



County of Fairfax, Virginia

MEMORANDUM

DATE: September 27, 2016

TO: DISTRIBUTION

FROM: Catherine Spage
Human Resources Director

SUBJECT: Personnel and Reorganization Committee Meeting – October 4, 2016

The next meeting of the Board Personnel and Reorganization Committee will be held on Tuesday, October 4, 2016 from 10:00 a.m. to 12:00 p.m. in the Fairfax County Government Center, Rooms 9/10. The agenda item for discussion is attached.

Attachment

DISTRIBUTION:

Personnel and Reorganization Committee of the Whole:
Penelope A. Gross, Chairman, Personnel and Reorganization Committee
Linda Q. Smyth, Vice Chairman, Personnel and Reorganization Committee
Sharon Bulova Chairman, Fairfax County Board of Supervisors
John C. Cook
John W. Foust
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Patricia Harrison, Deputy County Executive
David J. Molchany, Deputy County Executive
David Rohrer, Deputy County Executive
Robert A. Stalzer, Deputy County Executive
Joseph Mondoro, Chief Financial Officer
Elizabeth Teare, County Attorney
Peter D. Andreoli, Jr., Deputy County Attorney
Karen Gibbons, Senior Assistant County Attorney
Jeffrey Weiler, Executive Director, Retirement Administration Agency
Sara J. Simmons, Executive Director, Civil Service Commission
Catherine Chianese, Assistant County Executive
Kenneth L. Saunders, Director, Office of Human Rights and Equity Programs
Randy Creller, Chairman, EAC
John Niemiec, President, IAFF Local 2068
David Broder, President, Service Employees International Union, SEIU Virginia 512
Brad Carruthers, President, Fraternal Order of Police, Lodge 77
Sean Corcoran, President, Fairfax Coalition of Police, IUPA, Local 5000
Nickolas Boffi, President, Fairfax County Police Association
Stacie Talbot, President, Fairfax County Sheriff's Association

Personnel and Reorganization Committee
Agenda

October 4, 2016

10:00 a.m.

Rooms 9/10

Fairfax County Government Center

Revision to Chapters 2, 4, 6, 10, 12, and 17 of the Personnel Regulations

Retirement System Review

Presentation of the Consultant's Study of Public Safety Review

Living Wage Discussion

Personnel and Reorganization Committee Meeting October 4, 2016
Synopsis – Proposed Modifications to the Personnel Regulations

Revisions to Chapters 2, 4, 6, 10, 12, and 17 of the Personnel Regulations to Align Definitions, Correct Typographical Errors, Align Practice With Policy, and Provide Administrative Clarification.

BACKGROUND: The Department of Human Resources routinely reviews proposed revisions to the Personnel Regulations with the Personnel and Reorganization Committee prior to submitting corresponding Board Items. A summary of proposed changes follows:

Chapter 2 – Definitions (Attachment #1 – pages 5 and 12)

- Aligns the definitions of *FLSA Exempt* and *Straight-Pay Eligible* with approved changes to the Fire Captain I and Fire Captain II job classifications.

Chapter 4 - Pay Plan, Hours of Work and Overtime (Attachment #2 – pages 10 - 12)

- Corrects typographical error associated with overtime provisions for select public safety personnel.

Chapter 6 – Certification and Eligible Lists (Attachment #3 – page 3)

- Aligns County practice with Federal law and County policy by repealing two reasons for removing an applicant from job consideration.

Chapter 10 – Leave (Attachment #4 - pages 1, 21 and 22)

- Corrects section 10.1 to match section 10.5.
- Clarifies administrative leave oversight requirement for employee groups.
- Aligns current practice of paying administrative Leave to employees working as election workers within Fairfax County to policy.
- Provides clarification regarding leave requirements for emergency service personnel.

Chapter 12 – Performance Management (Attachment #5 – pages 3, 4, 10, 11, 12 and 15)

- Codifies existing career management planning requirements.
- Clarifies Performance Improvement Plan documentation requirements.
- Clarifies Employee grievance rights.

Chapter 17 – Grievance Procedure (Attachment #6 – pages 1 and 4)

- Clarifies to ensure consistent application of the existing grievance procedure as it pertains to Fairfax County Police Department employees.

ATTACHED DOCUMENTS:

- Attachment 1: Proposed revisions to Fairfax County Personnel Regulations, Chapter 2
- Attachment 2: Proposed revisions to Fairfax County Personnel Regulations, Chapter 4
- Attachment 3: Proposed revisions to Fairfax County Personnel Regulations, Chapter 6
- Attachment 4: Proposed revisions to Fairfax County Personnel Regulations, Chapter 10
- Attachment 5: Proposed revisions to Fairfax County Personnel Regulations, Chapter 12
- Attachment 6: Proposed revisions to Fairfax County Personnel Regulations, Chapter 17

CHAPTER 2 Definitions

Allocation

The assignment of a position to its appropriate class in relation to duties performed.

Appeal

An application or procedure for review of an alleged grievance submitted or instituted by an employee to the Civil Service Commission or to other higher authority.

Appointing Authority

The officer, board, commission, person, or group of persons having the power by virtue of state law or County ordinance to make appointments. The appointing authority is generally responsible for personnel administration within a given department. As used in these regulations, the term "appointing authority" is synonymous with the term "department head."

Appointment

The offer to and acceptance by a person of a position.

Assembled Examination

An examination for which applicants are required to appear at a specific place for the purpose of taking a test.

Break in Service

Any separation from the service of Fairfax County whether by resignation, lay-off, dismissal, unsatisfactory service, disability, retirement, or absence without leave of three days or more when the employee is subsequently reemployed. An authorized leave without pay shall not be considered as constituting a "break in service."

Business Day

Calendar days exclusive of Saturdays, Sundays, and legal holidays.

Class

A group of positions, which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, specification and pay range.

ATTACHMENT 1

Class Series

A number of classes of positions which are substantially similar as to the types of work involved and differ only in rank as determined by the importance of the duties and degree of responsibility involved and the amount of training and experience required. Such classes constitute a series and each is usually given a designation either by Roman numerals, beginning with the lowest level as I, next level II, or by rank adjectives such as the junior, intermediate or senior level, etc.

Class Specification

A written description of a class consisting of a class title, a general statement of the level of work, a statement of the distinguishing features of work, some examples of work, and the minimum qualifications for the class.

Classification

The grouping of positions in regard to: (a) kinds of duties performed and responsibilities; (b) level of duties performed; (c) requirements as to education, knowledge and experience and ability; (d) tests of fitness; (e) ranges of pay.

Classification Review or Reclassification Review

An evaluation of the duties and responsibilities of a position performed by the Department of Human Resources to determine the appropriateness of the present class. Appropriateness will be determined on the basis of: (a) kinds of duties performed and responsibilities; (b) level of duties performed; (c) requirements as to education, knowledge and experience and ability; (d) tests of fitness; (e) ranges of pay. The review will result in the position retaining its present class assignment; or being assigned to an existing lower class, or being assigned to an existing higher class; or being assigned to a new class created by amendment to the Classification and Compensation Plans.

Classification Plan

The official or approved system of grouping positions into appropriate classes, consisting of three parts: (1) a schematic index to the class specifications; (2) the class specifications; and (3) rules for administering the classification plan.

Compensation

The standard rates of pay, which have been established for the respective classes of work, as set forth in the compensation plan.

ATTACHMENT 1
Compensation Plan

The official schedule of pay approved by the Board of Supervisors assigning one or more rates of pay to each pay grade.

Compensatory Leave

Time off in lieu of monetary payment for overtime worked.

Compensatory Time Eligible

Employees in pay grades S-26, P/O/C-27, F-31 or above and L-02 or above, excluding any classes designated as exceptions in a procedural memorandum issued by the Human Resources Director.

Competitive Promotion

A promotion based on a competitive examination with appointment to the higher-level position restricted to a specific number of persons receiving the highest ratings.

Competitive Service

All officers and positions in the service of Fairfax County as defined in the Merit System Ordinance.

Continuous Service

Employment without interruption, including merit service with the Fairfax County School System, except for absences on approved leave or absences to serve in the Armed Forces of the United States, or absences of less than one calendar year when followed by reemployment or reinstatement. Service prior to normal or early retirement from a County retirement system shall not be counted.

Deferred Retirement Option Plan (DROP)

An option in lieu of immediate retirement in which an employee remains employed by his/her department, but no longer contributes to his/her respective retirement system and must retire within 3 years of election to DROP. DROP participants retain the rights and privileges of merit employees.

Definition of Duties

The work requirements for each position in terms of the importance, difficulty, and extent of supervision and responsibility attaching thereto.

ATTACHMENT 1

Demotion

Assignment of an employee from one class to another, which has a lower maximum rate of pay.

Department

An administrative branch including a line of work and a group of employees under the immediate charge of a chief executive officer or officers of a department, institution, court, board, or commission of the County government, which latter officer or officers shall be known as the department head.

Dismissal

Separation from County employment for cause.

Department Head

An employee appointed by the Board of Supervisors to oversee, direct or manage a major functional division of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. As used in these regulations, the term “department head” is synonymous with the term “appointing authority.”

Deputy

One or more individuals authorized to act in specific functional areas for the department head.

Eligible

A person who has successfully met required qualifications for a particular class.

Eligible List

The ranking of eligibles by class in order of score earned.

Employee

An individual who is legally employed by the County and is compensated through the County payroll for his services. Individuals or groups compensated on a fee basis are not included.

Examination

The process of testing, evaluating or investigating the fitness and qualifications of applicants.

ATTACHMENT 1

Exempt Service

Those positions not included in the competitive service as defined in the Merit System Ordinance.

Extended Family Including Household Member

Includes employee's spouse, son, daughter, parents, parent in-laws, siblings, grandparents, grandchildren, aunt, uncle, niece, nephew, employee's respective in-laws, first cousin, or children for whom the employee has legal guardianship or is designated as primary caregiver, and any person who resides in the employee's home.

Fire Protection Personnel

24-hour shift employees in the Fire and Rescue Department who perform suppression and rescue duties as defined in the Fair Labor Standards Act (29 CFR Sec. 553.3).

Fair Labor Standards Act (FLSA)

Legislation originally enacted by Congress in 1938, which establishes requirements with respect to minimum wage, overtime, compensation and record keeping.

FLSA Eligible (FLSA Non-exempt)

An employee who holds a position covered by the minimum wage, mandatory overtime, or recordkeeping provisions of the FLSA. FLSA Eligible employees must be compensated with overtime pay or compensatory time for all hours worked over the FLSA threshold for overtime, as outlined in the definition of overtime. FLSA Eligible employees are in pay grades S-21, P-23, O/C-21, F-27~~2~~ and below. Exceptions are noted in a procedural memorandum issued by the Human Resources Director.

FLSA Exempt

An employee who holds a position that is not covered by the mandatory overtime provisions of the Fair Labor Standards Act.

Full-Time Employee

Any employee who is regularly scheduled to work at least 2,080 hours in 12 consecutive months, or fire protection personnel regularly scheduled to work at least 2, 912 hours in 12 consecutive months.

ATTACHMENT 1

Full-Time Position

Any position which is authorized to be filled for at least 2,080 hours in 12 consecutive months or fire protection personnel position authorized for at least 2,912 hours in 12 consecutive months.

Hourly Rate of Pay

The hourly rate of pay is shown on the County pay plans for the minimum, midpoint, and maximum of each pay range. Public safety pay plans shall include such intermediate rates as deemed appropriate. Hourly rates are carried out to four places after the decimal. The hourly rate is derived by dividing annual salary by 2,080, which is the number of scheduled hours for a full time employee. The hourly rate for fire protection personnel assigned to a 24-hour shift is derived by dividing the annual salary by 2,912, which is the number of scheduled hours for a full time fire protection employee.

Immediate Family Including Household Member

Includes employee's spouse, son, daughter, parents, parents-in-law, siblings, grandparents, children for whom the employee has legal guardianship or is designated as primary caregiver, and any person who resides in the employee's home.

Incumbent

An employee occupying a position in the County service.

Law Enforcement Personnel

Sworn employees of the Police Department (including animal control officers), Fire and Rescue Department, and Office of the Sheriff who are empowered to enforce laws, have the power of arrest and have undergone (or will be undergoing) on-the-job training or similar instruction as defined in the Fair Labor Standards Act (29 CFR Sec. 553.4). The term also includes security personnel in correctional institutions.

Lay-Off

Separation of an employee from a position to which he was legally certified and appointed as a result of the abolition of a position, lack of work or lack of funds.

ATTACHMENT 1

Longevity Pay Increment

An increase in compensation established in the compensation plan as a reward for long and faithful service for public safety employees. Longevity pay increments are granted in accordance with the conditions specified in Chapter 4 of the Personnel Regulations and are subject to Board of Supervisors appropriation.

Merit Employee

Any employee in the competitive service, as defined in the Merit System Ordinance.

Merit System

The system of personnel administration applicable to the competitive service. It includes the Merit System Ordinance, any applicable provisions of other County ordinances, Personnel Regulations, and all applicable and lawful personnel management directives of the Board of Supervisors, County Executive, or Human Resources Director.

Minimum Wage

The minimum hourly wage to be paid to employees as designated by the United States Department of Labor.

Multi Rater Option

The use of feedback from persons in addition to the immediate supervisor as part of the performance review process.

Negative Time Reporting

The time and attendance reporting method for employees only required to report exceptions to scheduled hours.

Open Examination

An examination open to the public and not limited to applicants in County service.

ATTACHMENT 1

Overtime (FLSA)

Time worked or on paid leave by an employee (excluding employees in law enforcement and fire protection as defined herein) in excess of 40 hours during his/her seven consecutive days work period. Overtime for law enforcement personnel shall be time worked or on paid leave in excess of 86 hours (82 hours for sworn Police Officers, Animal Control Officers, and Deputy Sheriffs scheduled to work a 40-hour week) during his/her 14 consecutive day work period. Overtime for fire protection personnel shall be time worked or on paid leave in excess of 212 hours during his/her 28 consecutive day work period.

Non-FLSA overtime includes hours worked in excess of the employee's scheduled hours but less than the eligibility requirement for FLSA overtime stated above.

Overtime Pay

Compensation paid to an employee for overtime work performed in accordance with these rules. The rate of pay for overtime compensation will be either 1 times the hourly rate or 1 and 1/2 times the regular rate of pay as prescribed in Section 4.15 of these rules.

Part-Time Employee

An employee who is not regularly scheduled to work at least 2,080 hours in 12 consecutive months, or fire protection personnel not regularly scheduled to work at least 2,912 hours in 12 consecutive months.

Part-Time Position

Any position, which does not meet the definition of full-time position.

Pay Grade

A combination of letter and number symbol indicating the pay range on a county pay schedule assigned to one or more classes in the Compensation Plan.

Pay Grade Reallocation Review

An evaluation of a class performed by the Department of Human Resources to determine the appropriateness of the present pay grade. The review will result in the class retaining its present pay grade assignment; or being assigned a higher or lower pay grade requiring amendment to the Compensation Plan. Such a review may include, but is not limited to pay factors including prevailing area levels of pay, internal evaluation of the relative worth of the class and economic and related fiscal concerns.

ATTACHMENT 1

Pay Period

The 14 consecutive calendar day period utilized for the calculation of paychecks and the crediting of leave earned.

Pay Range

Rates of pay assigned to a pay grade on a County pay schedule in the Compensation Plan. For non-public safety employee classes, a pay range shall consist of the minimum and maximum rates of pay and the mid-point of the range. Pay ranges assigned to grades allocated to classes of public safety employees shall consist of the minimum (step 1) and maximum rates of pay (step 9) as well as intermediate and longevity steps.

Pay Rate

A specific dollar amount expressed as an annual rate, a bi-weekly rate, or an hourly rate, as shown in a County Pay Plan.

Pay Status

Any period in which an employee is actually working or using paid leave.

Performance Pay Bonus

A lump sum payment made to an employee who is earning the maximum salary in his/ her pay grade. A department head or designee may grant an employee who is earning the maximum salary in his/her pay grade following his or her annual performance review, a bonus of up to 5 % of his/her salary if he/she meets or exceeds the performance requirements set for the award of such bonuses. The award of such a bonus does not change the employee's salary.

Performance Pay Increase

An increase in compensation, which may be granted to an employee by his/her department head or designee for performance that meets the requirements specified for such pay increases.

Performance Pay Increase (PPI) Date

The date an employee's performance pay increase is effective. The PPI date for non-uniformed public safety employees will be at the start of the first full pay period at the beginning of the fiscal year, during years when performance pay increases are granted by the Board of Supervisors. Public safety employees' PPI dates will be the beginning of the first full pay period following the incumbent's anniversary date, during years when performance pay increases are granted.

ATTACHMENT 1

Performance Review Period

The 12-month performance evaluation review period for non-uniformed public safety employees begins July 1 and concludes on June 30, each year. Review periods for public safety staff correspond to each incumbent's anniversary date.

Position

Any office or employment, whether occupied or vacant, full-time or part-time, consisting of duties and responsibilities assigned to one individual by competent authority.

Positive Time Reporting

The time and attendance reporting method for employees required to report all absences and hours worked.

Primary Position

When an employee holds more than one position with the County, one of the positions is designated as the primary and the other as the secondary for the purpose of calculating pay and benefits and tracking employment history. If the two positions are equal in pay and scheduled hours, the primary position is the one the employee occupied first. Otherwise, the primary position is the position with higher pay and/or hours.

Probationary Period

The working test or trial period of employment beginning with the date of appointment to a particular class.

Promotion

Assignment of an employee from one class to another, which has a higher maximum rate of pay.

Promotional Examination

A competitive examination restricted to persons who are on regular appointment in the County classified service or to persons who are eligible to reinstatement thereto.

Public Safety Employees

For the purposes of these regulations, public safety employees include all uniformed employees in the Police Department, Fire and Rescue Department and the Office of the Sheriff. It also includes all other job classes that are included on P/O/C/F pay scales.

ATTACHMENT 1

Qualifications

The minimum educational, experience and personal requirements, which must be fulfilled by a person preliminary to appointment or promotion.

Reduction in Rank

Assignment of an employee from one class to another class, which has a lower maximum rate of pay. Same as demotion.

Reemployment

Reappointment of a former merit employee, who had completed the probationary period and was separated in good standing but did not retire, which is not considered a reinstatement as defined herein.

Reemployment List

A list of names of former County employees with a break in service of less than one calendar year, arranged in order of their right to reinstatement as defined in Section 2.60, or reemployment in lower classes of the same or similar series as that in which the employee was serving at the time of termination.

Regular Rate of Pay

The rate of pay to be utilized for the calculation of overtime pay in accordance with FLSA requirements. The regular rate is derived by dividing the total amount of eligible pay for the work period (including the hourly rate and shift differential) by the number of hours worked during the work period.

Reinstatement

Reappointment of a former merit employee who had completed the probationary period and was separated in good standing, but did not retire, after a break in service of less than one calendar year to the position or class formerly held.

Restoration

A return to a position in a class in which status was formerly held where there has been no break in service.

ATTACHMENT 1
Scheduled Hours

The number of hours that an employee is scheduled to work on a recurring basis as reflected in the personnel record for the position occupied. Scheduled hours serve as the basis for planning and budgeting activities as well as leave calculation rules as specified in Chapter 10 of the Personnel Regulations.

Self-Assessment

The completion of a performance evaluation form by the employee to provide his/her assessment of their performance during the review period.

Separation

Leaving a position including resignation, lay-off, dismissal, unsatisfactory service, disability, and death.

Straight Pay Eligible

Employees in pay grades S-22 to S-25, P-24 to P-26, O-22 to O-26, C-22 to C-26, F-25 to F-29 and L-01. Exceptions are noted in a procedural memorandum issued by the Human Resources Director.

Suspension

An enforced leave of absence without pay for disciplinary purposes or pending investigation of charges made against an employee.

Transfer

Assignment of an employee from one position to another position. Transfers can take place within a department, between departments, between positions of the same pay range, between positions of different pay ranges, between positions of the same class or between positions of different classes.

Unassembled Examination

An examination in which qualifications are evaluated on the basis of records or education and experience submitted by the applicants, supplemented by any information obtained by an investigation.

ATTACHMENT 1

Vacancy

A position which has been newly established or which has been rendered vacant by the resignation, death or other removal of the previous incumbent.

Veteran

Any person who has received an honorable discharge and has (i) provided more than 180 consecutive days of full-time, active duty service in the armed forces of the United States or reserve components thereof, including the National Guard, or (ii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

Workday

Days of the week and number of hours an employee is scheduled to work. Work schedules vary by operation and agency.

Workweek

The seven consecutive day period beginning at 12:00 a.m. Saturday and ending the following Friday at 11:59 p.m. during which an employee (excluding law enforcement and fire protection personnel as defined herein) is scheduled to work.

Work Period

The period during which an employee is scheduled to work. For all employees except law enforcement and fire protection personnel as defined herein, the work period shall be the work week which comprises one half of a pay period. The work period for fire protection personnel shall be a 28 consecutive calendar day period beginning at 12:00 a.m. Saturday and ending at 11:59 p.m. Friday and covering two pay periods. The work period for law enforcement personnel shall be a 14 consecutive calendar day period beginning at 12:00 a.m. Saturday, ending at 11:59 p.m. Friday, and covering one pay period.

CHAPTER 4

Pay Plan, Hours of Work and Overtime

4.1 Pay Ranges

- 1 In preparing the pay plan, consideration shall be given to the duties and responsibilities of the various types of positions, the prevailing rates paid for comparable services in public and private employment and to experience in recruiting for such positions. Pay ranges shall include a minimum rate, a midpoint rate and a maximum rate for each class. Pay ranges assigned to classes consisting of public safety employees shall include such intermediate rates or steps as deemed necessary.
- 2 The rate of pay set forth in the plan shall include total pay in every form, except that it shall not include allowance for actual and necessary travel expense authorized and included as incident to employment. If subsistence, quarters or other maintenance is furnished to an employee, the reasonable value thereof shall be deducted from the rate of pay set forth in the plan. Exceptions to this provision must be approved by the Board of Supervisors.
- 3 When, in the opinion of the department head or deputy, following these rules results in an inequity, the Human Resources Director may authorize a salary adjustment if he /she concurs in the opinion of the department head or deputy.
- 4 Except as provided in these rules, performance pay increase dates shall not be affected by the adoption of the new pay plan.

4.2 Starting Rate of Pay

- 1 The minimum rate of pay for a class shall normally be paid upon appointment.
- 2 Original appointment not to exceed the midpoint rate may be made if any of the following conditions exist:
 - a. The qualifications of the applicant significantly exceed the requirements for the class.
 - b. Difficulty of recruitment requires payment of a higher rate.
- 3 Original appointment above the midpoint rate requires the approval of the Human Resources Director.

- 4 A former employee being reinstated, as defined in Chapter 2, will be appointed at a rate of pay equal to or greater than the rate he/she was receiving at the time of his/her separation, adjusted to reflect any cost of living or market pay adjustments pay to that pay grade since his/her separation.

4.3 Performance Pay Increase

- 1 Performance pay increases may be granted to those employees who meet the requirements specified for such increases. Employees considered not qualified for a performance pay increase shall be handled in accordance with the provisions of Chapter 12.

- 2 Eligibility

A non-public safety employee receiving less than the maximum scheduled rate for his/her grade may be granted a percentage salary increase not to exceed the amount authorized by the Board of Supervisors. A performance pay increase for a public safety employee advances him/her to the next step in the grade. Eligibility for performance pay increases is subject to available funding and the following:

- a. His/her work has met or exceeded the performance requirements established by his/her department head or designee to qualify for a pay increase. Public safety employees' performance must exceed the minimum performance standards to qualify for a performance pay increase. Effective August 1, 1990 employees who enlist, or are inducted into military service, or who are members of a reserve component of the armed forces of the United States who are ordered to active duty and return to County employment; upon their release from active duty and whose service is other than dishonorable shall be deemed to have satisfied this requirement for the period they are on active duty. The total length of active military service may not exceed five years.
- b. A performance review period is 12 months. The only exception is for public safety employees who serve 2 years in step 8 before being eligible to move to step 9.

Notwithstanding the merit review periods listed above, effective July 13, 1991, the beginning of the first full pay period in FY 1992, all employees who have merit increment dates shall have their merit increment date extended by one year.

Thus, for example, an employee who had a merit increment date of the first day of payroll number 15 in 1991, which falls on July 13, 1991, would have a new increment date of the first day of payroll number 15 in 1992. An employee who had a merit increment date of the first day of payroll number 15 in 1992, which falls on July 11, 1992, would have a new merit increment date of the first day of payroll number 15 in 1993, which falls on July 10,

1993. An employee who had a merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993, would have a new merit increment date of the first day of payroll number 15 in 1994, which falls on July 9, 1994.

Notwithstanding the merit review periods listed above, effective July 11, 1992, the beginning of the first full pay period in FY 1993, all employees who have merit increment dates shall have their merit increment date extended by one year. Thus, for example, an employee who had a merit increment date of the first day of payroll number 15 in 1992 which falls on July 11, 1992, would have a new merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993. An employee who had a merit increment date of the first day of payroll number 15 in 1993 which falls on July 10, 1993, would have a new merit increment date of the first day of payroll number 15 in 1994 which falls on July 9, 1994. An employee who had a merit increment date of the first day of payroll number 15 in 1994, which falls on July 9, 1994, would have a new merit increment date of the first day of payroll number 15 in 1995, which falls on July 8, 1995.

- 3 Each employee shall have a performance pay increase date established when he/she is initially appointed to a merit position. For uniformed public service employees, that date corresponds to the beginning of the pay period in which she or is appointed; the performance pay increase date for other employees corresponds with the first full pay period of the fiscal year. Partial pay periods do not count towards the performance pay increase date and performance pay increases are granted only as authorized by the Board of Supervisors.
- 4 Creditable service in the completion of performance review periods includes:
 - a. Continuous employment in the competitive service not including overtime.
 - b. Period of involuntary separation initiated by the department head followed by reinstatement after appeal by the Civil Service Commission under the grievance procedure, for which the Commission determines that the employee is entitled to back pay.
 - c. Honorable service with the armed forces by employees who enlist or are inducted into military service or who are members of a reserve component of the United States who are ordered to active duty and who return to County employment upon their release from active duty. The total length of active military service, which can be credited, may not exceed five years.

4.4 Outstanding Performance Award

- 1 An employee who has completed their initial probationary period and performs the duties and responsibilities of his/her position in an outstanding manner and whose work generally is well above expectations shall be eligible to be considered for an outstanding performance award.
- 2 An outstanding performance award may be recommended by a department head or designee. Such outstanding performance award recommendation shall be in writing, shall state the reason for such recommendation and shall be submitted through the Deputy County Executive to the Human Resources Director, as appropriate, for implementation.
- 3 Outstanding performance awards may be granted in any dollar amount not to exceed \$1,000 the amount authorized by the Board of Supervisors.

4.5 Longevity Pay Increment for Public Safety Employees

Public Safety employees shall receive a longevity increment increase after 15 years of service and reaching top step in grade. A second longevity increase is awarded after 20 years of service and reaching top step in grade (step 9).

4.6 Within-Grade Adjustment

When in the opinion of the County Executive, it is in the best interest of the County to do so, he/she may authorize a salary adjustment to encourage retention of highly qualified County employees and address pay inequities not to exceed the maximum rate of pay assigned to the employee's class.

4.7 Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Except Public Safety Employees

If an employee other than a public safety employee is promoted, demoted, appointed to a reallocated position or transferred, his/her rate of pay for the new position shall be determined as follows:

- 1 When a position is filled by promotion, the appointee shall receive a salary increase equal to 10% for one and two-grade promotions and 15% for promotions of three or more grades not to exceed the maximum rate of pay assigned to the new job class or the minimum rate of pay for the new job class whichever is greater.
- 2 With the exception of disciplinary demotions or demotions during a promotional probationary period, when an employee is demoted, he/she shall be placed at the same salary in the new pay grade. If the employee's salary is greater than the maximum salary of the new pay grade he/she shall be placed at the maximum salary for the new pay grade.

When an employee is promoted or reinstated to his or her former job class within a year from the date of demotion, he or she shall remain at the same salary or be placed at the salary he or she was receiving prior to the demotion, whichever is greater.

- 3 When an employee is demoted for disciplinary reasons he or she shall be placed at the salary in the new grade that is 5% less than his/her current salary not to exceed the maximum salary for the pay grade.
- 4 When an employee is demoted during a promotional probationary period, the employee's former rate of pay shall be reinstated in the new lower pay grade, not to exceed the maximum salary for the pay grade.
- 5 When an employee is transferred from a position of one class to a position of another class at the same level, he/she shall continue to be paid at the same rate of pay.
- 6 Upon upward reclassification of a position, the incumbent shall receive a pay increase equal to 5% of the midpoint of the salary range for the new, higher pay job class or move to the minimum of the new range, which ever is greater not to exceed the maximum rate of pay for the new pay grade.
- 7 Upon review of a job class to determine if a regrade is warranted, the incumbents in the job class may be entitled to a pay adjustment regardless of whether the job class is regraded or not. The determination of pay increase eligibility and the amount of such pay increase will be made in accordance with procedures approved by the County Executive and the Board of Supervisors. In no case shall the employee's salary be less than the minimum or greater than the maximum for the new pay range.

4.8 Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Public Safety Employees

If a public safety employee is promoted, demoted, appointed to a reallocated position or transferred, his/her rate of pay for the new position shall be determined as follows:

- 1 When a position is filled by promotion, except as noted elsewhere in this chapter, the appointee shall receive the greater amount of the minimum rate for the class of the new position or an amount in excess of one normal within grade increase in the pay grade of the class of the position held prior to promotion. Such increase shall not be less than 6% and if the promotion is three grades or more, the employee shall be placed in the new grade at a step closest to, but not in excess of a 15 % increase. The appointee shall receive a new performance pay increase date, which shall be calculated from the payroll number and year of his/her promotion.

- 2 When an employee is demoted, he/she shall be placed in the pay step in the new pay grade, which represents the closest dollar amount that is less than the former pay. An employee may be placed in a longevity step under this provision only if the employee meets the length of service requirement for that step. The performance pay increase date shall not change.

When an employee is promoted or reinstated to his or her former job class within a year from the date of demotion, he or she shall remain at the same salary or be placed at the salary he or she was receiving prior to the demotion, whichever is greater and the performance pay increase date shall not change.

- 3 When an employee is demoted to his or her former job class during a promotional probationary period, the employee's former grade and step shall be reinstated. When an employee is demoted to a job class other than that in which he/she was serving at the time of promotion, he/she shall be placed at the step in the lower grade that is closest to, but not less than the employee was making prior to promotion. If the employee's pre-promotion performance pay increase (PPI) date falls between the date of promotion and the date of the subsequent demotion, the promotion date will be retained as the PPI date; otherwise the pre-promotion PPI date shall be reinstated.

- 4 When an employee is transferred from a position of one class to a position of another class at the same level, he/she shall continue to be paid at the same rate of pay.

- 5 Upon upward reclassification/reallocation of a position, the incumbent shall receive the greater amount of either the minimum rate for the new grade or the next higher dollar rate in the new pay grade as compared to the dollar rate in the lower grade except in the following instances:

- a. Employees who have served one year or more in a two year review period and who upon reclassification/reallocation, move to a step with a one year review period, shall receive an additional step upon reclassification/reallocation to the new grade. The employee shall receive a new performance pay increase date, which shall be calculated from the payroll number and year of the reclassification/reallocation using the performance review period for the new step.
- b. Except as noted above, the performance pay increase date shall not change unless the reclassification/reallocation moves the employee to a step with a shorter review period. In such cases, the year of the performance pay increase date is reduced if the time between the effective date of the reclassification/reallocation action and the employee's performance pay increase date is more than one year.

4.9 Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Police Officers and Deputy Sheriffs

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- 1 A Police Officer I promoted to Police Officer II or a Deputy Sheriff I promoted to Deputy Sheriff II shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.
- 2 A Police Officer II or Deputy Sheriff II who is receiving a proficiency pay adjustment and is promoted to Police Sergeant or Deputy Sheriff Sergeant respectively, shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.
- 3 In all other cases, the normal rules affecting promotion, demotion, reallocation of positions, and transfer for public safety employees shall apply.

4.10 Allowances Granted Police Officers

- 1 Police Officers required to wear civilian clothes while on duty shall be granted a clothing allowance while such assignment lasts.
- 2 A Police Officer II who has a minimum of five (5) years of service as a sworn officer with Fairfax County and who is certified by the Chief of Police or designee as demonstrating exemplary expertise in an authorized Police Officer II specialty, may be eligible to receive a police proficiency pay adjustment and assume the work title of "Master Police Officer".
 - a. A Police Officer II who is eligible for a police proficiency pay adjustment shall be reassigned to pay grade O-19 and shall receive an increase in pay not to exceed one within grade increase, and the performance pay increase date will not change.
 - b. The number of Police Officers receiving a proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Police Officer II positions.

4.11 Allowances Granted Deputy Sheriffs

- 1 A Deputy Sheriff II who has a minimum of five (5) years of service as a sworn Deputy Sheriff with Fairfax County and who is certified by the Sheriff or designee as demonstrating exemplary expertise in an authorized Deputy Sheriff position, may be eligible to receive a proficiency pay adjustment and assume the work title of "Master Deputy Sheriff".
 - a. A Deputy Sheriff who is eligible for a proficiency pay adjustment shall be reassigned to pay grade C-19 and shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.

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- b. The number of Deputy Sheriff II's receiving a proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Deputy Sheriff II positions.

4.12 Allowances Granted Uniformed Fire Employees

- 1 A Fire Technician who has a minimum of five (5) years of service as a uniformed Fire employee with Fairfax County, and who is certified by the Chief of Fire and Rescue or designee as demonstrating exemplary expertise in an authorized Fire Technician specialty, may be eligible to receive a fire proficiency pay adjustment and assume the work title of "Master Firefighter."
 - a. A Fire Technician who is eligible for a fire proficiency pay adjustment shall be reassigned to pay grade F-20 and shall receive an increase in pay not to exceed one within grade increase, and the performance pay increase date will not change.
 - b. The number of Fire Technicians receiving a fire proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Fire Technician positions.

4.13 Allowances Granted Animal Control Officers

- 1 An Animal Control Officer II who has a minimum of five (5) years of service as an Animal Control Officer with Fairfax County and who is certified by the Chief of Police or designee as demonstrating exemplary expertise in an authorized Animal Control Officer specialty, may be eligible to receive a proficiency pay adjustment and assume the work title of "Master Animal Control Officer."
 - a. An Animal Control Officer II who is eligible for a proficiency pay adjustment shall be reassigned to pay grade P-21 and shall receive an increase in pay not to exceed one within grade increase, and the performance pay increase date will not change.
 - b. The number of Animal Control Officer II's receiving a proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Animal Control Officer II positions.

4.14 Hours of Work

- 1 The regular work period for all full-time County employees, excluding law enforcement and fire protection personnel, shall be 40 hours worked or on paid leave (excluding meal periods) within a seven consecutive calendar day period beginning and ending as defined in Chapter 2. The schedule of hours for the workweek shall be determined by the department head or designee.

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- 2 The regular work period for fire protection personnel shall be 28 consecutive calendar days, beginning and ending as defined in Chapter 2. The number of hours worked during the 28-day work period may vary depending on shift schedules and department needs.
- 3 The regular work period for law enforcement personnel shall be 14 consecutive calendar days, beginning and ending as defined in Chapter 2. The number of hours worked during the 14-day work period may vary depending on shift schedules and department needs.
- 4 The County Executive may authorize the inclusion of the meal period as actual work for shift positions.
- 5 All employees in the Merit System shall be entitled to a 15 minute rest period for each four hours of assigned work, during a duty day, as scheduled by the department head or designee. Whenever possible, the rest period shall be scheduled at the middle of each such four-hour period of work.
- 6 Shift Differential Premium Pay shall be authorized for all merit employees who are scheduled to work on fixed and/or rotating shifts that start at or after 1:00 P.M. wherein the hours scheduled on a shift after 4:00 P.M. are greater than the hours scheduled prior to 4:00 P.M., excluding employees who work flex-time schedules. If an employee whose regular shift schedule qualifies him/her for shift differential premium pay, reports to work prior to the start of their regular shift hours, he/she remains eligible for shift differential premium pay for all hours worked after 1:00 P.M. regardless of the time he/she actually begins working on that day. The hours worked before the beginning of the regular shift schedule are not eligible for shift differential.
- 7 The Evening Shift shall encompass all shift schedules, which begin between the hours of 1:00 P.M. and 7:59 P.M. The premium pay rate established for the Evening Shift shall apply for all regularly scheduled hours actually worked between 1:00 P.M. and 7:59 P.M.
- 8 The Night Shift shall encompass all shift schedules, which begin at 8:00 P.M. and thereafter. The premium pay rate established for the Night Shift shall apply for all regularly scheduled hours actually worked between 8:00 P.M. and 6:59 A.M.
- 9 Employees assigned to 24-Hour Shift Schedules shall be paid Shift Differential Premium Pay for all regularly scheduled hours actually worked between the hours of 4:00 P.M. and 7:00 A.M. and in accordance with established payroll procedures.
- 10 Employees are paid and earn leave based on data recorded in official time and attendance records. An "online" timesheet is used to document time worked and leave taken. There are two types of time and attendance reporting:

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- a. Employees required to use positive time reporting must record all absences and hours worked each pay period.
- b. Employees required to use negative time reporting only record exceptions to their scheduled work hours. If no exceptions are entered, the employee is paid a biweekly amount based on their scheduled hours.

4.15 Overtime, Compensatory Time, Call-Back Time, Consecutive Shift Time

-1 Overtime.

FLSA overtime shall include all hours worked or on paid leave by an FLSA eligible employee (other than law enforcement and fire protection personnel) in excess of 40 hours in a work week.

Overtime for FLSA eligible law enforcement personnel (excluding sworn Police Officers, Animal Control Officers, and Deputy Sheriffs scheduled to work a 40 hour week) shall include all hours worked or on paid leave in excess of 86 hours in a 14-day work period. Overtime for FLSA eligible law enforcement personnel in the Police Department and Deputy Sheriffs scheduled to work a 40 hour week shall include all hours worked or on paid leave in excess of 80~~2~~ hours in a 14-day work period. Overtime for FLSA eligible fire protection personnel shall include all hours worked or on paid leave in excess of 212 hours in a 28-day work period. Non-FLSA overtime includes hours worked in excess of the employee's scheduled hours but less than the eligibility requirement for FLSA overtime. Overtime shall be kept to a minimum and shall be used to relieve occasional excessive workloads or emergencies, and not to provide for constant recurring requirements. Overtime may be mandated when related to the health, welfare or safety of either the public or employees. Except in emergency situations, all overtime worked by an employee shall be approved by the employee's supervisor or designee, verbally or in writing prior to the overtime being worked. Employees shall not work in excess of authorized scheduled hours without express approval of the supervisor.

-2 Eligibility.

Employees shall earn compensatory time or be paid for overtime hours actually worked in accordance with the following provisions:

- a. FLSA eligible employees excluding law enforcement and fire protection personnel as defined in Chapter 2:
 - (1) shall be compensated at one and one-half times their regular rate of pay for all eligible hours worked or on paid leave in excess of 40 hours during the designated seven consecutive day work period. If requested by the employee and approved by the department head or

designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.

- (2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the time actually worked is less than forty hours in a seven day work period. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at the hourly rate of pay must be awarded.
- b. Straight pay eligible employees shall, at the discretion of the department head or designee, earn straight compensatory time or be compensated at their hourly rate of pay for all time worked in excess of their scheduled work hours.
- c. Compensatory time eligible employees shall earn straight compensatory time for time worked in excess of their scheduled work hours.
- d. FLSA eligible fire protection personnel:
 - (1) shall be compensated at one and one-half times their regular rate of pay for all eligible hours worked or on paid leave in excess of 212 hours during the 28 consecutive day work period. If requested by the employee and approved by department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 336 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.
 - (2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the hours actually worked are less than 212 hours in a 28 day work period. If the employee's compensatory leave balance is 336 hours or greater, overtime pay at the hourly rate of pay must be awarded.

All other Fire and Rescue Department employees shall be treated as described in Section 4.15 - 2a, b, or c.

- e. FLSA eligible law enforcement personnel:
 - (1) shall be compensated at one and one-half times their regular rate of pay for all hours worked or on paid leave in excess of 86 hours (~~80~~ hours for sworn Police Officers and Deputy Sheriffs scheduled to

work a 40 hour week) during the 14 consecutive day work period. If requested by the employee and approved by the department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.

- (2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the hours actually worked are less than 86 hours (80~~2~~ hours for sworn Police Officers and Deputy Sheriffs scheduled to work a 40 hour week) in a 14 day work period. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at the hourly rate of pay must be awarded.
- (3) shall be compensated at one and one-half times their hourly rate of pay for actual court time worked when such court time falls on the employee's scheduled day off or begins more than two hours prior to the employee's scheduled shift, regardless of the number of hours worked in a given work period.

All other public safety employees shall be treated as described in Section 4.15 - 2a, b, or c.

-3 Holiday/Emergency Administrative Leave.

Pro-rata adjustments shall be made for the holiday usage rate for shift schedules other than 40 hours per week to ensure compliance with the provisions of Chapter 10.

- a. Part-time merit employees shall be granted holiday time off with pay on a pro-rated basis regardless of the number of hours scheduled on the day on which a holiday falls computed at the rate of one-tenth of an hour times the employees bi-weekly scheduled hours.
- b. When an employee is required to work due to an emergency, staff shortage or hours worked that are a part of the regular work week on a holiday (actual or observed), the employee shall be compensated for the hours actually worked at the employee's hourly rate of pay or in accordance with the rules governing overtime, if applicable.

To receive holiday compensation on an actual holiday, an employee must be directed by his/her supervisor to work due to staff shortage or other operational necessity.

In addition, employees shall receive holiday compensation as follows:

- (1) FLSA eligible employees shall, at the employee's discretion, be granted holiday compensatory time or be paid holiday pay not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday. If the employee's compensatory leave balance is 240 hours or greater, holiday pay at the employee's hourly rate must be granted.
 - (2) Straight pay eligible employees shall, at the discretion of the department head or designee, be granted holiday compensatory time or be paid holiday pay not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday) at the employee's hourly rate of pay.
 - (3) Compensatory time eligible employees shall be granted holiday compensatory time not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday) at the employee's hourly rate of pay.
- c. When a holiday falls on an employee's scheduled day off, the employee shall be compensated as follows:
- (1) FLSA eligible employees shall, at the employee's discretion, be granted holiday compensatory time or be paid holiday pay not exceeding eight hours (4 hours for a half-day holiday) at the employee's hourly rate of pay. If an employee's compensatory leave balance is 240 hours or greater, holiday pay at the employee's hourly rate must be granted.
 - (2) Straight pay eligible employees shall at the discretion of the department head or designee, be granted holiday compensatory time or be paid holiday pay not exceeding eight hours (4 hours for a half-day holiday) at the employee's hourly rate of pay.
 - (3) Compensatory time eligible employees shall be granted holiday compensatory time not exceeding eight hours (4 hours for a half-day holiday).
- d. When a holiday falls on an employee's scheduled work day and the employee does not work, the employee shall receive holiday pay at the employee's hourly rate of pay. Full-time merit employees (other than Fire and Rescue Department employees on the 24-hour shift schedule) who are scheduled to work more than 8 hours due to departmental operational needs (this does not include employees who elect to work a compressed work week or flex schedule), shall be granted holiday time off with pay up to the regularly scheduled hours for a full holiday (or one-half of the regularly scheduled hours for a half holiday).

- e. In the event of extreme inclement weather or other emergency, wherein the general County government is closed by the County Executive and all employees are granted Emergency Administrative Leave, those employees required to perform emergency services shall be compensated for the hours actually worked at the employee's hourly rate of pay or in accordance with the rules governing overtime. In addition, the employee shall be compensated as follows:
 - (1) FLSA eligible employees shall at the employee's discretion, be granted compensatory time or be paid at the employee's hourly rate of pay for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive. If the employee's compensatory leave balance is 240 hours (336 hours for fire protection personnel) or greater, the employee must be paid for these hours.
 - (2) Straight pay eligible employees shall, at the discretion of the department head or designee, be granted compensatory time or be paid at the employee's hourly rate of pay for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive.
 - (3) Compensatory time eligible employees shall be granted compensatory time for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive.

-4 Compensatory Time.

Compensatory time shall be earned and credited to an employee's records on the basis of actual hours worked in excess of the employee's scheduled hours. FLSA eligible employees who earn compensatory time for FLSA overtime hours worked (as defined 4.15 – 2 a(l), d(l), and e(l)) shall accrue 1 1/2 hours of compensatory time for each overtime hour worked.

All other compensatory time shall be accrued on an hour for hour basis. Compensatory time off for overtime worked shall be granted upon request of the employee, when approved by the department head or designee.

- a. In the event that an employee is granted compensatory time off in excess of the employee's accrued balance, the excess shall be charged against the employee's annual leave balance.
- b. Compensatory time not to exceed 240 hours may be carried forward from one calendar year to the next calendar year.

- c. County employees shall be awarded a terminal leave payment for any accrued compensatory time not to exceed a maximum of 240 hours (336 hours for fire protection personnel). This will be paid at the employee's current hourly rate of pay at the time of termination with the exception that FLSA eligible employees will be paid at the current regular rate or at the average regular rate for the last 3 years, whichever is greater.
- d. Notwithstanding the provisions of this section or any other provision of these personnel regulations or of the procedural directives governing the exempt service, effective July 1, 1998, senior managers shall not be eligible to earn or accrue compensatory leave. For purposes of this section, "senior managers" are noted in a procedural memorandum issued by the Human Resources Director.

Senior managers shall be credited with the amount of unused compensatory leave accrued as of July 1, 1998. Subject to the provisions of these regulations and any other applicable procedural directive, they may take such compensatory leave after July 1, 1998 until such leave balances are exhausted. Senior managers may carry over no more than 240 hours of previously accrued and unused compensatory leave into the 1999 calendar year. Upon separation, senior managers shall be granted a terminal leave payment for any such accrued and unused compensatory leave paid at the senior manager's current rate of pay, on an hourly basis, at the time of separation not to exceed a maximum of 240 hours.

-5 Call-Back Time.

Call-back time refers to situations wherein an employee is off duty and is called to return to work after departing from the work place. It does not apply to those incidents where an employee is at work or has not departed from the work site and the work period is extended.

Employees called back to work shall be credited with a minimum of four hours overtime in each separate instance, excluding travel time, regardless of the hours actually worked.

- (a) FLSA eligible employees shall, at the employee's discretion, be granted compensatory time (at the time and one-half rate) or be paid at one and one-half times their hourly rate of pay for call-back hours. If the employee's compensatory leave balance is 240 hours or greater, the employee must be paid.
- (b) Straight pay eligible employees shall, at department head's or designee's discretion, earn straight compensatory time or be compensated at their hourly rate of pay for all call-back time.

- (c) Compensatory time eligible employees on all pay scales shall earn straight compensatory time for all call-back time.

-6 Consecutive Shift Time.

Consecutive Shift time refers to situations wherein an employee has completed a full eight or more hour shift and is required to remain on duty a second consecutive shift to perform essential services during an emergency situation or to meet minimum State certification standards in the Department of Public Works and Environmental Services.

Employees required to perform 2nd consecutive shifts shall be compensated as follows:

- (a) FLSA eligible employees shall, at the employee's discretion, be granted compensatory time (at the time and one-half rate) or be paid at one and one-half times their hourly rate of pay for consecutive shift hours. If the employee's compensatory leave balance is 240 hours or greater, the employee must be paid.
- (b) Straight pay eligible employees shall, at the department head's or designee's discretion, earn straight compensatory time or be compensated at their hourly rate of pay for all consecutive shift time.
- (c) Compensatory time eligible employees shall earn straight compensatory time for all consecutive shift time.

4.16 Outside Employment, Violation of State Law on Conflict of Interests

- 1 Employees in the competitive service shall not engage in any employment, activity or enterprise, which has been or may be determined to be inconsistent, incompatible, or in conflict with duties, functions, or responsibilities of their County employment.
- 2 No employee in the competitive service shall hold any other position in any other governmental jurisdiction or in private employment, when such other position may have the effect of reducing the efficiency of such employee in the competitive service.
- 3 Employees in the competitive service who desire to accept outside employment in addition to their regular County positions shall inform their respective department head or designee of the nature and extent of such outside employment. The department head or designee shall thereupon determine whether or not the holding of such employment conflicts with the duties and responsibilities of said employee to the County.

- 4 Violation of the County’s rules on outside employment or the Virginia State and Local Government Conflict of Interests Act or any successor statute thereto may be grounds for dismissal.

4.17 Application of Pay Policies to Deferred Retirement Option Plan (DROP) Participants

Notwithstanding any provision of this chapter to the contrary, employees who are participating in the Deferred Retirement Option Plan (DROP) are considered as merit employees and the pay provisions included in this chapter continue to apply during their DROP participation.

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CHAPTER 6

Certification and Eligible Lists

6.1 Definitions

- 1 An eligible list is a list of applicants who meet the minimum qualifications for the class for which they applied, as determined under the provisions of Chapter 5.
- 2 A certification list is a list of applicants who have been determined to meet the minimum qualifications for the class for which they have applied, and who have also been determined to be among the best qualified for that specific job. A certification list may either be a promotional list (based upon competition that is restricted to current Fairfax County employees as described in Chapter 5 or an open, competitive list based upon competition that is open to outside applicants as well as current County employees).

The format of the certification list may take various forms, such as a spreadsheet, memorandum, computer generated format, etc., as long as the format has been issued by the Human Resources Director or designee.

6.2 Reinstatement/Reemployment

- 1 A former merit employee who satisfactorily completed his/her probation period and was separated in good standing but did not retire may be eligible to be non-competitively reinstated to the position or class formerly held, or to be non-competitively reemployed in any class at the same or a lower grade for which he/she is qualified, for a period of one year from the date of separation. Reemployment eligibility of an employee who was laid off is governed by the provisions of Chapter 9.
- 2 A non-competitive reinstatement or reemployment may be requested by the former employee but requires the approval of the department head or deputy.
 - a. Non-competitive reinstatements to the class formerly held do not require submission of a resume or certification of the former employee.
 - b. Non-competitive reemployments into a lower grade of the former class series do not require submission of a resume or certification of the former employee.
 - c. Non-competitive reemployment into a different class series than that formerly held requires submission of a resume and certification of the former employee.

6.3 Duration of Certification Lists and Eligibility of Individuals

- 1 A certification/eligible list is normally used to fill a vacancy/vacancies that currently exist, or that are expected to occur during the short term after it is established. However, a certification/eligible list may be used for up to one year after it has been established, in order to fill unanticipated vacancy/vacancies, with the approval of the Human Resources Director or designee. Factors that the Human Resources Director may consider in granting this approval include business necessity, whether the list is promotional or open, whether the list still contains a viable, diverse pool of certified applicants, difficulty of recruitment for the vacancy, etc.
- 2 At the request of a department head or designee and with respect to certification and/or eligibility lists for positions entirely under that department head, the Human Resources Director may extend the duration of an open competition list to a maximum of two years and that of a promotion list to a maximum of three years. No list may be extended beyond these time limits.
- 3 When an eligibility list is dissolved prior to the expiration date in the announcement, individuals remaining on the list shall be so notified.

6.4 Removal of Certified Applicant From Job Consideration

A certified applicant (from either a certification or eligible list) may be ruled ineligible for job consideration for any of the reasons listed in the section on disqualification of applicants in Chapter 5 or for any of the following reasons:

- 1 Appointment through certification from such list to fill a merit position.
- 2 Appointment through certification from a list for another class at the same or higher salary. At the request of the appointee, however, his/her name may be continued on any lists other than the one from which the appointment was made.
- 3 Notification from the applicant that he/she desires his/her name removed from consideration.
- 4 Refusal of appointment by the applicant under such conditions as he/she previously indicated he/she would accept.
- 5 Inability to locate the applicant by mail or telephone within five business days.
- 6 Failure by the applicant to reply to inquiry from the Human Resources Director or his/her designee within five business days of the date of such inquiry.

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- 7 Failure to accept appointment within three business days when offered, or to report for duty on the date prescribed by the department head or designee, provided that no candidate shall be required to report for duty less than two weeks from the date an appointment is offered.
- ~~-8 Failure to receive appointment after three certifications for the same class.~~
- 89 Separation of an employee on a promotional list from the County service.
- ~~-10 Disability that prevents the applicant from performing satisfactorily the duties of the position even with reasonable accommodation.~~

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CHAPTER 10

Leave

10.1 Leave Defined

Leave is any authorized absence during regularly scheduled work hours that has been approved by proper authority. Leave may be authorized with or without pay. Absence without leave approval is considered unauthorized absence.

10.2 Leave Policy

All merit employees are encouraged to take annual leave for vacation purposes of two consecutive weeks each year. During the year, careful consideration shall be given to the desire and needs of employees in the granting of shorter periods of annual leave. Department heads or designees shall grant leave in accordance with these rules on the basis of the work requirements in the department, and whenever possible, the personal wishes of the employee.

10.3 Maintenance of Leave Records

The Department head or his/her designee shall be responsible for the maintenance of accurate leave records. Such records shall be kept on a form prescribed by the Human Resources Director, who may periodically inspect them to insure that departments are adhering to the provisions of these rules.

10.4 Procedures for Requesting Leave

- 1 For all leave, with the exception of official holiday, unscheduled sick and administrative emergency leave, a request indicating the kind of leave, duration and dates of departure and return must be approved prior to the taking of the leave. The request for leave should be submitted to the department head or designee the same number of days prior to beginning the leave as the number of days leave requested. In the case of unscheduled sick leave, the request shall be completed and submitted for approval immediately upon the employee's return to duty.
- 2 Unless an absence is approved by the department head or his/her designee, an employee shall not be paid for any absences from scheduled work hours.

10.5 Unauthorized Absence

- 1 An employee who is absent from duty without approval shall:
 - a. Receive no pay for the duration of the absence;
 - b. Be subject to disciplinary action, which may include dismissal.

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- 2 It is recognized there may be extenuating circumstances for unauthorized absence and due consideration shall be given each case.
- 3 Failure of an employee to report for work at the expiration of an authorized leave or to request an extension of such leave shall be considered an absence without leave.

10.6 Types of Leave

The following types of leave, and no other, are officially established:

- 1 Annual leave (Section 10.7 - 10.12);
- 2 Sick leave (Section 10.13 - 10.21);
- 3 Extraordinary sick leave (Section 10.16);
- 4 Parental Leave (Section 10.23)
- 5 Leave for injury in line of duty (Section 10.24);
- 6 Bereavement leave (Section 10.25);
- 7 Compensatory leave (Section 10.26 - 10.28);
- 8 Military leave (Section 10.29);
- 9 Civil leave (Section 10.30);
- 10 Volunteer activity leave (Section 10.31);
- 11 Leave without pay (Section 10.32);
- 12 Education leave (Section 10.334);
- 13 Holiday leave (Section 10.345 - 10.356);
- 14 Administrative leave (Section 10.367);
- 15 Leave for inclement weather or other emergencies (Section 10.378).

10.7 Granting Annual Leave

Department heads or designees shall grant annual leave with pay in accordance with the

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following provisions:

- 1 Annual leave shall normally be granted unless a department head or designee specifically defers an employee's absence because of work requirements.
- 2 Annual leave shall not exceed the total amount credited to an employee at the beginning of the pay period in which the absence occurs.

10.8 Crediting of Annual Leave

Annual leave shall be credited as follows for merit employees and senior managers as designated in Chapter 4.

- 1 During pay periods in which a merit employee is in paid status for at least one hour, annual leave shall be credited according to scheduled hours. Incumbents in positions with 80 scheduled work hours per pay period will receive the following annual leave credits, based on length of service:
 - a. Less than three years of service receive four (4) hours;
 - b. Three (3) years but less than fifteen (15) years receive six (6) hours;
 - c. Fifteen (15) and greater years of service receive eight (8) hours.
- 2 Merit employees with scheduled hours other than 80 hours per pay period shall receive leave prorated according to total scheduled hours. Employees working in more than one merit position will accrue annual leave in all positions.
- 3 Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting annual leave.
- 4 Employees reemployed or reinstated within one calendar year of their separation in good standing should have their annual leave computed on the basis of total years of service. Revised leave computation dates shall be rounded to the nearest day.
- 5 Employees with less than ten (10) years of service may accumulate annual leave up to 240 hours. Employees with ten (10) or more years of service may accumulate annual leave up to 320 hours.
- 6 Annual leave in excess of the limits imposed by this section existing at the end of each calendar year shall be converted to sick leave.
- 7 Employees shall not receive dual compensation from the County for annual leave.
- 8 Employees designated as senior managers shall receive 208 hours (26 days) of annual leave at the beginning of each calendar year. Senior managers appointed after the start of a calendar year shall receive annual leave credit on a prorated basis for that year.

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10.9 Debiting Annual Leave

Annual leave shall be debited as follows:

- 1 The amount of annual leave to be debited shall be computed on the basis of the exact number of days or hours an employee is scheduled to work in the period when leave is taken.
- 2 Annual leave shall be debited in no less than one-tenth hour units.
- 3 Overdrawn annual leave shall be debited in the following order: compensatory leave, leave without pay.

10.10 Transfer of Annual and Sick Leave

Annual or sick leave may be transferred from one employee to another employee in the following situations:

- 1 Annual or sick leave may be transferred from one employee to another when the employee-in-need has exhausted his/her sick leave and is facing an absence without pay due to his/her extended illness or that of an immediate family or household member as defined in Chapter 2, with the following provisions:
 - a. Annual or sick leave may be transferred to any County employee eligible to receive sick leave.
 - b. Employees transferring sick leave may not transfer more than 80 hours in any calendar year.
 - c. The employee transferring annual or sick leave relinquishes all rights to that leave. Annual or sick leave transferred under this policy cannot be recovered at a later date.
 - d. An employee may not transfer leave to his/her immediate supervisor or reviewing authority for performance evaluations.
 - e. Unused transferred leave may be transferred to another leave recipient or returned to the donor.
 - f. Transferred leave may be granted only to employees who have exhausted their sick leave balance and whose combined annual and compensatory leave balance does not exceed 80 hours (120 hours for 24-hour shift employees).
 - g. This policy does not preclude or in any way limit the right of an employee to

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apply for advanced or extraordinary sick leave under existing procedures.

- h. Final approval of leave transfer requests rests with the department head or designee.
- i. An employee who returns to work before using all received transferred leave may use the balance for subsequent treatment or recuperation from the ailment for which the leave was granted. This balance may be used for up to one year from the date transferred leave was approved.

-2 Annual leave may be transferred from one employee to another when the employee-in-need is a member of the National Guard or an organized military reserve of the United States who has volunteered or been ordered to active duty pursuant to an order by the President of the United States or a competent State authority. The transfer of annual leave under this Section is subject to the following conditions:

- a. Annual leave may be transferred to any merit County employee who is a member of the National Guard or an organized military reserve of the United States.
- b. The employee transferring annual leave relinquishes all rights to that leave. Annual leave transferred under this policy cannot be recovered at a later date. Once the leave has been used by the employee, it cannot be recovered.
- c. An employee may not transfer leave to his/her immediate supervisor or reviewing authority for performance evaluations.
- d. Transferred annual leave may only be used when the employee called to active military duty has reduced his/her accrued annual and compensatory leave to a combined balance no greater than 80 (120 hours for 24-hour shift employees) hours.
- e. Final approval of leave transfer requests rests with the department head or designee.

10.11 Effect of Transfers on Annual Leave Credits

A merit employee who transfers from one department to another shall have his/her total annual leave credits transferred to the new department.

10.12 Effect of Separation on Annual Leave Credits

Upon separation, an employee shall be paid for the unused portion of his/her accrued annual leave, except as modified by the rules governing resignation without sufficient notice.

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10.13 Sick Leave Policy

Sick leave shall be used when an employee is incapacitated by sickness or injury; for childbirth, placement of a child for adoption or foster care; for medical, dental, or optical diagnosis or treatment; for necessary care and attendance or death of a member of the employee's immediate family or household member, as defined in Chapter 2; exposure to a contagious disease when the attendance at duty jeopardizes the health of others. Sick leave for childbirth and adoption/foster care placement shall comply with the provisions in Section 10.22 of these Regulations.

10.14 Granting Ordinary Sick Leave

Department heads or designees shall grant sick leave with pay to merit employees in accordance with the following provisions:

- 1 Ordinary sick leave shall not exceed the total amount credited to an employee at the beginning of the pay period in which the absence occurs;
- 2 Leave without pay may be granted for sickness extending beyond the earned credit;
- 3 For merit employees' annual or compensatory leave credits may be used for sick leave.

10.15 Granting Advance Sick Leave

- 1 Advance sick leave, not to exceed 192 hours (288 hours for 24 hour shift employees), may be granted to merit employees qualified to earn ordinary sick leave in cases of serious disability or ailments of the employee, the spouse, minor or disabled child, parent or parent-in-law of an employee when it is to the advantage of the County to do so.
- 2 Advance sick leave may be granted to employees whose combined annual and compensatory leave balance does not exceed 80 hours.
- 3 Advance sick leave shall not normally be advanced to a merit employee qualified to earn ordinary sick leave during his/her first year of service with the County.
- 4 Advance sick leave shall not be approved retroactively to restore hours previously charged to the employee's annual or compensatory leave balance for an ailment or disability.
- 5 When a department head or designee believes that a request for advance sick leave is justified, a personnel action form shall be prepared with the following supporting documentation:

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- a. The circumstances and the need for such leave verified by a physician's statement;
 - b. The time and date when accrued sick leave will be exhausted;
 - c. The number of hours of advance sick leave requested and date to which such leave will extend;
 - d. Probable return to duty and prospect for continued employment;
 - e. Recommendation of the department head or designee;
 - f. Statement notifying employee of the repayment requirement if advance sick leave is approved.
- 6 The Human Resources Director shall consider the information provided and make a recommendation to the County Executive.
 - 7 Advance sick leave shall be approved by the County Executive or his/her designee.
 - 8 Advance sick leave shall be charged to future accruals of sick leave. An employee may not use regular sick leave until the approved advance sick leave is repaid.
 - 9 An employee who returns to work before using all approved advance sick leave may use the balance for subsequent treatment or recuperation from the ailment for which the leave was granted. This balance may be used for up to one year from the date advance sick leave was first used.
 - 10 An employee returning to work before using all approved advance sick leave may request an adjustment to his/her leave record to eliminate or reduce the remaining approved advance sick leave.
 - 11 When an employee who receives advance sick leave leaves County service for any reason and the advance sick leave has not been repaid, the County will be financially reimbursed for the balance of sick leave remaining, except in the case of full disability or death.

10.16 Granting Extraordinary Sick Leave

- 1 When the above provisions do not adequately allow for the illness or injury of a merit employee qualified to earn sick leave, and when the department head or designee believes that it is to the advantage of the County to do so, he/she may request of the County Executive, through the Human Resources Director, that the employee be

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granted an extraordinary sick leave not to exceed 4 hours (6.0 hours for 24-hour shift employees) for each month of service.

- 2 Extraordinary sick leave shall be recorded on the employee's leave record but shall not be charged to future accrued leave of any kind.

10.17 Crediting Sick Leave

Sick leave shall be credited as follows for merit employees and senior managers as designated in Chapter 4.

- 1 During pay periods in which a merit employee is in paid status for at least one hour, sick leave shall be credit based on scheduled hours. Incumbents in positions with 80 scheduled work hours per pay period will receive a four (4) hour sick leave credit.
- 2 Merit employees with scheduled hours other than 80 shall receive sick leave prorated accordingly. Employees holding multiple merit positions are eligible to accrue sick leave on scheduled hours in all positions.
- 3 Unused sick leave may be accumulated without limit.
- 4 Employees, when separated in good standing and reemployed or reinstated within one calendar year of separation, shall have their unused sick leave reinstated.
- 5 Senior managers shall receive 104 hours (13 days) of sick leave at the beginning of each calendar year. Sick leave balances granted senior managers appointed after the start of a calendar year shall be prorated accordingly.
- 6 Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting sick leave.

10.18 Debiting Sick Leave

Sick leave shall be debited as follows:

- 1 The amount of sick leave to be debited shall be computed on the basis of the exact number of days or hours an employee is scheduled to work in the period when leave is taken.
- 2 Sick leave shall be debited in no less than one-tenth hour units.
- 3 Overdrawn sick leave shall be debited in the following order: annual leave, compensatory leave, and leave without pay.

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10.19 Effect of Transfer on Sick Leave Credits

A merit employee who transfers from one department to another shall have his/her total sick leave credits transferred to the new department.

10.20 Effect of Separation on Sick Leave Credits

1. Sick leave credits shall not be paid to an employee upon separation.
2. Upon application for retirement, an employee's sick leave credits can be applied towards membership service credit at the rate of one month of credit for each 172 hours of accrued unused sick leave, and prorated for any fraction of this amount.
3. Employees who are participants in the Deferred Retirement Option Plan may apply all sick leave credits towards membership service credit for retirement, or retain 40 hours as an initial sick leave balance, while the remaining sick leave credits are applied towards membership service credit for retirement.

10.21 Other Factors Relative to Sick Leave

- 1 Reporting of sickness.
Employees who are absent from duty for reasons which entitle them to sick leave shall notify their respective supervisors within the time frame established by the Department unless physically unable to do so. Upon return to work, the employee shall submit immediately to his/her supervisor an authorization for leave form.
- 2 Medical certificate.
A department head or designee may require a medical statement for sick leave when it occurs before or after a holiday or other scheduled day off, or when it is in excess of two workdays. When an employee has a record of repetitious usage of short amounts of sick leave over an extended period a department head or designee may require a medical certificate for each day of sick leave taken. Employees shall be provided advance notice that a medical certificate will be required for future absences.
- 3 The department head or designee may require an employee returning from sick leave to take a medical examination, or, with the concurrence of the Human Resources Director, on such other occasions that he/she deems it in the best interest of the County. The medical examination shall be given by a medical doctor designated by the Human Resources Director or his designee.
- 4 Investigation of sickness. A department head or designee may investigate the alleged illness of an employee absent on sick leave.
- 5 False or fraudulent use of sick leave. False or fraudulent use of sick leave shall be

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cause for disciplinary action against the offending employee. Such disciplinary action may include dismissal.

- 6 An employee on annual leave who presents a medical certificate giving the dates of illness may have that portion of his/her annual leave converted to sick leave.
- 7 Conversion of sick leave. Conversion of sick leave to annual leave shall not be permitted.
- 8 State worker's compensation insurance. An employee, who is eligible to receive state worker's compensation payments beyond the year of injury leave, may elect to use accumulated sick leave and/or annual leave. The use of such leave will be coordinated with worker's compensation payments so that the total amount received from both sources does not exceed the employee's full wage or salary until such sick and/or annual leave is depleted or until the employee returns to work.

Leave hours used will be calculated only on that portion of total compensation over the workers' compensation payment. While using sick and/or annual leave the employee will continue accruing sick and annual leave.

10.22 Family and Medical Leave

Eligible employees, as defined by the implementing regulations of the Family and Medical Leave Act, may take job-protected, unpaid leave, or substitute appropriate paid leave, for up to a total of 12 workweeks in any 12 months for the birth of a child, for the placement of child for adoption or foster care, because the employee is needed to care for a family member (child, spouse, parent or parent-in-law) with a serious health condition, because the employee's own serious health condition makes the employee unable to perform the functions of his or her job, or because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, parent or parent-in-law is a covered military member on covered active duty. In addition, eligible employees may take job-protected, unpaid leave or substitute appropriate paid leave for up to a total of 26 workweeks in a single 12-month period to care for a covered service member with a covered serious injury or illness. The terms "covered military member," "covered active duty," and "covered serious injury or illness" shall be defined as set forth in the Family and Medical Leave Act as amended.

Family and medical leave consists of any combination of sick leave, annual leave, compensatory leave, and leave without pay. Sick leave used for the purpose of family or medical leave must conform to the requirements in Section 10.13. If parental leave (Section 10.22) is taken for the birth, adoption, or foster care placement of a child, the leave must be applied towards the employee's Family and Medical Leave entitlement if applicable.

- 1 Family and medical leave shall be granted to any merit employee for a period of up to

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twelve work weeks over a twelve-month period. The twelve-month period during which family leave may be taken for the birth of or placement of a child shall expire at the end of the twelve-month period beginning on the date of birth or placement. Service member caregiver leave is granted for up to 26 workweeks during a single 12-month period on a per-covered service member and per-injury/illness basis. Work week is defined as the hours an employee is regularly scheduled to work in a seven (7) consecutive day period.

- 2 The twelve-month period for family and medical leave usage shall commence with the first use of family or medical leave. The single twelve-month period for service member caregiver leave shall commence with the first day the eligible employee takes service member caregiver leave and ends 12 months after that date regardless of the 12 month period established for prior FMLA qualifying events.
- 3 Requests for leave beyond 12/26 work weeks are subject to regular leave policies with approval determined by the department head or designee.
- 4 Requests for family and medical leave must be made in writing and submitted 30 calendar days in advance whenever the necessity for such leave is foreseeable.
- 5 The mother may take six (6) weeks of sick leave immediately following the birth of her child. Use of additional sick leave requires medical certification. The father may take four (4) weeks of sick immediately following the birth of his child. Use of additional sick leave requires medical certification.
- 6 Mothers and/or fathers may take four (4) weeks of sick leave immediately following placement of a child for adoption or foster care. Use of additional sick leave requires medical certification.
- 7 Family leave to include exigency leave may be taken on an intermittent or reduced schedule basis with the approval of the department head or designee. Medical leave may be taken on an intermittent or reduced schedule basis if certified as necessary by the health provider.
- 8 At the request of the department head or designee, the employee shall provide certification from a health care provider in connection with a request for medical leave. Additionally, an employee may be required to provide medical documentation concerning the continuing necessity for medical leave and in connection with any issue concerning his/her ability to return to work at the expiration of medical leave.
- 9 At the request of the department head or designee, the employee shall provide certification of a qualifying exigency in connection with a request for exigency leave.

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- 10 At the discretion of the department head or designee, an employee requesting family leave for the birth or adoption of a child may be required to use accrued annual or sick leave prior to use of leave without pay. Employees requesting family or medical leave for all other reasons may be required to use accrued sick, and/or annual leave prior to use of leave without pay.
- 11 During the leave period, the County will provide coverage under the health insurance plan which the employee had selected prior to going on leave at the level and under the conditions coverage would have been provided if the employee had not gone on leave.
- 12 If the employee fails to return to work for a reason other than the continuation, recurrence, or onset of a serious health condition for him or herself, children, spouse, parents, parents-in-law, or injured family service member or other circumstances beyond the control of the employee, the County may recover the employer's contribution to the health insurance premium paid during any period of unpaid leave.
- 13 No employee shall be prevented from returning to work prior to the expiration of the 12/26 week period.
- 14 Employees shall return to the position vacated or, with the approval of the Human Resources Director, to another position in the same class.
- 15 Employees who do not plan to return to work should notify their department no later than at the expiration of the leave. Failure to return to work without giving notice at the expiration of the leave without good cause may result in an unsatisfactory service separation.
- 16 This regulation shall be construed as to ensure compliance with the minimum requirements of the Family and Medical Leave Act of 1993.

10.23 Parental Leave

Paid leave granted for the birth, adoption, or foster care placement of a child. Merit employees are provided 80 hours per qualifying event (120 hours for full time 24-hour shift fire protection employees). Merit employees scheduled to work less than 80 hours per pay period shall have parental leave pro-rated on the basis of scheduled hours. The parental leave must be applied towards the employee's Family and Medical Leave entitlement if applicable. If an employee has already exhausted that entitlement for the qualifying period, the mother or father is still eligible to take the 80 hours of parental leave (120 hours for full time 24-hour shift fire protection employees).

Mothers and/or fathers are entitled to take up to 80 hours of paid parental leave (120 hours for full time 24-hour shift fire protection employees) up to 12 months immediately

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following the birth, adoption, or foster care placement of a child. Such time will run concurrently with Family Medical Leave (FML) to the extent that FML is available to the employee. In some instances when deemed medically necessary, parental leave may be taken prior to the birth. If an employee has already exhausted FML for the qualifying period, the mother or father is still eligible to take the 80 hours of parental leave.

10.24 Leave for Injury in Line of Duty

- 1 A merit employee who is injured while performing the duties of his/her position, without fault or negligence on his/her part, and who is accepted as compensable under the Virginia Worker's Compensation Act, shall be granted injury leave with pay, as approved by the County Executive or his/her designee. Such eligibility for injury leave with pay begins on the first day of injury and shall expire not later than twelve calendar months from the original injury date. Reinjuries do not extend the period of eligibility for injury leave. Such leave requires a medical certificate from an approved licensed physician authorized by the County to treat worker's compensation claims. This certificate must set forth the nature and extent of the injury and the probable period of disability.
- 2 Extensions of injury leave beyond twelve calendar months may be granted by the department head or designee. In no case shall the employee be granted injury leave in excess of 2080 (2912 for 24-hour shift fire protection employees) total hours. In evaluating such requests, the following elements shall be considered:
 - a. The circumstances in which the injury occurred to include consideration of the nature and extent of the injury;
 - b. The nature and extent of treatment providing that the employee has continued under the regular care of the authorized physician requiring an office visit at minimum intervals of at least once every three months; and providing that the medical records clearly substantiate a relationship between the current prescribed treatment and the original injury;
 - c. The likelihood of the employee's return to duty;
 - d. The employee's past injury, leave and service record;
 - e. The employee's compliance with injury leave policies and requirements.
- 3 When possible, employees who have been injured but are not totally disabled, will be placed in temporary assignments without loss of pay with duties that fall within the medical restrictions prescribed by the treating physician.
- 4 When injury leave is used other leave benefits shall not accrue.

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- 5 An employee on injury leave is expected to follow medical procedures and complete necessary forms/reports so as to insure that worker's compensation payment will be credited to the appropriate account.
- 6 An employee on injury leave is specifically prohibited from engaging in activities that may impair his/her recovery. This includes:
 - a. Engaging in strenuous recreational or other physical activities without the approval of the authorized physician.
 - b. Being employed or self-employed to perform work of any kind without the prior written approval of the authorized physician and the Human Resources Director.
- 7 An employee on injury leave is not required to remain at home, but is required to be available for contact by his/her supervisor and to notify the supervisor of any change of residence during authorized absence.
- 8 Failure of an employee on injury leave to follow prescribed procedures or to accept appropriate medical treatment, vocational rehabilitation, or medically appropriate temporary assignments, may result in disallowal of full salary continuation and reversion to straight worker's compensation wages, if eligible, for the time period of noncompliance, with the employee being liable for repayment of the monetary differential.

10.25 Bereavement Leave

Bereavement leave may be used to cover an absence resulting from the death of an employee's extended family or household member, as defined in Chapter 2. Department heads or designees shall grant bereavement leave with pay to merit employees in accordance with the following provisions:

- 1 Full time merit employees shall be eligible to use up to 16 hours of bereavement leave per calendar year (24 hours for full time 24-hour shift fire protection employees). Merit employees scheduled to work less than 80 hours per pay period shall be eligible for bereavement leave on a pro-rated basis.
- 2 Bereavement leave may not be carried over from one calendar year to the next.
- 3 The amount of bereavement leave to be debited shall be computed on the basis of the exact number of hours an employee is scheduled to work in the period when the leave is taken.
- 4 Bereavement leave shall be debited in no less than one-tenth hour units.

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- 5 Sick leave may be granted for absences extending beyond bereavement leave eligibility in accordance with the sick leave provisions herein.

10.26 Compensatory Leave

- 1 Compensatory leave shall be credited to an employee as provided for in the rules governing overtime. Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting compensatory leave.
- 2 Compensatory time for overtime worked shall be granted at the discretion of the employee at a time convenient to and approved by the department head or designee.
- 3 Overdrawn compensatory leave shall be debited in the following order: annual leave, leave without pay.

10.27 Effect of Transfers on Compensatory Leave

An employee who transfers from one department to another shall have his/her compensatory leave transferred to the new department.

10.28 Effect of Separation on Compensatory Leave

An employee who is separated from service may only be paid for any accrued overtime for which he/she has not been granted compensatory leave in accordance with the provisions of section 4.15-4.

10.29 Military Leave

- 1 A merit employee who is a member of the National Guard or an organized military reserve of the United States, or is a former member of the Armed Services and has been reactivated by a competent authority shall be allowed military leave under the following circumstances:
 - a. Leaves of absence with pay not to exceed fifteen workdays during any one federal fiscal year (October 1 - September 30) to attend federally funded military duty, including duty for training. For the purposes of this section, one 24-hour shift workday shall equate to two military leave workdays. The employee shall report to work in accordance with the following schedule:
 - 1. If the period of service is less than 31 days, the employee must report back to work not later than the beginning of the next regularly scheduled workday after the military duty, including travel time and an 8-hour rest period, is completed.

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2. If the period of service is more than 30 days but less than 181 days, the employee must report back to work not later than 14 calendar days after completing service.
 3. If the period of service is more than 180 days, the employee must report back to work not later than 90 days after completing service.
 4. If the employee is hospitalized or convalescing from an injury or illness incurred during the period of service, then the time for the employee to report back to work will be extended.
- b. Leaves of absence without pay for training not covered above. The employee shall report to work the next regularly scheduled workday after the training period, including travel time and an 8-hour rest period, is completed.
- 2 A merit employee who is a member of the Virginia National Guard and who is called to emergency duty by the Governor to combat floods, riots, winter storms, hurricanes, or other disasters shall be allowed military leave with pay for each day of such service. A merit employee who is a member of any National Guard organization other than the State of Virginia and who is called to emergency duty by the competent authority of that state may elect to be placed on military leave without pay for each day of such service.
- 3 The employee shall notify his/her supervisor as far in advance as possible when taking military leave. The employee's notice may be either verbal or written. A copy of military orders may be requested, but cannot be required. Failure to notify the County in advance shall not deprive the employee of rights and benefits.
- 4 An employee who leaves the County service in order to join the military forces of the United States or who is inducted into such service has resigned and is not considered to be on military leave. (Section 9.2-5).
- 5 In the event of any conflict between County regulations and federal or state law, the latter shall take precedence.

10.30 Civil Leave

A merit employee shall be given time off without loss of pay when performing jury duty, when subpoenaed or requested to appear before a court, public body or commission except when the employee is a party to the suit, when performing emergency civilian duty in connection with national defense, or for the purpose of voting. Leave for the purpose of voting shall only be granted when the employee's work schedule prohibits voting before or after duty hours or through absentee balloting.

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10.31 Volunteer Activity Leave

Volunteer activity leave may be used to participate in volunteer activities and initiatives to support the neighborhoods in which employees live and work to include educational and charitable institutions, religious/faith-based, and community service entities. Department heads or designees shall grant volunteer activity leave with pay to merit employees in accordance with the following provisions:

- 1 Full time merit employees shall be eligible to use up to 16 hours of volunteer activity leave per calendar year (24 hours for full time 24-hour shift fire protection employees). Merit employees scheduled to work less than 80 hours per pay period shall be eligible for voluntary activity leave on a pro-rated basis.
- 2 Voluntary activity leave may not be carried over from one calendar year to the next.
- 3 The amount of voluntary activity leave to be debited shall be computed on the basis of the exact number of hours an employee is scheduled to work in the period when the leave is taken.
- 4 Voluntary activity leave shall be debited in no less than one-tenth hour units.

10.32 Leave Without Pay

A department head or designee may grant a merit employee a leave without pay for a period not to exceed one year, subject to the following conditions:

- 1 Leave without pay shall be granted only when it is in the interests of the County to do so. The interests of the employee shall be considered when he/she has shown by his/her record to be of more than average value to the County and when it is desirable to return the employee even at some sacrifice.
- 2 At the expiration of a leave without pay, the employee shall be reinstated in the position he/she vacated or in any other vacant position in the same class.
- 3 The employee does not earn leave while on leave without pay.
- 4 Failure on the part of the employee to report promptly at the expiration of a leave without pay may be cause for dismissal.

10.33 Education Leave

A merit employee engaged in professional or technical work may be granted a leave of absence with full or partial pay for enrollment in a special institute or course of study of direct benefit to the County service, at the discretion of the department head or designee.

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Such leave may be granted on the assumption that the employee will remain with the County service for a reasonable period to be recommended by the department head or designee, upon completion of the institute or course of study.

10.34 Holiday Leave

-1 The following holidays are observed by the County and shall be granted to merit employees with pay, unless such employees are required to be on scheduled duty.

- a. New Year's Day (January 1);
- b. Martin Luther King, Jr.'s Birthday (Third Monday in January);
- c. Washington's Birthday (Third Monday in February);
- d. Memorial Day (Last Monday in May);
- e. Independence Day (July 4);
- f. Labor Day (First Monday in September);
- g. Columbus Day (Second Monday in October);
- h. Veteran's Day;
- j. Thanksgiving Day (Fourth Thursday in November);
- k. Fall Holiday (Friday after Thanksgiving);
- l. Christmas Eve (One-half day on December 24);
- m. Christmas Day (December 25);
- n. Inauguration Day (January 20, every fourth year) when it falls on a business day, Monday through Friday.

-2 The County Executive may also set aside other days as holidays.

10.35 Granting Holiday Leave

The granting of holidays observed by the County shall be subject to the following provisions:

-1 Holidays on a weekend.

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When a holiday falls on Saturday, it shall be observed on the preceding Friday. When a holiday falls on Sunday, the following Monday shall be observed as the holiday.

-2 Holiday on scheduled workday

a. Holiday on scheduled workday; employee works.

Employees who are required to work on a holiday (actual or County observed) shall be compensated for the time worked in accordance with the rules governing hours and overtime. Holiday compensation will be provided on an hour for hour basis for an employee's regular scheduled hours not to include overtime hours. If an employee who would not normally work the holiday, is scheduled to work to meet staffing or other operational needs, the employee is entitled to receive holiday compensation for hours worked not to exceed the number of his/her regularly scheduled hours.

b. Holiday on scheduled workday; employee does not work. Employees who are required to work on a holiday (actual or County observed) but do not work, shall be compensated as follows. Holiday compensation will be provided on an hour for hour basis up to the number of regularly scheduled hours for that day.

-3 Holiday on scheduled day off. Within the policy established in the section on holiday leave, whenever one of the designated holidays falls on an employee's scheduled day off, the employee shall be granted either holiday pay or holiday compensatory time in accordance with the rules governing hours and overtime. To receive holiday compensation on an actual holiday, an employee must be directed by his/her supervisor to work due to staff shortage or other operational necessity.

-4 Holidays for merit part-time employees. Part-time merit employees shall be granted holiday time off with pay on a pro-rated basis regardless of the number of hours scheduled on the day a holiday falls computed at the rate of one-tenth of an hour times the employees bi-weekly scheduled hours.

-5 Holidays during paid leave. A holiday falling within a period of paid leave shall not be counted as a workday in computing the amount of leave debited.

-6 Holiday during unpaid leave. When a holiday falls within a period of leave without pay, the employee shall be granted either holiday pay or holiday compensatory time in accordance with the rules governing hours and overtime.

-7 Appointment on a holiday. The appointment of a merit employee shall not be effected on a holiday except when the employee works that day.

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10.36 Administrative Leave

- 1 Administrative leave shall be any paid leave authorized by the County Executive, which is not otherwise classified by these Regulations.

- 2 Administrative leave will normally¹ be granted to any full-time or part-time employee by an appointing authority or the County Executive for any of the following reasons:
 - a. Where an employee is required to appear before a public body, public agency, board or commission during normal working hours on matters relating to County business.
 - b. For the attendance in an official capacity during normal working hours as a representative of the County at meetings, symposiums, conferences, conventions or hearings.
 - c. During the investigation of an alleged improper act by an employee which may result in formal disciplinary actions and/or when the retention of the employee on an active duty status may be detrimental to the interests of the County or injurious to the employee, his/her fellow workers or the general public. Administrative Leave for this purpose will not exceed ten business days without prior approval of the County Executive. A memorandum to the Human Resources Director will be submitted by the department head or designee giving details of the Administrative Leave for all situations covered by this paragraph. In lieu of the use of Administrative Leave for situations of this type, a department head or designee may temporarily assign the employee to other duties.
 - d. For participation in the blood donor program for which purpose up to four hours may be granted, at the discretion of department head or designee, for each recuperative purpose.
 - e. For the purpose of undergoing a medical examination as may be required by the employee's department head or designee.
 - f. To recognize long term service to general county employees who earn length of service awards of 20, 25, 30, 35, 40 and 45 years or more shall be eligible for one day of administrative leave (12 hours for 24 hour shift firefighters) in the year after they have qualified for the length of service award.
 - g. To recognize outstanding performance such as Outstanding Performance Awards or Team Excellence Awards. The number of hours received for Outstanding Performance Awards or Team Excellence Awards shall be equal to two days of

¹ Exceptions to be justified and made a matter of record.

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administrative leave (24 hours for 24 hour shift firefighters).

h. For officers of the Employees Advisory Council and employee organizations, which participate in payroll dues deduction to attend conventions and training related to employee relations. Administrative Leave for this purpose shall not exceed 30 workdays (240-hours) per year per employee organization. In the accrual of hours toward the 240-hour limit, one 24-hour shift shall equate to 16 hours of administrative leave. Employees must submit such leave requests as far in advance as possible and provide written verification upon return to duty of attendance at the convention or employee relations training. Respective employee group leaders are accountable for monitoring and ensuring compliance with this policy.

h.i. When a non-Office of Elections employee volunteers to work for Fairfax County's Office of Elections on an election day or completes training for election volunteer workers.

-3 In addition to the provisions of paragraph -2 above, Administrative Leave may be granted to any full-time or part-time employee by the County Executive or his/her designee for any of the following reasons:

- a. Breakdown of essential facility services such as heating, air conditioning, or water or other problems wherein facilities must be closed and employees released early from work or not required to report to work.
- b. Breakdowns of equipment making it impossible to accomplish assigned tasks.

10.37 Leave for Inclement Weather or Other Emergency

-1 When extreme inclement weather or other emergencies occur, the County Executive or his/her designee shall have the option to declare one of the following types of leave:

- a. Unscheduled Leave - may be declared by the County Executive or his/her designee when it is deemed advisable to provide employees flexibility regarding reporting to work due to inclement weather or other emergency. Unscheduled leave authorizes all employees, except those designated as emergency service personnel, to use their own leave to remain home from work or to leave work early without obtaining prior approval from their supervisor. Employees, however, must notify their supervisors if they opt to stay home on unscheduled leave. Employees may only use annual leave, compensatory leave, or leave without pay for this purpose. Such leave is authorized only for the period of time designated by the County Executive or his/her designee.
- b. Emergency Administrative Leave - may be declared by the County Executive or his/her designee when it is determined necessary to close the general County government due to

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extreme inclement weather or other emergency. Emergency administrative leave authorizes all merit County employees, except those designated as emergency service personnel, to remain home from work or to leave work early without prior approval of the supervisor and without the use of personal leave or leave without pay. Such leave shall be limited to the time periods designated by the County Executive or his/her designee. Employees required to work during a period of such emergency administrative leave shall receive extra compensation in accordance with provisions contained in Chapter 4.

- 2 When leave for inclement weather or other emergency is declared, emergency service personnel must report to work. Emergency service personnel are those employees, designated by the department head or designee, who due to the nature of the emergency, which has occurred, must report to work to ensure that public health and safety needs or critical departmental requirements are met.

Formally designated emergency service personnel must report as directed. Employees who are unable to report must comply with written department-level policies governing such absences. Failure to report or comply with departmental exception policies will be considered an unauthorized absence, as outlined in section 10.5 of this regulation.

CHAPTER 12

Performance Management

12.1 *Introduction*

Performance management is a continuing process for establishing a shared understanding between the supervisor and the employee about what is expected on the job and how it is to be achieved. Performance management promotes improved job performance, encourages skill development, and fosters performance at the highest level while increasing the probability of success for the employee and the workgroup through enhanced communication. The process has defined roles for both the employee and the supervisor.

-1 In performance management, the supervisor:

- a. Sets performance expectations for all positions under his/her control through accurate job descriptions.
- b. Discusses the employee's position description, his/her evaluation and performance expectations.
- c. Coaches each employee on their performance at regular intervals throughout the rating period, helps set goals for performance improvement, and supports professional development.
- d. Evaluates each employee's performance in writing at least annually.
- e. Assists in identifying training and developmental solutions to support maximum performance in the current position, and, career development opportunities to support future career advancement.

-2 To actively participate in the performance management process, the employee:

- a. Ensures an understanding of expectations and responsibilities by reviewing the position description and evaluation.
- b. Solicits performance feedback, periodically, throughout the year, including discussions of any obstacles or challenges that might hinder performance.
- c. Completes the self-assessment evaluation.

- d. Participates in the review discussion with his/her supervisor.
- e. Is accountable for his/her own improvement and development.

12.2 Authority and Responsibility

-1 Responsibility

- a. Department heads have authority for implementing and administering performance management and career development within their agencies to the same extent that they are responsible for other aspects of agency management.
- b. The immediate supervisor has responsibility for day-to-day performance management including coaching and formal evaluation of the employee. In unusual circumstances, department heads or designee may designate a higher-level supervisor to perform the function of the immediate supervisor when warranted.

- 2 Training

- a. Employees:
 - 1) Shall attend mandatory training, to include performance management training, and
 - 2) Shall certify that they understand their role and responsibilities in the performance management process.
- b. Supervisors and Reviewers:
 - 1) Shall attend mandatory training in performance management, offered periodically by the Department of Human Resources, as soon as possible after appointment to a supervisory role.
 - 2) Shall certify that they understand their role in performance management, including the process, proper form use, coaching, expectation setting, and career management support as soon as possible after appointment to a supervisory role.
 - 3) Shall ensure his or her subordinate staff attends mandatory training, including performance management training.

- c. Department heads shall ensure that all supervisors understand Fairfax County's performance and career management philosophies and procedures.

12.3 *Performance Management Cycle*

Performance management is a year-round collaborative process between the employee and his/her immediate supervisor. The process involves planning, coaching, developing, and reviewing job performance throughout the year. Performance management takes into consideration "what" the employee accomplishes during the performance cycle and "how" the employee accomplishes the work. The ongoing, two-way communication between an employee and his/her supervisor assists the employee in maximizing his/her job performance and career potential.

-1 Planning

- a. During the planning phase, both the employee and supervisor discuss job requirements and performance to ensure a common understanding of the evaluation criteria.
- b. During the planning phase, employees work with their supervisors to define, clarify and understand their performance expectations using the class specifications and position descriptions for guidance.
 - 1) Class specifications provide an overview of the typical duties associated with a job classification, as well as, outline the minimum qualifications and necessary knowledge, skills and abilities for each job class.
 - 2) Positions descriptions list requirements and job duties that are unique to each established position. Each department head or designee must maintain current position descriptions and performance requirements for all positions under his/her control.
- c. A Career Management Plan (CMP) is also initiated as part of the annual evaluation period planning process. The CMP documents development initiatives for the upcoming evaluation period designed to support employee growth and learning in the current position and/or prepare the employee for career advancement within the County.
 - 1) CMP completion is mandatory unless the supervisor and employee mutually agree it is not necessary for the given review period.

- 2) CMPs are also completed for initial and promotional probationary employees soon after appointment, in order to promote necessary development and successful onboarding.

-2 Coaching

- a. The coaching phase is a continuous cycle of observation, feedback, and redirection to ensure that the employee is on track to achieve the defined performance expectations. Coaching supports the employee in his or her efforts to perform at the optimal level.
- b. At any time during the review period, if the supervisor assesses the employee's overall performance as unsatisfactory or any component of performance as needing improvement; a coaching performance improvement plan (Coaching PIP) should be initiated. A Coaching PIP is a document which identifies employee performance and/or behavioral issues requiring improvement and the specific changes required for the employee to demonstrate passing performance in these areas on the next performance evaluation.
- c. Coaching PIPs are documents designed to support and coach the employee and are not disciplinary documents. Supervisors are responsible for issuing Coaching PIPs in a timely manner. Ideally the Coaching PIP will be completed early enough in the review cycle to enable the employee time to improve performance to an overall satisfactory level in each evaluation category. The length of the Coaching PIP period and when it is issued will vary based on the individual circumstances, not to exceed 120 days.

During the coaching performance improvement period, the employee and supervisor shall meet regularly to discuss performance progress; the employee shall be given biweekly written progress reports. The Coaching PIP is retained by the agency.

-3 Reviewing

During the reviewing phase, the supervisor and the employee discuss the employee's job performance throughout the rating period concluding with the formal written performance evaluation to be retained in the employee's personnel file. A critical component of the performance management process is ensuring that evaluations are conducted as required.

- a. Timing of Formal Performance Evaluations

- 1) The Human Resources Director shall establish guidelines on how agencies will be informed that employee performance reviews are due. The Human Resources Director shall also establish guidelines to ensure that performance reviews are completed timely in accordance with these regulations. These guidelines shall be distributed to all department heads so they can inform the managers and supervisors within their respective departments.
- 2) Formal written performance evaluations must be conducted as follows:
 - a) Probationary

The initial probationary period is the working test or trial period of employment as set forth in section 7.5 of these regulations. If performance circumstances so warrant, a department head may terminate a probationary employee whose performance is unsatisfactory at any point during the initial probationary period.

i. Non-Public Safety

Newly appointed county employees, other than police officers, deputy sheriffs, animal control officers, public safety communicators and firefighters, shall receive a written evaluation before the end of the first sixth months in the position and again during the annual performance review period.

The six-month performance review should assess the employee's performance and formally advise the employee if improvement is needed in order to complete the probationary period successfully. The designated performance evaluation form is used for this 6 month evaluation.

Successful completion of the 12-month probationary period must be documented using the designated performance evaluation form. After completion of the initial probationary period, employees will continue to be evaluated at the conclusion of each annual performance review period.

ii. Public Safety

At the discretion of the Chief of Police, the Sheriff and the Chief of Fire and Rescue, the performance of newly appointed police officers, animal control officers, deputy sheriffs and firefighters may be reviewed formally in writing upon

graduation from the Criminal Justice Academy or Fire and Rescue Academy, at which point their probationary periods begin. They also shall be reviewed during their probationary periods as specified above for other newly appointed employees. Because the Performance Pay Increase (PPI) date is determined by the date of appointment to the respective training academy, the first PPI date will occur before the probationary period ends. These employees therefore will be reviewed not less than two weeks before the PPI date and need not be reevaluated at the end of the probationary period unless a negative determination rating was given at the PPI date or is to be made at the end of the probationary period.

iii DPSC

At the discretion of the Director, Department of Public Safety Communications, the performance of newly appointed public safety communicators may be reviewed formally in writing upon graduation from the Department of Public Safety Communications Academy and completion of a 10 week on the job training program at which point their probationary periods begin. They also shall be reviewed during their probationary periods as specified above for other newly appointed employees. Because the PPI date is determined by the date of appointment to the academy, the first PPI date will occur before probation is ended. Therefore, these employees will be reviewed not later than two weeks before the PPI date. They do not need to be reevaluated at the end of the probationary period unless a negative determination rating was given at the PPI date or is to be made at the end of the probationary period.

b) Non-Probationary

All non-probationary, non-uniform public safety employees shall be evaluated in writing, at least annually, during the performance review period. Annual evaluation is required whether or not the employee is otherwise eligible for a performance pay increase.

c) Newly Promoted

Non-uniformed public safety employees who are promoted shall serve a 12-month promotional probationary period. Such employees shall be reviewed before the end of the sixth month following the date of the promotion and will be reviewed again

during the annual performance review period. Additionally, successful completion of the 12-month probationary period must be documented on a form prescribed by the Director, Department of Human Resources, and maintained in the employee's personnel file.

d) Evaluations required due to transfer of employee or supervisor changes (change of rater):

i) Non-Public Safety

Except as otherwise noted in this chapter, if an employee's supervisor changes during the review period, the employee shall be reviewed by the incumbent supervisor prior to the supervisor's departure if he or she has supervised the employee for four months or more. When the new supervisor submits the next review, the time period covered will begin upon the transfer of supervisory responsibility.

In instances where a non-public safety employee is rated by more than one supervisor during the rating period, if the current supervisor has supervised the employee for eight months or more, the current supervisor's rating will be used as the final rating. If the current supervisor has supervised the employee for less than eight months, the final rating shall be calculated by weighting the ratings of all supervisors (who have supervised the employee for four months or more) during the rating period based on the number of months covered by their individual reviews.

ii) Public Safety

Because internal transfers often occur in the lower ranks, the public safety department heads or designees may establish procedures to determine how evaluations will be performed. These procedures will affect police first lieutenants, sheriff sergeants, fire captains and uniformed personnel of lesser ranks having two or more supervisors in a twelve-month period. They will be rated jointly by all supervisors who had the individual under their command for two months or longer.

In the case of Police, Sheriff or Fire and Rescue personnel in higher ranks, where an employee is rated by more than one supervisor during the rating period, the final rating by the

current supervisor shall be used for purposes of determining pay increase eligibility. When the current supervisor has supervised for less than three months, the evaluation shall be made after consideration of ratings conducting by previous supervisors.

12.4 Evaluation Completion Process

Standardized forms for formal performance evaluations are provided for both public safety and non-public safety employees.

-1 Preparation

a. Non-Public Safety

1) Self-Assessment/Employee

Employees shall be encouraged to complete a self-assessment performance evaluation, including the development plan for his or her current position. Unless the multi rater option is being used, this self-assessment is used for discussion purposes only and does not count as part of the final rating.

2) Draft Evaluation by Supervisor

The supervisor prepares the draft evaluation and consults with the reviewing authority as needed. The draft evaluation must identify any mandatory development areas.

b. Public Safety

Each public safety agency will conduct evaluations in accordance with the department's operating procedures. Although not required, employees may be invited to submit a self-evaluation for their job class or function as part of the annual evaluation process.

-2 Discussion

a. Non-Public Safety

During the initial discussion, the employee and supervisor meet to discuss the employee's self-assessment as well as the supervisor's preliminary assessment of the employee's performance for the review period. This provides an opportunity for the supervisor and employee to clarify their

mutual understanding of job tasks and performance requirements. It also enables them to jointly set performance goals for the coming evaluation period.

Employee strengths as well as areas needing improvement should be discussed. Ideas from the employee about how the supervisor can better support the employee in achieving his/her performance expectations and career objectives can also be discussed at this time. The employee and supervisor should jointly determine the development plan for the upcoming year.

b. Public Safety

Public safety employees and supervisors should meet to discuss performance requirements and accomplishments during the rating period. Employees may be invited to submit a self-evaluation as part of that process.

-3 Completion of Performance Evaluation Form

Supervisor finalizes the evaluation form based on input from the employee's self-assessment and/or the discussion with the employee.

-4 Review of Completed Performance Evaluation Forms

a. Reviewer's Role

Each completed performance evaluation form shall be reviewed by a higher level supervisor designated by the department head or designee. Usually, the immediate supervisor of the evaluator serves as the reviewing authority. In all cases, the reviewing authority shall be at least one level above the supervisor who prepared and signed the evaluation. In no case shall the evaluator and reviewing authority be the same person.

b. Reviewer's Revision Rights

If the reviewing authority does not agree with the supervisor's rating, where possible, differences will be resolved between the reviewing authority and supervisor prior to issuing the final evaluation to the employee. Additionally, the reviewing authority may choose to revise the original rating(s) on the evaluation which would supersede the supervisor's ratings. Changes must not obscure the original supervisor's rating and must be initialed by the reviewer. In addition, the reviewer should provide an explanation for the changes.

-5 Final Evaluation Discussion

The final evaluation (including the career management plan) is then presented to the employee for signature and additional discussion. This discussion is an important part of the performance management process and should be used to provide any additional clarity needed to support the employee in the next review period.

At the end of the discussion, the employee is asked to sign the evaluation. The employee's signature attests only to the fact that the employee has seen and discussed the evaluation. It does not affect the employee's right to appeal if he or she disagrees with the evaluation. If the reviewer has made changes, the employee shall be afforded the opportunity to discuss the changes with the reviewer.

12.5 Advance Notice of Possible Negative Determination (10-Week Advance Notice)

-1 Negative Determination Definition

The term "negative determination" refers to a decision by a supervisor, with the concurrence of the reviewing authority, that an employee's performance is unsatisfactory and she or he is not eligible for an performance pay increase; or a public safety employee who is ineligible for a PPI due his/her step in grade, whose performance is rated below the level that would otherwise be necessary to qualify him/her for a PPI.

- 2 Ten Week Advance Notice and Performance Improvement Plan

Ten Week PIPs are documents designed to support and coach the employee. It is not a disciplinary document. When a supervisor determines that an employee might receive a negative determination, the supervisor shall consult with the reviewing authority. If the reviewing authority concurs, the supervisor shall notify the employee in writing at least 10 weeks in advance of the PPI date. The advance notice shall include a performance improvement plan that identifies the performance deficiencies and related improvements in performance or changes in behavior required to obtain a satisfactory performance rating. A copy of the 10-week advance notice shall be forwarded to with the attached performance improvement plan should be forwarded to Employee Relations staff in the Department of Human Resources; the 10-week PIP is retained by the agency.

During the 10-week performance improvement period, the employee and supervisor shall meet regularly to discuss performance progress; the employee shall be given biweekly written progress reports.

If the behaviors/events causing the negative determination occurred less than ten weeks before the due date or in those cases where timely advance notice is not given, the supervisor should follow the procedures in Section 12.5-3.

- 3 Untimely Advance Notice And 10-week Performance Improvement Plan

In the event that a supervisor does not give the employee written notice of a possible negative determination at least ten weeks before the annual evaluation due date, the following procedures shall be followed:

- a. The written ten-week notice should be given as soon as possible stating the performance deficiencies and improvements required.
- b. The department head or designee shall advise the Human Resources Director, in writing, as to why the prescribed notice was not given to the employee ten weeks prior to due date, and, if appropriate, what measures have been taken to prevent recurrence.
- c. A copy of the 10-week advance notice with the attached performance improvement plan ~~should~~ shall be forwarded to Employee Relations staff in the Department of Human Resources.
- d. After completion of the ten-week period, an evaluation must be given as specified in 12.3-3.

12.6 Annual Evaluation Following 10-Week Advance Notice

The employee's evaluation should be given ten weeks after the written notice of a possible negative determination.

-1 Satisfactory Determination

- a. If, in the supervisor's, reviewing and/or appointing authority's opinion, the employee's performance has improved sufficiently, a satisfactory determination is made and the evaluation is entered into the human resources information system. The evaluation shall be forwarded to the Department of Human Resources.
- b. If the 10-week notice was given timely, the Performance Pay Increase (PPI) will be processed as scheduled, if applicable.

-2 Negative Determination

If, in the supervisor's, reviewing and/or appointing authority's opinion, the employee's performance has *not* improved sufficiently to warrant a satisfactory determination at the end of the ten-week notice period, a negative determination is made and the evaluation is entered into the human resources information system. The evaluation shall be forwarded to the Department of Human Resources.

- a. The PPI is not processed and a follow-up 120-day evaluation date is generated.
- b. A 120-day performance improvement plan is given to a non-probationary employee who receives a negative determination on the annual evaluation.
 - 1) 120-day PIPs are documents designed to support and coach the employee and are not disciplinary documents.
 - 2) This plan shall be in writing and shall identify the performance deficiencies and related improvements in performance or changes in behavior required to obtain a performance rating that would qualify the employee for a salary increase (if employee is otherwise eligible).
 - 3) The 120-day Performance Improvement Plan shall be issued concurrent with the evaluation. A copy shall be retained by the agency and a copy submitted to Employee Relations staff in the Department of Human Resources.
 - 3) During this 120-calendar day performance improvement period, the employee and supervisor shall meet regularly to discuss performance progress; the employee shall be given biweekly written progress reports.

12.7 Follow-up to 120-Day Evaluation

At the end of the 120-calendar day performance improvement period, an additional evaluation must be conducted.

- 1 Satisfactory Evaluation

The employee will receive the appropriate pay increase effective the first full pay period after the date of the 120 calendar day review if the advance notice was given timely. The PPI will be awarded retroactively to the PPI due date if the advance notice was not given in a timely manner.

- 2 Negative Determination

The employee will receive no pay increase and will not be eligible for further consideration for a pay increase until his or her next annual performance pay increase date. Additionally, the supervisor, working with the department head or designee, will determine what additional employment action, if any, is appropriate.

12.8 *Disciplinary Actions Issued To Employees On Performance Improvement Plans*

The county is committed to working productively with employees to improve performance and/or behavioral problems. All PIPs are intended to facilitate such improvement.

However, participation in a PIP does not preclude employees from receiving disciplinary actions, up to and including proposed dismissal from county employment. Such disciplinary actions shall be issued in accordance with Chapter 16 of these regulations.

Written reprimands, involuntary demotions, suspensions and separation from county employment, issued concurrently with a PIP, while the employee is subject to the conditions of a PIP, or closely following the completion of a PIP require the advance approval of the Human Resources Director.

12.9 *Signature Requirements*

Both the supervisor and the reviewer must sign the evaluation prior to the presentation of the final review to the employee for signature. Prior to entering the evaluation in the human resources information system, the employee must have been presented the evaluation with the opportunity to sign it, except when the employee is unavailable due to extended absence. If the employee elects *not* to sign the evaluation, the supervisor should note the date the employee was given the evaluation and that the employee opted not to sign.

12.10 *Distribution of and Access to Completed Evaluation Forms*

Evaluations provide a permanent record of employee performance and serve as a basis and documentation for a variety of formal personnel actions.

-1 Distribution

Completed performance evaluation forms shall be distributed as follows:

- a. One signed copy to the Department of Human Resources for permanent retention in the employee's official personnel file.
- b. One signed copy to the employee.
- c. One signed copy to be filed within the agency at an organizational level designated by the department head or designee. Large agencies may retain an additional copy to permit filing both at a central point and at a remote sub-unit within the agency.

-2 Confidentiality

Performance evaluation forms are confidential records. Access to them shall be restricted to the following:

- a. The employee rated.
- b. The department head and personnel within the department specifically authorized access to such records by the department head or designee.
- c. The Human Resources Director, who may make them available when needed in connection with personnel actions related to the employee.
- d. The Civil Service Commission in connection with any appeal or grievance where such records are pertinent to the matter before the Commission.
- e. The Office of the County Attorney in connection with any personnel actions, grievances, appeals, charges of discrimination filed with the U. S. Equal Opportunity Commission, or any other matters related to the employee's employment in which the County Attorney's Office is providing advice, legal counsel or representation.
- f. The Office of Human Rights and Equity Programs in connection with any personnel actions, grievances, appeals, charges of discrimination filed with the U. S. Equal Opportunity Commission, or any other federal or state agencies, or any other matters referred to it for investigation, recommendation or mediation.

Except as provided above, in no case shall any evaluator, reviewing authority or other person with access to completed forms show any such form to any person other than the employee evaluated thereon without specific permission from the employee, appointing authority, or the Human Resources Director. Failure to

maintain confidentiality of personnel records may result in disciplinary action. Department heads are responsible for establishing the necessary security for locally held copies of evaluations.

No public disclosure of information from such records shall be made except with the approval of the Human Resources Director after a determination that such disclosure is in the public interest and is allowable under the law.

12.11 *Employee Complaint Rights of Appeal*

- 1 An employee who feels that an evaluation is inaccurate or unfair should first attempt to resolve the matter during the discussion with the supervisor mandated by Sec. 12.4-4 and/or discuss the concern with the reviewing authority.
- 2 If the employee remains dissatisfied, he/she may grieve ~~appeal~~ the evaluation as a non-grievable complaint eligible to receive an advisory decision as set forth in Chapter 17 of these regulations.
- 3 Non-public safety employees who have completed their initial probationary period and are not satisfied with their 120-day performance improvement plan that followed a negative determination on a performance review, may appeal the 120 day performance improvement plan as a non-grievable complaint eligible to receive an advisory decision as set forth in Chapter 17 of these regulations.

CHAPTER 17

GRIEVANCE PROCEDURE

17.1 Purpose

The purpose of the grievance procedure is to provide a fair, detailed process whereby employees may voice complaints concerning issues related to their employment with the County. The objective is to improve employee-management relations through a prompt and fair method of resolving problems.

17.2 Coverage of Personnel

- 1 All merit employees in the competitive service of the County who have satisfactorily completed their initial probationary period are eligible to file complaints under this procedure.
- 2 Excluded from the grievance procedure are the following:
 - a. Employees in the exempt service, except as specifically provided otherwise in the procedural directives for the administration of the exempt service issued by the County Executive with the approval of the Board of Supervisors pursuant to Fairfax County Code § 3-1-2(c);
 - b. Employees serving their initial probationary periods unless their complaints include allegations of discrimination as defined in Section 17.3-2d and 17.3-2e;
 - c. ~~PSworn~~ police employees who have elected to proceed under the "Law-Enforcement Officers Procedural Guarantee Act." Such employees shall be given written notification of their right to initiate a grievance under the County's Grievance Procedure. They may choose to file the grievance under either procedure, but not both, and must designate which one will be followed at the onset of the grievance process.

17.3 Types of Complaints

- 1 Employee complaints will be classified at the point of grievability determination (see Section 17.5-4) as one of the following:
 - a. Grievable, with a binding decision from a hearing panel of the Civil Service Commission;

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- b. Nongrievable but eligible for a hearing and an advisory decision from a hearing officer appointed by the Chair of the Civil Service Commission;
 - c. Nongrievable with no hearing.
- 2 Grievable complaints which receive binding decisions from a three-member panel of the Civil Service Commission hearing the appeal include:
- a. Dismissals, unsatisfactory service separations, demotions and suspensions;
 - b. The application of specific County personnel policies, procedures, rules and regulations;
 - c. Acts of retaliation as a result of utilization of this procedure, or for participation in the grievance of another county employee;
 - d. Discrimination against an employee, including a probationary employee, on the basis of race, color, creed, religion, age, disability, national origin, sex, political affiliation, marital status, union affiliation, genetic information, veterans status, or disabled veterans status;
 - e. Discrimination or retaliation against an employee, including a probationary employee, because of participation in political activities permitted under state law and County ordinances or failure to participate in political activities, whether permitted or not by state law or County ordinance;
 - f. Acts of retaliation because the employee (i) has complied with any law of the United States or of the Commonwealth, (ii) has reported any violation of such law to a governmental authority, (iii) has sought any change in law before the Congress of the United States or the General Assembly (iv) has reported an incidence of fraud, abuse, or gross mismanagement to the Board of Supervisors Audit Committee, the Auditor to the Board, his/her department head, or to any other federal, state, or County government authority, such as the Commonwealth's Attorney for the County of Fairfax, or the U.S. Attorney for the Eastern District of Virginia.
 - g. For the purpose of sub-paragraphs (c) and (f) of this section, there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.
- 3 Nongrievable complaints eligible to receive advisory decisions from a hearing officer appointed by the Chair of the Civil Service Commission include:
- a. The physical plant;

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- b. The methods and conditions of the specific job;
- c. Relations with fellow employees;
- d. Performance appraisals;
- e. Written reprimands;
- f. 120-day Performance Improvement Plans (as defined in section 12.6-2(b) and provided for in 12.11-2 of these regulations).

17.4 Nongrievable Complaints

- 1 Complaints that are not grievable under this procedure include:
 - a. The establishment and revision of wages or salaries, position classification, employee benefits;
 - b. Oral reprimands;
 - c. The contents of ordinances, statutes, or established personnel policies, procedures, rules and regulations;
 - d. Failure to promote, except where the employee contends that established promotional policies or procedures were not followed or applied fairly;
 - e. Discharge, lay-off or suspension from duties because of lack of work or reduction-in-work-force, except where such actions affect an employee who has been reinstated within the previous six months by the Civil Service Commission as the result of the final determination of a grievance. In such cases, the department must show that there was a valid business reason for the action and that the employee was notified of such reason in writing prior to the effective date of the action;
 - f. Management of County employees including the right to make personnel appointments in accordance with adopted selection policies and techniques, to establish rules and regulations governing work performance and performance evaluations, to transfer and assign employees within the County, to determine the need for shift operation and rotation of the workweek, to assign overtime, to determine job training and career development, and to determine duties or actions in emergency situations.

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- 2 Appeals of position classification are handled in accordance with the criteria set forth in Section 3.6.

17.5 Steps of the Procedure

- 1 Step 1: Immediate Supervisor

An employee who has a complaint shall discuss the problem directly with his/her supervisor within twenty (20) business days of the date the employee should have reasonably gained knowledge of the event giving rise to the complaint. The 20-day period for grievances arising from disciplinary actions begins tolling from the date the disciplinary decision memorandum is received by the employee.

A verbal reply by the Supervisor shall be made to the complaint during the discussion or within five business days following the meeting.

- 2 Step 2: Division Supervisor

If the complaint is not resolved after the first step meeting and where there is a division supervisor, the employee may reduce the complaint to writing on "Complaint Form - Second Step." All grievance forms are obtainable from the Department of Human Resources.

The employee shall specify the relief sought through the use of this procedure. The fully completed Complaint Form shall be delivered by the employee to the division supervisor within five (5) business days of the first step meeting or the supervisor's reply, if given at a later date. The division supervisor shall meet with the employee within five business days of receipt of the Complaint Form.

A written reply by the division supervisor shall be made to the complaint within five business days following the meeting.

- 3 Step 3: Department Head

If the reply from the second step meeting is not acceptable to the employee, or where no division supervisor exists, the employee may appeal the last response to the department head.

"Complaint Form - Third Step" shall be completed by the employee and delivered to the department head within five business days of receipt of the last response. The department head shall meet with the employee within five business days of receipt of the Complaint Form.

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A written reply by the department head shall be made to the complaint within five business days following the meeting.

-4 Step 4: Grievability Determination

- a. When a complaint cannot be satisfactorily resolved pursuant to Steps 1 through 3 above, the employee shall request on the appropriate form a determination concerning the grievability of the complaint within ten business days of receipt of the third step reply.
- b. All requests for grievability determination shall be submitted to the County Executive. The County Executive will determine whether the employee is entitled to access to the grievance procedure and if the complaint is grievable, and if so, based upon the criteria set forth in Section 17.3, establish whether the grievant shall receive a binding or an advisory decision. Grievability and access determinations by the County Executive shall be made within ten calendar days of receipt of such request.
- c. Decisions regarding grievability and access are appealable only to the Fairfax County Circuit Court. Such appeals shall be made by filing a notice of appeal with the County Executive within ten calendar days from the date of receipt of the decision. The County Executive, or his/her designee, shall transmit to the Clerk of the Circuit Court a copy of the County Executive's decision, a copy of the notice of appeal, and the exhibits constituting the record of the grievance within ten calendar days of receipt of the notice of appeal. A list of the evidence furnished to the County shall also be provided to the grievant.
- d. The Circuit Court shall have a hearing on the issue of grievability and/or access within thirty (30) days of receipt of the record of the grievance by the Circuit Court Clerk. The Court may affirm, reverse or modify the decision of the County Executive.
- e. The decision of the Circuit Court is final and is not appealable. Procedures governing the review by the Circuit Court are found in Virginia Code §15.2-1507(a)(9).
- f. In no case shall the County or Commonwealth's Attorney be authorized to decide the issue of grievability.

-5 Step 5: Appeal to the Civil Service Commission

- a. If the complaint has been determined to be grievable, with a binding decision or nongrievable with an advisory decision as provided herein, the employee

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may file a request for hearing on the appropriate form with the Fairfax County Civil Service Commission. The employee shall file the request within ten business days following the receipt of the determination that the complaint is grievable.

- b. Appeals of complaints that have been determined to be grievable shall be heard by a three-member panel of the Commission (hearing panel or panel) as soon as possible after receipt of the employee's appeal request. Appeals of complaints that have been determined to be non-grievable but entitled to an advisory and non-binding opinion shall be heard by a hearing officer or by the Executive Director of the Commission when the parties are not represented by counsel, as soon as possible after the receipt of the employee's appeal request. The Executive Director of the Commission in scheduling hearings on appeals shall give priority on its docket to dismissal and unsatisfactory service separation cases. The Executive Director of the Commission shall notify the employee and the department head in writing of the time and place of the appeal hearing.
- c. The jurisdiction and authority of the hearing panels of the Civil Service Commission shall be confined exclusively to those complaints previously determined to be grievable as provided herein. While a panel of the Commission hearing the appeal has authority to determine the appropriate application of an existing rule or policy, they do not have the authority to add to, detract from, alter, amend or modify in any way County or department policy or procedure, and its findings shall be consistent with all applicable laws and ordinances.
- d. No member of the Civil Service Commission or an appointed hearing officer shall hear a grievance if he/she has direct involvement with the grievance being heard, or with the complaint or dispute giving rise to the grievance. The following relatives of a participant in the grievance process or a participant's spouse are prohibited from hearing said grievance: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin.

17.6 Remedies

- 1 The panel of the Commission hearing the appeal is empowered to uphold or reverse the action being grieved or, in appropriate circumstances, choose a modified remedy.
- 2 In grievances entitled to a binding decision the following guidelines pertaining to remedial action shall apply:
 - a. Dismissals - The panel of the Commission hearing the appeal may deny relief, reinstate the employee while imposing lesser disciplinary actions such

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as demotion or suspension, or reinstate the employee.

- b. Disciplinary Demotions pursuant to Personnel Regulation 16.5-5 - The panel of the Commission hearing the appeal may deny relief, impose lesser disciplinary sanctions, or revoke the disciplinary demotion.
- c. Suspensions - The panel of the Commission hearing the appeal may deny relief, impose a lesser suspension, instruct that a written reprimand be substituted for the suspension, or revoke the disciplinary suspension.
- d. Unsatisfactory Service Separations - The panel of the Commission hearing the appeal may deny relief; reinstate with a demotion to the employee's previously held class, or in the case where an employee's class is part of a class series, reinstate with a demotion to the next lower class in the series; reinstate with a new probationary period with or without a demotion; or reinstate the employee in the class he was in at time of separation.
- e. Back Pay and Restoration of Benefits in Appeals of Dismissals, Demotions, Suspensions, and Unsatisfactory Service Separations:
 - i. If an employee is reinstated, he/she shall be given back pay for the period of separation contingent upon his/her making full disclosure of all earnings he/she received during separation, which shall be an offset against back pay. In the event the employee fails to provide to the panel of the Commission hearing the appeal such evidence as it deems necessary to determine the amount of the offset, the employee shall forfeit his/her right to back pay.
 - ii. In cases of suspension, the employee shall be entitled to back pay for the period of suspension revoked by the panel of the Commission hearing the appeal under the same conditions as sub-section (1).
 - iii. A lesser sanction in dismissal cases shall include a suspension without pay covering some or all of the period of separation, notwithstanding any other provision of the Personnel Regulations.
 - iv. In the event that the panel of the Commission hearing the appeal imposes a demotion in lieu of an unsatisfactory service separation or dismissal, back pay may be awarded, at the discretion of the panel of the Commission hearing the appeal, for the period of separation at the rate of pay for the lower level classification.
 - v. Back pay shall be computed on the basis of the employee's regularly scheduled hours of work and shall not include any overtime that the

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employee might have earned.

- vi For any period of time that an employee is entitled to receive back pay, he/she shall be given service credit towards retirement and shall be reinstated in the appropriate retirement system with his/her previous plan election, provided that he/she repays into the system all contributions that he/she withdrew on separation. The employer shall ensure that all contributions and deductions attributable to such service are made.
- vii Similarly, for purposes of accruing leave, the employee shall be given credit towards his/her total years of service for any period of time that he/she is entitled to back pay. The employee shall also be credited with any leave that he/she would have accrued during that period.
- viii Upon reinstatement, the employee shall be placed in the health plan that he/she was in at the time of separation with the same options that he/she had previously elected. The effective date of coverage will be the first of the month following reinstatement. A reinstated employee may opt for retroactive coverage in the event that it would be to his or her advantage. The employee must pay his or her share of retroactive coverage premiums. Claims expenses incurred for the retroactive period will be adjusted upon payment of the premium and the employee will be reimbursed for out-of-pocket costs above those he or she will have incurred had the coverage been in effect. The employee may be reimbursed for monies expended by the employee to obtain medical insurance during the period of separation up to the amount of the employer's contribution that would have been incurred had the employee been in service during the period of separation. In no event shall the employee be entitled to reimbursement for medical costs incurred during the period of separation. In the event the employee elected to continue his or her County health insurance under COBRA during the period of separation, the employee shall be reimbursed the difference between the premium he or she paid under COBRA and what he or she would have paid had he or she continued to be employed during the period of separation. In no event shall the employee be entitled to reimbursement for medical costs during the period of separation, except as provided above.

Upon reinstatement, an employee's salary shall be adjusted to reflect any performance pay increases that would have been received had the employee not been separated. f.Promotions - The panel of the Commission hearing the appeal may deny relief, order the promotional procedure redone, order a retroactive promotion, order the grievant promoted immediately if there is an

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available vacancy or promoted to the next available vacancy.

- 3 In cases other than dismissals, unsatisfactory service separations, demotions, suspensions, or performance evaluations, the panel of the Commission hearing the appeal may deny the relief sought by the employee or grant such relief as is necessary to place the employee in the situation he/she would have been in had the Personnel Regulations or policies been properly interpreted and/or applied in the first instance. In no event shall the employee be awarded any damages, nor shall the relief granted by the panel of the Commission hearing the appeal affect the rights of other employees.
- 4 Acts of Reprisal and Discrimination - Where the panel of the Commission hearing the appeal determines that any act of reprisal or discrimination as defined in this chapter is the reason for the adverse employment action grieved by the employee, the panel of the Commission hearing the appeal shall have the authority to revoke the adverse employment action. In the event the adverse employment action is one of the actions described in Sections 2 or 3 of this section, the panel of the Commission hearing the appeal may apply the remedial actions provided under those subsections. The panel of the Commission hearing the appeal shall also affirm such adverse employment actions taken to the extent that they were not the result of reprisal or discrimination.
- 5 Damages, Attorney's Fee and Costs - The panel of the Commission hearing the appeal shall have no authority to order the payment of damages of the grievant's or the County's attorney's fees or costs.
- 6 Recommendations - Regardless of whether the panel of the Commission hearing the appeal grants the individual grievant any relief, such panel may make whatever recommendations to the Board of Supervisors or County Executive it deems appropriate.

17.7 Conduct of Grievance Step Meetings

- 1 Personal face-to-face meetings are required at all steps. The employee and the County management may have a representative present at all steps. If the employee is represented by legal counsel, management likewise has the option of being represented by counsel. The parties to the grievance may by mutual agreement waive any or all intermediate steps or meetings, with the exception of the initial complaint, reducing the complaint to writing and the request for grievability determination.
Upon written request from the grievant to the Department head, County management shall waive the first and second step grievance meetings in cases of termination, suspension, or demotion. Time spent attending grievance step meetings, Circuit Court hearings or a hearing before a panel of the Civil Service Commission during the grievant's regularly scheduled hours shall be considered work time and the

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use of personal leave is not required.

- 2 At all steps, appropriate witnesses also may be asked to provide information. Witnesses shall be present only while actually providing testimony.
- 3 In any complaint involving a charge of discrimination, at the request of any party to the grievance, the Director of the Office of Equity Programs, or his/her designee, may attend step meetings.

17.8 Grievant's Expenses

- 1 The grievant must bear any cost involved in employing representation or in preparing or presenting his/her case.
- 2 Whenever possible, grievances will be handled during the regularly scheduled workhours of the parties involved. Civil Service Commission hearings are held during the County's business day whenever possible.
- 3 A panel of the Civil Service Commission has no authority to award legal fees or punitive damages.

17.9 Extension of Time

- 1 The parties to the grievance, by mutual agreement, or the County Executive or his/her designee, upon the request of one of the parties and showing of just cause, may extend any or all of the time periods established in this procedure.

17.10 Compliance with Procedural Requirements of this Procedure

- 1 After the initial filing of a written complaint, failure of either the employee or the respondent to comply with all substantial procedural requirements of the grievance procedure without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the County Executive, or his/her designee.
- 2 The County Executive, or his/her designee, may require a clear written explanation of the basis for just cause extensions or exceptions to any of the substantial procedural requirements. The County Executive, or his/her designee, shall determine all compliance issues.
- 3 Any party aggrieved by the determination of the County Executive or his/her

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designee on a compliance issue may obtain judicial review of the determination by filing a petition with the Fairfax County Circuit Court within thirty days of the compliance determination.

17.11 Resolution Prior to Hearing

Any grievance shall be considered settled at the completion of any step if all parties are satisfied. In fact, it is expected that the great majority of grievances will be settled at the first or second step. However, nothing in this procedure should be construed as limiting the employee's right to exhaust the remedies provided by this procedure.

17.12 Hearings

- 1 Hearings shall be conducted as described in Addendum 1 to Chapter 17.
- 2 Hearings shall be open to the public. However, upon request of either party, the hearing shall be private. The hearing officer or the panel of the Commission hearing the appeal, by majority vote, may close a hearing to the public if the testimony about to be presented might impugn the personal reputation of a party or witness to said hearing, or if the right to privacy of such party or witness requires that the hearing be closed. Parties and their representatives shall be allowed to attend the hearing at all times. All witnesses shall be excluded from the hearing, except when testifying, at the request of either party.
- 3 Failure of either party without just cause to comply with all substantial procedural requirements at the hearing shall result in a decision in favor of the other party in accordance with the procedures under Pers. Reg. §17.10.
- 4 The decision of the panel of the Commission hearing the appeal shall be announced after the deliberations by that hearing panel at the conclusion of the hearing and shall be filed in writing by the Chairperson of that hearing panel of the Civil Service Commission or by the Hearing Officer with the parties not later than ten business days after the completion of the hearing. Copies of the decision shall be transmitted to the Human Resources Director, the employee, the employee's department head and the County Executive. The Hearing Officer also shall transmit a copy of the advisory decision to the Executive Director of the Civil Service Commission.
- 5 The majority decision of the panel of the Commission hearing the appeal shall be final and binding. Either party may petition the Fairfax County Circuit Court for an order requiring implementation of a binding decision from the panel of the Commission hearing the appeal. Notwithstanding any other provision of this chapter

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to the contrary, a final decision of a panel of the Civil Service Commission hearing the appeal rendered under this procedure which would result in the reinstatement of any employee of the Sheriff's Department, who had been terminated for cause, may be reviewed by the Fairfax County Circuit Court upon the petition of the County. Such review by the Circuit Court shall be limited to the question of whether the decision of the panel of the Civil Service Commission hearing the appeal was consistent with the provisions of law and written policy.

- 6 The decision of the Hearing Officer shall be advisory to the County Executive.
- 7 All decisions in the grievance procedure shall be consistent with the provisions of law and written policy. Any challenge to the relief granted by the decision of a panel of Civil Service Commission hearing the appeal on the grounds of inconsistency with written policy shall be submitted by either party within five (5) workdays to the County Executive, or his/her designee, who is empowered to decide such questions and to direct reconsideration by the Commission, where appropriate. If the County Executive or his/her designee has a direct involvement in the grievance the decision shall be made by the Commonwealth's Attorney. Notwithstanding the above, after receipt of a decision of a hearing panel of the Civil Service Commission the County Executive or his/her designee, may on his/her own action, within ten business days, remand to the panel of the Commission that heard the appeal for further consideration a decision in which the relief granted appears to be inconsistent with written policy.

17.13 Severability

Should any article, section, subsection, sentence, clause, or phrase of these regulations, procedures and/or addenda, be held unconstitutional or invalid for any reason, such decision or holding shall have no effect on the validity of the remaining portions hereof. It is the intent of the Board of Supervisors to enact or have enacted each section and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.

ADDENDUM NUMBER 1

PROCEDURE FOR GRIEVANCE HEARINGS AND APPEALS

Preamble

The panel of the Commission hearing the appeal shall not be bound by Statutory or Common Law rules of pleading or evidence. Hearings will be conducted so as to ascertain the rights of the parties accurately and expeditiously.

The Commission

The Commission consists of twelve members who will sit in rotating panels of three to hear grievance appeals. Panels will be randomly assigned to a schedule as needed to conduct appeal hearings. When a hearing is scheduled, the next three Commissioners on the schedule will be contacted to participate in that hearing. If a Commissioner is unable to participate in an assigned hearing, the next available member on the schedule will fill in when the absence of a scheduled panel member cannot be avoided, as no hearing can be conducted by a panel unless all three members designated to hear that appeal are present throughout the hearing. If an appeal is settled or withdrawn prior to the scheduled hearing, the panel members assigned to hear that appeal will be assigned to the next appeal scheduled. The schedule and the assigned panel members are considered confidential. The names of the panel members will not be released prior to a scheduled hearing.

The Commission consists of twelve members who will sit in panels of three to hear grievance appeals. Each of the four panels of three members will meet as needed to conduct appeal hearings. The member and chair of each hearing panel hearing the appeals will rotate on a monthly basis according to a set schedule. Three members of the Commission will be designated as “on call” each quarter to fill in when the absence of a scheduled panel member cannot be avoided as no hearing can be conducted by a panel unless all three members designated to hear that appeal are present throughout the hearing. The members designated as “on call” will rotate each quarter according to a set schedule. Each member of the Commission will receive his or her schedule in advance for a three month period.

Appeals of complaints that have been determined to be grievable shall be heard by a three-member panel of the Commission (hearing panel or panel) as soon as possible after receipt of the employee’s appeal request. Appeals of complaints that have been determined to be non-grievable but entitled to an advisory and non-binding opinion shall be heard by a hearing officer or, by the Executive Director of the Commission when the parties are not represented by counsel, as soon as possible after receipt of the employee’s appeal request.

A simple majority of the hearing panel will prevail in any decision made by the panel. The panel

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hearings will be held during the County's normal business hours continuing until all evidence has been heard and arguments made. Upon the conclusion of the evidence and argument, the hearing panel will recess the hearing while it deliberates in closed session and makes its findings. Upon the conclusion of the panel's deliberations, the panel will come out of closed session and resume the hearing to cast the panel members' individual votes, state the findings of the panel, and conclude the hearing. A written decision prepared by the Hearing Officer and signed by the chair of the panel that heard the appeal will be filed with the Executive Director and distributed to the parties within ten days of the conclusion of the hearing.

The Hearing Officer

The Hearing Officer is an independent attorney retained by the Commission to conduct hearings on grievances which receive advisory decisions and to advise the panel of the Commission hearing the appeal concerning legal and procedural matters in cases in which the parties are represented by counsel. The Hearing Officer does not vote on matters before the panel of the Commission hearing the appeal and participates in deliberations only to the extent of advising the panel of the Commission hearing the appeal concerning legal and procedural matters. The Hearing Officer is responsible for conducting hearings in an orderly and expeditious fashion; and makes rules on evidentiary and procedural questions. The rulings are advisory and may be overturned by the panel of the Commission hearing the appeal.

In hearings before the panel of the Commission hearing the appeal in which the parties are not represented by counsel, and at all prehearing conferences, the Executive Director of the Commission shall act as hearing officer.

A. Prehearing Requirements

A Prehearing Conference will be held by the Prehearing Officer prior to a panel hearing or the Hearing Officer. The following matters will be addressed:

1. Definition of the scope of the case, the specific issues to be presented to the panel of the Commission hearing the appeal, and the specific regulations and/or ordinances allegedly violated.
2. Stipulations and agreements which will expedite the hearing are greatly encouraged, including but not limited to (1) stipulations of fact; (2) stipulations as to evidence which will be admitted without objection; (3) stipulations with respect to testimony which will be admitted in written form.
3. All exhibits and documents will be exchanged at or before the Prehearing Conference. Documents shall be marked for identification and tabbed for ease of reference. Any exhibit not provided at or before the Prehearing Conference will not be admitted as evidence, absent a showing of good cause.

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If as a result of the Prehearing Conference there is an outstanding request for the production of documents, such request must be complied with not later than ten business days prior to the date of the hearing. Any objection to the admissibility of a proposed exhibit or document shall be raised at the Prehearing Conference and if not resolved, the issue will be clearly defined by the Prehearing Officer for consideration by the panel of the Commission hearing the appeal or the Hearing Officer.

4. Witness lists will be exchanged at or before the scheduled Prehearing Conference. Any witness not so designated will not be permitted to testify, absent a showing of good cause. If as a result of the Prehearing Conference, there are to be deletions or additions to the witness lists, such changes will be submitted no later than ten business days prior to the date of the hearing. Witness lists shall include the name, address and telephone number of each witness identified and a brief statement of the substance of the expected testimony. If, upon the petition of a party, the County Executive finds that a witness who is listed by a party and who is a County employee has relevant, material, and non-cumulative testimony and that the party seeking to call the witness at the panel hearing has been unable to secure attendance of the witness before the hearing panel despite the party's reasonable and diligent efforts, the County Executive shall order the County employee witness to appear at the hearing to give testimony. Upon such order to appear being issued by the County Executive to a County employee, any County employee so ordered who fails to appear at the hearing may be subject to disciplinary action as provided in Chapter 16.
5. County management shall provide the Commission with copies of the grievance record prior to the hearing. A copy of the grievance record shall be provided to the grievant by County management at the same time but in no event any later than ten days prior to the hearing before the panel of the Commission hearing the appeal.
6. The hearing date(s) will be set at the Prehearing Conference in accordance with the time estimates provided by both parties.

B. Continuances

Requests for continuances shall be in writing with a copy to the opposing party and submitted to the panel of the Commission hearing the appeal and/or Hearing Officer at least five workdays prior to the hearing date. The panel of the Commission hearing the appeal and/or Hearing Officer may grant such requests only where good cause is shown.

C. Hearing Procedure

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Hearings on appeals will be heard by the panel of the Commission hearing the appeal or the Hearing Officer in accordance with the following order and procedures:

1. Opening statement by the moving party. (The County shall be considered as the moving party in suspensions, demotions and dismissals. In all other cases, the employee is considered to be the moving party.)
2. Opening statement by the responding party.
3. Presentation of moving party's case by direct examination.
4. Cross-examination.
5. Questions, if any, by members of the hearing panel or the Hearing Officer.
6. Redirect and recross examination.
7. Presentation of responding party's case by direct examination.
8. Cross-examination.
9. Questions, if any, by members of the hearing panel or the Hearing Officer.
10. Redirect and recross examination.
11. Presentation of rebuttal witnesses, if any, by moving party by direct examination may be presented in documentary form. Rebuttal testimony should ordinarily be included in the party's original presentation. However, rebuttal evidence may be permitted where, in the judgment of the panel of the Commission hearing the appeal or the Hearing Officer, it is necessary to the party to rebut new material, which could not reasonably have been anticipated. The panel of the Commission hearing the appeal or the Hearing Officer will judge the necessity of rebuttal testimony on the basis of a proffer or statement by the party seeking to introduce the rebuttal.
12. Cross-examination, questions, if any, by members of the hearing panel or the Hearing Officer, redirect and recross examination of rebuttal witnesses. If rebuttal evidence is in documentary form, provision shall be made for response by opposing party.
13. Closing statement by moving party. Proposed findings of fact and conclusions of law may be submitted at the party's option or at the request of the panel of the Commission hearing the appeal or the Hearing Officer.
14. Closing statement by responding party. Proposed findings of fact and conclusions of law may be submitted at the party's option or at the request of the panel of the

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Commission hearing the appeal or the Hearing Officer.

15. The hearing record may be held open upon request of either party or upon the panel of the Commission hearing the appeal or the Hearing Officer's own motion for the receipt of additional exhibits or documentary evidence which in the opinion of the panel of the Commission hearing the appeal or the Hearing Officer are necessary for a full and complete hearing. Any opposing party shall be allowed a period of ten calendar days after such receipt to respond thereto. If the panel of the Commission hearing the appeal or the Hearing Officer finds that additional oral testimony is necessary, a hearing may be recessed for scheduling of such testimony.
16. The panel of the Commission hearing the appeal may alter the foregoing procedures in a hearing if it deems it necessary to afford the parties a full and equal opportunity to all parties for the presentation of their evidence.

D. Record of Hearing

Recorded tapes will serve as the formal record of grievance hearings. Any party to the appeal may obtain a copy upon payment of reproduction and administrative costs.

E. Posthearing Procedures

1. Reopening Hearing

A hearing may be reopened by the panel of the Commission hearing the appeal or the Hearing Officer at any time prior to final decision on the ground of newly discovered evidence or for other good cause shown and if the panel of the Commission hearing the appeal or the Hearing Office finds that reopening the hearing is required for a full and true disclosure of facts or to assure that the parties receive a fair hearing in accordance with the relevant law and regulations. Petitions for reopening shall set forth the specific newly discovered evidence or other good cause, and will be granted only under exceptional circumstances. If a party files a petition for reopening the hearing, the opposing party shall file a response to said petition within five calendar days of service of the petition.

2. Reconsideration

The Hearing Officer or the panel of the Commission hearing the appeal, upon majority vote, may reconsider a Decision prior to the actual implementation of that decision. The panel of the Commission hearing the appeal or the Hearing Officer will only reconsider on the ground of newly discovered evidence or other good cause shown. Petitions for reopening shall set forth the specific newly discovered evidence or other good cause, and will be granted only under exceptional circumstances. Petitions for reconsideration must be filed with the panel of the Commission hearing

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the appeal and or the Hearing Officer within five calendar days of receipt of the decision. The opposing party shall file a response to said petition within five calendar days of service of the petition.

DRAFT



County of Fairfax, Virginia

MEMORANDUM

DATE: SEP 26 2016
TO: Board of Supervisors
FROM: Edward L. Long Jr.
County Executive
SUBJECT: Transmittal of Consultant's Study of Public Safety Issues

In response to the Budget Guidance for fiscal year 2017, the County contracted with Public Financial Management (PFM) to study:

- Practices regarding the hierarchical rank structure of other large, innovative metropolitan police departments comparable to Fairfax County;
- Competitiveness and alignment of compensation levels and policies for the Police Department;
- Compensation policies and pay delivery for the Sheriff's Office to determine competitiveness, including an evaluation of pay parity with police; and
- A review of the Animal Services Division (completed July 2016).

As the consultant began working on this important study, several factors needed to be incorporated in the study results. To get the best possible results, we asked that they consider (as it relates to the scope) work done concurrently by the Ad Hoc Police Practices Review Commission and that they consider work done by the Police Executive Research Forum (PERF). The consultant completed comprehensive interviews including meetings with my senior staff, meetings with stakeholder groups, and considered data collected and analyzed from comparable jurisdictions.

At the Board of Supervisors' Personnel Committee meeting scheduled for October 4, the consultant will present and discuss the findings of the report. As you will see in the report, the recommendations provided by PFM are also supported by and confirm many recommendations by PERF and the Ad Hoc Police Review Commission, plus the existing five-year Police Staffing Plan. Additionally, we will present the projected costs for the recommendations in the study. Staff are available to answer any questions you may have in advance of the meeting.

cc: Joseph M. Mondoro, Chief Financial Officer
David M. Rohrer, Deputy County Executive
Stacey Kincaid, Sheriff
Edwin C. Roessler, Jr., Police Chief
Catherine Spage, Director, Department of Human Resources

Retirement System Review

Personnel Committee - October 4, 2016

Today's Objective

- Review of recent changes to the retirement systems
- Overview of the current retirement plans for new hires
- Board direction of next steps

2012 Retirement Study

- Aon Hewitt completed a study of the County's retirement benefits, including the pension systems and the County's retiree health benefits. The study was presented to the Board of Supervisors in February and March 2012.
 - <http://www.fairfaxcounty.gov/hr/pdf/fairfaxcountyretirementbenefitsbenefitsstudy.pdf>

Changes Resulting from the 2012 Retirement Study¹

	Employees'	Uniformed	Police Officers
Minimum Retirement Age for Normal Service Retirement	Increased from age 50 to age 55	No change	No change
Normal Service Retirement Eligibility	Increased from Rule of 80 (Years plus Service) to Rule of 85 (Years plus Service)	No change	No change
Pre-Social Security Supplement and DROP	Removed Pre-Social Security supplement from balances accumulated during the DROP Period		Not applicable
Use of Sick Leave	Placed a cap on the use of sick leave for purposes of determining retirement eligibility and benefits at 2,080 hours		

¹ Savings were expected to phase in beginning in FY 2015 with a total annual cost avoidance anticipated to reach \$11.5 million by FY 2027.

Evaluation of Defined Benefit Plans in the 2012 Retirement Study

- The study revalidated that a defined benefit plan is the best means to provide income replacement to retirees:
 - “A defined benefit plan provides the best vehicle for providing income to both incent and enable employees who are at the end of their productive careers to retire.”
 - “To achieve any given level of income replacement that is intended, which is and we believe should be an explicit goal of Fairfax County’s Retirement Policy for career employees, a defined benefit plan is the most efficient way to create that intended outcome.”

Benefit Features of Retirement Plans

Plans currently in effect for new hires¹

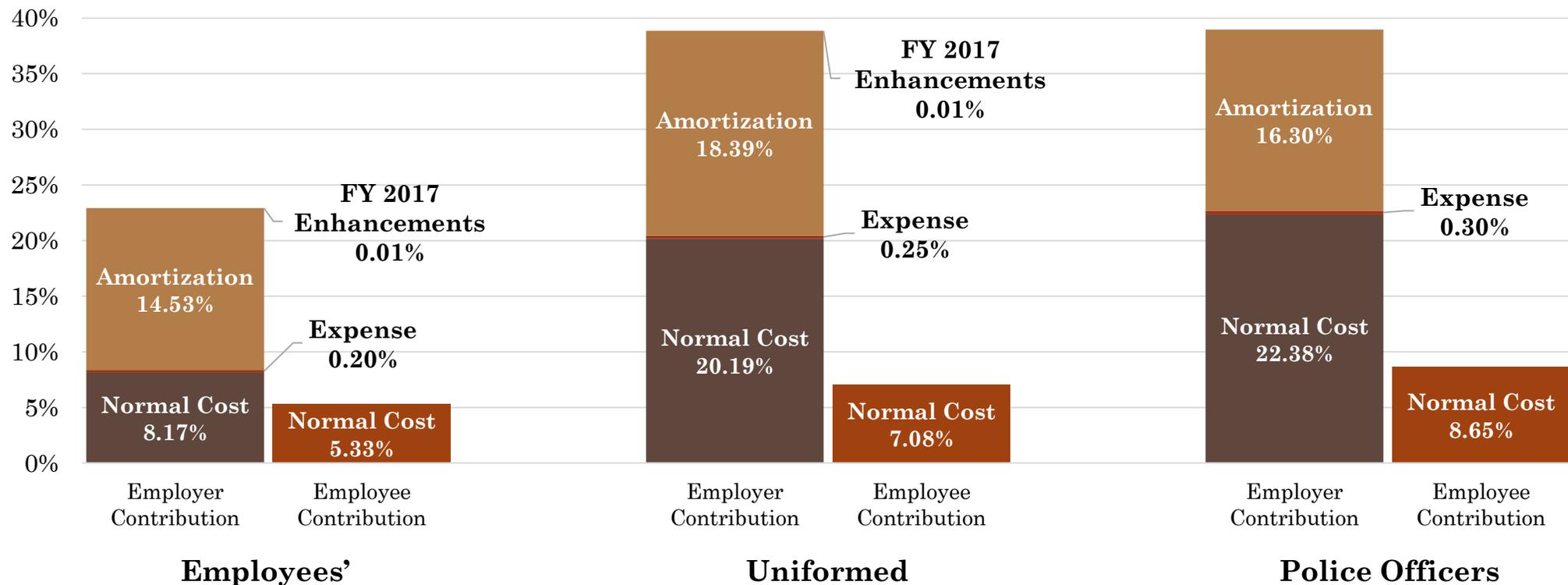
	Employees' Retirement System	Uniformed Retirement System	Police Officers Retirement System
Employee Contribution	4.00% (Plan C) 5.33% (Plan D)	7.08%	8.65%
Normal Retirement Eligibility	Rule of 85 (Age plus Service) or Age 65 with 5 Years of Service	25 Years of Service or Age 55 with 6 Years of Service	25 Years of Service or Age 55
Benefit Multiplier	1.8% (Plan C) 2.0% (Plan D)	2.5%	2.8%
Minimum Retirement Age	55	NA	NA

¹ Employees' Retirement System Plans A and B are only applicable to employees hired prior to January 1, 2013, while Plans C and D shown apply to employees hired on or after January 1, 2013. The features shown for the Uniformed Retirement System apply to members of Plan D, which includes employees hired between April 1, 1997, and December 31, 2012, and members of Plan E, which includes employees hired on or after January 1, 2013. The features shown for the Police Officers Retirement System apply to both Plan A, which includes employees hired prior to January 1, 2013, and Plan B, which includes employees hired on or after January 1, 2013.

Current Employee/Employer Cost Sharing

- Employee/employer cost sharing could be adjusted to achieve savings without impacting benefit levels.

FY 2017 Employee and Employer Contribution Rates



Defined Benefit Plan Variables for New Hires

- Final Average Salary
 - Currently calculated based on highest average compensation earned over a consecutive 3-year period. Sick leave balance at retirement is factored into the calculation.
 - Alternatives include a longer period for determining final average salary, such as 5 years, or excluding sick leave balances from the calculation.
- Pensionable Pay
 - The wage types that count toward the final average salary calculation could be reviewed. They currently include:
 - Regular hours
 - Evening and night shift pay
 - Overtime pay for working holidays and emergencies

Defined Benefit Plan Variables for New Hires

- Multipliers
 - Employees' Retirement System
 - Plan C: 1.8%
 - Plan D: 2.0%
 - Uniformed Retirement System: 2.5%
 - Police Officers Retirement System: 2.8%
- Retirement Eligibility
 - Employees' Retirement System
 - Rule of 85 (years of service plus age)
 - Minimum age of 55
 - Uniformed Retirement System
 - 25 years of service
 - No minimum age
 - Police Officers Retirement System
 - 25 years of service
 - No minimum age

Defined Benefit Plan Variables for New Hires

- Pre-Social Security Supplement
 - This feature of the Employees' and Uniformed systems provides a more level retirement income before and after Social Security benefits begin.
 - The supplement is paid from retirement until the retiree is eligible for unreduced Social Security benefits.
 - Other jurisdictions provide a Social Security leveling mechanism either as a supplement or as a benefit payout option.
 - A potential adjustment would be limiting the period during which the supplement is paid.

Defined Benefit Plan Variables for New Hires

- DROP
 - Employees are eligible to enter DROP when eligible for normal service retirement
 - DROP period cannot exceed 3 years
 - Average DROP stay by plan (since inception):
 - Employees: 2.4 years
 - Uniformed: 2.8 years
 - Police Officers: 2.2 years
 - During DROP period:
 - Employees and the County do not make retirement contributions
 - Account balance is credited with 5% interest annually
 - Members continue to receive all other active employee benefits
 - Members do not earn additional service credits towards retirement
 - Investment earnings on DROP balances exceeding 5% remain in the systems. However, the amount credited to DROP accounts could be reviewed.

Next steps for consideration if a review is undertaken

- Review of current hiring demographics and retirement trends
- Confirmation of the Board's goal concerning the level of income replacement
- Review of the VRS mandate and its impact on options such as defined contribution and hybrid plans
- Validation that potential benefit changes will impact new hires versus existing employees
 - Changes that impact only new hires have a delayed impact on costs
- Review design of County plans in comparison to those of other jurisdictions
- Evaluation of the degree of Social Security integration