

# Personnel Ordinance

**BUNCOMBE COUNTY**

**North Carolina**



Revised May 19, 2022

## **ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM**

### **Section 1. Purpose**

The purpose of this Personnel Ordinance is to establish a personnel system that will promote a fair and effective means of employee recruitment and selection; develop and maintain an effective and responsible work force; promote understanding, cooperation, equal treatment, and efficiency; and provide the means for removal of unsatisfactory employees. This Ordinance is established under the authority of Chapter 153A, Article 5 of the North Carolina General Statutes.

### **Section 2. Coverage**

- A.** All employees in the County's service are subject to this Ordinance, except as provided in this section.
- B.** County Board of Commission members will be exempt from the provisions of this Ordinance except for Article VII, Employee Benefits.
- C.** The County Manager, the County Attorney, the Head of the Internal Audit Department, the Finance Director, the Clerk to the Board and the Director of the Board of Elections are exempt from the provisions of this Personnel Ordinance which relate to hiring, disciplinary actions including but not limited to suspension without pay, dismissal, grievances, and appeals.
- D.** Consultants, temporary employees, and volunteers are exempt from the provisions of this Personnel Ordinance except where made specifically subject to any provision.
- E.** To the extent that this Personnel Ordinance relates to hiring, disciplinary actions including but not limited to suspension without pay, dismissal, grievances, and appeals, these provisions will not apply to the Sheriff and all employees of the Sheriff, the Register of Deeds and all employees of the Register of Deeds, and the Director of Elections and all employees of the Board of Elections.
- F.** To the extent the provisions of this Personnel Ordinance conflict with federal or state law, the provisions of the federal and state law will prevail and the provision will not be applicable to the respective employee.

### **Section 3. Employee Status**

- A.** At the time employees are hired, they are classified as either full-time regular, part-time regular, grant-funded, or temporary employees and are also told whether they are eligible to earn overtime pay. In addition, employees hired into a full-time regular or part-time regular position are eligible to earn Covered Employee status.

3. **Temporary Employees.** Temporary employees are hired for specific periods of time not to exceed 364 calendar days and are at-will employees. Temporary employees will only receive the benefits outlined in the Temporary Employment Policy.
4. **Non-Exempt Employee (Fair Labor Standards Act Status).** Full and part-time employees who have been classified as “Non-Exempt” from the overtime provisions of the Fair Labor Standards Act will be paid for overtime hours worked in accordance with the Supplemental Pay Policy.
5. **Exempt Employee (Fair Labor Standards Act Status).** Full and part-time employees who have been classified as “Exempt” from the overtime provisions of the Fair Labor Standards Act are paid for the accomplishment of assigned accountabilities rather than being paid for the number of hours worked in a work period.
6. **Covered Employee.** A full-time regular or part-time regular employee occupying a regular position who has completed twelve (12) months of continuous service and has a “Meets Expectations” or higher overall rating on the employee’s performance evaluation will be a Covered Employee with a property interest in their job. If an employee does not receive an evaluation before the official review date, the employee will be considered to have performed in a satisfactory manner and be a Covered Employee.

#### **Section 4. Definitions (Listed Alphabetically)**

**Aggregate Service.** The employee's combined total period of countable service of employment within a regular position as an employee of Buncombe County, exclusive of any time allowed as transfer credit from another jurisdiction, for the purpose of determining entitlement to the particular benefit in question.

Aggregate service for retirement purposes refers to total length of service under which retirement contributions are paid into the N.C. Local Governmental Employees’ Retirement System by the employee. Aggregate service for determining the rates at which longevity and annual leave are earned by an employee is determined from the total years of service with Buncombe County only.

Rehired employees, or new hires from other government employers will be eligible for Annual Leave Accrual at rates commensurate with total years in service of Buncombe County plus other government employer(s) consistent with the Personnel Ordinance at the date as a new hire as described above.

Except as otherwise provided, rehired employees, and new hires from other North Carolina government employers, will be eligible only for the existing benefits at the time they are rehired, e.g., current health insurance plan, current 401K plan, etc. In addition, rehired employees will be eligible for a longevity rate with said accrual calculated based on the date of rehire (previous years of service will not be counted).

For an employee hired on or after July 1, 2016, the employee will not be eligible for a pro-rated longevity payment upon separation by retirement if the employee retires before December 1.

**Appeal.** An appeal is a formal process for a Covered Employee to contest a final decision made after a pre-disciplinary hearing involving an involuntary demotion, suspension without pay, dismissal, or a reduction in force.

**Appointing Authority.** Any County official with legal authority to make hiring decisions or elected official with the legal authority to make hiring decisions.

**At-Will Employee.** An individual who is free to resign at any time with or without notice or cause and whose employment may be terminated at any time, with or without notice or cause.

**Classification.** A class or group of job classes having similar duties and responsibilities requiring similar qualifications, which can be properly designated by one title indicative of the nature of work performed, and which carry the same salary grade.

**Employee Protection Hotline.** A toll-free number (1-866-908-7236) that is answered by an independent third-party source and available to employees as well as the public to register a complaint or concern anonymously regarding theft or fraudulent activity.

The Human Resources Department is responsible for ensuring that County employees have a safe place to raise their workplace concerns. As part of this responsibility, the Human Resources Department also ensures that employees at all levels comply with relevant County policies and state and federal employment regulations such as: suspected harassment in the workplace, discrimination, bullying, issues with coworkers or supervisors, health and safety, Fair Labor Standards Act (FLSA), American Disabilities Act (ADA), Title IV, or violation of any County policy.

To speak with someone about your concerns you can call (828) 250-4166 or email [EmployeeRelations@BuncombeCounty.org](mailto:EmployeeRelations@BuncombeCounty.org).

**Covered Employee.** A full-time regular or part-time regular employee occupying a regular position who has completed twelve (12) months of continuous service and has a “Meets Expectations” or higher overall rating on the employee’s performance evaluation and has obtained a property interest in their job. If an employee does not receive an evaluation before the official review date, the employee will be considered to have performed in a satisfactory manner and be a Covered Employee. Absences of less than thirty-one days will not be considered a break in service. This definition does not include employees in positions such as temporary, temporary grant, or time-limited employees.

**Demotion for Disciplinary Reasons.** Demotion for Disciplinary Reasons is an action that:

- Lowers the salary of an employee as stated in the Employee Pay Policy, and
- The action was involuntary, and
- The action taken was to discipline the employee.

**Exempt Employee (Fair Labor Standards Act Status).** Full and part-time employees who have been classified as “Exempt” from the overtime provisions of the Fair Labor Standards Act are paid for the accomplishment of assigned accountabilities rather than being paid for the number of hours worked in a work period.

**Full-Time Regular Employee.** An employee appointed to a regular position and scheduled to work at least 2,080 hours per year. Employees in these positions are eligible for Covered status as well as specified employee benefits.

**Grievance.** A claim or complaint alleging an event or condition which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established ordinance pertaining to employment conditions. A grievance may involve allegations of bullying, sexual harassment, discriminatory practices, and/or hostile work environment. A grievance is not allowed for Investigatory Suspension with pay or voluntary demotion or a written warning or reassignment that does not involve a reduction in pay. For assistance with a grievance the employee can contact Human Resources at: (828) 250-4166 or by email [EmployeeRelations@BuncombeCounty.org](mailto:EmployeeRelations@BuncombeCounty.org).

**Hatch Act.** A federal act limiting political activity for state and local government employees whose principal employment is in an activity that is financed either in whole or in part by loans or grants from the federal government in order to limit possible bias and political coercion.

**Maximum Salary Rate.** The maximum salary authorized by the pay plan for an employee within an assigned salary grade in accordance with County recruitment and compensation policies.

**Non-Exempt Employee (Fair Labor Standards Act Status).** Full and part-time employees who have been classified as “Non-Exempt” from the overtime provisions of the Fair Labor Standards Act will be paid for overtime hours worked in accordance with the Supplemental Pay Policy.

**Part-Time Regular Employee.** An employee appointed to a regular position and scheduled to work less than 2,080 hours per year. Employees in these positions are eligible for Covered status as well as specified employee benefits.

**Pay Plan.** A schedule of pay ranges arranged by sequential rates for each classification assigned to a salary range.

**Position Classification Plan.** A plan approved by the Board of County Commissioners that assigns classes (positions) to the appropriate pay grade.

**Salary.** Consistent with North Carolina General Statutes, "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid to a Buncombe County employee.

**Salary Grade.** All positions which are sufficiently comparable to warrant one range of pay rates.

**Salary Plan Revision.** The uniform adjustment of the salary ranges of one or more grades within the pay plan.

**Salary Range.** The minimum and maximum salary levels for a given classification.

**Salary Range Revision.** The adjustment of the salary range for one or more specific classifications of positions within the classification plan.

**Salary Schedule.** A listing by grade and quartile of all the approved minimum and maximum salary ranges authorized by the Board of County Commissioners for various position classifications of the County.

**Temporary Position.** A position for which the duties and responsibilities are required for a specified period of time, not to exceed 364 days.

## **Section 5. Merit Principle**

All appointments and promotions hereunder will be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities will be assigned to the same class and the same salary range. No applicant for County employment or employee will be deprived of employment opportunities or otherwise adversely affected as an employee in violation of the County's Non-Discrimination Ordinance.

## **Section 6. Responsibility of Board of County Commissioners**

The Board of County Commissioners will establish a Personnel Ordinance, including the classification and pay plan, and will make and confirm appointments when required by law.

Neither the Board of County Commissioners nor any of its committees or members will direct or request the appointment of any person to or his removal from office by the County Manager or by any head of a department or officer authorized by such Manager to make such appointment, nor will the Board of County Commissioners or any of its committees or members take any part in the appointment or removal of officers and employees in the administrative service of the County, other than those positions for which the Commissioners are responsible for appointing as set out in Chapter 153A of the North Carolina General Statutes.

Except for the purpose of an internal inquiry, the Board of County Commissioners and its members will deal with that portion of the administrative service for which the County Manager is responsible through the County Manager and neither the Board of County Commissioners nor any member thereof will give any directive to any county employee in the administrative service

of the County, other than the County Manager, relating to any matter in the line of his or her employment.

### **Section 7. Responsibility of County Manager**

The County Manager will be responsible to the Board of County Commissioners for the administration of the personnel program subject to their authority. The County Manager will appoint, suspend, and remove all County employees under guidelines established in this Personnel Ordinance, except those elected by the people or whose appointment is otherwise provided for by law. The County Manager will make appointments, dismissals, and suspensions in accordance with N.C. Gen. Stat. § 153A-82 and this Personnel Ordinance.

An official copy of the Personnel Ordinance and rules will be available in the County Manager's office and/or Human Resources Department. The appointing authority, County Manager, or their designee, and/or Human Resources Director will provide written procedures and forms necessary for the proper administration of the Personnel Ordinance set forth in this manual and will instruct staff in their appropriate use. Any questions concerning the application or interpretation of the Personnel Ordinance's guidelines or rules stated herein will be directed by employees through appropriate Supervisory channels. Any questions on the part of Department Heads concerning the applicability or interpretation of the Personnel Ordinance's guidelines or rules should be directed to the appointing authority, County Manager, or their designee, and/or Human Resources Director before proceeding.

### **Section 8. Responsibility of the Human Resources Director**

- A. Unless otherwise stated in the policies of this Personnel Ordinance, the Human Resources Director or their designee will be responsible for the following items:
1. The administration of the policies and procedures in this Personnel Ordinance and other related personnel and employee related policies;
  2. Recommending the following types of revisions to this document to the County Manager for approval by the Board of County Commissioners;
    - a. Classification Plan
    - b. Pay plan
    - c. Leave policies
    - d. Retirement, health insurance, and other employee benefits
  3. Investigating periodically the operation and effect of this document;
  4. Establishing and maintaining a roster of all persons in County services (setting forth the following items);

- a. Each Supervisor and employee
  - b. Position
  - c. Salary
  - d. Any change in position and status
  - e. Such data as may be deemed desirable or useful
5. Developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the County.
- B. The Human Resources Director, or their designee, will be responsible for keeping policies and procedures in conformance with any legal requirements which may be imposed by other levels of government.
- C. The Human Resources Director will be responsible for furnishing advice, technical direction, and assistance to County Department Heads and administrative staff in effectuating this Personnel Ordinance, including devising and implementing detailed procedures and records.
- D. The Human Resources Director will designate those employees who are exempt from the Fair Labor Standards Act.
- E. The Human Resources Director will also be responsible for performing such other duties as may be assigned by the County Manager, not inconsistent with this document.

### **Section 9. Responsibility of Employees**

Buncombe County is committed to providing services with an efficient, effective, and professional staff.

- A. County employees are expected to be at work on time and must schedule leave according to agency leave policies. As a service agency, it is essential that our employees be available to serve the public during business hours (unless an employee is working a pre-approved flex schedule). In emergency cases, an employee must notify his or her Supervisor as soon as possible.
- B. County employees are expected to perform ethically, adhering to individual professional code of ethics when applicable. Actions that undermine the credibility of the County such as, but not limited to, lying, falsifying records, or breaches of confidentiality are subject to disciplinary action up to and including dismissal.
- C. County employees must keep a neat and well-groomed appearance and dress according to the specific conditions of the employee's work environment.
- D. County employees must treat county property with care and safeguard all county property from theft and misuse.



E. County employees should refrain from off-duty conduct which undermines their ability to perform their job and/or undermines the credibility of the County Government such that there is sufficient connection between the employee's conduct and the employee's job.

**In addition to these expectations, staffs' actions should reflect the County's core values, as described in *Appendix A: Buncombe County Core Values for Employee Conduct*.**

## **ARTICLE II. POSITION CLASSIFICATION PLAN**

### **Section 1. Policy Statement**

All positions covered by this Personnel Ordinance are to be classified according to their duties, responsibilities, qualifications needed of incumbent employees, and other related factors. In order to assure its continuing value as a personnel management tool, the Position Classification Plan will be maintained to reflect the current work assignments and other conditions and requirements which are factors in proper classification and allocation of positions.

### **Section 2. Allocation of Positions**

The Human Resources Director will allocate each position covered by the Position Classification Plan to its appropriate class and salary grade in the plan. New positions will be established only with the approval of the Board of Commissioners upon recommendation of the County Manager and/or the Human Resources Director. Any grant application that involves additional staff (independent contractor, temporary, designated grant FTE) must be reviewed and approved at the County Manager/Assistant County Manager level prior to submission of application.

### **Section 3. Administration**

- A. The County Manager or Human Resources Director, as designed by the County Manager, will be responsible for the administration and maintenance of the Position Classification Plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated. After classification, each position will be assigned to a pay grade in the Position Classification Plan.

Department Heads will be responsible for bringing to the attention of the County Manager and/or Human Resources Director (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classification of any existing positions.

- B. New positions will be established with the recommendation of the County Manager and/or Assistant County Manager and approval of the Board of County Commissioners after which the Human Resources Director will either (1) allocate the new position to the appropriate class within the existing Position Classification Plan or (2) recommend that the Board of County Commissioners amend the Position Classification Plan to establish a new class to which the new position may be allocated.
- C. When the Human Resources Director finds that a substantial change has occurred in the nature of level of duties and responsibilities of an existing position, the Human Resources Director, upon the County's Manager's and/or Assistant County Manager's recommendation, will (1) direct that the existing class specification be revised, (2) reallocate the position to the appropriate class within the existing Position Classification Plan, or (3) recommend that the

Board of County Commissioners amend the Position Classification Plan to establish a new class to which the position may be allocated.

#### **Section 4. Amendments**

Classes of positions will be added to and deleted from the Position Classification Plan by the Board of County Commissioners based on the recommendation of the County Manager and/or Human Resources Director.

#### **Section 5. Procedures for Change**

- A. The Position Classification Plan may have additional classes added or have classes deleted from time to time as needs of the County organization requires. The Board of County Commissioners will approve the creation or deletion of any class.
- B. When a Department Head believes that a new class is needed, either to add a new field of employment or to reflect additional levels of work within an existing series of classes, the Human Resources Director will be furnished a written statement of proposed duties for the new class and other information as necessary.
- C. A class will be deleted from the Position Classification Plan when the Board of County Commissioners, with the recommendation of the County Manager and/or Human Resources Director, has determined that it no longer is being used or needed for the positions within the County organization.

#### **Section 6. Reclassification of Positions**

A supervisor may request that a classification of position within their supervisory line be reviewed to ensure the position is properly classified.

- A. With the support from their Department Head, the supervisor will submit the request in writing to the Human Resources Director or designee or their designee.
- B. The Human Resources Director will, upon the County Manager's and/or Assistant County Manager's recommendation, approve, disapprove, or reclassify the position to an existing classification or establish a new class for approval by the Board of County Commissioners.

## **ARTICLE III. PAY PLAN**

### **Section 1. Adoption**

The salary schedule, as approved by the Board of County Commissioners, is hereby adopted as the Pay Plan for Buncombe County.

### **Section 2. Maintenance**

The Human Resources Director will be responsible for the administration and maintenance of the Pay Plan. The Pay Plan is intended to provide equitable compensation for all positions when considered in relation to each other, to comparable rates of pay for similar employment in the private and public sector in the competitive labor market, to changes in the cost of living, to financial conditions of the County, and other objective factors. To this end, the Human Resources Director will, conduct comparative study of all factors affecting the level of salary ranges no less than once every five years.

### **Section 3. Administration**

The Pay Plan will be administered in a fair and systematic manner in accordance with work performed. The pay structure should be externally competitive and should maintain proper internal relationships among all positions based on relative duties and responsibilities.

### **Section 4 Bonuses.**

A. The County Manager has the authority to award bonuses and incentive payments up to one thousand dollars per person subject to availability of funds in the departmental appropriations. These funds are to be used to reward employees and teams who have done work that exceeds the expectations of their job description and is outside their normal job duties, and, impacts the efficiency and effectiveness of the agency. All bonuses and incentive payments will be reported to the Board at a regular meeting of the Board of Commissioners no later than sixty days from the award.

The majority of the Board of Commissioners will have the authority to award bonuses and incentive payments to employees in appointed positions subject to availability of funds in the departmental appropriations, and any such bonus or incentive will be made public at the Board of Commissioner meeting within sixty days of award.

### **Section 5. Pay Rates in Salary Range Revision**

When the Board of County Commissioners approves a change in salary range for a class of positions, the salaries of employees whose positions are allocated to that class may be affected as follows:

- A. When a class of positions is assigned to a higher pay range, employees in that class may receive a pay increase based within the approved salary plan upon the recommendation and approval of the County Manager and/or Human Resources Director.
- B. When a class of positions are assigned to a lower pay range, the salaries of employees in that class will not be reduced.
- C. If the Board of County Commissioners, at its discretion, provides funds through appropriation for an across-the-board increase, only employees pay rates will change. The pay plan will remain the same.

### **Section 6. Overtime**

- A. The County abides by all applicable sections of the Fair Labor Standards Act and any Fair Labor Standard Amendments. The County will properly record all applicable overtime accrued for each Covered Employee. This overtime policy is applicable only to employees of Buncombe County who are “Non-Exempt” under the Fair Labor Standards Act. If any area of this section is in conflict with the FLSA, then the FLSA will supersede.
- B. Every employee must record their timecard accurately to reflect all time worked. Failure to do so may result in disciplinary action up to and including dismissal. Should an employee be aware of any violation of this requirement or of any practice that discourages an employee from accurately recording their time, then the employee should report such concerns to the County’s Human Resource Director or anonymously through the Employee Protection Hotline (1-866-908-7236).
- C. Employees are expected to work during all assigned periods except mealtimes. Employees are not to perform work during any time that they are not scheduled to work unless they receive prior approval from their Supervisor, Department Head, County Manager, or their designee, or appointing authority except in cases of emergency. An emergency exists if a condition arises that could reasonably result in damage to property or persons or that requires the immediate attention of the employee. Employees who work excess hours because of an emergency will advise their immediate Supervisor of the overtime worked as soon as practical following completion of the work.
- D. Department heads are responsible for ensuring that overtime hours are authorized, recorded, and properly documented with the established record keeping forms and instructions.
- E. Computation for overtime will include actual work hours worked over and above forty hours in any work week for non-law enforcement employees. For non-law enforcement personnel, computation for overtime hours will be at the standard rate of one hour per hour worked up to forty hours per week, and at one and one-half hours per hour worked above forty hours per week. Refer to the Premium Pay policy regarding compensatory time.
- F. Computation for overtime will be computed in accordance with the FLSA.

## **Section 7. Payroll Deductions**

Federal and state income taxes, Social Security tax, withholding for court-ordered child support payments (upon receipt of appropriate notices to withhold or by other order of a court of competent jurisdiction), and retirement contributions will be deducted as authorized by law and the Board of County Commissioners. Credit Union deductions, insurance premiums and other deductions requested by the employee and not paid by the County may also be deducted. In addition, in accordance with the appropriate federal, state or local law, the County may have to garnish an employee's wages. Because these deductions are calculated on the basis of information provided by the employee, it is mandatory that the employees keep the County informed of their personal status for withholding purposes.

## **Section 8. Payroll Procedure**

All employees will be compensated bi-weekly and must utilize direct deposit at the bank of their choice as the payment method.

## **Section 9. Cost of Living Adjustment**

Each year, the Board of County Commissioners may grant a salary increase based on a cost of living adjustment (COLA) calculation to all employees occupying a regular position, and to any grant-funded position for which the funding source allows.

During the budget planning process of each year, County Budget and Human Resources staff will present a COLA calculation to the Board. The calculation will be the 2-year average annual change in the CPI-W, measured as of the December data release next preceding the date of such presentation. The index to be used is the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), published by the U.S. Bureau of Labor Statistics (BLS). This COLA calculation will represent the maximum COLA adjustment.

The Board will make its election on whether or not to grant a COLA adjustment through the Budget Ordinance. If the Board elects to provide an annual COLA, the COLA will be effective July 1 of the following fiscal year.

## ARTICLE IV. RECRUITMENT AND SELECTION

### Section 1. Policy Statement

The Directors of the departments Sheriff, Register of Deeds, and Board of Elections will have authority over and be responsible for the recruitment, application submission, employment, selection, appointment, supervision, and discharge of employees in their respective departments with the County Manager and/or Human Resources Director approving the salary and classification of the new employees.

### Section 2. Statement of Equal Employment Opportunity Policy

- A. Buncombe County is committed to the principles of equal employment opportunity. It is the policy of the County to maintain a systematic, consistent recruitment program, to promote equal employment opportunities, and to identify and attract the most qualified applicants for employment with the County.
- B. Firm practices and employment decisions regarding recruitment, hiring, assignment, promotion, and compensation will not be in violation of the County's Non-Discrimination Ordinance.
- C. Any person with concerns or suggestions about our hiring process should contact to the Buncombe County Human Resources Director or any member of senior management. For further information on Buncombe County's nondiscrimination policy, see *Appendix D: Unlawful Workplace Harassment*.

### Section 3. Recruitment

- A. The Human Resources Director is responsible for an active recruitment program to meet current and projected staffing needs, using procedures that will ensure equal employment opportunities based on job-related requirements.
- B. Recruitment efforts will be coordinated in a timely manner.
- C. The Human Resources Director and the Department Head may jointly determine whether a position vacancy will be filled by outside recruitment or promotion.
- D. In case of disagreement, determination will be made by the appointing authority or County Manager, or their designee.

### Section 4. Position Vacancy Announcements

- A. Vacant positions will be reviewed by the applicable Department Head and the County Manager and/or Human Resources Director to determine whether they should be filled.

- B. Applicants will be recruited for vacant positions which are to be filled by posting position vacancy announcements for a minimum of five working days on the Buncombe County website and the local office of the Employment Security Commission if external candidates are being sought and/or at the Human Resources Department and within each County Department should internal applicants be sufficient.
- C. Optional recruiting publicity may be carried out through the media, as appropriate.
- D. Position vacancy announcements will contain, at a minimum:
  - 1. The title and the hiring range;
  - 2. The closing date of the announcement;
  - 3. A summary of the duties of the position;
  - 4. A summary of the minimum qualifications;
  - 5. The procedures for making application; and
  - 6. A statement of equal employment opportunity.

#### **Section 5. Application Submission**

- A. The Buncombe County Electronic Employment Application will be the standard application accepted for any and all position listings.
- B. Applications are accepted through the Buncombe County website ([www.buncombecounty.org](http://www.buncombecounty.org)).

#### **Section 6. Application for Employment**

- A. All persons expressing interest in employment with the County are given an opportunity to file an application for employment with the Human Resources Department. For most positions, applications are accepted for publicized vacancies only. A separate application must be submitted for each position applied. Copies are not accepted.
- B. Applications are logged according to job classification and remain in active status for six months.

#### **Section 7. Qualification Standards**

- A. All applicants considered for employment or promotion will meet the qualification standards established by the class specifications and/or job description for the vacant position.



- B. All appointments will be made on the basis of merit and in accordance with the Statement of Equal Employment Opportunity Policy. See *ARTICLE IV. RECRUITMENT AND SELECTION, Section 2. Statement of Equal Employment Opportunity Policy.*

### **Section 8. Selection**

After applicants have been properly recruited for by the Human Resources Department, the applications are forwarded to the Hiring Manager. The Hiring Manager makes the decision as to employment, subject to the approval of the Department Head, Human Resources Director, and/or the County Manager.

- A. All persons who have applied for employment are considered on the basis of bona-fide occupational qualifications. All applicants must meet the minimum qualifications established for the position, except for established trainee positions. In addition, applicants must meet other minimum standards as to character, aptitude, ability to meet the public, and the ability to perform the essential job functions with or without accommodation, as may be required by the position.
- B. If training and experience are among the criteria for employment in a job, the Department Head will determine a procedure for the evaluation of the training and experience of the various applicants. This procedure will give due regard to recentness, quality, and quantity of the applicant's experience and training.
- C. Applicants will generally not be notified of the outcome of their application for employment unless they are interviewed by a Hiring Manager or Department Head. Notification will be from the department with the vacancy or from the Human Resources Department. Concerned applicants may check the status of their application by contacting the Human Resources Department or appointing authority.
- D. Provided qualified applicants are available, a minimum of three applicants should generally be interviewed for each position.
- E. At the end of the selection process of each vacancy, the Hiring Manager is responsible for completing an Application Selection/Rejection Data Form. The original copy must be submitted to the Human Resources Department at the time of selection. The Application Selection/Rejection Data Form provides documentation for EEO purposes and is a record of those applicants to be notified of the outcome of the selection process.
- F. The position of Head of the Internal Audit Department will not be filled without a recommendation by majority vote of the County's Audit Committee. If a majority of the Audit Committee votes in favor of the selection of a candidate for the position then such recommendation must be considered by the Board of Commissioners for final approval.

### **Section 9. Background Records Check.**

The finalist for a position will be asked for information so that a full and complete disclosure of records pertaining to the applicant's education, previous employment, and criminal records background check may be verified.

### **Section 10. Valid Driver's License Requirement.**

If the duties of the position include operation of County-owned or County-insured vehicles, or driving is a requirement of the employee's job duties, the Department Head will, before issuing an offer of employment, conduct a review of the driving record of the person to be hired, which record will become a part of the personnel file. All employees required to drive as a function of their job responsibilities must maintain a valid driver's license and car insurance and notify their Department Head of any change in status in accordance with the County's Vehicle Usage Policy.

### **Section 11. Appointments**

The Board of County Commissioners may approve the appointment by the Sheriff or Register of Deeds of a person who has been convicted of a crime involving moral turpitude as required by N.C. Gen. Stat. § 153A-103(1).

### **Section 12. At-Will Periods of Employment**

- A. An employee appointed to a regular position will be an employee at-will with no property interest in his or her position from the time of the appointment to the position until the employee has successfully completed twelve (12) months of continuous service.

Once an employee has achieved Covered Employee status then the employee may only be disciplined as provided in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS*.

During the at-will period an employee may be separated upon the approval of the Department Head, with concurrence by the Human Resources Director, or appointing authority without the right of appeal.

- B. The work of a new employee will receive a special performance rating at six months and twelve months. An overall rating of "Meets Expectations" or better must be received to continue employment. Should an employee receive a rating below a "Meets Expectations" in any portion of the six- or twelve- month appraisal, continued employment must be approved by the Department Head and a timeframe must be set to reassess the employee's performance not to exceed three months so that a final decision of continued employment may be made.

### **Section 13. Promotion**

Candidates for promotion will be chosen on the basis of their qualifications and in accordance with the Statement of Equal Employment Opportunity Policy in *ARTICLE IV. RECRUITMENT AND SELECTION, Section 2. Statement of Equal Employment Opportunity Policy*. Current employees may be given preference for certain promotional opportunities.

### **Section 14. Demotion and Reassignment**

- A. A Covered Employee whose work is unsatisfactory may be demoted, provided that the employee shows promise of becoming a satisfactory employee in another position. Such a demotion will be made in accordance with procedures in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS* for Covered Employees only.

The Covered Employee will be provided with written notice citing the recommended effective date of the demotion, the reasons for the demotion, the impact on their annual income and bi-weekly payments, and the appeal rights available to the Covered Employee as stated in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS, Section 13. Employee Appeal Procedure*.

- B. An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a voluntary reassignment. If the reassignment results in a salary reduction, the employee will be notified in writing of the impact on their annual income and bi-weekly payments in accordance with the Employee Pay policy. A voluntary reassignment is not a disciplinary action, and the employee has no right to appeal said decision, pursuant to *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS*.

### **Section 15. Transfer**

- A. If a vacancy occurs and an employee eligible from another department wishes to be considered for the appointment, an application must be submitted to the Human Resources Department during the recruitment period for the position. The request for transfer will be subject to approval of both affected Department Heads, and approval by the Human Resources Director. An employee transferred without request may file a grievance in accordance with *ARTICLE IX. GRIEVANCE PROCEDURE*.

## **ARTICLE V. CONDITIONS OF EMPLOYMENT**

### **Section 1. Workweek**

#### **A. Standard Workweek**

1. The standard workweek for Buncombe County regular employees will be from 8:00 A.M. until 5:00 P.M., Monday through Friday with one hour permitted for lunch.
2. Law enforcement employees will have an assigned shift with accumulation of those hours required in an approved FLSA work schedule with time permitted for meals during the respective shift.
3. When the activities of a particular department require some other schedule to meet the work needs, the Department Director or appointing authority may authorize a deviation from the established standard schedule.

#### **B. Flex-time Workweek**

1. County employees have the ability to deviate slightly from the Standard Workweek as established in *ARTICLE V. CONDITIONS OF EMPLOYMENT, Section 1. Workweek, Subsection A.*
2. Regular employees may initiate a flexible daily work schedule. Employees who elect a flex-time schedule must do so with Department Head approval and must exercise a consistent schedule for no less than three-month intervals.
3. Flex time is a privilege and may be revoked at any time by the Supervisor or Department Head.

### **Section 2. Employee Protection and No Retaliation**

Buncombe County is committed to a safe workplace where employees are able to responsibly voice their concerns regarding business operations, the use of resources and assets, the adherence to workplace practices and policies, unethical behavior, and unsafe work practices and to do so without fear of reprisal, intimidation and/or retaliation. There are different ways that employees can voice their concern. These include:

- Addressing concerns with the appropriate member of management,
- Meet with a member of the Employee Relations division (828-250-4166) within Human Resources.
- Using the Grievance Procedure when applicable (See Article IX. Grievance Procedure),
- For instances of theft or fraud, the employee may use the Employee Protection Hotline: a toll-free number (1-866-908-7236) that is answered by an independent third party source and available to employees as well as the public to register a complaint or

concern anonymously. Anonymous reports are directed to the Internal Auditor to investigate and ensure follow up action if appropriate.

Buncombe County is committed to ensuring that every employee is treated fairly who lodges a concern, and the County will handle all concerns swiftly and confidentially to the extent possible in light of the need to take appropriate corrective action. Lodging a concern will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious concerns is an abuse of this policy and will be treated as a violation. (For full policy see Employee Protection and No Retaliation Policy – Appendix F.)

### **Section 3. Unlawful Workplace Harassment**

A. Buncombe County is committed to a work environment that is free from harassment and discrimination. Harassment based on an individual's race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law will not be tolerated. All employees, including Supervisory and management personnel, are expected and required to refrain from any activity or action that contributes to harassment in the workplace. Harassment of employees by Supervisors or co-workers is forbidden in any form.

#### **B. Definitions**

**Unlawful Workplace Harassment.** This is specifically defined as unwelcome or unsolicited speech or conduct based upon race, color, religion, sex, national origin, political affiliation, physical, or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law that creates a hostile work environment or circumstances involving quid pro quo.

**Hostile Work Environment.** This is an environment that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's performance.

**Quid Pro Quo Harassment.** This consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when (1) submission to such conduct is made 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.

- C. Employees who believe they have been harassed in violation of this policy should make a report to their immediate Supervisor, or the Department Head, or the Assistant County Manager, or the County Manager, or the Human Resources Director or to a member in the Employee Relations division within Human Resources. If the complaint is against the County Manager or an elected official, the complaint can be filed with the Chairman of the Board of County Commissioners or by reporting through the Employee Protection Hotline (1-866-908-7236). All complaints of harassment will be promptly investigated and appropriate corrective action where necessary will be taken based upon the findings of the investigation.
- D. Substantiated claims of harassment may result in disciplinary action, up to and including dismissal. For additional information regarding harassment and the methods to report harassment, employees should see *Appendix D: Unlawful Workplace Harassment*.

#### **Section 4. No Retaliation Policy for Workplace Discrimination or Harassment**

- A. No person will be adversely affected in employment with the employer because of bringing complaints of discrimination and unlawful harassment or participating in a discrimination and unlawful workplace harassment investigation or concerns or complaints under the Workplace Violence Policy (see *Appendix C: Workplace Violence Policy*).
- B. Other protected activity includes, but is not limited to:
  - 1. Initiating an internal complaint or report of discrimination or harassment;
  - 2. Filing a claim of discrimination;
  - 3. Requesting an accommodation for a disability;
  - 4. Filing a Workers' Compensation claim following a work-related injury;
  - 5. Requesting leave under the Family and Medical Leave Act; or
  - 6. Filing a safety or environmental related complaint with state and/ or federal oversight agencies.
- C. An employee who believes they are the subject of retaliation should follow *Appendix E: No Retaliation Policy*.

#### **Section 5. Drugs at the Workplace Prohibited**

- A. Any location at which County business is conducted is declared to be a drug-free environment. Workplace is defined as the site for the performance of work done and includes, but is not limited to, any Buncombe County building, premises, or vehicle.
- B. All employees are prohibited from unlawfully manufacturing, distributing, dispensing, partaking, possessing, or using any controlled or uncontrolled substance or alcohol in the

workplace, or reporting to work under the influence of any controlled substance or alcohol, except medications prescribed by a licensed health care provider and taken in the prescribed dosage and certified by said provider not to constitute a workplace hazard.

- C. As a condition of employment, all employees are required to follow the Buncombe County Drug Free Workplace Policy and may be tested in accordance with this policy.

### **Section 6. Workplace Violence**

- A. Buncombe County is committed to preventing workplace violence and to maintaining a safe work environment. Toward that end, Buncombe County has adopted a Workplace Violence policy (see *Appendix C: Workplace Violence Policy*). The intent of the policy is to ensure that our employees are free from intimidation, harassment or other threats of or actual violence that may occur on-site or off-site during work-related activities. Additionally, the policy makes employees aware of their responsibility to report any concerns so that these concerns may be addressed in a timely and effective manner. Employees are protected against retaliation for making in good faith a report of workplace violence.
- B. Employees seeking to report a concern regarding the Workplace Violence policy should consult the policy in *Appendix C: Workplace Violence Policy*.

### **Section 7. Tobacco Product Policy**

- A. No person will use any tobacco product, including but not limited to: snuff, chewing tobacco, smokeless tobacco, e-cigarette or vaping tool, smoking, carrying or possessing a lighted cigar, cigarette, pipe or other lighted smoking equipment/paraphernalia while in any Buncombe County buildings, on Buncombe County grounds, or in Buncombe County vehicles.
- B. Should a County employee violate the tobacco ban, they will be subject to disciplinary action, up to and including dismissal.

## **ARTICLE VI. HOLIDAYS AND LEAVE**

### **Section 1. Leave Policy.**

The Board of Commissioners will adopt a leave policy that is applicable Buncombe County employees.



## **ARTICLE VII. ADDITIONAL EMPLOYEE BENEFITS**

### **Section 1. Benefits Policy**

The Board of Commissioners will adopt a benefit policy that is applicable Buncombe County employees.

### **Section 2. Deferred Compensation**

#### **A. Longevity Compensation**

Buncombe County does not have a merit pay system; instead, regular employees are rewarded for their increasing depth of knowledge and skills acquired through years of service with longevity compensation. Longevity pay serves to place a positive pressure to retain and reward high-performing seasoned employees for continued employment and thereby avoid expenses involved in recruiting and training replacement workers. Longevity will be paid to all full-time regular and part-time regular employees as follows.

#### 1. Time and Method of Pay

- a. Longevity pay is automatic; payment will be made when all eligibility requirements are met as specified in the following criteria.
- b. Longevity payment will be made in a lump sum each year on or before December 31.
- c. Payment will be made to otherwise eligible employees who are on military leave, worker's compensation and approved medical leave of absence without pay.
- d. Eligibility for payment will be based on full years of service as of December 1 of each year.
- e. Employees working in a regular part-time position, but otherwise meeting eligibility requirements will receive a pro rata payment based on the percentage of hours actually worked divided by full-time hours for the position.
- f. Pro rata payments for partial year service will not be made. Eligibility is dependent upon employee status on December 1 except for individuals who are separated by retirement or death. Pro rata payment in these cases will be made based on the date of retirement or death and computed on the longevity pay scale then in effect. If deceased, payment will be made to the estate. For an employee hired on or after July 1, 2016, the employee will not be eligible for a pro-rated longevity payment upon separation by retirement if the employee retires before December 1.
- g. Payment will be made to the nearest cent rather than the nearest dollar.

#### 2. Amount of longevity pay

Annual longevity pay amounts are based on the length of aggregate total service to Buncombe County. The amount of payment will be based on length of service and the annual salary of the employee in existence on the eligibility date of December 1. For purposes of Buncombe County Longevity Compensation for all Buncombe County employees, except for EMT's, "annual salary" means base annual pay only as set forth and established through each employee's current position classification and does not include annual leave sales, benefits, incentives, bonuses and other forms of deferred compensation. Because EMT's work mandatory overtime, EMT's Longevity Compensation is based on a prorated salary – straight hourly at 112 hours biweekly without including the overtime pay.

The following table will be in effect for longevity purposes.

<b>TOTAL YEARS AGGREGATE LONGEVITY COUNTY SERVICE</b>	<b>PAY RATE</b>
Less than 1 year	\$100.00
1 year but less than 2 years	1.00%
2 years but less than 5 years	3.00%
5 years but less than 10 years	4.00%
10 years but less than 15 years	5.00%
15 years but less than 25 years	6.00%
25 years plus	7.00%

3. Eligibility requirements

- a. An employee must have an appointment in either a full-time regular or part-time regular position and regularly scheduled to work at least twenty hours or more per week. No other employees are eligible for longevity payment.
- b. Credit for the aggregate total service requirement will not be given for temporary employment.
- c. Upon change of appointment to temporary part-time or less than half-time (twenty hours per week) the employee is ineligible for continued longevity pay.
- d. Credit will not be given towards aggregate service time for any employment other than with Buncombe County.
- e. For persons rehired after July 1, 2016, the individual's total aggregate longevity county service will be calculated from the date of rehire.

4. Effect of longevity pay

Longevity pay is not considered a part of annual base pay for classification and pay purposes, nor is it to be recorded in personnel records as a part of annual pay.

**B. Severance Pay.**

Severance pay is also considered a form of deferred compensation and *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS, Section 5. Reduction in Force* is hereby incorporated into this section.

## **ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS**

### **Section 1. Policy Statement**

- A. Regular employees who have not achieved Covered Employee status and all temporary employees are considered at-will employees and have no right of appeal. At-will employees may be demoted or dismissed at any time without further notice upon the recommendation of the Department Head and approval of the Human Resources Director, or appointing authority, so long as the demotion or dismissal is not otherwise prohibited by law.
- B. A Covered Employee who fails to perform satisfactorily or engages in unacceptable personal conduct, upon the recommendation of the Department Head and approval of the Human Resources Director, or corresponding authority, they may be suspended without pay, demoted, or dismissed per the following practice.

### **Section 2. Types of Separation**

- A. All separations of employees from positions in the service of the County will be designated as either voluntary or involuntary.
  - 1. Employees may be voluntarily separated from County service either by resignation, retirement, or failing to report to work for three consecutive days.
  - 2. Employees may be involuntarily separated from County service by reduction in force, dismissal, unavailability for work when leave is exhausted or death.
- B. The degree and type of action taken based on misconduct or poor performance will be based on the sound and considered judgment in accordance with the provisions of this Article.
- C. When just cause exists the only disciplinary actions are: written warning, disciplinary suspension without pay, demotion, and dismissal.

### **Section 3. Resignation**

- A. Employees may resign either in “Good Standing” or “Not in Good Standing.”
- B. Resignation in Good Standing occurs when an employee submits a letter of resignation a minimum of ten working days prior to the effective date of resignation. Such notice will be provided to the immediate Supervisor (or in the case of Department Heads, to the County Manager, or their designee, or appropriate appointing authority, and the appropriate governing body, if applicable). Employees who resign in Good Standing may be considered for future employment with the County. The County reserves the right to pay out an employee’s notice period in lieu of having the employee work the notice period in its sole discretion.
- C. Resignation Not in Good Standing occurs when:

1. An employee fails to submit a letter of resignation at least ten working days prior to the effective date of resignation unless this has been approved by the Department Head;
  2. An employee fails to report to work one working day following a leave of absence without pay;
  3. An employee is absent from work three working days without authorized leave—separation pursuant to this policy should not occur until the employing agency has undertaken reasonable efforts to locate the employee and determine when or if the employee is intending to return to work;
  4. An employee resigns to avoid announced disciplinary action.
- D. An employee who resigns from County employment “Not in Good Standing” is normally ineligible for future employment with the County.

#### **Section 4. Retirement**

When an employee meets the conditions set forth under the provisions of any retirement plan adopted by the Board of County Commissioners for County employees, he or she may elect to retire and receive all benefits earned under the retirement plan.

#### **Section 5. Reduction in Force**

- A. Reduction in Force is the involuntary separation of an employee due to lack of work or funds, or elimination of the employee’s position due to reorganization. If a reduction in force occurs:
1. Together with the Department Head(s) involved, the Human Resources Director will determine the employee(s) affected by the reduction in force.
  2. The Human Resources Director will determine and list all employees, subject to the authority or control of the County Manager, serving in the same class throughout the County who are on that date listed as temporary or probationary employees. Furthermore, the Human Resources Director will add to that list any position(s) which, on that date, is not filled or is being advertised within the same class which is affected by the reduction in force.
  3. No employee with Covered Employee status, subject to the authority or control of the County Manager, will be separated due to a reduction in force while there are unfilled positions or temporary or at-will employees serving within the County in the same class unless the Covered Employee is not willing to transfer to the position held by the temporary or at-will employee.
  4. The Department Director involved and the Human Resources Director will make their final determination(s) by considering the following:

- a. Organizational needs;
  - b. Performance of the employees at issue; and
  - c. Seniority of the employees at issue.
5. The Departmental Director involved and the Human Resources Director will advise and provide documented recommendations to the County Manager as to those employees who will be separated because of reduction in force.
  6. Rather than just the involved departments, the County Manager, who has the final authority to determine the employee(s) to be separated because of reduction in force, may consider the entire County work force, subject to his or her authority or control when making his or her decision.
- B. Employees who are subject to a reduction in force are given at least two weeks' notice of the anticipated lay-off.
- C. Any reduction in force employee accepting a transfer will be subject to a new six month at-will period in accordance with the guidelines of this Personnel Ordinance.

#### **Section 6. Severance Pay Policy for Reductions in Force**

If a reduction in force occurs, employees terminated as a result will receive severance paid as follows:

- A. Full-time and part-time regular employees will be paid severance at the rate of one weeks' pay for each full year of service to the County, up to a maximum payment equal to twelve weeks.
- B. Any remaining portion of a year's service to the County will be paid at a pro-rata basis.
- C. An employee receiving severance pay will not be eligible for re-employment with the County for the number of weeks calculated in the severance pay off, unless repayment is made in advance of re-employment for any severance in excess of the period of actual separation from the County.
- D. The following employees will not be eligible for severance payment:
  1. Temporary employees
  2. Any employee who is in a time-limited/grant-funded or contract position
  3. Any employee for whom the County has arranged employment in a benefited position with a non-county agency
  4. Any employee who declines an offer of employment in a new or different benefited position with the County and within 10% of the salary of the employee's previous position prior to their date of separation

**Section 7. Disciplinary Actions (Written Warning, Suspension without Pay, Demotion, and Dismissal) for Unsatisfactory Job Performance and/or Unacceptable Personal Conduct Policy**

- A. Covered Employees may only be suspended without pay, demoted, or dismissed when just cause exists. Written warnings may also be issued to Covered Employees when just cause exists; however, a written warning is not grievable and cannot be appealed. For purposes of this policy, the County has determined two types of actions that establish just cause for implementing disciplinary and/or dismissal action on an employee. The two types of employee actions are: (1) Unacceptable Personal Conduct and (2) Unsatisfactory Job Performance. Both types of the above-mentioned employee actions may result in any of the following disciplinary actions: written warning, suspension without pay, demotion, or dismissal as explained in the following section.
- B. Unacceptable Personal Conduct
1. Unacceptable Personal Conduct includes, but is not limited to:
    - a. Conduct for which no reasonable person should expect to receive prior warning including but not limited to lying, falsification of records, bullying, or unethical behavior; or,
    - b. Job related conduct which constitutes a violation of federal, state, or local law; or,
    - c. Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the agency; or,
    - d. The willful violation of known or written work rules; or,
    - e. Conduct unbecoming an employee that is detrimental to the agency's service; or,
    - f. The abuse of client(s), patient(s), student(s), or a person(s) over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the agency; or,
    - g. Falsification of an employment application or other employment documentation that is related to the position requirements; or,
    - h. Failure to obtain or maintain any license, registration, or certification required by a relevant law, rule, or provision when the duties of the position require that license, registration, or certification; or,
    - i. Unauthorized absence from work after all authorized leave credits and benefits have been exhausted; or,
    - j. Insubordination which is the willful failure or refusal to carry out a reasonable order from an authorized Supervisor. Insubordination is considered unacceptable personal

conduct for which any level of discipline, including dismissal, may be imposed without prior warning; or

- k. Negligent conduct that results in significant fiscal loss or liability, and/or significant detrimental impact to the safety or well-being of a person being served by the County.

2. Disciplinary action for Unacceptable Personal Conduct

- a. After a single incident of Unacceptable Personal Conduct any of the following actions may be taken:
  - i. Written warning; or
  - ii. Suspension without pay; or
  - iii. Demotion; or
  - iv. Dismissal
- b. If the Department Head recommends to the County Manager, or their designee, or appointing authority, that the employee be suspended without pay, demoted, or dismissed then these actions must be preceded by a pre-disciplinary conference which must be conducted by the County Manager, or their designee, and/or Human Resources Director or the appointing authority. Dismissal will be the final decision of the County Manager, or their designee, or appointing authority.
- c. All disciplinary actions submitted against the Covered Employee become inactive after eighteen months after the date the disciplinary action was issued.

C. Unsatisfactory Job Performance

- 1. Unsatisfactory Job Performance occurs when a Covered Employee's performance fails to satisfactorily meet job requirements. Such employee actions are subject to progressive disciplinary actions as described below. The goal of this progressive disciplinary process is to give the Covered Employee specific notice concerning an identified deficiency and what corrections are necessary to bring performance to a satisfactory level. In addition, it is not required, nor necessary that successive disciplinary actions all concern the same actions on the part of the Covered Employee.
- 2. Disciplinary Action for Unsatisfactory Job Performance
  - a. A Covered Employee who does not have an active disciplinary action may receive a written warning after a single incident of Unsatisfactory Job Performance.
  - b. A Covered Employee who has an active disciplinary action may receive a written warning, suspension without pay, or demotion after a single incident of unsatisfactory job performance.



- c. A Covered Employee may be dismissed for Unsatisfactory Job Performance if the Covered Employee has at least two active disciplinary actions and has a current unresolved performance issue. Except, when the performance-related inadequacies are of such a serious nature as determined by the County Manager that they create a major operational issue, significant financial impacts, damage to the reputation of the County, or are so egregious that they warrant immediate, more severe disciplinary action, then the County Manager may authorize the imposition of a more serious disciplinary penalty up to and including dismissal for the first offense, without going through all the progressive disciplinary steps set out in this subsection. The pre-disciplinary process as set forth in Article VIII, Section 9, Procedural Guidelines for Disciplinary Dismissal, otherwise remain in full force and effect.
  - d. If the Department Head recommends to the County Manager, or their designee, ~~or~~ appointing authority, that the Covered Employee be suspended without pay, demoted, or dismissed then these actions must be preceded by a pre-disciplinary conference which must be conducted by the County Manager, or their designee, and/or Human Resources Director or the appointing authority. Dismissal will be the final decision of the County Manager, or their designee, or appointing authority.
3. Disciplinary actions remain active for 18 months unless further disciplinary action occurs prior to the action becoming inactive. Should further disciplinary action occur within the active 18-month period, then all active disciplinary actions will be extended for the time period of the most recently issued actions.

#### D. Procedural Guidelines for Disciplinary Suspension without Pay

- 1. Disciplinary suspension without pay of a Covered Employee will be applicable as follows:
  - a. For Unsatisfactory Job Performance after the receipt of at least one active disciplinary action.
  - b. For any instance of Unacceptable Personal Conduct.
- 2. Essential considerations for disciplinary suspension without pay of a Covered Employee are as follows:
  - a. A pre-disciplinary conference is required prior to the suspension of a Covered Employee following applicable procedure from the steps outlined below in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS, Section 9. Procedural Guidelines for Disciplinary Dismissal*, for conducting a pre-disciplinary conference. Advance written notice of the conference is required.
  - b. Deductions from pay for unpaid disciplinary suspension of one or more full days for infractions of workplace conduct rules are applicable to all employees – exempt and non-exempt pursuant to FLSA DOL regulations.

- c. If the result of the pre-disciplinary conference is to suspend the Covered Employee, the Covered Employee must be furnished with a written statement setting forth the specific reasons for the suspension without pay and notice of the length of suspension.
- d. A copy of the appeal procedure.
- e. This action is a matter of public record pursuant to N.C. Gen. Stat. § 153A-98(b) or as amended.

### **Section 8. Procedural Guidelines for Disciplinary Demotion**

A. Disciplinary demotion of a Covered Employee will be applicable as follows:

- 1. For Unsatisfactory Job Performance after the receipt of at least one active disciplinary action.
- 2. For any instance of Unacceptable Personal Conduct.

B. Essential considerations for disciplinary demotion of a Covered Employee are as follows:

- 1. A pre-disciplinary conference is required prior to the demotion of a Covered Employee following applicable procedure from the steps outlined below in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS, Section 9. Procedural Guidelines for Disciplinary Dismissal*, for conducting a pre-disciplinary conference. Advance written notice of the conference is required.
- 2. If the result of the pre-disciplinary conference is to demote the Covered Employee, the Covered Employee must be furnished with a written statement setting forth the specific reasons for the demotion. Include in the statement:
  - a. How and to what extent the demotion will affect the Covered Employee's salary and pay grade
  - b. If appropriate, a revised job description outlining the Covered Employee's revised duties and responsibilities
  - c. A copy of the appeal procedure
  - d. This action is a matter of public record pursuant to N.C. Gen. Stat. § 153A-98(b) or as amended

### **Section 9. Procedural Guidelines for Disciplinary Dismissal**

A. Disciplinary dismissal of a Covered Employee will be applicable as follows:

- 1. For any instance of Unacceptable Personal Conduct
- 2. For Unsatisfactory Job Performance as applied pursuant to Article VIII.

B. Essential considerations for dismissal of a Covered Employee are as follows:

1. A pre-disciplinary conference is required prior to the dismissal of a Covered Employee following applicable procedure from the steps outlined below in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS, Section 9. Procedural Guidelines for Disciplinary Dismissal*, for conducting a pre-disciplinary conference. Advance written notice of the conference is required.
2. If the result of the pre-disciplinary conference is to dismiss the Covered Employee, the Covered Employee must be furnished with a:
  - a. Written statement will set forth the specific acts or omissions that are the basis of the employee's dismissal.
  - b. A copy of the appeal procedure.
  - c. The employee will be informed in the agency final decision letter that a copy of the written notice of the final decision of the County is a public record pursuant to N.C. Gen. Stat. § 153A-98(b) or as amended and that the agency is required by law to release it pursuant to any public record requests. Further, if the employee appeals his dismissal through the agency appeal procedure, the resultant letter will also be a matter of public record.

### **Section 10. Procedural Guidelines for Pre-disciplinary Conference**

A pre-disciplinary conference must be held for a Covered Employee when a disciplinary action of suspension without pay, demotion, or dismissal is being considered.

- A. The conference should include the Human Resources Director and/or the County Manager, or their designee, or corresponding appointing official who has jurisdiction over the employee (Department Head and/or Supervisors who prepared any and all written warnings and who have knowledge of the employee's performance or conduct which has led to the proposed disciplinary action) and the Covered Employee.
- B. Advance written notice of the pre-disciplinary conference is required. The Covered Employee should be given as much time as is practical under the circumstances surrounding the Covered Employee's performance or conduct. Preference would be a minimum of one day notice generated through the Human Resources Department and signed by the management members involved (Department Head and Supervisor(s) involved) and a minimum of four hours.
- C. The notice to the Covered Employee should include the following:
  1. Inform the Covered Employee there will be a pre-disciplinary conference and include the time, date, and location of the conference.

2. Provide a summary of the evidence and the issues for which disciplinary action is being conducted.
  3. Indicate that the organization is *considering* disciplinary action, but that the conference is to aid in reaching a final decision.
  4. Inform the Covered Employee that they will be given an opportunity to respond to the evidence at the conference.
- D. The conference is to be conducted by the County Manager, or their designee, and/or Human Resources Director or appointing authority. In cases where the Human Resources Director may be the employee in question or where the Human Resources Director is the Supervisor of an employee in question then the conference will be conducted by the County Manager and/or the Assistant County Manager. It is necessary that during the conference the following procedures should occur:
1. All evidence and related information regarding the performance and or conduct be reviewed orally.
  2. Management may request to have present a second representative and, if necessary, security personnel.
  3. No attorneys are allowed in the pre-disciplinary conference.
  4. No recording devices are allowed to be used during the pre-disciplinary conference.
  5. Specific reasons and supporting documentation, to include all written warnings, should be presented which support the proposed action.
  6. Insure the employee at the onset of the conference that no final decision has been made.
  7. Solicit information from the Covered Employee which will allow him/her to present their side or perspective of the issue(s).
  8. The Covered Employee does not have the option of presenting witnesses but may give the County Manager, or their designee, a list of names of persons who have information related to the disciplinary action.
  9. Terminate the conference for the purpose of evaluating and weighing all information/evidence presented.
- E. To render a final decision on the appropriate course of action, a meeting with the necessary management, staff, and an investigation of other sources may follow the pre-disciplinary conference to evaluate information obtained in the pre-disciplinary conference. Following the conference, management will review and consider the response of the employee and reach a decision on the proposed recommendation. If management's decision is to dismiss the employee, a written letter of dismissal containing the specific reasons for dismissal, the effective date of the

dismissal and the employee's appeal rights will be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. To minimize the risk of dismissal upon erroneous information, and to allow time following the conference for management to review all necessary information, the decision to dismiss should not be communicated to the employee in accordance with this Paragraph, prior to the beginning of the next business day following the conclusion of the pre-dismissal conference or after the end of the second business day following the completion of the pre-dismissal conference except in those cases where further time is needed to investigate additional information in an effort to make an informed decision. Should a delay be necessary, management will inform the employee and provide them with a deadline for a decision.

### **Section 11. Placement on Investigatory Status with Pay**

- A. Investigatory Status with Pay (herein "ISP") may be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status. Placement on ISP may be appropriately used to provide time to schedule and hold a pre-disciplinary conference. Also, the County may elect to use ISP to avoid undue disruption of work or to protect the safety of persons or property. An ISP placement will not exceed thirty calendar days unless extended by management. Extensions will be in writing to the employee and include the specific reason for the extension and the length of the extension.
- B. Placing an employee on ISP will not be used for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee. Being placed on ISP is not a disciplinary action.

### **Section 12. Separation Procedure**

Prior to separation, an employee separating from employment with the County may have an exit interview with the Human Resources Department and the employee's Department Head. Any County property in the employee's possession will be returned to the County prior to separation. If the separation is involuntary, the covered employee will be informed of the right to appeal.

### **Section 13. Employee Appeal Procedure**

- A. A Covered Employee has the right to appeal a demotion, a suspension without pay, reduction in force or a dismissal.
- B. All appeals based on dismissal, suspension without pay, demotions and reduction in force will be appealed directly to the County Manager, or their designee, or appointing authority. Employees will have fifteen calendar days from the date of receipt of written notice of such action to file an appeal.

- C. After reviewing the appeal, the County Manager, or their designee, or corresponding appointing official will issue a final decision. Upon receiving the final decision of the County Manager, or their designee, or corresponding appointing official, the County Manager, or their designee, and/or Human Resources Director or other appointing authority will inform the employee, immediate Supervisor, and the Department Head, in writing, of the final decision and any prescribed relief to resolve the appeal. The decision will be furnished within ten days and the decision is final. It is not grievable under *ARTICLE IX. GRIEVANCE PROCEDURE*.
- D. Appeals filed on an untimely basis must be dismissed.
- E. Covered Employees are required to exhaust their administrative remedies prior to taking further legal action outside the Personnel Ordinance.

**Section 14. Disciplinary actions involving the Internal Audit Director.**

The Head of the Internal Audit Department position cannot be disciplined in any manner without a recommendation by majority vote of the County's Audit Committee. Any member of the Audit Committee may initiate a disciplinary action against the Head of the Internal Audit Department. If a majority of the Audit Committee votes in favor of disciplinary action up to and including termination, then such recommendation must be considered by the Board of Commissioners for the final disciplinary decision.

## **ARTICLE IX. GRIEVANCE PROCEDURE**

### **Section 1. Grievance**

The Grievance Procedure provides an adequate and fair means for hearing and resolving matters of employment conditions of County employees. Nothing herein will prohibit from filing complaints of unlawful discrimination, harassment, or retaliation in accordance with County policy, or applicable State and federal laws.

### **Section 2. Coverage**

- A. This Grievance Procedure applies to all eligible employees as set forth in *ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM, Section 2. Coverage.*
- B. A grievance is defined as a claim or complaint of an event or condition which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, discrimination, bullying or lack of established policy pertaining to employment conditions. A voluntary demotion, a written warning, and Investigatory Suspension with Pay are not grievable in accordance with the remedies and issues utilized in the process described in this policy.

### **Section 3. Policy**

- A. Every eligible employee will have the right to present a grievance in accordance with these procedures, with or without a representative, free from interference, coercion, restraint, discrimination, penalty, or reprisal. Employees will be permitted time away from regular duties as may be necessary and reasonable as determined by the Department Head or the County Manager, or their designee, to prepare and present a grievance. All grievances based on alleged discrimination may be appealed directly to the County Manager, or their designee, or appointing authority, indicating whether the alleged discrimination was based on race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law. Filing a grievance pursuant to this section does not toll the statute of limitations applicable to filing a charge of discrimination with the Equal Employment Opportunity Commission.
- B. Grievances filed on an untimely basis must be dismissed. Allegations of discrimination, if raised more than thirty calendar days after the party alleging discrimination became aware of or should have become aware of the alleged discrimination, will be dismissed.
- C. The dismissal of your grievance related to discrimination has no bearing on your ability to bring a charge of discrimination with the Equal Employment Opportunity Commission.

## **Section 4. Procedure**

### *A. Step One.*

1. An employee must file a grievance, either orally or in writing, with the immediate Supervisor within fifteen days of the date of a grievable incident having occurred. The immediate Supervisor will meet with the employee within five days of receipt of the grievance and attempt to informally and expeditiously resolve the grievance. If the grievance is not settled, then the employee and immediate Supervisor should document a statement of relief which describes the action the employee desires the immediate Supervisor or organization should take to resolve the grievance.
2. If the immediate Supervisor's informal resolution efforts fail, the immediate Supervisor must issue a written decision to the employee and the Department Head on the grievance and submit it no later than five days following the meeting which summarized the grievance, the requested statement of relief, and documentation as to why the grievance was not resolved. The grievance procedure would at this point move to Step Two.
3. If the employee alleged sexual harassment or hostile work environment by the immediate Supervisor, the employee may file the complaint with the Department Head, Assistant County Manager, County Manager, or their designee, Human Resources Director, or appointing authority. Alternatives as to who to report alleged harassment or hostile work environment to are outlined in *ARTICLE V. CONDITIONS OF EMPLOYMENT*,

### *B. Step Two.*

1. Employees not reaching resolution with the informal response at Step One may file the grievance and statement of relief desired, in writing, with the Department Head within five days of receipt of the immediate Supervisor's written decision and will state the basis for the complaint, and, if based on alleged discrimination, indicate whether the alleged discrimination was based on race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law.
2. The Department Head will meet with the employee within five days of receipt of the Step Two grievance, and review the decision at Step One, and make an independent determination on the merits of the grievance. Within ten days of the meeting with the employee, the Department Head will issue a written decision to the employee with copies to the immediate Supervisor and the Human Resources Department. If the employee and Department Head reach an agreement at this step, the decision and statement of relief will be issued and the grievance will be considered resolved.
3. Should the grievance not be resolved at the Department Head level, Step 3 of this procedure is available to the employee.

### *C. Step Three. (Not applicable to elected official employees).*



1. Employees not reaching a resolution or timely response in Step 2 are able to take the grievance from the department level to the Human Resources Director. This enables the employee, immediate Supervisor, and Department Head to have the grievance reviewed by someone external to the department. The grievance may be filed with the Human Resources Director within ten working days of the decision or decision due date of Step 2. The Human Resources Director will review the grievance and render a decision within ten working days.
2. The decision, in writing, will be provided to the employee, immediate Supervisor, and Department Head. Should the employee and Human Resources Director reach a resolution, the prescribed relief will be outlined and the grievance will be resolved.
3. If no resolution is reached at this level, the employee may proceed to Step 4 of the prescribed grievance process.

*D. Step Four.*

1. Employees not reaching resolution at Step 3 may forward the written grievance to either the County Manager, or their designee, or the appointing authority within five days of receipt of the Step 3 decision. The employee may request a decision from the corresponding appointing official or County Manager, or their designee, directly.
2. At Step 4 in the grievance procedure, either the corresponding appointing official or County Manager, or their designee, must be utilized for a final and binding decision.
3. If the employee requests a decision directly, the appointing authority and/or County Manager, or their designee, will render a written decision to the employee, immediate Supervisor, Department Head, and Human Resources Director within fifteen days of receipt of the grievance. The decision issued and applicable relief to resolve the grievance is at this stage final and binding and in itself is not grievable.
4. The decision will be furnished within ten days and in itself is not grievable.

**Section 5. Employee Protection and No Retaliation**

Buncombe County is committed to a safe workplace where employees are able to responsibly voice their concerns regarding business operations, the use of resources and assets, the adherence to workplace practices and policies, unethical behavior, and unsafe work practices and to do so without fear of reprisal, intimidation and/or retaliation. There are different ways that employees can voice their concern. These include:

- a. Addressing concerns with the appropriate member of management;
- b. Using the Grievance Procedure when applicable (See Article IX. Grievance Procedure); or

- c. Using the Employee Protection Hotline: a toll-free number (1-866-908-7236) that is answered by an independent third-party source and available to employees as well as the public to register a complaint or concern anonymously. Anonymous reports are directed to the Internal Auditor to investigate and ensure follow up action if appropriate.

Buncombe County is committed to ensuring that every employee is treated fairly who lodges a concern, and the County will handle all concerns swiftly and confidentially to the extent possible in light of the need to take appropriate corrective action. Lodging a concern will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious concerns is an abuse of this policy and will be treated as a violation. (For full policy see No Retaliation Policy – Appendix F).

### **Section 6. Maintenance of Records**

All documentation, records, and reports will be retained for a minimum of three years and will be held by the Human Resources Department. These records will be subject to review by the grievant, the employee's Department Head, the County Manager, or their designee, and/or Human Resources Director, or other appointing authority, and by the Board of County Commissioners.

## **ARTICLE X. PERSONNEL RECORDS**

### **Section 1. Personnel Records Maintenance**

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the appointing authority or Human Resources Department. The County will maintain in personnel records only information that is necessary and relevant to accomplishing legitimate personnel administration needs. Medical information will be kept in a separate medical file with limited access and in compliance with the Americans with Disabilities Act and all privacy laws.

### **Section 2. Information Open to the Public (N.C. Gen. Stat. § 153A-98(b))**

Pursuant to N.C. Gen. Stat. § 153A-98(b), the following information with respect to each County employee is a matter of public record:

1. Name;
2. Age;
3. Date of original employment or appointment to County service;
4. The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has the written contract or a record of the oral contract in its possession;
5. Current position;
6. Title;
7. Current "salary;"
8. Date and amount of each increase or decrease in salary with the County;
9. Date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification with the County;
10. Date and general description of the reasons for each promotion with the County;
11. Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the County. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the County setting forth the specific acts or omissions that are the basis of the dismissal; and,
12. Office to which the employee is currently assigned.

For the purposes of this Personnel Ordinance, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

### **Section 3. Access to Personnel Records**

As required by G. S. 153A-98, any person may have access to the information listed in Section 2 of this article for the purpose of inspection, examination, and copying, during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Board of County Commissioners may adopt. Any person denied access to any record will have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

### **Section 4. Confidential Information**

- A. All information contained in a County employee's personnel file, other than the information listed in Section 2 of this article, will be maintained as confidential in accordance with the requirement of G. S. 153A-98 and will be open to public inspection only accordance with 153A-98 (c).
- B. Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.
- C. A record will be made of each disclosure to third parties and placed in the employee's file.

### **Section 5. Remedies of Employees Objecting to Material in File**

An employee who objects to material in his or her personnel file may place in the file a statement relating to the material the employee considers to be inaccurate or misleading. A Covered Employee may seek the removal of such material in accordance with established grievance procedure.

### **Section 6. Improper Access Unlawful**

Any official or employee who knowingly permits improper access to confidential information contained in a personnel file may be subject to criminal conviction and a fine as provided by law. Likewise, any individual who knowingly accesses confidential personnel information may also be subject to criminal conviction and a fine as provided by law.

### **Section 7. Destruction of Records**

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with N.C. Gen. Stat. § 121-5 (b), without the consent of the State Department of Cultural Resources. Individuals who unlawfully remove public records or who alter, deface, mutilate, or destroy a public record may be subject to criminal conviction and a fine as provided by law.

## **ARTICLE XI. IMPLEMENTATION OF PERSONNEL ORDINANCE**

Before adopting or amending any provision of this Personnel Ordinance, the Board of Commissioners will hold a public hearing on the ordinance or amendment. The Board will cause notice of the hearing to be published at least once not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing will be included.

### **Section 1. Conflicting Policies and Resolution Repealed**

All policies, ordinances, or resolutions that conflict with the provisions of this Personnel Ordinance are hereby repealed.

### **Section 2. Severability**

If any provision of this Personnel Ordinance or any rule, regulations, or order thereunder or the application of such provision to any person or circumstance is held invalid, the remainder of this Personnel Ordinance and the application of such remaining provisions of this Personnel Ordinance of such rules, regulations, or orders to persons or circumstances other than those held invalid, will not be affected thereby.

This Ordinance adopted and effective by the Board of County Commissioners, Buncombe County, State of North Carolina, this 19<sup>th</sup> day of May 2022.

# Appendices

## BUNCOMBE COUNTY POLICIES



## Appendix A: Buncombe County Core Values for Employee Conduct

### Section 1. Purpose

As an anchor institution, we want our employees to reflect the best aspects of our community. Through their actions each day, our employees help shape the character of our community. Our commitment in County government is to foster a safer, healthier community and one where every person is treated with dignity and respect and has the best chance to lead a productive and sustainable way of life.

### Section 2. Core Values

- A. Eight core values define our culture. Our core values determine how we act each day in the choices we make and the interactions we have. Make a difference in our community through the way you connect with those you serve by:
1. **Choosing the action that strengthens our community:** Each decision you make shapes the character of our community. Make sure that the actions you take are ones that strengthen our community – from your day-to-day interactions with people to how you deliver your services make sure that you intentionally choose the “right” decision for both the short and the long term success of our community.
  2. **Demonstrating “You Matter to Me” in all your actions:** Choose your words and actions with intention to show, “**You Matter to Me.**” Keep this phrase at the center of your actions and when in doubt about what to do, or how to respond, or what to say, think how you can show each person you serve that they matter to you.
  3. **Leading from a place of professional pride:** The way we deliver services defines what is important to us. Make sure you exemplify what is best in your profession and/or role. Professionals lead from a place where they are agents in their environment by:
    - a. **Connecting.** They participate in activities that produce a high “return on connection.”
    - b. **Shaping.** They seize opportunities to customize their professional experience.
    - c. **Learning.** They become self-directed learners at or above the speed of change.
    - d. **Stretching.** They move out of their comfort zone and move toward their outer limits.
    - e. **Achieving.** They regenerate through the intrinsic rewards of meaningful achievement.
    - f. **Contributing.** They direct their effort beyond themselves to create growth in others and value in the organization.
  4. **Paying attention for ways to improve things:** Our signature approach is to relentlessly look for ways to deliver services better, making sure that we are not only efficient but effective.

5. **Building a positive team and family spirit:** How we treat each other shows our community how we want to live. Create each day a welcoming environment that brings out the best in you, your coworkers, and the people we serve.
  6. **Using your time wisely:** Time is our most precious resource. Learn to manage yourself and your duties efficiently and effectively.
  7. **Opening yourself up to the rich diversity of people and perspectives:** Buncombe County crosses 660 square miles of varied neighborhoods and people. Lead from a place that seeks out and benefits from these varied perspectives and needs.
  8. **Being honest and ethical:** It defines our public trust.
- B. **These responsibilities and core values are essential to the successful performance and behavior of our employees.**



## **Appendix B: Disability Policy**

### **Section 1. Purpose**

- A. It is the policy of Buncombe County to comply with all federal and state laws concerning the employment of persons with disabilities. Furthermore, it is our policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions, and privileges of employment.

### **Section 2. Policy**

- A. Buncombe County will work with qualified individuals with a disability requesting a reasonable accommodation so that they can perform the essential functions of a job. Buncombe County will not grant a reasonable accommodation if doing so causes a direct threat to the requesting individual or others in the workplace and the threat cannot otherwise be eliminated and/or if the accommodation creates an undue hardship to Buncombe County. Contact the Human Resources Department with any questions or requests for accommodation.
- B. All employees are required to comply with the company safety standards. Current employees who pose a direct threat to the health and/or safety of themselves or other individuals in the workplace will be placed on appropriate leave until an organizational decision has been made in regard to the employees' immediate employment situation.
- C. The Human Resources department is responsible for implementing this policy, including resolution of reasonable accommodation, safety/direct threat, and undue hardship issues.

## Appendix C: Workplace Violence Policy

### Section 1. Purpose

- A. Buncombe County is committed to preventing workplace violence and to maintaining a safe work environment. Toward that end, Buncombe County has adopted this Workplace Violence policy. The intent of the policy is to ensure that our employees are free from intimidation, harassment, or other threats of or actual violence that may occur on-site or off-site during work-related activities. **All employees, customers**, vendors, and business associates should be treated with courtesy and respect at all times. Employees are expected to refrain from fighting, bullying, “horseplay,” or other conduct that may be dangerous to others.

### Section 2. Policy

- A. Conduct that threatens, intimidates, or coerces another employee, customer, vendor or business associate will not be tolerated. County resources may not be used to threaten, stalk, or harass anyone at the workplace or outside of the workplace. The County treats threats coming from an abusive personal relationship as it does other forms of violence.
- B. Indirect or direct threats of violence, incidents of actual violence and suspicious individuals or activities should be reported as soon as possible to a Supervisor, security personnel, human resources, member of the Buncombe County Threat Assessment Team, or any member of senior management. When reporting a threat or incident of violence, the employee should be as specific and detailed as possible and use the Violent Incident Form. Employees should not place themselves in peril, nor should they attempt to intercede during an incident.
- C. Employees should promptly inform the Human Resources department of any protective or restraining order that they have obtained that lists the workplace as a protected area. Employees are encouraged to report safety concerns with regard to partner violence. Buncombe County will not retaliate against employees making good-faith reports. Buncombe County is committed to supporting victims of intimate partner violence by providing referrals to Buncombe County’s EAP and community resources and providing time off for reasons related to intimate partner violence.
- D. Buncombe County will promptly and thoroughly investigate all reports of threats of violence or incidents of actual violence and of suspicious individuals or activities. The County may bring together a Threat Assessment Team to investigate and manage an identified threat. The identity of the individual making a report will be protected as much as possible. Buncombe County will not retaliate against employees making good-faith reports of violence, threats or suspicious individuals, or activities. In order to maintain workplace safety and the integrity of its investigation, Buncombe County may suspend employees suspected of workplace violence or threats of violence, either with or without pay, pending investigation.

- E. Anyone found to be responsible for threats of or actual violence or other conduct that is in violation of these guidelines will be subject to prompt disciplinary action up to and including termination of employment.
- F. Buncombe County encourages employees to bring their disputes to the attention of their Supervisors or the Human Resources department before the situation escalates. Buncombe County will not discipline employees for raising such concerns.

## Appendix D: Unlawful Workplace Harassment

### Section 1. Purpose

- A. Buncombe County is committed to a work environment that is free from harassment and discrimination.

### Section 2. Policy

- A. Harassment based on an individual's race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law will not be tolerated.
- B. All employees, including Supervisor and management personnel, are expected and required to refrain from any activity or action that contributes to harassment in the workplace.
- C. Harassment of employees by Supervisors or co-workers is forbidden in any form.

### Section 3. Definitions

**Unlawful Workplace Harassment is specifically defined as:** Unwelcome or unsolicited speech or conduct based upon race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, <sup>1</sup>sexual orientation, gender identity or any other legally protected class under federal or NC State law that creates a hostile work environment or circumstances involving quid pro quo.

**Hostile Work Environment** harassment includes, but is not limited to, unwelcome statements or actions as a result of the individual being a member of a legally protected class that are sufficiently severe or pervasive as to unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment.

- In determining whether a hostile work environment exists, you consider both whether a reasonable person would find the harassment hostile or abusive and whether the particular person who is the object of the harassment perceives it to be hostile or abusive.
- Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's performance.
- Use of the employer's computer system for the purpose of viewing, displaying, or disseminating material that is sexual in nature also may constitute harassing behavior.

**Quid Pro Quo harassment** consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:

- Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, or;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

**Sexual harassment** is defined by federal guidelines as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when one or more of the following occur:

- Submission to such conduct is made, either explicitly or implicitly, a term or a condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or;
- Such conduct has the purpose or the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

#### **Section 4. Reporting Procedures**

A. Employees who believe they have been harassed in violation of this policy should make an immediate report. Employees may make a report in any of the following ways:

1. The employee may notify his or her immediate Supervisor of the situation. The immediate Supervisor is responsible for notifying County Human Resources within twenty-four hours of becoming aware of the situation and working with County Human Resources to investigate the situation and taking corrective action when appropriate.
2. If the complaint of harassment is against the immediate Supervisor, the immediate Supervisor is not available, or the employee is otherwise uncomfortable reporting to their immediate Supervisor, the employee may report the situation to the Department Head. The Department Head is responsible for notifying County Human Resources within twenty-four hours of becoming aware of the situation and working with County Human Resources to investigate the situation and taking corrective action when appropriate.
3. If the allegation is against the Department Head, the Department Head is unavailable or the employee is otherwise uncomfortable reporting to the Department Head, the complaint may be reported to the Human Resources Department at 828-250-4166 or email [HR@buncombecounty.org](mailto:HR@buncombecounty.org) and who will then assume responsibility for investigating the situation and recommending appropriate corrective action to the County Manager, or their designee.

4. If at any point in the process the employee prefers to do so, they may report the situation directly an Assistant County Manager, County Manager, or Human Resources Director who will then assume immediate responsibility for investigating the situation and recommending appropriate corrective action to the County Manager, or their designee.
  5. Employees may also make a direct report through the Employee Protection Hotline (1-866-908-7236). Reports made through the hotline will be directly investigated by the Human Resources Department.
  6. If the allegation of harassment is against the County Manager or an elected official, the complaint should be filed with the Internal Auditor, who will personally investigate the complaint, or designate a representative to conduct the investigation and advise the employee and Board of County Commissioners on the outcome of the investigation.
- B. All complaints of harassment will be promptly investigated and appropriate corrective action where necessary based upon the findings of the investigation. Substantiated claims of harassment may result in disciplinary action, up to and including termination.
- C. Reporting harassment pursuant to this policy does not in any way toll the statute of limitations for reporting harassment to the appropriate governmental agency or through administrative process set forth in the SPA.

## **Appendix E: No Retaliation Policy for Discrimination and Harassment Complaints**

### **Section 1. Policy**

- A. No person will be adversely affected or otherwise retaliated against in their employment with the County because of bringing a good faith complaint of unlawful harassment or participating in an unlawful workplace harassment investigation or for making in good faith a complaint about the violation of discrimination, anti-harassment, workplace violence, or other unlawful behavior or conduct that violates the County's policy(ies).

### **Section 2. Other Protected Activity**

- A. Other protected activity includes, but is not limited to:
  - 1. Initiating an internal complaint or report of discrimination or harassment;
  - 2. Filing a claim of discrimination;
  - 3. Requesting an accommodation for a disability;
  - 4. Filing a Workers' Compensation claim following a work-related injury;
  - 5. Requesting leave under the Family and Medical Leave Act; or
  - 6. Filing a safety or environmental related complaint with state and/ or federal oversight agencies.

### **Section 3. Procedure**

- A. Reports of retaliatory conduct will be promptly and objectively investigated in accordance with the County's investigation procedures.
- B. If a retaliation complaint is substantiated, appropriate disciplinary action, up to and including termination, will be taken against those who have engaged in such behaviors, as the County deems appropriate in its sole discretion.
- C. Co-workers are prohibited from engaging in retaliation against other employees and will be subject to discipline, up to and including termination, for such conduct.
- D. If an employee (or applicant) feels as if they have suffered an adverse action for making a complaint or for testifying, assisting, or participating in any manner in any investigation, proceeding or hearing conducted by Buncombe County and/or a federal or state enforcement agency, the employee should contact the Human Resources Director or any member of the County Manager's Senior Leadership Team and file a complaint.

## **Appendix F: No Retaliation Policy (effective October 3, 2017)**

Buncombe County requires board members and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of Buncombe County, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

### **Reporting Responsibility**

This Employee Protection Policy is intended to encourage and enable employees and board members to raise serious concerns internally so that Buncombe County can address and correct inappropriate conduct and actions. It is the responsibility of all board members and employees to report concerns about violations of Buncombe County's policies and practices or suspected violations of law or regulations that govern Buncombe County's operations.

### **No Retaliation**

It is contrary to the values of Buncombe County for anyone to retaliate against any board member or employee who in good faith reports an ethics violation, or a suspected violation of law or policy, such as a complaint of discrimination (see protections also listed under Appendix E: No Retaliation Policy for Discrimination and Harassment), or suspected fraud, or suspected violation of any regulation governing the operations of Buncombe County. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. The right of an employee or a board member for protection against retaliation does not include immunity for any personal wrongdoing.

### **Reporting Procedure**

Buncombe County has an open door policy and suggests that employees share their questions, concerns, suggestions or complaints with their supervisor. If you are not comfortable speaking with your supervisor or you are not satisfied with your supervisor's response, you are encouraged to speak with the Human Resources Director or the Internal Auditor. Supervisors and managers are required to report complaints or concerns about suspected ethical and legal violations in writing to Buncombe County's Internal Auditor, who has the responsibility to investigate all reported complaints. Employees with concerns or complaints may also use the confidential Employee Protection Hotline to submit their concerns.

### **Internal Auditor**

Buncombe County's Internal Auditor is responsible for ensuring that all complaints about unethical or illegal conduct are investigated and resolved. The Internal Auditor will advise



the Audit Committee of the Board of Commissioners at least annually of all complaints and their resolution.

**Human Resource Director**

The Human Resources Director will work in partnership with the Internal Auditor to investigate and address any concerns related to personnel matters.

**Accounting and Auditing Matters**

Buncombe County’s Internal Auditor will immediately notify the Audit Committee of any concerns or complaint regarding organizational accounting practices, internal controls or auditing and work with the committee and the Human Resources Director as appropriate until the matter is resolved.

**Acting in Good Faith**

Anyone filing a complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

**Confidentiality**

Violations or suspected violations may be submitted on a confidential basis by the complainant. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

**Handling of Reported Violations**

All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.