

## **Rule # 1-10**

### **General Provisions**

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#### **§ 1-10-010 Designation**

- A. All Executive Rules included in this and following chapters are designated the Multnomah County personnel rules, and will be referred to as the “personnel rules.” When referred to specific sections of the Multnomah County personnel rules, the letters “MCPR” will precede the numerical designation.
- B. The personnel rules consist of the following chapters:
  - 1. General Provisions
  - 2. County Employment
  - 3. Workplace Management
  - 4. Management & Executive Employees
  - 5. Human Resources Administration
- C. All prior Executive Rules, Executive Orders and rules relating to the subjects in these personnel rules are repealed from the effective date of this Executive Rule, except as they are included and readopted in whole or in part in these personnel rules.
- D. The personnel rules are presumptive evidence of the Executive Rules and all of their provisions and sections, and of the date of adoption. The personnel rules are also presumptive evidence that they were properly adopted, signed and published.

#### **§ 1-10-020 Authority**

County voters approved the Multnomah County Home Rule Charter (Charter) on May 24, 1966. It took effect on January 1, 1967. Charter Chapter VII relates to county personnel. The provisions adopt a civil service system. The Charter grants the Board authority to define that system, Section 7.30, and expand the list of positions excluded from classified service, Section 7.10.

The Board has used this authority to adopt ordinances that define the classified service, created the Merit System Civil Service Council and delegate authority and responsibility to the Chair. The ordinances are codified in Chapter 9 of the Multnomah County Code (MCC).

Section 6.10 of the Charter states that the Chair is the chief executive officer and personnel officer of the county. It contains the specific powers and duties of the Chair. The Chair has sole authority to appoint, direct and discharge county administrative officers and employees, except the staff of other county elected officers. The appointment of department heads is subject to the consent of the Board. The Chair may delegate administrative authority but remains responsible for acts of subordinates.

In addition to Charter direct and implied authority, the Chair also has authority from the Board delegated by ordinance. These ordinances, codified in the county code (MCC), give the Chair authority to adopt "Executive Rules". Numerous code provisions authorize the Chair to implement specific policies adopted by the Board.

MCC 9.030 and 9.040 authorize the Chair to adopt personnel rules by Executive Rule. MCC 9.130 makes the Chair responsible for a job profile plan, MCC 9.160 requires the Chair to maintain a compensation plan, and MCC 9.200 requires the Chair to maintain a merit evaluation system.

The Chair in turn delegates authority to department directors and other county employees. All such authority is exercised in the name of the Chair who remains legally responsible for the actions. Under the code, department directors may adopt "Administrative Rules" with authority delegated by either the Chair or Board. The Multnomah County Chief Human Resources Officer is delegated authority to adopt administrative rules, procedures, forms and practices consistent with these Rules. Department Directors are not authorized to adopt administrative rules, procedures, forms or practices that are more lenient or generous than these Rules, or that are inconsistent with any legal requirement.

### **§ 1-10-030 Application**

- A. The provisions of these personnel rules (rules) and actions under them are to be construed to effect their objectives. The rules apply generally to all county officials and employees. Some rules by their terms either do not apply or apply differently to county elected officials. These rules apply to employees subject to collective bargaining agreements to the extent rules provisions are consistent with the terms of such agreements. If there are conflicts between the rules and collective bargaining agreements, the terms of the agreements prevail.
- B. Provisions of these rules that are the same as prior rules or ordinances existing at the effective date of these rules are considered continuations and not new adoptions.

- C. The sections, subsections and provisions of these rules are severable. If any part of these rules is declared by a court to be unconstitutional or invalid, the judgment will not affect the validity of the remaining parts of these rules.
- D. Executive Rules may amend existing provisions, add new provisions, or repeal existing provisions. Executive Rules will specifically amend or repeal particular sections of these rules. Executive Rules creating new rule sections will integrate the new sections into the numbering system and organization of these rules.
- E. The County Attorney is authorized to make editorial changes and corrections in these rules, provided such changes do not alter the substance of any rule. Changes and corrections may include the following:
  - 1. Numbering and renumbering sections and parts of sections,
  - 2. Changes in wording of head notes or headings,
  - 3. Rearrangement of sections,
  - 4. Changes of reference numbers to agree with renumbered code and rule sections,
  - 5. Substitution of the proper subsection, section, chapter or other numbers,
  - 6. Omission of words or numbers that are repetitious,
  - 7. Changes in capitalization and punctuation for uniformity, and
  - 8. Correction of clerical or typographical errors.

**§ 1-10-040 Definitions**

*\*[Multnomah County Code definitions are italicized and marked with an asterisk]*

**Access:** Rights an employee has to read or write electronic data, log in to county owned or authorized systems and networks or execute applications using county owned or authorized systems. For example, a user might be granted read access to a file, meaning that the user can read the file, but cannot modify or delete it. Most systems have several different types of access privileges that can be granted or denied to specific users or groups of users.

**A.D.A.:** The federal Americans with Disabilities Act (ADA)(42 U.S.C. § 12101 et seq.).

**Adverse impact:** A substantially different rate of selection that works to the disadvantage of members of a race, sex, or ethnic group.

**\*Affirmative action:** *Identifying existing or potential discriminatory conditions and making specific goal oriented corrective actions to eliminate and prevent unlawful discrimination.*

**Alcohol:** Ethyl alcohol and all beverages or liquids containing ethyl alcohol.

**Allocation:** Assigning a job profile to a position or a group of positions based upon key factors such as purpose of the position, major duties performed, scope/impact of work assignments, and the minimum qualifications, training and education required to perform the work.

**\*Appeal:** *A request for hearing filed with the executive secretary of the Merit System Civil Service Council.*

**Applicant:** See Candidate

**Appointing authority:** The Chair and the Chair's designees, which is generally the top executive or senior management position in an operating or administrative department or a major unit that is responsible for the primary functions and services of the county. The Chair may delegate administrative authority to designees, but remains responsible for the acts of such designees.

**\*Appointment:** *All methods of selecting or employing any person to hold a position in county service.*

**\*Assessment (formerly called Examination):** *Any test, method or combination of methods used to determine the fitness and qualifications of candidates for county service.*

**\*Bargaining agent:** *Labor organization certified or recognized as the exclusive representative for purposes of collective bargaining under ORS 243 for all county employees in an appropriate bargaining unit.*

**Benchmark jobs:** A job or job profile commonly found in the labor market, or a job or job profile that is highly populated within and relevant to the county. Pay and market data for benchmark jobs are readily available and are used to help establish and maintain pay programs and compensation structures.

**Candidate (formerly called Applicant):** A person who applies for employment with the county in response to a specific recruitment announcement.

**Catastrophic medical condition:** A medical or psychiatric condition that constitutes a "serious medical condition" within the meaning of the federal Family Medical Leave Act (FMLA)(29 USC §§'s 201-2654) or the Oregon Family Medical Leave Act (OFLA)(ORS 659A.150-659.186), whichever would permit broader use of donated leave.

**\*Cause:** *Misconduct, inefficiency, incompetence, insubordination, indolence, malfeasance or other unfitness to render effective service.*

**Central human resources (Central HR):** The central administrative human resources unit of the Department of County Management.

**Certified applicant:** See Certified Candidate

**Certified candidate (formerly called Certified Applicant):** A candidate who has been placed on a "Certification of Eligibles" list issued by Central HR or a Department's Human Resources Unit.

**\*Class or classification:** See Job Profile

**\*Classification plan:** See Job Profile Plan

**\*Classified employee:** An employee in county service not excepted from classified service, but does not include temporary employees or those who work on call or less than half time. Classified employees are subject to all of the provisions of the County Charter, ordinances, and these rules which set forth civil service requirements, including, but not limited to, those for appointment, seniority, tenure, discipline and discharge.

**\*Classified service:** All regular county service positions held by classified employees.

**Close proximity:** Close proximity means within walking distance from the employee's work area that does not appreciably shorten the rest or meal period.

**\*Compensation plan:** Salary, wages, special pay provisions and paid benefits.

**Confidential medical records or information:** All medical records and information in the county's possession which the county is obligated to maintain in confidence under applicable state and federal laws or regulations.

**Controlled substance:** All forms of narcotics, depressants, stimulants, analgesics, hallucinogens, and cannabis, as classified in Schedules I - V under the Federal Controlled Substances Act (21 USC § 811-812) as modified under ORS 475.035, whose sale, purchase, transfer, use, or possession is prohibited or restricted by law.

**\*Council:** The Merit System Civil Service Council.

**\*County service:** County employees in classified and unclassified positions.

**Custodian of records:** The county official or employee who is responsible for keeping the public record on file.

**Demotion:** The voluntary or involuntary movement of an employee from a position in one job profile to a position in another job profile having a lower maximum pay rate.

**Department authorization:** Authorized by the Department Director or designee.

**Direct threat:** A significant risk of substantial harm to the health or safety of the disabled individual or others that cannot be eliminated by reasonable accommodation.

**\*Director:** *The head of a department appointed by the Chair with the consent of the Board, and for employment purposes the Sheriff, Auditor, District Attorney and County Attorney, or designees.*

**Disability:** An individual with a disability is a person who: (1) has a physical or mental impairment that substantially limits one or more of the major life activities of such an individual; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

**Disciplinary action:** Action taken against employee including but not limited to oral reprimand, written reprimand, suspension, reduction in pay, demotion, dismissal, or any combination.

**Discrimination:** Unequal or different treatment of an individual in any personnel action on the basis of race, color, sex, age, religion, national origin, political affiliation, marital status, sexual orientation, gender identity, source of income, familial status, or physical or mental disability or other protected status in accordance with applicable law.

**\*Discrimination complaint:** *A complaint that a personnel action was motivated by discrimination on the basis of race, religion, sexual orientation, sex, age, color, marital status, national origin, physical or mental disability, gender identity, gender expression, familial status, source of income, political affiliation, genetic information, or other protected status in a personnel action and in accordance with applicable laws.*

**Dismissal:** Termination of employee from county service.

**\*District attorney:** *State official elected by the voters of Multnomah County who has the powers and performs the duties of state law, including enforcement of local laws.*

**\*District attorney executive staff:** *Employees in positions that report directly to and serve at the pleasure of the District Attorney. These employees have the same rights and benefits as county elected officials' staff.*

**Domestic partner:** One of two persons, who have:

- A. Jointly shared the same permanent residence for at least six months immediately preceding and plan to continue to do so indefinitely;
- B. Have a close personal relationship with each other;
- C. Are not legally married to anyone;
- D. Are each 18 years of age or older;
- E. Are not related to each other by blood in a degree of kinship closer than would bar marriage in the State of Oregon;

- F. Were mentally competent to contract when the domestic partnership began;
- G. Are each other's sole domestic partner; and
- H. Are jointly responsible for each other's common welfare including "basic living expenses"; individuals need not contribute equally or jointly to the cost of these expenses as long as they agree that both are responsible for the cost.

For purposes of these rules, all familial relationships defined by spousal relationships also include domestic partner relationships.

**Donated leave:** Hours of accumulated vacation leave or compensatory time off donated by an employee to another employee under MCPR § 2-55.

**Drug paraphernalia:** Drug paraphernalia means any and all equipment, products, and materials of any kind, as more particularly defined in ORS 475.525(2), which are or can be used in connection with the production, delivery, or use of a controlled substance.

**Drug test:** Any test designed to identify the presence of certain prohibited drugs or their metabolites in the body.

**Drugs:** Controlled substances, designer drugs (drug substances not approved for medical or other use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration), and/or over-the-counter medications available without a prescription from a medical doctor that are capable of impairing an employee's mental or physical ability to safely, efficiently, and accurately perform work duties.

***\*Elected official:*** Chair, Commissioner, Auditor, and Sheriff.

***\*Elected official's staff:*** Employees in positions that report directly to and serve at the pleasure of a county elected official and serve as such official's immediate secretary, administrative, legislative, or other immediate or first-line assistant.

**Electronic records:** Records which are stored in a form that requires a computer to process. The term "Electronic records" does not include or refer to photocopies, digital imaging systems, or analog or digital audio or video tapes.

***\*Eligible:*** A person qualified for employment by examination or other methods.

***\*Eligible list:*** A list of persons found qualified for appointment to a position in a particular job profile.

**Equivalent classification:** See Equivalent Job Profile

**Equivalent job profile (formerly called Equivalent Classification):** A newly assigned job profile determined by Central Human Resources to be similar or essentially equal

("equivalent") to the former job profile because the purpose of the work, qualifications required, duties, and responsibilities are substantially the same.

**Equivalent lateral transfer:** Transfer to a position into a job profile that has the same top step or maximum rate of pay, but it is a different job profile from the employee's base job profile; employee must meet the general qualifications and work experience requirements for this type of transfer to occur.

**Essential job functions:** The fundamental job duties of a position. Essential functions do not include the marginal functions of the position. A function may be essential for any of several reasons, including but not limited to the following: (1) a position exists specifically to perform the function; (2) there are a limited number of employees available among whom the performance of the job function can be distributed; or (3) the function is highly specialized and employees are hired for their expertise or ability to perform the particular function.

*\*Examination: See Assessment*

*\*Executive employee: Employee with a major role in the administration or formulation of policy that requires the exercise of independent judgment and includes all positions excepted from the classified service.*

*\*Executive secretary: The executive secretary of the Merit System Civil Service Council.*

**Exempt employee (FLSA):** An executive, administrative or professional employee, as defined by the Fair Labor Standards Act (FLSA) (See regulations, 29 CFR § 541.0-541.315) or by state wage laws (ORS 653.020(3) and OAR 839-020-0004 (25), (29), (30) and OAR 839-020-0005), who is not covered by the overtime provisions of those laws.

**Expression of milk:** Expression of milk means the initiation of lactation by manual or mechanical means and does not include breastfeeding.

*\*Familial status: As defined in ORS 659A.001(6), the relationship between one or more individuals who have not attained eighteen (18) years of age and who are domiciled with:*

- A. A parent or another person having legal custody of the individual; or*
- B. The designee of the parent or other person having such custody, with the written permission of the parent or other person.*

*"Familial status" includes any individual, regardless of age or domicile, who is pregnant or is in the process of securing legal custody of an individual who has not attained 18 years of age.*

**Family:** For purposes of these rules, family includes the employee's spouse or domestic partner, and the employee's, spouse's or domestic partner's children, stepchildren, parents, grandparents, grandchildren, siblings and siblings-in-law, unless otherwise provided.



**Formal recognition:** Can include awards and celebration events for achievements and service, at which eligible employees can participate and receive recognition. Formal recognition often has certain policy and legal requirements.

**Full-time employee:** An employee regularly scheduled to work at least 32 hours per week or .8 FTE, or an employee regularly scheduled to work at least 30 or more hours per week or .75 FTE, if on a 10 hour per day schedule.

**Gender expression:** The representation of gender, as expressed through means such as one's name, gender pronouns such as "she, he, they, etc.", appearance, dress, haircut, behavior, mannerisms, voice, speech patterns, or body characteristics. Gender expression may not be distinctively male or female, may be perceived as masculine, feminine, neither, or both, and may not conform to traditional gender-based stereotypes presumed of specific gender identities.

*\*Gender identity: A person's actual or perceived sex, and includes a person's identity, appearance or behavior whether or not that identity, appearance or behavior is different from that traditionally associated with the person's sex at birth.*

**Genetic information:** Includes information about an individual's or individual's family member's genetic tests; family medical history; an individual's request for, or receipt of, genetic services or participation in clinical research that includes genetic services; or genetic information of a fetus of a pregnant woman or family member, or embryo with respect to an individual using assisted reproductive technology.

*\*Grievance: A complaint filed under the terms of an existing collective bargaining agreement.*

**Informal recognition:** Usually given by an employee's manager, acknowledges the employee's contribution without applying formal criteria. It can take a variety of forms, has few restrictions, and often includes a low-cost, tangible gesture of appreciation or congratulations.

**Information technology:** Any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement control, display, switching, interchange, transmission, or reception of data or information.

**Intern:** A person who performs work for an employer for the purpose of training if:

- A. The employer is not committed to hire the person performing the work at the conclusion of the training period;
- B. The employer and the person performing the work agree in writing that the person performing the work is not entitled to wages for the work performed, and the work performed:

1. Supplements training given in an educational environment that may enhance the employability of the intern;
2. Provides experience for the benefit of the person performing the work;
3. Does not displace regular employees;
4. Is performed under the close supervision of existing staff; and
5. Provides no immediate advantage to the employer providing the training and may occasionally impede the operations of the employer.

**Job class:** See Job Profile

**\*Job description:** See Position Description

**Job family:** A series of related job profiles distinguished by levels of knowledge, skills, and complexity of work assignments and other factors. A job family is designed to address levels of work complexity, provide promotional opportunities, pay advancement, and flexibility in staffing organizations with complex operations and functions. Job Families often reflect common disciplines such as Engineering, Finance, and Information Technology (IT).

**\*Job profile (formerly called Class, Classification, and Job Class):** A group of positions in the county service sufficiently similar in duties, authority, responsibility, skills, education, and training requirements to permit grouping under a common title that would call for similar qualifications and the same pay grade.

**\*Job profile plan (formerly called Classification Plan):** A document that contains all county service job profiles, and the specifications or descriptions for the job profiles.

**Job share:** A job share is defined as a full-time position that is held by two (2) regular status employees on a shared basis in a single job profile, thus each employee works .5 FTE. The two (2) employees share the duties and responsibilities for the position, dividing the hours equally between them. Each employee will be scheduled to work forty (40) hours during two (2) work weeks. Job share partners will be treated as part-time (.5 FTE) employees for purposes of holidays, leave accruals and scheduling, compensation, and health and welfare benefits.

**Labor market:** These are factors considered and selected that help employers determine what business sector and geographic areas or regions to use when comparing wages and salaries assigned to job profiles and job families. Factors include but are not limited to general recruitment areas; competition for specific skills; turnover and separation data for particular jobs; comparative economic conditions; comparable populations and other demographic data; organizational size and program responsibilities; and workforce composition. The county primarily considers the public sector when determining its labor market.

**Lateral transfer:** Transfer to a position in an employee's base job profile.

*\*Layoff: A reduction of the county workforce.*

**Lead pay/ lead premium:** An additional set amount of pay or a set percentage of additional compensation that is awarded to a position and a job profile for performing limited supervisory and administrative duties such as providing technical work direction; assigning and scheduling work; and providing training to others; while performing other duties as required of the base job profile.

**Legal Guardianship:** The legal relationship created when a person is named in a will or assigned by the court to take care of minor children.

**Limited duration appointment:** An appointment for a grant or project of uncertain or limited duration.

**Major life activities:** Basic activities that most people in the general population can perform with little or no difficulty, such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. This is a nonexclusive list. It also includes the operation of major bodily functions, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

*\*Management employee: Employee with a role in the administration of the county, a manager, or a professional or paraprofessional employee who is not covered by a collective bargaining agreement. These positions are designated by the Chair and are classified but non-represented.*

**Manager (includes supervisor job profiles:** An employee delegated authority by a Director to assign work, evaluate employee performance, respond to grievances, approve leave and other employee requests, and impose or effectively recommend disciplinary action.

**Medical Review Officer (MRO):** A medical doctor trained in toxicology who contracts with employers primarily to review positive preliminary drug test results with employees.

**Merit increase:** A progressive rate or specific sum of compensation within a pay range paid to an employee who has successfully performed their assigned job duties in a given period (usually a work year).

**Minimum qualifications:** The training, education, experience, and other qualifications established for a given job profile and required of an applicant to apply and compete for a position in that job profile.

**Monetary awards:** An award paid by any negotiable instrument (cash, check, money order or direct deposit); any item that can be readily converted to cash, such as savings bonds or refundable gift certificates; or gift cards/certificates for any amount.

**Multnomah County Chief Resources Officer (CHRO):** The head of the central administrative human resources unit of the Department of County Management.

**Non-exempt employee:** An employee who does not meet the definition of an exempt employee, as defined by the Fair Labor Standards Act (FLSA) and state law, who is covered by the overtime provisions of the law.

**Non-monetary awards:** Awards that include meals, work related conferences or development opportunities, plaques, trophies, desk items, cups and mugs; and personal items of clothing such as caps, shirts, and sweatshirts.

*\*Non-represented employee: An employee in a position not covered by a collective bargaining agreement.*

*\*On-call employee: A person employed to meet intermittent, irregular or less than half-time county work needs.*

**Part-time employee:** An employee regularly scheduled to work at least 20 hours per week or .5 FTE, but less than full-time.

**Pay administration:** The practices and policies that guide pay beginning with setting pay on initial hire to changes in pay throughout the employees' tenure with the county. The goals of pay administration are to maintain equitable, consistent pay practices throughout the county's many organizations and units.

**Pay grade:** The identifier, generally a number or letter, which corresponds to a specific pay or step range assigned to a job profile.

**Pay range:** The minimum base rate of pay to the maximum base rate of pay within which employees are paid, according to a pay grade and job profile. A pay range is often referred to as a salary range when assigned to a job profile that is non-represented and does not have specific steps.

**Payroll unit:** The central payroll unit designated by the Chair to perform the administrative functions assigned by this rule, or the payroll unit within the Sheriff's administrative authority.

**Person with a disability:** An individual who has a mental or physical impairment which substantially limits one or more major life activities, or has a record of such impairment, or is regarded as having such an impairment.

*\*Personnel action: Any employment action taken by the county with reference to an employee or position.*

**\*Personnel officer:** *The county Chair, or designee.*

**Position:** A group of related duties and responsibilities requiring the full-time or part-time employment of one person.

**Position description (formerly called Job Description):** The document that contains specific explanations of the assigned major duties and the characteristics and impact of a position. This document is often called a job description.

**Pregnancy-Related Limitations:** Restrictions related to pregnancy, childbirth, lactation, and related medical conditions.

**Premium pay:** An additional set amount of pay or a set percentage of additional compensation that is awarded to a position and a job profile for: 1) performing major additional duties that are significantly different from the base job profile; 2) working an unusual shift or in a non-standard environment; or 3) due to pressing market conditions, Central Human Resources has determined an assigned pay range must be temporarily elevated. Once any of the aforementioned conditions no longer applies, the premium is removed.

**Prescription medication:** A medication for which a person is required by law to have a valid, current prescription.

**Private location:** A private location is a place, other than a public restroom or toilet stall, in close proximity to the employee's work area for the employee to express milk concealed from view and without intrusion by other employees or the public.

**\*Probationary period/ trial service period:** *A working test period during which a classified employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of that position.*

**\*Promotion:** *A movement of an employee to a job profile that has a higher maximum rate than the employee's current job profile.*

**Public record:** Includes, but is not limited to, documents, books, papers, photographs, files, sound recordings, or machine readable electronic records, regardless of physical form or characteristics, made, received, filed, or recorded pursuant to law or in connection with the transaction of public business, whether or not confidential or restricted in use. Public records do not include extra copies of a record, preserved only for convenience of reference, or messages on voice mail or other telephone message storage and retrieval systems.

**Qualified individual with a disability:** An individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position that the individual holds or desires and who, with or without reasonable accommodation, can perform the essential functions of the position. Individuals who currently use drugs illegally are not individuals with disabilities for purposes of this rule.

**Reasonable accommodation:** Modifications or adjustments to a job application process, work environment or manner in which the job is done that will enable a qualified individual with a disability to perform the essential functions of that position.

**Recall:** When a laid-off regular employee is reinstated to a regular position from a recall list.

*\*Recall list:* A list of employees laid off from positions in particular job profiles that have rights for appointment to a position in that job profile.

*\*Reclassification:* The assignment of an existing position from one job profile of work to another job profile of work based upon the significant change in primary work duties.

**Recognition leave:** Additional day(s) of leave awarded that may be used for personal purposes. Recognition Leave is only available to be awarded to regular status management and executive service employees and is done in accordance with MCPR § 4-30-040(A)(4).

**Reduction in pay:** The lowering an employee's pay or salary.

*\*Regular employee:* The status a classified employee acquires after successful completion of the probationary period for the particular position to which the employee was appointed.

*\*Regular position:* A county service position budgeted for each fiscal year that is not otherwise classified as temporary, on-call, or limited duration.

**Rehire:** An employee who has terminated regular employment with the county and is subsequently selected from a civil service list to occupy a regular position.

**Reinstatement:** Refers to non-competitive return of a county employee to regular county service within one year of termination, or return to a former higher job profile following a voluntary demotion.

**Reorganization:** The substantial restructuring of a work unit based on business demands which require the deliberate change to one (1) or more positions and their job profiles. This deliberate change in work functions and restructuring will result in the reallocation or reclassification of one or more of the existing positions and may include approval to conduct a limited recruitment to fill the positions. Incumbent employees are not reclassified with the position when the reclass is due to reorganization under MCPR 5-55.

*\*Represented employee:* An employee in a position covered by a collective bargaining agreement.

**Salary range:** The minimum base rate of pay to the maximum base rate of pay within which employees are paid, according to a pay grade and job profile. A salary range is often referred to as a pay range when assigned to a job profile that is covered by a collective bargaining agreement and has specific steps.

**\*Sexual orientation:** *Actual or supposed male or female heterosexuality, homosexuality or bisexuality.*

**Span of control:** The number of subordinates/employees who directly report either to a manager who oversees the work of other employees expressed as a ratio. For example, 1:5 would indicate that for each manager there are five employees.

**Step:** The progressive, specific rates of compensation within a pay grade for a represented job profile that progresses from the minimum rate of pay for a job profile, to the highest rate or maximum amount of pay.

**\*Source of income:** *The means by which a person and dependents are supported, including but not limited to money and property from any occupation, profession or activity, from any contract, settlement or agreement, from federal or state payments, court-ordered payments, gifts, bequests, annuities, life insurance policies, and compensation for illness or injury, but excluding any money or property derived in an illegal or criminal manner.*

**Spouse:** A legally married person.

**Substance abuse professional (SAP):** A licensed physician, or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

**Substantially limits:** To have a disability, an individual must be substantially limited in performing a major life activity as compared to most people in the general population. An impairment need not prevent or significantly, or severely, restrict an individual in performing a major live activity to be considered “substantially limited.” The determination of whether an impairment substantially limits a major life activity is made without considering the beneficial effects of mitigating measures such as medication. However, the effects of the mitigating measures of ordinary eye glasses or contact lenses shall be considered—i.e. a visual impairment that is corrected with ordinary eyeglasses may not be a disability under the ADA. Temporary, non-chronic impairments of short duration with little or no residual effects usually will not be considered disabilities.

**Supervisor:** See Manager

**Suspension:** Placing employee on involuntary absence from county service.

**\*Temporary employee:** *A person employed to meet short term, non-recurring or emergency county work needs.*

**Trainee:** Employment of a person in a job profile lower than the budgeted level of the position when there is a reasonable expectation that the employee will meet minimum qualifications of the allocated level within the probationary period or twelve months following appointment, whichever is longer.

**\*Transfer:** *Movement from one position to another with the same maximum pay rate.*

**Treating physician or other expert resource:** M.D. or Ph.D. or an individual providing expert services (i.e., rehabilitation counselor or physical therapist) who is licensed or certified by the state in which they practice.

**\*Trial service period:** *See Probationary Period*

**\*Unclassified employee:** *An employee excepted from the classified service by this chapter, but does not include temporary employees or those who work on call or less than half time.*

**Undue hardship:** Significant difficulty or expense incurred by the county given the nature and net cost of the accommodation, overall county financial resources, and the type of business operation performed.

**Volunteer:** A person who performs a service at free will and without expectation of pay.

**Work out of class (WOC):** An assignment in writing by the manager to assume the major distinguishing duties of a position in a different job profile and/or to replace another employee in a different job profile, and to perform a majority of the principal duties of that job profile, e.g. a job profile that would be a promotion, demotion, equivalent transfer, etc.

**Workplace:** Any place county employees work including all county business locations and premises, all county-owned and leased property, or any place occupied by county employees while on-the-job.



## **Rule # 2-15**

### **Employee Status**

**§§:**

[§ 2-15-005 Classified Employees](#)

[§ 2-15-010 Probation Purpose](#)

[§ 2-15-020 Duration](#)

[§ 2-15-030 Probationary Periods for Employees in Training Programs under MCPR § 5-30-030](#)

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[§ 2-15-050 Completion of Probation](#)

#### **§ 2-15-005 Classified Employees**

Classified employees are subject to all of the provisions of the County Charter, ordinances, and these rules which set forth civil service requirements, including, but not limited to, those for appointment, seniority, tenure, discipline and discharge. The classified county service is comprised of all county positions except the following:

- A. Elected officials and elected officials' staff.
- B. Executive employees, as follows:
  - 1. Department directors, the County Attorney, and Division heads.
  - 2. Non-represented executive assistants who report directly to and serve at the pleasure of department directors or the County Attorney.
  - 3. With the approval of the Chair or his/her designee, management classifications which report directly to the department director or his/her deputy or principal assistant and are a part of the department director's management team; and/or whose duties involve significant discretion and substantial involvement in the development, interpretation, and implementation of county or department policy.
  - 4. With the approval of the Chair or his/her designee, professional classifications which require an advanced degree and licensure and which require the exercise of substantial professional judgment and discretion, including but not limited to assistant county attorneys, dentists, and pharmacists.
- C. Deputy district attorneys.
- D. Temporary employees and those who work on-call or less than half-time.

## **§ 2-15-010 Probation Purpose**

The probationary period is an integral part of the evaluation process. It is a working assessment for a classified employee to demonstrate fitness for the position based on the duties assigned. It gives the Appointing Authority an opportunity to observe the employee's work, train and aid the employee in adjustment to the position, and to remove an employee whose performance fails to meet expectations.

## **§ 2-15-020 Duration**

A. Probation begins on the date of appointment from a certified eligible list for classified employees. Unless otherwise agreed to in a collective bargaining agreement, probationary periods have the following duration:

1. Eighteen (18) months for deputy sheriffs.
2. One (1) year for other law enforcement and corrections personnel.
3. Length is subject to the applicable collective bargaining agreement for other represented classified employees.
4. One (1) year for employees or applicants upon initial appointment as management employees.
5. Six (6) months trial service for employees promoted within management service.
6. Upon receiving written justification from an Appointing Authority documenting the reasons, the Multnomah County HR Director may approve an extension of the one (1) year initial management appointment probationary period or six (6) months management promotional trial service.
7. An authorized leave of thirty (30) days or more during the probationary period will extend the probationary period so that the employee serves the entire probationary period.

B. If a regularly budgeted position is changed from unclassified to classified for any reason, any incumbent with less than one (1) year of accrued service must serve a probationary period. Executive employees who accept a reassignment into a classified position and who have not attained regular status as a classified employee must serve a probationary period. The length of the probationary period will be the difference between one (1) year and the incumbent's accrued service in a classified position.

**§ 2-15-030 Probationary Periods for Employees in Training Programs under MCPR § 5-30-030**

- A. Trainees will be promoted non-competitively as authorized by MCC 9.150(A) to the budgeted position's classification when they have completed the training program and meet the qualifications and performance requirements of the program.
- B. Trainees not meeting the position qualifications and performance requirements by the end of probation, trial service or the training program, will be terminated or returned to their previous classification as required by the collective bargaining agreement or MCPR § 2-15-050. Trainees will be notified of the length of the probationary period when they are appointed.
- C. The length of the training program shall be added to the regular probationary period for an employee appointed to the program.

**§ 2-15-035 Trainee Classifications**

Trainee classifications may be designated under MCC 9.206(A).

**§ 2-15-040 Failure to Complete Probation**

- A. A probationary employee may be removed during probation at any time if, in the opinion of the Appointing Authority, continuing probation is not in the best interests of the county. Employees removed during probation have no right to appeal such actions.
- B. Regular employees who are appointed to positions in other classifications and who fail to complete the probationary period will be reinstated to their former position without loss of seniority, unless terminated for cause.
- C. An employee who is removed from county service during the initial probationary period may, upon written request, be restored to the eligible list, if it has not expired.
- D. Prior to the end of their probationary period, employees must be notified in writing that they are being removed or reinstated to their former position.

**§ 2-15-050 Completion of Probation**

Employees who successfully complete their probationary period attain regular employee status.

**§ 2-15-050 Completion of Probation**

Employees excepted from the classified service pursuant to County Charter, ordinance or MCPR § 2-15-005 are not subject to county civil service requirements. Unclassified employees serve at the pleasure of the Appointing Authority and may be terminated at any time with or without cause. Other terms and conditions of employment for employees in the unclassified

service are set forth by category elsewhere in these rules and/or applicable collective bargaining agreements. (ER 375, Amended, 12/22/2009)

## **Rule #2-20**

### **Merit System Civil Service Council**

**§§:**

[§ Purpose](#)

[§ Appeals](#)

[§ 2-20-020 Processing of Appeals](#)

[§ 2-20-030 Repealed by ER 303](#)

[§ 2-20-040 Hearings Administration](#)

[§ 2-20-050 Presiding Powers](#)

[§ 2-20-060 Evidence](#)

[§ 2-20-070 Decision](#)

[§ 2-20-080 Appeal of Hearings Officer Decision](#)

[§ 2-20-090 Appeal of a Merit Council Decision to the Board](#)

[§ 2-20-100 Record of Hearing](#)

[§ 2-20-110 Electronic Recording of Hearings](#)

[§ 2-20-120 Ex Parte Contacts](#)

[§ 2-20-130 Disciplinary Action](#)

#### **§ Purpose**

The Merit System Civil Service Council is established by the County Home Rule Charter and consists of a board of three members, who are appointed by the Multnomah County Board of Commissioners. The Merit Council conducts hearings on appeals from classified management and represented regular employees as described in Section 2-20-010 below. The County recognizes that the Merit System Civil Service Council appeal process may be adversarial in nature at times, and will make efforts to minimize the impact on individuals involved in the process and ensure that the process is trauma-informed.

#### **§ Appeals**

A. Appeals to the Council:

1. Classified management employees may appeal disciplinary actions more severe than a letter of reprimand if the disciplinary action violates Multnomah County Personnel Rules, County Code or the Charter. Appeals must be delivered to the Executive Secretary of the Council no later than ten (10) calendar days from the date of the letter imposing the discipline.
2. Represented regular employees may appeal personnel actions not covered by a grievance procedure if the personnel action violates Multnomah County Personnel Rules, County Code or the Charter. The appeal must be delivered to the Executive Secretary of the Council no later than ten (10) calendar days after

the effective date of that personnel action or for appeals under MCPR 5-20-070 receipt of the Multnomah County Chief Human Resources Officer's response.

3. Executive, temporary, and on-call employees have no appeal rights pursuant to MCPR 4-70-030. Probationary employees have no appeal rights pursuant to MCPR 2-15-040.

B. Appeals to the Council must:

1. Be in writing;
2. Be signed by the employee;
3. Be dated;
4. Be addressed to the Council;
5. Contain an explanation of the action being appealed;
6. Include an explanation of the violation or identify the rule alleged to have been violated;
7. State the date of the action taken or not taken which the employee believes violated the Multnomah County Personnel Rules, County Code or the Charter;
8. Contain a statement of the redress desired;
9. Include a description of the evidence to be used by appellant on appeal.

C. Failure to comply with the requirements of this section will result in dismissal of the appeal by the Executive Secretary.

### **§ 2-20-020 Processing of Appeals**

A. The Council or the Executive Secretary may appoint a Hearings Officer to conduct the Council's hearings functions. In order for a Hearings Officer to be considered for appointment an individual must either be:

1. A member of the Oregon State Bar actively engaged in the practice of law for at least five years, or
2. An individual with at least five (5) years experience hearing contested employment cases, who is not a current county employee nor an employee within the year immediately preceding appointment

B. Upon receipt of an appeal, the Executive Secretary shall:

1. Determine compliance with MCPR 2-20-010 (A-B). Upon a finding of failure to comply, the Executive Secretary will dismiss the appeal. The appellant may

appeal this decision by filing an appeal with the Executive Secretary within ten (10) days of the decision. The County Attorney's Office will issue a decision on the dismissal within ten (10) days of receiving the appeal. This decision is final and may not be appealed.

2. Determine if the appeal contains issues of disputed fact.
  - a. Upon a finding that an issue of disputed fact exists the Executive Secretary will refer the appeal to a Hearings Officer for hearing.
  - b. Upon a finding that the appeal does not involve any issues of disputed fact the Executive Secretary will refer the appeal to the Merit Council.
3. Notify the appellant, counsel for the county, Department HR Manager, and Council members or Hearings Officer, if assigned, of the date, time and place of hearing not less than fifteen (15) days before the hearing, unless the appellant requests the hearing to be through writing.
4. An appellant's failure or refusal to appear for a scheduled hearing may result in dismissal of the appeal. If the appeal is dismissed for failure or refusal to appear, an appellant may not re-file an appeal on that issue.

#### **§ 2-20-030 Repealed by ER 303**

#### **§ 2-20-040 Hearings Administration**

A. Hearings will be presided over by:

1. The Council Chair;
2. A designated member of the Council; or
3. A Hearings Officer appointed by the Council.

B. Hearings will be conducted in an impartial manner. Any member of the Council or an appointed Hearings Officer will withdraw if unable to impartially or fairly consider an appeal.

1. Any member of the Council or an appointed Hearings Officer will disclose any relationship, which might give the appearance of impropriety.
2. An affidavit of bias may be filed where a party believes hearing by a Hearings Officer or Council member will result in actual bias. The Council or its designee will consider the affidavit of bias prior to hearing and as a part of the record in the case. Upon a finding that a party will suffer actual bias from consideration by the Hearings Officer or Council member, a new presiding Council member or Hearings Officer will be appointed.

## **§ 2-20-050 Presiding Powers**

The Council member or Hearings Officer presiding over a hearing has authority to:

- A. Administer oaths and affirmations;
- B. Issue subpoenas on its own motion, or when requested in writing by a party on a showing of the general relevance and scope of evidence sought;
- C. Rule upon objections to evidence and receive offers of proof subject to MCPR 2-20-070
- D. Regulate the course of the hearing;
- E. Hold conferences for the settlement or clarification of the issues;
- F. Rule on procedural matters;
- G. Recommend decisions in conformity with MCPR 2-20-080;
- H. Call and examine or privately interview witnesses, and introduce into the record or use other measures necessary in obtaining documentary and other evidence;
  - 1. Remote testimony or alternative methods may be used to ensure the process is trauma-informed and to maintain the integrity of the process. Remote testimony is live testimony given by a witness or party from a physical location outside of the location of the hearing.
  - 2. Witnesses may “appear” including, but not limited to, through written questions, in person, by phone, through video, or via Skype or other similar programs.
  - 3. Permit or require the parties to present oral or written arguments and submit proposed findings of fact and violations of County and/or department policies and procedures;
  - 4. Take any other action authorized by Council consistent with MCC Chapter 9 and other applicable law; and
  - 5. The Council may delegate its authority to issue subpoenas to its legal advisor.

## **§ 2-20-060 Evidence**

- A. Every party has the right to present its case by oral or documentary evidence, to conduct cross-examination for disclosure of the facts, and to submit rebuttal evidence.
- B. The presiding Council member or Hearings Officer need not observe the federal or Oregon rules of evidence, but will observe the rules of privilege recognized by Oregon law. Evidence may be admitted and given probative effect only if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious



affairs. The Hearings Officer or presiding Council member must exclude immaterial, irrelevant or unduly repetitious evidence. In the interest of the process being trauma-informed, the Hearings Officer may control the evidence presented by the parties.

- C. Evidence objected to may be received by the presiding Council member or Hearings Officer and a ruling on its admissibility may be made at the time of the final decision.

### **§ 2-20-070 Decision**

- A. Within thirty (30) days after the close of taking evidence, the Council or Hearings Officer will issue a decision in writing that includes the following:
  - 1. Rulings on the admissibility of offered evidence not ruled on during the hearing.
  - 2. Findings of fact; and
  - 3. Rulings on the alleged violation of a Multnomah County personnel rule, County Code or Charter and appropriate remedy.
    - a. Upon a ruling that the personnel action (in the case of a represented employee) or disciplinary action (in the case of a management employee) violated a personnel rule, County Code or Charter with respect to the appellant, the Council or Hearings Officer will identify the appropriate remedy.
    - b. Upon a ruling that the personnel action (in the case of a represented employee) or disciplinary action (in the case of a management employee) was taken in accordance with the Personnel Rules, County Code or Charter with respect to the appellant, the Council or the Hearings Officer will dismiss the appeal.
    - c. A copy of the decision must be delivered to the Executive Secretary. The Executive Secretary will deliver the decision to the appellant, or to the appellant's attorney, through U.S. certified mail, and email the decision to the counsel for the county, Department HR Manager, and Council members.

### **§ 2-20-080 Appeal of Hearings Officer Decision**

- A. A Hearings Officer's decision can be appealed to the Council within ten (10) calendar days after the date listed on the certificate of service.
- B. Prior to the final decision by the Council, the parties will be afforded a reasonable opportunity to present oral or written arguments, but not new evidence. The bases for appeal of the Hearings Officer's decision are limited to arguments that the Hearings Officer:

1. Exceeded jurisdiction;
  2. Failed to follow the procedure required by the Multnomah County Personnel Rules, County Code or Charter;
  3. Made a finding or ruling not supported by substantial evidence in the whole record; or
  4. Improperly construed the law
- C. The Council will issue its final decision within thirty (30) days after the close of the hearing on review, unless it gives notice to the parties, and extends the period for not more than sixty (60) days.
- D. The Council's decision on appeal from the Hearings Officer's decision must be in writing and must include the appropriate ruling, order, sanction or relief.
- E. The Council may not remand the case back to a Hearings Officer, nor may it hire another Hearings Officer for further consideration.
- F. The Executive Secretary will deliver a copy of the Council's decision on appeal to the appellant, or the appellant's attorney, through U.S. certified mail, and email the decision to the counsel for the county, Department HR Manager, and Council members.

**§ 2-20-090 Appeal of a Merit Council Decision to the Board**

- A. There is no appeal if a quorum of the Council is unanimous. The Council has a quorum when two of the three members are present. A Council decision is unanimous if all Council members present affirm the decision.
- B. An appeal may be made to the Board of County Commissioners if the Council's decision is not unanimous.
1. Appeals to the Board must be in writing and filed with the clerk of the Board within ten (10) days from the date of the Council's decision.
  2. The basis for appeal of the Council's decision is limited to arguments that the Council:
    - a. Exceeded jurisdiction;
    - b. Failed to follow the procedure required by the Multnomah County Personnel Rules, County Code or Charter;
    - c. Made a finding or ruling not supported by substantial evidence in the whole record; or
    - d. Improperly construed the law.

3. Board review will be in the nature of an appeal based on the record of the proceedings and such legal argument as the Board requests.
4. The Board will make its decision within forty-five (45) days from date of receipt of notice of appeal, based upon those decision guidelines established for the Council by rule MCPR 2-20-080.

### **§ 2-20-100 Record of Hearing**

The record of each hearing must include:

- A. All written materials;
- B. Evidence and testimony received and considered;
- C. Matters officially noticed;
- D. Questions and offers of proof, objections and rulings;
- E. The decision of the Hearings Officer or Merit Council;
- F. Any other matter submitted to the Hearings Officer or the Council in connection with the hearing;
- G. Any decision of the Council or the Board of Commissioners; and
- H. The recording of the hearing.

### **§ 2-20-110 Electronic Recording of Hearings**

All proceedings will be electronically recorded. The record need not be transcribed. The Council may charge the party requesting transcription the cost of any transcription.

### **§ 2-20-120 Ex Parte Contacts**

Unless required for the disposition of ex parte matters authorized by law, members of the Council and the Hearings Officer must not communicate, directly or indirectly, in connection with a hearing with any person or party or their representative, except upon notice and opportunity for all parties to participate.

### **§ 2-20-130 Disciplinary Action**

- A. If the Council finds that the disciplinary action was discriminatory, as defined in MCC 9.009; was an unlawful employment practice described by applicable state law; or was not for cause, the employee will be reinstated to the prior position and will not suffer any loss in pay.
- B. The Council may modify an appealed disciplinary action if it finds that the action was taken in good faith for cause, upon a finding of mitigating circumstances.

C. Any other personnel action appealed to the Council from a decision of a department or the Human Resources manager must be affirmed unless the Council concluded the action violates MCC Chapter 9.

## Rule # 2-70

# Compliance with Americans with Disabilities Act and Amendments Act (A.D.A.A.A.), and State Disability and Pregnancy-Related Limitations Accommodation Laws

§§:

[§ 2-70-010 Purpose](#)

[§ 2-70-020 Definitions](#)

[§ 2-70-030 Employment Practices Regulated by Title I of the A.D.A., and State Disabilities and Pregnancy-Related Limitations Accommodation Laws](#)

[§ 2-70-040 Reasonable Accommodation Requests](#)

[§ 2-70-050 Reassignment as an Accommodation](#)

[§ 2-70-060 Approving and Denying Requests for Accommodation](#)

[§2-70-070 Confidential Medical Records](#)

### § 2-70-010 Purpose

It is the county's policy to ensure that qualified individuals are not discriminated against on the basis of disability and to comply with the reasonable accommodation requirements of the ADA (42 USC §§ 12101 to 12213, as modified by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), state disabilities laws (ORS 659A.100 to 659A.145), and pregnancy-related limitations accommodation law (ORS 659A). The county is committed to providing reasonable accommodations to qualified employees and applicants to ensure that individuals with disabilities and/or pregnancy-related limitations enjoy full access to equal employment opportunity at the county unless to do so would cause undue hardship.

### § 2-70-020 Definitions

**Direct Threats:** A significant risk of substantial harm to the health or safety of the disabled individual or others that cannot be eliminated by reasonable accommodation.

**Disability:** An individual with a disability is a person who: (1) has a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

**Essential Functions:** The fundamental job duties of a position. Essential functions do not include the marginal functions of the position. A function may be essential for any of several reasons, including but not limited to the following: (1) a position exists specifically to perform the function; (2) there are a limited number of employees available among whom the

performance of the job function can be distributed; or (3) the function is highly specialized and employees are hired for their expertise or ability to perform the particular function.

**Interactive Process:** The process of the mutual information exchange between the county and the employee or applicant, and/or the county and the employee/applicant's health care provider, about possible accommodations of employee disabilities and/or pregnancy-related limitations that may allow employees to perform the essential functions of their jobs.

**Major Life Activities:** Basic activities that most people in the general population can perform with little or no difficulty, such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. This is a nonexclusive list. It also includes the operation of major bodily functions, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

**Pregnancy-Related Limitations:** Restrictions related to pregnancy, childbirth, lactation, and related medical conditions.

**Qualified Individual with a Disability:** An individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position that the individual holds or desires and who, with or without reasonable accommodation, can perform the essential functions of the position. Individuals who currently use drugs illegally are not individuals with disabilities on the basis of such use for purposes of this rule.

**Reasonable Accommodation:** Modifications or adjustments to a job application process, work environment or manner in which the job is done that will enable a qualified individual with a disability and/or pregnancy-related limitations to perform the essential functions of that position.

**Reassignment:** Reassignment is a form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of a disability and/or pregnancy-related limitations, can no longer perform the essential functions of their position, with or without reasonable accommodation.

**Substantially Limits:** The determination of whether an impairment "substantially limits" a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as: medication, medical supplies, equipment, appliances, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological

modifications. However, the ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered.

**Undue Hardship:** Significant difficulty or expense incurred by the county given the nature and net cost of the accommodation, overall county financial resources, and the type of business operation performed

**§ 2-70-030 Employment Practices Regulated by Title I of the A.D.A., and State Disabilities and Pregnancy-Related Limitations Accomodation Laws**

- A. The county may not discriminate against individuals on the basis of disability and/or pregnancy-related limitations in regard to any employment practices or terms, conditions, and privileges of employment. This prohibition covers all aspects of the employment process, including: application process, testing, hiring, compensation, assignments, promotion, training, evaluation, medical examination, disciplinary action, layoff/recall, and termination.
- B. Possible discriminatory actions include the following:
  - 1. Limiting, segregating or classifying a job applicant or employee in a way that adversely affects employment opportunities.
  - 2. Denying employment opportunities to a qualified individual because they have a relationship or association with a person with a disability and/or pregnancy-related limitations.
  - 3. Refusing to make reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability and/or pregnancy-related limitations, unless the accommodation would pose an undue hardship to the business of the department.
  - 4. Using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability and/or pregnancy-related limitations unless the standards, tests or selection criteria are job-related and necessary for the business of the department.
- C. Applicants may be asked about their ability to perform specific job functions with or without accommodation and may be asked to describe or demonstrate their ability as long as all applicants are asked the same question.
- D. The County may not require an employee with limitations related to pregnancy, childbirth, lactation, and related medical conditions to take family leave under ORS 659A.150 to 659A.186, or any other leave, if the employer can make reasonable accommodation to the known limitations.

E. The county may not make medical inquiries or conduct a medical examination until after a job offer has been made. A job offer may be conditioned on the results of a medical examination or inquiry, but only if this is required for all employees entering similar jobs.

F. The county is not required to lower quality or quantity standards to make an accommodation.

G. The county is not required to provide personal use items, such as glasses or hearing aids, as accommodations.

H. The county is not required to cease disciplinary action based on a belated notice of disability and/or pregnancy-related limitations and request for accommodations.

I. Nonexhaustive examples of reasonable accommodations are as follows:

1. Making existing facilities used by employees readily accessible to and usable by an individual with a disability and/or pregnancy-related limitations.
2. Job restructuring (the county is not required to remove or reassign essential duties of a position).
3. Modifying work schedules (the county is not required to adjust work schedules if it places a hardship on other employees or in conducting the department's business).
4. Permitting the use of accrued paid leave or unpaid leave.
5. Reassignment to a vacant position (the county is not required to create a new job).
6. Acquiring or modifying examinations, training materials, or policies.
7. Providing qualified readers or interpreters (the county is not expected to employ persons who will read or interpret full time).
8. For pregnancy-related limitations, some additional examples of reasonable accommodation include, but are not limited to:
  - a. Acquisition or modification of equipment or devices;
  - b. More frequent or longer break periods or periodic rest;
  - c. Assistance with manual labor; and/or
  - d. Modification of work schedules or job assignments.

J. The County shall not require a candidate or employee to accept a reasonable accommodation that is:



1. unnecessary for the candidate or the employee to perform the essential duties of the job; or
2. to accept a reasonable accommodation if the applicant or employee does not have a known limitation.

## **§ 2-70-040 Reasonable Accommodation Requests**

- A. Managers are responsible for identifying and listing the essential functions of positions. When position descriptions are completed, the essential functions and the physical and cognitive requirements of positions will be identified. Determination of the essential functions of a position should be done on a case-by-case basis, so that it reflects the job as actually performed and not simply the components of a generic position description.
- B. Human Resources will provide notice to new hires regarding pregnancy discrimination protections and reasonable accommodation rights at the time of hire.
- C. Upon learning or receiving notification from an employee that they are pregnant, a manager must immediately notify their Department Human Resources Unit.
- D. The Department Human Resources Unit will provide notice to the employee regarding pregnancy discrimination protections and reasonable accommodation rights within ten (10) days of the employee's notice to the manager or Human Resources.
- E. An individual with a disability and/or pregnancy-related limitations may request a reasonable accommodation at any time during the application process or during the period of employment, orally or in writing. The individual with a disability and/or pregnancy-related limitations should request a reasonable accommodation when the individual knows that there is a workplace barrier that is preventing them, due to a disability and/or pregnancy-related limitations, from effectively competing for a position, performing a job, or gaining equal access to employment.
- F. If the need for accommodation is not obvious, the request for accommodation *must* be submitted to the Department HR Manager by either the employee or the employee's manager or by the applicant or hiring manager. Documentation must identify the nature of the claimed physical or mental disability and identify the functional limitations with respect to the disability, or identify pregnancy-related limitations, and identify the requested accommodation(s).
- G. Managers are responsible for consulting with the Department HR Manager when receiving requests for reasonable accommodations from employees or applicants who have applied for or have been selected for positions. Department HR Managers or designee must contact Labor Relations or the County Attorney's Office when a request for reasonable accommodation is received.

H. The Department HR Manager or designee is responsible for facilitating an interactive process dialogue with the individual requesting accommodation and for determining the nature of the condition that gives rise to the potential accommodation requirement. This requires consultation with the individual and, when appropriate, the individual's healthcare provider(s) or other resources. The following forms are guidelines for documentation that must be completed and maintained as described in 2-70-070:

1. Guide to Interactive Process for Reasonable Accommodation;
2. Request for Reasonable Accommodation (completed by the employee and/or applicant);
3. Department Checklist for Reasonable Accommodation Requests;
4. Correspondence to/from the health care provider; and
5. Authorization to Release Medical Records (if necessary).

I. Individuals seeking accommodation must cooperate in the interactive process by providing the Department HR Manager with information necessary to make a decision regarding the request for accommodation. The individual may be required to execute a release allowing their health care provider(s) to disclose necessary medical information to appropriate HR representatives, Labor Relations and the County Attorney. Health care providers are instructed not to provide genetic information as part of this process, except as specifically allowed by law. Failure to provide appropriate documentation or to cooperate in the county's efforts to engage in the interactive process and/or to obtain such information and documentation can result in a denial of the reasonable accommodation request.

J. An individual seeking accommodation may request that a representative assist them in the interactive process.

K. Upon request, the employee or applicant's health care provider must assist in the determination of the individual's specific abilities or limitations in performing the essential functions of the position, with or without reasonable accommodation, what type of accommodation is required, if any, and whether the applicant or employee can perform the job without posing a "direct threat" to the health or safety of themselves or others. The county's health and safety requirements, if applicable, may be used when making the assessment. If the documentation provided by the health care provider is not helpful, the Department HR Manager or designee may contact the health care provider directly, solicit advice from other resources, or arrange for an independent medical evaluation to elicit accurate and complete information regarding the employee's abilities and limitations to perform essential functions of the job

L. As a general rule, the individual with a disability and/or pregnancy-related limitations, who has the most knowledge about the need for reasonable accommodation, must inform the county that an accommodation is needed. However, the Department HR Manager or designee should initiate the reasonable accommodation interactive process without being asked if they know, or has reason to know:

1. that the employee has a disability and/or pregnancy-related limitations, and
2. the employee is experiencing workplace problems because of the disability and/or pregnancy-related limitations.

If the individual with the disability and/or pregnancy-related limitations states that they do not need a reasonable accommodation, the county will have fulfilled its obligation under the ADA.

### **§ 2-70-050 Reassignment as an Accommodation**

A. The County Attorney's Office or Labor Relations must be contacted before an employee is reassigned. Reassignment is the accommodation of last resort and is required only after it has been determined that:

1. There are no effective accommodations that would enable an employee to remain in their current position, or
2. All other reasonable accommodations would impose an undue hardship.

B. Reassignments will only be made to vacant positions that individuals are qualified to perform. The employee does not have to be the best qualified individual for the position in order to obtain it as a reassignment. An employee is "qualified" to be reassigned into a vacancy if:

1. The employee satisfies the requisite skill, experience, education, and other job-related requirements of the position; and
2. The employee can perform the essential functions of the position, with or without reasonable accommodation (see the definition of a qualified individual with a disability in 2-70-020).

C. The county does not have an obligation to provide special training to employees to assist them in becoming qualified for positions to which they are being reassigned. However, employees with a disability and/or pregnancy-related limitations that are being reassigned as a part of an accommodation process should receive the same training that is normally provided to anyone hired for or transferred to the position.

D. Employees reassigned to another position as an accommodation will serve any trial service and probationary periods as required in applicable collective bargaining agreements and MCPR § 2-15.

- E. In considering whether there are positions available for reassignment, the Department HR Manager or designee will identify all vacant positions, and those that are expected to become vacant within sixty (60) days, looking first within their department, and then within the county, for which the employee may be qualified, with or without reasonable accommodation.
- F. Employees seeking reassignment to another classification must submit a resume and/or application to the Department HR Manager or designee for purposes of determining if an employee is qualified for a particular position.
- G. All attempts will be made to place the employee in a position that is equivalent to the employee's current position in terms of pay, classification, and other relevant employment factors. If there is no equivalent vacancy, then vacancies in lower classifications for which the employee is qualified for should be considered. If an employee is reassigned into a position at a lower classification, the rules regarding voluntary demotion shall apply. Unless otherwise specified in an applicable collective bargaining agreement, the employee shall receive the rate of pay in the lower classification that causes the least reduction in pay.
- H. Reassignment as an accommodation means that employees with disabilities and/or pregnancy-related limitations are not required to compete for positions through a recruitment process and are placed into vacant positions they are qualified for. Reassignments should be made, and positions are still considered vacant, even after recruitment announcements are posted and applications have been received, until an offer of employment has been made to an applicant. Employees will not be reassigned to a position if such a reassignment would violate another employee's rights under a collective bargaining agreement.

## **§ 2-70-060 Approving and Denying Requests for Accommodation**

- A. Consultation is required with the Labor Relations and the County Attorney's Office any time a request for accommodation is made or denied. The County Attorney's Office may track approvals and denials to ensure compliance with the regulations.
- B. After consultation with Labor Relations or the County Attorney's Office, the Department HR Manager or designee must provide a written offer or denial of reasonable accommodation to the individual requesting accommodation.
- C. Written notifications denying requests for accommodation should clearly state the specific reasons for the denial. Reasons for the denial may include:
  - 1. The requested accommodation would not be effective.
  - 2. Providing the requested accommodation would result in undue hardship.

3. Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.
4. The requested accommodation would require the removal of an essential function.
5. The requested accommodation would require the lowering of a performance or production standard.

D. The Department HR Manager or designee must complete the Denial of Reasonable Accommodation form and submit it to Labor Relations and the County Attorney.

E. A determination of undue hardship is always made on a case-by-case basis, considering factors such as the nature and cost of the accommodation requested, as well as the impact of the accommodation on the business of the department. If a requested accommodation would pose an undue hardship, the Department HR Manager or designee should explore whether other effective accommodations exist which would not impose undue hardship and could therefore be provided.

F. Where multiple accommodations are suggested by the employee or applicant and their health care provider, the county will evaluate the reasonable accommodations presented. The county may also offer alternative suggestions for reasonable accommodations and discuss their effectiveness in removing the workplace barrier that is impeding the individual with a disability and/or pregnancy-related limitations. The final decision on selecting the appropriate reasonable accommodation rests with the county and will take into consideration:

1. The effectiveness of available options;
2. The applicant or employee's preference;
3. Cost; and
4. Difficulty.

G. Employees and applicants are not required to accept accommodations they have not requested. However, if the individual refuses an accommodation necessary to complete the employment process or perform essential job functions and as a result cannot perform those functions, they may be considered not qualified for the position.

## **§2-70-070 Confidential Medical Records**

A. All medical information received or created by the county in connection with a request for reasonable accommodation must be kept in locked files by Human Resources separate from the employee's personnel file. This confidentiality requirement encompasses

information about an individual's functional limitations and reasonable accommodation needs.

B. The information obtained in the reasonable accommodation process may only be disclosed as follows:

1. Managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s), but medical information should only be disclosed if strictly necessary.
2. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.
3. The information may in certain circumstances be disclosed to workers' compensation offices or insurance carriers.

C. An employee with a disability and/or pregnancy-related limitations may voluntarily choose to disclose to co-workers their disability, limitations, and/or the fact that they are receiving a reasonable accommodation. Managers may not make such disclosure to the disabled employee's co-workers even when responding to questions. Instead, they may tell the co-workers that the county, as an employer, has a practice of assisting employees who encounter difficulties in the workplace and that these issues are personal and confidential.

## Rule # 2-75

### Support for Milk Expression and Nursing in the Workplace

§§:

[§ Purpose](#)

[§ Definitions](#)

[§ 2-75-030 Policy](#)

[§ 2-75-040 Records and Confidentiality](#)

#### § Purpose

The county recognizes the importance of assisting parents with their return to work after the birth, adoption, foster care placement, or placement pursuant to legal guardianship of a child with an employee. In accordance with ORS 653.077 and the Fair Labor Standards Act (FLSA), the county will provide the following to any employee who needs to express milk and/or nurse for their child(ren) twenty-four (24) months of age or younger, reasonable rest periods and a private, functional location to express milk and/or nurse. In accordance with ORS 109.001, employees may nurse their child(ren) in any public place.

#### § Definitions

**Close Proximity:** Close proximity means within reasonable distance from the employee's work area that does not appreciably shorten the rest or meal period (less than five (5) minutes).

**Milk Expression:** Milk expression means the initiation of lactation by manual or mechanical means and does not include nursing.

**Lactation Space:** A lactation space is a private, functional location that has been designated, permanently or temporarily, for milk expression, and includes, but is not limited to:

- A. The employee's work area;
- B. A room connected to a public restroom, such as a lounge;
- C. A child care facility;
- D. An empty or unused office, conference room, or a storage space; or
- E. A permanent lactation or wellness room.

**Nursing:** Nursing means feeding a child directly from the mother's breast or parent's chest.

**Private, Functional Location:** A private, functional location is a secure location, concealed

from view and without intrusion by other employees or the public that is available whenever needed by employees to express milk. They must meet the following conditions:

- A. Be sanitary and not be a public restroom or toilet stall;
- B. Have a locking door or “in use” signage, and any windows must have blinds or window coverings;
- C. Be in close proximity to the employee’s work area;
- D. Include an electrical outlet; adjustable, cleanable chair; desk, table, or worktop; and cleaning supplies;
- E. Contain, or be in close proximity to, a sink with hot, running water; and
- F. Be compliant with the Americans with Disabilities Act and Amendments (ADAA) design standards and be accessible for those with mobility limitations.

**Public Restroom:** A public restroom is a restroom freely available for use by employees or the general public that does not include an attached lounge or room that allows an employee to express milk and/or nurse concealed from view and without intrusion by other employees or the public.

**Reasonable Rest Period:** An employee will be provided reasonable rest periods to express milk and/or nurse a child(ren) for the first twenty-four (24) months of the child’s life. These rest periods will be given each time the employee has the need to express milk and/or nurse.

**Reasonable Time:** A reasonable time must not interfere with the rights provided by this rule, taking into consideration the immediacy of the employee’s need to express milk and/or nurse, and that this rule applies only until the employee’s child(ren) is twenty-four (24) months of age.

**Toilet Stall:** A toilet stall includes a restroom that contains one toilet, whether or not in plain view, and whether or not the restroom locks from the inside.

## **2-75-030 Policy**

- A. Multnomah County will provide reasonable rest periods to accommodate an employee who needs to express milk for and/or nurse their child twenty-four (24) months of age or younger.
  - 1. If feasible, the employee will take the rest periods to express milk and/or nurse at the same time as the rest periods or meal periods that are otherwise provided to the employee. If not feasible, the employee is entitled to take reasonable time as needed to express milk and/or nurse.
  - 2. The county will treat the rest periods used by the employee for milk expression and/or nursing as paid rest periods up to the amount of time the county is



required to provide as paid rest and/or meal periods under applicable county personnel rules or collective bargaining agreements. Additional time needed beyond the paid rest and/or meal periods may be taken as flex time with manager approval, unpaid time, or substitute paid leave for unpaid leave at the employee's discretion.

- B. Multnomah County will make a reasonable effort to provide the employee with a designated lactation space that is private and functional within close proximity to the employee's work area to express milk.
- C. If a private, functional lactation space is not within close proximity to the employee's work area, the county will identify a private, functional lactation space the employee can travel to. The travel time to and from the private location will not be counted as a part of the employee's break period.
- D. An employee who intends to express milk and/or nurse during work hours must give their manager reasonable oral or written notice of their intention to do so in order to allow the county time to make any preparations necessary for compliance with this rule.
- E. An employee, with manager approval, may arrange to have their child(ren) twenty-four (24) months of age or younger brought to work to nurse, and the employee may nurse in any location.
- F. Once a manager has been notified by an employee of their intent to express milk and/or nurse during work hours, the manager is responsible for contacting their department human resources unit for further guidance and informing the employee of their rights.
- G. Requests for accommodation under this rule may only be limited or denied after consultation with Central Human Resources and/or the County Attorney's Office. Central Human Resources and/or the County Attorney will review compliance with state and federal regulations.
- H. Employees are responsible for storing expressed milk. Employees may bring a cooler or other insulated food container to work for storing the expressed milk. If an office provides access to refrigeration in or near the lactation space or for personal use, an employee who expresses milk during work hours may use the available refrigeration.
- I. In accordance with the Fair Labor Standards Act (FLSA) and Personnel Rule 3-40, all managers and employees must create and maintain a respectful, harassment-free environment for employees who express milk and/or nurse in the workplace.
- J. Managers are required to comply with all aspects of this rule. Actions that violate these rules are subject to disciplinary action, up to and including termination.
- K. Requests for additional time to express milk and/or nurse greater than that specified in ORS 653.077 can be made to Department Human Resources for consideration.

## **2-75-040 Records and Confidentiality**

All records related to the request for or use of this rule will be kept confidential. Documents provided to the county regarding the request will be maintained in a locked confidential file, which is kept separately from employee personnel files.

## Rule #3-40

### Discrimination and Harassment-Free Workplace

§§:

[§ 3-40-010 Purpose](#)

[§ 3-40-020 Policy](#)

[§ 3-40-030 Definitions](#)

[§ 3-40-040 Prohibited Conduct](#)

[§ 3-40-050 Retaliation](#)

[§ 3-40-060 County Reporting](#)

[§ 3-40-070 Legal Remedies](#)

#### **§ 3-40-010 Purpose**

The county is committed to providing its employees with a workplace that is free of illegal bias, prejudice, discrimination, harassment or retaliatory conduct. It is committed to creating and maintaining an environment in which each person is respected and valued without regard to protected status.

Volunteers and interns (paid or unpaid) and elected officials are also covered by this policy.

#### **§ 3-40-020 Policy**

The county's policy is to prohibit workplace harassment and discrimination on the basis of race, color, sex including sexual assault, age, religion, national origin, political affiliation, marital status, sexual orientation, gender identity, gender expression, source of income, familial status, physical or mental disability, genetic information, pregnancy, pregnancy-related limitations, status as a uniformed service member, an expunged juvenile record, or other protected status in any personnel action and in accordance with applicable law, including Oregon Revised Statutes (ORS) 659.030 and ORS 649A.112. Workplace harassment and discrimination is also prohibited based on association with a person in one of the classes listed in this paragraph. Prohibited harassment and discrimination based on disability includes perceived disability and record of a disability.

Prohibited workplace harassment and discrimination is unacceptable in the workplace, in any work-related setting outside the workplace and when using county owned equipment including vehicles and electronic devices such as computers, telephones, photocopiers and faxes.

Employees who violate this rule are subject to disciplinary action, up to and including discharge.

Every employee shares the responsibility for promptly bringing to the county's attention conduct that interferes with providing a work environment free of illegal discrimination and harassment. This policy will be readily available to all employees and will be provided to

employees at the time of hire and when an employee makes a report of a violation of this rule (see 3-40-060).

Prohibited workplace harassment, discrimination and retaliation on the basis of gender identity and gender expression are described further in Multnomah County Personnel Rule (MCPR) 3-42. Prohibited discrimination including denial of reasonable accommodation for a physical or mental disability or pregnancy-related limitations are described further in MCPR 2-70. MCPR 2-70 describes the reasonable accommodation process and compliance standards.

### **§ 3-40-030 Definitions**

**Genetic Information:** Includes information about an individual's or individual's family member's genetic tests; family medical history; an individual's request for, or receipt of, genetic services or participation in clinical research that includes genetic services; or genetic information of a fetus of a pregnant woman or family member, or embryo with respect to an individual using assisted reproductive technology.

**Harassment:** Verbal or physical conduct that is derogatory or shows hostility towards an employee because of race, color, sex, age, religion, national origin, political affiliation, marital status, sexual orientation, gender identity, gender expression, source of income, familial status, physical or mental disability, pregnancy, pregnancy-related limitations, status as a uniformed service member, an expunged juvenile record, or other protected status in accordance with applicable law, and

A. Has the purpose or effect of creating an intimidating, hostile or offensive work environment;

B. Has the purpose or effect of unreasonably interfering with an employee's work performance; or

C. Otherwise substantially and adversely affects an employee's employment opportunities

**Non-Disclosure Agreement:** Also referred to as a confidentiality agreement, a legal contract between two parties that outlines confidential material, knowledge or information that the parties agree to not share with third parties.

**Non-Disparagement Agreement:** A contract between two parties that prohibits one or both parties from criticizing the other.

**No-Rehire Agreement:** A contract between an employee and an employer that prohibits the employee from seeking reemployment with the employer.

**Sexual Harassment:** Any unwelcome conduct including but not limited to sexual assault, sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of employee's employment;
- B. Submission to or rejection of such conduct by an employee is used as the basis for personnel actions affecting such employee; or
- C. Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment.
- D. Sexual Assault is defined as unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation.

### **§ 3-40-040 Prohibited Conduct**

#### **A. Verbal or Physical Conduct**

1. Use of epithets or slurs because of race, color, sex, age, religion, national origin, political affiliation, marital status, sexual orientation, gender identity, gender expression, source of income, familial status, or physical or mental disability, pregnancy, pregnancy-related limitations, status as a uniformed service member, an expunged juvenile record, or other protected status in accordance with applicable law, such as racial slurs or derogatory remarks based on national origin or ethnicity.
2. Jokes, pranks or other banter that are derogatory or show hostility because of race, color, sex, age, religion, national origin, political affiliation, marital status, sexual orientation, gender identity, gender expression, source of income, familial status, or physical or mental disability, pregnancy, pregnancy-related limitations, status as a uniformed service member, an expunged juvenile record, or other protected status in accordance with applicable law, such as making fun of or telling jokes about physical or mental disabilities or sexual orientation; or stereotyping.
3. Unwelcome physical touching or contact, such as pinching, grabbing, patting or touching, hugging; threatening, intimidating, or hostile acts, including sexual assault.

B. Written or Graphic Material: Material that is disparaging of or displays hostility on the basis of race, color, sex, age, religion, national origin, political affiliation, marital status, sexual orientation, gender identity, gender expression, source of income, familial status, or physical or mental disability, pregnancy, pregnancy-related limitations, status as a uniformed service member, an expunged juvenile record, or other protected status in accordance with applicable law and is placed on walls or elsewhere on the employer's premises or circulated in the workplace; including sending inappropriate jokes or other

written or graphic materials via e-mail, the internet or by fax, or downloading them from the internet.

### **§ 3-40-050 Retaliation**

The county will not tolerate retaliation against any individual who reports discrimination or harassment, or testifies, assists, or participates in any manner in such an investigation, proceeding, or hearing, regardless of the outcome of the harassment complaint. Examples of retaliation include, but are not limited to, demotion, suspension, failing to hire or consider hiring, failing to treat impartially when making employment related decisions, and assigning the individual the least desirable jobs. Examples of prohibited retaliation from managers or co-workers includes intimidating behavior, disrupting work, refusing to interact or excluding the subject of retaliation.

### **§ 3-40-060 County Reporting**

- A. Managers and employees are expected to promptly report and document suspected violations of this rule.
- B. Complaints may be submitted orally or in writing within four (4) years from the date on which the alleged discrimination or harassment occurred under ORS 243.32 or within five (5) years from the date on which the alleged discrimination or harassment occurred under ORS 659A.875, whichever is greater. A complainant may also include a suggested method of resolution. A manager who receives a complaint, Human Resources staff and members of the County's Complaint Investigations Unit are each responsible for providing a copy of this policy to a complainant at the time of a complaint.
- C. A violation of these rules may be reported to any of the following individuals who is responsible for providing a copy of this policy to a complainant at the time of a complaint:
  - 1. The County's Complaint Investigations Manager; or Investigators (Primary); or
  - 2. Department Human Resources Manager or staff (Secondary); or
  - 3. Department Equity Manager (alternate); or
  - 4. Multnomah County Chief Human Resources Officer (CHRO) (alternate); or
  - 5. Office of Diversity and Equity (ODE) (alternate); or
  - 6. Any County manager (alternate).

Department Directors will inform their employees of the names of additional department staff who employees may contact, to file a workplace discrimination,

harassment, or retaliation complaint. Department Directors may also establish additional procedures that are consistent with this Rule for handling complaints.

- D. The individual who receives the complaint may, but is not required to, discuss options for informally resolving the complaint with the complainant.
- E. All complaints will be thoroughly and promptly investigated. The County will maintain confidentiality to the extent permitted by the circumstances, however a victim of prohibited harassment or discrimination may voluntarily disclose information about an incident covered by this policy that involves them.
- F. The individual making the complaint and the accused will be notified of the results of the investigation and whether action will be taken. Immediate action will be taken in situations where prohibited harassment or discrimination occurred.
- G. The County will follow-up with the victim of alleged harassment at least once every three months of the calendar year following the date a report of prohibited harassment is received, for the purpose of determining if the alleged harassment has stopped or if retaliation has been experienced. This follow-up will continue unless and until the victim of alleged harassment objects to the follow-up in writing.
- H. Records of workplace harassment will be maintained in accordance with Multnomah County Personnel Rule 5-65 Records Management and in compliance with applicable laws and statute of limitations periods described in 3-40-070.
- I. Employees who have experienced harassment may be able to access support through the County's Employee Assistance Program, including counseling and referral to legal resources. Additional support may be available through Central Human Resources Organizational Development unit, the County's Office of Diversity and Equity, and department equity managers.

### **§ 3-40-070 Legal Remedies**

- A. In addition to the County reporting alternatives and resources outlined in this policy, an employee alleging prohibited harassment or discrimination has the right to seek redress through administrative and civil or criminal processes. These include the Oregon Bureau of Labor and Industries (BOLI), the federal Equal Employment Opportunity Commission (EEOC), law enforcement, and state and federal courts. Each process may have different, specified time periods (statutes of limitations) in which to file, or other preconditions. For example, the period in which to file a charge with the Oregon Bureau of Labor and Industries has been expanded from one (1) to five (5) years of the alleged incident of covered discrimination or harassment. A lawsuit in state court for injury (tort) must be preceded by a tort claims notice filed within one-hundred eighty (180) days of the alleged harassment or discrimination.

B. The County may not require or coerce an employee to enter into a nondisclosure or non-disparagement agreement, or a no-rehire agreement (defined in 3-40-030 above) in resolution of the employee's claim of discrimination or harassment. However, an employee may voluntarily request to enter into an agreement with the County that contains a non-disclosure or non-disparagement provision, or a provision that they are not eligible for rehire with the County. An employee who voluntarily enters into such an agreement has seven (7) days to revoke the agreement.



## Rule # 4-30

### Leaves: Non-Represented Employees

§§:

[§ 4-30-005 Applicability](#)

[§ 4-30-007 Sequencing of Leaves](#)

[§ 4-30-010 Paid Vacation Leave](#)

[§ 4-30-020 Paid Sick Leave](#)

[§ 4-30-030 Paid Holidays](#)

[§ 4-30-040 Other Paid Leaves](#)

[§ 4-30-050 Alternative Leave for Recruitment Purposes](#)

#### § 4-30-005 Applicability

This covers all management and executive employees, including temporary management and executive employees working at least twenty (20) hours per week or .5 FTE, except:

- A. Employees regularly scheduled to work less than twenty (20) hours per week or .5 FTE will not receive benefits, except those required by state or federal law.
- B. A temporary appointee who is a current member of a bargaining unit will receive the leave provisions negotiated as part of the applicable collective bargaining agreement unless specified otherwise.
- C. Temporary employees who are scheduled to work at least twenty (20) hours per week or are .5 FTE are eligible for the benefits described below except for MCPR 4-30-010 (E), 4-30-020 (C) and (H), and 4-30-050 (A), as indicated below.

#### § 4-30-007 Sequencing of Leaves

The use of vacation leave, saved holiday time, compensatory time, and leave without pay is subject to approval by management. However, unless otherwise required by law, forms of leave shall be used and exhausted in the following sequences for illness and injuries:

- A. Leave for illness or injury, that does not qualify for FMLA will be taken in the following order:
  - 1. Sick leave until it is exhausted;
  - 2. Vacation leave, saved holiday time, or compensatory time, sequenced at the employee's option, until they are exhausted;
  - 3. Leave without pay.

B. Leave that qualifies under FMLA or OFLA will be taken in the following order: Paid leave until it is exhausted; employees will determine what order paid leave is used;

C. Leave for other purposes will be taken in the following order:

1. Vacation leave, saved holiday time, or compensatory time, sequenced at the employee's option (to the extent allowed by vacation sign-up provisions) until they are exhausted;
2. Leave without pay

**§ 4-30-010 Paid Vacation Leave**

A. Each employee regularly scheduled to work 1.0 FTE accrues vacation credit based on years of county employment in accordance with the schedule below. An employee who separates from county service and returns as a management or executive employee will be given credit toward additional vacation accrual rates for service prior to separation. Vacation will accrue incrementally each pay period. For accrual purposes, "day" is defined as a unit of eight (8) hours.

1. Executive and Management Employees except Sheriff's Office employees accrue as follows:

1. Years of Service	2. Hours Accrued Per Pay Period	3. Hours (Weeks) Accrued Per Year by Forty Hour Employees	4. Maximum Hours Accruable
Less than 2	4.67	112 (2.8 wks.)	224
2 up to 5	5.67	136 (3.4 wks.)	272
5 up to 8	7.33	176 (4.4 wks.)	352

8 up to 15	9.0	216 (5.4 wks.)	432
15 or more	9.0	216 (5.4 wks.)	500

2. Executive and management employees in the Sheriff's Office shall accrue as follows:

1. Years of Service	2. Hours Accrued Per Pay Period	3. Hours (Weeks) Accrued Per Year by Forty Hour Employees	4. Maximum Hours Accruable
Less than 2	4.0	96 (2.4 wks.)	192
2 up to 5	5.0	120 (3.0 wks.)	240
5 up to 8	6.67	160 (4.0 wks.)	320
8 up to 15	8.33	200 (5.0 wks.)	400
15 up to 20	8.33	200 (5.0 wks.)	500
20 or more	10.0	240 (6.0 wks.)	500

B. Each employee regularly scheduled to work .5 FTE through .99 FTE accrues vacation credit on a pro rata basis. For example, an employee regularly scheduled to work .5 FTE shall earn one-half the vacation credit set forth in paragraph (A).

C. Vacation must be scheduled in advance with the Director's or manager's approval.

1. For employees not exempt from the Fair Labor Standards Act (FLSA), time charged to vacation leave will be rounded to the nearest quarter hour.
2. For FLSA exempt employees, time will be charged to vacation leave only for full-day absences from work. Partial day absences due to intermittent leave as provided by OFLA/FMLA will not be tracked or counted except that the time will be charged against the employee's OFLA/FMLA leave entitlement, rounded to the nearest quarter hour.

D. Total vacation accrued must not exceed the maximum allowable accruals set forth in this section, except for current "frozen" vacation accrued under a previous employee vacation plan.

E. Full-time executive and management employees new to county service receive the equivalent of their entire first year vacation leave accrual upon appointment in lieu of accruing vacation leave during the first year of employment. Full-time executive and management employees newly rehired to county service are also eligible to receive the same benefit during the first year of return to county service as long as they have had at least a two (2) year break in employment with the county. Thereafter, vacation earnings and reporting is as provided in this section. Employees who separate from county service prior to the end of one (1) full year of employment will be paid only for the vacation accumulation to which they would be entitled if it had been accrued. Temporary employees are not eligible for this benefit, unless approved by the Multnomah County Chief Human Resources Officer.

F. At the time of employee separation from the county unused accrued vacation leave up to the maximum allowable under subsection (A) will be paid at the employee's current regular rate of pay. An employee may not be scheduled for vacation greater than two (2) full pay periods immediately prior to the termination date.

#### **§ 4-30-020 Paid Sick Leave**

See Multnomah County Personnel Rule (MCPR) 2-45. Rules concerning the use and misuse of sick leave are set out in MCPR 3-55

#### **§ 4-30-030 Paid Holidays**

A. Each employee is entitled to one (1) day for the following paid holidays with the exceptions noted for Library employees and in (C) below for the Sheriff's Office:

1. Any day declared a holiday by the Board of County Commissioners
2. New Year's Day (January 1st)
3. Dr. Rev. Martin Luther King, Jr.'s birthday (3rd Monday in January)
4. President's Day (3rd Monday in February)
5. Memorial Day (last Monday in May)
6. Juneteenth (June 19)
7. Independence Day (July 4)
8. Labor Day (1st Monday in September)
9. Veteran's Day (November 11); except library employees who have December 24 as a holiday instead;
10. Thanksgiving Day (4th Thursday in November)
11. One (1) day to be used as a floating holiday during the fiscal year provided the employee gives two (2) weeks' notice and obtains the consent of their manager. If a manager determines that holiday usage requested is impracticable, the employee will be credited with one (1) day of saved holiday time.
12. Christmas Day (December 25) or, with approval of managers, this day may be traded for any other religious holiday during the fiscal year if employees use paid leave for or work on December 25. To be eligible for pay on an observed holiday, an employee must be in pay status both on the employee's scheduled work day before and the employee's scheduled work day after the holiday.

B. To be eligible for pay on an observed holiday, an employee must be in pay status both on the employee's scheduled workday before and the employee's scheduled workday after the holiday.

C. Holiday Observance:

1. Five (5) Day Work Week:
  - a. If the holiday falls on an employee's first scheduled day off, the preceding workday will be observed as that employee's holiday.
  - b. If the holiday falls on an employee's second scheduled day off, the following workday will be observed as that employee's holiday.
2. Four (4) Day Work Week:

- a. If the holiday falls on an employee's first or second scheduled day off, the preceding work day will be observed as that employee's holiday.
  - b. If the holiday falls on an employee's third scheduled day off, the following workday will be observed as that employee's holiday.
3. Part-time employees, and full-time employees on an irregular schedule. The holidays designated above are the observed holidays if they fall on an employee's regular workday. Employees will be credited with one (1) day of saved holiday time if the holiday does not fall on a regular workday.

D. In Lieu of the above holidays, Sheriff's Office employees are entitled to receive twelve (12) personal holidays per year on each July 1, for use at the discretion of the employee with the consent of the Director or manager. Management and executive employees newly hired into county service and promoted from bargaining units with observed holidays will be given one (1) personal holiday for each month remaining in the fiscal year, starting with the month of hire. At time of promotion from a bargaining unit, unused saved holiday time will be paid off based on the applicable collective bargaining agreement provisions for paying off saved holidays for employees terminating from county service. Employees promoting from MCDSA and MCCDA bargaining units, will have one (1) additional day added to their unused personal holiday banks.

E. If an employee is on authorized leave with pay when a paid holiday occurs, the holiday will be paid and will not be charged against the leave.

F. Directors and managers are authorized to adjust holiday schedules for employees on flexible working schedules.

G. Any saved holiday time not used by the end of the fiscal year in which it was accrued is forfeited. The saved holiday time usage is subject to the same rules as vacation leave, except that employees who separate from county employment will not be paid for accumulated saved or personal holiday leave.

H. Veterans who request but are not able to observe Veteran's Day off due to significant economic or operational disruption will be granted an alternative, unpaid day off to honor the holiday before the next Veteran's Day, subject to the Sequencing of Leaves rules in 4-30-007(C) or collective bargaining agreements.

#### **§ 4-30-040 Other Paid Leaves**

Employees are entitled to time off with pay for the following reasons:

A. Judicial Leave: See Multnomah County Personnel Rule 2-50, Section 2-50-050.

B. Military Leave: See Multnomah County Personnel Rule 2-50, Section 2-50-020.

C. Bereavement Leave: An employee will be granted not more than three (3) days leave with full pay in the event of a death in the immediate family or immediate household of the employee. If such funeral is beyond 350 miles, the employee may be granted up to three (3) additional days of paid leave for travel. For purposes of Bereavement Leave, "immediate family" means spouse, parents, children, stepchildren, brother, sister, grandchildren, grandparents, father-in-law, mother-in-law, sister-in-law or brother-in-law. "Immediate household" means any person residing at the employee's residence on a regular basis. For other relationships under exceptional circumstances, the Director may grant bereavement leave. Paid Bereavement Leave may also be counted toward unpaid OFLA bereavement leave described in MCPR 2-60, consistent with OFLA, collective bargaining agreements, and sequencing of leave provisions.

D. Recognition Leave: An employee may be awarded leave with pay by a Director or manager in recognition of outstanding achievement or performance which may take the form of:

1. extraordinary performance of work outside normal work hours by employees working a professional workweek who do not qualify for overtime compensation; or
2. other achievement or performance determined by the Director or manager that makes an outstanding contribution to agency goals and objectives.

Recognition leave may not exceed eighty (80) hours in a fiscal year. This leave is not an entitlement, is not to be automatically granted at the beginning of a fiscal year, and is to be judiciously awarded. It is compensable only in the form of leave, and must be used by the end of the fiscal year or forfeited.

E. Leave for Examinations: In order to encourage and promote development employees will be allowed time off with pay for taking county examinations and interviews during normal operating hours.

F. Attendance at conferences, seminars and other training activities with approval of the Director or manager.

G. Work related testimony or participation at court trials or administrative hearings on behalf of the county with approval of the Director or manager.

#### **§ 4-30-050 Alternative Leave for Recruitment Purposes**

A. In order to accomplish recruitment objectives, alternative vacation and sick leave benefits may be granted to eligible employees upon regular appointment to a management or executive service position with Multnomah County. Temporary employees are not

eligible for this benefit, unless approved by the Multnomah County Chief Human Resources Officer.

1. A Director, with the approval of the Department's HR Manager, may grant alternative vacation benefits to eligible employees appointed from outside Multnomah County service when necessary to accomplish recruitment objectives. Alternative leave benefits must be justified by one of the following:
  - a. Special skills not required by the job which will enhance the county's service delivery;
  - b. Previous leave benefits of the applicant, when the applicant also has additional experience;
  - c. Additional experience and training of the individual; or
  - d. When hiring for positions that have been difficult to fill.

## 2. Vacation Leave

Upon appointment, employees appointed to full time positions may accrue vacation leave at the rate of 5.67 hours per pay period to a maximum of 136 hours per year for the first five (5) years of employment. After five (5) years of employment, the accrual rate will be increased to correspond with the standard leave accrual rates. Employees will receive the equivalent of the first year of vacation accrual upon appointment per MCPR 4-30-010 (E). Accruals at rates above 5.67 hours per pay period upon appointment are subject to the approval of the Multnomah County Chief Human Resources Officer.

## 3. Sick Leave

Upon appointment to a full time position, an immediate eligibility for thirty (30) working days (240 hours) of paid sick leave may be made available to be used during the first thirty (30) months of employment. The 240 hours may be drawn upon but not increased during the first thirty (30) months of employment. Sick leave received upon initial appointment under MCPR 2-45-025 (B)(1)(i) is included in the thirty (30) days of paid sick leave that may be made available during the first thirty (30) months of employment.



## **Rule # 4-50**

### **Drug and Alcohol Use and Testing**

**§§:**

[§ 4-50-005 Applicability](#)

[§ 4-50-010 Drug Free Workplace](#)

[§ 4-50-015 Definitions](#)

[§ 4-50-020 Commercial Driver and Other Professional Requirements](#)

[§ 4-50-030 Work Rules](#)

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[§ 4-50-070 Return to Work Testing](#)

[§ 4-50-080 Basis for Testing](#)

[§ 4-50-090 Testing Methodology](#)

#### **§ 4-50-005 Applicability**

This rule applies to all employees, but does not amend or supersede any collective bargaining agreement.

#### **§ 4-50-010 Drug Free Workplace**

The county, in accordance with the Drug Free Workplace Act of 1988, is committed to establishing and maintaining a work-place that is free of alcohol and drugs and free of the effects of alcohol and drug abuse. The purpose of this policy is to promote a safe and productive working environment and prevent accidents, injuries and property damage, which may result from drug and alcohol abuse.

#### **§ 4-50-015 Definitions**

**Alcohol:** Ethyl alcohol and all beverages or liquids containing ethyl alcohol.

**Controlled Substance:** All forms of narcotics, depressants, stimulants, analgesics, hallucinogens, and cannabis, as classified in Schedules I - V under the Federal Controlled Substances Act (21 USC § 811-812) as modified under ORS 475.035, whose sale, purchase, transfer, use, or possession is prohibited or restricted by law.

**Drug Paraphernalia:** Drug paraphernalia means any and all equipment, products, and materials of any kind, as more particularly defined in ORS 475.525(2), which are or can be used in connection with the production, delivery, or use of a controlled substance.

**Drug Test:** Any test designed to identify the presence of certain prohibited drugs or their metabolites in the body.

**Drugs:** Controlled substances, designer drugs (drug substances not approved for medical or other use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration), and/or over-the-counter preparations available without a prescription from a medical doctor that are capable of impairing an employee's mental or physical ability to safely, efficiently, and accurately perform work duties.

**Manager:** Includes both supervisor and manager job profiles. See definition in MCPR 1-10-040,

**Medical Review Officer (MRO):** A medical doctor trained in toxicology who contracts with employers primarily to review positive preliminary drug test results with employees.

**On-Duty:** The period of time during which an employee is engaged in activities which are compensable as work performed on behalf of the county, or the period of time before or after work when an employee is wearing a uniform, badge, or other insignia provided by the county, or operating a vehicle or equipment which identifies Multnomah County.

**Prescription Medication:** A medication for which a person is required by law to have a valid, current prescription.

**Substance Abuse Professional (SAP):** A licensed physician, or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

#### **§ 4-50-020 Commercial Driver and Other Professional Requirements**

Employees who are required to maintain a commercial drivers license or other professional licensure as a condition of employment must comply with all laws, county rules and procedures related to their ability to be eligible for and maintain their licensure.

#### **§ 4-50-030 Work Rules**

All employees are required to follow the work rules listed below.

- A. This rule applies regardless of whether the employee is on paid time. "County premises" includes all property, owned, rented, leased or controlled by the county including parking lots and adjacent areas. It also includes county equipment and vehicles on or off county property.

1. Employees must not possess, consume, manufacture, solicit, distribute, buy, or sell drugs, drug paraphernalia or alcohol on county premises or while off county premises doing county work, except when lawfully required as part of the job. An exception will be made for alcohol containers that are sealed and for gift purposes. Managers must be notified when such containers will be brought to the work place.
2. Employees must not solicit, distribute, dispense, or sell prescription medications except when lawfully required as a part of the job.
3. Employees must not possess or consume prescription medications without a valid prescription.

B. While off duty, but on county premises, employees will not use or distribute alcohol without authorization.

C. General fitness for duty:

1. Employees must not report for duty or access or use county work areas or property while “under the influence” of drugs or alcohol. An individual is considered to be “under the influence” of alcohol if a breathalyzer test indicates the presence of alcohol at or above the .04% level. An individual is considered to be “under the influence” of drugs when testing indicates the presence of controlled substances at or above the levels applying to CDL holders.
2. Employees must not render themselves unfit to fully perform work duties because of the use of alcohol or illegal drugs, or because of the abuse of prescription or non-prescription medications.
3. Employees must comply with legally mandated occupational requirements, whether or not they are specifically included in this policy. For example, by law holders of commercial drivers licenses (CDL) may not perform safety sensitive functions, such as driving, at or above the .02% level.
4. Employees must not be absent from work because of the use of alcohol or illegal drugs, or because of the abuse of prescription or non-prescription medications, except when absent to participate in a qualified assessment and rehabilitation program while on approved leave.
5. Employees will inform themselves of the effects of any prescription or non-prescription medications by obtaining information from health care providers, pharmacists, medication packages and brochures, or other authoritative sources in advance of performing work duties.
6. Employees must notify their managers in advance when their use of prescription or non-prescription medications may interfere with the safe and efficient

performance of duties or impair their ability to perform the essential functions of their position that will result in a direct threat to others. Such employees include, but are not limited to, sworn officers, holders of a commercial drivers license and those operating equipment or handling hazardous materials. For example, corrections or law enforcement lieutenants should report when they are taking medications that may affect their ability to use a firearm or to perform other essential functions of their job. Similarly, employees who drive a motor vehicle as part of their job, whether it is a county vehicle or their personal vehicle, should report when they are taking medications that may impair their ability to drive.

#### **§ 4-50-040 Employee Cooperation Required**

- A. Employees must not interfere with the administration of this rule. Examples include but are not limited to the following: tainting, tampering, or substitution of urine samples; falsifying information regarding the use of prescribed medications or controlled substances; or failure to cooperate with any tests outlined in this rule to determine the presence of drugs or alcohol.
- B. Employees must provide to human resources within 24 hours or one business day of request a current valid prescription in the employee's name for any drug or medication that the employee alleges gave rise to reasonable suspicion of being under the influence of alcohol or drugs.
- C. Employees must respond fully and accurately to inquiries from the county's Medical Review Officer (MRO) and authorize MRO contact with treating health care providers upon request.
- D. Employees must complete any assessments or treatment programs required under this Rule.
- E. Upon request, employees must sign a waiver authorizing treatment providers to disclose confidential information necessary to verify successful completion of any assessment or treatment program required under this rule.
- F. Employees must promptly and fully disclose to their manager on the next working day:
  - 1. All drug or alcohol-related arrests, citations, convictions, guilty pleas, no contest pleas or diversions which resulted from conduct which occurred while on duty, on county property, or in a county vehicle; or,
  - 2. Any other violation of laws regulating use of alcohol and controlled substances which adversely affects an employee's ability to perform major job functions, specifically to include loss or limitation of driving privileges when the employee's job is identified as requiring a valid driver's license.

## **§ 4-50-050 Disciplinary Action**

- A. Employees are subject to discipline in accordance with these rules. Probationary/Initial Trial Service employees violating work rules are subject to immediate termination. Employees who refuse a test directed under this policy are subject to discipline, up to and including termination.
- B. Employees are not subject to discipline or removal from the On-call and/or Temporary employee lists for seeking treatment for alcohol or drug dependency. However, employees are held fully accountable for their behavior. Seeking treatment will not mitigate discipline for rule violations or other unacceptable conduct caused by such dependency.
- C. Some duties create a higher standard of accountability which may result in greater discipline for lack of compliance with this rule than others. These duties include but are not limited to the following:
1. Carrying firearms
  2. Work in the criminal justice system
  3. Responsibility for public safety or the safety of co-workers
  4. Handling narcotics or other controlled substances
  5. Handling hazardous equipment or materials
  6. Influencing the behavior of minors
  7. Holding a commercial drivers license
- D. In instances in which the county determines that an employee's conduct warrants termination, the county may offer regular employees continued employment under the terms of a Last Chance Agreement if there are mitigating circumstances, such as substance abuse dependency or other good cause. Such agreements will include at least the following:
1. The requirement that the employee enroll, participate in, and successfully complete a treatment program recommended by a Substance Abuse Professional (SAP).
  2. The right of the county to administer any number of unannounced follow-up drug or alcohol tests at any time during the work day for a period of two years from completion of any required treatment program.
  3. The signatures of the employee's Director and Manager, Labor Relations, and the employee.

E. The offer of a Last Chance Agreement does not set a precedent for the discipline of other employees. Any discipline incorporated in a Last Chance Agreement may not be appealed to the Merit System Civil Council under MCPR 2-20.

#### **§ 4-50-060 Mandatory Assessment and Treatment**

- A. Employees who are disciplined for conduct related to the use of alcohol or drugs may be required to undergo assessment and complete a treatment program prescribed by a SAP selected by the county. Employees who test positive for alcohol or controlled substances are required to undergo assessment at the earliest opportunity, regardless of whether disciplinary action has been taken.
- B. The county will verify employees' attendance, and that the assessment and treatment have been completed. This verification and any other information concerning alcohol and drug dependency will be treated as confidential medical information under state and federal law.
- C. Policy on the use of leave for assessment and treatment will be the same as for any other illness.
- D. If the employee changes treatment providers, they must notify the County's Drug and Alcohol Policy Coordinator within three (3) working days.

#### **§ 4-50-070 Return to Work Testing**

Employees who test positive for being "under the influence" of alcohol or drugs will be required to test negative before returning to work.

#### **§ 4-50-080 Basis for Testing**

- A. All employees may be tested:
1. Based on reasonable suspicion of being "under the influence" of alcohol or prohibited drugs.
  2. Before returning to work after testing positive for being "under the influence" of alcohol or drugs.
  3. As part of a program of unannounced follow-up testing provided for in a Last Chance Agreement.
- B. An employee applying for a different county position will be subject to testing on the same basis, and using the same procedures and methods, as outside applicants.

C. Consistent with federal law, employees in positions that are designated as safety sensitive, including but not limited to, holders of commercial drivers licenses and bridge operators, will be subject to the testing requirements of federal law, in addition to the requirements herein which apply to all employees. For example, unlike other employees, employees in safety sensitive positions will be subject to legally required random testing and testing following certain kinds of accidents.

D. Reasonable suspicion is a set of objective and specific observations or facts, no particular one to be controlling, that lead a Director or manager to suspect that an employee is under the influence of drugs, controlled substances, or alcohol. Examples include, but are not limited to:

1. Slurred speech,
2. Alcohol on breath,
3. Loss of balance or coordination,
4. Dilated or constricted pupils,
5. Apparent hallucinations,
6. High absenteeism or persistent pattern of unexcused absenteeism,
7. Erratic work performance,
8. Persistent poor judgement,
9. Difficulty concentrating,
10. Theft from office or from other persons,
11. Unexplained absences from duty, or
12. Employee's admission of use of prohibited substances

E. Manager Training: The county will provide training to all Directors and managers on establishing reasonable suspicion and the nature of alcohol and drug dependency. Only the Chair, Directors and managers that have been trained have the authority to direct employees to be tested on the basis of reasonable suspicion of being under the influence.

F. Application of the "Reasonable Suspicion" standard to any employee covered by this rule will include the following additional precautions:

1. Directors and managers will articulate orally a summary of the specific facts which form the basis for believing that the employee is under the influence of drugs or alcohol; and

2. Directors and managers will provide upon request, within within two (2) business days of the oral determination of "reasonable suspicion", a written specification of the grounds for reasonable suspicion; and
3. Except in field or shift circumstances, which render contact difficult, no manager will refer an employee for a drug or alcohol test based on "reasonable suspicion" unless the manager has consulted with a manager or the County Attorney regarding the grounds for the suspicion.

#### **§ 4-50-090 Testing Methodology**

- A. Testing procedures for all employees are governed by the same standards as apply to CDL drivers under federal law. These standards include, but are not limited to, those governing sample acquisition, the chain of custody, laboratory selection, testing methods and procedures, and verification of test results.
- B. In accordance with CDL standards, the county will contract with a medical doctor trained in toxicology to act as a Medical Review Officer (MRO). The MRO will attempt to contact employees to review preliminary positive test results with employees and any relevant health care providers before the results are reported to the county. Based on professional judgment, the MRO may change the preliminary test results to negative. The county will not be able to distinguish a test result that is negative by MRO intervention from any other negative result.
- C. The MRO or the testing laboratory will issue test results only to the designated persons in Central Human Resources. The results will be sent by certified mail or hand-delivered to the employee within three working days of receipt of results by the county.
- D. If an employee disagrees with the results of any blood or urine alcohol or drug test, the employee may request, in writing within five days of receipt of test results, that the original sample be re-tested at the employee's expense by the testing laboratory. The result of any such retest will be deemed final and binding and not subject to any further test. Failure to make a timely written request for a retest is deemed acceptance of the test results. If an employee requests a retest, disciplinary action will be stayed pending receipt of the results of the re-testing. The retesting provisions do not apply to breathalyzer tests.
- E. Test reports are confidential medical records and will be kept in a separate medical file for the employee according to applicable state and federal law.

#### **§ 4-50-100 Sample Last Chance Agreement**

##### **Last Chance Agreement**



The following agreement is entered into between Multnomah County and the Employee. Failure on the part of the employee to meet the expectations below will result in the termination of the employee's employment with the County.

1. I agree to be evaluated by a qualified alcohol/substance abuse counselor, and if required, I shall immediately enroll and continue in a bona fide alcohol/drug inpatient or outpatient rehabilitation program approved by the County. I fully understand that should I fail to complete either the inpatient or outpatient program, or fail to stay in good standing with the maintenance and/or aftercare program, my employment with the County will be terminated.
2. I agree to comply with and complete the conditions of my "Treatment Plan," which may include participation in a maintenance or aftercare program, as recommended by my treatment counselor. If I must be absent from my aftercare or maintenance program, I must notify the County. The County has my permission to verify my attendance at required meetings. If I do not continue in the aftercare or maintenance program, I understand that my employment will be terminated.
3. I understand that the signing of this agreement shall allow the County the right to communicate with my physician and/or counselors regarding my status and progress of rehabilitation and aftercare. I further agree to sign any authorization or release of information necessary to allow for such communication.
4. I agree to submit to periodic, unannounced, unscheduled drug or alcohol testing (urinalysis and breath test) by the County for a period of twenty-four (24) months from the date of this agreement or when I return to work if I am participating in an inpatient treatment program. This time period will increase accordingly if I am absent from work, for any reason, for a cumulative period of one (1) month or more. I understand that if I refuse to take a drug and/or alcohol test or if a test is positive, my employment will be terminated.
5. I agree to return to work upon successful completion of an alcohol/drug rehabilitation program if my substance abuse counselor requires inpatient treatment. If enrolled in outpatient treatment, I may return when I am substance free and in good standing in my maintenance program, at such time as recommended by my treatment counselor.
6. It is understood that this agreement constitutes a final warning, and as such, lasts for the duration of my employment at the County. Should I terminate employment, and then return to work in a position with the County, the terms of this Agreement will continue to be in effect.
7. I understand the Employee Assistance Program is available to me should personal problems arise in the future that may have an effect on my ability to remain in compliance with the drug and alcohol policy and/or this agreement.

8. I realize that violation of the drug and alcohol rules and/or policies at any time in the future is cause for termination without a pre-termination hearing.

9. I realize that my employment will be terminated if I fail to meet the expectations outlined in this Agreement and the letter attached.

#### Disciplinary Action

I understand that the disciplinary action imposed in the attached letter may not be appealed to the Merit System Civil Council under MCPR 2-20.

#### Personal Commitment

I pledge and agree to abide by the terms of this agreement. I understand that a violation of or noncompliance with any of these terms will result in my being terminated without the right to a pre-termination hearing. Further, I pledge to remain free of all illegal drugs and also not to abuse legal drugs (including alcohol). I hereby consent to the County's contacting any treatment or health care provider who may have information on my alcohol or drug dependency condition and/or compliance with the terms of this agreement and authorize the provider to furnish such information to the County.

I understand the terms and conditions of this letter. I also understand that, except as expressly stated in this agreement, my terms and conditions of employment will be determined by the County's policies and rules, and that this agreement does not guarantee me employment for any set period of time. I have had sufficient time to study it away from the workplace and to consult anyone I desire about it. I sign it free of any duress or coercion. This letter will become part of my personnel file.

\_\_\_\_\_  
(Employee) (Date)  
Disciplinary Authority)

\_\_\_\_\_  
(Exempt Employee With (Date)

\_\_\_\_\_  
(Employee's Immediate (Date)  
Exempt Supervisor)

\_\_\_\_\_  
(Multnomah County (Date)  
Labor Relations, if applicable)

**Rule # 2-30**  
**Employee Benefits Board**

**§§:**

[§2-30-010 Revoked](#)

## **Rule 2-40**

### **Pay Administration**

**§§:**

[2-40-010 Purpose](#)

[2-40-015 General](#)

[2-40-020 Represented Employees](#)

[2-40-030 Management and Executive Employees](#)

[2-40-040 General Salary Adjustment](#)

[2-40-045 Incentive and Bonus Payments](#)

[2-40-050 Pay Exceptions Upon Initial Appointment](#)

[2-40-060 Elected Officials Staff](#)

[2-40-070 Temporary Employees](#)

#### **§ 2-40-010 Purpose**

The purpose of this policy is to establish guidelines for setting pay on initial appointment and throughout employees' tenure with the county. This policy establishes standards for the equitable and consistent administration of pay practices across all county departments.

#### **§ 2-40-015 General**

This policy applies to all full- or part-time represented, management and executive employees; regular and temporary employees including limited duration, on-call and probationary employees, except elected officials and elected officials' staff. Employees will be compensated at pay rates within or at the minimums and maximums set for their job profiles. The following factors may be used when making pay decisions: seniority system, merit system, education, training, experience, or any combination of these factors as provided in these rules or a collective bargaining agreement. Compensation decisions for initial appointment to county employment will not be based on a candidate's current or prior compensation with current or former employers. Compensation includes wages, salary, bonuses, benefits, and fringe benefits.

#### **§ 2-40-020 Represented Employees**

Employees holding job profiles covered by a collective bargaining agreement can be regular, probationary, or limited duration employees. The following are basic pay practices for new hires, rehires and actions changing a represented employee's status.

- A. New Appointment and Rehire: New and rehired employees normally will be paid at the first (1st) step in their job profile's pay range except as elsewhere provided in these rules or a collective bargaining agreement. The anniversary or step increase date for new hires will be the date of appointment to a regular status position. The anniversary or step increase date for rehires will be the most recent date of appointment to a regular status position. Anniversary or step increase dates will be adjusted for any additional

seniority credit, such as credit for temporary or limited duration service in a job profile, when employees are hired from limited duration to regular status, immediately following service as a temporary or limited duration employee. Exceptions to this rule are governed by MCPR § 2-40-050 below or applicable collective bargaining agreements.

- B. Recall: Employees that are recalled from recall lists will be placed at the same pay rate, adjusted for any negotiated increases, as when they left, provided it is still within the current range. Anniversary or step increase dates will be adjusted for time absent from the job profile in excess of thirty (30) days if the employee has been continuously employed or recalled from a recall list.
- C. Reinstatement: Employees reinstated under MCPR 5-40 to the same job profile or to a previously held job profile, or if abolished to an equivalent job profile, and employees reinstated from a leave of absence, will return to the same pay rate last received plus any Board approved cost of living adjustments, provided the adjusted salary is within the current pay range.
- D. Promotion within a Bargaining Unit: Promoted employees will normally be paid at the step in the new pay range that is at least one (1) step above their current pay rate or the first (1st) step of the new range, whichever is greater, or as defined within the appropriate collective bargaining agreement. Promotional rates of pay must not exceed the maximum of the pay range. The anniversary or step increase date for wage increases will be the date of promotion.
- E. Promotion to a Job Profile in a Different Bargaining Unit: Employees promoted from a job profile in one bargaining unit to a job profile in a different bargaining unit will normally be paid at the step in the new pay range that is the equivalent to at least one (1) step above their current pay rate or the first (1st) step of the new range, whichever is greater, or as defined within the appropriate collective bargaining agreement. A one (1) step increase is defined as the percentage difference between the final two (2) steps of the range for the lower job profile. Promotional rates of pay must not exceed the maximum of the pay range. The anniversary or step increase date for wage increases will be the date of promotion.
- F. Transfer: An employee transferred to a job profile with the same pay range will receive no change in pay. If the new job profile has the same top step, but different lower steps than the former job profile, the rate of pay will be adjusted to the closest step that does not result in a decrease in pay. The anniversary or step increase date does not change upon transfer.
- G. Demotion: Employees demoted for reasons other than disciplinary, will receive the rate of pay in the lower pay range that causes the least reduction in base pay. Employees demoted for disciplinary reasons will be paid at a step in the lower job profile that results in a pay decrease. In no case will the employee's new pay rate be below the first (1st)

step of the job profile to which they are voluntarily or involuntarily demoted. The anniversary or step increase date for wage increases will be the date of demotion or if demoted during promotional probation, the date in effect prior to the promotion.

#### H. Reclassification

1. Downward Reclassification: If a downward reclassification of a position causes an employee's pay rate to be higher than the maximum rate of the new job profile, the employee's pay rate will be frozen until the pay range increases sufficiently so that the employee is no longer paid above the maximum rate. When the employee's pay is frozen, the employee is ineligible to receive pay adjustments or annual increases until the pay range exceeds the employee's frozen rate of pay. If the employee's rate of pay is the same as a step in the new pay range, there will be no change in pay. If the employee's rate of pay is within the new range, but does not match a step in that pay range, the employee's rate of pay will be adjusted to the next highest step rate.
2. Upward Reclassification: If an upward reclassification causes an employee's pay rate to be below the minimum step for the new job profile, the rate will be adjusted to the first (1st) step in the new pay range. If the employee's rate of pay does not correspond to any step in the new range, the rate will be adjusted upward to the next highest rate of pay in the new pay range. If the rate of pay is the same as the rate within the new pay range, there will be no change in the employee's pay rate.
3. When a pay range is adjusted for a job profile, the effect on an employee's pay will be the same as a reclassification downward or reclassification upward.
4. An employee's anniversary or step increase date does not change upon reclassification.

#### I. Work-Out-of-Class Assignment

1. Approval for work-out-of-class assignments and pay must be supported by a written summary of the duties to be assigned and is subject to the review and approval by the department human resources unit.
2. Employees who are temporarily assigned to work-out-of-class in writing by their manager to perform a majority of the principal duties of a higher level job profile will receive work-out-of-class pay in accordance with the applicable collective bargaining agreement.
3. Employees who are temporarily assigned to work-out-of-class in writing by their manager to perform a majority of the principal duties of a lateral or lower level job profile will receive no change in pay.

4. Employees who are temporarily assigned to work-out-of-class in writing by their manager to a non-bargaining unit job profile will receive pay in accordance with MCPR § 2-40-030(D), Promotion.
5. Pay will return to the pre-assignment rate once the work-out-of-class assignment has been completed, with the addition of any regularly scheduled cost of living adjustment or step increases.

#### J. Limited Duration Appointment

1. Limited Duration appointments may only be to positions that have been allocated to a job profile by Central Human Resources. Limited Duration positions must be filled in accordance with MCPR § 5-30 and MCPR § 5-40, and are subject to the review and approval by the department human resources unit.
2. Limited Duration appointments to a higher level job profile will receive pay in accordance with the applicable collective bargaining agreement.
3. Limited Duration appointments to a lateral or lower level job profile will receive no change in pay.
4. Limited Duration appointments to a non-bargaining unit job profile will receive pay in accordance with MCPR § 2-40-030(D), Promotion.
5. Pay will return to the pre-assignment rate once the Limited Duration appointment has ended, with the addition of any regularly scheduled cost of living adjustment or step increases.

K. Trainees: Employees hired as trainees will be paid at a rate consistent with MCPR § 5-30-030 and applicable collective bargaining agreements.

### **§ 2-40-030 Management and Executive Employees**

Management and executive employees are defined by MCPR § 2-15. The following are basic pay practices for new hires, rehires, and actions changing a management or executive employee's status.

#### A. New Appointment

1. Newly hired and rehired employees are to be paid between or at the minimum and midpoint in the pay range. When justified under MCPR § 2-40-050, the Appointing Authority may approve a higher rate not to exceed the maximum of the pay range.
2. Upon receiving written justification from an Appointing Authority documenting failed recruitment, the Multnomah County Chief Human Resources Officer may grant exceptions to offer a pay rate that exceeds the grade maximum set for the

job profile. If an employee's pay exceeds the maximum of the pay range, pay will be frozen at the existing rate until the pay range is higher than the employee's rate of pay.

- B. Retention: Upon receiving written justification from an Appointing Authority documenting the reasons for retaining a management/executive employee considering leaving County employment, the Multnomah County Chief Human Resources Officer may grant exceptions to offer a pay rate that exceeds the grade maximum set for the job profile. If an employee's pay exceeds the maximum of the pay range, pay will be frozen at the existing rate until the pay range is higher than the employee's rate of pay.
- C. Recall: Employees recalled from recall lists will return to the same rate of pay last received plus any Board approved cost of living adjustments, provided the adjusted salary is within the current pay range.
- D. Reinstatement: Employees reinstated under MCPR 5-40 to the same job profile or to a previously held job profile, or if abolished to an equivalent job profile, and employees reinstated from leaves of absence will return to the same rate of pay last received plus any Board approved cost of living adjustments, provided the adjusted salary is within the current pay range.
- E. Promotion: Promoted employees will normally receive an increase of at least five percent (5%) above their current rate of pay, but not to exceed the maximum of the pay range.
- F. Transfer: An employee transferred to a job profile in the same pay range will receive no change in pay.
- G. Demotion: Except for executive employees within the Multnomah County Sheriff's Office, employees demoted for reasons other than disciplinary, and whose pay is within the pay range of the new job profile, will retain their same rate of pay. If the employee's pay exceeds the maximum of the new pay range, the employee will be paid the maximum of the new pay range. Employees demoted for disciplinary reasons will receive a rate of pay in the lower pay range of the new job profile specified that aligns with the disciplinary action taken. Voluntarily and involuntarily demoted employees' rates of pay will not be below the minimum of the pay range for their new job profiles. For a demotion of an executive employee in the Multnomah County Sheriff's Office, the Sheriff has the sole discretion to make pay decisions, within the assigned pay range for the new position, within the Multnomah County Sheriff's Office.

#### H. Reclassification

##### 1. Downward Reclassification

Employees in positions reclassified downward to a job profile with a lower pay range will receive no change in pay. If an employee's pay exceeds the maximum



of the lower pay range, pay will be frozen at the existing rate of pay until the new pay range is higher than the employee's rate of pay.

## 2. Upward Reclassification

Employees in positions reclassified upward will follow the rules for promoted management and executive employees. If an employee is paid within the range of the new job profile, pay may be adjusted but not to exceed the maximum of the new pay range.

3. When a pay range is adjusted for a job profile, the effect on an employee's pay will be the same as a reclassification downward or reclassification upward.

## I. Work-Out-of-Class Assignment

1. Except for "FLSA non-exempt" management employees under the Fair Labor Standards Act (FLSA), work-out-of-class assignments are for at least five (5) consecutive days and may not exceed twelve (12) months in duration. Approval for work-out-of-class assignments and pay must be supported by a written summary of the duties to be assigned and is subject to the review and approval by the Department Human Resources Unit.
2. Employees who are temporarily assigned to work-out-of-class in writing by their manager to perform a majority of the principal duties and functions of a higher level job profile, may, at the discretion of the Appointing Authority, receive a pay rate of no less than the minimum, and no more than the maximum rate for the higher job profile. The higher rate shall be paid effective on the first (1st) official day of work in the higher job profile.
3. Employees who are temporarily assigned to work-out-of-class in writing by their manager to perform a majority of the principal duties and functions of a lateral or lower level job profile will receive no change in pay.
4. Pay will return to the base rate once the work-out-of-class assignment has been completed, with the addition of any regularly scheduled cost of living or merit increases.

## J. Limited Duration Appointments

1. Limited Duration Appointments may not exceed two (2) years in duration. Limited Duration positions must be filled in accordance with MCPR § 5-30 and MCPR § 5-40, and are subject to the review and approval by the Department Human Resources Unit.
2. Limited Duration appointments to a higher level job profile will receive pay in accordance with MCPR § 2-40-030(D) Promotion.

3. Limited Duration appointments to a lateral or lower level job profile will receive no change in pay.
4. Pay will return to the base rate once the Limited Duration appointment has been completed, with the addition of any regularly scheduled cost of living or merit increases.

K. Trainees: Employees hired as trainees will be paid at a rate consistent with MCPR § 5-30-030.

#### L. Merit Increases

1. Merit pay increases may be awarded effective July 1 of each fiscal year consistent with any limits or procedures established by the Chair. Management and Executive employees covered by these rules may be awarded merit pay up to the maximum of their job profile's pay range based on the employee's receipt of a "goals met" evaluation. Management employees are eligible for merit increases in base pay up to three percent (3%), unless the Chair approves a different amount. The Chair will establish the annual merit increase for executive employees.
2. Employees not receiving a "goals met" evaluation will not receive a merit increase on July 1. Employees will be eligible for merit pay in the following merit cycle if a "goals met" evaluation is received. Exceptions may be made by the Department Director with approval from the Multnomah County Chief Human Resources Officer.
3. Employees who are initially hired or promoted into positions during the three (3) months prior to July 1 are not eligible for merit pay increases until the following July 1.

#### M. Special Pay Provisions

1. Outstanding Performance Pay
  - a. The Appointing Authority may authorize payment for outstanding contribution to an individual employee or a team of employees subject to final approval by the Multnomah County Chief Human Resources Officer or their designee. The Chair may limit the amount of incentive payment that may be granted. A recognition bonus payment may be authorized for an outstanding professional contribution to the business operations of the county or the residents of the county. Such bonus payments must be made within budgeted funds and documented in the employee's personnel file. Recognition bonus payments are not added to the employee's regular pay rate.

- b. There must be compelling reasons to award bonus payments that recognize contributions outside of the employee's normal job functions and established goals that will or would be viewed as exceptional public service in the eyes of the general public or the County's executives.
- c. General criteria include but are not limited to:
  - i. Solutions or outcomes are positive, constructive and address problems, inefficiencies, productivity, and operational performance in the workplace.
  - ii. Solutions are aligned with the organization's mission and save time or money, or both.
  - iii. Solutions improve customer service for clients, citizens and/or stakeholders.
  - iv. Cost savings are measurable and reduce duplication/redundancy; conserve resources; and streamline or simplify a key process.
  - v. The solution is outside of one's normal job functions.
- d. Some examples include:
  - i. A team of division employees develop and implement an innovative recycling strategy and program that saved the division fifteen thousand dollars (\$15,000) in waste and reduced its temporary staffing needs by 2.5 FTE.
  - ii. A manager is acknowledged for her creation of a volunteer wellness program for her teams and over a two (2) year period, sick leave usage and absenteeism are reduced by thirty percent (30%) with employee overall satisfaction with the program and their work environment rated at ninety-four percent (94%) and ninety-two percent (92%) respectively.

## 2. Special Pay Adjustments

- a. The Appointing Authority may authorize a special adjustment to an employee's pay rate subject to final approval by the Multnomah County Chief Human Resources Officer. Such pay adjustments must be within the pay range for the employee's job profile and will be based upon exceptional performance over time or the factors listed in § 2-40-050 below: current salary may be taken into consideration.

- b. Employees failing to receive a "goals met" evaluation are not eligible for a special salary adjustment.
3. Premium Pay: Central Human Resources has the authority to establish premium pay for management job profiles as appropriate due to specialty assignments or the possession of required certifications. The Department HR Manager is responsible for approving the use of premiums based on an employee's specialty assignment or required certification.

#### **§ 2-40-040 General Salary Adjustment**

When the Board authorizes a general salary adjustment, except those frozen in pay above the maximum of the job profile's pay range, executive and management employees will receive the percentage adjustment to their pay rate up to the maximum of their salary range. Represented employees will receive salary adjustments negotiated in the applicable collective bargaining agreement.

#### **§ 2-40-045 Incentive and Bonus Payments**

Subject to these rules and completion of bargaining obligations with the applicable designated bargaining unit, the Appointing Authority may authorize an incentive or bonus payment to an individual employee subject to final approval by the Multnomah County Chief Human Resources Officer or their designee, subject to the following:

- A. The Chair may limit the amount of an incentive payment that may be granted.
- B. Incentive/Bonus payments must be made within budgeted funds and documented in the employee's personnel file.
- C. Incentive/Bonus payments are a one-time installment that does not permanently increase the employee's regular rate of pay.
- D. The reason(s) for the incentive/bonus payment must be outside of an employee's normal job functions.
- E. Some examples include:
  1. An employee referral incentive on positions for which there are documented recruitment issues as determined by the Appointing Authority.
  2. A signing bonus on positions for which there are significant and documented recruitment and/or retention issues as determined by the Appointing Authority.

#### **§ 2-40-050 Pay Exceptions Upon Initial Appointment**

Subject to these rules and applicable collective bargaining agreements, Appointing Authorities are responsible for ensuring that pay rates are within the job profile pay range and will use the

following criteria to justify exceptions upon initial appointment. Any exception must remain within the existing pay range.

- A. Market rates for similar jobs in the community;
- B. Additional relevant experience and/or training of the individual;
- C. Pay relationships within the unit or department;
- D. Available funds to finance the salary; and
- E. The action must appear prudent to the public.

**§ 2-40-060 Elected Officials' Staff**

Elected officials will set pay levels and compensation for persons who report directly to them and serve at their pleasure. Pay rates for such persons are limited by funds allotted for the positions and are not covered by these rules. Compensation decisions for initial appointment to county employment will not be based on a candidate's current or prior compensation with current or former employers. Compensation includes wages, salary, bonuses, benefits, and fringe benefits.

**§ 2-40-070 Temporary and On-call Employees**

Temporary and on-call employees must be appointed to the appropriate job profile and paid at the first (1st) step or the beginning of the pay range for their job profile. Payment above the beginning of the job profile's pay range must be approved by the Department Human Resources Manager and must be within the job profile's pay range. All payment outside of the job profile's pay range or to a job profile that has no assigned pay grade (Temporary Worker, JCN 8000) must be approved by the Multnomah County Chief Human Resources Officer.

## **Rule # 2-45**

### **Sick Leave**

**§§:**

[§ 2-45-005 Purpose](#)

[§ 2-45-010 Applicability](#)

[§ 2-45-015 Qualified Use](#)

[§ 2-45-020 Represented Employees](#)

[§ 2-45-025 Non-Represented Employees](#)

[§ 2-45-030 Reinstatement of Sick Leave Accruals](#)

[§ 2-45-040 Counting Against FMLA, OFLA Entitlements](#)

[§ 2-45-045 Use and Misuse of Leave for Sick Purposes](#)

#### **§ 2-45-005 Purpose**

The purpose of this policy is to establish guidelines and procedures for administration of sick leave rights as guaranteed by state law, this policy, and to establish standards for the equitable and consistent administration of paid sick leave across all County departments.

#### **§ 2-45-010 Applicability**

This policy applies to all non-represented regular and temporary management and executive employees, including limited duration, on-call and probationary management and executive employees and elected officials' staff. This policy applies to employees subject to a collective bargaining agreement to the extent the rule's provisions are consistent with the terms of such agreement.

#### **§ 2-45-015 Qualified Use**

A. Sick leave may be used by an employee for the following non-occupational conditions involving the employee or to care for a member of the employee's immediate household such as; spouse, parent, or children as defined in the federal Family and Medical Leave Act (FMLA); parents-in-law, grandparents or grandchildren as defined in the Oregon Family Leave Act (OFLA); the employee's domestic partner as designated in an Affidavit of Domestic Partnership submitted to the Employee Benefits Unit; or the children and parents of such domestic partner.

1. Mental or physical illness, injury, or health condition; need for medical diagnosis, care or treatment of a mental or physical illness injury or health condition; or time off needed for preventative care;
2. Medical, dental or employee assistance program appointments;

3. Any qualified condition under Family Medical Leave, as defined by state or federal law, regardless of whether the employee meets statutory eligibility requirements;
4. For any qualified purpose allowed under Oregon's domestic violence, harassment, sexual assault, or stalking law;
5. Quarantine based on non-job related exposure to contagious disease; or
6. In the event of a public health emergency, including upon an order of a general or specific public health emergency.

B. Employees are required to follow departmental work rules and call in procedures related to reporting illness.

### **§ 2-45-020 Represented Employees**

Employees covered by a collective bargaining agreement will be granted Paid Sick Leave in accordance with applicable collective bargaining agreements. Temporary and on-call represented employees whose collective bargaining agreement does not provide alternate provisions shall follow the provisions set forth in §2-45-025 (A) Non-Exempt Employees.

### **§ 2-45-025 Non-Represented Employees**

Non-represented employees are regular or temporary employees not covered by a collective bargaining agreement, including limited duration, on-call and probationary employees. Non-represented employees who are eligible for overtime under the Fair Labor Standards Act (FLSA) are classified as non-exempt, and non-represented employees who are not eligible for overtime under FLSA are classified as exempt. Sick leave benefits correspond to an employee's FLSA status as listed below:

#### **A. Non-Exempt (Overtime Eligible) Employees**

##### **1. Accrual**

- a. Non-exempt employees begin accruing sick leave immediately upon hire at the rate of 0.0461 hours of paid leave for each straight time hour worked. For example, an On-Call employee who works 25 hours in a pay period will accrue 1.1525 hours of sick leave for that pay period.
- b. Sick leave accruals may only be used for time that is not compensable under Workers' Compensation.
- c. There is no maximum limit on the amount of sick leave that an employee may accrue.

- d. Protected sick time as outlined under Oregon's state sick leave law, ORS 653.601-653.661, is limited to the first forty (40) hours of sick leave taken in a calendar year. Sick time taken in excess of forty (40) hours each calendar year is considered regular sick time.
- e. Accrued sick leave is not converted/paid out to an employee when the employee separates from County employment.
- f. Employee accrued and unused sick leave balances will be provided at the end of each pay period on employee pay stubs.
- g. PERS eligible employees who separate from County service will have all accrued and unused sick leave reported to PERS for the purpose of determining the pension benefits.

## 2. Charging of Sick Leave

- a. Non-exempt employees shall use accrued sick leave time in quarter-hour increments.
- b. Non-exempt employees may use sick leave only for hours they have already been scheduled to work. Non-exempt employees not scheduled to work an assigned shift may not use sick leave for not-yet-scheduled shifts (e.g., at the time an On-Call employee is called and asked whether they want to accept a shift).
- c. Use of leave without pay in lieu of paid sick leave for non-FMLA and non-OFLA qualifying conditions is subject to the approval of management.

## B. Exempt (Not Overtime Eligible) Employees

### 1. Accrual

For accrual purposes, "day" is defined as a unit of eight (8) hours. Sick leave for exempt employees will accrue each pay period on the following schedule:

- a. Exempt employees regularly scheduled to work 1.0 FTE will accrue sick leave at the rate of four (4) hours per pay period for a total of twelve (12) eight-hour days per year, or ninety-six (96) hours.
- b. Exempt employees regularly scheduled to work .5 through .99 FTE will accrue sick leave on a pro rata basis. For example, an employee regularly scheduled to work .5 FTE will earn two (2) hours per pay period for a total of six (6) eight-hour days, or forty-eight (48) hours per year.
- c. Sick leave accruals may only be used for time that is not compensable under Workers' Compensation.



- d. Protected sick time as outlined under Oregon's state sick leave law, ORS 653.601-653.661, is limited to the first forty (40) hours of sick leave taken in a calendar year. Sick time taken in excess of forty (40) hours each calendar year is considered regular sick time.
- e. There is no maximum limit on the amount of sick leave that an employee may accrue.
- f. Accrued sick leave is not converted/paid out to an employee when the employee separates from County employment.
- g. Employee accrued and unused sick leave balances will be provided at the end of each pay period on employee pay stubs.
- h. PERS eligible employees who separate from County service will have all accrued and unused sick leave reported to PERS for the purpose of determining the pension benefits.
- i. Regular status exempt full-time employees new to county service will receive twelve (12) days sick leave upon appointment in lieu of accruing sick leave during the first year. Thereafter, sick leave will accrue as stated in the above section.

## 2. Charging of Sick Leave

- a. For Exempt employees, accrued sick leave will be charged only for full-day absences. Partial day absences due to intermittent leave as provided by OFLA/FMLA will not be counted against sick leave entitlements, however partial day absences for FMLA/OFLA will be charged against the employee's OFLA/FMLA leave entitlement.
- b. Use of leave without pay in lieu of paid sick leave for non-FMLA and non-OFLA qualifying conditions is subject to the approval of management.

### **§ 2-45-030 Reinstatement of Sick Leave Accruals**

A. Any employee who leaves County employment and is subsequently re-employed as a regular status employee within one hundred eighty (180) days is entitled to credit for all sick leave accrued up to the last day of prior employment. Sick leave shall not accrue during the period between leaving County employment and re-employment.

B. Any employee who leaves County employment and is subsequently re-employed as a temporary or on-call status employee within one hundred eighty (180) days is entitled to credit for sick leave accrued up to the last day of prior employment up to a maximum of eighty (80) hours. Sick leave shall not accrue during the period between leaving County employment and re-employment.

- C. Any employee who is re-employed after more than one hundred eighty (180) days is not entitled to credit for sick leave that accrued during prior County service. Sick leave will begin accruing anew in accordance with applicable accrual sections.
- D. Employees who are laid off and recalled from a recall list, will have their sick leave balance restored at the time they are recalled.
- E. Employees who retire from County service under PERS full formula or formula plus annuity and are subsequently re-employed by the County will not be entitled to credit for sick leave accrued during prior County service. Sick leave will begin accruing anew in accordance with applicable accrual sections.
- F. Employees who retire under PERS money match or OPSRP who are subsequently reemployed by the County within one hundred eighty (180) days of their retirement date will be entitled to credit for all sick leave accrued up to the last day of prior employment. Sick leave shall not accrue during the period between leaving County employment and re-employment.
- G. Any employee who is re-employed after more than one hundred eighty (180) days following retirement is not entitled to credit for sick leave accrued during prior County service. Sick leave will begin accruing anew in accordance with applicable accrual sections.

**§ 2-45-035 Sequencing of Leaves**

The use of vacation leave, saved holiday time, compensatory time, and leave without pay is subject to approval by management. However, unless otherwise required by law, forms of leave shall be used and exhausted in the following sequences for illness and injuries:

- A. Leave for illness or injury, that does not qualify for FMLA will be taken in the following order:
  - 1. Sick leave until it is exhausted;
  - 2. Vacation leave, saved holiday time, or compensatory time, sequenced at the employee' s option, until they are exhausted;
  - 3. Leave without pay.
- B. Employees who take leave that qualifies under FMLA or OFLA will be required to exhaust all paid leave before taking leave without pay; employees will determine what order paid leave is used.

**§ 2-45-040 Counting Against FMLA, OFLA Entitlements**

- A. Sick leave and any other forms of paid or unpaid leave used for FMLA qualifying conditions, or absence due to a deferred or approved Workers Compensation claim

based on such conditions, or partial day absences pursuant to 2-45-015 (1) and (3) above, will be counted against an employee's annual FMLA leave entitlements.

B. Sick leave and any other forms of paid or unpaid leave used for OFLA qualifying conditions, or partial day absences pursuant to 2-45-015 (1), (3) and (4) above, will be counted against an employee's annual OFLA leave entitlement. Absence due to a deferred or approved Workers Compensation claim based on such conditions will not be counted against an employee's annual OFLA leave entitlements.

C. Intermittent Leave. When the intermittent use of accrued sick leave or other paid or unpaid leave used in lieu of sick leave interferes significantly with an employee's ability to perform the duties of their job, management may do the following (subject to the requirements of law, including, but not limited to, OFLA/FMLA):

1. Require the employee to take continuous leave; or
2. Change the employee's work assignment for six (6) months or until use of intermittent leave ends, whichever comes sooner.

#### **§ 2-45-045 Use and Misuse of Leave for Sick Purposes**

Sick leave is available to all employees for legitimate and qualified conditions pursuant to MCPR 2-45-015. Rules concerning misuse of sick leave are set out in MCPR 3-55.

## **Rule 2-50**

### **Leaves (Military and Other Leaves)**

**§§:**

- [2-50-010 General Leaves](#)
- [2-50-020 Military Training Leave](#)
- [2-50-025 Military Leave Donation Program](#)
- [2-50-030 Peace Corps Leave](#)
- [2-50-040 Vacancies](#)
- [2-50-050 Judicial Leave](#)
- [2-50-060 Leave for Religious Observance or Practice](#)

#### **§ 2-50-010 General Leaves**

- A. Consistent with the needs of the County, and unless otherwise specified in a collective bargaining agreement, leaves of absence without pay for a limited period not to exceed thirty (30) days may be requested and may be granted by the department director or supervisor for any reasonable purpose. Such leaves may be renewed or extended for any period up to one (1) year.
- B. An employee who fails to return to work within five (5) days after the expiration of a leave of absence will be considered to have resigned, unless the employee, prior to the expiration of the leave of absence, has made application for and has been granted an extension of leave. An employee who reports for work within five days after the expiration of a leave of absence will be reinstated in the last held position at the prevailing pay rate, unless the position has been eliminated.

#### **§ 2-50-020 Military Training Leave**

- A. In compliance with the provisions of ORS 408.290, and unless otherwise specified in a collective bargaining agreement, an employee who has served the county for six (6) months or more preceding an application for military leave, may apply for a leave of absence with pay for any period of annual active duty for training as a member of the National Guard, National Guard Reserve, any reserve component of the Armed Forces of the United States, or the National Disaster Medical System (NDMS) or any reserve component of the United States Public Health Service for and during deployments in response to public health emergencies. Such leave will be with pay and without loss of benefits and will not exceed fifteen (15) calendar days or eleven (11) work days in any training year. As used in this section, “training year” means the federal fiscal year for any particular unit of the National Guard or applicable reserve component.
- B. Leave of absence without pay will be granted for any military duty, unless the employee requests the use of accrued paid leave, such as vacation, saved holiday, or compensatory time. As used in this subsection, “military duty” means any written or

verbal military orders for weekend drills, annual active military training/duty, inactive duty training, or full-time National Guard duty in the military reserve, National Guard, National Guard Reserve, Armed Forces, Army National Guard, Air National Guard, or the National Disaster Medical System (NDMS) or any Reserve component of the Armed Forces of the United States, Coast Guard, the Commissioned Corps of the Public Health Service, for and during deployments in response to public health emergencies, and any other category of persons designated by the President in time of war or national emergency.

C. Additional leave is provided for leave related to military service in MCPR § 2-60.

### **§ 2-50-025 Military Leave Donation Program**

- A. The Military Leave Donation Program provides a means for employees to assist other employees on military leave without pay whose rate of pay while on active duty is less than what the employee earns in base wages as a county employee. “Base wages” does not include premium, lead or other differential pay tied to special shift or work assignments. Donated vacation leave or compensatory time is used to bridge the difference between the employee’s base wages in their county position and the amount of pay the employee receives while on military leave. Recipients of donated vacation leave and/or compensatory time may not receive more compensation under this program than they would have earned in base wages had they not been on military leave.
- B. Eligibility to Receive Donated Leave: In order to be eligible to participate in the Military Leave Donation Program as a recipient, employees must:
1. Be a regular status county employee on leave without pay to perform active military duty, whether voluntarily or involuntarily ordered. This program does not apply to routine training or other similar activities of the National Guard or the military reserves;
  2. Have diminished wages due to their active military service, and submit written documentation of the rate of pay the employee will receive for the anticipated duration of the military leave, including any differentials or special pay; and
  3. Submit written documentation of the anticipated date of release from active duty. Donated leave may not be used to compensate the employee between the time they are released from active duty until the time they report back to work at the county.
- C. Limit on Amount of Donated Leave: The maximum amount of donated vacation leave or compensatory time an eligible employee may receive is the equivalent of the difference between what the employee earns from the county as base wages (not including any differentials, lead or premium pay resulting from special shift or work assignments) and

what the employee earns while on military leave referred to in (B)(2) above, for a period not to exceed six (6) calendar months.

#### D. Donations

1. Any employee who is eligible to accrue vacation leave may donate leave in accordance with the following provisions:
  - a. Donors may not donate time that would be forfeited due to leave accrual limits contained in these rules or any collective bargaining agreements.
  - b. Donations must be made in increments of whole hours.
  - c. Donors must sign a declaration that their donation is voluntary and is intended as a gift; and has been made without coercion, compensation or for other consideration.
  - d. Donations will be withdrawn from the donors' leave banks as needed, up to the amount donated. If leave donations exceed the amount needed, unused leave will remain in the donor's leave bank. Except as provided in (1)(a) above, donations are irrevocable.
2. Calculation of Value of Leave and Payment to Recipient
  - a. The dollar value of donated leave hours will be calculated by multiplying the donor's hourly rate times the number of hours donated.
  - b. The dollar value of donated leave will be divided evenly among all eligible employees.
  - c. During the six month eligibility period and so long as donated leave hours are available, recipients will receive a salary payment on their regularly scheduled pay day for an amount up to the difference between their military gross pay and their regular base gross pay as a county employee, less any normal payroll deductions and withholdings. In the event that leave donations are insufficient to provide adequate compensation to employees, the county may elect to forego deductions for medical and dental insurance premiums while employees are on military leave. All payments made under this rule will be treated as wages and will be reported as such to appropriate taxing authorities.
  - d. Payments made under this program will not be considered as time worked for purposes of leave accrual, holiday pay, or seniority calculations.

#### E. Administration of Program

1. The county or employing department may post and/or send email to county or department employees notifying them of the names of eligible employees.
2. Employees are prohibited from threatening or coercing other employees concerning any aspect of this rule, including but not limited to pressuring another employee to donate time or refuse to accept donated time.
3. This program is not subject to the grievance and arbitration section of any collective bargaining agreement nor is it subject to any appeal procedure provided under the Multnomah County Personnel Rules, the County Code or the County Charter. The county retains the right to modify, change or discontinue this program at any time.
4. Central HR is authorized to establish and/or modify procedures necessary to implement and monitor this program to carry out the intent of the Board.

#### **§ 2-50-030 Peace Corps Leave**

Leaves of absence for at least two (2) years will be granted to all regular employees who serve in the Peace Corps as volunteers.

#### **§ 2-50-040 Vacancies**

Temporary or regular appointments may be used to fill positions vacated by leave of absence. Positions anticipated to be vacant for more than six months will be filled by regular appointment, unless the Director determines that circumstances warrant a temporary appointment.

#### **§ 2-50-050 Judicial Leave**

##### A. Jury Duty

1. An employee shall be granted leave with full pay in lieu of jury fees on any scheduled day of work he or she is required to report for jury duty, if upon receipt the employee submits jury fees or evidence of waiver of jury fees to Payroll. Employees may retain reimbursement provided for by statute for mileage and other expenses incurred as a result of jury service.
2. Except during an emergency or due to operational requirements, the county will not require employees to report to work after completing a full day on jury duty. Any employee who is excused or dismissed from jury duty before the end of the day will report back to work if practical. Employees will not be allowed to flex their work schedule, in order to receive compensation for jury duty on a normally scheduled day off, unless specified in labor agreement.

##### B. Subpoenas

1. Time spent serving as a witness in a work related legal proceeding will be treated as time worked for pay purposes, provided the time served occurs during regularly scheduled hours, the employee is subpoenaed to testify, and the employee submits witness fees to Central Payroll upon receipt. These same provisions also apply to Merit System Council hearings.
2. Under no circumstances will employees be paid for time spent in a judicial proceeding or hearing in which they or their union or association is the plaintiff or defendant, unless they are being defended and indemnified by the county for conduct occurring during the course of employment.

**§ 2-50-060 Leave for Religious Observance or Practice**

- A. Upon approval by the appointing authority, an employee shall be granted time off to engage in a religious observance or practice. The employee must use vacation leave, saved holiday time or compensatory time for this leave.
- B. Such leave shall not be granted if the activity creates significant difficulty or expense for the county or if the activities have more than a temporary or tangential impact on the employee's ability to perform the essential functions of the employee's job.



## **Rule # 2-55**

### **Leave Donations**

**§§:**

- [§ 2-55-005 During Declared Emergency](#)
- [§ 2-55-010 Purpose](#)
- [§ 2-55-015 Non-Discrimination](#)
- [§ 2-55-020 Eligibility](#)
- [§ 2-55-030 Leave Donations](#)
- [§ 2-55-040 Value of Donated Leave](#)
- [§ 2-55-050 Solicitation of Donations](#)
- [§ 2-55-060 Use of Donated Leave](#)
- [§ 2-55-070 Retroactive Use of Donated Leave](#)
- [§ 2-55-080 Recovery of Leave](#)
- [§ 2-55-090 Cap on Donated Leave](#)
- [§ 2-55-100 Unused Donated Leave](#)
- [§ 2-55-110 Employment Status, Seniority, Benefits and FMLA](#)
- [§ 2-55-120 Application for Donated Leave](#)
- [§ 2-55-130 Verification and Notice of Eligibility](#)
- [§ 2-55-140 Discontinuation of Eligibility](#)
- [§ 2-55-150 Resolution of Disputes](#)
- [§ 2-55-155 Plan Modification or Termination](#)
- [§ 2-55-160 Acceptance of Catastrophic Leave Program](#)

#### **§ 2-55-005 During Declared Emergency**

On March 12, 2020, Chair Deborah Kafoury declared a state of emergency in Multnomah County due to the rapid spread of the COVID-19 novel coronavirus. In support of the County's efforts to curb the spread of infection among employees and members of our community, the following revisions to this Personnel Rule shall be effective through April 30, 2020.

#### **§ 2-55-010 Purpose**

This rule establishes a Catastrophic Leave Sharing Program (program). In order to maintain quality of life for the county's workforce, the program permits county employees to voluntarily donate accumulated vacation or compensatory time off to another employee who exhausts, or is likely to exhaust, accumulated paid leave due to a non-occupational FMLA or OFLA qualifying catastrophic medical condition of the employee or a FMLA/OFLA qualifying family member that would otherwise likely cause the employee to take unpaid leave or terminate employment.

## **§ 2-55-015 Non-Discrimination**

The county prohibits discrimination on the basis of race, color, sex, age, religion, national origin, political affiliation, marital status, sexual orientation, gender identity, source of income, familial status, physical or mental disability or other protected status in any decisions regarding catastrophic leave program eligibility, and administration.

## **§ 2-55-020 Eligibility**

Any county employee who has worked in a benefits eligible position, excluding temporary management and executive employees, is eligible to participate in the program as a recipient. Any employee who has vacation or compensatory time available may participate in the program as a donor. Donations may be made between any employees. Donations between employees in different bargaining units or between non-represented and represented employees are permitted as agreed to by the respective bargaining agents.

## **§ 2-55-030 Leave Donations**

A. Employees may voluntarily donate hours of accumulated vacation leave or compensatory time for use by a specified recipient employee. No other type of leave may be donated:

1. The donor may not donate hours that are above maximums permitted by these rules or the applicable collective bargaining agreement;
2. Donations must be in increments of whole hours;
3. Donors must complete and sign a catastrophic leave donation form provided by the Employee Benefits Office containing a declaration that the donation is intended as a gift and has been given voluntarily without coercion, compensation or for other consideration;
4. The donation must be made irrevocably, with the understanding that the donated leave is lost to the donor forever for all purposes including, but not limited to, use for paid time off, payoff upon termination, seniority and retirement credit;
5. The recipient employee must be eligible for donations as defined by MCPR 2-55-020 at the time the donation is made;

B. Employees may make donations to employees in different bargaining units or departments and to employees having a different representation status. Donations between employees in a different bargaining unit or from non-represented to represented, will only be permitted if bargaining agents for any bargaining unit covering the recipient and donor employee have consented to such transfers as required by this rule.

C. Donated leave will not be credited to a recipient employee's account until that employee has exhausted sick leave, vacation leave, personal holidays, time off in lieu of designated holidays, and compensatory time off following application for donated leave. The only exception is provided in MCPR 2-55-070(C).

### **§ 2-55-040 Value of Donated Leave**

The gross (pre-tax) dollar value to the recipient employee of donated leave will be calculated by multiplying the donor's base hourly straight time wage rate at the time of the donation, including any on-going longevity or achievement incentive pay normally treated as part of base by the number of hours donated. This gross amount will be divided by the recipient employee's base hourly straight time wage rate at the time of the donation, including any on-going longevity or achievement incentive pay normally treated as part of the base under a collective bargaining agreement. This will determine the number of hours of paid leave available to the recipient employee as a result of the donation. The donated leave will be taxed and subject to normal withholding and payroll deductions.

### **§ 2-55-050 Solicitation of Donations**

A. Solicitations for leave donations will be sent exclusively by the designated central coordinator using countywide e-mail unless an employee requests that a solicitation be sent only within their department or only to specific individuals. Solicitations may not be sent until an employee's application has been approved. A solicitation including the names of recipient employees projected to need additional donations will be sent each pay period. The e-mail will include employees names, departments, work locations and the estimated amount of leave needed by each employee, if available.

B. County employees may not disclose confidential medical records or information obtained in performance of their county employment duties.

C. Directors, supervisors, elected officials and other agents, employees, and the bargaining agent must not threaten, coerce, or intimidate employees to either require or prohibit participation in this catastrophic leave program, either as a donor or recipient. Participation or non-participation is purely voluntary.

### **§ 2-55-060 Use of Donated Leave**

A. A recipient employee must exhaust donated leave prior to taking unpaid leave for approved catastrophic medical conditions.

B. Employees may use donated leave in the following circumstances:

1. The employee or FMLA/OFLA qualifying family member has a catastrophic medical condition;

2. The employee has exhausted his or her accrued sick and vacation leave, saved or personal holidays, and compensatory time off;
3. The employee is not receiving any other income from county employment;
4. The person with the catastrophic medical condition is unable to work in his or her regular position or another position with his or her employer; and
5. Alternatively to #1 above, the employee: (a) has been exposed to an individual who has tested positive for COVID-19 (as confirmed by the CDC or other authorized body) and is directed to quarantine by a public health official, (b) the employee has tested positive for COVID-19 (as confirmed by the CDC or other authorized body), (c) a family member in the employee's immediate household has tested positive for COVID-19 (as confirmed by the CDC or other authorized body), or (d) the employee or a member of the employee's immediate household has symptoms of flu-like illness or is recovering from flu-like symptoms.

### C. Intermittent Leave

Recipient employees who have been on approved paid medical leave, using sick, vacation, compensatory, personal or saved holidays or catastrophic leave, for all scheduled work hours for at least one full workweek and who are able to return to work on a part-time basis while continuing to receive medical treatments on an intermittent basis for their catastrophic medical condition, may continue to participate in the program after they return to work. Catastrophic leave may only be solicited and used to the extent it is needed to cover unpaid leave for continuing treatments involving absences related to the condition for which catastrophic leave was initially approved.

### § 2-55-070 Retroactive Use of Donated Leave

- A. Retroactive application for and use of donated leave time will be allowed if the employee was medically unable to file the necessary forms in a timely manner as determined by the Employee Benefits Office.
- B. After a worker's compensation claim has concluded, including all appeals, an employee may retroactively apply for and use donated leave for that medical condition. The number of hours of catastrophic leave that may be used is limited to those the employee would have used had the worker's compensation claim not been filed. Donated leave may not be used if the employee:
  1. Received a permanent total disability award,
  2. Entered into a disputed claims settlement providing any payment for work time lost on the date for which donated leave would otherwise be used;
  3. Received time loss, sick leave, vacation or other payments for such dates;

4. Otherwise fails at the time of application for donated leave to qualify for donated leave.

C.All retroactive payments will be made on the next regular county pay date following the completion of one full pay period.

### **§ 2-55-080 Recovery of Leave**

If a recipient employee uses donated leave and subsequently is paid social security disability, PERS disability retirement, disability retirement through another retirement system to which the county contributes or disability insurance benefits for the same dates, the employee must promptly notify the central payroll unit and the Employee Benefits Office. The employee must repay the county the net payments within fourteen days of receipt of such payments or arrange to repay the overpayment over the same length of time that the leave was initially paid to the employee. Upon the county's receipt of repayment, the recipient employee's vacation or sick leave accounts will be credited, according to the formula set out in MCPR 2-55-100, for hours of donated leave for which repayment is received and for additional hours donated but not used. This applies when donated hours cannot be used for the absence resulting from the catastrophic medical condition for which the employee has received the other benefits.

### **§ 2-55-090 Cap on Donated Leave**

Employees are allowed to receive sufficient donated leave time to cover their projected unpaid catastrophic leave up to a maximum of 90 calendar days per calendar year. No more than one pay period of leave will be transferred to a recipient employee's catastrophic leave bank at any time.

### **§ 2-55-100 Unused Donated Leave**

Unused donated leave and compensatory time off will be disposed of as follows:

- A.If the recipient employee returns to work, any donated leave hours not used will be divided equally between vacation and sick leave and retained by the recipient. The vacation leave credited is limited to the maximum vacation hours the employee could accumulate. Any donated leave hours that exceed this limitation will be credited to the employee's sick leave account.
- B.If the recipient employee terminates from county service for any reason, any unused donated leave hours will be converted to vacation and sick leave under the subsection (A) formula. Donated leave converted to vacation leave will be paid to the recipient, or heirs or estate as other accumulated vacation leave.
- C.After the conversion of donated leave to sick and vacation leave, the hours will no longer be deemed donated leave. The final average salary or pension calculation for the Oregon Public Employee Retirement System or any other county pension will be subject to Oregon law, county law and any applicable collective bargaining agreement.

## **§ 2-55-110 Employment Status, Seniority, Benefits and FMLA**

- A. The use of donated leave will not bar immediate termination of the employee if termination would otherwise take place by operation of law, rule, regulation or action of the Director or supervisor.
- B. Time spent on donated leave will be treated as paid leave for seniority accrual purposes.
- C. If a recipient is otherwise eligible for county paid health and welfare benefits, the employee will receive those benefits while using donated leave. If the employee's employment terminates, termination of medical and dental benefits will be governed by the same rules applicable in any other termination. An employee does not accrue personal holidays, time off in lieu of designated holidays, vacation or sick leave, or receive holiday or personal leave pay while using donated leave
- D. If donated leave is used for a catastrophic medical condition of an employee or a FMLA/OFLA qualifying family member covered by FMLA/OFLA, time spent on donated leave will count toward the employee's annual entitlement to leave under those laws.

## **§ 2-55-120 Application for Donated Leave**

- A. An employee who wishes to receive donated leave must complete and submit an application to the Employee Benefits Office prior to or during their leave. Retroactive approval is based on specific criteria described in 2-55-070. The application must be on the specified form and contain the information required by the Employee Benefits Office. This includes a statement signed in good faith by the employee of qualification for donated leave under the eligibility criteria. The employee must agree to timely repay the county for donated leave payments received when such repayment is required under the rules. The employee must submit with the application a statement signed by the employee's or FMLA/OFLA qualifying family member's health care practitioner certifying the existence of a qualifying catastrophic medical condition. The county may require that the certification be on a form it provides to certify the initial or continued need for family medical leave under FMLA or OFLA.
- B. An employee may have up to a combined total of 96 hours of unused vacation, sick leave, personal holiday time, time off in lieu of designated holidays, and compensatory time off and apply for donated leave. The employee must reasonably believe it is likely that those hours will be exhausted by the catastrophic medical condition.
- C. An employee who is on leave for his or her own catastrophic medical condition must apply for the county offered short term disability, if available, and long term disability benefits.

### **§ 2-55-130 Verification and Notice of Eligibility**

- A. Upon receipt of a completed application, the Employee Benefits Office will verify the employee's eligibility through such consultation and steps deemed appropriate.
- B. The Employee Benefits Office will give prompt notice of confirmation or denial of eligibility to the employee when the verification process is complete. The Employee Benefits Office will send copies of the notice to the employee's supervisor and department human resources unit. For applications from Sheriff's Office employees, a copy of the request, the confirmation of eligibility and any related donation forms must be received by the Employee Benefits Office before payments may be made to an employee recipient.

### **§ 2-55-140 Discontinuation of Eligibility**

The recipient of donated leave will immediately notify the Employee Benefits Office in writing of any change in circumstance that negates the employee's continued eligibility to participate in the program. Departments that receive information from a recipient employee of any such change in circumstances will promptly give such notice to the Employee Benefits Office. For Sheriff's Office employees, the Sheriff's Office HR unit will promptly forward a copy of the notice to the Employee Benefits Office.

### **§ 2-55-150 Resolution of Disputes**

All decisions made or actions undertaken by the county under this catastrophic leave sharing program, including determinations concerning eligibility, calculation of leave values, and in the administration, modification or termination of this program are final and binding on all parties. They may not be grieved or arbitrated under any collective bargaining agreement, or appealed to the Merit Council or any other forum.

### **§ 2-55-155 Plan Modification or Termination**

The county may at its discretion modify or discontinue any or all aspects of this catastrophic leave sharing program, and such modification or discontinuation will not be subject to a duty to bargain either the decision or impact of such decision. However, except when changes are undertaken to ensure prompt compliance with state or federal law, such modifications or termination will take effect only after the employer gives the union notice of the modification or termination and a reasonable opportunity within ten days of the delivery of such notice to meet and confer concerning the change or modifications. If implementation is undertaken prior to such consultations to ensure compliance with law, consultations will occur as soon thereafter as is reasonably possible.

## **§ 2-55-160 Acceptance of Catastrophic Leave Program**

This rule will not apply to bargaining unit members unless the bargaining agent for that unit has notified Central Human Resources/Labor Relations in writing that the bargaining unit accepts the catastrophic leave program in entirety without reservation or modification.



## Rule 2-57

### Paid Parental Leave

**§§:**

<a href="#">2-57-010</a>	<a href="#">Purpose</a>
<a href="#">2-57-020</a>	<a href="#">Definitions</a>
<a href="#">2-57-030</a>	<a href="#">Eligibility</a>
<a href="#">2-57-040</a>	<a href="#">Calculation of Leave</a>
<a href="#">2-57-050</a>	<a href="#">Use of Accrued Leave</a>
<a href="#">2-57-060</a>	<a href="#">Notification to Employer</a>
<a href="#">2-57-070</a>	<a href="#">Intermittent Leave Use and Reduced Schedule Paid Parental Leave</a>
<a href="#">2-57-080</a>	<a href="#">Reinstatement</a>
<a href="#">2-57-090</a>	<a href="#">Confidentiality</a>
<a href="#">2-57-100</a>	<a href="#">Notification to Employee and Department Responsibilities</a>

#### **§ 2-57-010 Purpose**

The county provides paid parental leave to eligible employees following a qualifying event, specifically the birth (including post-pregnancy disability relating to childbirth), adoption, or foster care placement, or placement pursuant to legal guardianship of a child with an employee, to give parents time to bond with their new child, adjust to their new family situation, balance personal and professional obligations, and provide base salary continuation. This rule shall apply to eligible employees on approved continuous or intermittent leaves of absence for the birth (including post-pregnancy disability relating to childbirth), adoption, foster care placement, or placement pursuant to legal guardianship of a child in effect on or after the adoption of this rule.

#### **§ 2-57-020 Definitions**

- **Child/children:** For the purposes of paid parental leave, a minor or disabled child/children.
- **Event:** For the purposes of paid parental leave, the birth (including post-pregnancy disability relating to childbirth), adoption, foster care placement, or placement pursuant to legal guardianship of one or more children being born, adopted, or placed contemporaneously (i.e. at the same time).
- **Parent:** For purposes of paid parental leave, the county considers the following relationships to be parental:
  - A. Biological parents
  - B. Adoptive parents

- C. Foster parents
- D. Step parents
- E. Legal guardian
- F. A person standing in loco parentis

- **Spouse:** For the purposes of paid parental leave, a legally married person or domestic partner, whether by affidavit, county civil union or state civil union.

### **§ 2-57-030 Eligibility**

Employees will be eligible for up to a maximum of two hundred forty (240) hours (six (6) weeks) of paid parental leave per event in accordance with the following provisions:

- A. The employee is regular, initial trial service/probationary, or limited duration; and
- B. The employee has been employed at the County for at least one hundred eighty (180) days immediately prior to the leave, and their leave is for one of the following reasons:
  - 1. Birth of a child/children; or
  - 2. Placement of a minor or disabled child/children (as defined under FMLA/OFLA) with the employee for adoption or foster care; or
  - 3. Medically certified post-pregnancy disability relating to childbirth, including still birth where the attending provider issues a medical certification;
  - 4. Placement of a child/children pursuant to a legal guardianship; or
  - 5. An employee who needs to care for a spouse / domestic partner who has a post-pregnancy disability relating to childbirth, if the leave is applied for and approved; and
- C. If both parents work for the County and meet eligibility requirements, each parent will be eligible for up to a maximum of two hundred forty (240) hours (six (6) weeks) of paid parental leave; and
- D. The birth, adoption, foster care placement, or placement pursuant to legal guardianship of multiple children that is part of the same event, does not increase the length of paid parental leave granted. The total amount of paid parental leave granted for multiple children that is part of the same event will be up to a maximum of two hundred forty (240) hours (six (6) weeks); and

- E. Multiple events (e.g. foster care placement, legal guardianship, and adoption) of the same child/children shall only qualify as one event.
- F. An employee may receive paid parental leave for up to two (2) events per calendar year. Unused paid parental leave in the first event cannot be carried over to a second event.

**§ 2-57-040 Calculation of Leave**

- A. Eligible employees working forty (40) hours per week will receive up to a maximum of two hundred forty (240) hours (six (6) weeks) of paid parental leave per event.
- B. Eligible employees working less than forty (40) hours per week will receive a prorated amount of leave per event, based on percentage of time worked. Employees' leave is calculated by multiplying the assigned or average number of hours in a workweek by six (6).

**§ 2-57-050 Use of Accrued Leave**

- A. Paid parental leave must be used within twelve (12) months following the birth, adoption or foster care placement of a child.
- B. If an employee qualifies for FMLA, OFLA and/or contractual leave for the birth (including post-pregnancy disability relating to childbirth), adoption, foster care placement, or placement pursuant to legal guardianship of a child/children, paid parental leave under this rule will run concurrently with said leave and must be used during the approved FMLA and/or OFLA parental leave.
- C. Employees may use paid parental leave before other accrued leave (e.g. sick leave, vacation, compensatory time, saved holidays, etc.).
- D. Paid parental leave must be used before an employee enters into an unpaid leave of absence.
- E. Paid parental leave must be used as described above in 2-57-050 (A) - (D) and cannot be cashed out.
- F. Parental leave will be paid at the employee's regular pay rate, but shall not include overtime.

**§ 2-57-060 Notification to Employer**

- A. An employee will provide no less than thirty (30) calendar days notice for the birth, adoption or foster care placement of a child under the provisions of this rule. If the birth, adoption or foster care placement is unforeseeable, the employee will contact the supervisor as soon as practicable.

- B. Employees needing to request paid parental leave shall follow the County's leave process which can be found on Multco Commons at:

<https://commons.multco.us/employee-benefits/fmlaofla-protected-leaves>

#### **§ 2-57-070 Intermittent Leave Use and Reduced Schedule Paid Parental Leave**

- A. Use of intermittent and/or reduced schedule paid parental leave is contingent upon the approval of the supervisor and the department HR unit.
- B. If the employee takes intermittent or reduced schedule paid parental leave, the actual number of hours of leave taken will be counted toward the total hours of leave allowed under this rule, FMLA, OFLA and/or the applicable collective bargaining agreement. Intermittent or reduced schedule paid parental leave may be taken in increments of one-quarter of an hour, and the employee must try to schedule the time to not unduly disrupt the county's operations.
- C. For FLSA exempt employees on intermittent or reduced-schedule paid parental leave, the less-than-full-day increments of leave will count towards the total hours of leave allowed under this rule.

#### **§ 2-57-080 Reinstatement**

- A. When an employee returns from county paid parental leave, the employee will be reinstated to their former position. If the employee cannot be reinstated to the former position because that position no longer exists, the employee will be reinstated to an available equivalent position in accordance with applicable laws, rules, and/or collective bargaining agreement. If no suitable position is available, the employee will be subject to the layoff provisions of these rules and/or any applicable collective bargaining agreement.
- B. If the employee fails to report to work within five (5) calendar days after the end of approved leave, the employee will be considered to have resigned unless the employee has requested and obtained a leave extension prior to the end of the approved leave.

#### **§ 2-57-090 Confidentiality**

The circumstances involving the need for an employee to be granted paid parental leave will be kept confidential to the extent allowed by law. Documents provided to the County regarding the leave will be maintained in the employee's medical file, which is kept separately from the employee's personnel file, in accordance with state and federal laws.

## **§ 2-57-100 Notification to Employee and Department Responsibilities**

The County will process requests for paid parental leave using the same internal procedures that are established for employees to request and receive, if eligible, FMLA and/or OFLA leaves. Procedures will include:

- A. A process to ensure that supervisors promptly notify the Employee Benefits Office and their HR departments of requests for paid parental leave, and that such requests are immediately submitted to the Department HR Unit for processing; and
- B. A designation of the benefits under the Personnel Rules, FMLA, OFLA, and/or labor contract as applicable to the request for leave, and a statement that leave taken will count against the applicable leave entitlements; and
- C. Notification of the employee's leave balances, and the requirements for the employee to use paid parental leave and/or other accrued leave during the absence; and
- D. Notification that employer health care contributions will continue if the leave has been designated as paid parental leave, FMLA, and/or OFLA. In this case, the employee will be advised of the requirement to reimburse the county for health plan premiums if the employee fails to return from leave, provided that such reimbursement conforms with the provisions of FMLA; and
- E. An explanation of the employee's reinstatement rights in accordance with these rules.

## Rule # 2-60

### Family and Medical Leave

**§§:**

[§ 2-60-010 Purpose](#)

[§ 2-60-020 Definitions](#)

[§ 2-60-030 Eligibility Under State and Federal Law](#)

[§ 2-60-040 Applicability](#)

[§ 2-60-050 Calculation of Leave](#)

[§ 2-60-060 Use of Accrued Leave](#)

[§ 2-60-070 Notification to Employer and Required Medical Certification](#)

[§ 2-60-080 Health Insurance](#)

[§ 2-60-090 Reinstatement](#)

[§ 2-60-100 Confidentiality](#)

[§ 2-60-110 Notification to Employee and Department Responsibilities](#)

#### **§ 2-60-010 Purpose**

The county provides leave to its employees so they can meet their family health and parental obligations, or for their own serious health conditions, or to allow them to prepare for a close family member's active duty service, to spend time with spouses who are on active duty, or to provide care to a close qualified service member, while maintaining their employment status.

#### **§ 2-60-020 Definitions**

**Active Duty:** For purposes of military FMLA (29 U.S.C. §2601 *et seq.*, as amended by National Defense Authorization Act for Fiscal Year 2010), a federal call or order to active duty under a provision of law referred to in Section 101(a)(13)(B) of Title 10, United States Code. For purposes of OMFL, a period of military conflict meaning: a period of war; declared by the U.S. Congress, and declared by the executive order of the President of the U.S. or in which a reserve component of the Armed Forces of the U.S. is ordered to duty pursuant to Title 32 of the United States Code, or Sections 12301 or 12302 of Title 10 of the United States Code.

**Next of Kin:** For purposes of military FMLA, the nearest blood relative of a covered service member (other than the spouse, son, daughter or parent), in the following priority order:

- A. A blood relative designated in writing by the service member, as his or her nearest blood relative.
- B. Blood relatives who have been granted legal custody of the service member, as his or her nearest blood relative.
- C. Brothers and sisters.

D. Grandparents.

E. Aunts and uncles.

F. First cousins.

**Parent:** For purposes of military FMLA, the biological or adoptive mother or father of an employee or an individual who stood *in loco parentis* (in place of a parent) when the employee was a child.

**Son or Daughter:** For purposes of military FMLA, the biological, adopted, foster or stepchild, a legal ward, or a child of an employee standing *in loco parentis*. There is no age limit under the definition of son or daughter for FMLA Qualifying Exigency leave.

**Spouse:** For purposes of military FMLA, the county considers the employee's husband, wife or domestic partner as spouse.

**Qualifying Exigency:** For purposes of military FMLA, the following circumstances are considered qualifying exigencies (additional detail contained in 29 CFR 825.126):

A. Short-notice deployment: Notice that a covered military member will be deployed within seven (7) days or less. An employee may take a maximum of seven days of FMLA Qualifying Exigency leave to address any issue arising from an impending call to duty (deployment) received by a covered military member. The employee must begin the leave within seven (7) days of the deployment notice received by the military member.

B. Military events and activities related to deployment.

C. Arranging for alternative childcare or schools or providing care on an urgent, immediate need basis because of the deployment.

D. Attending meetings with the school or daycare staff when the meetings are necessary due to circumstances arising from the deployment.

E. Making financial and legal arrangements related to the service member's deployment.

F. Receiving counseling for the employee, the employee with the service member, or facilitating counseling for the son or daughter of the employee and service member.

G. Rest and recuperation up to fifteen (15) days.

H. Post-deployment activities sponsored by the military (limited to a period of ninety (90) days following the termination of the service member's active duty status).

I. Activities relating to the death of the service member.

J. Other deployment-related activities as agreed by the county and the employee.

K. Parental care necessitated by the covered active duty of the military member for the military member's parent who is incapable of self-care.

## **§ 2-60-030 Eligibility Under State and Federal Law**

County employees are granted entitlements for family and medical leave, in accordance with the provisions of:

A. The federal Family and Medical Leave Act (FMLA)(29 USC §§ 2601, *et seq.*) provides up to twelve (12) weeks of authorized absence annually for employees who have worked for the county for at least twelve (12) months (need not be consecutive) and have worked at least 1250 hours during the previous twelve (12) months of employment, for the following conditions:

1. Birth of a child (including maternity and paternity leave);
2. Placement of a child with the employee for adoption or foster care;
3. To care for a spouse, son, daughter or parent who has a serious health condition (the county treats domestic partners the same as spouses under the FMLA);
4. The employee's serious health condition, as defined by the Act, that renders the employee unable to perform the essential job duties of their position;
5. Any qualifying exigency arising out of the employee's spouse, son, daughter, or parent in the regular Armed Forces, Reserves or National Guard serving on active duty or receiving notification of an impending call or order to active duty in a foreign country. The county may require an employee to provide a FMLA Qualifying Exigency certificate to verify the need for FMLA Qualifying Exigency leave. A copy of the Department of Labor's FMLA Qualifying Exigency Certificate is attached to this rule.
6. Caregiving leave for employees who are the spouse, domestic partner, son, daughter, parent, or next of kin of a member of the Armed Forces or a covered veteran (discharged or released under conditions other than dishonorable) who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness incurred or aggravated in the line of active duty, so long as the service member's qualified injury or illness precedes their treatment by no more than five (5) years. This leave is available for employees who have worked for the county for at least twelve (12) months (need not be consecutive) and have worked at least 1250 hours during the previous twelve (12) months of employment. Caregiver leave provides employees with fourteen (14) additional weeks of FMLA leave that is in addition to the employee's regular twelve (12) week entitlement under FMLA or OFLA.



B. The Oregon Family Leave Act (OFLA)(ORS 659A.150 through 659A.186). provides up to twelve (12) weeks of authorized absence annually for employees who have worked for the county for an average of twenty-five (25) hours or more per week for at least 180 days (six (6) months) prior to the leave for the following conditions (the minimum work hours requirement is waived when the leave is for the care of a newborn, newly adopted or newly placed foster child):

1. Birth of a child;
2. To care for a newly adopted or newly placed foster child under age eighteen (18);
3. To care for a spouse, child (including biological, adopted, foster, stepchild, the child of employee of same-gender domestic partner or a child with whom the employee is or was in a relationship of *in loco parentis*), parent (including custodial, non-custodial, biological, adoptive, foster parent), parent-in-law, parents of same-gender domestic partner, grandparent, grandchild or same-gender domestic partner who has a serious health condition (the county treats opposite sex domestic partners as spouses under OFLA) ;
4. The employee's serious health condition, as defined by the Act, including pregnancy related disability or absence for prenatal care, which renders the employee unable to perform the duties of the employee's regular position;
5. To care for the employee's child who has an illness or injury which requires home care but is not a serious health condition.
6. To attend the funeral or alternative to a funeral of a family member; to make arrangements necessitated by the death of a family member, or to grieve the death of a family member ("OFLA Bereavement Leave"). Covered family members are listed in subsection (B)(3). Up to two (2) weeks may be taken in the sixty (60) day period following notice of death of a family member.

C. Oregon Military Family Leave Act (OMFLA) provides up to fourteen (14) days of authorized unpaid leave for employees who work for the county for an average of at least twenty (20) hours per week if during a period of conflict, an employee's spouse or domestic partner is:

1. A member of the armed forces of the United States, the national guard, or the military reserve forces of the United States; and
2. Has been notified of an impending call or order to active duty or has actually been deployed.

## **§ 2-60-040 Applicability**

FMLA controls unless OFLA, applicable collective bargaining agreements or the personnel rules provide more generous benefits for the employee. In that case, the employee will receive the benefit of the more generous provision.

## **§ 2-60-050 Calculation of Leave**

- A. When leave is authorized under FMLA as well as OFLA and/or a collective bargaining agreement, the leave will be designated as FMLA qualifying and will simultaneously exhaust the FMLA, OFLA, and contractual leave entitlement.
- B. An employee's FMLA twelve (12) week entitlement shall run concurrently with any employee absence resulting from a workers' compensation claim.
- C. The county uses a calendar year basis for purposes of determining an employee's FMLA or OFLA leave entitlement. Eligible employees may receive up to twelve (12) weeks of FMLA/OFLA per calendar year (except as otherwise noted below).
- D. Under both FMLA and OFLA, county employees are eligible for twelve (12) weeks of leave. Part-time employees receive a pro-rated amount of leave, based on percentage of time worked. Part-time employees' leave is calculated by multiplying the assigned or average number of hours in a workweek by twelve (12).
- E. A female employee giving birth to a child may take up to thirty-six (36) weeks leave when applying all the provisions of family leave: twelve (12) weeks of pregnancy disability (OFLA and FMLA); plus twelve (12) weeks for serious health condition of self or family member, sick child or parental leave (OFLA); and, if the full twelve (12) weeks of parental leave have been exhausted, an additional twelve (12) weeks of sick child leave (OFLA).
- F. Under OFLA, a spouse or domestic partner may take up to twenty-four (24) weeks when applying all the provisions of family leave: twelve (12) weeks for serious health condition of self or family members, sick child or parental leave, and twelve (12) weeks of additional sick child leave if the full twelve (12) weeks of parental leave have been used.
- G. Employees who take FMLA military caregiver leave under on behalf of an injured or ill service member or qualified veteran are entitled to up to twenty-six (26) weeks of protected leave during a single twelve (12) -month period. The calculation of the FMLA year is different for FMLA military caregiver leave. When an eligible employee takes military caregiver leave under FMLA, the leave begins on the first day the employee takes Military Caregiver leave to care for an ill or wounded eligible service member and ends twelve (12) months after the date of first use.

- H. When approved by the department HR unit, the length of intermittent leave is calculated by multiplying the average number of hours in a workweek by twelve (12).
- I. If the employee takes intermittent or a reduced work schedule, only the actual number of hours of leave taken may be counted toward the total hours of leave allowed under the law. Intermittent leave may be taken in increments of one-quarter of an hour, and the employee must try to schedule the time to not unduly disrupt the county's operations.
- J. Leave authorized under OMFLA is included in (not in addition to) the leave authorized by OFLA, and eligible employees are entitled to fourteen (14) days of unpaid leave per deployment.

### **§ 2-60-060 Use of Accrued Leave**

- A. County employees are required to charge FMLA/OFLA leave to accrued sick, vacation leave, and compensatory time balances unless otherwise provided by a collective bargaining agreement. Employees will determine the order in which paid leave is used. Once sick and vacation leave, and other forms of paid leave including compensatory time and personal and saved holidays have been exhausted, the employee will be placed on unpaid FMLA/OFLA leave or may, if eligible, use catastrophic leave donations in accordance with MCPR 2-55 in order to continue on paid leave.
- B. The use of compensatory time off while on FMLA or OFLA leave will be counted against the employee's FMLA or OFLA twelve (12)-week entitlement as stated in federal or state law or regulations.
- C. An employee using leave authorized by OFLA may elect to substitute any accrued leave, rather than taking unpaid leave, for any leave authorized by the act.
- D. County-paid Bereavement Leave (described in MCPR 4-30) will be applied to OFLA Bereavement Leave first, unless arrangements are made under an existing collective bargaining agreement to use part of an employee's county-paid bereavement leave non-consecutively, outside of the OMFLA sixty (60) day time period.

### **§ 2-60-070 Notification to Employer and Required Medical Certification**

- A. An employee will provide no less than thirty (30) calendar days notice for a planned absence under the provisions of FMLA/OFLA. In the event of a medical emergency or other unforeseeable event, the employee will contact the supervisor as soon as practicable.
- B. Employees requesting FMLA/OFLA leave under these rules must provide medical certification of the need for leave, whether due to their own serious health condition, or to care for a family member. Employees may be asked to provide medical certification on the next occurrence after taking three consecutive or separate days of sick child leave during a leave year. Employees may be required to provide periodic medical

recertification and/or return to work certification upon request. Health care providers are instructed not to provide genetic information as part of medical certification, except as specifically allowed by law. Employees requesting military FMLA leave for qualifying exigency may be required to provide certification of the qualifying exigency. (A copy of the Department of Labor's FMLA Qualifying Exigency Certificate is attached to this rule.)

C. An employee requesting leave under OMFLA must provide notice to his or her supervisor within five (5) business days of receiving official notice of an impending call or order to active duty or of a leave for deployment.

### **§ 2-60-080 Health Insurance**

A. The county will maintain the same level of health insurance coverage for an employee on FMLA leave as when the coverage was provided before the leave was taken.

B. Employees who have selected to opt out from health insurance coverage will not be eligible to receive the opt-out payment during the time they are on unpaid leave.

C. The county does not provide health insurance coverage for employees who have been on unpaid OFLA leave for over thirty (30) days. At this time, employees will be provided the option of continuing health insurance coverage on a self-pay basis under COBRA.

D. In some instances, the county may recover, as allowed by law, premiums paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

### **§ 2-60-090 Reinstatement**

A. When an employee returns from family leave, the employee must request reinstatement promptly upon the expiration of leave. If an employee makes a timely request for reinstatement and complies with other requirements under state and federal regulations, the employee will be reinstated to their former position. If the employee cannot be reinstated to the former position because that position no longer exists, the employee will be reinstated to an available equivalent position in accordance with applicable laws, rules, and/or collective bargaining agreement. If no suitable position is available, the employee will be subject to the layoff provisions of these rules and/or any applicable collective bargaining agreement.

B. If the employee fails to report to work within five (5) calendar days after the end of leave, the employee will be considered to have resigned unless the employee has requested and obtained a leave extension prior to the end of the leave.

C. The county may deny reinstatement if:

1. The employee fails to provide a medical release to return to work or a fitness-for-duty certificate following leave for the employee's own serious health condition, when the county asked for one at the time leave commenced;

2. The employee tells the county he/she is not returning to work; or
3. The employee fraudulently obtained the leave.

### **§ 2-60-100 Confidentiality**

The circumstances involving the need for an employee to be granted FMLA/OFLA leave will be kept confidential. Documents provided to the county regarding the leave will be maintained in the employee's medical file which is kept separately from the employee's personnel file, in accordance with state and federal laws.

### **§ 2-60-110 Notification to Employee and Department Responsibilities**

- A. Each department will develop and administer internal procedures for employees to request and receive, if eligible, FMLA, OFLA, and OMFLA leaves. Procedures will include a process to ensure that supervisors promptly notify their HR departments of requests for medical leave, and that such requests are immediately submitted to the department HR unit for final review and approval/denial. Only department HR units have authority for final approval or denial of medical leave requests, and must consult with Central HR prior to denying any request for medical leave under these rules.
- B. Each department HR unit will, upon receipt of an employee's request for leave, provide the employee with a notice of eligibility to include:
  1. A designation of the benefits under FMLA, OFLA, OMFLA, labor contract and/or personnel rules as applicable to the request for leave, and a statement that leave taken will count against the applicable leave entitlements; and
  2. Medical certification requirements and the consequences for not providing such information as requested. The department must pay the cost of the medical verification not covered by insurance or other benefit plan; and
  3. Notification of the employee's leave balances, and the requirements for the employee to use accrued leave during the absence; and
  4. Notification that employer health care contributions will continue if the leave has been designated as FMLA. In this case, the employee will be advised of the requirement to reimburse the county for health plan premiums if the employee fails to return from leave, provided that such reimbursement conforms with the provisions of FMLA; and
  5. An explanation of the employee's reinstatement rights in accordance with these rules.

C. Each department will ensure employees are informed of their rights under family and medical leave laws and rules by, at a minimum, posting official notices in accordance with federal and state requirements of the various leave laws.

## Rule 2-65

### Leave and Reasonable Safety Accommodation to Address Domestic Violence, Harassment, Sexual Assault or Stalking

§§:

[2-65-010 Policy](#)

[2-65-015 Court Order Enforcement](#)

[2-65-020 Eligibility for Leave under State Law](#)

[2-65-030 Use of Accrued Leave](#)

[2-65-040 Notification of Need for Leave to Employer](#)

[2-65-045 Requests for Reasonable Safety Accommodation](#)

[2-65-050 Certification](#)

[2-65-060 Records and Confidentiality](#)

[2-65-070 Prohibited Conduct](#)

#### § 2-65-010 Policy

- A. The county does not discriminate against victims of domestic violence, harassment, sexual assault or stalking.
- B. The county provides leave to its employees who are victims, or the parents or guardians of a minor child or dependent who is a victim of domestic violence, harassment, sexual assault or stalking, so they can meet the health and safety needs of themselves or their minor child or dependent while maintaining their employment status.
- C. The county offers reasonable safety accommodation to employees who are victims of domestic violence, harassment, sexual assault or stalking.
- D. Requests for leave and reasonable safety accommodation may only be limited or denied when the employee's leave would create an undue hardship on county operations.
- E. Employees involved in domestic or non-work related situations that may pose a risk to the workplace are encouraged to inform their supervisor or Department Human Resources Manager as soon as practicable.

#### § 2-65-015 Court Order Enforcement

Upon written verification or notification to the county by an employee, applicable court orders will be adhered to. The county will take prudent measures to protect employees who are victims of domestic or other violence while they are at work. Such measures include but are not limited to: screening telephone calls and visitors, relocating workstations, authorizing leave from work as provided in this rule, granting reasonable safety accommodations or developing a workplace safety plan.

**§ 2-65-020 Eligibility for Leave Under State Law**

- A. County employees are entitled to take a reasonable amount of paid or unpaid leave to address domestic violence, harassment, sexual assault or stalking in accordance with the provisions of ORS 659A.272.
  
- B. An employee may take leave for the following:
  - 1. To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault or stalking.
  - 2. To seek medical treatment for, or to recover from, injuries caused by domestic violence, harassment, or sexual assault to or stalking of the eligible employee or the employee's minor child or dependent.
  - 3. To obtain, or to assist a minor child or dependent as a parent or guardian, in obtaining, counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault or stalking.
  - 4. To obtain services from a victim services provider for the eligible employee or the employee's minor child or dependent.
  - 5. To relocate or take steps to secure an existing home to ensure the health and safety of the eligible employee or the employee's minor child or dependent.

**§ 2-65-030 Use of Accrued Leave**

- A. Employees are required to charge leave for absences under this rule to accrued vacation, sick, personal or saved holidays, or compensatory leave balances in accordance with applicable county personnel rules and collective bargaining agreements.
  
- B. When applicable, such leave shall also be designated as FMLA and/or OFLA as permitted by law.

**§ 2-65-040 Notification of Need For Leave to Employer**

Whenever possible, an employee will provide reasonable advance notice of at least five (5) working days for a planned absence under the provisions of this rule. Where giving such advance notice is not feasible, such as an imminent safety concern, medical emergency or other unforeseeable event, the employee will contact the supervisor as soon as practicable.

**§ 2-65-045 Requests for Reasonable Safety Accommodation**

- A. Employees who are victims of domestic violence, harassment, sexual assault, and/or stalking may request a reasonable safety accommodation.



- B. When an employee requests a reasonable safety accommodation, the county will engage in discussions with the employee about the nature and scope of a reasonable safety accommodation that will best address the particular safety concern affecting the individual employee.
- C. Reasonable safety accommodation may include, but is not limited to, a transfer, reassignment, modified schedule, telework assignment, unpaid leave from employment, changed work telephone number, changed work station, installed lock, implemented safety procedure or any other adjustment to a job structure, workplace facility or work requirement in response to actual or threatened domestic violence, harassment, sexual assault or stalking.
- D. Prior to making a reasonable safety accommodation, an employee may be required to provide certification as identified in MCPR § 2-65-050 (B) below.

**§ 2-65-050 Certification**

- A. Employees requesting leave under these rules may be required to provide certification that the leave taken is for one of the purposes identified in MCPR § 2-65-020 (B). Certification may be required in advance for planned absences; otherwise, certification shall be submitted within five (5) working days of the date the leave is taken unless an extension to the time period for submission is approved by the employee's supervisor.
- B. Acceptable certification for requested leave and/or a reasonable safety accommodation includes:
  - 1. A copy of a police report indicating that the employee or the employee's minor child or dependent (for leave request only) is a victim of domestic violence, harassment, sexual assault or stalking;
  - 2. A copy of a protective order or other evidence from a court or attorney that the eligible employee appeared in or was preparing for a civil or criminal proceeding related to domestic violence, harassment, sexual assault or stalking.
  - 3. Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider that the eligible employee or the employee's minor child or dependent was undergoing treatment or counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault or stalking.
- C. Employees taking leave under this section, which also qualifies under FMLA/OFLA rules, must also meet the medical certification requirements of MCPR § 2-60.

## **§ 2-65-060 Records and Confidentiality**

- A. When a supervisor or Department Human Resources Manager learns that an employee is a victim of domestic violence, harassment, sexual assault or stalking, they will make every effort to maintain confidentiality about the employee's circumstances and personal information. Supervisors are responsible for informing their Department's Human Resources Manager. Information about the employee will only be given to others on a need-to-know basis.
- B. In accordance with ORS 659A.280(5), all records and information kept by the county regarding an employee's request for, or use of, leave and/or a reasonable safety accommodation under this rule will be kept confidential and may not be released without the express written permission of the individual, unless otherwise required by law. Documents provided to the county regarding the leave will be maintained in a confidential, locked file which is kept separately from employee personnel files.

## **§ 2-65-070 Prohibited Conduct**

No person may:

- A. Refuse to hire an otherwise qualified individual because the individual is a victim of domestic violence, harassment, sexual assault or stalking.
- B. Discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation, or other terms, conditions or privileges of employment because the employee is a victim of domestic violence, harassment, sexual assault or stalking or because the employee requests leave or reasonable safety accommodation under the provisions of this rule.
- C. Misuse job related authority or county resources to negatively affect domestic violence victims, assist an abuser in locating a domestic violence victim, to commit an act of domestic violence, or interfering with service of a court order or police response to an incident of workplace violence as stated in MCPR § 3-45-040 (D).

## **Rule # 2-80**

### **Reduction in Workforce**

**§§:**

[§ 2-80-010 Purpose](#)

[§ 2-80-020 Seniority](#)

[§ 2-80-030 Reduction in Force Rules](#)

[§ 2-80-040 Reduction in Force Notices and Options](#)

[§ 2-80-050 Recall Lists](#)

[§ 2-80-060 Recall](#)

#### **§ 2-80-010 Purpose**

The following rules apply to classified represented employees unless otherwise covered by a collective bargaining agreement. The rules for classified management service employees are found in MCPR 4-80.

#### **§ 2-80-020 Seniority**

A. Seniority is determined as follows:

1. The total length of continuous employment within the affected job classification and its equivalent; if a tie occurs, then
2. Total length of continuous employment within the affected department; if a tie occurs, then
3. Total length of continuous employment within the county; if a tie occurs, then
4. It will be broken by lot in a manner determined by the department human resources manager.

B. In computing seniority, the following applies:

1. Part-time work within the same or equivalent classification will count on a half-time basis for time served prior to September 15, 2002, and on a full-time basis on September 15, 2002 and thereafter.
2. Time spent in an abolished classification that has a current equivalent counts toward seniority in the equivalent classification.
3. Time spent on authorized leave with pay counts.
4. All time spent on a leave without pay that exceeds 30 days does not count, except for military leave without pay, which counts.

5. Time as an unclassified employee does not count, except time spent by a sworn law enforcement officer or corrections officer in unclassified service as part of the Sheriff's Office command staff counts.
6. Once an employee attains regular status, initial temporary time spent in the same classification counts. Subsequent time spent on a temporary appointment by a regular employee counts toward the immediately previous class, except in cases in which the temporary appointment is a promotion and the promotion becomes permanent immediately following the temporary appointment. In these cases the time will be counted toward the classification to which the employee is promoted.
7. Time spent on layoff does not count.
8. Time spent in a state or federal trainee program such as PEP, WIN, or CETA does not count.
9. Time spent in previous government service counts if the employee transferred in accordance with ORS 236.610 through 236.650.
10. Seniority is forfeited by discharge for cause, voluntary termination, or involuntary termination due to expiration of a recall list.
11. Time spent on a probationary period that is not completed counts toward the previous class, if any.
12. For purposes of determining length of employment within a department, time spent in any organizational unit that became a part of the department through reorganization is included.
13. Time spent in a limited duration appointment will count towards seniority in that classification and countywide seniority if an employee is subsequently appointed to a regular position.

## **§ 2-80-030 Reduction in Force Rules**

A. Layoffs will be identified by classification within the affected department.

1. No employee has any rights over another employee working under regular appointment in another department.
2. Employees holding positions within the affected classifications may be subject to demotion, transfer or layoff in inverse order of seniority.
3. Within a classification and department, temporary, probationary and other employees who do not have regular status will be terminated before employees with regular status are laid off. Employees without regular status and employees with limited duration appointments who are terminated will not be placed on recall.

lists and do not have displacement rights. Employees with limited duration appointments who have regular status will be returned to a position in their previous classification.

4. An employee who has not completed a probationary period following promotion and is subject to layoff will be returned to the position previously held.
5. When a layoff is scheduled in a classification, vacant positions in that classification that are filled through temporary appointments or work out of class assignments will be treated as vacant positions. If a regular employee elects a transfer or demotion to that position through the layoff process, the employee on temporary appointment or work out of class will be returned to his or her regular position.
6. A regular employee given an unclassified appointment and subject to layoff is entitled to exercise seniority under these rules for two years.
7. A regular employee who is subject to layoff may demote to a classification previously held, if: (a) a vacancy exists, or (b) if no vacancy exists, the employee has more seniority than another employee in the same department in the lower classification. Transfer to a classification with a higher maximum salary is a promotion and is accomplished only by normal selection procedures. Employees who are reassigned to a position pursuant to these provisions and do not accept that position will be deemed to have resigned.

B. Where options are available, filling a vacant position will take precedence over displacing another employee. Where displacement is necessary, the least senior employee will be displaced, except as provided below:

1. A full-time employee who is subject to layoff may displace the least senior full-time employee, even if part-time employees with lesser seniority remain, and
2. A part-time employee who is subject to layoff may displace the least senior part-time employee, even if full-time employees with lesser seniority remain.

C. Employees may be denied transfer, demotion or displacement rights otherwise available under these rules only if they lack knowledge, skills or abilities required for the positions that are not easily learned on the job within the normal orientation period. Normal orientation does not constitute gaining skills or training necessary to perform the duties of the job. An employee may be required to take and pass a qualifying examination to establish a right to a position.

## **§ 2-80-040 Reduction in Force Notices and Options**

A. An employee who may be subject to layoff or demotion in lieu of layoff will be notified in writing at least 15 days prior to such action. The bargaining agent, if any, will be sent a

copy of such notice at least 15 days prior to the action. The notice must state the reason for the action and that the action does not reflect discredit on the employee.

B. An employee who is subject to layoff and is offered options must indicate preference within three working days of receipt of notice of the options. Failure to do so will be deemed an agreement to accept layoff.

C. Employees who are laid off or demoted in lieu of layoff will be placed on the recall list, according to seniority, for the classifications held during the displacement and layoff process. An employee who accepts a transfer or elects to retire will not be placed on recall lists.

D. An employee will remain on a recall list for 18 months, or for the length of time specified in the applicable collective bargaining agreement, from the date of layoff or demotion in lieu of layoff. An employee will be removed from a recall list only under the following circumstances:

1. Upon written request of the employee;
2. Upon election to retire;
3. Upon acceptance of permanent reinstatement from the recall list;
4. Upon declining an offer of permanent reinstatement; or
5. Upon failure to respond within 14 days to a certified letter sent to the employee's last known address.

### **§ 2-80-050 Recall Lists**

Employees on a recall list will be certified in order of seniority before applicants who qualify through examination, provided they are qualified to perform the duties of the position.

### **§ 2-80-060 Recall**

A. An employee on a recall list will be offered appointment to vacancies in order of seniority except when the employee lacks a specific skill or knowledge required for the position that is not easily learned on the job within the normal orientation period. The Director is required to state in writing what qualification(s) the employee lacks that the position requires. The employee will remain on the recall list for certification to other vacancies during term of eligibility.

B. Employees who were laid off from a regular status position and are recalled from a recall list within 30 days of the date they were laid off, will be treated as if they were returning from an unpaid leave of absence.

C. Employees who were laid off from county employment or are serving in a temporary or on-call position following layoff will have their sick leave balance restored when they are recalled from a recall list.

## **Rule 3-10**

### **Employee Responsibilities**

**§§:**

[3-10-010 Purpose](#)

[3-10-020 Work Rules](#)

#### **§ 3-10-010 Purpose**

The orderly and efficient operation of the county government requires that employees accept certain responsibilities. Work rules covering personal standards of conduct as well as standard operating procedures are necessary to protect the health and safety of all employees, to maintain uninterrupted service, and to protect the county's property.

#### **§ 3-10-020 Work Rules**

The following work rules apply to all county employees. These rules are not intended to be all-inclusive and the county will establish additional rules to ensure the effective operation of county government.

- A. Employees must be at their designated work area on time and ready to work. Employees must remain at their work area, at work, until the scheduled quitting time unless permission to leave is granted by the supervisor.
- B. Where operations are continuous, employees must not leave their positions until replaced by the next shift employee or until relieved by the supervisor.
- C. Employees must follow all safety regulations including wearing safety articles and using protective equipment. Employees must immediately report safety hazards, accidents or injury, to their supervisor.
- D. Employees are responsible for and must not misuse county property, records or other materials in their care, custody and control.
- E. Employees must relate to the public and other employees in a courteous, respectful and professional manner. An employee's appearance and attire must be appropriate and suitable for their work at the County. This may vary between departments or work areas, depending on the nature of the work, environment, and interaction with the public and customers.
- F. Employees must immediately report to their supervisors any inability to work and the reason.
- G. Employees are required to provide and maintain current personal data and contact information affecting their employment with the County, including their home mailing address, home telephone number, personal mobile phone number, home electronic



mail address, and emergency contact information. Employees are required to notify their supervisors and update all appropriate databases whenever there is a change in their personal data or personal contact information. Unless disclosure is mandated under Oregon law, personal mobile phone number and home electronic email address contact information:

1. will not be disclosed to third parties, other than any vendor(s) who develop or maintain a database for emergency call out purposes and any non-county emergency personnel in the course of their duties during an emergency;
2. will be kept in a secure file;
3. will be used only for emergency response purposes, including development of notification lists, test notification, and during events requiring immediate employee response.

- H. Employees must not restrict or interrupt work or interfere with the work of others.
- I. Employees must not use sick leave, or other paid or unpaid leave, for purposes other than intended and as defined by these rules and/or the applicable collective bargaining agreement.
- J. Employees must report for and remain at work only in a fit physical and mental condition that enables them to perform their regular duties.
- K. Employees must not neglect their duties and responsibilities or refuse to perform assigned work unless to perform such work will constitute a safety hazard.
- L. Employees must not, while on duty, while wearing a uniform or insignia that identifies them as county employees, while using county property, while in a county vehicle, while on county premises, or while identifying and holding themselves out as representing the county:
1. Engage in conduct that reflects discredit on the county; or
  2. Engage in unapproved soliciting or unapproved political activity; or
  3. Possess unauthorized firearms, weapons, illegal drugs or intoxicating beverages;  
or
  4. Violate any federal, state or local laws, including the traffic code.
- M. Employees must not use their positions or county property for personal gain, to solicit or conduct personal business, or to coerce others.

- N. All reports, records or claims completed by employees must be true, accurate, and complete to the best of their knowledge. Employees must not knowingly withhold information of official interest.
- O. Employees must not remove county property or the property of other employees without express approval of their supervisors or the owners of such property.
- P. Employees must not access, use or disclose sensitive or confidential information or data except in accordance with county or departmental policies, practices and procedures, and as authorized by state or federal laws or regulations. Employees with access to confidential information, including but not limited to client or employee financial, medical or personal information, are responsible for the safekeeping and handling of that information to prevent unauthorized disclosure. Employees who access, use or release confidential information contrary to state or federal laws or rules may be subject to civil or criminal penalties under those laws, in addition to appropriate disciplinary action.
- Q. Employees are required to immediately report known or suspected privacy or security incidents or complaints involving Personally Identifiable Information (PII) as defined in PII-0 and Protected Health Information (PHI) under the Health Insurance Portability and Accountability Act (HIPAA), to their department's privacy coordinator/manager or the county privacy officer. This includes a duty to self-report any such incidents caused by the employee him or herself. Retaliation against an employee who reports these incidents or complaints is prohibited. Employees who do not report known or suspected incidents or complaints as required by this rule are subject to discipline. Appropriate discipline for a self-reported incident is not considered retaliation. Further information is available at Administrative Procedure HIPAA-4 and PII-1.
- R. All employees are Mandatory Reporters under ORS 419B.005 to 419B.016, who are required by law to report suspected child abuse or neglect, whether it is observed through their position with the county or during their non-work hours. Mandatory Reporters are required to immediately make a report if there is reasonable belief that child abuse or neglect has occurred, and a reporter has contact with the child or the abuser. Oral reports are to be made to any city or municipal police department or the Child Welfare Office of the State Department of Human Services (DHS). When third party information has been received, Mandatory Reporters are encouraged to evaluate the information, discuss options with a manager, and report accordingly.

## **Rule # 3-12**

### **Timekeeping**

**§§:**

[§ 3-12-010 Purpose](#)

[§ 3-12-020 Policy](#)

[§ 3-12-030 Employee Responsibilities](#)

[§ 3-12-040 Manager Responsibilities](#)

[§ 3-12-050 Department Responsibilities](#)

[§ 3-12-060 Erroneous Payments](#)

#### **§ 3-12-010 Purpose**

The purpose of this policy is to outline the expectations of employees, managers, and departments with regard to electronic timesheets, compliance with wage and hour laws or applicable collective bargaining agreement, and obligations regarding erroneous overpayments.

#### **§ 3-12-020 Policy**

- A. It is the policy of Multnomah County to comply with state and federal rules regarding wage and hour laws and that time records submitted to Payroll accurately reflect hours worked. The terms and conditions of any specific provisions of an applicable collective bargaining agreement will take precedence over this policy.
- B. Employees who intentionally falsify time records and managers who knowingly approve falsified time records are subject to disciplinary action including discharge.
- C. If an employee identifies a discrepancy on their paystub, it is the employee's responsibility to notify their manager of the discrepancy as soon as the employee knows of the discrepancy, and then correct the discrepancy in the system with a comment.

#### **§ 3-12-030 Employee Responsibilities**

All employees are responsible for:

- A. Electronic Timesheet Entry
  - 1. FLSA Non-Exempt - Represented Employees: Completing an electronic timesheet indicating what hours were worked and what leave hours were taken for each pay period. Employees are also required to follow their assigned work unit procedures for reporting work or leave hours, or applicable collective bargaining agreement.

## 2. FLSA Non-Exempt - Management Employees:

- a. Completing an electronic timesheet indicating what hours were worked and what leave hours were taken for each pay period. Employees are also required to follow their assigned work unit procedures for reporting work or leave hours.
- b. For FLSA non-exempt management employees, overtime is any additional time worked in excess of forty (40) hours during a defined workweek; or in excess of ten (10) hours in any workday for a 40-hour-a-week employee unless the employee has regularly scheduled workweeks with a day or more that exceeds 10-hours in a day.
- c. Overtime pay or compensatory time may be authorized as follows:
  - i. Overtime must be authorized prior to time worked by a manager.
  - ii. Overtime work may be paid or taken as compensatory time with the agreement of the employee.
  - iii. Subject to managerial approval, employees may flex their hours within the workweek in lieu of working overtime.
  - iv. Overtime pay is earned at the rate of one and one-half (1.5) times the straight time hourly rate of the employee, or if earned as compensatory time, at the rate of one and one-half (1.5) hours for every hour of overtime worked.
- d. Use of Compensatory Time
  - i. Compensatory time in lieu of paid overtime must be used within a reasonable time of the date it was earned. Scheduling of time off for the compensatory time earned must not disrupt county operations.
  - ii. If the employee does not request to take the compensatory time within a reasonable time, the manager may schedule time off to be taken no later than twelve (12) months after it was earned.
  - iii. Federal regulations limit the amount of unused compensatory hours to two hundred forty (240) hours for most employees. Up to four hundred eighty (480) hours are allowed for those working in public safety, emergency response and seasonal activities.
  - iv. Terminating employees will be paid at the appropriate rate of pay, based on state and federal law, for any compensatory hours not used.

3. FLSA Exempt Employees: Completing an electronic timesheet for exceptions, e.g. full day vacation leave, full day sick leave, FMLA/OFLA leave (partial or full days), etc. If there are no exceptions, then no hours shall be entered.
- B. Certifying through electronic acknowledgement that the hours reported are correct to the best of the employee's knowledge, that they have reported all time for which they are entitled to be paid, and that they have received all authorized meal and rest breaks except as specifically noted. In the event an employee is not available to provide such acknowledgement due to illness, leave or some other reason, a manager should provide the acknowledgement with a note that the employee was not available. Upon return to work, the employee should provide electronic acknowledgement that the hours on the electronic time record are correct or inform their manager of any corrections that should be made.
  - C. Completing their electronic time entry by the due date published by Central Payroll.
  - D. Reviewing their pay stub and bringing to the immediate attention of their manager or their Department Human Resources unit any discrepancies between their hours worked or leave taken and their pay for the period.
  - E. Electronically processing any corrections or changes to the time record as soon as notified by the employee and verified by the manager.

### **§ 3-12-040 Manager Responsibilities**

Managers are responsible for:

- A. Ensuring that each employee has entered time electronically for each pay period.
- B. Reviewing time records for completeness and accuracy, as well as verifying that all hours worked in the pay period are recorded, including any overtime worked and leave taken during the pay period.
- C. Electronically acknowledging time records each pay period to certify that the hours are correct.
- D. Approvals must be completed by the deadlines published by Central Payroll. If approvals will not be completed by the deadline, managers are to notify their Department Human Resources Unit in advance of the deadline.
- E. Ensuring compliance with union contracts, Personnel Rules, and wage and hour laws. If managers are unclear regarding their responsibilities, they should seek assistance from the Department Human Resources Unit.
- F. Electronically processing any corrections or changes to the employee's time record as soon as notified by the employee.

G. Maintaining strict confidentiality regarding employees' personal information.

### **§ 3-12-050 Department Responsibilities**

Departments are responsible for:

A. Maintaining the original, paper signed time records for three (3) years past the ending date of pay periods prior to January 1, 2019, and making timekeeping records available to Central Payroll and/or Auditors on request. Departments can choose to store such records at a central departmental location as long as such records are stored according to pertinent rules and regulations.

B. Auditing electronic time records to ensure accuracy and adherence to the provisions of this rule.

### **§ 3-12-060 Erroneous Payments**

A. Any employee receiving unauthorized payments has the obligation to call such error to the attention of their manager.

B. Unless otherwise provided in an applicable collective bargaining agreement or as allowed by state or federal law:

1. An employee who receives payments to which they are not entitled, and which the employee knew or reasonably should have known they were not entitled to receive, shall reimburse the county for the full amount of the overpayment.
2. When an employee receives payments due to a clerical, technical, or computer error, through no fault of the employee, and where the employee did not and could not reasonably have known that the error occurred, the employee shall only be liable for and the county shall only recover the overpayment for, a period of one hundred eighty (180) days preceding the date of discovery of the error.

C. As soon as the overpayment is known, the county will make every effort to recover overpayments by payroll deduction over a reasonable period of time. Disputes over the issue of what constitutes a reasonable period of time will be resolved by the Multnomah County Chief Human Resources Officer. Prior to any deductions being made, the employee will be asked to voluntarily sign an authorization.

D. Where an error occurs which results in a negative impact on the employee, upon notification by the employee, and verification by Central Payroll, payment in correction of the error will be made in the employee's paycheck for the current pay period.

## Rule # 3-15

### Inclement Weather and Administrative Closures

§§:

[§ 3-15-010 Policy](#)

[§ 3-15-015 Essential Employees](#)

[§ 3-15-020 Absences](#)

[§ 3-15-030 Partial Day Absences](#)

[§ 3-15-040 Administrative Curtailment or Closures of County Facilities](#)

[§ 3-15-050 Employees with Disabilities](#)

#### § 3-15-010 Policy

A. County employees are expected to make every effort to come to work to serve the public. This rule covers circumstances that may cause unsafe conditions for mobility and transportation and is intended to inform employees of their responsibilities and options during such conditions.

B. The Chair is responsible for declaring that an event is sufficient to close or curtail county operations, or to allow employees to leave work early, due to situations affecting the health or safety of employees and/or the public, including but not limited to inclement weather, natural or other disasters, the presence of hazardous materials or chemicals, or any other conditions which would pose a clear health or safety risk if normal operations are continued.

(ER 312, Amended, 08/08/2007; ER 288, Amended, 01/06/2005)

#### § 3-15-015 Essential Employees

The county provides a wide array of services, including many emergency-related functions and other services essential to the public health and safety. The Auditor, District Attorney, the Sheriff, and each Department will develop a procedure for identifying and informing employees who are required to report for duty regardless of decisions to close or curtail other county operations, and shall inform those employees of their designation as essential and the expectations for reporting for duty. Essential employees may be required to present verification for unplanned absences occurring on days when the county has closed or curtailed other operations due to conditions described in 3-15-010(B). Verification includes, but is not limited to, medical verification for sick leave for the employee or a family member, or other independent verification, depending on the reason given, that conditions prevented the employee from reporting for duty as scheduled in order for the absence to be approved. (ER 288, Added, 01/06/2005)

### **§ 3-15-020 Absences**

Unless the Chair has declared an event, and except as provided in MCPR 3-15-040, an employee, FLSA exempt or non-exempt, who does not report to work or reports late due to conditions described in 3-15-010(B) shall use appropriate leave as follows:

A. After notifying a supervisor, an employee may charge any time not worked to:

1. Leave without pay;
2. Compensatory time off;
3. Personal or saved holiday; or
4. Vacation leave.

B. Sick leave may not be used for this purpose.

(ER 312, Amended, 08/08/2007; ER 200 Amended, 01/06/2005)

### **§ 3-15-030 Partial Day Absences**

A. Late Arrivals

If the Chair declares an event, FLSA non-exempt employees, who attempt to get to work on time but are unavoidably delayed, may arrive up to two hours late without penalty regardless of their scheduled start time. FLSA non-exempt employees who attempt to get to work in such a county declared event, but who are unavoidably delayed, shall not have time charged to one of the categories in MCPR 3-15-020 above unless he or she is two or more hours late, in which event all time late will be charged.

B. Early Departures

Managers and supervisors may allow FLSA non-exempt employees who expect to encounter unusual difficulty in getting home to leave early and charge the absence for the remainder of their scheduled shift in accordance with MCPR 3-15-020. All employees who live near their work sites or on well-traveled routes are expected to stay on the job until closing time.

C. Requests to Adjust Work Hours

Employees may, at the discretion of their supervisor, be allowed to adjust their work hours within the work week to make up for late arrivals and early departures that would otherwise be charged in accordance with MCPR 3-15-020, provided that no overtime or compensatory time is earned as a result of the adjustment.

(ER 312, Amended, 08/08/2007; ER 288, Amended, 01/06/2005)

### **§ 3-15-040 Administrative Curtailment or Closures of County Facilities**

A. The Chair, District Attorney, Auditor, Sheriff or Department Director may order an unplanned curtailment of county or department operations or closure of offices or



facilities, or reassign employees to other temporary work locations, when conditions, such as those described in 3-15-010(B), that interfere with or prevent normal operations exist. The District Attorney, Auditor, Sheriff, and Department Directors shall make such judgments in consultation with the Chair and appropriate health and safety, emergency management, and/or law enforcement officials, as appropriate, and shall immediately notify all affected employees and the Chair's Office of the decision.

B. An employee who has reported to work and is directed to leave shall be paid for the remainder of the scheduled shift.

C. An employee who is directed by the county or his/her department not to report for work due to facility closure, delayed opening, and/or conditions described in 3-15-010(B) shall be compensated for regularly scheduled hours until such time as the facility or office reopens and/or the employee is reassigned to another work location.

D. An FLSA exempt employee shall not be required to use accrued paid leave or leave without pay for absences when the county or a department closes or curtails operations for periods of less than a full work week.

E. Employees already in an approved leave status at the time of closure will remain in that leave status.

(ER 312, Amended, 08/08/2007; ER 288, Amended, 01/06/2005)

### **§ 3-15-050 Employees with Disabilities**

Employees who are disabled pursuant to the Americans with Disabilities Act may require reasonable accommodations in order to help such employees get to work during periods of inclement weather or in the event of a natural disaster. Supervisors will meet with such employees to identify an appropriate manner in which the county may help the employee get to work. Supervisors may seek assistance from the Central HR or County Attorney, if needed, and are encouraged to discuss these plans in advance with any affected bargaining agent.

(ER 312, Amended, 08/08/2007)

## **Rule # 3-20**

### **Political Activity**

**§§:**

[§ 3-20-010](#)

[§ 3-20-020 Posting of Notice](#)

[§ 3-20-030 Federal Law](#)

#### **§ 3-20-010**

- A. Employees cannot be required to give money or services to aid any political committee or any political campaign.
- B. Employees cannot solicit money or services to aid any political committee or political campaign while on the job during working hours. This is not intended to restrict the right of county employees to express their personal political views.
- C. Employees may not be disciplined or rewarded in any manner for either giving or withholding money or services for any political committee or campaign.

#### **§ 3-20-020 Posting of Notice**

Employees may not be disciplined or rewarded in any manner for either giving or withholding money or services for any political committee or campaign.

#### **Attention All Public Employees**

The restrictions imposed by the law of the State of Oregon on your political activities are that "No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this section does not restrict the right of a public employee to express personal political views."

It is therefore the policy of the state and of your public employer that you may engage in political activity except to the extent prohibited by state law when on the job during working hours.

#### **§ 3-20-030 Federal Law**

County employees who perform duties in connection with an activity financed in whole or part by federal loans or grants are subject to the federal laws, rules and regulations governing political activity.



## Rule # 3-30 Code of Ethics

§§:

[§ 3-30-010 Policy](#)

[§ 3-30-015 Definitions](#)

[§ 3-30-020 Prohibited Use of Position or Office](#)

[§ 3-30-025 Conflicts of Interest](#)

[§ 3-30-030 Honoraria](#)

[§ 3-30-035 Gifts](#)

[§ 3-30-040 Outside Employment](#)

[§ 3-30-045 Nepotism](#)

[§ 3-30-050 Procedure for Disclosure](#)

[§ 3-30-055 Sanctions](#)

### § 3-30-010 Policy

A public office is a public trust, and all county employees are public officials under ORS chapter 244 and must conform to this rule and all relevant provisions of ORS Chapter 244.

Nothing in this rule prohibits Department Directors from adopting stricter ethics guidelines.

### § 3-30-015 Definitions

**Actual Conflict of Interest:** Created when any decision (as defined below) by an employee would have the effect of financial gain or loss to the employee or the employee's relative or to any business with which the employee or a relative of the employee is associated.

**Decision:** A recommendation, vote or conclusion.

**Employee:** For purposes of this rule, any person who is serving the county as an employee, volunteer or agent, irrespective of compensation, when an alleged violation of ORS Chapter 244 or this rule occurs.

**Gift:** Something of economic value given to an employee or member of the employee's household, including the full or partial forgiveness of indebtedness. "Gift" **DOES NOT** mean:

- A. Political contributions.
- B. Gifts from relatives or members of the employee's household.
- C. An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.

- D. Informational or program material, publications or subscriptions related to the recipient's performance of their work.
- E. Admission provided to or the cost of food or beverage consumed by an employee, or a relative or member of the employee's household when accompanying the employee, at a reception, meal or meeting held by an organization when the employee officially represents the county.
- F. Reasonable food, travel or lodging expenses provided to an employee or a relative accompanying the employee, or a member of the employee's household when accompanying the employee, when the employee is officially representing the county, in officially designated negotiations or economic development activities where receipt of the expenses is approved in advance.
- G. Food or beverages consumed by an employee acting in an official capacity in association with the review, approval, execution of documents or closing of a borrowing, investment or other financial transaction, including any business agreement between the county and a private entity or other public body.
- H. Waiver or discount of registration expenses or materials provided to an employee at a continuing education event that the employee may attend to satisfy a professional licensing requirement.
- I. Food or beverage consumed by an employee at an official reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.
- J. Anything of economic value offered to or solicited or received by an employee or a relative or member of the household of the employee:
  - 1. As part of the usual and customary practice of the person's private business, or the person's employment or position as a volunteer with a private business.
  - 2. That bears no relationship to the employee's employment or duties.

**Legislative or Administrative Interest:** An economic interest, distinct from that of the general public in any matter subject to the vote or decision of the employee acting in their status as an employee.

**Member of the Household:** Any person who resides with the employee.

**Potential Conflict of Interest:** Created when any decision by an employee *could* have the effect of financial benefit or detriment to the employee or the employee's relative or to any business with which the employee or a relative of the person is associated. A potential conflict of interest does *not* occur if the financial benefit or detriment arises out of any action in the employee's official capacity which would affect to the *same degree* a group consisting of all

inhabitants of the state, or a smaller group consisting of an industry, occupation or other similar group.

**Relative:** For purposes of this rule a relative is:

- A. A spouse or domestic partner of the employee,
- B. Children of the employee or of the employee's spouse or domestic partner,
- C. Siblings of the employee or spouses or domestic partners of the employee's siblings,
- D. Parents of the employee or of the employee's spouse or domestic partner,
- E. Any individual for whom the employee has a legal support obligation,
- F. Any individual for whom the employee provides benefits arising from the employee's public employment, or
- G. Any individual from whom the employee receives benefits arising from that individual's employment.

**§ 3-30-020 Prohibited Use of Position or Office**

A. An employee may not use or attempt to use their position or their employment to obtain financial gain or avoid financial detriment for the employee, a relative or member of the household of the employee, or any business with which the employee or a relative or member of the household of the employee is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the employee's holding of their position.

B. Subsection (A) of this section does not apply to:

1. Any part of an official compensation package as determined by the county;
2. The receipt by the employee or a relative or member of the household of the public official of an honorarium or any other item allowed under 3-30-030;
3. Reimbursement of expenses;
4. An unsolicited award for professional achievement;
5. Gifts that do not exceed the limits specified in 3-30-035 received by an employee or a relative or member of the household of the employee from a source that could not reasonably be known to have a legislative or administrative interest; or
6. The receipt by a public official or a relative or member of the household of the employee of any item, regardless of value, that is expressly excluded from the definition of "gift" in 3-30-015.

- C. An employee may not use the county's equipment (e.g. telephones, cellular devices, computers) for personal use when the use is more than brief and infrequent.
- D. An employee may not solicit or receive, either directly or indirectly, and a person may not offer or give to any employee any pledge or promise of future employment, based on any understanding that the employee's decision on an official matter would be influenced by the pledge or promise.
- E. An employee may not attempt to make or actually receive personal gain through the use of confidential information gained in the course of or by reason of having been an employee. This does not apply to the protected use of budgetary information by a bargaining unit. This prohibition extends to information that is confidential or information normally available to the general public only by special request or information that has not otherwise been disclosed by the county.
- F. No employee may solicit private business from other employees for personal gain while on duty, while wearing a uniform or insignia that identifies them as county employees, while in a county vehicle, or while on county premises. No supervisor or lead worker may solicit private or charitable business from subordinates at any time, with the exception of a charitable effort authorized by the county.
- G. The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed under § 3-30-025.

### **§ 3-30-025 Conflicts of Interest**

- A. An employee may be called upon to make a decision that will or may affect the employee's private interests, or the private interests of a relative, which may present an actual or potential conflict of interest. The county requires that actual or potential conflicts of interest be reported on an annual basis pursuant to the procedure for reporting set forth in § 3-30-050, or sooner if a new actual or potential conflict arises, before taking any action or making a decision that could or would affect property or a business with which the employee or any relative of the employee is associated.
- B. To avoid actual or potential conflicts, officials and employees who are in a position to influence county contract decisions related to selection, award, or administration of a contract supported by public funds, may not serve on decision-making boards of, be employed by, or serve on evaluation or selection committees related to contract award for contractors who could benefit from such involvement.

### **§ 3-30-030 Honoraria**

- A. Except as provided in subsection (B) of this section, an employee may not solicit or receive, whether directly or indirectly, honoraria for the employee or any member of the

household of the employee if the honoraria are solicited or received in connection with the employment of the employee.

B. This section does not prohibit:

1. The solicitation or receipt of a certificate, plaque, commemorative token or other item with a value of \$50 or less; or
2. The solicitation or receipt of an honorarium for services performed in relation to the private profession, avocation or expertise of the employee.

### **§ 3-30-035 Gifts**

A. During a calendar year, an employee or a relative or member of the household of an employee may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest in the county or its business or in the official actions of the employee. Any gift in cash is presumed to be a donation to the county and must be given to the county Treasurer.

B. During a calendar year, a person who has a legislative or administrative interest in the county's business or the actions of the employee, may not offer to a county employee or a relative or member of the household of the employee any gift or gifts with an aggregate value in excess of \$50.

C. Please see the definition of "gift" above for the applicable exclusions from the definition.

### **§ 3-30-040 Outside Employment**

A. Generally employees may obtain employment with a private employer or engage in private income producing activity of their own so long as that activity is not otherwise prohibited by these rules.

B. An employee is prohibited from, directly or indirectly, soliciting or accepting the promise of future employment based on the understanding that the offer is influenced by the employee's official action.

C. Employees may not accept outside employment that involves:

1. The use of county time, facilities, equipment and supplies, or the prestige or influence of the employee's county position. In other words, the employee may not engage in private business interests or other employment activities on the county's time or using the county's property;
2. The performance of an act that may later be subject to control, inspection, review or audit by the department for whom the employee works;



3. Receipt of money or other consideration for performance of duties that the employee is required to perform for the county; or
4. Competing with the county in providing a service or product.

D. Employees are responsible for assuring that their outside employment does not conflict with these rules.

E. The county requires employees to report outside employment on an annual basis, or sooner if any changes in outside employment occur, using the procedure described in § 3-30-050.

F. Department Directors may issue department ethics guidelines that are more restrictive than this rule.

### **§ 3-30-045 Nepotism**

A. Nepotism is the exercise of preferential treatment based upon relationship rather than merit, and is prohibited at the County.

B. The County requires that relationships described in § 3-30-045(C) of this rule are subject to disclosure to the employee's Department Director, using the process described in § 3-30-050 below, annually, or sooner if the relationship arises prior to the date the disclosure form is due. Disclosure of the relationship is required when either of the following circumstances arise:

1. The employee is called upon to participate in a personnel action involving the person with whom the employee has such a relationship; or
2. The employee is in the supervisory chain of the person with whom the employee has such a relationship.

C. Relationships subject to disclosure, within the supervisory chain of command:

1. Relatives – For purposes of this rule, “relative” includes the employee's spouse, domestic partner, children of the employee, children of the employee's spouse, and children of the employee's domestic partner, parents, step-parents, step-children, siblings, step-siblings, grandchildren, grandparents, brothers-in-law, sisters-in-law and the parents, step-parents, siblings, step-siblings and grandparents of his or her spouse or domestic partner.
2. Persons with whom the employee has formed an intimate relationship.

D. Notwithstanding disclosure, employees may not participate in any personnel action by the county that would impact the employment of a relative, a member of the public official's household, or a person with whom the employee has an intimate relationship. An employee may not participate in the following:

1. Appointing, employing or promoting;
2. Discharging, firing or demoting;
3. Interviewing; and/or
4. Discussing or debating the appointment, evaluation, employment, compensation, promotion, discharge, firing or demotion.

E. Notwithstanding disclosure, an employee may not be directly supervised by a person who is a relative, a member of the employee's household, or a person with whom the employee has an intimate relationship. This means that the supervisor may not have any say or input into the subordinate individual's job benefits or detriments, either directly or indirectly.

F. Upon disclosure of the existence of a relationship subject to disclosure in the same supervisory chain, the Department Director may change the reporting relationship of the individuals involved, shift responsibilities or duties, or take any other action eliminating the problem in the Department Director's discretion.

### **§ 3-30-050 Procedure for Disclosure**

A. The county requires that employees complete the form "[Code of Ethics Disclosure Form](#)" (or a substantially similar form) on an annual basis, or sooner if new situations arise requiring disclosure. The form is located on [Multco Commons](#), and the completed form should be provided to the employee's supervisor.

B. Actual or potential conflicts of interest

The Department Director will decide if the employee may participate in the decision-making process when the situation presents an actual or potential conflict of interest, based on the Department Director's application of the ethics rules and in the Department Director's discretion.

C. Outside employment

The Department Director will decide if the employee may continue in an outside employment situation, based on the Department Director's application of the ethics rules and in the Department Director's discretion.

D. Relationships subject to disclosure

The Department Director will decide if the individuals involved may continue in their respective positions, or if one or both of the individuals must transfer, or if duties and responsibilities may be shifted, based on the Department Director's application of the rules and in the Department Director's discretion.

E. The Department Director shall keep a record of resolution of potential and actual conflicts, outside employment issues, and resolution of issues involving relationships

subject to disclosure, including a statement of how those matters were determined. Document retention schedules are located at <http://web.multco.us/records/retention-schedules>.

### **§ 3-30-055 Sanctions**

Employees who engage in actions that violate these rules are subject to disciplinary action, up to and including dismissal.

(ER 375, Amended, 2/20/2013)

## Rule # 3-32

### Reporting Improper Governmental Conduct

§§:

[§ 3-32-010 Preamble](#)

[§ 3-32-015 Definitions](#)

[§ 3-32-020 Purpose](#)

[§ 3-32-030 Reporting](#)

[§ 3-32-035 Retaliation](#)

[§ 3-32-040 Whistleblower Protection \(ORS 659A.200 and 659A.203\)](#)

#### § 3-32-010 Preamble

Multnomah County strives to uphold the highest possible standards of ethical, moral and legal conduct. Consistent with this commitment, this policy provides an avenue for employees to report concerns regarding improper governmental conduct including suspected misconduct, dishonesty, non-compliance with laws, or fraud without fear of retaliation.

#### § 3-32-015 Definitions

For the purpose of this policy and procedures the following definitions shall apply:

**Abuse of Authority:** To deliberately exceed or make improper use of delegated or inherent authority or to employ it in an illegal manner.

**Disciplinary Action:** Any adverse action including dismissal, demotion, transfer, reassignment, supervisory reprimand, warning of possible dismissal, or withholding of work, whether or not the action affects or will affect employee compensation.

**Disclosure:** Formal or informal internal or extra-agency communication, not including a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee providing the disclosure reasonably believes that the disclosure evidences:

A. A violation of any federal or state law, rule, or regulation by the County;

B. Mismanagement;

C. Gross misuse or waste of public resources or funds;

D. Abuse of authority in connection with the administration of a public program or the execution of a public contract; or

E. A substantial and specific danger to public health or safety resulting from the County's actions.

**Employee:** For purposes of this rule, any person who is serving the county as an employee, volunteer or agent, irrespective of compensation, when an alleged violation of ORS Chapter 659A.200 to 659A.224 or this rule occurs.

**Fraud:** Dishonest and deliberate course of action that results in the obtaining of money, property, or an advantage to which County employees or officials committing the action would not normally be entitled. Fraud includes the intentional misleading or deceitful conduct that deprives the County of its resources or rights. Examples include but are not limited to falsifying financial records to cover up theft; theft or misuse of County money, equipment, supplies, or materials; intentionally misrepresenting the costs of goods or services provided; falsifying payroll information; use of County equipment or property for personal gain; submitting false claims for reimbursement; soliciting or accepting a bribe or a kickback; intentional use of false weights or measures.

**Gross Waste of Funds:** A needless, careless, or extravagant expenditure of County funds, incurring of unnecessary expenses, or mismanagement of County resources or property. Gross waste of funds is almost always significantly out of proportion to the benefit expected to accrue to the agency and is more than a debatable expenditure. Examples include but are not limited to purchase of unneeded supplies or equipment; purchase of goods at inflated prices; failure to reuse or recycle major resources or reduce waste generation.

**Misappropriation of Assets:** Theft of an entity's assets that causes the financial statements not to be presented in conformity with generally accepted accounting principles. Misappropriation of assets includes false or misleading records or documents, possibly created by circumventing controls. Examples include but are not limited to embezzling funds; theft of assets; causing an entity to pay for goods and services that have not been received; skimming revenues; payroll fraud.

**Mismanagement:** Serious misconduct having the effect of actually or potentially undermining the County's ability to fulfill its public mission.

**Reporting Employee:** An employee who reasonably believes they have evidence of improper governmental conduct.

**Substantial and Specific Danger:** A specified risk of serious injury, illness, peril or loss, to which the exposure of the public is a gross deviation from the standard of care or competence which a reasonable person would observe in the same situation.

### **§ 3-32-020 Purpose**

In keeping with the policy of maintaining the highest standards of conduct and ethics, the County will investigate any suspected improper governmental conduct including any violation of law, regulation, or policy by employees, board members, consultants, or volunteers. Employees are encouraged to promptly report any concerns they have about the County's compliance with any law, regulation or policy to any responsible County representative.

Pursuant to ORS 659A.200, the county has authority to provide the below procedures and provisions outlined in this rule. This rule shall apply to all reports of improper governmental conduct received through the Good Government Hotline, from County officials and employees, and from members of the public. Possible violations of this policy discovered during an investigation, which have not been independently reported, may be investigated and result in discipline in accordance with the applicable collective bargaining agreement or the county's Personnel Rules.

This policy applies to all regular, temporary, classified, executive, and contract employees, applicants for employment, contractors, and specified volunteer positions.

Employees who violate this rule are subject to disciplinary action, up to and including termination.

### **§ 3-32-030 Reporting**

A. Employees are encouraged to promptly report suspected improper governmental conduct or violations as outlined in this rule.

B. Complaints may be submitted orally or in writing. A complainant may also include a suggested method of resolution.

C. Suspected improper governmental conduct or violation as outlined in this policy may be reported to:

1. Any supervisor or manager;
2. Department Human Resources Manager;
3. Multnomah County Chief Human Resources Officer (CHRO);
4. Multnomah County Auditor; or
5. Multnomah County Good Government Hotline

D. Anyone filing a written complaint concerning improper governmental conduct or suspected violation of any law, rule, regulation, or policy must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

E. All complaints will be thoroughly and promptly investigated. Confidentiality will be maintained to the extent permitted by the circumstances.

F. A reporting employee who, in good faith, discloses information that the employee reasonably believes is evidence of improper governmental conduct shall not be

subjected to or threatened with disciplinary action for the disclosure. Retaliation will not be tolerated.

G. An employee's objectively reasonable and good-faith belief that the County has committed improper governmental conduct including a violation of law, rule, regulation, or policy is an affirmative defense to civil or criminal charges related to the disclosure of information about the alleged violation, including information that is exempt from disclosure under Oregon's public records law, if the following conditions are met:

1. The information was lawfully accessed in the first instance;
2. The information was disclosed in confidence to a manager, a law enforcement or public regulatory agency, or an Oregon-licensed attorney and not disclosed or redisclosed to any other party by the employee or any person at the employee's direction;
3. The information was not contained in an exclusive commercial negotiating agreement or commercial nondisclosure agreement (unless the agreement is related to the employee's employment with the County);
4. The information disclosed was not related to the representation of a client, if the disclosing employee is an attorney or is employed, retained, supervised, or directed by an attorney; and
5. The disclosure was made consistent with federal law regarding the disclosure of that kind of information.

H. In addition to or in lieu of these reporting procedures, a reporting employee may disclose any allegation, concern, or complaint of improper governmental conduct by

1. Utilizing the County's Good Government Hotline;
2. To the County Auditor, in accordance with the Auditor's responsibilities set forth in the County Charter; and/or
3. By reporting an allegation, concern, or complaint of improper governmental conduct that may also be a violation of the State Code of Ethics (ORS Chapter 244) to the Oregon Government Ethics Commission

### **§ 3-32-035 Retaliation**

The county will not tolerate retaliation against any individual who reports, in good faith, any improper governmental conduct in accordance with these policies and procedures. However, employees may be subjected to discipline if the information disclosed by the employee is known by the employee to be false, if the employee discloses the information with reckless disregard for its truth or falsity, or if the information disclosed relates to the employee's own

violations, mismanagement, gross waste of funds, abuse of authority, or endangerment of the public health or safety. Examples of retaliation towards an individual include demotion, suspension, failing to hire or consider hiring, failing to treat impartially when making employment related decisions, assigning the individual the least desirable jobs, etc.

**§ 3-32-040 Whistleblower Protection (ORS 659A.200 and 659A.203)**

Employees who identify themselves and make a good faith report of suspected fraud, waste, or abuse are protected from retaliation, in accordance with the Oregon State Whistleblowers Protection Law (ORS 659A).

(ER 375)



## **Rule 3-35**

### **Use of Information Technology**

**§§:**

[3-35-010 Purpose](#)

[3-35-020 Applicability](#)

[3-35-025 Definitions](#)

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[3-35-060 Public Records Retention and Access](#)

#### **§ 3-35-010 Purpose**

The purpose of this rule is to ensure that the use of information technology in the workplace is consistent with information security best practices, federal and state laws, and county policies and rules for public records, ethics, and conduct of employees. Volunteers and interns (paid or unpaid) are also covered by this policy.

#### **§ 3-35-020 Applicability**

These rules apply to all forms of information technology, hereafter referred to as “systems,” including but not limited to electronic systems such as email, fax, voicemail, internet, computers, software, networks, mobile devices, smartphones, tablets, and internet subscription or cloud-based services. Personal systems used for work purposes and county owned systems provided for use from home or other locations are subject to this rule. Systems owned and operated by third parties having a business relationship with the county who store or process county information for county business purposes are subject to this rule.

#### **§ 3-35-025 Definitions**

- **Access:** Rights an employee has to read or write electronic data, log in to county owned or authorized systems, files, networks or execute applications using county owned or authorized systems. For example, a user might be granted read access to a file, meaning that the user can read the file, but cannot modify or delete it. Most systems have several different types of access privileges that can be granted or denied to specific users or groups of users. This definition also includes rights an employee has to read, copy, retrieve, or otherwise make use of non-electronic data, information and/or files of any kind.

- **Authorized Approver:** An individual identified at the department level who has the ability to approve access to IT systems for their department.
- **Cloud-based Services:** Any service or internet subscription made available to users on demand that is hosted on a cloud-computing provider's infrastructure as opposed to being provided by the Multnomah County's own on-premise infrastructure.
- **County Authorization:** Authorized by the county's Chief Information Officer, one or more elected officials, or individuals delegated such authority by aforementioned persons under county procedures implementing this rule, and/or MCPR § 3-36 Social Media Policy and/or MCPR § 3-37 Mobile Devices.
- **Custodian of Records:** The county official or employee who is responsible for collecting and maintaining records whose retention is required under Oregon law.
- **Department of Authorization:** Authorization by the Department Director or designee.
- **Disclose:** To in any way, make known, reveal, or allow information to be seen by another county employee or member of the public.
- **Electronic Publishing:** The activity of making information available for public review.
- **Electronic Records:** Data or information that has been captured and fixed for storage and manipulation in an automated system and requires the use of that system to render it intelligible by a person.
- **Information Technology (IT):** Any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.
- **Mixed Use:** Use that is not required for the job, but relates to county employment and/or enhances the ability to perform job duties.
- **Personally Identifiable Information (PII):** Any information about an individual maintained by Multnomah County, including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. This includes all information protected by local, state and federal laws and regulations. For specific examples, see Multnomah County Administrative Procedure PII-O Personally Identifiable Information Definitions.
- **Public Record:** Documents, books, papers, photographs, files, sound recordings, or machine readable electronic records, regardless of physical form or characteristics,

made, received, filed, or recorded pursuant to law or in connection with the transaction of public business, whether or not confidential or restricted in use. Public records do not include extra copies of a record, preserved only for convenience of reference, or messages on voicemail or other telephone message storage and retrieval systems.

- **Service:** The application of business and technical expertise to enable organizations in the creation, management and optimization of or access to information and business processes. A system which may include software, cloud-based services (such as Software as a Service (SaaS)), and the associated systems that provide a means to access data.
- **System:** A set of components for collecting, creating, storing, processing, and distributing information, including but not limited to electronic systems, such as email, fax, voicemail, internet, computers, software, networks, mobile devices, smartphones, tablets, and internet subscription or cloud-based services.
- **Software:** A generic term used to describe computer programs; a set of instructions or programs instructing a computer to do specific tasks, sometimes known as Scripts or applications. May also take the form of Software as a Service (SaaS), which is software that is not installed on a local device but accessed through the internet (see cloud-based service).

### § 3-35-030 Policy

- A. The county encourages the use of electronic systems, communications, and information technology to support the mission and business of the county. All systems and information are the property of the county, except for personal devices used for work purposes as provided in MCPR § 3-37 Mobile Devices and this rule. Employees may use county-owned systems only for authorized county business except as otherwise provided for in this rule and MCPR § 3-37 Mobile Devices. Systems use must be inoffensive, in accordance with all federal and state laws, county rules, regulations and procedures established by county departments and work units, and reflect a positive county image. Social media usage is a use of information technology. As such, use of social media during work hours or using county systems including county-issued cellular devices and personal cellular devices approved for utilization for work purposes must comply with MCPR § 3-36 Social Media Policy, MCPR § 3-30 Code of Ethics, MCPR § 3-37 Mobile Devices, and this rule.
- B. County employees are permitted brief and infrequent personal use of county systems if the use does not interfere with official business, is at virtually no cost to the county and is in accordance with state ethics laws and rules. This limited personal use must take

place during the employee's non-work time and is considered an incidental benefit under MCPR § 4-20-110 Benefits: Incidental Benefits.

- C. County-owned IT devices may be taken home or to other locations for work purposes by employees with prior approval of their manager. All equipment shall be returned upon separation from employment with the County.

### **§ 3-35-040 Access and Control**

#### **A. County Owned Devices**

1. No part of county systems or information may become the private property of any system user. The county reserves all legal rights to full access and ownership of its systems, including to transfer or use all or any part or product thereof, and to all information used in its systems. All uses must comply with this rule and all other laws, rules, regulations, and procedures.
2. Information technology and electronic communications will be used only for county business, except as otherwise provided in these rules. No one will be granted access to data, systems or services without written authorization by a Multnomah County Authorized Approver. Authorized Approvers may not authorize their own access to data, systems or services.
3. All software loaded on county systems must comply with software licensing requirements and be approved by the county Information Technology (IT) Department.
4. A user is not allowed to download or install any software or accept the terms of any software or cloud service agreement including "click through" agreements unless given written authorization from County IT (or DCA Procurement and Contracting). These agreements include but are not limited to: End User License (EULA), Software / Cloud Service Agreements or Terms of Use / Service.
5. All internet subscription and cloud based services must comply with licensing requirements and be approved by the county Information Technology (IT) Division.
6. When in a Multnomah County facility, personal devices may only connect to the Multco Guest County Wi-Fi network.

#### **B. County Systems Access**

1. Employees only have the right to access county systems and information for authorized purposes and in an authorized manner, and in accordance with any relevant laws or policies. Accessing county systems or information in

non-authorized ways is prohibited. Employees are allowed to gain access to another employee's electronic mail, voicemail or other system files only as allowed by MCPR § 3-35-050(B)(4) or with permission from a manager, and only if such access is not prohibited by law or other policies.

2. Employees may not load privately owned, free, or shareware software on county systems or devices, nor connect (i.e. wired, wireless connection or by any other means) any privately owned device to a county system without county authorization, regardless of purpose.
3. Under no circumstance should an employee share their personal passwords. unless authorized to do so by their supervisors as required for an emergency. Passwords should never be written down or in an unsecured manner. Employees with administrative passwords or accounts will only use these passwords for authorized purposes and in an authorized manner. A shared system password may only be used with written permission by the County Security Officer.
4. Employees will not view, use, disclose or alter data in a county system for other than business purposes or unless county authorization is received first. In all cases, system event log data (including security and other operational logs) may not be altered once written to the log.

C. Limiting or Revoking Access: The county may revoke or limit permission for use of county systems for any or all personal or business uses at any time without cause or explanation. Department Directors may issue department specific limitations on personal use that are more restrictive than this rule.

D. Confidentiality of Systems and Information

1. Various county, state and federal laws, rules, regulations and policies restrict access to and disclosure of confidential and sensitive data and information, such as personally identifiable information. Employees will not disclose or allow access to such sensitive and confidential information or data, except in accordance with county or departmental rules, practices or procedures. Employees with such access are responsible for the safekeeping and handling of county systems to prevent unauthorized disclosure of financial, medical, and other personal client or employee information, or any other confidential information contained in a system.
2. Electronic data should be transported only as needed to conduct county business. All personally identifiable information that must be transported or otherwise sent outside of county facilities must be encrypted with county provided encryption technology or other county authorized mechanism.

Employees are required to ensure that data transported within or outside of county facilities on laptops, or other storage devices are properly secured.

**§ 3-35-045 Employee Privacy Expectations**

- A. County employees do not have a right, nor should they have an expectation of privacy or confidentiality while using county systems, including but not limited to, electronic or voicemail or use of social media. County employees do not have a right, nor should they have an expectation of privacy or confidentiality regarding work records on their personal cellular devices used for work purposes whether or not the employee is compensated for its use per MCPR § 3-37 Mobile Devices.
- B. The county may trace, review, audit, access, intercept, block, restrict, screen, delete, recover, restore, publish, or disclose any information on county-owned systems at any time without notice unless prohibited by law. The county has the right to access, monitor and record all electronic and voicemail or other county-owned systems at any time and without notice unless prohibited by law. The county will only monitor or record telephone calls as permitted by federal and state law. The county may use this information in disciplinary or other legal proceedings.
- C. Upon request, employees will provide to the County any work records on personal devices and third party websites used for work purposes, including but not limited to emails, electronic documents, texts, chats, voicemails, and social media posts, whether or not the employee is compensated for its use per MCPR § 3-37 Mobile Devices, to the extent required by public records laws and other legal requirements. The county may use this information in disciplinary or other legal proceedings.

**§ 3-35-050 Acceptable Use**

- A. General Standards for Electronic Communications or Systems Access
  - 1. Uses of county systems and personal mobile devices for work purposes do not always have to be formal, but the usage must positively reflect the image of the county.
  - 2. All uses must be lawful and inoffensive. Uses of county systems and personal mobile devices for work purposes must not be false, unlawful, offensive, or disruptive. Unless county duty requires it, no use will contain profanity, vulgarity, sexual content, or character slurs. No use will make rude or hostile reference to race, color, sex, age, religion, national origin, political affiliation, marital status, sexual orientation, gender identity, source of income, familial status, or physical or mental disability, or otherwise violate county policy or law. Use will not include gambling or other potentially illegal activity. All uses must comply with federal, state and county laws and regulations, and other county policies.

3. Copyrighted or licensed information of any kind will be used only with full legal right to do so. For example, this rule requires that the county and all employees using commercial software on its behalf must honor the licensing agreements that govern the use of that software.

## B. Internet and Email Use

1. Employees may access or download information from internet sites for official business subject to county or other departmental procedures.
2. Employees may not download software, shareware, or music from the internet without county authorization from the County Information Technology (IT) Division.
3. Many internet and email groups exist to share useful information. An employee may post job-related queries or comments to professional group message boards, listservs or emails with manager authorization. Comments must conform to this rule. Content and frequency of posting must reflect county interests, not the users'.
4. Department Human Resources Units, Central Human Resources, and the County Attorney's Office may request reports detailing employee usage of county-owned mobile devices, and internet and email usage on county-owned systems. These reports include information that specifies internet sites employees accessed or attempted to access, how long employees spent on internet sites, and copies of emails or similar messages sent and received, and how and when employees accessed County-owned facilities. Managers who believe they need access to usage reports shall contact their Department Human Resources Unit for approval to access such reports.
5. The county prohibits the global (automatic) forwarding of email to an email account not managed by Multnomah County unless explicitly authorized by the County Security Officer. Protected health information may never be forwarded to an employee's personal email account.
6. Sending or selectively forwarding email that contains Protected Health Information (PHI) is only allowed if the employee first verifies the identity and authority of the recipient, the disclosure of protected health information is a part of an approved workflow, and the email is encrypted using county provided encryption technology.

7. When posting on social media for non-work purposes, employees may not use their county job title, email address or other information showing county affiliation in a way that indicates they are acting as county employees.

#### C. Publishing Electronically

1. All publishing is restricted to county business as defined by departments and requires department authorization, including posting using social media, unless allowed in other sections of this rule.
2. Department or county-wide e-mail messages require department or county authorization. Events which mix county and personal business, such as charitable drives, employee retirements, celebrations, or whatever the department deems suitably related to department business may be published with department authorization.

#### D. Personal Use of County Systems

Any personal use must comply with all personnel rules and must be consistent with the following:

1. Personal use of county systems, including information technology tools, must always be at virtually no cost to the county, and brief and infrequent. In addition to uses which have a direct cost, such as making toll calls, personal uses which have an indirect cost are also prohibited, including but not limited to uses which require significant data storage or data transmission (bandwidth) capacity. Examples include, but are not limited to, sending or receiving personal emails with large file attachments, personal emails which contain graphics, photos, or sound files, and storing large files of any kind on shared servers or local drives.
2. Personal use must be brief and infrequent in terms of time used as compared to use for assigned work and may only be done during breaks and non-work hours. Accessing personal emails through internet providers such as AOL, Yahoo! or Google, must be done in such a way as to ensure county systems are not compromised by viruses or other threats. Employees should not open emails using the county systems unless the sender is known to them. More specific rules for the use of mobile devices are included in MCPR § 3-37 Mobile Devices.
3. Permissible personal uses include:
  - a. A brief e-mail;
  - b. A brief text message;



- c. A short toll-free fax;
  - d. Copying or printing a small number of personal papers, provided the use of equipment is brief and infrequent, and does not interfere with county business;
  - e. Brief and infrequent use of a personal computer;
  - f. Brief and infrequent web searches for personal research, or self-study;
  - g. Brief and infrequent postings using social media if the content or purpose is personal;
  - h. A brief and infrequent telephone call;
  - i. A brief and infrequent toll call that is not charged to the county;
  - j. Brief and infrequent storage of copies of personal electronic files, e.g., photographs, documents, and digital music, so long as they have been virus scanned with any software the County has made available for that purpose;
  - k. If the employee is not assigned a county desk phone the employee may use a county-issued mobile device in the same manner as a desk phone so long as it amounts to virtually no cost to the county, or if it results in additional cost for the county, the employee will reimburse the county for the added cost; and
  - l. Data streaming on a county-owned computer or mobile device provided there is no interference with county business including impacts on county data storage or transmission (bandwidth) capacity. For county-owned cellular devices, a Wi-Fi connection must be used for data streaming, and not the county's mobile data plan.
4. Mixed use: Permissible mixed county and personal uses of county systems include downloading, printing and photocopying a county job application, personnel and benefits papers, and necessary material for county paid courses of study, so long as such usage is brief and infrequent.
5. Prohibited personal uses include but are not limited to:
- a. Except as provided above in MCPR § 3-35-050(D)(3) and in MCPR § 3-37, toll calls, any service for fee, and downloading software or shareware;

- b. Personal soliciting;
- c. Lobbying, soliciting, recruiting, selling, or persuading for or against commercial ventures, products, religious or political causes, outside organizations, or similar activities;
- d. Using county systems or allowing others to use them on behalf of any organization or third party;
- e. Internet games, personal games, and internet gambling sites may not be used or accessed except as authorized for work purposes. Games that come with software may be used only with department authorization for work purposes. The games will be used without sound and only where not visible to the public. County owned or licensed games created to teach needed knowledge or skill may be used with department authorization for work purposes;
- f. An employee may not use a county issued device for the purpose of operating a personal business; and
- g. No privately owned device may be physically connected (hardwired or wireless) to county systems without county authorization. System devices taken home or for use off county premises remain subject to this rule.

**§ 3-35-055 Sanctions**

Employees who engage in improper use of information technology and electronic communications under this rule are subject to disciplinary action, up to and including dismissal.

**§ 3-35-060 Electronic Records Retention and Access**

- A. Electronic records stored on county information systems are public records. As such, the records are subject to the same laws and rules for public inspection and retention that apply to all other county records, including but not limited to the state public records laws and rules, county Executive Rule 266 and county Multnomah County Administrative Procedure REC-1. Employees should refer to the retention schedules for their Department to determine what must be retained and what can be destroyed. Retention schedules are available at <http://web.multco.us/records/retention-schedules> on the Records Management website.
- B. Electronic records may not be destroyed without proper authorization, either via a retention schedule published on the Multnomah County Records Management website or through direct consultation with a records management analyst. See Multnomah County Administrative Procedure REC-1.

- C. Upon receipt of a valid request, the custodian of electronic records must make the records available for inspection by the public and copying unless the records are exempt from disclosure. See Multnomah County Administrative Procedure REC-2.
- D. Requests by the public for copies of or to inspect electronic records must comply with Multnomah County Administrative Procedure REC-2, including review by the County Attorney's Office (as applicable), and any Department or Division policies.
- E. The county may collect reasonable fees for making electronic records available for inspection or copying. Departments/Custodians may establish rules for access to records in order to protect the integrity of the records or to prevent interference with county business. Departments are encouraged to post fee schedules and access rules.
- F. Whether a public record is exempt from public disclosure shall be determined by the County Attorney's Office based on its nature and content, regardless of the form in which the record is preserved.
- G. Employees must follow all county procedures for retention and management of electronic county records stored on non-county owned information systems or mobile devices. Records in non-county owned systems with retention periods of five years or longer must have a preservation plan approved by a records management analyst in order to reduce risk of loss or obsolescence during the full retention period, and for portability to a new information system or for duplication in response to a public records request.

## **Rule # 3-36**

### **Social Media**

**§§:**

[§ 3-36-010 Purpose](#)

[§ 3-36-020 Definitions](#)

[§ 3-36-030 Policy](#)

[§ 3-36-040 Employee Responsibilities](#)

[§ 3-36-050 Restrictions on Access and Content](#)

[§ 3-36-060 Sanctions](#)

#### **§ 3-36-010 Purpose**

Establish policy and requirements for use of social media by county employees during work hours or using county computers. This rule is to be read in conjunction with MCPR 3-35.

#### **§ 3-36-020 Definitions**

**Posting:** Placing any content on social media sites. This includes, but is not limited to, creating content for a new site, making comments, inserting pictures on social computing sites.

**Use of Social Media:** Any use of web applications, sites or accounts that facilitates the sharing of opinions and information. Use of social media includes but is not limited to use of such formats as blogs, listservs, websites, chat, instant messaging, collaborative editing (e.g. wikis), on-line communities, photo-sharing, social network pages, posts, or other similar technologies, including, but not limited to, Facebook, Twitter, YouTube, Flickr, Word Press, PBWorks and other similar sites.

#### **§ 3-36-030 Policy**

The County encourages the work-related use of social media to facilitate the sharing of information, ideas, and opinions in support of the mission and business of the County. All content posted during work hours by county staff for Web applications, sites or accounts created and maintained by the county (hereinafter referred to as county sites); or for non-county blogs or other sites (hereinafter referred to as non-county sites) must be for authorized county business and comply with all federal, state and county laws, rules, and regulations and county or department procedures. Content posted during work hours (not lunch, breaks or personal time) and/or using county computers must comply with the appropriate county rules and procedures. The use of social media is considered a use of information technology and as such is also subject to all provisions of MCPR 3-35 Use of Information Technology.

County sites must reflect the county image and are considered limited public forums. Comments are moderated and the county reserves the right to remove any employee or third

party postings that are inappropriate or unlawful. Staff who contribute to or moderate county sites must follow specific rules to maintain the reputation of the county while protecting the First Amendment rights of citizens.

As public employees, county employees' free speech rights in the workplace are different than those of the general public. They are subject to a balancing act between the right of a public employer to operate efficiently and employees' free speech rights. The county's personnel rules incorporate limitations on free speech intended to maintain efficient government operations, such as the law's limitations on harassment in the workplace and political speech.

### **§ 3-36-040 Employee Responsibilities**

#### **A. Authorization for Use of Social Media**

Employees must obtain written approval from their appointing authority prior to creating any county site for official county communication or communicating on behalf of the county on non-county sites unless doing so is a part of their assigned job duties. When submitting a request to create a county site to their appointing authority, employees must include a life cycle plan for maintaining, updating and removal of the site.

#### **B. Responsibilities when Posting Content**

When posting content on county sites or posting content on non-county sites during work hours (not lunch, breaks or personal time) or using county computers:

##### **1. Employees are required to:**

- a. Protect and respect the privacy of clients, partners, and other employees; get permission to use the name or likeness of county employees, and get a signed release or email approval to use the name or likeness of anyone outside of the county unless pictures to be posted were taken at a public event.
- b. Comply with federal, state and county laws including all public records, copyright, retention, fair use, privacy and financial disclosure laws.
- c. Comply with all applicable County personnel rules, including but not limited to MCPR 3-40 Discrimination and Harassment-free Workplace, 3-35 Use of Information Technology (IT), 3-10 Employee Responsibilities and 3-30 Code of Ethics.
- d. Check facts, cite sources, avoid copyright infringement, present balanced views, acknowledge and correct errors, and check spelling and grammar before making a post live on any county or non-county site.
- e. Post only within the employee's area of expertise and knowledge.
- f. Make corrections expediently and note that a correction was made.

- g. Maintain confidentiality of county information.
- h. Express opinions in a respectful manner.
- i. Follow the rules and procedures of any social media site on which they are posting work-related content.
- j. Follow the County's applicable procedures for presenting content on County sites.
- k. Assist in regularly maintaining and updating active County sites.
- l. Follow their department and unit standards for identifying themselves when posting on a county or non-county site.
- m. Obtain Communications Office approval before posting anything as an official statement of Multnomah County unless the employee is an authorized spokesperson.

2. Employees are prohibited from:

- a. Making personal attacks, using insults or using threatening language.
- b. Making libelous and/or defamatory or false statements.
- c. Plagiarizing material.
- d. Sharing private, personal or confidential information.
- e. Making comments unrelated to the content of the forum, and/or providing hyperlinks to material not directly related to the discussion.
- f. Posting commercial promotions or spam.
- g. Posting information shared with County staff and/or stakeholders that is in draft form or is pending publication.
- h. Including content in postings for which the county does not own the copyright or does not have legal permission to use.

C. Engaging in Use of Social Media

Employees should always assume their social media communications during work hours (not lunch, breaks or personal time), or when using county computers are in the public domain and available to members of the public for publishing or discussion in all forms of media. Employees engaging in the use of social media during work hours (not lunch, breaks or personal time) or when using county computers should have no expectation of privacy.

### **§ 3-36-050 Restrictions on Access and Content**

The County reserves the right to:

- A. Monitor employee postings made during work hours (not lunch, breaks or personal time) or when using county computers.
- B. Review content before it is posted by an employee during work hours (not lunch, breaks or personal time) or when using county computers and to modify, remove, or prohibit any messages or postings on county sites that the county deems to be inappropriate.
- C. Restrict or limit access or permission to post content on any site from county computers or for county business purposes at any time without cause or explanation. Appointing authorities may issue department specific limitations on posting to any site from county computers or for county business purposes that are more restrictive than this rule.

### **§ 3-36-060 Sanctions**

Employees who engage in improper use of social media under this rule are subject to disciplinary action, up to and including dismissal.

## **Rule 3-37**

### **Mobile Devices**

**§§:**

[3-37-010 Purpose](#)

[3-37-015 Definitions](#)

[3-37-020 Policy](#)

[3-37-025 Applicability](#)

[3-37-030 Mobile Device Guidelines](#)

[3-37-035 Oversight and Authorization of Mobile Device Usage](#)

[3-37-040 Limiting or Revoking Access](#)

[3-37-045 No Responsibility to Repair or Replace Mobile Devices](#)

[3-37-050 Permissible and Prohibited Uses of County-Owned Mobile Devices](#)

[3-37-055 Confidentiality of Systems and Information](#)

[3-37-060 Employee Privacy Expectations](#)

[3-37-065 Electronic Records Retention and Access](#)

#### **§ 3-37-010 Purpose**

The purpose of this Mobile Devices policy is to provide guidelines for usage of county and personally owned mobile devices for County related work.

#### **§ 3-37-015 Definitions**

- **Allowance:** Considered additional employee compensation subject to applicable payroll taxes. See Administrative Procedure, FIN-18.
- **County-owned Mobile Device:** A mobile device and the associated monthly services that are acquired by and paid for by Multnomah County and issued to employees to conduct county business.
- **Mobile Device:** A mobile device is an electronic device used for mobile communications including mobile telephone, email, text messaging or data transmission, over a mobile or Wi-Fi network. In addition to the standard voice function, mobile devices known as smartphones and/or tablets may support many additional services and accessories, such as application software (third-party “apps”), text messaging, email, internet access, camera and GPS. Additionally, cards for the purpose of providing mobile network access (this type of card requires some type of monthly service plan) for mobile computing devices such as a laptop are also considered a mobile device.
- **Personal Mobile Device:** A mobile device and the associated monthly or prepaid services that are acquired by and paid for by the employee.



### **§ 3-37-020 Policy**

- A. The county authorizes certain employees to utilize county-owned mobile devices when such usage is required by the employees' job duties. Employees utilizing county-owned mobile devices must use the devices for authorized county business except as otherwise provided in this policy. The county will also authorize certain employees, on a voluntary basis, to use their personal mobile devices for work purposes when required by their job duties, with payment of an allowance under the terms of this policy and Administrative Procedure FIN-18. The allowance is considered additional compensation and will be subject to all applicable taxes and withholdings. When appropriate, the Department Director will provide the choice to the employee to either be issued a county-owned mobile device or to use their personal mobile device and receive an allowance pursuant to this policy. Any and all usage of mobile devices for work purposes must comply with all federal, state, and county laws, rules including MCPR § 3-35-050, regulations and procedures established by county departments and work units. Decisions by Department Directors about mobile device usage should reflect considerations of cost effectiveness.
  
- B. County-owned mobile devices may be taken home or to other locations for work purposes by employees with prior approval of their manager. All equipment shall be returned upon separation from employment with the County.

### **§ 3-37-025 Applicability**

This rule applies to employees' use of mobile devices for work purposes. This rule covers both county-owned mobile devices and personal mobile devices used for work purposes whether or not the employee is compensated for its use.

### **§ 3-37-030 Mobile Device Guidelines**

It is the county's preference to authorize an allowance for the use of personal mobile devices rather than provide county-owned mobile devices. The following are the scenarios by which a county employee may, if approved, utilize mobile devices for work purposes.

- A. Business use of personal mobile devices: Department Directors may authorize employees to utilize their personal mobile devices for work purposes on a voluntary basis, under the terms and guidelines of this policy.
  - 1. Compensation
    - a. A monthly allowance may be issued to those employees who are authorized by their Department Directors to utilize voice, text, and/or data services on personal mobile devices for work purposes. The county will pay an allowance as designated in Multnomah County Administrative

Procedure FIN-18 for use of a mobile device for voice, text, and/or data services.

- b. The allowance will be paid to employees in whole monthly increments rather than prorated for partial beginning and ending months of approved allowance period.
- c. Amounts different than those outlined in Multnomah County Administrative Procedure FIN-18, require approval from the Chief Financial Officer
- d. The mobile device allowance is considered additional compensation and as such is a taxable item that will be added to the employee's monthly paycheck. The employee is responsible for submitting to the Department Director the pages of his/her wireless service bill verifying the charges. The Department Director is responsible for notifying Central Payroll of which employees have been approved to use personal mobile devices under this policy, of all allowance amounts, and changes in allowance amounts or eligibility.
- e. The allowance will begin the month following the date of the Department Director's signature on the authorization form. A request for reimbursement of prior months must have a written justification signed by the Department Director attached to the form, and is subject to the approval of the County Chief Financial Officer. In no event shall reimbursement of prior months cross fiscal years.
- f. The employee is responsible for submitting to the Department Director, on an annual basis, the pages of his/her most current wireless service bill verifying the charges and confirming that the employee continues to have the service. Documentation is to be received by January 15th to continue the employee allowance.
- g. The employee's manager and the employee are both responsible for notifying the Department Director and Central Payroll, in writing, within ten (10) days, if the employee is no longer required to use a personal mobile device for job related tasks, if the personal mobile device has become disabled and not usable, or if there is a change to the monthly charges for the mobile device that would affect the amount of the allowance.
- h. The Department Director is responsible for notifying Central Payroll, in writing, if the employee terminates their employment with the County, if the employee transfers to a new unit, or if the Department Director revokes personal mobile authorization.

- i. If an employee loses their personal mobile device and the device contains county information such as e-mails, calendar notations, and texts:
  - i. The employee is responsible for immediately notifying their manager and the Help Desk; and
  - ii. The County has the right to destroy any data on the personal mobile device or take any other action to ensure the confidentiality of county information on the mobile device, without regard to potential loss of the employee's personal data or information.

B. County-issued mobile devices.

1. If it is determined that the use of a personal mobile device does not meet the business needs or the employee does not wish to utilize that alternative, a Department Director may authorize an employee to use a county-owned mobile device for business purposes under these rules.
2. If an employee receives a mobile allowance, they typically do not have a need for a county issued mobile device. The exceptions would be county issued mobile device that is shared by and rotated among multiple employees (including those that receive an allowance) for essential service coverage such as, but not limited to, Emergency Management Duty Officer or Call Center employees. Exceptions require Department Director approval.

**§ 3-37-035 Oversight and Authorization of Mobile Device Usage**

A. Oversight: Department Directors shall be responsible for oversight and approval of each employee's request for a county-owned mobile device, or to utilize their personal mobile device for business purposes. Requests are made on the basis of a genuine business need, not by the requestor's job classification alone. The Department Director shall review mobile device usage annually, or on a more suitable frequency as may be requested by IT, to ensure that the use is appropriate and that prudent fiscal management guidelines are followed. This periodic review shall include an assessment of each authorized employee's need to use a mobile device for a business purpose.

B. Authorization

1. The county must authorize the employee to use a personal mobile device or a county-owned mobile device for county business. Authorization forms shall be signed by the employee and the employee's manager, and then submitted to the Department Director for approval and authorization to be indicated by the Director's signature. A copy of the authorization form will be retained by both the employee and the department. A copy of the forms are available on Multco Commons: Authorization to Use a County Issued Cell Phone or Mobile Device

and Multnomah County Administrative Procedure FIN-18 - Allowance for Business Use of Personal Mobile Devices Application / Approval Form.

2. The Department Director is responsible for authorizing an employee to use a personal mobile device for business purposes or to use a county-owned mobile device, based on the following factors:
  - a. Departmental requirements indicate utilizing a mobile device is an integral part of performing duties of the job description;
  - b. More than 50% of the employee's job duties are performed in the field;
  - c. The employee is required to be contacted for business reasons on a regular basis;
  - d. The employee is required to be on call outside of normal work hours as a job requirement; or
  - e. The employee is a critical decision maker.
3. The Department Director is responsible upon approval of an allowance for business use of a personal mobile device, or upon authorization for an employee to use a county-owned mobile device, to approve the plan that is the "least-cost" to the county for employee usage, and to review that plan annually or anytime charges greater than the base plan costs are experienced. IT may assist in identifying the plan with the lowest overall cost to the county, considering usage patterns experienced. Employees utilizing personal mobile devices for business purposes must provide the Department Director and their manager with their current telephone number.

#### **§ 3-37-040 Limiting or Revoking Access**

The county may revoke or limit permission for use of mobile devices for work purposes at any time without cause or explanation. Department Directors may issue department specific limitations on use of mobile devices that are more restrictive than this rule.

#### **§ 3-37-045 No Responsibility to Repair or Replace Mobile Devices**

- A. Under no circumstances will an employee be authorized to personally seek to repair a county-owned mobile device on their own. For employees who continue to utilize county-owned mobile devices, the county will continue to provide support and repair services for those devices.
- B. The county has no responsibility for repair or replacement of personal mobile devices used for work purposes.

### **§ 3-37-050 Permissible and Prohibited Uses of County-Owned Mobile Devices**

- A. Usage of county-owned mobile devices is restricted to county business, except as allowed in these guidelines.
- B. Limited personal use of county-owned mobile devices is permissible, and must always be on the employee's own time, at virtually no cost to the county, and be brief and infrequent. In addition to uses which may have a direct cost, such as making toll calls, personal uses which have an indirect cost are also prohibited. Personal use of county-owned mobile devices, consistent with these rules, is considered an incidental benefit under MCPR § 4-20-110 (C).
- C. Permissible personal uses of county-owned mobile devices include:
  - 1. A brief email;
  - 2. A brief text message;
  - 3. A brief and infrequent telephone call;
  - 4. A brief and infrequent toll call that is not charged to the county;
  - 5. Brief and infrequent internet access or web searches for personal research, or self-study;
  - 6. Brief and infrequent postings using social media if the content or purpose is personal;
  - 7. Storage of limited copies of personal electronic files, e.g., photographs, documents, and digital music, so long as they have been virus scanned with any software the County has made available for that purpose;
  - 8. Data streaming provided the mobile device is using a Wi-Fi connection and not the county's mobile data plan, and there is no interference with county business; and
  - 9. If the employee is not assigned a county desk phone the employee may use a county-owned mobile device in the same manner as a desk phone so long as it amounts to virtually no cost to the county, or if it results in additional cost for the county, the employee will reimburse the county for the added cost.
- D. Prohibited personal uses of county-owned mobile devices, except as provided above in MCPR § 3-37-050 (C), include but are not limited to:
  - 1. Making toll calls;

2. Sending or knowingly receiving personal emails or texts with large file attachments (more than 500 megabytes) e.g., graphics, photos or sound files;
  3. Uses which require significant data storage or data transmission (bandwidth) capacity; and
  4. Data streaming while using its mobile data plan.
- E. The following additional guidelines apply to employees' usage of county-owned mobile devices:
1. Employees will not use county-owned mobile devices if regular telephone service is available.
  2. Employees will avoid lengthy conversations on county-owned mobile devices. If an employee anticipates that a call will last more than a few minutes, the employee will arrange to call the person back from a regular telephone, to the extent possible.
  3. Employees will minimize use of county-owned mobile devices outside the home service area, to the extent possible.

### **§ 3-37-055 Confidentiality of Systems and Information**

- A. Various county, state and federal laws, rules, regulations and policies restrict access to and disclosure of confidential and sensitive data and information, such as Personally Identifiable Information (PII). Employees will not disclose or allow access to such sensitive and confidential information or data, except in accordance with county or departmental rules, practices or procedures. Employees with such access are responsible for the safekeeping and handling of their mobile devices to prevent unauthorized disclosure of financial, medical, and other personal client or employee information, or any confidential information contained in a system or on their personal mobile devices. The storing of PII (including but not limited to Personal Health Information (PHI)) on personal mobile devices is not allowed. Employees must immediately notify their manager and the IT Help Desk of any potential breach/unauthorized access to their mobile devices used for work purposes in accordance with Multnomah County Administrative Procedure PR 3-10-020 (Q).
- B. Electronic data should be transported or stored on mobile devices only as necessary to conduct County business. Employees are required to ensure that mobile devices are properly secured via password protection. This includes both personal mobile devices used for business purposes and county-owned mobile devices.

### **§ 3-37-060 Employee Privacy Expectations**

- A. Privacy expectations for use of county systems and work records on mobile devices used for work purposes are stated at MCPR § 3-35-045.
- B. Department Human Resources Units, Central Human Resources, and the County Attorney's Office may request reports detailing employee mobile device usage for county-owned mobile devices. These reports include information that specifies internet sites employees accessed or attempted to access, how long employees spent on internet sites, and copies of emails or similar messages sent and received, and phone numbers called or from which the employee received calls. Managers who believe they need access to usage reports shall contact their Department Human Resources Unit for approval to access such reports.
- C. Upon request, employees will provide to the County any work records on personal mobile devices and third party websites, including but not limited to emails, electronic documents, texts, chats, voice mails, and social media posts, whether or not the employee is compensated for its use per this rule, to the extent required by public records laws and other legal requirements. The county may use this information in disciplinary or other legal proceedings.

### **§ 3-37-065 Electronic Records Retention and Access**

Work-related electronic records existing on mobile devices used for work purposes, including personal mobile devices, are public records. As such, they are subject to the same laws and rules for public inspection and retention that apply to all other county records, including but not limited to the state public records laws and rules, County Executive Rules 300 and 301 and Multnomah County Administrative Procedure REC-1. Employees should refer to the retention schedules for their Department to determine what must be retained and what can be destroyed. [Retention schedules are at http://web.multco.us/records/retention-schedules](http://web.multco.us/records/retention-schedules).

## Rule 3-42

# Gender Identity and Gender Expression Harassment and Discrimination Free Workplace

### §§:

[3-42-010 Purpose](#)

[3-42-020 Policy](#)

[3-42-030 Definitions](#)

[3-42-040 Prohibited Conduct](#)

[3-42-050 Name/Pronoun](#)

[3-42-060 Gender Specific Facilities](#)

[3-42-070 Gender Specific Workplace Assignments and Duties](#)

[3-42-080 Appearance and Attire](#)

[3-42-090 Privacy](#)

[3-42-100 Official Records](#)

[3-42-110 Sick and Medical Leave](#)

[3-42-120 Transition](#)

[3-42-130 Retaliation](#)

[3-42-140 Reporting](#)

### § 3-42-010 Purpose

The county is committed to maintaining a workplace that is free of discrimination, harassment, or retaliatory conduct on the basis of gender identity or gender expression. It is committed to creating and maintaining an environment in which each person is respected and valued without regard to protected status.

This policy addresses conduct in the workplace and seeks to ensure appropriate workplace treatment so that all employees may perform their jobs free from discrimination, harassment, or retaliatory conduct. Volunteers and interns (paid or unpaid) are also covered by this policy.

### § 3-42-020 Policy

Multnomah County prohibits workplace discrimination, harassment, or retaliation on the basis of gender identity or gender expression. Discrimination, harassment, and retaliation are prohibited in the workplace, in any work-related setting outside the workplace, when wearing a uniform or insignia that identifies the individual as a County employee, and when using county owned equipment including vehicles and electronic devices such as computers, telephones, photocopiers and faxes.

Employees who violate this rule may be subject to disciplinary action, up to and including termination.



Every employee shares the responsibility for promptly bringing to the county's attention conduct that interferes with providing a work environment free of discrimination, harassment, and retaliation on the basis of gender identity or gender expression.

### § 3-42-030 Definitions

- **Cisgender:** A person whose gender identity aligns with the sex they were assigned at birth.
- **Gender:** Various traits, characteristics, and roles that a culture associates with or assigns to physical sex.
- **Gender Identity:** Every individual's internal, deeply held sense of one's gender, which may be the same or different from one's sex assigned at birth. One's gender identity may be male, female, neither or another gender, e.g., gender non-conforming or gender expansive. Gender identity is distinct from gender expression and from sexual orientation.
- **Gender Expression:** The representation of gender, as expressed through means such as one's name, gender pronouns such as "she, he, they, etc.", appearance, dress, haircut, behavior, mannerisms, voice, speech patterns, or body characteristics. Gender expression may not be distinctively male or female, may be perceived as masculine, feminine, neither, or both, and may not conform to traditional gender-based stereotypes presumed of specific gender identities.
- **Gender Non-Binary:** Having or being perceived to have a gender identity, gender expression, gender characteristics, and/or behaviors that do not conform to the traditional notions of societal expectations of the male and female gender binary. Non-binary people may or may not identify as transgender.
- **Gender Non-Conforming and Gender Expansive:** Individuals whose gender expression differs from traditional gender-based stereotypes. Gender non-conforming or gender expansive individuals may or may not identify as transgender, and vice-versa.
- **Transgender:** Individuals whose gender identity or gender expression is not that traditionally associated with their sex assigned at birth. Used to describe people with a broad range of identities or expressions. In addition to individuals who identify as MTF (male to female, or transgender women) or FTM (female to male, transgender men), individuals who identify as androgynous, gender queer, non-binary, gender non-conforming, or other identities may also consider themselves to be transgender. Some individuals described by this definition don't consider themselves transgender, and may use other words, or may identify simply as a man or woman.
- **Transgender Man:** A person who identifies as male, but was assigned female at birth.
- **Transgender Woman:** A person who identifies as female, but was assigned male at birth.
- **Transitioning Employee:** An employee who is in the process of beginning to live as the gender with which they identify rather than the sex they were assigned at birth. There are many different ways to transition; for some people, it is a complex process that takes place over a long period of time, while for others it is a process that happens

more quickly. Transition may include "coming out" (telling family, friends, and coworkers); changing one's name and/or sex on legal documents; and, for many transgender people, accessing medical treatment such as hormones and surgery.

### **§ 3-42-040 Prohibited Conduct**

#### **A. Verbal or Physical Conduct:**

1. Consistent or deliberate failure or refusal to use an employee's declared name and/or pronoun;
2. Use of epithets or slurs because of gender identity and/or gender expression;
3. Jokes, pranks or other banter that is derogatory or hostile because of gender identity and/or gender expression;
4. Unwelcome physical touching or contact such as pinching, grabbing, patting or touching, hugging; threatening, intimidating, or hostile acts because of gender identity and/or gender expression.

#### **B. Written or Graphic Material:** Material that is disparaging of or displays hostility on the basis of gender identity and/or gender expression, and is visible on the employer's premises or circulated in the workplace. This includes sending prohibited jokes or other written or graphic materials via e-mail, the internet or by fax, or downloading them from the internet.

### **§ 3-42-050 Name/pronouns**

County employees are entitled to be referred to by their declared name and pronoun. If an employee indicates a declared name and/or pronoun to their supervisor and/or Human Resources, all county employees will be expected to address the employee by their declared name/pronoun.

### **§ 3-42-060 Gender Specific Facilities**

Discrimination, harassment, or retaliation against a transgender, gender non-conforming, or gender expansive individual in their use of gender-specific facilities corresponding to their gender identity or gender expression is prohibited. Employees are entitled to use a bathroom facility that corresponds to their gender identity and/or gender expression.

Departments will make reasonable efforts to provide private shower and changing areas in locker rooms and other similar facilities using stalls or curtains. If private changing areas are not possible, departments will make reasonable efforts to identify alternative accommodations that maintain the respect and dignity of the employee.

### **§ 3-42-070 Gender Specific Workplace Assignments and Duties**

For gender-specific job assignments (including sleeping arrangements), transgender, gender non-conforming, and gender expansive employees will be classified and assigned in a manner consistent with their gender identity and/or gender expression, not their sex assigned at birth.

Employees are entitled to use facilities and shared spaces which correspond to their gender identity and/or gender expression. Reasonable efforts will be made to provide access to facilities to ensure an employee's privacy, dignity, and respect.

### **§ 3-42-080 Appearance and Attire**

An employee's appearance and attire must be appropriate and suitable for their work at the County. This may vary between departments or work areas, depending on the nature of the work, environment, and interaction with the public and customers. Employees are permitted to dress consistent with the appearance and attire standards for their department, division, work areas, and/or partner organizations (e.g. state Circuit Court) that correspond with their gender identity and/or gender expression.

### **§ 3-42-090 Privacy**

Transgender, gender non-conforming, and gender expansive employees have the right to discuss their gender identity and/or gender expression openly, or to keep that information private. Employees should only discuss another employee's gender identity and/or gender expression with others after receiving permission from the employee. A person's gender identity is private medical information that may be protected under federal laws, such as the Health Insurance Portability and Accountability Act (HIPAA).

### **§ 3-42-100 Official Records**

The county will, in a timely manner, change an employee's official record to reflect a change in name or sex upon request from the employee. Certain types of records, such as those relating to payroll and retirement accounts, may require a legal name change before the employee's official name of record can be changed.

The County will, in a timely manner, make reasonable efforts to update any photographs, ID documents, directories, email accounts and public facing materials associated with a transitioning employee's workplace so that the transitioning employee's gender identity and/or expression are represented accurately.

### **§ 3-42-110 Sick and Medical Leave**

Employees receiving medical treatment as part of a gender transition may use otherwise-qualifying sick leave under the applicable collective bargaining agreement or the Personnel Rules. Eligible employees who qualify under the Family Medical Leave Act (FMLA) and/or the Oregon Family Leave Act (OFLA) may be entitled to take medical leave for transition-related needs of themselves or their families.

### **§ 3-42-120 Transition**

Some employees elect to transition from living and working as one gender to another gender. Some of these individuals may seek medical treatment such as counseling, hormone therapy,

electrolysis, and/or gender confirmation surgery; others however, may not pursue any form of medical treatment. Not all transgender, gender non-conforming, and gender expansive individuals follow the same path/pattern, but all are entitled to respectful treatment as they undertake the transition steps deemed appropriate by them. Employees who transition on the job may expect the support of management and human resources staff; human resources staff will work with each transitioning employee individually to facilitate their workplace transition.

### **§ 3-42-130 Retaliation**

The county will not tolerate retaliation against any individual who reports discrimination or harassment, or testifies, assists, or participates in any manner in such an investigation, proceeding, or hearing, regardless of the outcome of the harassment complaint. Examples of retaliation include, but are not limited to, demotion, suspension, failing to hire or consider hiring, failing to treat impartially when making employment related decisions, and assigning the individual the least desirable jobs.

### **§ 3-42-140 Reporting**

- A. Employees are expected to promptly report perceived violations of this rule.
- B. Complaints may be submitted orally or in writing. A complainant may also include a suggested method of resolution.
- C. A violation of these rules may be reported to:
  - 1. Any manager;
  - 2. Department human resources representative;
  - 3. Multnomah County Chief Human Resources Officer (CHRO); or
  - 4. Office of Diversity and Equity (ODE). Department Directors will inform their employees of the names of additional department staff who employees may contact to file a workplace discrimination, harassment, or retaliation complaint. Department Directors may also establish additional procedures that are consistent with this Rule for the handling of such complaints.
- D. The individual who receives the complaint may, but is not required to, discuss options for informally resolving the complaint with the complainant.
- E. All complaints will be thoroughly and promptly investigated. Confidentiality will be maintained to the extent permitted by the circumstances.
- F. The individual making the complaint and the accused will be notified of the results of the investigation, and whether action will be taken. Immediate action will be taken in situations where prohibited harassment or discrimination occurred.

## **Rule 3-45**

### **Violence-free Workplace**

**§§:**

[3-45-010 Preamble](#)

[3-45-020 Policy](#)

[3-45-030 Definitions](#)

[3-45-035 Applicability](#)

[3-45-040 Prohibited Conduct](#)

[3-45-050 Examples of Prohibited Conduct](#)

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[3-45-090 Reporting](#)

[3-45-100 Departmental Plans for Preventing and Responding to Workplace Violence](#)

#### **§ 3-45-010 Preamble**

The county is committed to providing its employees with a workplace free of hostility, intimidation, harassment and other unacceptable violent behavior. This includes a work environment supportive of employees who are victims of domestic violence.

Every employee has responsibility for promptly reporting conduct that interferes with providing a workplace free of violence. The county expects employees to talk with their managers about any workplace violence they experience or observe regardless of its origin. Managers will take appropriate action to maintain a safe work environment.

#### **§ 3-45-020 Policy**

The county's policy is to prohibit threatening and violent behavior in the workplace. Employees are prohibited from making threats, intimidating or engaging in acts of violence against other employees or members of the public, including intimate partners or family members, using county resources or in the workplace. Appropriate action will be taken when clients, customers, contractors and visitors make threats, intimidate or engage in acts of violence against employees.

Employees are prohibited from misusing their job related authority or county resources to provide another individual with information relating to domestic violence victims.

Employees may not possess deadly weapons in the workplace, on county premises or while at work unless authorized for work related purposes.

Employees who violate this rule are subject to discipline.

Managers who violate this rule will be held to a higher standard.

### § 3-45-030 Definitions

- **Deadly weapon:** Any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury, including explosive devices or materials.
- **Direct threat:** Identifies a specific act against a specific target and is delivered in a straightforward, clear, and explicit manner. For example, "I'm going to hurt you and everyone in this building!"
- **Domestic violence:** Abusive behavior that may be physical, sexual or psychological intended to establish and maintain control over an intimate partner or household member.
- **Intimate partner and household member,** for purposes of MCPR § 3-45, include a parent, child, grandparent, adult relative, or the other parent of a minor child; persons legally married to one another; persons formerly married to one another; domestic partners; former domestic partners; persons who have a child in common, regardless of whether such persons are married or have lived together at any time; unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; and persons who are currently or have previously dated each other.
- **Indirect threat:** tend to be vague, unclear, and ambiguous. The plan, the intended victim, the motivation, and other aspects of the threat are masked or equivocal. They also suggest that violence "could" occur unlike a direct threat that indicates violence "will" occur. For example, "If I wanted to, I could hurt you and everyone in here!"
- **Threat:** An expression of, or the perception of, an intent to cause physical or psychological harm.
- **Workplace violence:** Any act of physical, verbal, or written aggression by an individual or by a group that occurs in the workplace or arises out of work activities and relationships, that causes or would cause a reasonable person to be put in fear of bodily injury, or that causes or could cause the destruction of property. This includes the infliction of bodily injury or the attempt to inflict bodily injury, harmful physical contact or the attempt to make harmful physical contact, and the abuse or destruction of property or the attempt to abuse or destroy property. "Violence" or "violent behavior" includes verbal threats, written threats, and behavior that intimidates or frightens a reasonable listener, reader, or bystander.

### § 3-45-035 Applicability

This rule applies to all activities in the workplace and when using county owned equipment, including vehicles, computers, telephones, photocopiers and faxes.

This rule does not apply to actions that are a lawful part of a county employee's authorized job responsibilities or as authorized by ORS 161.190 to 161.275. Threats are permissible where law authorizes use of force.

### **§ 3-45-040 Prohibited Conduct**

The following conduct is prohibited:

- A. An act of workplace violence.
- B. Bringing deadly weapons to a workplace, possessing deadly weapons while there, including in vehicles parked at a workplace. This applies to employees even if they have a concealed handgun permit. It does not apply to law enforcement personnel, corrections officers, security officers or other persons authorized to possess or store weapons in vehicles for purposes related to their county employment.
- C. Employees are prohibited from possessing firearms in a public building while on duty, unless authorized for work related purposes. ORS 166.370 prohibits the possession by any person of firearms, whether loaded or unloaded, in a public building, with certain exceptions; a violation of ORS 166.370 is a violation of this rule.
- D. Misuse of job related authority or county resources to negatively affect domestic violence victims, assist an abuser in locating a domestic violence victim, to commit an act of domestic violence, or interfering with service of a court order or police response to an incident of workplace violence.

### **§ 3-45-050 Examples of Prohibited Conduct**

- A. Harassing, surveillance or stalking.
- B. Harassing or threatening phone calls, letters or other forms of written or electronic communications.
- C. Hitting, pushing, spitting on someone, obscene or threatening gestures, acts of physical intimidation such as standing inappropriately close to someone or pointing a finger close to someone's face.
- D. Placing objects of intimidation in or near someone's work area.
- E. Threats by county employees in the workplace.
- F. Threats against county employees in the workplace.
- G. Throwing objects at someone.
- H. Touching someone in anger.
- I. Abuse or destruction of property or the attempt to abuse or destroy property.

J. Assisting an abuser to locate a domestic violence victim using county resources.

**§ 3-45-060 Sanctions**

Employees who engage in threatening or violent behavior in violation of this rule may be subject to discipline up to and including dismissal. In addition, violations of this rule may be referred to law enforcement authorities.

**§ 3-45-070 Retaliation Prohibited**

Retaliation against county employees or others who report a threat or violent incident; provide good faith, truthful testimony, assistance; or participate in any manner in an investigation, or hearing resulting from a report of workplace violence is prohibited. Employees who engage in retaliatory conduct are subject to discipline.

**§ 3-45-090 Reporting**

A. Employees experiencing or witnessing violent or threatening behavior by a co-worker, contractor, or member of the public shall immediately take the following actions:

1. In situation of imminent danger, employees who can safely do so should leave the area; and
2. Immediately call 911 and report the instance to the police and follow any direction provided to you by them; and
3. Notify your manager of the incident; and
4. Notify Facilities Maintenance (FM) Dispatch by phone.
5. No employee should take any action that risks personal safety or the safety of others.

B. In the event of a threat by phone, employees should:

1. Remain calm;
2. Listen carefully;
3. Try to document what the person is saying;
4. Try to determine who the threat is being made against and why;
5. Try asking them their name; and
6. Follow the actions outlined above in section § 3-45-090 (A).

C. Other violations of this rule may be reported to:



1. Any manager;
  2. Department human resources representative;
  3. Multnomah County Chief Human Resources Officer (CHRO); or
  4. Risk Management. Reports may be submitted orally and in writing as soon as possible. Domestic violence that occurs at work also may be reported to the county's domestic violence coordinator. In situations of imminent danger, employees who can safely do so should leave the area and call the police. No employee should take any action that risks personal safety or the safety of others.
- D. Supervisors-receiving reports of workplace violence will immediately notify the county safety officer and their department human resources manager. Appropriate measures will be taken to maximize safety of employees and the public. The county safety officer will direct investigations of workplace violence incidents unless the department has its own investigation procedures. All reports will be promptly investigated and appropriate action taken by the department.
- E. Employees will cooperate and assist in investigations of reports of workplace violence.
- F. Violations will be investigated in a manner that is appropriate for the seriousness of the incident. Action may be taken to remove the offending individual from the workplace as quickly as safety permits.
- G. Persons involved in an incident may be advised of the results of an investigation on a need-to-know basis.
- H. Managers will assess whether the actions that led to the reported violation of this rule could constitute discrimination or harassment based upon race, color, sex, age, religion, national origin, political affiliation, marital status, sexual orientation, gender identity, source of income, familial status, or physical or mental disability or other protected status.

### **§ 3-45-100 Departmental Plans for Preventing and Responding to Workplace Violence**

- A. Central HR will provide departments with a model implementation plan. Departments may develop a plan to prevent and respond to incidents of threats or violence or adopt the model plan.
- B. Department plans may include procedures consistent with this Rule for reporting and investigating allegations of workplace violence. Departmental procedures for investigating incidents of workplace violence will supersede the investigating procedures of this Rule.

C. Departments will publicize to their employees any additional procedures they adopt for reporting and investigating violations of this rule.

## Rule # 3-47

### Maintaining a Professional and Respectful Workplace

§§:

[§ 3-47-010 Purpose](#)

[§ 3-47-020 Definitions](#)

[§ 3-47-030 Policy](#)

[§ 3-47-040 Reporting](#)

[§ 3-47-050 Retaliation](#)

#### § 3-47-010 Purpose

This policy affirms the county's commitment to providing a work environment that is respectful, professional, safe, accepting of cultural differences, and free from inappropriate and abusive workplace behavior. Volunteers and interns (paid or unpaid) are also covered by this policy.

#### § 3-47-020 Definitions

**Professional Workplace Behavior:** Action and conduct that supports the values and mission of the county and builds positive relationships with others, including respectful communications and accountability for maintaining a professional workplace.

**Inappropriate and/or Abusive Workplace Behavior:** Unwelcome or unwanted conduct or behavior that objectively causes a negative impact or disruption to the workplace or the business of the county, or results in the erosion of employee morale and that is-not associated with an employee's protected class status under federal, state or county laws or regulations. Protected classes are enumerated in MCPR § 3-40-020.

1. Examples of inappropriate workplace behavior include, but are not limited to, comments or behaviors to or from an individual or group that disparage, demean, threaten, intimidate, humiliate, abuse authority, sabotage work, or show disrespect for another employee, supervisor/manager, subordinate, customer, contractor or visitor in the workplace, unless otherwise protected by law. The reasonable person standard shall be applied when determining whether this policy has been violated.
2. Inappropriate workplace behavior *does not* include:
  - a. Counseling, disciplinary discussions or job performance evaluations, including constructive critique, coaching and feedback regarding an employee's conduct or work performance [whether between supervisor(s), managers(s) and/or co-workers(s)]; and/or
  - b. A direct or assertive style, including high workplace expectations; and/or

- c. Legitimate responses to situations that require immediate action and may require a stern and frank conversation;
- d. Differences of opinion and non-aggressive conflicts and problems in working relations; and/or
- e. Legitimate law enforcement activities.

### **§ 3-47-030 Policy**

A. Employees at every level of the county are personally responsible for creating and maintaining a work environment that is respectful, professional and free from inappropriate and abusive workplace behavior.

#### **B. Conduct**

Employees at every level of the county should foster an environment that encourages professionalism and does not tolerate disrespectful and abusive behavior. All employees are expected to behave respectfully and professionally.

#### **C. Addressing Inappropriate Workplace Behavior**

1. Managers or supervisors should address inappropriate behavior that they observe, experience, or become aware of, and should do so as close to the time of the occurrence as possible and appropriate.
2. If an employee observes or experiences inappropriate workplace behavior and the employee feels comfortable in doing so, they should directly address the behavior by:
  - a. Redirecting inappropriate conversations or behavior to workplace business; and/or
  - b. In a private setting, telling an offending employee his/her behavior is offensive and asking him/her to stop.
3. If an employee observes or experiences inappropriate workplace behavior and does not feel comfortable addressing the issue directly with the person who is exhibiting the behavior, he/she should report the situation as outlined in MCPR § 3-47-040.

#### **D. Responding to a Report of Inappropriate Workplace Behavior**

Inappropriate workplace behavior must be addressed and corrected before it becomes pervasive, causes further workplace disruption or lowers employee morale. Unless the county decides it is not necessary, the inappropriate workplace behavior must be investigated as soon as possible by the supervisor, Human Resources or a county designee.

## E. Consequences

1. Any employee found to have engaged in workplace behavior that violates this policy will be counseled, or depending on the severity or frequency of the behavior, may be subject to discipline, up to and including dismissal.
2. A supervisor who fails to address inappropriate behavior will be counseled, or, depending on the severity or frequency of the behavior, may be subject to disciplinary action, up to and including dismissal.
3. Any volunteer or intern (paid or unpaid) found to have engaged in workplace behavior that violates this policy will be coached, or depending on the severity and/or frequency of the behavior, may be dismissed from their volunteer assignment or internship.

### **§ 3-47-040 Reporting**

- A. All employees who experience, observe or are aware of a potential situation that violates this policy are strongly encouraged to (1) raise the issue with the person(s) involved in a private setting as close to the time of the occurrence as possible and appropriate and/or (2) report the situation to their supervisor as soon as practicable. If the employee's immediate supervisor is the one engaging in the inappropriate behavior, the employee may report the behavior to the manager's supervisor, Human Resources, or the Office of Diversity and Equity. The report may be made orally or in writing, and should include the specific incident(s) that gave rise to the complaint, the impact of the incident(s), and provide enough information to investigate the alleged violation(s) properly.
- B. Reporting behavior or conduct directed toward an employee because of his/her protected class status is addressed in MCPR § 3-40, Discrimination and Harassment-Free Workplace.

### **§ 3-47-050 Retaliation**

- A. The county will not tolerate retaliation against any employee who reports known or suspected violations of this policy or who participates in any investigation of a complaint.
- B. Employees who believe they are being retaliated against in violation of this policy should report the complaint as outlined in MCPR § 3-47-040.
- C. The county will investigate reports of retaliation. Any employee found to have engaged in retaliation may be subject to discipline, up to and including dismissal

**Rule # 3-50**

**OUTSIDE EMPLOYMENT**

**(Moved to PR 3-30)**

## Rule 3-55

### Use and Misuse of Leave for Sick Leave Purposes

§§:

[3-55-005 Purpose](#)

[3-55-010 Policy](#)

[3-55-015 Verification of Use](#)

[3-55-020 Discipline](#)

[3-55-030 Exercise of Protected Sick Leave Rights](#)

[3-55-040 Retaliation](#)

#### § 3-55-005 Purpose

This rule is intended to improve productivity by providing better tools to manage poor attendance; to minimize costs associated with employee absences due to sick leave; to maintain overall county morale by ensuring each employee meets his/her own work requirements; and to ensure the expectations of supervisors and employees regarding sick leave use are consistent across all county departments. This rule applies to all classified and non-represented employees and does not amend or supersede any collective bargaining agreement.

#### § 3-55-010 Policy

The County provides for sick leave as outlined in MCPR § 2-45. Protected sick time is limited to the first forty (40) hours of sick leave taken by an employee each calendar year. Sick time taken in excess of forty (40) hours each calendar year is considered regular sick time. Reliable and consistent attendance is an expectation of all county employees. Employees must only use sick leave for legitimate purposes and only for bona fide illness, as defined either by their collective bargaining agreement or these rules.

#### § 3-55-015 Verification

- A. Pursuant to Multnomah county policy, management must require the completion of a certification form by the employee's health care provider and any other verification required under the provisions of the FMLA, OFLA, or their successors.
- B. Management may require medical verification of absence for non-FMLA and non-OFLA covered illness or injury under the following conditions:
  1. The employee has been absent for more than three days; or
  2. The employee has requested sick leave that is scheduled to last more than three (3) scheduled work days; or
  3. The employee has exhausted all sick leave; or

4. The employee commences sick time without providing prior notice required by the County; or
  5. Management reasonably believes that the absence may not be bona fide including engaging in a pattern of sick leave abuse.
  6. If medical verification is requested, the County will pay any and all reasonable costs associated with obtaining medical verification.
- C. Medical verification may be required for regular sick leave taken in excess of protected sick leave under the following conditions:
1. The employee has been absent for more than three days; or
  2. The employee has exhausted all sick leave; or
  3. The employee has had five or more events with less than twenty-four (24) hours-notice in a six (6) month period; or
  4. Management reasonably believes that the absence may not be bona fide.

### **§ 3-55-020 Discipline**

Subject to the limitations of law, including but not limited to those of the Oregon Sick Leave Law, FMLA, OFLA, and the ADA and its amendments, discipline up to and including termination may be imposed under the following conditions:

- A. Abuse of sick leave: Misuse of leave, violation of orders, directives, personnel rules or contractual requirements concerning the use of sick leave and other forms of leave used in lieu of sick leave are cause for disciplinary action up to and including termination.
- B. Use of accrued sick leave: Use of accrued sick leave, without abuse of such leave, will not be cause for discipline.
- C. Excessive absenteeism: The parties recognize that every employee has a duty to be reliably present at work, and that failure to confine sick leave usage to accrued and available sick leave raises the possibility of discipline up to and including termination for excessive absenteeism. Such cases, however, are subject to just cause review and require systematic examination of relevant factors, including but not limited to:
  1. Any legal requirements, including, but not limited to those of the Oregon Sick Leave Law, FMLA OFLA, or the ADA and its amendments.



2. The tenure and work history of the employee, specifically to include whether there have been previous instances of this pattern of absenteeism.
3. Whether there is a likelihood of improvement within a reasonable period of time based on credible medical evidence.
4. The particular attendance requirements of the employee's job.
5. The pattern of use, and whether the absences are clearly for bona fide sick leave purposes.

**§ 3-55-030 Exercise of Protected Sick Leave Rights**

The County will not count appropriate and lawful absences covered under protected sick leave as an absence that may lead to or result in an adverse employment action against the employee.

**§ 3-55-040 Retaliation**

The County will not tolerate the interference with, restraint of, or denial of the exercise of, or the attempted exercise of, "protected sick leave" as defined in MCPR § 2-45; the County will not tolerate retaliation or discrimination against an employee because the employee has exercised their rights of protected sick leave.

## **Rule # 3-60**

### **Discipline and Dismissal**

**§§:**

[§ 3-60-010 Purpose](#)

[§ 3-60-020 Policy](#)

[§ 3-60-030 Authority for Disciplinary Action](#)

[§ 3-60-040 Causes for Disciplinary Action](#)

[§ 3-60-050 Forms of Disciplinary Action](#)

[§ 3-60-060 Notification Procedures](#)

[§ 3-60-070 Format and Procedures for Disciplinary Action](#)

[§ 3-60-080 Volunteers and Interns \(Paid and Unpaid\)](#)

#### **§ 3-60-010 Purpose**

This rule provides supervisors with an orderly administrative procedure for actions imposing discipline and dismissal that incorporates the requirements of collective bargaining agreements, MCC Chapter 9 and other applicable law. This rule does not amend or supersede the disciplinary or grievance procedures set out in MCC Chapter 9 or the collective bargaining agreements. This rule applies only to classified employees except as otherwise specified. See § 3-60-080 for volunteers and interns (paid and unpaid).

#### **§ 3-60-020 Policy**

Supervisors must fairly administer provisions governing discipline for violations of work and conduct rules. They are also responsible for dismissing employees who do not maintain acceptable standards of performance or conduct.

#### **§ 3-60-030 Authority for Disciplinary Action**

Supervisors are authorized to impose discipline, as listed below, unless a Director has specifically removed that authority in writing. Delegation of authority for disciplinary actions is as follows:

- A.Oral and Written Reprimands: Immediate supervisor
- B.Demotions, Suspensions, and Reductions in Pay: Reviewing supervisor
- C.Dismissals: Supervisor who is an Executive employee.

This authority may be delegated in writing. Copies of delegations must be distributed to executive employees, and the Chief Human Resources Officer. This authority may be amended in writing at any time.

### **§ 3-60-040 Causes for Disciplinary Action**

County employees are subject to disciplinary action for cause and any violation of county rules.

### **§ 3-60-050 Forms of Disciplinary Action**

Unless prohibited by a collective bargaining agreement, any of the following disciplinary action may be imposed. Other forms of disciplinary action may be imposed subject to the approval of Central HR. No FLSA exempt employee is subject to discipline by suspension without pay for increments of less than full workweeks, unless it is discipline for a major safety violation which may be for less than a full workweek, nor to a reduction in pay.

- A. Oral reprimand
- B. Written reprimand
- C. Suspension without pay
- D. Demotion
- E. Reduction in pay
- F. Dismissal
- G. Any combination of the above.

### **§ 3-60-060 Notification Procedures**

#### **A. Notice of Proposed Discipline**

Except in the instance of oral or written reprimands, an employee will be notified of specific charges, the key elements of the evidence that support such charges, and the specific disciplinary action proposed before discipline may be imposed by the supervisor. The notice of proposed discipline must also include the employee's right to respond to the charges orally and in writing, and provide the date, time and place for the oral response. This notification will be in writing except that employees may be immediately suspended without written notice of proposed action when the supervisor deems that the employee's continued presence in the work place presents a safety or security hazard to the employee, coworkers, or the employer.

#### **B. Discipline**

Except for oral reprimands, notice of discipline must be mailed to the appropriate collective bargaining agent and delivered to the affected employee or last known mailing address by the date the discipline is to be imposed. If the discipline is a suspension, reduction in pay, demotion or discharge, the letter of notice to the employee will be either sent by certified mail/return receipt requested or hand delivered with a dated written receipt.

### § 3-60-070 Format and Procedures for Disciplinary Action

A. **Letter Content:** Letters of discipline will include sufficient information to inform the employee of the nature of the discipline, the grounds for the action, and the specific facts upon which the action is based. Generally, letters should contain the following information, as appropriate:

1. Action: The nature of the discipline imposed, e.g., suspension without pay.
2. Effective Date of Action: e.g., date a suspension begins, or an employee is dismissed.
3. Grounds: The charge against the employee, e.g., just cause.
4. Background: Includes such matters as length of service, prior warnings, prior discipline, other notice given to the employee of management's expectations or standards, training relevant to the charges, relevant policies or rules, and other pertinent information.
5. Supporting Facts, e.g., "You were witnessed leaving the work site, etc."
6. A description of future behavioral expectations including the consequence of further misconduct or non-performance.
7. For pre-dismissal hearings, the pre-dismissal process.
8. Conclusion, including:
  - a. A description of future behavioral expectations including the consequence of further misconduct or non-performance.
  - b. A statement of the employee's appeal rights.
  - c. A statement of the right to respond in writing within 10 days and to have that response placed in the personnel file. (Non-represented only.)
9. The signature of the supervisor with authorization to impose disciplinary action, or of the Director.
10. A notation of all copies furnished, including:
  - a. Employee's department personnel file
  - b. Collective bargaining representative
  - c. Department HR Manager
  - d. Central HR Manager

**B. Privacy:** Every reasonable effort will be made to impose discipline in a manner that will not embarrass the employee before other employees or the public.

**C. Appeals:** Any represented employee has the right to appeal any discipline other than an oral reprimand in accordance with the terms of the collective bargaining agreement.

**D. Imposition of a Lesser Discipline:** Where there is a decision to impose a lesser discipline, two letters will be prepared:

1. The first will state that the earlier discipline is withdrawn and a lesser form of discipline is anticipated;
2. The second will impose the lesser discipline without reference to the withdrawn disciplinary action.  
After it is issued, the employee has the right to appeal the lesser disciplinary action unless it was imposed as part of a written settlement agreement involving the employee, Central HR and, if appropriate, the collective bargaining representative.

**E. Withdrawal of Charges:** Supervisors may withdraw or modify any of the above disciplinary actions by notifying, in writing, all those originally notified. When charges are withdrawn, the copy of the notice of discipline in the personnel file will be destroyed. Central HR will retain a notated copy in case of litigation.

**F. Imposition of More Serious Discipline Based on New Information:** If new facts are discovered during the disciplinary process that would result in the imposition of a more serious discipline than that originally proposed, a new notice must be sent to the employee incorporating the new facts as an additional basis for discipline, and giving the employee the opportunity to refute the new facts and charges.

### **§ 3-60-080 Volunteers and Interns (Paid and Unpaid)**

Volunteers or interns (paid or unpaid) found to have violated county rules and/or department policies and procedures will be coached, or depending on the severity and/or frequency of the violations, may be dismissed from their volunteer assignment or internship.

## Rule # 3-65

### Telework

§§:

[§ 3-65-010 Purpose](#)

[§ 3-65-020 Definitions](#)

[§ 3-65-030 Eligibility](#)

[§ 3-65-040 Policy](#)

[§ 3-65-050 Procedures](#)

[§ 3-65-060 Termination or Suspension of Telework Agreement](#)

#### § 3-65-010 Purpose

Telework is a management tool that may be used to increase productivity and morale of employees, boost efficiency in the use of space, reduce operational costs, lessen the environmental impact of vehicle travel, and accommodate special needs of employees. By having a telework policy, Multnomah County strives to be an example of how telework can enhance organizational and operational efficiency while enhancing the quality of life in Oregon.

The county encourages the use of telework in situations where it will be to the mutual benefit of employees, the county, and the county's stakeholders. Telework is not an employee benefit intended to be available to all county employees, rather, it is one of several work options used at the supervisor's discretion, such as flexible work schedules and job sharing. The purpose of this rule is to define telework guidelines and procedures.

#### § 3-65-020 Definitions

**Ad Hoc Telework:** Identified as occasional telework.

**Home Office:** A work site provided by the employee in the employee's residence.

**Official Workstation:** An employee's assigned place of work or duty station at a county location.

**Regular Office Hours:** The agreed upon set of hours during the day when the supervisor and co-workers can always communicate with the teleworker.

**Routine Telework:** Telework which is a regular and recurring part of an employee's work schedule.

**Telework:** Mutually agreed upon work arrangement between the county and the employee where the employee performs work at an alternate worksite on specified days and at the employee's regular worksite the remainder of the time retaining flexibility as necessary to meet the needs of the work unit.

**Telework Agreement:** A written agreement between the county and the employee outlining the work schedule, duties, and performance standards for the teleworking employee. A model Telework Agreement is attached to this Personnel Rule and is incorporated herein by reference.

**Telework Site:** A workplace other than the employee's regular work location that is approved by the employee's supervisor as suitable for teleworking.

**Telework Site Safety Checklist:** The checklist required to assess risk hazards of the telework site prior to supervisor approval of a Telework Agreement. It is the teleworker's self assessment of workspace hazards designed to address and resolve deficiencies, so the space can be designated by the county as a county worksite. The Telework Site Safety Checklist is attached to this Personnel Rule and is incorporated herein by reference.

### **§ 3-65-030 Eligibility**

- A. An employee is eligible for telework with the approval of the employee's supervisor and the Department Director provided their job requires minimal direct supervision and face-to-face interaction or where such interaction can be scheduled successfully to permit teleworking. Each telework assignment should be reviewed for costs and benefits, such as the nature of the job, equipment requirements and expected results. The telework assignment should not create additional costs, risk, or hardship to the county.
- B. Supervisors shall use the following guidelines in selecting employees for telework:
  - 1. The employee can accomplish their job without being on the premises for an agreed upon portion of the employee's regular work schedule without detrimental impact on the productivity of the work group.
  - 2. Clear work objectives can be set, tasks can be clearly defined, and results are measurable.
  - 3. The employee can provide the appropriate equipment in the telework site including, at minimum, a telephone where the employee can be reached regularly, a computer that has internet access and is compatible with county software, a suitable workspace, and other equipment as appropriate to the employee's job.
  - 4. The employee shall have demonstrated, to the supervisor's satisfaction, their capability to work productively without direct supervision. Indicators include consistent high performance, excellent attendance, a positive attitude toward assigned work, self motivation, and no relevant discipline problems in the employee's work history.
  - 5. Unless telework is mandated as a part of their position description, the employee shall have indicated a willingness to participate in telework to the supervisor.

6. The employee has completed any probation or trial service periods for their position or has demonstrated successful competency in the essential functions of their position.
7. Not all county computer systems are available using the county's Virtual Private Network (VPN) or outside normal business hours. Supervisors shall take this into consideration when approving telework for employees.

### **§ 3-65-040 Policy**

#### **A. Prior Authorization**

Employees are not authorized to telework without prior written approval of their supervisor. If employees are assigned Routine Telework, employees must also receive prior written approval by their Department Director or designee.

#### **B. Departmental Policies**

Each county department is responsible for determining the positions within the department that are appropriate for telework and for developing department specific policies on telework to supplement this Personnel Rule as necessary.

#### **C. Telework Agreement for Routine Telework**

1. Routine Telework will be permitted for employees only under the terms of a written Telework Agreement (see attached model agreement) reached between the employee and the employee's supervisor and approved by the Department Director. The model Telework Agreement may require modification by Department Human Resources units to fit individual employee circumstances. Employees who have been previously assigned Routine Telework prior to the implementation of this Personnel Rule must complete the Telework Agreement and all of the requirements therein.
2. Telework is not an employee right and Telework Agreements shall be entered into voluntarily by both the employee and the county. Unless otherwise provided in the Telework Agreement, either the county or the employee may discontinue the telework arrangement at any time and for any reason.
3. The Telework Agreement must clearly outline the following:
  - a. Telework schedule: The employee's work schedule shall be outlined and be in compliance with wage and hour laws, county Personnel Rules, and any applicable collective bargaining agreement. The Telework Agreement must specify which hours the employee will work on county premises and which hours will be worked off county premises.
  - b. Location: The location of the telework site must be stated. If the location for the telework site will be a location other than a home office, the



teleworker must receive approval from the supervisor to use the location as the telework site. The supervisor must consult with their Department Human Resources unit and Risk Management if there is any question regarding the appropriateness of the location as a telework site.

- c. Accessibility: The means by which the employee can be reached during off-premises work.
- d. Evaluation: The criteria that will be used to evaluate the success of the telework assignment and how often the telework assignment will be evaluated. At a minimum, the Telework Agreement must be evaluated by the supervisor with the employee on a biannual basis, but it is encouraged that the evaluation occur on a quarterly or monthly basis. This evaluation is in addition to the regular and consistent monitoring of the employee's telework assignments.
- e. Use of county resources: Any county owned resources the employee will use off-premises and the terms and conditions under which such resources will be used.
- f. Use of employee's resources:
  - 1. Any employee resources that will be used and the costs that will be compensated by the county. Generally, however, the county does not reimburse costs associated with teleworking and any reimbursements must meet the requirements in § 3-65-040(J) below.
  - 2. Employee must sign an acknowledgement that usage of their personal property is subject to public records law, as well as other state and federal laws, such as Health Insurance Portability and Accountability Act (HIPAA), that may require the employee to grant the county full access to their personal property for inspection and duplication of the information contained in the property.
- g. Telework Safety Checklist: Affirmation the employee has conducted a self assessment of the risk hazards of the telework site and that the supervisor has worked collaboratively with the employee to address any areas of concerns.

#### D. Ad Hoc Telework

- 1. Supervisors may approve Ad Hoc Telework to allow employees to work at home for reasons that are inclusive of the policy's purpose as defined in § 3-65-010.

Employees shall not be authorized to perform Ad Hoc Telework as a dependent care accommodation.

2. Ad Hoc Telework will be permitted with the authorization of the employee's supervisor, subject to the Department Director's or designee's review, on a case by case basis. The terms of Ad Hoc Telework may be clarified in a written agreement.
3. If an employee performs telework on a regular rather than on an occasional basis, the telework then becomes Routine Telework and a Telework Agreement must be entered into.

#### E. Terms of Employment

1. Telework does not otherwise alter the basic terms and conditions of employment including wages, overtime compensation, insurance benefits, paid leave, salary reviews, workers compensation, etc.
2. County and departmental policies, rules, and practices shall apply at the telework site, including, but not limited to, those governing communicating internally and with the public, employee rights and responsibilities, facilities and equipment management, financial management, information resource management, purchasing of property and/or services, security and confidentiality of data, and safety.

#### F. Work Hours and Accessibility

##### 1. Work Hours and Scheduling

- a. Telework arrangements must comply with any applicable collective bargaining agreement and state and federal laws including wage and hour laws which regulate the payment of overtime for non-exempt employees. This includes the scheduling of rest and meal breaks even while the employee is working at a telework site.
- b. Employees must receive advance approval from their supervisor for any overtime work or flexing of their telework schedule. Employees must also report to their supervisor any absences from duty during telework hours in the same manner as if they were scheduled to be at their assigned duty station.
- c. Employees will not be paid for travel between the telework site and the employee's official workstation. Any travel from the telework site and meetings at locations other than the employee's official workstation shall be compensated in accordance with state wage and hour laws.

## 2. Adequate Time in Office

- a. The amount of time spent teleworking during a work week may vary according to each job, equipment needs and the individual Telework Agreement. Minimally, the telework schedule must allow adequate regular office time for meetings, access to facilities and supplies, and communication with other employees and with customers.
- b. Business visits, meetings with customers, or regularly scheduled meetings with coworkers shall not be held at a telework site.
- c. Telework shall not adversely affect customer service or delivery, employee productivity, or the progress of an individual or team assignment.
- d. Teleworkers shall attend job-related meetings, training sessions, and conferences, as requested by supervisors. Teleworkers may be requested to attend "short notice" meetings. When possible and effective, telephone conference calling may be offered as an alternative to in-person attendance.

## 3. Accessibility

- a. Teleworkers will maintain accessibility via telephone, email, fax and/or pager during agreed upon work hours or specific core hours of accessibility as required by the county. Only the teleworker and the teleworker's supervisor will designate who will be given the teleworker's home phone number.
- b. The employee shall promptly notify the supervisor when unable to perform work assignments due to equipment failure or other unforeseen circumstances. Supervisors may reassign employees to another project and/or work location in the event of equipment failure.

## 4. Family Care and Duties

While telework may facilitate employees working around family responsibilities, employees who telework must have day care or other supervision for any member of the household requiring care through the workday. Telework is not to be viewed as a substitute for dependent care. The county recognizes that one advantage of working at home is the opportunity to have more time with dependents, but it is the employee's responsibility to ensure that he or she is fully accessible during work hours and able to complete work assignments on time.

## G. County Owned Equipment

1. All Personnel Rules and department work rules regarding personal use of county equipment apply to employees using county equipment at a telework site.

2. If county equipment is used for telework, the employee must exercise the same reasonable care for the equipment as would be expected in any county work site.
3. The security of county property in the home is as important as it is in the office. Telework employees are expected to take reasonable precautions to protect county equipment from theft, damage, or misuse.
4. The employee may be held liable for damage caused by negligence, intentional damage or damage resulting from a power surge if no surge protector is used.
5. The county will provide for repairs to county owned equipment. Any such repairs will take place at County facilities or by an authorized vendor.
6. County equipment and/or software may not be used by other household members or any other non-county persons. County owned software may not be duplicated except as authorized in writing by the county's Information Technology Division.
7. A list of any county equipment that is issued to the employee to be used in a telework site should be tracked by the employee's department just as if the equipment was issued to be used by the employee at their official workstation on county premises. A list of the county issued equipment should also be maintained on the Telework Agreement and updated as needed.
8. The Information Technology Division will define the standards related to computer related equipment issued to the employee and will maintain a list of supported equipment.

#### H. Employee Owned Equipment

1. If county issued equipment is not otherwise available, teleworkers may use their personal computer equipment and/or software for telecommuting purposes, provided that it is compatible with the county's configuration.
2. The employee will be responsible for the maintenance of their equipment and software, and for ensuring that their software is free of viruses in accordance with the guidelines set forth by the county's Information Technology Division. Employees must follow approved policies and practices with regard to protecting data through the use of anti-viral software. Remote equipment connected to any county system must conform to county policy including the usage of encryption software or hardware to protect stored data. Teleworkers are encouraged to contact the county's Information Technology Division for consultation on appropriate hardware and software to minimize the chances of data theft or corruption.

3. The county will not be responsible for damages or losses that occur to the employee's equipment and real property resulting from the telework process.
4. Information produced by teleworkers in the pursuit of county business is subject to public record requirements regardless of the ownership of equipment used. If the teleworker owns the computer being used for county business, the information on that computer is subject to the discovery process in the event of a public records request or litigation related to county business. Protected health information as defined by state law and the HIPAA is also subject to privacy or security investigations. Employees may be required to provide the county with full access to their personal computer and property in order for the county to respond to record or information requests, subpoenas, court or administrative orders, and HIPAA privacy or security investigations.

#### I. Telework Product and Records

1. Work done on behalf of the county at the telework site is considered official county business. Products, documents and records used by/or developed while teleworking shall remain the property of the department and the county and are subject to department and county rules regarding confidentiality, disclosure, and records retention requirements.
2. Any employee owned equipment used for county business could be subject to a public records request and require the employee to provide access to such equipment.
3. Any records, products, or documents that are covered by HIPAA shall not be used at home without written permission from the employee's manager. Additionally, if any identifiable protected health information or personally identifiable information is electronically transmitted, it must be encrypted. If there are known or suspected breaches of confidentiality of protected health information or personally identifiable information, the employee must immediately report in accordance with Personnel Rule 3-10.
4. The teleworker will apply approved safeguards to protect county records and property. All records, correspondence, and equipment must be kept in a secure location to prevent damage, theft, or unauthorized disclosure.
5. Release or destruction of any public records must only be done at the official workstation according to statute and regulations. The teleworker must adhere to confidentiality requirements of all data and records.
6. Teleworkers must seek advance approval from their supervisor before removing documents, files, supplies, or equipment from county premises to take to a telework location. Any such items should be promptly and securely returned to

county premises as soon as the teleworker has completed the assignment that required the usage of the item at the telework site. Supervisors and teleworkers are responsible for maintaining an inventory of items that teleworkers remove from county premises and take to a telework site.

#### J. Workplace Health and Safety

1. The county's responsibility and accountability for employees' health and safety while working at home is essentially the same as that when employees work in their assigned county work location. For this reason, employees are required to maintain a separate, designated work area at home.
2. Teleworkers will be expected to set up and maintain the designated workspace in a safe, unobstructed and clean fashion and maintain the designated work area so that it complies with all laws regulating work areas. This includes, but is not limited to, the following basic safety precautions:
  - a. Avoid obstructions in the work area.
  - b. Eliminate trip and fall hazards.
  - c. Ensure proper lighting, ventilation and appropriate furniture.
  - d. Avoid using a single power outlet for computer and other electrical extension cords.
3. The Telework Safety Checklist must be completed prior to any telework activity governed by this policy. Any questions about the safety of a telework site should be referred to Risk Management.
4. Ergonomic and Safety Assessment Inspections and Training
  - a. The county has the right to visit an employee's home telework site during normal work hours to ensure that it meets county safety standards; such routine visits will be scheduled with at least twenty-four (24) hours advance notice.
  - b. Upon request, Risk Management will provide the employee with individualized safety training and conduct a site-specific hazard assessment of the home telework site. Employees are encouraged to request Risk Management training and assessment services prior to implementing the Telework Agreement, but such requests can be made at any time. Ad Hoc teleworkers are also encouraged to participate in ergonomics training as a personal effort to identify and address potential risk factors associated with the work site.

## 5. Worker's Compensation

- a. Standard worker's compensation practices apply and employees are covered by applicable laws for illness or injury occurring during the course and scope of work. If injured while working at a telework site and during telecommuting work hours, the teleworker must report the injury to the supervisor immediately, following standard county reporting procedures.
- b. The county does not assume responsibility for injury to any persons other than the employee at the employee's residence or alternate workspace within it.
- c. Compensability of all workers' compensation claims are thoroughly investigated by the designated Third Party Administrator. Depending on the nature and the severity of the injury, an on-site investigation may be initiated immediately upon notification. Securing the scene can be critical for OR-OSHA compliance and employer responsibility determination. The on-site investigation will be performed by Risk Management staff or an investigative service provider acting under the control of the Third Party Administrator. The investigation may include a site inspection with less than twenty-four (24) hours notice to the employee.
- d. Employees are principally located in the State of Oregon. Employees who telework in another state, including the State of Washington, follow standard county reporting procedures and file any claims in the State of Oregon, regardless of the state in which the illness or injury occurred.

## K. Reimbursable Expenses

1. Any variable expenses accrued as a result of the employee choosing to telework will be borne by the employee. The county will only reimburse the employee for expenses the employee would have borne if the employee were working in the office.
2. The county will not reimburse an employee for expenses related to an internet connection for the telework site.
3. Supplies required to complete assigned work at the telework work site shall be obtained from the county during the teleworker's in-office work periods. The county will not reimburse employees for their personal purchase of printer ink or toner. Employees should arrange their schedule to print documents while at their official workstation.
4. Reimbursable expenses must be approved by an employee's supervisor in advance, documented in writing on the Telework Agreement form, and meet the

requirements of the “Miscellaneous Expense Reimbursement” administrative procedure FIN-4 specifications.

#### L. Employee Computer Security

1. The Information Technology Division will maintain a list of resources, required security guidelines, and a self-assessment checklist for employees to use to help secure their home computer. The Information Technology Division is available to help teleworking employees with their home computer security.
2. If employees engage in telework that is covered by HIPAA, they shall adhere to county privacy and security policies and, as well as any Department guidelines or procedures.
3. If an employee does not maintain a secure home computer according to county standards, he/she may lose the right to telework.
4. Employees are responsible for following all security guidelines including ensuring software and applications are currently updated with security patches, maintaining a personal firewall and updated anti-virus and anti-spyware programs, and keeping their operating system configured securely.

#### M. Training

Routine teleworking employees and their supervisor must sign up for county provided Telework training and participate in the class within three (3) months of the approved Telework Agreement start date.

### **§ 3-65-050 Procedures**

- A. The employee and his or her supervisor will collaborate to create a mutually suitable Telework Agreement including the tasks or scope of work to be completed at the telework site, the time frames for completion, and how work will be reported and evaluated. Both parties sign the agreement and submit it to the Department Director or their designee. Once the agreement has received the necessary approval, a copy of the agreement will be placed in the employee’s personnel file.
- B. The supervisor shall contact the Information Technology Division’s Help Desk for any technical support needs of the teleworker.
- C. Each telework employee and supervisor shall develop a list of objectives and methods to measure the Telework Agreement’s success. These objectives and measures should be reviewed and updated periodically to assure the continued success of the telework arrangement.
- D. The supervisor shall notify the employee of Risk Management’s safety training and site-specific hazard assessment services. Supervisors and employees shall work



collaboratively to identify safety training opportunities and address any areas of concern identified in the Telework Safety Checklist.

- E. Employees and supervisors who participate in a Telework Agreement are expected to educate themselves on what their responsibilities are regarding Telework. Employees and supervisors are required to attend a county training course designed to prepare them for the telework experience.

**§ 3-65-060 Termination or Suspension of Telework Agreement**

- A. Teleworking is a privilege rather than a universal employee benefit or right. The county has the right to offer telework to an employee and to unilaterally terminate a Telework Agreement at any time.
- B. Telework is a voluntary program unless specifically stated as a condition of employment. Employees may decline telework if the option is presented. The employee may also discontinue the arrangement at any time, unless otherwise specified in the Telework Agreement.
- C. Telework may be temporarily suspended due to the county's operational needs.
- D. Supervisors should monitor the work environment for any negative effects a telework assignment may have on the workload or morale of the co-workers of the teleworker and may need to suspend or terminate the telework assignment to ensure equal workloads and harmonious relations amongst staff. (ER 375, Amended, 05/27/2014)

**Multnomah County Telework Agreement**

Teleworker Name: \_\_\_\_\_ Supervisor Name: \_\_\_\_\_

Department: \_\_\_\_\_ Division: \_\_\_\_\_

Classification: \_\_\_\_\_ Date telework will begin: \_\_\_\_\_

Telework address: \_\_\_\_\_

Telework phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Pager: \_\_\_\_\_

**Telework Evaluation and Review:**

Criteria that will be used to evaluate the success of the Telework Agreement:

\_\_\_\_\_

**\*\*Attach additional sheets as necessary\*\***

Telework Agreement will be evaluated (Monthly, Quarterly, Bi-Annually): \_\_\_\_\_

First Telework Agreement review date: \_\_\_\_\_

**Telework Schedule:**

The employee agrees to perform agreed upon duties and be accessible to the county on the following Telework days:

	Mon	Tue	Wed	Thurs	Fri	Sat	Sun
<b>Start Time</b>							
<b>End Time</b>							
<b>Total Hours</b>							

**Accessibility and Communication:**

The employee agrees to structure their time to ensure attendance at required meetings and events as designated by their supervisor. The employee further accepts the special responsibility as a teleworker to facilitate communication with customers and colleagues while on a telework schedule.

The employee agrees to be available during scheduled work hours on telework days using the following methods (check all that apply):

- Phone       Voice mail/answering machine       E-mail       Pager
- Other: \_\_\_\_\_

Describe how incoming calls at the central office be handled on telework days:

\_\_\_\_\_  
\_\_\_\_\_

The employee agrees to check their voicemail and/or call in to the central office for messages \_\_\_\_\_ times per day at approximately the following time(s) of day while working at an alternative work site: \_\_\_\_\_

Long distance phone charges made by the employee while working at an alternative worksite will be handled as follows (e.g., usage of county cell phone, calling card, reimbursement, etc.):

\_\_\_\_\_  
\_\_\_\_\_

Other accessibility and communication issues:

\_\_\_\_\_  
\_\_\_\_\_

**Performance Measures:**

The employee agrees to keep the employee’s supervisor regularly informed of their progress on telework assignments and agrees to keep the employee’s supervisor informed of any problems experienced while teleworking.

Tasks to be completed while teleworking	Timeframe for completion	Method and frequency tasks will be reported to supervisor	How tasks will be measured for success

\*\*Attach additional sheets as necessary – be as detailed as possible\*\*

**Equipment/services to be used at the telework site:**

The following equipment/services will be provided to the employee by the county (check all that apply):

- Phone       Fax Machine       Printer
- Pager       Computer       Other equipment not mentioned above: \_\_\_\_\_

Remote network access provided (VPN)?  Yes  No

The employee will provide the following equipment/services (check all that apply):

- Phone       Voice mail       Office furniture       Fax Machine
- Pager       Computer       Printer       Internet Service
- Other equipment not mentioned above: \_\_\_\_\_

**Reimbursement Information:**

Generally, Multnomah County does not reimburse costs associated with teleworking and will not pay or reimburse the employee for:

- Time involved in travel between the official workstation and the telework site.
- Purchasing computer equipment, internet service, or printer/ink cartridges.
- Any purchase, service charge, or cost related to telework that is not specified in this agreement.

The county agrees to reimburse the employee for the following expenses related to Telework in accordance with the requirements of the “Miscellaneous Expense Reimbursement” administrative procedure FIN-4 specifications:

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### **Multnomah County Property and Records:**

The employee agrees that documents or other records required to be retained and are used, developed or revised while teleworking will be securely transferred the following workday to the official workstation.

The employee understands and agrees that all equipment, records, files, manuals, forms, materials, supplies, computer programs and other materials furnished by the county, or generated or obtained on behalf of the county during the course of employment shall remain the property of the county. The employee understands that they are the holder of this property for the sole use and benefit of county and will take all reasonable precautions to safely keep and preserve such property, as well as maintain confidentiality except as disclosure is required in normal business operations.

### **Employee Owned Property and Equipment:**

Any employee owned property and equipment used for county business may subject to a public records request, subpoena, court or administrative order, or privacy/security violation investigation and may require the employee to provide the county with full access to such equipment. If the equipment is a personal computer, the employee understands the county may need to copy the contents of the hard drive.

### **Employee Computer Security:**

The employee understands he/she is responsible for following all security guidelines issued by the county's Information Technology Division including ensuring software and applications are currently updated with security patches, maintaining a personal firewall, secure WiFi, and updated anti-virus and anti-spyware programs, and keeping their operating system configured securely.

### **Health, Safety and Ergonomics:**

The employee acknowledges the county has the right to visit their home work area during normal work hours to ensure that it meets county safety standards; these routine visits will be scheduled with at least twenty-four (24) hours advance notice. The employee also acknowledges that "short-notice" inspections may occur after an incident or accident occurs.

The employee understands s/he may request Risk Management training and/or an assessment of their home work area to provide strategies to improve the health, safety and ergonomic well-being of the teleworking employee.

The employee acknowledges that their employment is principally located in the State of Oregon. If the employee teleworks in another state, including the State of Washington, the employee agrees to follow standard county reporting procedures and will file any claim in the State of Oregon and not in any other state, regardless of the state in which the illness or injury occurred.

The employee has completed and the supervisor has reviewed the Telework Safety Checklist?

Yes  No

**Dependent Care:**

Does the employee have dependents requiring care during telework hours?  Yes  No

If yes, does the employee have dependent care to relieve him/her from primary-care responsibilities during telework hours?  Yes  No

**Training:**

The employee has registered to take the county’s training on telework?  Yes  No

The supervisor of the teleworker has registered to take the county’s training on telework?  
 Yes  No

**Terms of Employment:**

The employee understands that this Telework Agreement does not otherwise alter the basic terms and conditions of employment including wages, overtime compensation, insurance benefits, paid leave, salary reviews, workers compensation, etc. The employee further understands that county policies, rules, and practices shall apply at the telework site, including those governing communicating internally and with the public, employee rights and responsibilities, facilities and equipment management, financial management, information resource management, purchasing of property and/or services, and safety.

**Termination of Telework Agreement:**

The employee understands that telework is a privilege rather than a universal benefit or employee right. The county or the employee may discontinue or suspend this Telework Agreement at anytime.

**Acknowledgment:**

I have read and understand this agreement and the telework policy, PR 3-65, and agree to abide by and operate in accordance with the terms and conditions described in both documents. I agree that the sole purpose of this agreement is to regulate telework and that it constitutes neither an employment contract nor an amendment to any existing contract or county policy.

Employee: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

Department Director (or designee) \_\_\_\_\_ Date: \_\_\_\_\_

**MULTNOMAH COUNTY  
TELEWORK SAFETY CHECKLIST**

This checklist is used to assess the overall safety of the telework designated location. The checklist must be completed prior to the start of teleworking and submitted to the teleworkers' supervisor for review. The teleworker should retain a copy for their records.

**The designated work space:**

1. Are temperature, noise, ventilation, and lighting level adequate for maintaining your normal level of job performance?  Yes  No
2. Are all supplies and equipment (both County and employee-owned) in good condition and can be safely used as intended?  Yes  No
3. Is storage organized to minimize risks of fire and spontaneous combustion?  
 Yes  No
4. Do all electrical enclosures (switches, outlets, receptacles, junction boxes) affecting the designated work space have tight fitting covers or plates?  Yes  No
5. Is all electrical equipment free of recognized hazards that would cause physical harm (frayed wires, bare conductors, loose wires or fixtures, exposed wiring on the ceiling or walls)?  Yes  No
6. Will the building's electrical system permit the grounding of electrical equipment (a three-prong receptacle)?  Yes  No
7. Are aisles, doorways, and corners free from obstructions to permit visibility and movements?  Yes  No

8. Are the file cabinets and storage closets arranged so drawers and doors do not enter walkways?  Yes  No
9. Are heavy items securely placed on sturdy stands close to walls?  Yes  No
10. Are phone lines, electrical cords, and surge protectors secured under a desk or along a baseboard?  Yes  No
11. Are computer components kept out of direct sunlight and away from heaters?  
 Yes  No

**Emergency Preparedness:**

1. Are emergency phone numbers (nearest hospital, fire department, police department) posted in the telework work space?  Yes  No
2. Is a first aid kit easily accessible and periodically inspected and replenished as needed?  
 Yes  No
3. In case of fire, is there a primary exit path free of obstruction and easy to use?  
 Yes  No

**Ergonomics:**

1. Is your desk, chair, PC, and other equipment of appropriate design and arranged so that:
  - a. Neck and shoulders are not stooped to view the task  Yes  No
  - b. There are no pressure points on any part of the body (wrists, forearms, back of legs)  Yes  No
  - c. There is no glare on the terminal screen  Yes  No
  - d. Work can be performed without eye strain  Yes  No
  - e. There is no strain on any part of the body for static tasks over 20 minutes  
 Yes  No

Teleworker comments after inspection: \_\_\_\_\_

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\*\*Attach additional sheets as necessary\*\*

I have completed the checklist as accurately and honestly to the best of my knowledge. I understand that I have the right to request Risk Management conduct a risk assessment of my telework site, to ask questions, or to have additional training provided.

Teleworker's signature: \_\_\_\_\_ Date of inspection: \_\_\_\_\_

I have reviewed the checklist and discussed any areas of concern with the teleworker:

Supervisor's signature: \_\_\_\_\_ Date: \_\_\_\_\_

CC: Personnel File



## **Rule 3-70**

### **Employee Recognition Awards**

**§§:**

[3-70-010 Purpose](#)

[3-70-020 Overview](#)

[3-70-030 Definitions](#)

[3-70-040 Informal Recognition Awards](#)

[3-70-050 Eligibility for Formal Recognition Awards](#)

[3-70-060 Types of Formal Recognition Awards](#)

[3-70-070 Selection Method for Employee Recognition Rewards](#)

[3-70-080 Other Types of Employee Recognition](#)

[3-70-090 Taxing of Awards](#)

#### **§ 3-70-010 Purpose**

The purpose of this policy is to emphasize the importance of recognizing employee achievements and accomplishments that demonstrate the overall values of Multnomah County and encourage employees to make a performance difference either individually or through teams. The awards are intended to promote and reward the extraordinary accomplishments and contributions of employees in ways separate from the performance review process.

#### **§ 3-70-020 Overview**

- A. Multnomah County supports the recognition of outstanding employee contributions at all organizational levels. Departments are encouraged to develop their own employee recognition programs to complement countywide programs. Activities for such departmental recognition programs are especially encouraged during Public Service Recognition week held each year in May, but can occur throughout the year.
- B. The objectives of Multnomah County's Employee Recognition Award policy are to:
  - 1. Recognize and promote positive behaviors that support individual, work group, unit, team, department, and county goals and objectives;
  - 2. Provide timely recognition to employees either as planned or immediate recognition;
  - 3. Provide both individual and team recognition and rewards;
  - 4. Provide for both manager and employee initiated recognition and rewards;
  - 5. Improve employee productivity and quality of work; and
  - 6. Improve customer service.

## § 3-70-030 Definitions

- **Classified Service Employee:** An employee that holds a position that is represented by a collective bargaining unit or a position designated as management service, but does not include employees in positions designated as executive service, temporary, limited duration, or employees who work on call or less than half time.
- **Executive Service Employee:** An employee, as defined in MCPR § 1-10-040, that is at-will and not covered by a collective bargaining unit. Executive service employees are typically employees at the Department Director, Deputy Director, and senior manager level.
- **Formal Recognition:** Can include awards and celebration events for achievements and service, at which eligible employees can participate and receive recognition. Formal recognition often has certain policy and legal requirements.
- **Informal Recognition:** Usually given by an employee's supervisor, acknowledges the employee's contribution without applying formal criteria. It can take a variety of forms, has few restrictions, and often includes a low-cost, tangible gesture of appreciation or congratulations.
- **Monetary Awards:** An award paid by any negotiable instrument (cash, check, money order and direct deposit); any item that can be readily converted to cash, such as savings bonds or refundable gift certificates; or gift cards/certificates for any amount.
- **Non-monetary Awards:** Awards that include meals, work related conferences or development opportunities, plaques, trophies, desk items, cups and mugs; and personal items of clothing such as caps, shirts, and sweatshirts.
- **Recognition Leave:** Additional day(s) of leave awarded that may be used for personal purposes. Recognition Leave is only available to be awarded to regular status management and executive service employees and is done in accordance with MCPR § 4-30-040(A)(4).
- **Regular Status Position:** All positions that are not otherwise classified as temporary, on-call, or limited duration.

## § 3-70-040 Informal Recognition Awards

- A. Informal Recognition Awards are tools for managers and supervisors to reward excellent individual or team departmental performance (e.g., completion of a project or event, exceptional teamwork, excellent customer service, positive attitudes, etc.) in a timely manner. The tools available for immediate recognition are non-monetary awards, monetary awards, and/or recognition leave for eligible management and executive service employees.

- B. Departments may procure Monetary and Non-monetary Awards and items to be used for informal employee recognition in accordance with Administrative Procedure FIN-4, Miscellaneous Expense Reimbursements, as well as state ethics rules described in ORS 244.020 and 244.040.
- C. Monetary and non-monetary awards must be approved by the Department Director and the reasons for giving the award must appear prudent to the public. An award may not exceed an aggregate total of fifty dollars (\$50) per person in a calendar year unless an exception is granted in writing by the county's Chief Financial Officer. All exceptions to the fifty dollar (\$50) limitation must be approved prior to the award being given to the employee.
- D. Monetary awards must be reported to Central Payroll at the time of the award in compliance with FIN-17, Taxation of Fringe Benefits.
- E. Volunteers are not eligible for monetary awards.

### **§ 3-70-050 Eligibility For Formal Recognition Awards**

- A. Employees who hold classified service status and limited duration employees are eligible for Formal Recognition awards.
- B. Temporary and on-call employees are only eligible for Formal Recognition if included as part of a team with classified status employees.
- C. Volunteers are not eligible for Formal Recognition Awards.
- D. Executive service employees are eligible individually for the Chair's Excellence Award and in other categories of Formal Recognition when included as part of a team with classified status employees.
- E. Employees are generally not eligible if they have had discipline or significant performance problems within the previous twenty-four (24) months of being nominated for a Formal Recognition Award. Department HR Managers are responsible for determining eligibility.

### **§ 3-70-060 Types of Formal Recognition Awards**

- A. Superior Public Service Award – Internal and External
  1. Purpose: To promote and recognize individual employees for outstanding customer and public service.
  2. Internal Award Criteria: May include showing initiative in providing excellent service to other county employees by being responsive to requests for services and/or improving procedures to enhance the efficient delivery of services; and providing customer friendly processes with commitment and professionalism.

The employee may demonstrate judgment and communication skills when dealing with internal customers under a variety of situations including demanding and difficult circumstances. The efforts of this employee may generate lasting or significant positive customer relations.

3. External Award Criteria: The activity being recognized must have been performed in a direct service role for a citizen or organization of the greater Multnomah County community. The outcome of the activity must have been demonstrable excellent customer service resulting in a notably satisfied and benefited external customer.

#### B. Outstanding Team Achievements Award

1. Purpose: To promote and recognize members of work teams that add significant value to the organization.
2. Criteria: The accomplishments and contributions of the team shall reflect efforts made above and beyond normal work duties or performance expectations of a team. Examples of achievements that warrant an Outstanding Achievement Award include, but are not limited to: completing a major project significantly under budget or before the deadline under extraordinary time pressure; receiving repeated recognition by internal or external customers for extraordinary service; contributing to a one-time, outstanding effort, which benefited the work unit or the county; and specific accomplishments that improve internal processes, saving time or money.

#### C. Employee Innovation Award

1. Purpose: To foster employee innovations to improve work processes, which result in monetary savings or significant operational efficiencies. The award is primarily intended for individual employees rather than teams, but could include multiple employees who work together on cross functional teams or a group of employees working together to champion the innovation.
2. Criteria: Employees who suggest innovations that improve the quality of county operations and services are eligible. Employees must also substantially contribute to the implementation of the innovation or exercise leadership in championing the necessary change for the innovation to occur.

#### D. Diversity and Cultural Competency Award

1. Purpose: To recognize employees and teams that promote inclusiveness and champion diversity in the community or within the county organization.
2. Criteria: The award may go to employees who demonstrate excellence in creating or advancing projects, policies or programs that model the county's core

values related to diversity and cultural competency, which could include engaging diverse communities and partners in successful service outcomes or working internally to help provide culturally competent services.

#### E. Sustainability Award

1. Purpose: To salute employees and teams who apply creative thinking to address the root causes of environmental, social or economic inequities that lead to disproportionate impacts on the most vulnerable communities within Multnomah County, and if left unaddressed, will increase the need for our safety net services.
2. Criteria: The award may go to employees that implement a new approach, project or program for delivering core services that targets the root causes of environmental, social or economic inequities. This can include new, more efficient and more inclusive processes that support the delivery of core services, e.g., purchasing, IT fleet services, etc.

#### F. Chair's Excellence Award

1. Purpose: To provide a mechanism for the County Chair to select employees to be recognized for their outstanding contributions that embody the county's values related to public engagement and partnerships, accountability, integrity, safety, or any other substantial benefit provided to the county and its citizens.
2. Criteria: The award may go to employees who effectively engage communities and partners in successful collaborative efforts, to employees who make a demonstrable and positive difference in people's lives, or to employees who work internally to create or manage projects, policies, or programs that bring various parts of the county together to improve processes, increase efficiency, develop the county's workforce, or produce other value to the county. As referenced in § 3-70-050, employees who hold a regular status position in executive service and classified service positions are eligible for the Chair's Excellence Award.

### **§ 3-70-070 Selection Method for Formal Employee Recognition Rewards**

#### A. Employee Awards Selection Committee

1. The Employee Awards Selection Committee operates under the guidelines of a Charter, under sponsorship of the Chief Operating Officer and the Chief Human Resources Officer.
2. A member of Central Human Resources will be assigned to the committee as a Project Organizer to provide support and assist with coordination of the awards process.

3. The committee is comprised of two (2) regular status employees from each Department and represents a cross-section of bargaining unit members and management.
4. Central Human Resources will work with Department Directors and the appropriate elected officials to appoint members to serve on the committee. Members will serve for two (2) years with staggered terms when possible.
5. The Project Organizer will work with committee members to appoint a volunteer for the role of Committee Chair. The Committee Chair will facilitate meetings and work with the Project Organizer to ensure the committee remains within objectives and scope.

#### B. Nominations

1. All staff members and citizens of Multnomah County are encouraged to submit nominations for formal Employee Recognition Awards through the nomination forms found on the Employee Recognition intranet and web pages. Nomination forms are available throughout the year. All eligible nominations will be forwarded to the Employee Recognition Committee for consideration.
2. An employee who does not wish to be formally recognized can withdraw his/her name from any nomination.

#### C. Selection of Award Recipients

1. The Employee Awards Selection Committee will consider all eligible employees nominated for a Formal Recognition Award and will determine which employees receive the awards and the number of awards per category to be given each year.
2. All employees who accept their nomination will receive a certificate recognizing their accomplishments, regardless of whether they are selected for a Formal Recognition Award, in order to share their extraordinary efforts with others.
3. Although employees may be nominated for specific Formal Recognition Awards, the Employee Awards Selection Committee has the discretion to give an employee an award in a different category than the employee was nominated for if the committee believes another category better recognizes the employee's efforts.
4. The Employee Awards Selection Committee may elect to recognize a nomination, regardless of category, with the Committee's Choice Award. The selection will be made based upon the Committee's determination that the submission outstandingly exemplifies the County's mission, vision and values.

D. Timing: On an annual basis, the following timelines will be used when granting Employee Recognition Awards:

1. **January and February:** There will be an announcement requesting nominations for Employee Recognitions Awards, although nominations are accepted year round.
2. **March:** The Employee Awards Selection Committee will review the nominations for Employee Recognition Awards. Nominees will be announced publicly in March or early April.
3. **April:** Awardees will be notified that they are receiving an award and be invited to the awards ceremony.
4. **May:** Awards ceremony will be held whereby employees receiving Recognition Awards will be honored.

E. Annual Review: On an annual basis, Central Human Resources will review the employee recognition awards process with the Department Directors to discuss whether the program objectives are being met and make process improvement as needed.

### **§ 3-70-080 Other Types of Employee Recognition**

A. Honoring Separating/Retiring Employees: Departments may procure items to provide recognition to employees for their contribution and years of service to the County in accordance with Administrative Procedure FIN-4 as well as state ethics rules as described in ORS 244.020 and 244.040.

B. Years of Service Awards

1. The County will recognize employees for each five (5) year period of service. Whenever possible, employees will be recognized on, or shortly following, their service date.
2. Employees with five (5) and ten (10) years of service will be recognized by their department at an appropriate recognition event. Service awards will be presented to employees by the highest level of supervision practicable.
3. Employees with fifteen (15) or more years of service will be recognized by the Board of County Commissioners at an annual event.
4. The County may utilize letters of appreciation, certificates of merit and other types of recognition which will add a personalized dimension to the presentation. The utilization of press coverage and other appropriate publicity is encouraged.
5. For purposes of this rule, the County will calculate years of service using the service award date. Time in temporary status that is continuous and contiguous

to service in regular status will count towards years of service. On-call time will not count towards years of service. Time will be adjusted for leaves of absence without pay of six (6) months or more and separation from County employment of six (6) months or more. The calculation of years of service is for the purpose of service awards only, and is unrelated to and does not affect an employee's seniority or service dates for any other purposes or as provided for elsewhere in these rules or applicable collective bargaining agreements, including but not limited to leave accrual, seniority for purposes of layoff or bumping, or any other benefits, privileges or rights tied to service time.

6. Central HR is authorized to establish and/or modify procedures necessary to implement and monitor this program to carry out the intent of the Chair.

### **§ 3-70-090 Taxing of Awards**

- A. Monetary Awards: All monetary awards, including gift cards and gift certificates, for any amount, shall be subject to federal, state and FICA withholding, and as taxable income, shall be reported on an employee's W-2 form, in accordance with FIN-17. Employees may reject any monetary award so as to avoid receiving taxable income.
- B. Non-monetary Awards: The Payroll Division is responsible for determining whether non-monetary awards are taxable, in accordance with IRS guidelines.
- C. Recognition Leave: Any recognition leave awarded to an employee in accordance with MCPR § 4-30-040(A)(4) is considered income and will be subject to federal, state and FICA taxes when used by the employee. If the leave is not used by the end of the fiscal year or prior to separation, it is forfeited and not taxed as income.



## **Rule 3-75**

### **Employee Resource Groups**

**§§:**

[§ 3-75-010 Purpose](#)

[§ 3-75-020 Overview](#)

[§ 3-75-030 AUTHORITY](#)

[§ 3-75-040 THE APPROVAL PROCESS](#)

[§ 3-75-050 Annual Review and Approval](#)

[§ 3-75-060 ERG FORMATION AND ACTIVITIES](#)

[§ 3-75-070 Communication](#)

[§ 3-75-080 Expenditures and Reimbursements](#)

#### **§ 3-75-010 Purpose**

The purpose of this policy is to define authority, responsibility, accountability, and procedures for the formation and operations of county Employee Resource Groups (ERGs). Multnomah County recognizes that ERGs are successful mechanisms for the county to improve the leadership development process as well as to help ensure alignment between the county's business and diversity strategies. It is the County's expectation that participation is supported by managers to the greatest extent possible.

#### **§ 3-75-020 Overview**

ERGs are county-sponsored, employee-run groups that promote diversity values and strategic efforts of the county while promoting personal and professional growth for county employees with shared lived experience around marginalized identities and improving retention by providing a stronger sense of community within the county.

#### **§ 3-75-030 Authority**

The Multnomah County Chief Diversity and Equity Officer or their designee in the Office of Diversity and Equity (ODE) has direct management, oversight authority, and responsibility for the policies, rules, and procedures for all county-sponsored ERGs.

#### **§ 3-75-040 The Approval Process**

- A. The Chief Diversity and Equity Officer or their designee oversees both the initial and the annual approval process of ERGs. This process includes:
  1. Completion of charter application (available from ODE) filed with the ODE.
- B. ERG and charter approval will be based on an assessment of:
  1. Stated mission and values having a clear and direct connection to the County's mission and values; and

2. A work plan that describes activities listed in Multnomah County Personnel Rule (MCPR) § 3-75-060.
- C. All requests will be considered on an individual basis and will be submitted to the County Chair by the Chief Diversity and Equity Officer, with recommendation for approval or denial in consultation with the ERG Leadership Team.

### **§ 3-75-050 Annual Review and Approval**

- A. The ODE will conduct an annual review of all ERGs to ensure that the goals and objectives of each ERG continue to contribute to the county's mission, core values, and organizational outcomes.
- B. The Office of Diversity and Equity will coordinate an annual retreat of ERG Leadership teams with the purpose of:
  1. Developing a summary of the previous year's accomplishments; and
  2. Developing a work plan for the coming year.
- C. The Chief Diversity and Equity Officer or their designee will publish on ODE's website and distribute to County employees the summary of accomplishments at the end of the fiscal year.

### **§ 3-75-060 ERG Formation and Activities**

- A. Groups must meet an identified business purpose of Multnomah County and be in alignment with the values, business purpose, policies, and mission of the county.
- B. Groups are organized by employees who support the goals of the ERG and wish to participate in its activities.
- C. Membership may be defined, but meetings must be open to any county employee who wishes to attend.
- D. ERGs must not make proposals to management involving employment terms and conditions which would appear to fall within the scope of bargaining, which management then could accept or reject, or to which management could make a counterproposal. ERGs can provide brainstorming or information related to issues of concern.
- E. ERG activities may include, but are not limited to:
  1. Contributing to employees' professional development;
  2. Identifying workforce engagement barriers and solutions;
  3. Helping the county with strategic planning, recruitment, employee development, and diversity awareness;

4. Hosting events that give members and employees the opportunity to network and develop skills, in such areas as career development, business education, investment strategies, resume writing, or stress management;
  5. Sponsoring events, seminars and conferences (with Chief Diversity and Equity Officer's or their designee's approval);
  6. Taking on special initiatives and projects; and
  7. Celebrating cultural, educational, and other special events.
- F. ERGs must operate within the constraints of Multnomah County policies and procedures.
1. Groups are specifically forbidden to engage in political activity as described in MCPR § 3-10-020.
  2. Groups must conduct discussions and activities within the Multnomah County rules for workplace conduct.
  3. Groups must comply with MCPR 3-35, Use of Information Technology.
  4. Groups may not charge membership dues.
- G. Members of ERGs do not represent or speak for Multnomah County, nor do they represent policies or positions of Multnomah County.
- H. ERGs must have at least one member of their leadership attend the ERG Leadership meeting with the Chief Diversity and Equity Officer held on a quarterly basis.
- I. All Employee Resource Group time requires supervisor approval, and as long as it does not interfere with their regular work for the County.
1. Employees/general membership may spend a maximum of six (6) hours per month on paid release time for ERG business. This applies to meetings, travel to and from meetings, planning, leadership activities, writing newsletters, group retreats, work required between meetings, etc.
  2. Countywide workgroups and attendance at countywide sponsored events are not included in time allotted for ERG participation.
  3. Leadership positions may spend a maximum of eight (8) hours total per month on paid release time for ERG business. These positions, including treasurers, secretaries, communications, and other elected positions, must be reflected in ERG bylaws approved by the Chief Diversity and Equity Officer.
  4. Co-chairs of an ERG may spend a maximum of twelve (12) hours total per month on paid release time for ERG business.

5. ERG members, leadership positions and co-chairs shall track all hours spent on ERG activity as outlined above.
  6. ERG members shall make every reasonable attempt to provide fifteen (15) calendar days notice of ERG participation to their manager or supervisor for approval.
  7. ERG participation may be denied or rescinded due to business needs or performance issues. To be considered in rescinding ERG involvement for performance issues, the employee must have been given prior notice and opportunity to correct a performance issue.
  8. Denial and recensions of ERG participation will be referred to the Department Director and shall be at the Director's sole discretion. Decisions will be shared, but not overturned by, the Chief Diversity and Equity Officer
- J. ERGs are asked to adhere to county values of sustainability by holding meetings in locations that require the least amount of travel by members.

### **§3-75-070 Communication**

- A. Groups may use county communication systems (interoffice mail, email, telephone, etc.) pertaining to ERG business to notify members of meetings, events, meeting actions, or minutes per MCPR 3-35-050.
- B. ERGs wishing to use county communication systems for all-employee emails or mailings must have prior approval from the Chief Diversity and Equity Officer or their designee.

### **§3-75-080 Expenditures and Reimbursements**

- A. The ODE is responsible for tracking the budgets and approving expenditures and payment for all ERGs and will maintain a line item in the program budget for ERG use.
- B. Groups may expend their budget according to the Administrative Guidelines for Miscellaneous Expense Reimbursement (FIN-4).
- C. Groups are responsible for ensuring that expenditures are within the allowable guidelines.
- D. When requesting purchases or reimbursements:
  1. ERGs must submit the request with complete details to ODE via email or interoffice mail;
  2. Requests will be forwarded to the Chief Diversity and Equity Officer for approval; and

3. Status of the request and payment options, consistent with procurement rules, will be communicated to the requesting ERG within thirty (30) days following receipt of the request by the Chief Diversity and Equity Officer.

## **Rule # 3-80**

### **Job Share**

**§§:**

[§ 3-80-010 Purpose](#)

[§ 3-80-020 Definition](#)

[§ 3-80-030 Proposal and Review Process](#)

[§ 3-80-040 Job Share Vacancy](#)

#### **§ 3-80-010 Purpose**

The county is committed to developing, maintaining, and supporting flexible employment opportunities. To assist in this goal the county will actively support job sharing where it is reasonable and practical to do so and where operational needs will not be adversely affected. The county may create working arrangements, in accordance with managerial interests, where the county may retain the valuable skills of existing employees who no longer wish to work full-time.

The purpose of this rule is to define the job share policy and procedures.

#### **§ 3-80-020 Definition**

**Job Share:** A job share is defined as a full-time position that is held by two (2) regular status employees on a shared basis in a single classification, thus each employee works .5 FTE. The two (2) employees share the duties and responsibilities for the position, dividing the hours equally between them. Each employee will be scheduled to work forty (40) hours during two (2) work weeks. Job share partners will be treated as part-time (.5 FTE) employees for purposes of holidays, leave accruals and scheduling, lay-off, compensation, and health and welfare benefits.

#### **§ 3-80-030 Proposal and Review Process**

- A. A job share can be initiated by an employee or a manager and/or supervisor.
- B. An employee interested in creating a new job share is responsible for finding his or her own job sharing partner within the department and within the same job classification.
- C. Employees interested in developing a job share assignment are required to develop and present a Job Share Proposal (attached to this rule) to their manager and/or supervisor. The proposal must include:
  1. The proposed position to be job shared and the location;
  2. An explanation of the strengths of the job share team – for example, combined experience, additional skills, complementary work styles;

3. How tasks and responsibilities will be divided;
  4. The proposed work schedule;
  5. How the job share partners will communicate with each other, their supervisor, clients, co-workers;
  6. Length of the proposed job share; and
  7. Work space logistics.
- D. Approval of job sharing is at the discretion of management. The manager or supervisor will review the proposal and make a decision to accept, reject, or ask for revisions to the proposal.
- E. If the proposal is accepted by management, a Job Share Agreement (attached to this rule) will be completed and signed by both the supervisor and the two employees and forwarded to the department's Human Resources Office for review and placement in each employee's personnel file, along with the Job Share Proposal (attached to this rule) submitted by the employees. The forms can also be found in each department's Human Resources Office.
- F. If the proposal is rejected, the manager will send a written response to the employees with the reason for the rejection.

### **§ 3-80-040 Job Share Vacancy**

- A. The job share agreement can be terminated by either employee or by management with four (4) weeks written notice to all parties. Reasons for the termination could include termination of employment or any other reason that is in the best interest of the county.
- B. If management in its discretion determines at any time that the job share should be discontinued, and the position will be filled by one (1) full time employee, the most senior employee in the job share will be offered the full time position. If the most senior employee accepts, the other job share partner will be subject to layoff according to their applicable bargaining agreement or MCPR 2-80. If the most senior employee declines, the other job share partner will be offered the position and the senior employee will be subject to layoff according to their applicable bargaining agreement or MCPR 2-80.
- C. If one of the job share employees vacates the job share position, management will determine whether the position should continue as a job share. If management terminates the job share, the job share partner will be offered the position. If the employee declines the position, the employee will be subject to layoff according to their applicable bargaining agreement or MCPR 2-80.

- D. If management determines that the job share should continue after one job share employee vacates the position, the vacant half of the position will be filled by using the department's procedure on filling vacant positions (i.e. lateral transfer process, using the countywide or general transfer list, soliciting potential job share partners).
- E. A new Job Share Agreement shall be executed upon inception of a new job share after personnel changes.



# Rule # 3-90

## COVID-19 Vaccination

§:

[§ 3-90-010 Purpose](#)

[§ 3-90-020 Policy](#)

[§ 3-90-030 Definitions](#)

[§ 3-90-040 Vaccine Requirement](#)

[§ 3-90-050 Exceptions](#)

[§ 3-90-060 Employer Support for Employee Vaccination](#)

[§ 3-90-070 Employee Notification of Positive COVID-19 Test and Removal](#)

[§ 3-90-080 Face Coverings](#)

[§ 3-90-090 Enforcement of Policy](#)

### § 3-90-010 Purpose

The purpose of this policy is to address the danger of COVID-19 in the workplace by establishing a workplace vaccination requirement for Multnomah County employees, interns, volunteers, and elected officials (herein referred to as “employees” collectively), unless statutorily exempt from vaccine requirements. The policy is intended to stop the spread of the COVID-19 virus and protect the community and County employees, subject to change based on State and/or Federal requirements.

### § 3-90-020 Policy

- A. Multnomah County employees (including new employees), elected officials, interns, and volunteers, are required to be fully vaccinated against COVID-19, or have an approved exception.
- B. Employees may apply for an exception from the vaccine requirement as outlined in 3-90-050 Exceptions.
- C. The following employee categories are excluded from the vaccination requirement:
  - a. Employees who are statutorily exempt from vaccine requirements;
  - b. Unpaid interns or volunteers who conduct their volunteer duties remotely/virtually and do not have in person interaction with employees, other volunteers and/or service recipients through their volunteer position; and
  - c. Volunteers and unpaid interns whose duties include only brief and infrequent interaction with County employees, volunteers and/or service recipients (E.g., to pick up or drop off equipment).

### **§ 3-90-030 Definitions**

**Booster:** An additional dose of a vaccine needed periodically to 'boost' the immune system.

**The Centers for Disease Control and Prevention (CDC):** The national public health agency of the United States under the Department of Health and Human Services.

**COVID-19 (Coronavirus Disease 2019):** The disease caused by SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2). SARS-CoV-2 is a highly transmissible virus that spreads primarily through the respiratory droplets that are produced when an infected person coughs, sneezes, sings, talks, or breathes.

**COVID-19 Vaccination:** Vaccination against COVID-19 that is approved or authorized for use (including emergency use) by the FDA.

**COVID-19 Test:** A diagnostic test for SARS-CoV-2 that is:

- A. Cleared, approved, or authorized, including in an Emergency Use Authorization (EUA), by the U.S. Food and Drug Administration (FDA) to detect current infection with the SARS-CoV-2 virus (e.g., a viral test);
- B. Administered in accordance with the authorized instructions; and
- C. Not both self-administered and self-read unless observed by the County's designee.

**Face Covering:** A covering that:

- A. Completely covers the nose and mouth;
- B. Is made with two or more layers of a breathable fabric that is tightly woven (i.e., fabrics that do not let light pass through when held up to a light source);
- C. Is secured to the head with ties, ear loops, or elastic bands that go behind the head. If gaiters are worn, they should have two layers of fabric or be folded to make two layers;
- D. Fits snugly over the nose, mouth, and chin with no large gaps on the outside of the face; and
- E. Is a solid piece of material without slits, exhalation valves, visible holes, punctures, or other openings.

**Facemask:** A surgical, medical procedure, dental, or isolation mask that is FDA-cleared or offered or distributed as described in an FDA enforcement policy. Facemasks may also be referred to as “medical procedure masks.”

**Fully Vaccinated:** A person’s status two (2) weeks after completing primary COVID-19 vaccination (see definition of “COVID-19 Vaccine”) with, if applicable, at least the minimum recommended interval between doses. Fully vaccinated may include the need for required boosters based upon County policy.

**Proof of Vaccination Status:** Acceptable proof of vaccination status should generally include the employee’s name, type of vaccine administered, date(s) of administration, and the name of the healthcare professional(s) or clinic site(s) administering the vaccine(s). Examples include:

- A. The record of immunization from a healthcare provider or pharmacy;
- B. A copy of the U.S. CDC COVID-19 Vaccination Record Card;
- C. A copy of medical records documenting the vaccination;
- D. A copy of immunization records from a public health, state, or tribal immunization information system; or
- E. A copy of any other official documentation that is determined acceptable by Multnomah County, and contains the type of vaccine administered, date(s) of administration, and the name of the healthcare professional(s) or clinic site(s) administering the vaccine(s).

**Respirator:** A type of personal protective equipment that protects against respiratory hazards by removing specific air contaminants from the ambient (surrounding) air or by supplying breathable air from a safe source. Respirators that remove contaminants from the ambient air are called air purifying respirators. Respirators that supply air from a safe source other than the ambient air are called atmosphere-supplying respirators. Masks, face coverings, and face shields are not respirators."

### **§ 3-90-040 Vaccine Requirement**

Effective October 19, 2021, the COVID-19 vaccination requirement applies to all employees, regardless of worksite, and is part of the minimum qualifications for employment with Multnomah County, unless otherwise prohibited by law. As such, the following employee responsibilities apply to employees. These responsibilities are not intended to be all inclusive and the County will communicate additional responsibilities, as needed, to stop the spread of the COVID-19 virus in the workplace and protect the community and County employees.

- A. Determination of Employee Vaccination Status

1. All employees must provide proof of vaccination status in the form of a vaccination record that includes whether they are fully or partially vaccinated, (and any boosters) by uploading an image of their most updated vaccination record into Workday. This is an ongoing requirement in which employees must update their Workday profile as they proceed through the vaccination process. Vaccination records are considered confidential information.
2. Department Human Resources will have access to individual vaccine records and will provide reports regarding vaccines status to management on an as needed basis.

#### B. Candidates and New Employees

1. The vaccination requirement will be listed on all applicable job postings and will be included as a qualification of employment in candidate offers. Candidates who receive an offer of County employment must attest that they are fully vaccinated (or planning to seek an exception) in their offer letter response and return to their Department of Human Resources Manager prior to their start date.
  - a. Candidates who are eligible to apply for an exception may request a COVID-19 Vaccine Medical or Religious Exception Request Form from their Department Human Resources Manager. The pertinent form(s) must be submitted and processed prior to the candidate's start date. Failure to establish an eligible exception, in the absence of the required vaccination, will result in rescinded employment offer.
2. New employees will upload an image of their most updated proof of vaccination into Workday within three (3) business days of their official start date. Failure to upload vaccination documentation in this time frame will result in not meeting the minimum qualifications for employment and are subject to release or discharge.

#### **§ 3-90-050 Exceptions**

- A. The following employees may apply for an exception from the vaccine requirement by submitting a COVID-19 Vaccine Medical or Religious Exception Request Form to their Department HR Manager within thirty (30) days of presumed eligibility for an exception:
  1. Employees for whom a vaccine is medically contraindicated;
  2. Employees for whom medical necessity requires a delay in vaccination;

3. Employees who have sincerely held religious beliefs, practices, or observances that conflict with the vaccination requirement; or
  4. Employees with a physical or mental impairment that prevents them from receiving the COVID19 vaccine.
- B. Depending upon the duties performed, employees who are not vaccinated (i.e., those who are entitled to reasonable accommodation) may be required to wear specific masks, engage in social distancing, undergo COVID-19 testing, be reassigned, or other accommodations deemed appropriate as advised by public health officials.
- C. Department Human Resources will engage employees in additional follow-up if the employee does not submit sufficient supporting documentation or if exception eligibility cannot be established from the employee's initial request.
- D. If an exception is denied, and an employee has additional or clarifying information to provide, or they have had a change in circumstances, they may resubmit the exception request.

### **§ 3-90-060 Employer Support for Employee Vaccination**

#### **A. Time Off for Vaccination**

Employees will have reasonable time, including up to four (4) hours of paid administrative leave time, to receive each primary vaccination dose, independent of any other leave that the employee has accrued. Employees must code the time as administrative leave and notify their supervisor of their vaccine appointment and the time they will be away from work.

#### **B. Time Off for Side Effects Related to Vaccination**

Employees may use their accrued sick leave to recover from side effects experienced following each primary vaccination dose or booster. Employees covered under this rule have been granted an accrual bank equaling sixteen (16) hours of leave to use if an employee experiences a medical side effect from taking a COVID-19 vaccine, including a booster, that prevents the employee from performing their job duties. Employees may also use any Emergency Paid Sick Leave (EPSL) hours in their bank through June 30, 2022.

#### **C. Cost of Vaccine**

Currently the vaccine is free to employees. If this changes and the employee receives any charge not covered by insurance, the County will reimburse the employee.

### **§ 3-90-070 Employee Notification of Positive COVID-19 Test and Removal**

- A. Employees must promptly notify their Department Human Resources Manager and/or supervisor if they have been exposed to COVID-19, received a positive COVID-19 test or are diagnosed with COVID-19 by a licensed healthcare provider. This notification must occur regardless of employee vaccination status.
- B. Employee notification of a positive COVID-19 test or diagnoses may result in the employee's immediate removal from the workplace as a temporary measure while that employee is infectious and/or experiencing symptoms, and additional steps will be communicated by the employee's supervisor/HR Manager.
- C. Removal from the workplace may include telework or work in isolation (at County worksite but away from other employees) if suitable work is available and if the employee is not too ill to work. If an employee is unable to work due to illness, accrued sick leave or other leave may be used by the employee.
- D. Employees shall comply with all applicable government regulations/guidelines, as communicated by County management. As such, should new guidelines be released by public health, OHA, CDC, OR-OSHA or any governing body, these requirements will be promptly communicated and enforced.

### **§ 3-90-080 Face Coverings**

- A. All employees, regardless of vaccination status, are subject to face covering requirements, in accordance with County policy.
- B. Employees who are not fully vaccinated due to an eligible exception must wear N95 respirators (unless otherwise directed by the County), as designated by the County in accordance with County policy.
- C. Employees may submit medical or religious accommodation requests relating to face coverings or other protective gear (E.g., N95 Respirators) by submitting a COVID-19 Face Covering [Medical](#) or [Religious](#) Exception Request Form to their Department HR Manager.

### **§ 3-90-90 Enforcement of Policy**

- A. County employees, interns, and volunteers who fail to comply with this policy are subject to release or discharge from County employment for failure to meet the minimum qualifications for employment with Multnomah County. County volunteers who fail to comply will be released from their volunteer service.

- B. This rule shall be revisited and/or repealed in the event Multnomah County Public Health officials no longer recommend-mandatory COVID-19 vaccinations.

**Rule 4-10**

**COMPENSATION**

**Repealed by ER 0341**



## Rule # 4-20

### Benefits

§§:

[§ 4-20-010 Benefits for Elected Officials and the District Attorney](#)

[§ 4-20-020 Domestic Partners and Other Non-IRS Eligible Dependents Enrolled for Health Plan Coverage](#)

[§ 4-20-030 Benefits Eligibility](#)

[§ 4-20-040 Health Care Benefits](#)

[§ 4-20-050 Flexible Spending Account](#)

[§ 4-20-060 Life Insurance](#)

[§ 4-20-070 Disability Program](#)

[§ 4-20-080 Education Assistance](#)

[§ 4-20-090 Deferred Compensation Program](#)

[§ 4-20-100 Universal Bus Pass Program](#)

[§ 4-20-110 Incidental Benefits](#)

[§ 4-20-120 VEBA-HRA](#)

[§ 4-20-130 PERS-OPSRP Membership](#)

[§ 4-20-140 Retiree Medical Benefits](#)

[§ 4-20-150 Long Term Care Insurance](#)

[§ 4-20-0160 Wellness Program](#)

#### **§ 4-20-010 Benefits for Elected Officials and the District Attorney**

Elected officials and the District Attorney receive the following benefits:

- A. Workers' Compensation;
- B. Health, Dental, and Life Insurance;
- C. Retirement pensions and retiree medical benefits;
- D. Flexible Spending Accounts;
- E. Deferred Compensation; and
- F. Tri-Met Bus Pass Program

#### **§ 4-20-020 Domestic Partners and Other Non-IRS Eligible Dependents Enrolled for Health Plan Coverage**

County health plan eligibility rules are broader than IRS eligible dependent rules. This creates situations where family members may be eligible for enrollment in County employee's health plan coverage, but that coverage may be taxable to the Employee under IRS guidelines. For

the purpose of benefit plan enrollment Domestic Partners (both same and opposite sex) are treated the same as spouses.

The value of health plan benefits for enrolled but non-IRS eligible individuals is treated as imputed income under the federal Internal Revenue Code. Imputed income is calculated based on the total premium for the coverage minus any after-tax employee cost share paid for the non-IRS eligible dependent's coverage. The balance is the imputed value of the coverage and is subject to taxation. Employee cost shares for non-IRS eligible dependents are taken from after-tax wages.

#### **§ 4-20-030 Benefits Eligibility**

This covers all management, non-represented and executive employees except:

- A. Employees regularly scheduled to work less than twenty (20) hours per week or .5 FTE will not receive benefits, except those required by state or federal law.
- B. Temporary appointees regularly scheduled to work twenty (20) or more hours per week or at least .5 FTE will receive all the benefits described in this rule, except for the sick leave incentive program, and MCPR 4-30-020 (H).
- C. A temporary appointee who is a current member of a bargaining unit will receive the benefits negotiated as part of the applicable collective bargaining agreement instead of receiving benefits described in this rule.

#### **§ 4-20-040 Health Care Benefits**

A. Medical, Vision, Prescription and Dental

1. On the first day of the month following appointment, employees are eligible for one of the medical/vision/prescription and dental plans unless ineligible under MCPR 4-20-030. For enrollment, the employee must submit the application forms for coverage no later than the first day of that month. Employees, whose application forms are received after the first day of the month following employment, will be enrolled on the first day of the following month. An employee may participate in both a medical/vision/prescription plan and a dental plan or in a medical/vision/prescription plan only.
2. An eligible full-time or part-time employee covered under another group medical plan may elect to Opt-Out of the medical/vision/prescription coverage and receive the monthly opt-out reimbursement determined by the county. Effective January 1, 2009, the monthly reimbursement to employees eligible for VEBA will be paid to the employee through the employee's individual VEBA account. An

employee may Opt Out of the medical/vision/prescription plan and still elect dental coverage.

3. An eligible employee who Opts Out of coverage and subsequently loses that other coverage may enroll in a county medical/vision/prescription and/or dental plan (appropriate to the lost coverage)-within ninety (90) days of loss of coverage. County coverage becomes effective the first day of the month following timely submission of application for coverage forms.
4. Specific terms and conditions of the benefit programs are controlled by plan documents and federal and state law. Every effort has been made to ensure accuracy of these rules, however, where the rules differ, the plan documents control.
5. The county will determine the premium contribution rates to be paid by the county on behalf of eligible employees and the employee's eligible dependents. The employee will pay any remaining premium contribution for medical/vision/prescription and dental insurance.
6. County retiree medical benefit provisions are outlined in MCPR 4-20-140.
7. To the extent permitted by law, employee paid premium contributions toward the county's medical and dental plans will be paid with pre-tax dollars through payroll deduction according to guidelines for premium conversion in the Internal Revenue Code Section 125. Premium contributions not eligible to be paid with pre-tax dollars will be deducted in post-tax dollars through payroll deduction.
8. Coverage includes the employee and enrolled immediate family, i.e. spouse and eligible dependent children. In lieu of spouse coverage an employee may enroll a domestic partner and the partner's eligible dependents for benefits coverage.
9. Coverage at termination:
  - a. If the employee's last regularly scheduled work day is worked or spent on sick, vacation, or personal holiday leave and falls on or before the 15th day of the month in which employment terminates, the employee's county coverage lapses at the end of that calendar month. If such workday is on or after the 16th day of the calendar month in which employment terminates, county coverage lapses at the end of the following calendar month. An employee whose last workday is on or after the 16<sup>th</sup> day of the calendar month will have payroll deductions for the additional full month of coverage withheld from their final paychecks.

- b. Employees leaving county employment may elect to participate in county medical and dental benefit plans on a self-pay basis as provided by law (COBRA).

#### B. Coverage on Unpaid leave

1. Employees' medical/vision/dental benefit coverage is not affected by unpaid leaves of absence of less than thirty (30) days.
2. The county contributes toward medical/vision/prescription insurance coverage during unpaid FMLA leave as required by law. In addition, the county continues any monthly contributions toward dental insurance coverage as long as legally required contributions toward medical/vision/prescription coverage continue. Upon return to paid status, employee is responsible for repayment of any payroll deductions for continued health plan coverage that were paid by the county on behalf of the employee during the unpaid FMLA period. If the employee remains on unpaid leave for more than thirty (30) days after FMLA is exhausted, the leave will be treated as an unpaid leave of absence, except that the last day of FMLA leave will be deemed the employee's last day in paid status.
3. The 31st day of employee's unpaid leave of absence triggers calculation of when health plan coverage will end. If the 31st day occurs on or before the 15th day of a month: health plan coverage terminates at the end of that calendar month. If the 31st day occurs on or after the 16th day of a month, health plan coverage terminates at the end of the following calendar month.

#### C. Return from Unpaid Leave when Medical/Vision/Prescription/Dental Benefits Ended

1. Employees returning from a leave of absence without pay who return during the same health plan year will be reinstated to the same medical and dental plans (or successor plans) they had when the unpaid leave began.
2. If the 1st day of a month is a regularly scheduled working day, and employee returns from leave the first day of the month, coverage will begin upon their return from leave. If an employee returns after the first day of the month, or if the first day of the month is not a scheduled work day, coverage will begin the first day of the month following their return.
3. If unpaid leave of absence spanned an annual health plan enrollment and employee's health plan coverage ended due to unpaid leave status, returning employees must complete a New Hire Medical and Dental enrollment form and return the completed form to the Employee Benefits Office within thirty-one (31) days of returning to work. There is no automatic reinstatement of previously elected health plan coverage. Failure to submit a completed enrollment form will result in Default Enrollment for the employee.

D. The county will pay for COBRA medical and dental insurance coverage for a period of up to six (6) months beyond the month in which benefits would normally terminate for an employee with an approved long-term disability claim. However, employees who “Opt Out” of benefits coverage under MCPR 4-20-040 (A)(2) will not be eligible for continued county-paid coverage under this subsection. Contributions while on time loss under workers' compensation law are covered under the employee-injured workers' program as defined under MCPR 4-40-060 Workers' Compensation.

#### **§ 4-20-050 Flexible Spending Account**

- A. Each employee may participate in the Medical Expense Reimbursement Plans (MERP) and a Dependent Care Assistance Plan (DCAP) under federal law. However, county retirees who have returned to work are not eligible to participate.
- B. Employees on a leave of absence may not continue to participate in DCAP while on leave. Employees may re-enroll in DCAP when they return from leave of absence.
- C. Employees on a leave of absence without pay will have MERP participation cancelled when there is no longer a pay source to make MERP contributions. Employees may re-enroll in MERP when they return from leave of absence.

#### **§ 4-20-060 Life Insurance**

- A. The county will insure each employee, at no charge, under a term life insurance policy in the amount of the employee's base annual salary, to a maximum of \$50,000.
- B. The county will insure each retiree with at least ten (10) years of county service, at no charge, under a \$2,000 term life insurance policy while the retiree receives pension benefits.
- C. Employees may purchase supplemental term life insurance coverage for themselves, their spouse or domestic partner consistent with insurance carrier contracts.

#### **§ 4-20-070 Disability Program**

- A. Employees are enrolled in a county paid disability program. Specific terms and conditions of this program are controlled by the plan documents.
- B. Elected officials are not eligible for the county's paid disability program and are subject to the State of Oregon's rules regarding pay for elected officials.

#### **§ 4-20-080 Education Assistance**

- A. Each employee may be reimbursed for part or all of the cost of tuition for any course of study taken on the employee's own time which, in the judgment of the Director or supervisor, is related to the employee's position, will result in improved job performance, and is within existing budget limitations and priorities.

B. In lieu of tuition reimbursement, the employee may be provided with time off with pay so that the employee may attend the course.

C. Employees must apply for approval for reimbursement or time off at least thirty (30) days before the proposed enrollment, or as soon as the employee becomes aware of the training opportunity. If approved, the employee will be reimbursed within thirty (30) days after the employee presents proof of satisfactory completion of the course. Satisfactory completion is considered a "C" or above or a passing grade as defined by the institution. An employee may receive an advance payment to cover the cost of tuition and related incidental expenses under the following conditions:

1. In the judgment of the Director or supervisor, such an advance is consistent with the county's financial and operational needs and priorities; and
2. The employee signs and agrees that if the course is not completed, or county employment terminates before completion of the course, the county may deduct the amount of the advance from pay or use other means to collect the advance.

#### **§ 4-20-090 Deferred Compensation Program**

Each employee who has been employed by the county for at least thirty (30) days in a regular position may participate in the county's deferred compensation program, a pre-tax retirement savings plan administered under federal law. Specific terms and conditions of the deferred compensation program are controlled by the plan document.

#### **§ 4-20-100 Universal Bus Pass Program**

The county contributes 100% of the monthly cost of a Tri-Met bus pass for employees who enroll in the Universal Bus Pass Program. The monthly dollar amount will not exceed the maximum non-taxable amount allowed by IRS regulations. Temporary employees are only eligible for this benefit as specified in MCPR 4-20-030(B).

#### **§ 4-20-110 Incidental Benefits**

- A. Directors may approve occasional use of personal credit cards by employees when it is necessary or convenient to make purchases for the county. Any benefits, including frequent flyer miles and credit points to employees from such use may be retained and redeemed by the employees as additional compensation.
- B. Directors may approve occasional frequent flier miles accumulated as a result of county paid travel redeemed by employees as additional compensation.
- C. Directors may approve infrequent and brief use of county computers, county cellular devices, telephones, fax machines, and copy machines by employees on their own time for personal non-business purposes, consistent with MCPR 3-35 and 3-37. Such use

must not interfere with county duties and tasks. The benefit received by employees from such use is additional compensation.

#### **§ 4-20-120 VEBA-HRA**

The county will contribute on behalf of each management and executive employee contributions in to individual VEBA-HRA accounts in accordance with federal law. Specific terms and conditions of the VEBA-HRA program are controlled by the plan documents.

#### **§ 4-20-130 PERS-OPSRP Membership**

- A. Employees are eligible for participation in the Oregon Public Employees' Retirement System (PERS) or the Oregon Public Service Retirement Plan (OPSRP) pursuant to ORS 238 and 238A.
- B. In accordance with the terms and limitations of ORS 238.350, one-half of the accumulated unused sick leave with pay will be applied to final average salary for the purpose of pension benefit determination for eligible employees.
- C. The county will "pick up" the employee contribution to PERS and OPSRP as permitted by ORS 238.205 and ORS 238A.335.

#### **§ 4-20-140 Retiree Medical Benefits**

- A. **Retiree Medical Benefits Eligibility**  
A management, non-represented or executive employee meeting the eligibility requirements specified in MCC 9.510 through 9.530 at the time of separation from county employment is eligible to enroll in the Multnomah County Retiree Health Plan at separation. Bargaining unit members may also be eligible to enroll, subject to the applicable collective bargaining agreement.
- B. **County Retiree**  
For purposes of MCCPR 4-20-140 and in compliance with MCC 9.520 a county retiree is defined as a former employee who at separation from county employment was eligible to enroll in the County Retiree Health Plan and either enrolled in the County Retiree Health Plan at that time or elected the deferred enrollment option.
- C. **Deferred enrollment option**  
A county retiree who, at time of separation from county employment, has existing and ongoing health plan coverage under county sponsored medical and/or dental insurance plan through marriage or domestic partnership with another county employee or retiree, has the option to defer enrollment in the County Retiree Health Plan. The County retiree must submit a signed Retiree Health Plan Enrollment Deferral form to the Employee Benefits Office during the retiree's initial Retiree Health Plan enrollment period. Future participation in the Retiree Health Plan requires continuous and uninterrupted coverage under a county sponsored health plan. Continuous and uninterrupted enrollment in a

county sponsored medical plan is required to retain eligibility to enroll in the County Retiree medical plan at some later time. Continuous and uninterrupted enrollment in a county sponsored dental plan is required to retain eligibility to enroll in the County Retiree dental plan at some later time.

A county retiree who has deferred their County Retiree Health Plan enrollment may choose to terminate the deferral and enroll in the County's Retiree Health Plan at the annual open enrollment period or when an event occurs causing a loss of coverage under the other county health plan coverage the county retiree has relied upon to qualify for the deferral option.

#### D. County Retirees Returning to County Employment

Benefits for county retirees who are enrolled in or have deferred enrollment in the County's Retiree Health Plan and returning to county employment in a management, non-represented or executive benefit eligible position will be provided benefits as follows:

1. When a retiree receiving a fifty percent (50%) retiree health benefit subsidy under MCC 9.530 or a collective bargaining agreement returns to county employment and works at least part-time, the retiree will continue to be enrolled in the Retiree Health Plans. The county will pay the retiree's portion of the medical premium and fifty (50%) of the dental premium, if enrolled in a retiree dental plan.
2. When a retiree who is purchasing retiree health benefits under MCC 9.530 or a collective bargaining agreement but receives no premium subsidy, returns to county employment and works at least part-time, the retiree will continue to be enrolled in the Retiree Health Plans and the county will pay an amount equivalent to the county's medical/dental contribution for a regular part-time employee towards the retiree's medical/dental premiums. The retiree will continue to be responsible for payment of the difference between the total retiree medical/dental premium costs and the county's contribution.
3. When a retiree who has deferred enrollment in the County's Retiree Health Plan returns to county employment, the retiree continues the deferred enrollment and does not participate in the health plan options available to non-retired active employees.
4. A retiree who returns to county employment at least part-time is eligible for county provided Long Term Disability, Short Term Disability, Basic Life Insurance, Employee Assistance Program, management VEBA, and a bus pass.
5. A retiree who returns to county employment at least part-time is eligible to enroll in the optional employee and/or spouse/domestic partner life insurance.



6. A retiree who returns to county employment is not eligible to participate in either the Medical Expense Reimbursement Plans (MERP), the Dependent Care Assistance Plan (DCAP), and not eligible to receive benefit specified in MCPR 4-20-040 (D).

Benefits provided under this section will cease at the end of the calendar month following the retiree's last day in working status.

#### **§ 4-20-150 Long Term Care Insurance**

The county will offer employees the opportunity to purchase long term care insurance for themselves, their spouse or domestic partner and other members of the employee's extended family. Employees may purchase Long Term Care coverage for themselves and their spouse or domestic partner and make the monthly payment by payroll deductions from after tax earnings. Should an employee elect additional coverage for other family members, those premium payments will be remitted directly by the covered individual to the long term care insurance provider. Provisions of the long term care plan govern enrollment, eligibility, coverage, and portability of the program.

#### **§ 4-20-0160 Wellness Program**

- A. The County promotes a healthy lifestyle and provides employees, eligible family members, eligible retirees and others with access to resources through its Wellness Program. The Wellness Program provides opportunities to improve health and well being through education, exercise, prevention training, and wellness intervention designed to encourage a healthier workforce.
- B. The Wellness Program offers services which may include but are not limited to: access to affordable on-site fitness classes provided by authorized, qualified vendors and commercial grade fitness equipment, health and wellness seminars, work-life balance resources, a wellness library, incentive programs for healthy behaviors, lactation equipment loan program, Peer Support Network, information about community resources, and other activities.
- C. The County Benefits Office is responsible for the development and administration of internal county wellness policies and programs.

## **Rule # 4-40**

### **Workers' Compensation**

**§§:**

[§ 4-40-010 Scope](#)

[§ 4-40-020 Employee Status](#)

[§ 4-40-030 Return to Work](#)

[§ 4-40-040 Wage and Leave Benefits](#)

[§ 4-40-050 Disputed Claims](#)

[§ 4-40-060 Medical and Dental Benefits](#)

[§ 4-40-070 PERS Continuation Program](#)

#### **§ 4-40-010 Scope**

All officials and employees are provided workers' compensation coverage as required by state law.

#### **§ 4-40-020 Employee Status**

- A. The period of time that an employee is off the job, and unable to work by reason of a disability compensable under state law, will not interrupt continued employment for seniority or service credit for retirement vesting unless the employee's doctor, the Oregon Workers' Compensation Department or Board, or the employee's attending physician certifies to the county in writing that the employee will be permanently disabled and unable to return to county service and fully perform the duties of the position last occupied.
- B. If the employee is transferred because of a disability to another classification, seniority will be governed by these rules.
- C. If the injured worker is serving a probationary period and the absence from work exceeds thirty days, the length of the absence will extend the probationary period from work.

#### **§ 4-40-030 Return to Work**

- A. If the attending physician releases an injured employee to return to the job, the employee will be reinstated to the same position if eligible under state law.
- B. If the attending physician releases an injured employee to modified duty (a partial or limited release), suitable work will be made available whenever possible, for a period up to 90 days.

#### **§ 4-40-040 Wage and Leave Benefits**

- A. To the extent not compensated by workers' compensation benefits, the first day of occupational disability shall be compensated as time worked. To the extent not

compensated by workers' compensation benefits, the day following the first day of occupational disability and the next succeeding day shall be compensated as time worked if such days would have been work days.

- B. The county will supplement workers' compensation time loss benefits received by employees for temporary total disability due to occupational injury, illness, or disease by an amount which, coupled with workers' compensation payments, will provide disabled employees with the equivalent of 100% of their net take-home pay (as calculated under workers' compensation regulations).
- C. The county will make retirement contributions, based upon the gross dollar amount of supplemental benefits paid, throughout the period that the employee receives time loss benefits.
- D. Employees will continue to accrue sick and vacation leave at regular rates during the period employees receive supplemental time loss benefits.
- E. Supplemental pay is payable while the injured worker is receiving temporary total disability time loss payments and will end when the worker has a light duty or limited duty release to return to work, and such duty work is available to the injured worker. Such supplemental benefits will continue for 640 hours or for the number of hours of sick leave the employee has accrued, whichever is higher. An employee's sick leave accrual is not, however, used to pay for supplemental benefits provided by the county.
- F. Supplemental benefits will be paid on the injured worker's regular payday.

#### **§ 4-40-050 Disputed Claims**

- A. If a workers' compensation claim is denied or if the employee accepts a compromise settlement of a disputed claim, the employee's absence from work will, to the extent not compensated by workers' compensation time loss payments, be paid from and charged against sick leave accrual.
- B. If a workers' compensation claim is denied and later found to be compensable or held compensable upon appeal and the employee has been utilizing sick, vacation, or holiday leave, the employee will reimburse the county for any time loss payments and the employee's sick, vacation, or holiday leave account will be credited with an equivalent number of days.

#### **§ 4-40-060 Medical and Dental Benefits**

- A. The county will continue contributions toward medical and dental benefits for the employee and dependents from the first day of occupational disability throughout the period the employee receives supplemental benefits.

B. If an employee's workers' compensation claim is denied before the employee returns to work, the employee is entitled to request continued medical and dental coverage at the employee's expense, under COBRA regulations. If the denied claim is later held compensable upon appeal, the employee is entitled to reimbursement of any premiums paid to the county for medical and dental benefits and any other supplemental benefits.

#### **§ 4-40-070 PERS Continuation Program**

A. In lieu of retirement contributions and other supplemental benefits provided above, an employee with ten or more years of county service may elect to participate in the PERS continuation program. To participate the employee must sign an election form and provide it to the county's central payroll unit.

#### **B. Benefits**

1. Employees will receive 100% of their regular salary retroactive to, and including the first day of the pay periods in which the election is made. To receive such benefits, the employees must reimburse the county for the workers' compensation time loss payments.
2. The county will make full PERS contributions, including the 6% "pick-up" of the employee share, for the same time period.
3. Employees are subject to all payroll taxes and entitled to all other county benefits provided to regular status employees.

C. Benefits are payable only for days compensated by workers' compensation time loss on an approved claim. If an award of retroactive benefits is made on an approved claim, the employee may elect to participate in the PERS continuation program at the time the decision to award benefits is made. The effective date of the election will be retroactive to the earliest date for which the employee receives retroactive workers' compensation benefits.

#### **D. Duration of the PERS Continuation Program**

1. An employee may choose to be covered under the PERS continuation program only once during the employee's entire career with the county. Once selected, the election will continue for three continuous years from the effective date of the election. The eligible employee is entitled to receive benefits under the program for the entirety or for any portion of the election period for any compensable claims.
2. If an employee elects to participate in the program but the claim is not approved, the election will be void and the employee is entitled to exercise the election on another occasion. However, because the election stays in effect for three years from the first date the employee receives benefits under this program, a claim

denial after the employee has received benefits under this program does not void the election or create a new election opportunity.

- E. Employee Responsibility:** Employees participating in the PERS continuation Program will provide monthly reimbursement to the county's central payroll unit for an amount equal to the workers' compensation time loss benefit. The county must receive the payment within seven days of receipt of the time loss benefit by the employee.
- F. An employee who fails to pay the county will be considered delinquent and may be required to pay penalties and fees that may accumulate up to twice the amount of the delinquent workers' compensation equivalent payment. When an employee is delinquent, the county will notify the employee of the delinquency in writing, by certified mail, and stop or place a hold on county benefits under the PERS continuation program or may terminate the employee's participation in the PERS continuation program.

G. Penalties and Fees

1. In addition to the missed payment, the delinquent employee is required to pay the county a \$50 collection fee. The county may also collect a delinquency penalty for each day of late payment. This daily penalty shall equal 1% of the Workers' Compensation benefit received by the employee for that pay period.
2. The daily penalty will be waived if the employee repays the delinquency prior to receipt of the notice of delinquency; the employee is physically or mentally disabled to the extent that they are unable to perform repayment obligations; or the uncashed time loss benefit check is returned to the county.

## **Rule # 4-60**

### **Performance**

**§§:**

[§ 4-60-010 Management](#)

[§ 4-60-020 Appraisal Process](#)

#### **§ 4-60-010 Management**

- A. This applies to management and executive employees. It does not apply to employees regularly scheduled to work less than 20 hours per week or elected officials' staff.
- B. Performance evaluation is intended to improve productivity through systematic communication between supervisors and employees regarding performance, standards, leadership values, goals, and employee concerns and problems.
- C. Using the performance evaluation process, an employee and supervisor set individual employee performance objectives and goals. The employee is evaluated on performance that is consistent with the achievement of these objectives and goals.
- D. Management employees who fail to satisfactorily perform the duties of their position are subject to disciplinary action.

#### **§ 4-60-020 Appraisal Process**

- A. At the beginning of each fiscal year, performance objectives for each employee will be established. Adjustments to the performance objectives may be made as needed, during the fiscal year. If the supervisor and employee are unable to agree on performance objectives, the Director to whom they report will facilitate an agreement.
- B. Each employee will be evaluated at the end of the fiscal year on the results achieved toward meeting the established performance objectives and demonstrating county leadership values.
- C. Each employee will be rated as meeting or not meeting performance goals and demonstrating county leadership values. Signed evaluation forms must be submitted to the department human resources unit and will be placed in the employee's personnel file.
- D. Each employee rated as meeting performance goals and demonstrating leadership values is eligible for a merit increase.
- E. Employees failing to meet performance goals must be placed on a corrective action plan and receive special performance appraisals at times established by the plan. Corrective

action plans will include specific performance objectives, criteria for measuring the objectives, and the frequency of review. Plans will be signed by the employee, and placed in the employee's personnel file. Serious deficiencies in performance are cause for disciplinary action.

F. Employees may prepare written comments or rebuttals to their evaluations that will be attached to their evaluation form and placed in their personnel file.

## **Rule # 4-70**

### **Disciplinary Action**

**§§:**

[§ 4-70-010 Discipline](#)

[§ 4-70-020 Authority](#)

[§ 4-70-025 Applicability](#)

[§ 4-70-030 Discipline of Executive Employees](#)

[§ 4-70-040 Discipline of Management Employees](#)

[§ 4-70-050 Management Employee Discipline Notice](#)

[§ 4-70-060 Repealed by ER 303](#)

#### **§ 4-70-010 Discipline**

Directors and supervisors will administer work and conduct rules. They will discipline employees who do not comply with those rules. Discipline must recognize the dignity of employees and encourage and correct behaviors, rather than demean or embarrass employees.

#### **§ 4-70-020 Authority**

Supervisors are authorized to impose discipline, as listed below, unless a Director has specifically removed that authority in writing. Delegation of authority for disciplinary actions is as follows:

- A. Oral and Written Reprimands: Immediate supervisor;
- B. Demotions, Suspensions, and Reductions in Pay: Reviewing supervisor;
- C. Dismissals: Supervisors who are executive employees.  
This authority may be delegated in writing. Copies of delegations must be distributed to executive employees, and the Multnomah County HR Director. This authority may be amended in writing at any time.  
(ER 312, Amended, 08/08/2007)

#### **§ 4-70-025 Applicability**

#### **§ 4-70-030 Discipline of Executive Employees**

Executive employees, as well as temporary and on-call employees, serve at the pleasure of the Director and may be dismissed at any time. These employees have no appeal rights within the county. Consultation with Central HR is required before dismissing executive employees

(ER 312, Amended, 08/08/2007)



## **§ 4-70-040 Discipline of Management Employees**

### A. Cause for Disciplinary Action

1. Misconduct, indolence, malfeasance;
2. Inefficiency, incompetence, insubordination; and/or
3. Other unfitness to render effective service.

### B. The following discipline may be imposed:

1. Oral Reprimand: The reprimand will state the basis for the reprimand.
2. Written Reprimand: The reprimand will state the basis for the reprimand and the potential for further discipline if the behavior is not corrected.
3. Demotion: Reassignment of an employee to a class with a lower pay range. Demoted employees will receive the pay specified by the discipline. The new pay will be no less than the first step or minimum for the lower pay range.
4. Suspension: The suspension will be without pay for a specific period. For management employees exempt from the FLSA, the suspension without pay must be in increments of full workweeks or full days for suspensions without pay for major safety violations.
5. Reduction in Pay: FLSA exempt employees are not subject to pay reductions. For FLSA non-exempt employees, the pay reduction will be as specified in the disciplinary action. Reductions may be made for a period necessary to improve performance or behavior.
6. Any combination of the above discipline.
7. Dismissal.
8. Other discipline following consultation with Central HR.  
(ER 312, Amended, 08/08/2007)

## **§ 4-70-050 Management Employee Discipline Notice**

### A. Notice of Proposed Discipline

1. Except for oral and written reprimands, employees must be notified of specific proposed disciplinary action and relevant facts and be provided an opportunity to respond before imposition of discipline. This notification will be in writing except that employees may be suspended without written notice of proposed action when the supervisor deems a delay would be disruptive to the work place.

2. If the proposed discipline is dismissal, employees will be given notice at least seven calendar days before any required hearings. Hearings will be no earlier than seven calendar days after postmark dates on notification letters to employees.
3. The county will follow the procedures in MCPR 3-60-060 for notifying management employees of proposed disciplinary action.

#### B. Disciplinary Action

1. Discipline letters must contain the relevant facts. Before discipline takes effect, the letter of discipline must be personally delivered to the employee, or mailed to the last known address. When notifying management employees of disciplinary action, the county will follow the procedures outlined in MCPR 3-60-060 and 3-60-070.
2. Management employees may send a written response to disciplinary action to their department human resources manager. If the response is received within 10 days of the discipline, it will be placed in the employee's personnel file. (Ord. 277, Amended, 03/10/2004)

#### **§ 4-70-060 Repealed by ER 303**

## **Rule # 4-80**

### **Reduction in Management Work Force**

**§§:**

[§ 4-80-010 Purpose](#)

[§ 4-80-020 Policy](#)

[§ 4-80-030 Determining Impacted Employees](#)

[§ 4-80-040 Notice](#)

[§ 4-80-050 Reinstatement](#)

[§ 4-80-060 Provisions to Save Employees from Layoff - Project Save](#)

#### **§ 4-80-010 Purpose**

The following rules apply to management employees only. Executive employees are considered to be at-will and subject to dismissal for any lawful purpose.

#### **§ 4-80-020 Policy**

- A. A management employee may be removed from management service and subject to layoff, reassignment or FTE reduction due to lack of funds, reorganization, lack of work, or other budgetary or workload reasons that are not for cause.
- B. This policy does not authorize bumping within management service. Management employees who previously held classifications that were represented by a union may have bumping rights back into the bargaining unit if such rights are granted or not prohibited under the union's collective bargaining agreement.
- C. If a management employee is offered and refuses reassignment to another management position, a reassignment due to bumping back into a represented classification, or a reassignment with a reduction in FTE, the employee's refusal will be deemed to be a voluntary resignation.

#### **§ 4-80-030 Determining Impacted Employees**

- A. The Appointing Authority for each department has the sole discretion in determining which management employees will be subject to layoff, reassignment, or FTE reductions.
- B. The Appointing Authority will consider the following factors, in descending order of importance, when determining which management employees will be impacted:
  - 1. The needs of the organization in terms of the types of positions and the special knowledge, skills and competencies necessary to accomplish the work of the department.
  - 2. The qualifications of employees in terms of needed special skills and expertise.

3. Current and anticipated funding for the programs and services that employees are assigned to.
4. The overall performance of a management employee shall be measured by their progress in meeting established performance objectives and demonstrating county leadership values as identified in the county's Performance Planning and Review (PPR) process.
5. The disciplinary record of employees.
6. The length of continuous county service by management employees.  
Continuous county service, for the purpose of this rule, is defined as the total length of continuous employment at the county beginning on the employee's date of hire into a regular status assignment. County service is broken by discharge for cause, voluntary termination, or involuntary termination due to layoff.
7. Requests by employees for voluntary layoff.

**§ 4-80-040 Notice**

- A. The Appointing Authority should provide written notice of layoff, reassignment, or reduction in FTE to employees as early as possible, but in no case less than 15 calendar days prior to the effective date. Once an employee has been notified in person of their layoff, reassignment, or reduction in FTE, subsequent notices may be sent via email.
- B. The notice to affected employees should state:
  1. Any offers of reassignment if available.
  2. Any rights to bump back into a bargaining unit classification if applicable.
  3. The right to be placed on a reinstatement list for all of the classifications in which the employee previously held regular status.
  4. Any right, as defined in the applicable collective bargaining agreement, to be placed on a recall list for a bargaining unit classification.
  5. Programs that the employee may be eligible for such as Project Save.
- C. Employees who are offered a reassignment to another management service position, bumping rights back into a bargaining unit classification, or reassignment to a position with a reduction in FTE must respond by the date outlined in their notice. Failure to respond as instructed by the stated date will be deemed to be a voluntary resignation.

#### **§ 4-80-050 Reinstatement**

- A. The names of employees laid off or reassigned to a lower classification will be maintained on a reinstatement list for all of the classifications in which the employee previously held regular status.
- B. The term of eligibility to remain on the reinstatement list is one year from the date of layoff or reassignment to a lower classification. Employees who are reassigned to a lower classification may renew their eligibility on the reinstatement list annually. Reinstatement to county employment or to a previously held classification is at the discretion of the appointing authority.
- C. Employees who are reinstated following a demotion to a lower classification will serve a trial service period of 120 days. Employees who are reinstated following separation are subject to the applicable probationary period in MCPR § 2-15-020 and may be removed during probation.

#### **§ 4-80-060 Provisions to Save Employees from Layoff - Project Save**

- A. The county may offer an employee who is on notice of pending layoff a position in a classification with a salary range that has the same maximum range or lower salary range for which the employee is qualified and for which there is a vacancy available.
- B. The offer of employment under Project Save may be by a non-competitive appointment and may be made by any department or non-department in the county.
- C. Employees may not be offered employment that would be a promotion as defined by these rules except through competitive appointment.
- D. Employees do not have to accept any offers of employment through Project Save and can exercise any bumping rights they have into a bargaining unit classification or accept layoff.

(ER375, Amended, 11/04/2009)

## **Rule # 5-10 Administration**

**§§:**

[§ 5-10-010 Scope](#)

[§ 5-10-020 Vision and Values](#)

[§ 5-10-0230 Department Responsibilities](#)

[§ 5-10-040 Department of County Management Responsibilities](#)

[§ 5-10-050 Intergovernmental Cooperation](#)

[§ 5-10-060 Evaluation of County Human Resources Practices](#)

[§ 5-10-070 Purpose of Evaluation](#)

[§ 5-10-080 Department Records](#)

[§ 5-10-090 Evaluation and Monitoring Process](#)

[§ 5-10-100 Human Resource Oversight Team](#)

### **§ 5-10-010 Scope**

These rules govern and affect human resources administration for all county employees. These rules do not supersede provisions of collective bargaining agreements. These rules apply generally unless another rule or provision of a collective bargaining agreement more specifically applies.

These rules will be interpreted broadly. They will be considered as a whole rather than interpreted in isolation and out of context. The general principles stated serve as a basis for the practice of county human resources.

### **§ 5-10-020 Vision and Values**

A. **Vision:** The county human resources policies and practices are based on partnership and collaborative sharing among departments. Responsibility for the county's human resources functions is divided between the direct service departments and the Department of County Management Central HR Division. Departments have resources to realize results and manage their human resources functions.

B. Values for collaboration include:

1. Maintenance of the principles of the merit system and assurance that laws, rules, procedures and collective bargaining agreements are implemented;
2. Continued support for the county's diversity, equity and affirmative action principles and goals;
3. Support and enhancement of the county's role as employer; and
4. Collegial operations to meet customer needs.

## **§ 5-10-0230 Department Responsibilities**

Directors are delegated the following responsibility within the county's human resources functions to exercise authority and responsibility consistent with these Rules. Responsibilities include:

- A. Recruiting, testing and employing staff;
- B. Determining individual employee's rates of pay within established pay ranges and pay practices;
- C. Authorizing special salary changes or incentive payments within established programs;
- D. Authorizing employee leaves with and without pay;
- E. Rewarding or disciplining employees;
- F. Assuring diversity in the workforce;
- G. Maintaining employees' personnel files, reasons for discretionary salary changes made outside of the guidelines listed in MCPR 2-40-030 and such other records that may be required for audit, evaluation and monitoring purposes;
- H. Assigning work, preparing job descriptions, assisting in maintaining an accurate classification system;
- I. Maintaining the basic tenets of the merit system;
- J. Participating in the collective bargaining process by identifying needed contract changes and upon request in the bargaining sessions;
- K. Maintaining good relationships with county unions;
- L. Defining and developing employees' knowledge, skills and abilities; and
- M. Participating in evaluation and monitoring processes and conducting self-evaluations of human resources functions.

## **§ 5-10-040 Department of County Management Responsibilities**

- A. Development and implementation of policies, rules, procedures and forms to support consistent administration of human resources and labor relations functions and practices for the county;
- B. Human resources technical consultation and assistance to Directors;
- C. Proactive development of state of the art human resources systems and best practices clearing house;

- D. Monitoring and evaluating the county's human resources functions, including establishing self evaluation and external evaluation processes for departments;
- E. Work force planning, organizational development, and diversity of the county's workforce;
- F. Developing classification plan and format, writing classification specifications, determining knowledge, skills and abilities required for each classification, approving the allocation of positions to classes;
- G. Developing and implementing an overall system for the recruitment and selection of individuals for county employment which assures adherence to merit principles.
- H. Developing and maintaining the compensation plan, including recommendations for pay ranges;
- I. Negotiating collective bargaining agreements, providing training and interpretation of agreements, assuring fair dispute resolutions, and general overall responsibility for union relationships;
- J. Administering the county's employee benefits program, developing policy, informing employees of benefits and requirements, researching and surveying to remain competitive in both compensation and benefit programs;
- K. Administering safety programs, employee assistance and injured worker programs;
- L. Developing procedures implementing management of county employees' performance in a manner consistent with county values;
- M. Developing systems and procedures necessary to assure compliance with legal and contractual obligations; and
- N. Developing an employee development plan and providing training to assure county employee workforce skill and knowledge.

#### **§ 5-10-050 Intergovernmental Cooperation**

Central HR may enter into agreements with other governments to furnish or receive services to facilitate public service, mobility and maximum utilization of staff and to improve personnel administration with respect to such matters as recruiting, examining, classification and compensation studies, training, education, personnel interchange and transfer, human resources best practices and fringe benefits.

Central HR may cooperate with other governments to share tests, eligibility lists and other personnel activities.



## **§ 5-10-060 Evaluation of County Human Resources Practices**

A. Central HR, in cooperation with Directors, will monitor and evaluate the effectiveness of the human resources functions within the county. Departments will be evaluated on their adherence to the county's merit system principles, and compliance with the federal, state and county law and rules in the following areas.

1. Recruiting, appointing, and promoting employees on the basis on their relative ability, knowledge and skills;
2. Retaining employees on the basis of their satisfactory performance, including developing and overseeing measures to correct unsatisfactory performance and taking appropriate actions when employees' performance concerns cannot be corrected
3. Assuring applicants and employees are free from discrimination and biased treatment in all employment actions, without regard to political affiliation, race, religion, color, sex, sexual orientation, gender identity, familial status, source of income, age, physical or mental disability, marital status, national origin or other protected status in all aspects of human resources administration; and
4. Assuring employees of protection against coercion for political purposes and preventing use of their official position for political purposes.

## **§ 5-10-070 Purpose of Evaluation**

A. The evaluation process will recognize that a balance of responsibilities between the departments and Central HR assures the best use of resources and expertise and produces the best management of the county's human resources.

B. The departments and Central HR participate in planning, implementing and regularly monitoring and evaluating the effectiveness of the county's human resources program. Particular attention will be paid to the county's merit principles, adherence to applicable laws and county rules.

C. Departments will be evaluated and monitored on records management and performance of assigned responsibilities.

## **§ 5-10-080 Department Records**

Each Director must maintain adequate files and other records as required by the rules that provide information about the department's implementation of human resource program responsibilities.

## **§ 5-10-090 Evaluation and Monitoring Process**

- A. A human resources oversight team designated under MCPR 5-10-100 will review implementation of the merit practices and these rules by Directors, and may require that departments conduct self-audits. The review may focus on a single issue such as the practice of setting salaries under the personnel rules or general matters such as a review of the recruitment and selection practices of a Director.
- B. Central HR will form teams to conduct reviews. The teams may include staff from Central HR, payroll, departmental human resource offices and other designees. At least 15 days prior to a departmental review, Directors will be informed of the review's purpose, the process to be used and the composition of the review team.
- C. Central HR and the team will minimize, where possible, the impact of the process on the day-to-day activities of departments.
- D. Review teams may present draft reports and findings to the Director and managers for discussion and comment within 30 days following completion of the review. If areas of improvement are identified, a proposed performance enhancement plan will be developed. The evaluation team will work with the Director to devise performance enhancement plans by presenting recommendations, which may include providing training and follow-up reviews. These plans will include steps to correct the identified area(s) of improvement, describe how those improvements will be measured and the frequency of follow-up.
- E. Final reports and recommendations will be provided to the Director within 30 days following the completion of the review. The Director may respond to the final report. When improvements are required, departments must respond to the evaluation team within 20 days of the final report, unless Directors have received written extensions from the Multnomah County HR Director (MCHR Director).
- F. Results of the evaluation along with the final proposed performance enhancement action plans will be forwarded by the Director to the MCHR Director within 15 days of the final review by the evaluation team.
- G. Evaluation reports and requisite performance enhancement action plans will be provided to the Chair and the Department Director by the MCHR Director. The Chair will facilitate resolution of any continuing disagreements arising from an evaluation. Decisions to accept or reject action plans will be made by MCHR Director.

## **§ 5-10-100 Human Resource Oversight Team**

Central HR will work with appropriate forums to monitor the implementation of the county's human resource functions. As evaluations reveal areas requiring change or improvement, recommendations will be forwarded to the Chair for adjustments or corrections to the practices

or rules to improve the county's human resource functions and ensure alignment with county strategic goals.

## **Rule 5-20**

### **Recruitment and Assessment**

§§:

<a href="#">5-20-005</a>	<a href="#">Policy Statement</a>
<a href="#">5-20-011</a>	<a href="#">Types of Recruitments</a>
<a href="#">5-20-016</a>	<a href="#">Recruitment Announcements</a>
<a href="#">5-20-020</a>	<a href="#">Filing Applications</a>
<a href="#">5-20-030</a>	<a href="#">Disqualification of Candidates</a>
<a href="#">5-20-040</a>	<a href="#">Assessment Development</a>
<a href="#">5-20-050</a>	<a href="#">Assessment Process</a>
<a href="#">5-20-060</a>	<a href="#">Assessment Scoring</a>
<a href="#">5-20-070</a>	<a href="#">Application or Assessment Review</a>
<a href="#">5-20-080</a>	<a href="#">Assessment Records</a>

#### **§ 5-20-005 Policy Statement**

The county is committed to achieving a workforce representative of the county's diverse labor market, and being a leader in providing candidates and employees fair and equal employment opportunities. Accordingly, Department Directors will ensure that equal employment opportunities are afforded to all candidates and employees and that employment related decisions are non-discriminatory and merit based. Directors will ensure that employment practices are consistent with the County's Affirmative Action Plan, diversity initiatives, cultural competency strategies, and the Gladys McCoy Standard defined in MCPR § 5-40-060 (D), in addition to state and federal laws designed to promote good faith efforts to achieve established affirmative action goals, including for persons with disabilities. Directors will take proactive steps to develop diverse applicant pools for position vacancies.

#### **§ 5-20-011 Types of Recruitments**

- A. Internal Recruitment: A recruitment that is open to all current regular, probationary/trial service and limited duration employees who are in paid status, on approved leave, or on an active recall list. Additionally, current temporary and on-call employees may apply for an internal recruitment if all of the following conditions are met:
1. The employee was hired into the current temporary or on-call position via a competitive recruitment and selection process consistent with these rules;
  2. The employee has worked in an on-call and/or temporary capacity at least five hundred (500) hours within twelve (12) months preceding the date of application;
  3. The recruitment is for a position in their current department; and
  4. The recruitment will not result in a promotion to a job profile with a higher maximum salary rate.

- B. External Recruitment: A recruitment that is open to any person. Departments may limit the number of applications to be accepted for a recruitment.
- C. Open Until Filled: An internal or external recruitment that is open to any person without a specific end date and which will be closed once a qualified candidate has been appointed to each vacancy. This is typically used when the department anticipates having a small or highly specialized pool of candidates, or if there are multiple vacancies within a job profile.

#### **§ 5-20-016 Recruitment Announcements**

- A. Whenever a classified service position is open for application, Central Human Resources or the Department will post a recruitment announcement inviting applications from qualified persons.
- B. Each recruitment announcement will include the title, pay range of the job profile, type of classification (i.e. represented, management or unclassified), a general description of the duties performed, the applicable minimum qualifications and desirable qualifications, the expected type of assessment, application procedures and application deadline.
- C. The recruitment announcement must designate the type of the recruitment: internal, external, or open until filled, and if it may be filled with a trainee. The department issuing the recruitment announcement may limit the size of the applicant pool for an external recruitment by specifying on the recruitment announcement the maximum number of applications that will be accepted. When that maximum is reached the recruitment will close immediately.
- D. Whenever a department significantly changes a recruitment announcement that may alter the applicant pool, the announcement must be revised and redistributed to provide notice of such changes.
- E. The department may decide to cancel a recruitment or not to fill a position at any time.
- F. Whenever a department cancels a recruitment, the department will notify all candidates in writing of such action.
- G. Central Human Resources is the “department” responsible for countywide recruitment announcements.

#### **§ 5-20-020 Filing Applications**

- A. Departments may elect to have candidates submit an official county application form or an alternative application format approved by Central Human Resources.
- B. Candidates must submit and complete the county’s standard application following the instructions specified on the job posting. The department may authorize the acceptance of late applications for good cause, provided all

similarly affected applications are treated consistently. Good cause includes but is not limited to the failure of an electronic device to fully transmit/deliver an application (computer). The candidate may be required to provide evidence that he or she made a reasonable attempt to submit the application by the deadline.

- C. For all recruitments, the final pool of candidates must submit either a completed and signed application; background check form or electronic application certifying the truth and completeness of the contents prior to the final screening process or interviews.
- D. Acceptance of an application does not guarantee an interview or admission to any part of the selection process. Admission to an assessment does not assure a passing grade; admission to a hiring interview does not assure selection for the position.
- E. If a candidate's contact information changes during the process, the candidate must this information in the system.

#### **§ 5-20-030 Disqualification of Candidates**

- A. A department may refuse to accept applications and disqualify candidates at any time for the following reasons:
  - 1. The application was not received by the deadline for filing applications.
  - 2. Applications may be disqualified if they are substantially incomplete, are not completed on the prescribed form, are illegible or directions on the recruitment announcement for submitting the applications were not followed. If a decision is made to accept deficient applications, all candidates for that recruitment will be given the same latitude with respect to those deficiencies.
  - 3. The candidate does not meet the eligibility requirements on the recruitment announcement including the ability to perform the work with or without reasonable accommodations.
  - 4. The candidate does not have the legal right to work in the United States.
  - 5. The candidate has made a false statement of material fact on the application or in the hiring process.
  - 6. The candidate has used or attempted to use influence or fraud to secure an advantage.
  - 7. The candidate was previously dismissed for cause from a position with the county service except as required by law.

8. The candidate fails to pass required physical examination, psychological evaluation, drug screening tests, security clearance, credentialing, reference check, or other background investigation necessary to qualify for the position.
  9. The candidate does not meet the minimum age requirements for the position as required by Bureau of Labor and Industries regulations.
  10. The candidate has expressed unwillingness to accept employment.
  11. The candidate's name may be removed from an eligible list when considered three (3) times to the same job profile from the same eligible list and the candidate has not been employed or has declined interviews.
  12. Appointment of the candidate would result in a violation of these rules or the law.
  13. During the assessment process, candidates may be disqualified if:
    - a. They fail to appear for an assessment on time;
    - b. Improperly conduct themselves; or
    - c. Fail to complete all parts of an assessment.
  14. Any other good cause as determined by the county.
- B. A department may refuse to accept applications and disqualify a candidate if the candidate has been convicted of a crime of such a nature to make the candidate unfit for the position or a candidate fails to pass a required criminal history checks necessary to qualify for the position.
1. Except as provided in §5-20-030(B)(2) below, criminal history checks can only be conducted after an initial interview or after a conditional offer of employment is made if there is no interview conducted.
  2. The requirement that criminal history checks come after an initial interview or conditional offer of employment does not apply in the following circumstances:
    - a. If federal, state, or local law, including corresponding rules and regulations, require the consideration of a candidate's criminal history;
    - b. When the position with the County is in a law enforcement agency or the criminal justice system; or
    - c. When the County is seeking a non-employee volunteer.
- C. Each candidate for an announced recruitment will be notified of any disqualifying action taken.

**§ 5-20-040 Assessment Development**

- A. Central Human Resources may provide departments resources to assist with the development of assessments and other measurement devices. Assessment methods selected shall assist departments to determine the most qualified candidate for the position.
- B. The same assessment instruments and grading methods must be used for all candidates at the same stage of the assessment process.
- C. Central Human Resources may assist departments to establish procedures and practices for assessment processes.

**§ 5-20-050 Assessment Process**

- A. Central Human Resources or a department may waive an assessment in the following cases:
  - 1. When for a particular vacancy, there are five (5) or fewer candidates who meet the minimum qualifications for the job profile and job related requirements for the position; or
  - 2. Candidates are applying for positions that allow self-certification of their experience, skills and abilities. Candidates will be placed on the list in order of the dates their applications are received. Candidate records must contain detailed information regarding their certified experience, skills and abilities. Candidates will be notified when they have been placed on the list. Demonstration of their certified experience, skills and abilities may be required at any time during the screening process.
- B. Central Human Resources or departments will evaluate the effect of each assessment administered for adverse impact on race, sex, and ethnic groups. If an assessment's results have adverse impact and have not been validated in accordance with the Uniform Guidelines for Employee Selection Procedures, the assessment will not be used for future selection processes unless it is modified or used in a manner that eliminates the adverse impact.
- C. The rating of each assessment will be completed and the resulting list established not later than thirty (30) days after the date the last assessment was held. The thirty (30) days may be extended and written notice given if an assessment is declared illegal, the need to fill the advertised position ends, or other cause exists. Each person competing in the selection process will be given written notice of final earned rating and placement or non-placement on the list.



- D. Candidates who fail an assessment will not be permitted to retake the assessment during that assessment process, but will be permitted to compete again when the position is next announced.

**§ 5-20-060 Assessment Scoring**

- A. Candidates may be required to attain a minimum score on each part of an assessment to receive a passing grade or to be allowed to compete and be rated on the remaining parts of the assessment process.
- B. The total combined assessment score will be given the value of seventy (70) and the maximum score will be one hundred (100).
- C. In assessments composed of several assessments that are graded separately, weights may be assigned to each assessment, assessments may be administered on a pass/fail basis, or assessment results may be ranked in order with those deemed to be below the equivalent of a seventy (70) receiving a rank of fail. Candidates who do not complete all assessments will not receive a final total score.
- D. Each eligible veteran or disabled veteran furnishing the required proof of eligibility and requesting a preference will be allowed the legal preference provided by law. At each stage of the process where a score is given, five (5) points will be added to the score of a veteran or ten (10) points will be added to the score of a disabled veteran.

**§ 5-20-070 Application or Assessment Review**

- A. Not later than ten (10) days after the date of notification by a department or Central Human Resources of disqualification of assessment results and/or placement or non-placement on an eligible list, each candidate may request:
  - 1. A review of disqualification for not meeting minimum qualifications stated in the recruitment announcement. Any changes due to a disqualification review will not affect the previous selection decision(s) concerning other candidates.
  - 2. Requests must be made in writing to the department or Central Human Resources, whichever conducted the assessment. The department or Central Human Resources must respond to the candidate within fifteen (15) days.
  - 3. If not satisfied by the response of the department, the candidate may send a letter appealing the decision to the Multnomah County Chief Human Resources Officer within ten (10) days of receiving the department's or Central Human Resource's response. The Multnomah County Chief Human Resources Officer must respond to the candidate within fifteen (15) days. The decision of the Multnomah County Chief Human Resources Officer is final for non-represented

employees. Represented employees have ten (10) days to appeal to the Merit Council under MCPR § 2-20-010.

- B. If errors are found, the candidate's score will be corrected.
- C. Candidates who wish to challenge the appropriateness of any question or answer on a written objective assessment, may review a "Keyed" copy of the assessment unless it would jeopardize the ability of the department or Central Human Resources to reuse the assessment, or it would violate a publisher's condition of use.
  - 1. A challenge to the appropriateness of assessment materials may only be made before candidates review their answers to specific questions. Candidates who request to see their own answers will be advised that they have waived the right to challenge the appropriateness of any question.
  - 2. Candidates who wish to view their answer sheets to confirm that they have received full credit for correct answers may compare their answer sheets with a "Keyed" answer sheet without the questions.
- D. The subject matter experts will make an evaluation when the correct response cannot be clearly defined and ratings are based on their judgment. The ratings assigned by such experts may only be appealed based on allegations of discrimination on the basis of race, color, gender identity, gender expression, source of income, sex, sexual orientation, familial status, marital status, age, religion, national origin, political affiliation, or physical or mental disability. When the department or Central Human Resources determines that a rater has discriminated based on an illegal factor, ratings of the challenged rater will not be included in the makeup of the final scores for candidates affected, unless there is another more appropriate remedy. In no instance will the comments or ratings by expert raters be changed nor will anyone substitute their judgment regarding the qualifications of a candidate for that of the rater's.

#### **§ 5-20-080 Assessment Records**

The department or Central Human Resources will retain a file for each assessment based on the document retention schedule for the department or Central Human Resources. Each file will include individual applications, assessment utilized, scores given, a certificate of eligibles list, interview notes, adverse impact analysis and other relevant information.

## **Rule 5-20**

### **Recruitment and Assessment**

§§:

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  2. The employee has worked in an on-call and/or temporary capacity at least five hundred (500) hours within twelve (12) months preceding the date of application;
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- C. The recruitment announcement must designate the type of the recruitment: internal, external, or open until filled, and if it may be filled with a trainee. The department issuing the recruitment announcement may limit the size of the applicant pool for an external recruitment by specifying on the recruitment announcement the maximum number of applications that will be accepted. When that maximum is reached the recruitment will close immediately.
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  - 2. Applications may be disqualified if they are substantially incomplete, are not completed on the prescribed form, are illegible or directions on the recruitment announcement for submitting the applications were not followed. If a decision is made to accept deficient applications, all candidates for that recruitment will be given the same latitude with respect to those deficiencies.
  - 3. The candidate does not meet the eligibility requirements on the recruitment announcement including the ability to perform the work with or without reasonable accommodations.
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  - 5. The candidate has made a false statement of material fact on the application or in the hiring process.
  - 6. The candidate has used or attempted to use influence or fraud to secure an advantage.
  - 7. The candidate was previously dismissed for cause from a position with the county service except as required by law.

8. The candidate fails to pass required physical examination, psychological evaluation, drug screening tests, security clearance, credentialing, reference check, or other background investigation necessary to qualify for the position.
  9. The candidate does not meet the minimum age requirements for the position as required by Bureau of Labor and Industries regulations.
  10. The candidate has expressed unwillingness to accept employment.
  11. The candidate's name may be removed from an eligible list when considered three (3) times to the same job profile from the same eligible list and the candidate has not been employed or has declined interviews.
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  13. During the assessment process, candidates may be disqualified if:
    - a. They fail to appear for an assessment on time;
    - b. Improperly conduct themselves; or
    - c. Fail to complete all parts of an assessment.
  14. Any other good cause as determined by the county.
- B. A department may refuse to accept applications and disqualify a candidate if the candidate has been convicted of a crime of such a nature to make the candidate unfit for the position or a candidate fails to pass a required criminal history checks necessary to qualify for the position.
1. Except as provided in §5-20-030(B)(2) below, criminal history checks can only be conducted after an initial interview or after a conditional offer of employment is made if there is no interview conducted.
  2. The requirement that criminal history checks come after an initial interview or conditional offer of employment does not apply in the following circumstances:
    - a. If federal, state, or local law, including corresponding rules and regulations, require the consideration of a candidate's criminal history;
    - b. When the position with the County is in a law enforcement agency or the criminal justice system; or
    - c. When the County is seeking a non-employee volunteer.
- C. Each candidate for an announced recruitment will be notified of any disqualifying action taken.

**§ 5-20-040 Assessment Development**

- A. Central Human Resources may provide departments resources to assist with the development of assessments and other measurement devices. Assessment methods selected shall assist departments to determine the most qualified candidate for the position.
- B. The same assessment instruments and grading methods must be used for all candidates at the same stage of the assessment process.
- C. Central Human Resources may assist departments to establish procedures and practices for assessment processes.

**§ 5-20-050 Assessment Process**

- A. Central Human Resources or a department may waive an assessment in the following cases:
  - 1. When for a particular vacancy, there are five (5) or fewer candidates who meet the minimum qualifications for the job profile and job related requirements for the position; or
  - 2. Candidates are applying for positions that allow self-certification of their experience, skills and abilities. Candidates will be placed on the list in order of the dates their applications are received. Candidate records must contain detailed information regarding their certified experience, skills and abilities. Candidates will be notified when they have been placed on the list. Demonstration of their certified experience, skills and abilities may be required at any time during the screening process.
- B. Central Human Resources or departments will evaluate the effect of each assessment administered for adverse impact on race, sex, and ethnic groups. If an assessment's results have adverse impact and have not been validated in accordance with the Uniform Guidelines for Employee Selection Procedures, the assessment will not be used for future selection processes unless it is modified or used in a manner that eliminates the adverse impact.
- C. The rating of each assessment will be completed and the resulting list established not later than thirty (30) days after the date the last assessment was held. The thirty (30) days may be extended and written notice given if an assessment is declared illegal, the need to fill the advertised position ends, or other cause exists. Each person competing in the selection process will be given written notice of final earned rating and placement or non-placement on the list.

- D. Candidates who fail an assessment will not be permitted to retake the assessment during that assessment process, but will be permitted to compete again when the position is next announced.

**§ 5-20-060 Assessment Scoring**

- A. Candidates may be required to attain a minimum score on each part of an assessment to receive a passing grade or to be allowed to compete and be rated on the remaining parts of the assessment process.
- B. The total combined assessment score will be given the value of seventy (70) and the maximum score will be one hundred (100).
- C. In assessments composed of several assessments that are graded separately, weights may be assigned to each assessment, assessments may be administered on a pass/fail basis, or assessment results may be ranked in order with those deemed to be below the equivalent of a seventy (70) receiving a rank of fail. Candidates who do not complete all assessments will not receive a final total score.
- D. Each eligible veteran or disabled veteran furnishing the required proof of eligibility and requesting a preference will be allowed the legal preference provided by law. At each stage of the process where a score is given, five (5) points will be added to the score of a veteran or ten (10) points will be added to the score of a disabled veteran.

**§ 5-20-070 Application or Assessment Review**

- A. Not later than ten (10) days after the date of notification by a department or Central Human Resources of disqualification of assessment results and/or placement or non-placement on an eligible list, each candidate may request:
  - 1. A review of disqualification for not meeting minimum qualifications stated in the recruitment announcement. Any changes due to a disqualification review will not affect the previous selection decision(s) concerning other candidates.
  - 2. Requests must be made in writing to the department or Central Human Resources, whichever conducted the assessment. The department or Central Human Resources must respond to the candidate within fifteen (15) days.
  - 3. If not satisfied by the response of the department, the candidate may send a letter appealing the decision to the Multnomah County Chief Human Resources Officer within ten (10) days of receiving the department's or Central Human Resource's response. The Multnomah County Chief Human Resources Officer must respond to the candidate within fifteen (15) days. The decision of the Multnomah County Chief Human Resources Officer is final for non-represented



employees. Represented employees have ten (10) days to appeal to the Merit Council under MCPR § 2-20-010.

- B. If errors are found, the candidate's score will be corrected.
- C. Candidates who wish to challenge the appropriateness of any question or answer on a written objective assessment, may review a "Keyed" copy of the assessment unless it would jeopardize the ability of the department or Central Human Resources to reuse the assessment, or it would violate a publisher's condition of use.
  - 1. A challenge to the appropriateness of assessment materials may only be made before candidates review their answers to specific questions. Candidates who request to see their own answers will be advised that they have waived the right to challenge the appropriateness of any question.
  - 2. Candidates who wish to view their answer sheets to confirm that they have received full credit for correct answers may compare their answer sheets with a "Keyed" answer sheet without the questions.
- D. The subject matter experts will make an evaluation when the correct response cannot be clearly defined and ratings are based on their judgment. The ratings assigned by such experts may only be appealed based on allegations of discrimination on the basis of race, color, gender identity, gender expression, source of income, sex, sexual orientation, familial status, marital status, age, religion, national origin, political affiliation, or physical or mental disability. When the department or Central Human Resources determines that a rater has discriminated based on an illegal factor, ratings of the challenged rater will not be included in the makeup of the final scores for candidates affected, unless there is another more appropriate remedy. In no instance will the comments or ratings by expert raters be changed nor will anyone substitute their judgment regarding the qualifications of a candidate for that of the rater's.

#### **§ 5-20-080 Assessment Records**

The department or Central Human Resources will retain a file for each assessment based on the document retention schedule for the department or Central Human Resources. Each file will include individual applications, assessment utilized, scores given, a certificate of eligibles list, interview notes, adverse impact analysis and other relevant information.

## **Rule 5-30**

### **Appointments**

**§§:**

[5-30-010 Appointments](#)

[5-30-020 Types of Appointments](#)

[5-30-030 Training Programs](#)

#### **§ 5-30-010 Appointments**

- A. Every person appointed or promoted to a position in the classified service must be certified as eligible, except on a temporary or on-call basis as provided below. Vacancies in the classified service will be filled only by appointment of an individual from a recall list, an eligible candidate certified from a list, a transfer from the list, a demotion of a regular or probationary/trial service employee, or through reinstatement. Employees may be reassigned from one position to another in the same job profile or with the same maximum pay rate. Such transfers will be subject to the restrictions contained in collective bargaining agreements.
- B. All unclassified positions, except those reporting directly to an elected official, will be filled through competitive recruitment and selection procedures that comply with applicable laws, county policies, and the Gladys McCoy Standard defined in MCPR § 5-40-060 (D) regarding equal employment opportunity or by direct appointment.
- C. For succession planning purposes, a department may job overlap a position for up to twelve (12) months if the department has the budgetary funds available.

#### **§ 5-30-020 Types of Appointments**

Individuals must be appointed to one of the following types of county service:

- A. Regular: An appointment from a certified eligible list to a regular, budgeted position in the classified service with a work schedule that is one-half time or more. An employee so appointed becomes a regular employee upon completion of the probationary/trial service period for the position.
- B. Limited Duration: An appointment to a classified service position will be made from certified eligible lists whenever possible and will be for time periods greater than six months for a defined period of time for a special project, a grant or to perform duties that have other limited funding. The manager must notify the employee of the duration at the time of hire. The notice must be in writing, and must state the ending date of the appointment. Regular employees appointed to limited duration appointments will be returned to a position within their department in their previous job profile at the end of the appointment. If no vacancy exists within their department, then they will be subject to the layoff

rules. If they did not have previous regular or probationary/trial service status with the county, their employment will be terminated.

- C. On-Call: An appointment that is intermittent, irregular or is normally less than half time. Persons appointed to perform on-call duties normally performed by regular employees must meet the minimum qualifications for the job profile. On-call appointments have no time limit. On-call employees may be discharged at any time by the manager and have no appeal rights within the county, unless specified in a collective bargaining agreement.
- D. Temporary: An appointment whose duration is uncertain due to an emergency workload, absence of an employee or because of a short-term need for a skill or ability.
  - 1. Such appointments must have prior approval of the Director.
  - 2. Temporary employees who perform duties normally performed by classified employees must meet the minimum qualifications established for the job profile.
  - 3. Temporary employees will be notified of their status when appointed. Their employment may be terminated at any time by the hiring manager and temporary employees have no appeal rights, unless specified in a collective bargaining agreement.
  - 4. A temporary appointment may be made for a period of up to six (6) months or one thousand and forty (1040) hours within the preceding twelve (12) months. A temporary employee who has already worked one thousand and forty (1040) hours may be appointed within the same 12-month period to a different position typically in a different department following a break in county service lasting fifteen (15) days or longer. A temporary employee may be reappointed to a different position when an unforeseen circumstance requiring the employee's services arises shortly after the termination of one appointment, even when the break in service is less than fifteen (15) days.
  - 5. An employee who has attained regular classified status and is subsequently given a temporary appointment will be returned to the position previously held or equivalent position upon expiration of the temporary appointment.
  - 6. All temporary appointments for management or executive job profiles which are expected to continue beyond ninety (90) days must be filled following merit principles utilizing a recruitment process that solicits candidates at a minimum from the functional work unit within which the

position exists, but does not preclude a broader recruitment process. Department Directors are responsible for ensuring processes are fair, equitable and comply with merit principles. A Department Director may request in writing an exception to the posting requirement following criteria similar to 5-30-020(E)(4)(a) with approval from the Multnomah County Chief Human Resources Officer.

E. Positions that are excluded from the classified service under MCC 9.110 are unclassified positions.

1. Unclassified employees serve at the pleasure of the Director. Unclassified employees may be discharged at any time.
2. Unclassified positions, except those directly responsible to elected officials, will be filled by competitive recruitment and selection procedures, or by direct appointment.
3. Each recruitment process, except for appointments to positions directly responsible to elected officials, must document the following information:
  - a. Position description, title and salary range
  - b. Name of the appointing manager
  - c. Recruitment sources utilized
  - d. Name, sex and race of each candidate
  - e. Name, sex and race of appointee
  - f. Description of the criteria and process used to determine qualifications and to make the final selection.
4. Direct appointments to unclassified positions
  - a. Direct appointments may be made by Directors, including elected officials, consistent with the following criteria:
    - i. Where job related ranking measures are not practical or appropriate;
    - ii. When a recent open competitive recruitment results in no suitable candidates as determined and documented by the Director;
    - iii. To fill positions that require special or unique skills; or

- iv. To fill positions that have critical timing requirements affecting recruitment, and
- v. The individual appointed meets the minimum qualifications of the position.

b. Clarification of criteria:

- i. To be considered recent, an open competitive recruitment must have been completed within the previous six months.
- ii. The suitability of a candidate is determined by the Director and consists of job related factors that are in addition to the minimum qualifications required by the job profile.
- iii. Critical timing requirement affecting recruitment means that the position is critical to department operations and there is a demonstrated need to fill the position quickly.

F. Documentation of the recruitment process must be retained by the department for three years.

### **§ 5-30-030 Training Programs**

A. Central HR or Department Human Resources Units may establish training programs for selected job profiles or for specialties within job profile subject to the final approval of the Central Classification and Compensation Unit Manager. The purpose of a training program is to develop new or existing employee knowledge, skills or abilities necessary for competent job performance. A training program will have an outline of the length of the training period, and knowledge, skills and abilities to be developed during the course of the program. A training position will have a position description, and all positions within a training program must be classified by Central Classification and Compensation Unit.

1. Training programs may be established:

- a. When the department can document that a position in a selected job profile or specialty within the job profile is difficult to fill based on responses to recent recruitments or projected response rates to recruitments; or
- b. To create developmental positions for internal career opportunities; or
- c. To aid in succession planning within selected job profiles or specialties within job profiles.

2. Individuals hired into training programs will be considered trainees.

3. Candidates for trainee positions must be able to meet the minimum qualifications of the budgeted position by the end of the probationary/trial service period, or the training program, whichever is longer. Training programs will not exceed two years except where the trainee position is part of an established program which requires the completion of an extended course of study or attainment of licensure or other specific credentials, such as a trades apprentice program; professions or disciplines requiring the completion of an advanced degree; or other specific training or experience requirements which typically exceed the two-year limitation. Exceptions to the two-year time limit must be supported by documentation showing the requirements that must be completed, and must be approved in advance by the Central Classification and Compensation Unit Manager or designee.
- B. Before a training program will commence, central or department human resources will submit a Training Program Plan to the Central Classification and Compensation Unit Manager for approval. The request will include at a minimum:
1. Final position description for the budgeted position without consideration for the training program.
  2. Draft position description for the trainee position which will include a suggested job profile if a suitable current job profile exists or if one does not exist suggested modifications to the budgeted position's minimum qualifications.
  3. A suitable job profile will be one in a series or where the principle duties, responsibilities and minimum qualifications of the trainee position are less but similar to the duties, responsibilities and minimum qualifications of the budgeted position's job profile.
  4. If a suitable job profile does not exist, the budgeted position's job profile will be used with a modified pay range, as determined by the Central Classification and Compensation Unit, no less than two pay scale groups below the standard range. The Central Classification and Compensation Unit, in consultation with Department of Human Resources, will determine the modified minimum qualification for the trainee position.
  5. Length of trainee program.
  6. Summary of the plan to provide training and support to develop the trainee into the budgeted position's job profile.
  7. Regularly scheduled formal evaluations to document how the Trainee is progressing.

- C. Trainees will be selected through a competitive recruitment process and training will be coordinated by department human resources units.
  - 1. Recruitment announcements will include language to indicate the position will or may be filled with a trainee.
  - 2. Trainees will meet the minimum qualifications for the trainee job profile or the modified qualifications for the budgeted position's job profile before hire.
  - 3. All documentations for the trainee program, including approval from the Classification-Compensation Manager, will be maintained in the recruitment file.
  
- D. Trainees will be promoted non-competitively as authorized by MCC 9.150 into the budgeted position's job profile or its regular pay scale group at the end of the trainee period provided the trainee's principle duties and responsibilities match the job profile and the trainee meets the minimum qualifications of the budgeted job profile.
  - 1. Training programs may end sooner than the expected date provided the trainee's principal duties and responsibilities match the budgeted position's job profile and the trainee meets the minimum qualifications of the budgeted position's job profile.
  - 2. Pay at the end of the training program will be set by following the promotional policy in either MCPR § 2-40 or MCPR § 4-10.
  
- E. Probationary/Trial service period for employees in training programs will follow MCPR § 2-15-030.

**§ 5-30-040 Nepotism**

(Section moved to MCPR § 3-30 - October 28, 2011)

## **Rule 5-40**

### **Appointment Procedures**

**§§:**

<a href="#">5-40-010</a>	<a href="#">Responsibility for Employment Lists</a>
<a href="#">5-40-020</a>	<a href="#">Types and Order of Candidate Lists</a>
<a href="#">5-40-030</a>	<a href="#">Duration of Eligible Lists or Eligibility</a>
<a href="#">5-40-040</a>	<a href="#">Abolition of Lists</a>
<a href="#">5-40-050</a>	<a href="#">Certification of Eligible Names</a>
<a href="#">5-40-060</a>	<a href="#">Consideration of Candidate</a>
<a href="#">5-40-070</a>	<a href="#">Closing the Recruitment Process</a>
<a href="#">5-40-080</a>	<a href="#">Notification of Appointment Status</a>

#### **§ 5-40-010 Responsibility for Employment Lists**

- A. Eligible lists of candidates for employment will be maintained by the departments that established the recruitments and lists.
- B. Recall and transfer lists will be maintained by Central Human Resources for all classified job profiles.

#### **§ 5-40-020 Types and Order of Candidate Lists**

- A. Recall Lists: Unless a collective bargaining agreement specifies otherwise, these are established by classification and contain the names of regular status employees who due to a reduction in force have been laid off, demoted, reassigned to a lateral classification, or reassigned from full-time to part-time status. An employee who accepts a transfer or elects to retire will not be placed on recall lists.
  - 1. When filling a vacancy, names from the recall list will appear ahead of candidates on all other lists. A manager is not required to offer a position to an employee who lacks specific required skills or knowledge if such skills or knowledge are not easily learned on the job within the normal orientation period. If the manager, Department Human Resources staff, and the employee mutually determine that the employee does not have the required skills or knowledge required for a position, the Department Human Resources staff must state in writing what qualifications required for the position the employee lacks and send to Labor Relations for review prior to denial. The employee's name will remain on the recall list for certification to other vacancies during the balance of the eligibility term.
  - 2. If a manager refuses to reinstate an employee certified to a vacancy from a recall list in the job profile for which the employee qualifies for reasons other than specified above, the refusal is deemed a dismissal. Such an action is subject to the dismissal provisions.



3. When an employee declines an offer of recall, the employee's name will be removed from that recall list.

B. Transfers, Demotions, Reinstatement following Demotion or Separation:

1. Transfers: An employee may be reassigned or request reassignment from one position to another position in the same job profile and must meet classification minimum qualifications. Such transfers are subject to restrictions contained in the collective bargaining agreements.
2. Central HR will maintain two countywide transfer lists, a Class Transfer List and a General Transfer List.
  - a. Class Transfer lists will contain the names of classified employees seeking transfers from one position to another position in the same job profile.
  - b. General Transfer Lists will contain the names of qualified employees requesting:
    - i. A transfer to a position in another job profile having a pay range with the same top step and similar qualifications; or a voluntary demotion to a job profile with a lower pay range;
    - ii. Reinstatement following voluntary demotion to the job profile from which demoted, or if abolished, an equivalent job profile, or to a previously held job profile; or
    - iii. Regular employees who separated from county service in good standing may request reinstatement within one year of separation from regular county service to the same or a previously held job profile, or if abolished, an equivalent job profile. Employee eligibility is one year from date of separation and not renewable.
3. No employee will be transferred from a position in one job profile to a position in another job profile with the same maximum pay rate for which there are substantially dissimilar requirements for appointment unless the employee meets the position requirements.
4. Any reassignment of an employee from a position in one job profile to a position in a job profile with a lower pay range will be considered a demotion and will be made only in accordance with the discipline procedure unless an employee has voluntarily requested a demotion.
5. Unless covered by the provisions of a collective bargaining agreement, names of persons requesting transfer will appear on the transfer list for the appropriate classification in alphabetical order without score. Transfer lists may be certified

to managers along with external, open until filled or internal lists. Transfer requests must be processed in accordance with applicable collective bargaining agreements.

6. Upon appointment to a new regular position, employees who transfer, demote or are reinstated following a voluntary demotion will serve a trial service period of one hundred and twenty days to demonstrate the employee's ability to fulfill the requirements of the position. Employees who are being reinstated following separation are subject to the applicable probationary/trial service period in MCPR § 2-15-020 and may be removed during probation.
  7. Employees, who are serving a probationary/trial service period at the time of transfer or demotion, are required to complete their probationary/trial service period and may be required under the terms of the applicable collective bargaining agreement to serve a new probationary/trial service period. If the employee does not satisfactorily fulfill the requirements of the new position, such employee will be returned to his or her previous position.
- C. Internal Lists: These lists are established by job profile and consist of the names of candidates for classified positions who meet the minimum qualifications for the job profile and specific requirements of the position, and have passing scores or ranks based on the assessment method used. Eligible candidates may be applying for promotions, demotions or transfers.
- D. External and Open Until Filled Positions: These lists are established by job profile and consist of the names of all candidates for classified positions who meet the minimum qualifications for the job profile and specific requirements of the position and have passing scores or ranks based on the assessment method used.
- E. When scores are given, the lists of names of eligible candidates will be in the order of their scores. Names will appear in alphabetical order on lists for which no scores were given.

#### **§ 5-40-030 Duration of Eligible Lists or Eligibility**

Lists may be of fixed duration or designated as open until filled.

- A. Recall Lists. The term of eligibility on the recall list is eighteen (18) months from the date a name is placed on the recall list or for the period indicated in the applicable collective bargaining agreement.
- B. Class Transfer List. Employees will submit requests to be on the transfer list in the manner specified by Central HR. Names will remain on the list for one (1) year. Eligibility may be renewed annually.

- C. General Transfer List (except reinstatement following separation see (D) below). Employees will submit requests to be on the transfer list in the manner specified by Central HR. Names will remain on the list for one (1) year. Eligibility may be renewed annually.
- D. Reinstatement Lists. The term of eligibility to remain on a reinstatement list is one (1) year from the date of layoff or reassignment to a lower classification. Regular employees who are still employed by the county may renew their eligibility on the reinstatement list annually. Regular employees who separated from county service in good standing are eligible for reinstatement for one (1) year following the date of separation and may not renew their eligibility.
- E. Internal, External, and Open until Filled Lists. These lists are established by job profile. The department managing the recruitment announcement will specify the duration of the list. The beginning date will be the date names are initially placed on the list. The term of eligibility for placement of names on the list will be up to two years (2) from the date of application.

**§ 5-40-040 Abolition of Lists**

Lists may be abolished prior to their normal expiration date for the following reasons:

- A. All candidates have been interviewed and found not acceptable for documented job related reasons;
- B. The list was illegally constituted; or
- C. The list is comprised of fewer than five candidates for each vacancy.; or
- D. The job profile for which the list was established has been abolished, or the minimum qualifications for the job profile have changed; or
- E. Any other business-related reason approved by the Multnomah County Chief Human Resources Officer.

When a list is abolished, all remaining candidates will be notified and may reapply for the new recruitment.

**§ 5-40-050 Certifications And Referral of Eligible Names**

- A. Upon notice that a position in the classified service will be filled, the names of the highest-ranking eligible candidates from lists for the job profile to which the position is allocated will be submitted to the manager. Names may be submitted from a list for another job profile equal to or higher than the position, provided that the candidates have demonstrated the necessary qualifications for the position. Candidates from active recall lists will be considered prior to those qualified by assessment.

- B. The manager may require that only candidates with specific position related experience, education, skill or ability and availability for the location and work schedule be certified. The following method will be used to certify eligible names from the list to meet the requirements for the position:
1. When scores are given to each candidate, a minimum of the three (3) candidates with the highest scores, or all scores if fewer than three (3), who have the knowledge, skills, and abilities required, and who are available for the location and work schedule of the position will be certified for each vacancy. All names with the same rank or score will be included. At the department's discretion, candidates whose names have been referred from an eligible list within the previous five (5) business days, may not have their names submitted to another vacancy during that period of time.
  2. When candidates are self certified or are otherwise without score, all candidates who have the knowledge, skills and abilities, and who are available for the location and work schedule of the position will be certified for each vacancy. Departments have the option of conducting subsequent assessments and then giving scores to candidates certified to a list.
  3. When the number on the list of eligibles on a non-scored or self-certified list exceeds twenty-five (25), departments have the option, using the county's applicant tracking system or a scientifically accepted method, of selecting for interviews a random number of candidates from the list of eligibles. A minimum of the top three randomly selected individuals must be considered.
  4. If a list contains fewer than five (5) certified candidates, the entire list may be submitted.
- C. Subject to provisions of the applicable collective bargaining agreements, names of transfer candidates who meet the knowledge, skills and abilities for the position, and who are available for the location and work schedule of the position will be provided to the manager.

#### **§ 5-40-060 Consideration of Candidates**

Candidates shall be considered after either an interview or review of all application material as required.

- A. The manager is responsible for contacting candidates for interviews and may further assess candidates for the position. When a certificate of eligibles is issued in order from the highest to lowest score, candidates for interviews will be selected in that same order, unless otherwise required by law.
- B. When an issued certificate of eligibles contains tied scores, all candidates with that score will be considered if one candidate with that score is considered, or if not scored

or self-certified, all candidates will be interviewed unless there are over twenty-five (25) candidates.

- C. If names are certified on a scored list, all candidates with higher scores than the person hired must be considered. If names are certified without scores, an attempt must have been made to contact all candidates on the list provided to the hiring manager.
- D. In accordance with the Gladys McCoy Standard (Multnomah County Resolution No. 2018-114), when a competitive recruitment is utilized for an unclassified Department Director, Deputy Director, or other senior leadership position as determined by the Chair, reasonable efforts will be made to interview the highest qualified candidates of color and underrepresented communities within the workforce.
- E. When the initial attempt to contact a candidate is unsuccessful, a candidate will not be determined to be unavailable until:
  - 1. Written notice has been emailed to the candidate requesting to schedule an interview appointment within five (5) calendar days of the email; or
  - 2. Two (2) attempts on separate days have been made to contact the candidate based on the contact information listed on their application, including but not limited to voice mail messages, emails, text messages, and/or U.S. mail, requesting to schedule an appointment within three (3) working days.
- F. When the manager has selected the final candidates, the recruiter will draft the conditional offer of employment letter in the system, contingent upon successfully completing the following:
  - 1. Check references. Compensation decisions for initial appointment to county employment will not be based on a candidate's current or past compensation with current or former employers. Compensation includes wages, salary, bonuses, benefits, and fringe benefits.
  - 2. Conduct criminal history checks as may be required for the position.
    - a. Except as provided in § 5-40-060 (E)(2)(b) below, criminal history checks can only be conducted after an initial interview or after a conditional offer of employment is made if there is no interview conducted.
    - b. The requirement that criminal history checks come after an initial interview or conditional offer of employment does not apply in the following circumstances:
      - i. If federal, state, or local law, including corresponding rules and regulations, require the consideration of a candidate's criminal history;

- ii. When the position with the County is in a law enforcement agency or the criminal justice system; or
- iii. When the County is seeking a non-employee volunteer.

3. Conduct other background investigations as may be required for the position.

G. When the manager has selected the finalist, the manager will require drug testing if required for the position.

**§ 5-40-070 Closing the Recruitment Process**

- A. Results of the recruitment must be entered into the applicant tracking system by the hiring department.
- B. Candidates interviewed will be notified of the results of the interview process by the hiring department.
- C. The department must retain recruitment records for appointments to classified and unclassified positions for three years. Each file will include individual applications, tests utilized, scores given, a certificate of eligibles list, interview notes, and other relevant information.

**§ 5-40-080 Notification of Appointment Status**

- A. All newly appointed employees will be notified in writing of their appointment status and the end date of their probationary/trial service period or appointment.
- B. Classified employees appointed or reclassified to an unclassified county position must submit a signed statement to the department human resources unit acknowledging notice that they are waiving their classified status as required in MCC § 9.120.

## **Rule # 5-45**

### **Compensation**

**§§:**

[§ 5-45-005 Purpose](#)

[§ 5-45-010 Policy](#)

[§ 5-45-020 General Compensation Guidelines](#)

[§ 5-45-030 Determining the Market and Compensation](#)

[§ 5-45-040 Market Studies](#)

[§ 5-45-050 Pay Plan](#)

#### **§ 5-45-005 Purpose**

The purpose of the county's compensation policy shall be to:

- A. Establish a general framework for providing "equal pay for equal work" as provided by law.
- B. Provide an appropriate salary structure to facilitate recruitment and retention of competent employees and necessary skills/talents.
- C. Establish equitable internal and external pay relationships.
- D. Maintain public trust in the county's financial stewardship.

#### **§ 5-45-010 Policy**

- A. It is county policy to establish a compensation plan that provides pay and benefits necessary for the county to recruit, select, and retain qualified employees; recognizes employee performance, growth and development; and maintains an appropriate internal relationship among job profiles and employees based on job responsibilities, qualifications, and authority.
- B. The county recognizes the importance of 'total compensation' in attracting, retaining, recognizing and rewarding well-qualified employees who are committed to delivering quality services. 'Total compensation' consists of both direct (base-pay, merit or step increases, cost of living increases and other pay) and indirect (health and welfare benefits, retirement plans, paid holidays and other leave, and training and development opportunities) compensation. For the purposes of the county's policies, the term compensation refers to "direct" compensation.

#### **§ 5-45-020 General Compensation Guidelines**

- A. Central Human Resources will establish pay ranges for all job profiles, including new or modified job profiles. Central Human Resources will determine the methods to be used consistent with these rules. Bargaining agents will be notified of proposed pay ranges

for new or modified job profiles, as required by applicable collective bargaining agreements.

B. Labor market pay range data are the most accurate indicator of prevailing wages for comparable jobs.

C. The county's compensation structure will typically be based on market salary data.

D. Assigned pay grades will reflect the midpoint of the defined labor market for each job profile unless otherwise provided for in this rule.

E. It is recognized that due to employment competition and/or retention issues of qualified employees, some job profiles or job families may warrant a higher pay range than has been established for that job profile. Changes in the market position for any job profile must be approved by the Multnomah County Chief Human Resources Officer.

F. If sufficient market data are not available, other methods to determine job profile's worth and position within the salary structure may be used.

#### **§ 5-45-030 Determining the Market and Compensation**

A. Factors considered that define the labor market or impact the county's market position include but are not limited to general recruitment areas; competition; turnover and separation data for particular job skills; comparative economic conditions; comparable populations and other demographic data; organizational size and program responsibilities of jurisdictions; and work force composition.

B. The county views similar jurisdictions as comparable employers when surveying or making market pay "matches". Therefore, the county primarily targets the public sector for its pay comparisons and does not typically consider pay data from non-profit entities or the private sector.

C. For the majority of jobs, market data that are reflective of the recruitment area will be used to determine compensation. The county may use other compensation tools as necessary. The county generally defines its labor markets as follows:

1. The Local Labor Market is generally defined as public sector organizations in Oregon and/or the Portland metropolitan area.
2. The Regional Labor Market is generally defined as public sector organizations in the Pacific Northwest.
3. The National Labor Market is generally defined as public sector organizations beyond the local and regional labor markets.



D. When market data are insufficient to establish pay ranges, internal equity within the county may be considered. Accordingly, the county utilizes various job evaluation tools to establish a pay range and align job profile relationships.

#### **§ 5-45-040 Market Studies**

A. Market studies will be completed on an ongoing basis with the goal to periodically review all job profiles.

B. Market studies may include one or all of the following: jobs may be studied for compensation only; job profiles may be revised or updated and/or positions may be reviewed for proper allocations.

C. Special studies may be conducted due to rapid changes in the market, technology changes, regulatory requirements, high turnover, and inability to fill vacancies and/or impact on essential public services.

D. Central Human Resources will maintain procedures for conducting studies and will maintain study records.

#### **§ 5-45-050 Pay Plan**

A. The county's pay plan consists of a series of pay ranges and pay grades. Pay ranges are assigned to job profiles so that there is a pre-defined minimum and maximum amount that the county will pay for the work performed by the job profile. Job profiles are assigned pay ranges in accordance with MCPR § 5-55.

B. Represented job profiles

The pay range structure for each bargaining unit reflects the result of their negotiated pay rates.

C. Non-represented job profiles

Non-represented job profiles have a structured pay grade table that includes a series of ranges and the ranges are open ranges with no steps in the ranges.

## **Rule # 5-50 Classification**

**§§:**

[§ 5-50-010 Purpose](#)

[§ 5-50-015 Job Profile Plan](#)

[§ 5-50-020 Equivalent Job Profiles](#)

[§ 5-50-030 Position Descriptions](#)

[§ 5-50-040 Position Classification](#)

[§ 5-50-045 Assignment of Duties](#)

[§ 5-50-050 Reclassification](#)

[§ 5-50-055 Effect of Reclassification on Incumbents](#)

### **§ 5-50-010 Purpose**

The purpose of this rule is to provide a job profile system that ensures an adequate structure to differentiate jobs across the county and that can be easily maintained, to facilitate internal equity, and to define the general scope and complexity of work performed.

### **§ 5-50-015 Job Profile Plan**

- A. Central Human Resources will prepare and maintain a job profile plan that sets forth for each job profile a title and a pay range. A job profile includes a statement of duties, authority, and responsibilities, the required knowledge, skills, abilities, education, training, experience, and other qualifications. Job profiles may be grouped as appropriate. The differences between job profiles and between levels within groups of job profiles will be clearly defined.
- B. The Classification and Compensation Plan will be submitted to the Board of County Commissioners for approval on an annual basis. Changes to the Job Profile Plan which require an increase to budget appropriations are effective only when approved by the Board.
- C. The Job Profile Plan will consist of both generic and specialized job profiles. Generally, the county will use generic job profile in order to facilitate maintenance of the plan, work assignment changes, and organizational efficiency. The Job Profile Plan will provide for career advancement opportunities, where practical. Central Human Resources is responsible for updating, adding, and abolishing job profiles as necessary to assist the county in meeting these goals.
- D. Central Human Resources will designate job profiles as classified or unclassified in accordance with the criteria specified in MCPR § 2-15, Employee Status. Classified service includes all represented and management positions. Unclassified service

includes executive, elected officials and their staff, deputy district attorneys, and temporary, on-call, and less than half-time employees.

E. Pay ranges assigned to each job profile will be assigned consistent with MCPR § 5-45, Compensation.

F. The Classification and Compensation Unit conducts regular maintenance of the job profiles. Maintenance includes the inactivation of unused job profiles or updates to written job profiles.

### **§ 5-50-020 Equivalent Job Profiles**

A. Central Human Resources is responsible for determining and maintaining a list of equivalent job profiles. An equivalent job profile may be established when as the result of a job profile study, one or more job profiles are assigned to a new or different job profile based upon comparable functionality, and the former or old job profile is abolished and replaced by the new or different job profile.

B. To be equivalent, Central Human Resources must have determined the former job profile(s) to be similar or essentially equal (“equivalent”) to the newly assigned job profile because the purpose of the work, qualifications required, duties and responsibilities are substantially the same.

C. If a job profile has been abolished, and a job profile has been designated by Central Human Resources to be an equivalent to the abolished job profile, employees who previously held the abolished job profile have a bump right into the equivalent job profile.

D. If a job profile is abolished, and there is no job profile that is designated equivalent by Central Human Resources, then the employee does not have a bump right to the previously held job profile.

### **§ 5-50-030 Position Descriptions**

The departments will develop and maintain descriptions for all positions in their department. Managers are responsible for ensuring that position descriptions for each position under their supervision are periodically reviewed to ensure their accuracy, and that copies of accurate position descriptions are on file with Department Human Resources Units.

### **§ 5-50-040 Position Classification**

A. No person may be appointed to a position until it has been properly classified. All new positions will be submitted to Central Human Resources for allocation prior to appointment. Vacant positions that have previously been allocated will be submitted to Central Human Resources whenever the duties change substantially. Filled positions

where the duties have changed will be submitted for allocation to Central Human Resources consistent with MCPR § 5-50-050, Reclassification.

- B. Central Human Resources will classify and reclassify all regular and limited duration positions to approved job profiles based on an analysis of their duties, responsibilities, knowledge, skills, abilities, and qualifications as documented in position descriptions.
- C. Department Human Resources Managers are responsible for ensuring that temporary and on-call employees are appointed to the job profile that most accurately describes the duties to be performed, and for consulting with Central Human Resources if the correct job profile cannot be determined.
- D. Upon the request of the Department Human Resources Manager, Central Human Resources may delegate in writing certain reclassification decisions to the Department Human Resources Manager. If delegation occurs, Department Human Resources Units will be responsible for fully complying with the documented reclassification process and responsibilities.
- E. Classification of positions will include designation as FLSA exempt or non-exempt, represented or non-represented, and management or executive consistent with MCPR § 2-15, Employee Status.
- F. When there is no existing job profile appropriate to classify a position, the Multnomah County Chief Human Resources Officer may authorize, upon written request of the Department Human Resources Manager, the use of a job profile that has no assigned pay grade (e.g. Temporary Worker, 8000) on a time limited basis.
- G. Management has the right to add, remove or reassign duties in lieu of reclassifying a position laterally, upward or downward.

#### **§ 5-50-045 Assignment of Duties**

- A. Managers are responsible for defining work and assigning duties and may remove and reassign duties in order to maintain duties consistent with an employee's current job profile.
- B. Managers may not deliberately assign duties to an employee that are not consistent with the employee's current job profile except for temporary situations which have received the prior approval of the Department's Human Resources Manager.
- C. Managers must notify their Department Human Resources Unit when changes to duties or responsibilities are implemented which may affect the job profile of an existing position. Department Human Resources Units are responsible for ensuring appropriate notice is provided to Central Human Resources.

## **§ 5-50-050 Reclassification**

- A. Employees and/or managers may request a reclassification review of a position when it is believed that the duties performed are no longer consistent with the allocated job profile.
- B. Employees are only eligible for reallocation due to the gradual change in duties or responsibilities over an extended period of time not less than six (6) months. Job profile decisions will be based on duties assigned and performed during the six (6) month period preceding the date the reclassification request is officially received by Central HR. The deliberate assignment of higher level duties outside of an employee's assigned job profile intended to result in a change in an employee's job profile is prohibited and is a violation of civil service rules.
- C. Temporary assignments and work-out-of-class assignments are not to be used as a vehicle for reclassifying employees as the duties were not assumed gradually. These requests will be handled in accordance with MCPR § 5-55, Classification of Positions Affected by Reorganization. Positions which are reclassified due to the deliberate and immediate reassignment of duties must either meet the criteria in MCPR § 5-55, Classification of Positions Affected by Reorganization, or be filled using normal appointment procedures.
- D. A request for reclassification must include a current position description, an organization chart, and a reclassification request which includes information regarding when and why the additional duties were assigned. Central Human Resources will review the request and determine the correct job profile allocation.
- E. Central Human Resources may re-evaluate a reclassified position within one (1) year after the reclassification has been completed to ensure duties are being carried out as originally indicated.

## **§ 5-50-055 Effect of Reclassification on Incumbents**

- A. An employee occupying a position that is reclassified will not be reclassified with the position except when:
  - 1. The change in duties, authority, and responsibility has occurred gradually over a period of time, and
  - 2. The employee has been performing the new duties for at least six (6) months prior to the reclassification request; and
  - 3. The employee meets the minimum qualifications for the new job profile.
- B. When a position is reclassified under this rule, an employee who is eligible for reclassification will remain in the position with no change in appointment status. When

a position is reclassified downward, the employee will be placed on the recall list for reappointment to the higher job profile.

- C. The effective date of a reclassification of a position will be no more than six (6) months prior to the date the request for reclassification was received by Central Human Resources. Central Human Resources establishes the effective date of reclassifications that result from studies. The effective date of a reclassification to a newly created job profile will be the date the job profile is approved in accordance with these rules and applicable collective bargaining agreements. The effective date of a reclassification of a vacant position will be the date the reclass is approved.
- D. Employees whose reclassification requests are denied may resubmit the request six (6) months from the date of the job profile decision provided the duties have substantially changed.
- E. Management employees have no appeal rights for job profile decisions.

## Rule # 5-55

### Classification of Positions Affected by Reorganization

§§:

[§ 5-55-010 Purpose](#)

[§ 5-55-020 Policy](#)

[§ 5-55-030 Classification of New Positions](#)

[§ 5-55-040 Consideration and Appointment of Eligible Employees](#)

[§ 5-55-050 Elimination of Positions](#)

#### § 5-55-010 Purpose

The purpose of this rule is to provide a means for management to implement significant organizational changes, necessary to the efficient operation of county business while preserving merit principles and ensuring compliance with equal employment opportunity for the selection and promotion of employees.

#### § 5-55-020 Policy

A. Reorganization of a division, program, section or work group sometimes becomes necessary to meet organizational needs, and typically occurs during the following:

1. The immediate assignment of new responsibilities and authority within a work unit,
2. Span of control changes
3. The merger of two or more components, or
4. The elimination of positions

B. When one or more of the above occurs, the reorganization is expected to affect the job profile of existing filled positions. Reclassification of positions will be accomplished in a manner which preserves merit principles and ensures compliance with equal employment opportunity requirements.

#### § 5-55-030 Classification of New Positions

A. Job profile review becomes necessary whenever the work demands or responsibilities of a work group substantially and deliberately change in such a way that one (1) or more new positions must be established through the reallocation of one (1) or more existing positions.

B. The Appointing Authority, prior to the permanent assignment of new duties which could affect the job profile of any existing or new position, will submit the following information to Central Human Resources:

1. A description of the proposed new and existing or former organizational structures and the reasons for compelling a reorganization of the work group(s).
2. Position descriptions and other documentation required for a reclassification action.

C. Central Human Resources will review the proposed reorganization and affected positions and notify the Appointing Authority of the appropriate job profile for each affected position. Central Human Resources will approve or disapprove a limited recruitment that solicits, at minimum, applicants from the affected work group(s) where the reclassified or new position(s) exists. Approval by Central Human Resources for a limited recruitment does not preclude the department from conducting a broader selection process.

### **§ 5-55-040 Consideration and Appointment of Eligible Employees**

A. The Appointing Authority may, with approval of Central Human Resources, conduct a limited recruitment to fill affected positions. Such recruitment will be open, at a minimum, to all qualified and eligible employees in the affected work group(s). The Appointing Authority may, at their discretion, open the recruitment to all employees in the affected division or department, or to the county community at large. The Appointing Authority will ensure that the recruitment process is consistent with county affirmative action goals and objectives.

B. Employees promoted through a limited recruitment are subject to the provisions of all applicable county rules and/or collective bargaining agreements governing promotions, including, but not limited to, any required probationary/trial service period and rules for establishing salary and seniority dates.

C. If a limited recruitment is not approved, the positions must be filled through normal appointment procedures in accordance with MCPR § 5-30, Recruitment and Selection. (ER 312, Amended, 08/08/2007)

### **§ 5-55-050 Elimination of Positions**

If any filled positions are eliminated as a result of reorganization, a layoff will be conducted, in accordance with applicable rules and collective bargaining agreements, following the completion of the recruitment and selection process provided for in these rules.



## **Rule # 5-60**

### **Family Friendly Policies**

**§§:**

[§ 5-60-010 Policy](#)

[§ 5-60-020 Existing Family Friendly Policies and Bargaining Provisions](#)

[§ 5-60-030 Family Friendly Benefits and Programs](#)

#### **§ 5-60-010 Policy**

It is the county's policy to recognize the importance of the family, and the importance of providing a workplace that allows our employees to meet their family health and dependent care obligations, including child and elder care. The county knows that 'families' may take many different forms, and recognizes through the inclusion of domestic partners, domestic partners' families, and household members in various county policies and benefits.

The county is committed to addressing family needs through appropriate work and family policies and a workplace that supports employees in achieving a healthy balance between work and family. As new policies, rules, and contract agreements are developed, consideration will be given to their impact on employee's family needs, and every effort will be made to reflect this commitment while assuring quality services to the citizens of Multnomah County.

#### **§ 5-60-020 Existing Family Friendly Policies and Bargaining Provisions**

Accordingly, the following policies and collective bargaining provisions have been adopted or approved by the county to help employees achieve a balance between work and family as business needs allow:

A. Flexible Work Schedules

B. Job Sharing, which is defined as a full-time position that is held by two employees on a shared basis, thus each employee works .5 FTE.

C. Teleworking

D. Inclusion of Domestic Partners in leave policies and benefit programs

E. Treatment of employees at .8 FTE and above as full time employees for benefits programs. Their leave; however, is figured on a pro-rata basis.

F. Sick Leave coverage for illness of employee and immediate household members

G. Vacation Leave

H. Holiday Leave, including alternate religious holiday option

- I. Special Leaves with Pay
- J. Bereavement Leave
- K. Federal and State Family Medical Leave
- L. Leave without Pay
- M. Catastrophic (Donated) Leave Program
- N. County Paid Parental Leave

**§ 5-60-030 Family Friendly Benefits and Programs**

The following are additional benefits and programs that the county provides to employees to help support their family and dependent needs:

- A. Medical, Dental and Life Insurance Benefits
- B. Medical Spending Account
- C. Long Term and Short Term Disability Programs
- D. Fully Paid Catastrophic Health Policy Coverage for Part-time employees
- E. Employee Assistance Program
- F. Health and Wellness Programs
- G. Workplace Accommodation for Breastfeeding  
(ER375, Amended, 05/27/2014; ER 328, Amended, 03/12/2009; ER 312, Amended, 08/08/2007)

## **Rule # 5-65**

### **Records Management**

**§§:**

[§ 5-65-010 Personnel Records](#)

[§ 5-65-020 Personnel Files](#)

[§ 5-65-030 I-9 Employment Eligibility Verification Form](#)

[§ 5-65-040 Restricted Records](#)

[§ 5-65-050 Files for Terminated Employees](#)

[§ 5-65-060 Other Personnel Documents](#)

[§ 5-65-070 Access to Employee Files](#)

[§ 5-65-080 Reference Checks and Other External Records Requests](#)

[§ 5-65-090 Purging of Records](#)

[§ 5-65-100 Retention of Records](#)

#### **§ 5-65-010 Personnel Records**

- A. Responsibility for maintaining employment-related records is shared by the departments and Central HR. Generally, the departments are responsible for current employee files and recent recruitment related files. Central HR is responsible for files related to central support services functions, such as W-4 forms, benefits, workers' compensation, and labor relations purposes.
- B. Departments must maintain a personnel file for each employee that contains all records pertinent to the employee's employment status and history. When an employee transfers or is promoted to a position in a different department the receiving department will request the employee's personnel and medical files from the transferring employee's department. If an employee works part-time in two departments, the department responsible for timekeeping will maintain the employee's personnel file.
- C. As used in this section, "personnel records" means records containing information kept by the County and by its agencies, divisions and department about or concerning an employee which the County requested or required to be disclosed to the County for employment purposes or as a condition of employment, including, but not limited to, information concerning discipline, employment performance, contact information, or other personal records of individual employees.
- D. Personal mobile phone and home electronic e-mail address contact information, regardless of where kept, is provided to the County based on the County's assurance that the information is confidential and will not be disclosed to third parties except as otherwise provided in MCPR 3-10.

## **§ 5-65-020 Personnel Files**

A. The employee's paper and/or electronic personnel file must contain the following documents except as otherwise provided in collective bargaining agreements:

1. Employment application for employee's first position;
2. Employment application for the current position;
3. Personnel/Data action forms;
4. Performance evaluations;
5. Work history log and training record (optional);
6. Letters of commendation and recommendation;
7. Notices of layoff;
8. Oaths of office;
9. Required licenses or certification;
10. Emergency medical notification form (optional);
11. Work plans;
12. Documents of expectation;
13. Resignation documents;
14. Notices of Disciplinary Action

B. Employees may request to have a reasonable number of records that reflect creditably on them put in their files, such as letters of commendation and recommendations.

## **§ 5-65-030 I-9 Employment Eligibility Verification Form**

Departments are responsible for maintaining copies of I-9 Employment Eligibility Verification forms for all current employees and prior employees as required by law. They will be filed separately from the personnel files, although departments are not required to have separate files for each employee.

## **§ 5-65-040 Restricted Records**

A. Employee medical records, except for those in subsection (B), are the responsibility of each department's human resources unit. They will be retained in a separate and locked confidential file that is physically separated from the personnel file, as prescribed by the Americans with Disabilities Act. Employee medical records includes items such

as documentation required by the Americans with Disabilities Act; the Family and Medical Leave Act; Oregon Family Leave Act; workers' compensation claims; physical exam records; drug and alcohol test results; medical inquiries and doctors' or other physical or mental health providers' assessments, including those provided by substance abuse professionals; any medical leave of absence documentation which includes medical reasons for the leave; and any other similar types of records.

B. Other files may be maintained for risk management, human resources, employee benefits, and labor relations purposes, and by the County Attorney and contractors managing workers compensation and medical monitoring for the county.

C. Release of medical information:

1. All employee medical information is confidential and is available only to county employees who have a work related need to access the records.
2. Supervisors and managers may be informed of restrictions on the work and duties of employees and of accommodations.
3. First aid and safety personnel may be informed, when appropriate, if an employee has a disability that might require emergency treatment.

D. Personnel, I-9 forms, medical records and other related records must be kept in locked files within the department or Central HR. Access to these files is limited to authorized personnel with a job-related need for such records.

E. Documentation related to drug and alcohol testing for county employees with commercial drivers' licenses will be retained in locked, confidential files in Central HR.

### **§ 5-65-050 Files for Terminated Employees**

A. Personnel files for terminated employees are retained in the department for two years after separation then sent to Central HR. Thereafter, they will be retained by Central HR or archived per the county records management program.

B. The department must retain medical files for terminated employees for two years following separation. They are then sent to Central HR, separately from employee personnel files, marked "confidential" and merged with the central employee medical files.

### **§ 5-65-060 Other Personnel Documents**

The following personnel documents will be retained as follows:

A. Records concerning departmental approval of pay rates for new hires, promotions, transfers, merit increases, and related personnel actions will be retained by departments;

- B. Departments will retain position descriptions reflecting current duties and responsibilities for all their positions;
- C. Departments will retain records of disciplinary action above the level of an oral reprimand;
- D. Records of actions taken on requests for leaves of absence 30 days or longer and all FMLA/OFLA leaves regardless of length; mandatory training not in the county training database; unemployment claims; return to work of injured workers; requests for reasonable accommodations; and other related personnel actions will be retained by departments or contractors managing workers compensation, medical monitoring, etc., for the county; and
- E. Central HR will retain records related to requests for classification reviews.

#### **§ 5-65-070 Access to Employee Files**

- A. No information reflecting critically on an employee's conduct or work performance will be placed in the employee's personnel file unless the employee also receives a copy. The copy will be sent to the last address the county has on file for the employee.
- B. The employee is entitled to prepare and have placed in the personnel file a written explanation or opinion regarding critical information believed to be incorrect. The written explanation or opinion will be included in the employee's personnel file until the critical material is removed.
- C. Removal of materials from file: Except for items designated for permanent retention, material reflecting critically may be removed from a management or executive employee's, personnel file, upon request, three years from the date of any letter of reprimand; five years from the date of discipline more severe than a written reprimand; and where there is more than one letter imposing discipline more severe than a written reprimand, none of the letters may be removed until the most recent letter is more than five years old. Letters of discipline imposed due to charges of prohibited harassment, excessive use of force or threats of violence, untruthfulness, dishonesty, or insubordination will be retained permanently, unless removal is approved as provided in this Rule. Subject to the approval of the department director and Central HR, materials reflecting critically upon a management or executive employee may be removed at an earlier time, including documents subject to permanent retention.
- D. Removal of material from represented employees' personnel files is governed by collective bargaining agreements. Upon request of an employee, disciplinary action imposed while a management or executive employee was covered by a collective bargaining agreement may be removed based on the retention schedule listed in that agreement.

- E. Review of and access to an employee's personnel file is governed by the county's collective bargaining agreements, county personnel rules and state and federal law. Employees have access to view their personnel file at a time and place designated by the department's human resources unit or have a certified copy mailed to the employee within 45 days of the employee's request.
- F. Upon request, the employee or his or her representative with written authorization from the employee will be given a copy of any records in the employee's personnel file.
- G. Former employees or their designee, with a signed release, will have the same right of access as current employees as long as the file is maintained by the county.

#### **§ 5-65-080 Reference Checks and Other External Records Requests**

- A. The following data will normally be revealed regarding a current or former employee in response to reference checks: name, classification title, department status, salary, hire date, and termination date. A director or supervisor who responds to a request for a personal reference on a current or former employee will respond in good faith with verifiable, objective and truthful information.
- B. Supervisors performing reference checks may review the personnel files of county employees who have applied for jobs under their supervision.
- C. When other requests for records are received regarding a current or former employee, the county will only release name, classification title, department status, salary, hire date, and termination date. Other records are considered confidential and will not be revealed to outside sources except as required by law or as expressly authorized in writing by the employee.
- D. Non-management employees may not provide letters of reference or recommendation on county letterhead or otherwise represent the county in providing references, without supervisor permission.

#### **§ 5-65-090 Purging of Records**

Any purged records that contain personal employee information (i.e., home address, phone number, social security number, etc.) must be destroyed by shredding, or by other methods to ensure confidentiality.

#### **§ 5-65-100 Retention of Records**

Retention periods for human resources records will be based on the county Records Retention Schedule - Human Resources. Records retained for extended periods may be purged and then archived in the same or alternative format, such as microfilm. Where there is a conflict in the retention period stated in the county Records Retention Schedule and these rules, the

Records Retention Schedule prevails.  
(ER375, Amended, 02/24/2017; ER 312, Amended, 08/08/2007)