administrator
County Attorney	Head Social Services Examiner
County Auditor	Motor Vehicle Supervisors
Deputy County Auditor	Public Health Nursing Comptroller
Deputy County Clerk	Secretary to the County Attorney
Deputy Director of Real Property Tax Services	Secretary to the District Attorney
Deputy Superintendent for Public Works	Senior Programmer/ Analyst (Deputy Director)
Deputy Treasurer (Principal Account Clerk)	Social Services Attorney
Superintendent of Public Works	Supervising Public Health Nurses
Supervising Nurses @ Horace Nye	Undersheriff
Deputy County Planner	Payroll Clerk

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



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

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

A. Section 6.04 - Hours of Work

Employees in this group shall may not be limited to work the same hours bargaining unit employees work, but they are expected to maintain accurate records regarding days worked, sick leave, personal leave and vacation leave. Time sheets and written requests for payment of compensatory time and overtime, if the employee is so entitled under the Fair Labor Standards, must be checked and approved by the department head and filed in the Personnel Department not later than the tenth (10th) of the following month.

B. Section 8.11 - Fire and Ambulance Leave

Generally this section shall not apply to Management/Confidential employees except if they are at a fire prior to the start of the work day, then this is a valid reason to be late for work.

D. Sections 16.01-16.08 - Grievance Procedure

Management/Confidential employees may not file a grievance through this procedure but may utilize the procedure established under Article 16 of the General Municipal Law.

### **18.06 Definition of Elected Officials**

Elected Officials shall be defined to include the following titles:

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

### **18.07 Application of Manual to Elected Officials**

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

- A. Section 2.01 - Personnel Files
- B. Section 5.08 - Expenses
- C. Section 5.09 - Payroll Deductions
- D. Section 6.03 - Conditions of Employment - except subsection (G) regarding outside employment shall not apply.
- E. Sections 17.01-17.06 - Labor Relations
- F. Sections 9.01-9.10 - Health Insurance - unless a better plan is available under Town program.
- G. Sections 10.01-10.08 - Retirement - unless a better plan is available under Town Plan.
- H. Section 9.16 - Social Security

## **19 Closing Statement**

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

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

## Appendices

### 20 Affirmative Action / Equal Opportunity Action Plan

#### 20.01 Statement of Policy

It is the policy of the County of Essex to provide equal employment opportunity to all people without regard to race, color, sex, religion, age, national origin, disability, sexual preference or Vietnam Era Veteran status. The County of Essex will also make every effort to provide a workplace free of sexual harassment. The Board of Supervisors will be personally committed to assuring that the County of Essex will act affirmatively to develop avenues of entry and mobility for minorities, women, individuals having disabilities, and Vietnam Era Veterans through the following activities:

- Development of programmatic approaches to the elimination of all unjust exclusionary employment practices, policies and consequences.
- Development of educational and training programs for all employees, with due emphasis on our goal of upgrading minorities, women, individuals with disabilities and Vietnam Era Veterans.
- Development of personnel practices, policies, and career ladders to assist and encourage upward mobility of employees restricted to lower levels.
- Development of mechanisms for swift and judicious resolution of problems of human rights discrimination consistent with out policy, the Governor's executive orders and other applicable legal statutes.

To effectuate this policy, the County of Essex has designed a plan which conforms with all relevant Federal and State nondiscrimination and affirmative action regulations including but not limited to: The Civil Rights Acts of 1964 as amended, the Rehabilitation Act of 1973, the Vietnam Veterans Readjustment Act of 1974, the New York State Human Rights Law and Governor Cuomo's Executive Order 6. It applies equally to all job classifications and titles in the County of Essex and all types of appointments under the County of Essex Jurisdiction. It governs all the County of Essex employment policies, practices and actions including but not necessarily limited to: recruitment, employment, disciplinary actions, rate of pay, or other compensation, advancement, reclassification, reallocation, promotion, demotion and all employees benefits. Reasonable accommodations to all programs and services will be made for individuals having disabilities.

The Board of Supervisors, to assure an effective affirmative action program will be responsible for day to day implementation of necessary programs and policies as outlined in the plan which will be available in the Personnel Office. The Board of

Supervisors will see that all resources necessary for the execution of program responsibilities are fully available. Moreover, all managers, supervisors, and employees must make consistently diligent efforts to implement this policy in day to day program and employment decisions.

The prime responsibility of the Board of Supervisor of the County of Essex is to operate and maintain the County of Essex, its roads, highways, streets and other County resources and to meet the needs of the people of the County. Affirmative Action considerations will be an integral part of all activities performed in the furtherance of this mission and in meeting our responsibilities to the citizens of the County of Essex.

### **20.02 Dissemination of Policy**

The County of Essex will undertake the activities listed below to disseminate its Affirmative Action Plan and Program, both internally and externally.

#### **A. Internal**

- (1) A copy of the County Affirmative Action Policy Statement will be posted at every building, facility or construction site in a location that is conspicuous and accessible to employees and, to the extent possible, to the public.
- (2) A copy of the County Affirmative Action Policy will be distributed to each employee and applicant and will be included in any policy and/or personnel manual.
- (3) Protected class employees will be represented in any brochures, publications, manuals, reports, and advertisement which depict the work force.
- (4) Employee newsletters will include descriptions of the Affirmative Action Policy and/or Plan, and will reinforce the County's commitment to equal employment opportunity and Affirmative Action through periodic updates.
- (5) Meetings will be scheduled at least annually with managers and supervisors to review the Affirmative Action Plan, to discuss program goals and objectives, and to explain their responsibilities for Implementation.
- (6) Union officials will be informed of the County's Affirmative Action Policy and their cooperation will be sought.

#### **B. External**

- (1) The Affirmative Action Plan will be made available to the public upon request to the Personnel Office.

- (2) The Affirmative Action Policy will be provided to recruitment sources through oral and written communication, including methods that are accessible to individuals having disabilities.
- (3) The Affirmative Action Policy will be provided to towns, villages, organizations, colleges and community groups interested in encouraging equal employment opportunities for minorities, women, individuals having disabilities and Vietnam Era Veterans.
- (4) All applicants will be provided a copy of the County's Affirmative Action Policy.
- (5) All vendors and supplies with whom the County conducts business will be provided a copy of the County's Affirmative Action Policy and their cooperation will be sought.
- (6) The County will ensure that all contract documents/purchase orders indicate that the County of Essex is an Equal Opportunity/Affirmative Action employer.

### **20.03 Discrimination Complaint Procedure**

#### **A. Purpose**

This procedure has been designed to allow the Municipality the opportunity to resolve complaints internally. It is in no way intended to duplicate or circumvent options available to claimants through (1) employee organizations, (2) the New York State Division of Human Rights, (3) the Equal Employment Opportunity Commission, (4) U.S. Justice Department/Office for Civil Rights, (5) any compliance agency designated under Section 504 of the Rehabilitation Act of 1973, (6) Office of Federal Contract Compliance Programs, (7) other regulating agencies as may be appropriate, and (8) the judicial system. Use of this procedure will not suspend any time limitations for filing complaints otherwise set by law, rule or regulation.

This procedure applies to all complaints of discrimination in employment based on race, color, national origin, creed, age, sex, marital status, religion, mental or physical disabilities, arrest record, criminal conviction, sexual preference or Vietnam Era Veteran status. This procedure will serve as well for filing complaints under Section 504 of the Rehabilitation Act of 1973. It can be used by an employee or applicant of employment. Complaints may be based upon any alleged act or omission in the nature of discrimination including, but not limited to:

INTERVIEWING

SHIFT ASSIGNMENT

HIRING

PROMOTION

DISCIPLINE

WORKING CONDITIONS

PERFORMANCE EVALUATIONS

HARASSMENT (Race, sex, color, national origin, etc.)

JOB ASSIGNMENT

MUNICIPAL POLICIES AND OTHER TERMS OR CONDITIONS OF EMPLOYMENT

TRAINING OPPORTUNITIES

Each employee has the right to representation by his or her labor representative in the event that the complaint involves a possible violation of contract.

B. Definitions

Discrimination - unlawful consideration or treatment of a person or group (either intentional or unintentional) based on a race, color, national origin, creed, age, marital status, religion, mental or physical disabilities, arrest record, criminal conviction, sexual preference or Vietnam Era Veteran Status.

Discrimination in Employment

- (1) Where the failure or refusal to hire, promote or train any individual or otherwise treat the individual equally with respect to compensation terms, conditions or privileges of employment would not have occurred but for race, color, national origin, creed, age, marital status, religion, mental or physical disabilities, arrest record, criminal conviction, sexual preference or Vietnam Era Veteran Status.
- (2) To limit, segregate or classify employees in such a way as to deprive or tend to deprive an individual of employment opportunities on the basis of the person's origin, creed, age, marital status, religion, mental or physical disabilities, arrest record, criminal conviction, sexual preference or Vietnam Era Veteran Status.

C. Responsibility

(1) Board of Supervisors

The Board of Supervisors is responsible for the adoption and implementation of this complaint procedure and for assuring that sufficient staff is assigned and trained to properly carry it out. The Board of Supervisors will also assure that it is well publicized throughout the Municipality.

If it is determined that a person has been subjected to an unlawful act of discrimination, the Board of Supervisors will issue instructions for remedial action including disciplinary action where appropriate.

(2) Affirmative Action Officer

The Affirmative Action Officer is responsible for coordinating complaint proceedings. This includes counseling complainants of their rights to file their complaints with other entities.

(3) Other Staff

All employees must cooperate with the Affirmative Action Officer in the investigation of complaints.

In order to expedite the prompt investigation of complaints, the responsibility for complaint handling activities may be delegated to a person or persons in the same geographical region as the claimant. The delegated activities may include counseling conciliation, and investigation.

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To assure that equity and consistency prevail, the Affirmative Action Officer will direct the investigation and must be consulted before any conciliation or remedy is made final.

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D. Discrimination Complaint Procedures

(1) The Process

- (a) Any person with a complaint of discrimination should contact the Affirmative Action Officer. Complaints should be made within sixty (60) working days of the occurrence of the event which gave rise to the complaint. If the deadline is missed because of circumstances beyond the complainant's control, the Affirmative Action Officer will make the determination as to the reasonableness of requests and may extend the period to file to a maximum of one year.
- (b) The Affirmative Action Officer or his/her designee will advise the complainant, counsel the complainant, explain the internal procedures, explain the other options available to the employee including time limitations for filing complaints with State or Federal compliance agencies and assist in completing the complaint form.
- (c) The Affirmative Action Officer or his/her designee shall interview the complainant and study relevant documents.
- (d) The Affirmative Action Officer or his/her designee shall interview witnesses and further investigate the situation. At each opportunity, the Affirmative Action Officer will

seek conciliation or an informal settlement that is satisfactory to the parties concerned. The Affirmative Action Officer is responsible for investigation the feasibility and legality of any remedies that are proposed with the municipal counsel and employee relations officer as it appears necessary.

- (e) When the investigation is completed, the Affirmative Action Officer shall prepare a written report including recommendations for the Board of Supervisors.
- (f) The Board of Supervisors shall issue the final decision and recommendations in writing to the parties concerned.
- (g) The Board of Supervisors decision is final. If the complainant is not satisfied with the attempts to resolve the problem, the claimant may seek remedy through other sources.
  - NYS Division of Human Rights
  - U.S. Equal Employment Opportunity Commission
  - Division of Veterans Affairs (VEV)
- (h) At any point in the procedure, the claimant may withdraw the charge.

(2) Time Frame

The Municipality will reach a decision within sixty (60) working days beginning from the date on which the written complaint is received.

(3) Confidentiality

The substance of the investigation will remain confidential. No party or staff member shall disclose the results of the investigation or parts thereof.

(4) Accessibility

The Municipality will provide such assistance as may be necessary to enable a complainant to understand and participate in the complaint.

(5) Retaliation



Any employees who participate in the procedure may do so without fear of retaliation. It will be made clear that retaliation against an employee who has filed a discrimination complaint will result in disciplinary action.

(6) Time Accruals

There will be no charge to accruals for time taken in conjunction with this procedure.

(7) Outcomes

The outcome of an investigation is either dismissal of the complaint or remedial action. The complainant will be notified in writing of the outcome. If remedial action is ordered, the following avenues may be considered, consistent with the relevant law, rules and regulations, and negotiated agreements.

- placement of a person in a position that the individual would have been entitled to, had the discriminatory practice not occurred.
- promotion of a person who was refused advancement because of a discriminatory circumstance.
- hiring a person who was refused employment because of a discriminatory circumstance
- disciplinary action against a respondent in accordance with the appropriate employee agreement or regulations.

Note: 1. Individual who have been appointed as a result of discriminatory practice will not be penalized.

Note: 2. The above is not an exhaustive list of possibilities. Each case must be judged on its own merit.

(8) Follow-up

The Affirmative Action Officer will maintain a log and file of complaints received. Six weeks from the date of a decision, the Affirmative Action Officer will determine whether the Board of Supervisors directives have been carried out, or whether the case needs to be re-opened. The findings will be reported to the Board of Supervisor for appropriate action.

(9) Record Keeping

The Municipality will keep a record of the status and determination of all complaints for at least two years. Cases that are unresolved and subject to external reviews will be maintained indefinitely, or until they are resolved.



## 21 Sexual Harassment Policy

### 21.01 Statement of Policy

Essex County considers sexual harassment in the workplace an offensive and constitutes a form of discrimination in violation of Federal and State Laws. Every county employee is entitled to a working environment free from sexual harassment and its deleterious economic, psychological and physical effects. Essex County is committed to preventing sexual harassment of its employees.

### 21.02 Conduct Covered by this Policy

- A. Any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:
- (1) Submission to the Conduct is either explicitly or implicitly a term or condition of an individual's employment; or
  - (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - (3) The conduct has the purpose or effect of unreasonably interfering with an affected employee's work performance, creating an intimidating, hostile, or offensive work environment.

### 21.03 Complaint Procedure

- A. In addition to any options otherwise available to complaints through employee unions or through State or Federal agencies and courts;
- (1) Any employee who feels that he or she has been the victim of sexual harassment as described in Section 21.02 above should contact the Personnel Officer or in his absence the Deputy Personnel Officer.
  - (2) Complaints should be made within ninety (90) working days of the occurrence of the event which gave rise to the complaint.
  - (3) The Personnel Officer shall interview the complainant, the accused (hereafter "respondent") and any witnesses, review any relevant documents, and assist in the completion of a written complaint form, which must be filed with the Clerk of the Board.
  - (4) The Personnel Officer will inform all respondent parties of the factual allegations and give them an opportunity to respond to all charges and evidence.
  - (5) The Personnel Officer shall at each opportunity seek conciliation of an informal settlement that is satisfactory to the parties concerned.

- (6) The Personnel Officer shall prepare a written report, including recommendations for the Board of Supervisors within thirty (30) working days after the filing of the written complaint with the Clerk of the Board.
- (7) At any point in the procedure, the complainant may withdraw the charge using a written request to the Personnel Officer.
- (8) The Board of Supervisors shall issue a final decision in writing to the parties concerned, including disciplinary penalties, if any.
- (9) The Board of Supervisor shall reach its decision within sixty (60) working days from the date the Board receives the report of the Personnel Officer.

#### **21.04 Confidentiality**

The substance of any complaint and investigation shall remain confidential.

#### **21.05 Resolution**

Each complaint will be resolved by either withdrawal of the complaint by the complainant, dismissal of the complaint, or remedial action. The complainant will be notified in writing of the outcome.

#### **21.06 Remedial Action**

- A. The following avenues may be considered, consistent with the relevant law, rules and regulations and any negotiated collective bargaining agreements:
  - (1) Placement of a person in a position that the individual would have been entitled to, had the discriminatory practice not occurred.
  - (2) Promotion of a person who was refused advancement because of a discriminatory circumstance.
  - (3) Hiring a person who was refused employment because of a discriminatory circumstance.
  - (4) Disciplinary action against a respondent in accordance with the appropriate employee agreement or other applicable disciplinary procedure.
- B. The above is not an exhaustive list of possibilities. Each case must be judged on its own merits.

#### **21.07 Record Keeping**

The Personnel Department will keep a record of the status and determination of all complaints for such period as prescribed by the Commissioner of Education's Records Retention and Disposition Schedule. Records of cases that are unresolved will be

maintained indefinitely until resolved or until all parties are no longer employed with the County.

### **21.08 Policy Dissemination**

All departments of the County shall widely distribute this Policy Statement by providing a copy to each employee and by including it in all employee orientation procedures.

## **22 Transitional Duty Program**

### **22.01 Statement of Policy**

In the effort to create an environment that will facilitate employee recovery from injury or illness, and to improve operational efficiency of Essex County, a program of Transitional Duty is hereby established.

On a case-by-case basis, this program covers all Essex County personnel who sustain a work related disabling injury. Essex County will make temporary and reasonable accommodations which will enable the employee to gradually return to his/her position at full duty. Transitional Duty will never be offered as a permanent alternative.

This program may also apply voluntarily, on a case-by-case basis, to employees who have sustained disabling injury or illness from non-job related activity, if and when Transitional Duty tasks become available. Work-related injuries will receive priority if transitional duty work is limited.

### **22.02 General Policy Guidelines**

- A. The disability must be a temporary condition.
- B. The employee must have Transitional Duty capacity as determined by his/her treating physician based on the Physician's Clinical Evaluation Form and/or Duty Assignment Form (see appendix). Completion of the Clinical Evaluation form will be a requirement of a Transitional Duty assignment.
- C. Such employee may be given a Transitional Duty assignment(s) consistent with his/her physical abilities and any limitations imposed by the treating physician.
- D. Each case will be independently evaluated by the Transitional Duty Team at least every thirty days for progress and should coincide with employee visits to their treating physician.
- E. Under ordinary circumstances the Transitional Duty Assignment will not last more than twelve weeks.
- F. Under catastrophic injuries or disability, and with strong medical documentation, the Transitional Duty Team may recommend

Transitional Duty Assignments beyond the normal twelve week period but under no circumstance shall Transitional Duty exceed six months.

### **22.03 Work Assignment Guidelines**

- A. The employee's regular work division shall attempt to locate or design a work assignment within the capacities described by the treating physician.
- B. If the usual work division is unable to assign suitable work, other divisions within the department shall be contacted to determine if a suitable work assignment exists.
- C. If no suitable temporary assignment is available within the department, the Administrator shall be contacted in order to consider other alternatives. The Administrator will attempt, when feasible, to coordinate and effect a temporary re-assignment of the employee on an inter-departmental basis.
- D. The department of which the employee is normally assigned will provide the source of the wage payments for those hours assigned under this transitional program.
- E. An employee working a transitional duty assignment shall be paid at his/her normal hourly rate of pay for all hours worked in the transitional duty assignment.
- F. If an employee has been assigned transitional duty and is unable to work due to a condition unrelated to the Workers Compensation injury then the payment or nonpayment of that time would be based on the availability of the employees normal leave time.
- G. An employee has the right to decline a transitional duty assignment, however such declination may result in their Workers' Compensation benefits ceasing.
- H. If an employee, based on medical documentation, fails to show improvement within the transitional duty assignment then such duty will be discontinued until such time when or if, the treating physician approves a new transitional duty assignment.
- I. An employee working a transitional duty assignment shall accrue the same benefits and seniority as when working in a normal capacity position.
- J. Upon release to regular work without restrictions, the employee shall be returned to his/her permanent work unit and his/her regular position.

#### **22.04 Program Implementation**

- A. Department Heads will be provided copies of this document for their review and reference.
- B. The Administrator in conjunction with the Nurse Patient Advocate from the Public Employer Risk Management Association (PERMA) will communicate with the treating physicians as they are identified by way of the Quick Fax Report (see Appendix). A letter of communication will go to these treating physicians (see sample letter - Appendix) to describe our Transitional Duty Program.
- C. Current employees will be notified by way of memo as to the startup of this program.
- D. New employees will be made aware of the program at the time of hiring.

#### **22.05 Procedures Guidelines**

##### **Step 1 ➡ Completion of Quick Fax Report**

- (1) The Injury Coordinator will complete and process the Quick Fax Report as per the instructions on the Quick Fax Form.
- (2) The Nurse Patient Advocate will contact the injured employee within 24 to 48 hours.
- (3) The Nurse Patient Advocate or a PERMA representative will forward a copy of the Quick Fax Report to the Program Administrator with the name and contact information of the treating physician.
- (4) The Program Administrator will fax a Physician's Clinical Evaluation Form (see Appendix) to the treating physician.
- (5) The Nurse Patient Advocate will contact the treating physician's office to inquire as to the status of the employee and the status of the Physician's Clinical Evaluation Form and will ask that the completed form be returned to the Nurse Patient Advocate.

##### **Step 2 ➡ Transitional Duty Team Evaluation**

- (1) Upon receipt of the Physician's Clinical Evaluation Form, the Nurse Patient Advocate will provide the Administrator a copy of the Physician's Clinical Evaluation Form.
- (2) If the Physician recommends some form of Modified Duty, then the Transitional Duty Team will evaluate and recommend the appropriate department for a transitional duty assignment.

- (3) In these cases where the treating physician, based on the completed Physician's Clinical Evaluation Form, recommends modified duty, the Administrator will forward an appropriate Departmental Duty Assignment Form (see Appendix) to the treating physician's office, along with a Physician's Letter asking that the form be returned to the Administrator.

#### Step 3 ➔ Duty Assignment Procedure

- (1) Upon receipt of the appropriate completed Departmental Duty Assignment Form, the Administrator will provide the appropriate Department Head with a copy of the form.
- (2) The Essex County Personnel Office will provide PERMA with payroll information stating the amount of salary to be paid by Essex County for the Transitional Duty Assignment. PERMA will determine if the employee is entitled to any additional payments under the Workers Compensation Claim and make such appropriate payment. Transitional Duty Salary Certification Form (see Appendix) will be used for this purpose.
- (3) The Department Head or immediate supervisor of the employee will provide the appropriate job assignments and prepare a work schedule as needed.

#### Step 4 ➔ Followup Procedure

- (1) A periodic review of the employees progress by the Transitional Duty Team will be conducted and recommendations made as appropriate.
- (2) The employee is required under Workers Compensation Law to be reevaluated by the treating physician every 30 days. A Return to Duty Status Form (see Appendix) will be given to the employee to be completed by the treating physician at their scheduled appointment.
- (3) Upon the employee's release to regular work without restrictions, the Transitional Duty Team will evaluate and provide a review of the case to the Administrator on a Transitional Duty Program Evaluation Form (see Appendix) for future reference.

### 22.06 Definitions

#### ➤ Administrator

The person assigned by the Essex County Board of Supervisors to oversee the implementation and ongoing daily operation of the Transitional Duty Program.



➤ Catastrophic Injury or Disability

An injury or disability which may require a Transitional Duty assignment beyond the normal 12 weeks or less. As determined by the treating physician, a Catastrophic Injury or Disability may require Transitional Duty beyond the normal 12 weeks but in no case will exceed 6 months.

➤ Department Head

The person appointed by the Essex County Board of Supervisors who has the responsibility for the day to day operations of each specific department.

➤ Duty Assignment

An assignment of work as determined by the treating physician based upon the specific tasks as identified by completion of the Duty Assignment Forms applicable to the employee.

➤ Immediate Supervisor

The person assigned by the Department Head, based upon normal department organization, who is responsible for a particular duty as assigned under the Duty Assignment.

➤ Injury Coordinator

The person within the Department who is assigned the responsibility of documenting Workers Compensation Injuries as they occur. This person is responsible to provide the employee and the Physician the Quick Fax Report and the Physician's Clinical Evaluation Form. Additionally, this person is responsible for reporting any changes in the status of the employee to the Administrator and the Personnel Office.

➤ Letter of Communication

A letter addressed to the Treating Physician explaining and requesting cooperation in the implementation of tasks to be assigned under a Duty Assignment.

➤ Modified Duty

A status as identified by the Treating Physician by way of the Physician's Clinical Evaluation Form. This status is the first step in the procedure to arrive at a Duty Assignment.

➤ Normal Leave Time

The employee's normal paid leave time as provided by the benefits under employment with Essex County. These are identified as Sick Time, Personal Time, Comp Time or Vacation Time.

➤ Normal Hourly Rate

This is a reference to what the employee is paid in wages when they are in their regular work assignment.

➤ Normally Assigned

This is a reference to where the employee worked prior to the injury or disability.

➤ Nurse Patient Advocate

An employee of PERMA who is assigned to act as the direct contact person for the injured employee and works directly with the Physicians office and the Administrators office to oversee the employees recovery from injury or illness.

➤ Periodic Review

A reference to a time frame, generally thirty days, in which the Transitional Duty Team would assess the progress of a particular employee as they proceed thru their Transitional Duty Assignment.

➤ PERMA

Public Employer Risk Management Association, Inc., the company hired by Essex County to act as third party administrators for the County of Essex Self Insured Workers Compensation Plan.

➤ Permanent Work Unit

This is in reference to the department, division or unit where the employee was permanently assigned prior to the injury or disability, to which the employee is entitled to return to upon return to regular duty.

➤ Regular Work

This is in reference to the work assignments that the employee had prior to the injury or disability, to which the employee is entitled to return to upon being cleared by the Treating Physician for such regular duty.

➤ Temporary Re-assignment

This is in reference to a decision by the Transitional Duty Team, with agreement by the appropriate Department Head, to temporarily assign an employee to a Transitional Duty assignment in a Department, Division or Unit other than his permanent Department, Division or Unit.

➤ Temporary Condition

A injury or disability as identified by the Treating Physician to be of a limited duration whereby a Transitional Duty Assignment is appropriate.

➤ Transitional Duty Team

The team as established by this Transitional Duty Program consisting of the Treating Physician, the Administrator and the Nurse Patient Advocate.

➤ Treating Physician

The injured or disabled employee's physician of record as identified by the Quick Fax Report.

➤ Work Assignment

A specific task as identified in the Duty Assignment Form and approved by the Treating Physician as being appropriate for the employee to undertake.