

CROSS COUNTY EMPLOYMENT POLICY
Effective 01/01/2022

Notice: By adopting this policy, the Cross County Quorum Court chooses at-will employment as the default employment policy for the County. According to the Arkansas Attorney General in AG Opinion 2000-151, an elected official may nevertheless choose permanent employment as the employment policy for his or her employees. If that election is made by an elected official, the elected official shall adopt a separate executive employment policy. "A county acting through its quorum court may exercise local legislative authority not denied by the Constitution or by the Law."

Subsection 1(a) of Amendment 55.

The Quorum Court may "adopt ordinances necessary for the government of the county."

Section 4 of Amendment 55.

A county government, acting through its county quorum court, may exercise local legislative authority not expressly prohibited by the Arkansas Constitution or by Law for the affairs of the County. These powers include, but are not limited to, the power to:

- i) fix the number and compensation of deputies and county employees
- ii) fix the compensation of each County officer within a minimum and maximum to be determined by law
- iii) exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions.

Arkansas Code Annotated 14-14-801

The Quorum Court's legislative power expressly includes "any legislative authority regarding employee policy and practices of a general nature, including, but not limited to, establishment of general vacation and sick leave policies, general office hour policies, general policies with reference to nepotism, or general policies to be applicable in the hiring of county employees.

Arkansas Code Annotated 14-14-805(2)

These constitutional and statutory provisions charge the quorum court with responsibility for shaping general policy on such uniformly applicable issues as leave, vacation time and normal working hours. This assignment of responsibility is consistent with the quorum court's role as the guardian of the public *fisc*. As expressly stated in Arkansas Code Annotated 14-14-805(2), any such policies will not apply to elected officials. Moreover, it is clear that while the county judge has the power to hire county employees, other elected officials have exclusive power over hiring decisions in their own office. Arkansas Code Annotated 14-14-1102(b)(5)(ii)(b); Arkansas Attorney General Opinion Number 97-049. Source: AG Opinion 2000-151.

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1. PURPOSE

- A. The purpose of this document is to establish at-will employment as the default employment policy for Cross County and to state the General Employment Policies issued by the Quorum Court in its capacity as the legislative branch of Cross County government. The General Employment Policies set forth herein apply uniformly to all Cross County employees because they relate exclusively to “employee practices and policies of a general nature.” *Source:* AG Opinion 2000-151
- B. Executive Employment Policies are those adopted by an elected county officer to apply to the employees of that office while administering “the day-to-day administrative responsibility” of his or her elected office. A.C.A 14-14-805(2). An elected official can create and administer his own employee discipline measures, subject, however, to the condition that these cannot contravene these general, uniformly applicable measures adopted by the quorum court. *Source:* AG Opinion 2000-151
- C. Every Cross County employee is entitled to request a hearing before the Cross County Grievance Committee in the event the employee believes that the executive decision of an elected official violates the Constitution, the Law, or the General Employment Policy duly adopted by the Quorum Court. *Source:* AG Opinion 2000-151
- D. Nothing in the General Employment Policy adopted by the Quorum Court creates a property right in employment nor establishes grounds upon which discipline or dismissal must be based.
- E. The Policy is intended to establish uniform personnel policies and benefits for all County employees. At this time, the County Quorum Court may revise, supplement, or rescind the policies, practices, and benefits set forth in the Policy subject to, or as may be required by, applicable law. County employees are expected to adhere to the procedural and substantive requirements of applicable law. County employees are expected to read, understand, and comply with the policies set forth in the County Personnel Policy. Any questions should be directed to a supervisor.

2. GENERAL COUNTY POLICY

- A. Cross County is to treat all employees and citizens in a manner that is:
 - 1. rationally related to the effectuation of legitimate Cross County objectives and
 - 2. uniformly applied to all persons similarly situated.
- B. No official or employee of Cross County is to abuse or misuse his or her governmental power.
- C. No official or employee is to engage in any overt act that is either illegal (contrary to applicable statutes or judicial rulings) or unconstitutional (contrary to the U.S. Constitution or the Arkansas Constitution).
- D. No official or employee is to omit the performance of any duty that is *affirmatively* required by applicable laws (statutes or judicial rulings).
- E. No official or employee of Cross County government shall “be interested, either directly or indirectly, in any contract or transaction made, authorized, or entered into on behalf of Cross County or accept or receive any property, money, or other valuable thing, for his [or her] use or benefit on account of, connected with, or growing out of any contract or transaction of Cross County.” Arkansas Code Annotated 14-14-1202

- F. No official of Cross County government is to engage in any act that would constitute “corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office.” Arkansas Code Annotated 14-14-1311
- G. Each elected official of Cross County is to fully and completely administer the day-to-day affairs of his or her office of Cross County government on behalf of Cross County, in a manner that is in accord with applicable laws (statutes or judicial rulings), the Constitutions (U.S. and Arkansas) and this general Cross County policy.

3. COUNTY EMPLOYMENT POLICY

- A. Pursuant to its authority as the legislative branch of Cross County government, the Quorum Court adopts “at-will” employment as the default employment policy for each Cross County employee. At-will employment is not for a specific period and employment may be terminated at any time, without notice or liability of any kind (except for wages earned and unpaid) and with or without cause. A County employee serves at the pleasure of the elected County official who hires and supervises the employee. Newly elected County-elected officials have the discretion to rehire County employees who served under a predecessor. County employees have no expectancy of continued employment or property interest in future employment under a newly elected County official.
- B. If, notwithstanding this document, any employee contends that he or she has a property right in his or her employment of a substantial expectancy of continued employment (express, implied, written, or oral) until “just cause” exists for reduction or removal in pay or position, then that employee shall assert such contention at a “property right” grievance hearing requested in the time and manner set forth in this policy.
- C. The at-will employee policy set forth herein applies equally to hiring and promoting. Nothing herein shall create a property right in employment, entitlement to be hired or promoted, or any expectancy of continued employment. Nothing herein establishes grounds upon which hiring or promoting must be based.
- D. Eligibility for paid leave or other employee benefits does not create any property right in employment or any expectancy of continued employment.

4. ELIGIBILITY FOR EMPLOYMENT

- A. The government of Cross County is an equal opportunity employer and County policy is to comply with the provisions of all state and federal non-discrimination requirements.
- B. Applications for employment will be accepted from any person who wishes to apply using forms provided by Cross County. However, persons desiring to become employees of Cross County must be at least eighteen (18) years of age.
- C. Applicants shall possess or obtain at their own expense any special certification or permits which may be required by law to perform the job they are seeking. (Example, a commercial driver’s license, juvenile probation officer certification, etc.)

- D. All hiring shall be done by elected officials or department heads designated by an elected official, except as otherwise provided by law. (NOTE: The Arkansas Constitution, Amendment 55, 3, Arkansas Code Annotated 14-14-1101(a)(6)). Background investigations may be performed on department heads, any position with access to County funds, and upper-level employees as determined by the hiring elected official. Background investigations may be conducted for other positions at the discretion of the hiring elected official. All background investigations will be performed by a third party in compliance with the law.
- E. No elected official or department shall be allowed to hire any relative in his or her immediate family to work within the Cross County office or department he or she supervises and for which he or she is responsible. Immediate family shall include spouse, parent, child, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, son-in-law, or daughter-in-law, sister-in-law, and brother-in-law. Any employee who was hired before the passage of this policy shall be grandfathered and allowed to continue in their employment.

5. NON-DISCRIMINATION POLICY

It is the policy of the County to provide equal employment opportunity for all County employees. Accordingly, the County will not engage in any form of employment discrimination based on race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any other legally protected status. The County hereby affirms its desire to maintain a work environment for all County employees that is free from all forms of unlawful employment discrimination. Employment discrimination based on race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any other legally protected status is a violation of County policy as well as federal and state law, and will not be tolerated.

6. NON-HARASSMENT POLICY

- A. The County provides a workplace free from harassment based on race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any legally protected status. Prohibited conduct includes, but is not limited to, jokes, labels, names, verbal abuse, ridicule, or stories offensive to a protected group of persons.
- B. Because of the County's strong disapproval of offensive or inappropriate sexual behavior at work, all employees must avoid any action or conduct which could be viewed as sexual harassment, including, but not limited to:
 - 1. Unwelcome sexual advances, including unwelcome requests for dating and requests for sexual acts or favors.
 - 2. Verbal abuse of a sexual nature, including sexually related comments or joking and graphic or degrading sexual comments about another's appearance.
 - 3. Nonverbal abuse of a sexual nature, including suggestive or insulting noises, leering, whistling, or making obscene gestures, e.g., giving someone the finger, and the display of sexually suggestive objects or pictures.
 - 4. Physical conduct of a harassing nature, including inappropriate touching or brushing the body of another.
 - 5. Any other verbal, nonverbal or physical conduct of a harassing nature.

- C. Any employee who believes they have been the subject of harassment by anyone, including supervisors, elected County officials, co-workers, citizens, or vendors, should immediately report the conduct to their supervisor. If the alleged conduct involves their supervisor, the employee should immediately report the conduct to the County Judge. If the alleged conduct involves the County Judge, the employee should immediately report the conduct to the County Grievance Committee. "Immediately" normally means the same day of the alleged harassment. The failure to make a timely report of alleged harassment may be a factor used in determining the merits of the allegation. The employee's complaint will be promptly investigated. All County employees are expected to cooperate fully in such investigations. To the extent feasible, all internal investigations and/or actions taken to resolve complaints of harassment will be confidential.
- D. Retaliation against any County employee for making a complaint under this policy or for providing information during an investigation is strictly prohibited, will not be tolerated, and is a violation of this policy.
- E. Any County employee who violates this policy will be subject to appropriate discipline, up to and including termination. Any supervisor who knowingly permits harassment or retaliation to take place in his or her areas of supervision will be subject to appropriate discipline, up to and including termination.

7. DISABILITIES POLICY

The County will provide reasonable accommodations to qualified individuals with disabilities, unless to do so would cause an undue hardship. An accommodation is a change in the work environment or in the way things are customarily done that is not unreasonable and that enables an individual with a disability to enjoy equal employment opportunity. Generally, an individual with a disability must inform his or her immediate supervisor that an accommodation is needed. When the disability and need for accommodation are not obvious, the County may require the individual to provide documentation from a medical provider concerning the disability and the need for a reasonable accommodation.

8. GENETIC INFORMATION NONDISCRIMINATION POLICY

The County complies with the Genetic Information Nondiscrimination Act (GINA) and the Genetic Information in the Workplace Act (GIWA). GINA and GIWA prohibit employers and other entities covered by these laws from requesting or requiring the disclosure of genetic information of an employee or family member of an employee, except as specifically allowed by these laws. To comply with these laws, employees should not, directly, or indirectly, disclose any "Genetic Information" to the County at any time. "Genetic Information" includes an employee's family medical history, the results of an employee's or family member's genetic tests, the fact that an employee or an employee's family sought or received genetic services, and genetic information of a fetus carried by an employee or an employee's family member, or an embryo lawfully held by an employee or family member receiving assisted-reproductive services.

9. IMMIGRATION REFORM AND CONTROL ACTS

The County complies with Immigration Reform and Control Acts of 1986 and 1990. Every newly hired County employee shall complete an I-9 Form before commencing employment.

10. POLITICAL ACTIVITY POLICY

County employees are encouraged to participate in the election process, but assistance to candidates or issues must only be rendered on the employee's own time and County property must not be involved. County employees are not to endorse candidates or issues in their official capacities as County employees, or on behalf of the County or any County office. The legal provisions are summarized as follows:

- a. County employees are prohibited from engaging in partisan political activity during the hours they are performing work for the County, excluding personal leave time
- b. Political banners, posters, or literature should never be allowed or displayed in a County office
- c. Political bumper stickers or decals should never be displayed on County property or any County-owned vehicle; County-owned vehicles must not be used during or after work hours to promote or assist the candidacy of any person or any ballot issue
- d. No County employee shall approach other County employees for any political purpose or use threats or coercion to require or persuade any employee to contribute to a particular candidate or cause. In the discretion of the County Judge or other elected County official who supervises a County employee, a County employee may be granted leave without pay for an extended absence to participate in a campaign.

11. SOCIAL MEDIA POLICY

Social media includes all means of communicating or posting information or content of any sort on the Internet. The same principles and guidelines applicable to County employee conduct also apply to County employees' activities online. Any conduct that adversely affects an employee's job performance, the performance of fellow employees, or otherwise adversely affects the interests of the County may result in disciplinary action up to and including termination. This policy applies to comments made under the employee's name or under a pseudonym used by the employee as a username. Harassment and cyber-bullying of any County employee will result in termination. Racist or sexist comments or comments that target the religious beliefs of others will result in termination. County employees should avoid posts, "likes," or other social media activity during work hours and on County-owned equipment, unless authorized to do so by a supervisor or consistent with County policy. State law prohibits electioneering by public servants during work hours. Employees should consider any political activity to be electioneering. Employees should follow the County's Political Activity policy with all online posts.

12. FREEDOM of INFORMATION POLICY

The County complies with the Arkansas Freedom of Information Act (FOIA). Upon receiving an FOIA request, a County employee shall immediately notify his or her supervisor of the FOIA request. Any County official receiving notice of an FOIA request shall take steps to ensure timely compliance with the FOIA request.

13. USE OF COUNTY PROPERTY POLICY

The County's telephones, FAX machines, photocopying equipment, computers, vehicles, and other property are to be used for business purposes only. County property is restricted to business use to assist County employees in the performance of their jobs. Occasional de minimis use of County property for personal, non-business purposes is permitted; however, such personal use should not negatively affect the use of County property for business purposes or negatively affect employee

performance. All business equipment, software, computer systems, electronic systems and all information stored, transmitted, received, initiated, or contained in the County information system are County property. The County reserves the right to monitor, copy, use, delete, publish, and log all network, Internet or local activity including email, software use, or other activity with or without notice. County employees shall have no expectation of privacy when using these resources.

14. CONSTITUTIONALLY PROTECTED CONDUCT

- A. It is the policy of the County to comply with the Constitutions and laws of the State of Arkansas and the United States, and the public policy of the State of Arkansas.

These laws include:

1. Laws prohibiting unlawful discrimination based on race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any other legally protected status
 2. Laws prohibiting retaliation for exercising a constitutionally protected liberty right (e.g., free speech, free association, political patronage, access to courts, privacy, etc.);
 3. Laws requiring that governmental action be rationally related to a conceivable legitimate government objective.
- B. Should any applicant, employee, or person requesting County assistance or services contend that he or she is the victim of unlawful discrimination, unlawful retaliation, or unlawful arbitrary government action, he or she shall request, in the time and manner set forth in this County Personnel Policy, a hearing before the County Grievance Committee to provide the elected official with notice of the alleged unlawful officials, and County employees to the requirements of County policy (including conformity with the Constitutions and laws of the State of Arkansas and the United States, and the public policy of the State of Arkansas).

15. REDUCTION OR REMOVAL OF PAY OR POSITION

- A. **Hiring.** The County Quorum Court shall establish the number and compensation of all County employees. The job title, classification, and annual pay rate shall be specified for each position of a County department or County office in the annual budget. Positions cannot be advertised as vacancies, nor may persons be hired into positions, until positions are authorized by the Quorum Court. The County Judge shall hire all County employees except those employed by other County elected officials as permitted by Arkansas Constitution Amendment 55, Section 3. Policies regarding hiring and firing adopted by the Quorum Court shall be only advisory upon County elected officials and employees hired by them as required by Arkansas Constitution Amendment 55. Employment policies of a general nature adopted by the Quorum Court shall be the decision of the County and binding as permitted by Arkansas Constitution Amendment 55, Section 1 and Arkansas Code Annotated § 14-14-805 (2).
- B. **Reduction or Removal of Pay or Position.** A County elected official may reduce or remove pay or position for any reason that is rationally related to the effectuation of any conceivable legitimate County objective. It is not possible to list all conceivable rational bases for reduction or removal of pay or position; however, examples include, but are not limited to:

1. Misrepresentation, dishonesty, or self-dealing conduct
2. Intemperate conduct
3. Insubordination, including the failure or refusal to follow the legal orders of the employee's supervisor or other supervisors
4. Negligent, reckless, knowing, or intentional destruction of Cross County property
5. Abuse or misuse of one's position as a Cross County employee
6. Any conduct, acts, or omissions that interfere with or impair one's ability to perform one's duties properly and effectively as a Cross County employee
7. Any rational change in the mode or manner of operations, including any rational decision regarding the persons selected by the Cross County official for the delivery of Cross County services.

16. INFORMAL PROCEDURE FOR REPORTING/RESOLVING PERCEIVED HARASSMENT

- A. This policy provides an informal procedure for reporting any conduct or condition perceived to be harassment because of one's race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any legally protected status to enable Cross County to receive timely notice and to act affirmatively, if needed, to assure compliance with the law. If this informal procedure does not achieve the desired result, the affected person should utilize the Grievance Hearing procedure to bring the matter before the Cross County Grievance Committee.
- B. Harassment because of one's race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any legally protected status (by conduct or condition) is prohibited.
- C. If one considers a Cross County official's or a Cross County employee's conduct or a workplace condition to be harassment because of one's race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any legally protected status, they should report it immediately to any supervisor or elected official.
- D. The supervisor or elected official receiving any such report shall report the matter to the appropriate elected official or officials which, for the implementation of this procedure, shall be the elected official(s) responsible for managing the day-to-day affairs of the office of Cross County government in which the alleged harassment occurred or in which the alleged harasser works.
- E. Any supervisor or elected official receiving any report of harassment because of one's race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any legally-protected status shall take appropriate action to remedy any harassment and shall respond to the person reporting the matter so the person originating the report can be informed of the action taken.
- F. If the person reporting the alleged harassment is not satisfied with the action taken or if the alleged harassment continues, that person shall report the matter to Cross County's Prosecuting Attorney or Deputy Prosecuting Attorney.
- G. Except to the extent needed to implement this policy and remedy the alleged harassment, the identification of the person reporting the conduct or condition shall remain confidential.
- H. Reporting conditions or conduct reasonably believed to be prohibited harassment shall not adversely affect the reporting citizen or employee.

17. GRIEVANCE HEARING PROCEDURE

CAVEAT: The purpose of this Grievance Hearing Procedure is to establish a required procedure to resolve applicant and employee grievances, thereby enabling the County employees to conform to the conduct expected by Cross County officials.

If the applicant or employee does not follow this affirmatively required Cross County grievance hearing procedure, Cross County will raise waiver and estoppel as affirmative defenses to any claims against Cross County filed by the applicant via any administrative or judicial procedure otherwise available for redress of grievances.

A. Availability of Property Right Hearings

1. At-will employment may be terminated by either Cross County or the employee at any time without prior notice, without cause, and without any property right hearing.
2. Any claim that any employee is a permanent employee or that the employee has a constitutionally protected property right in employment, entitling the employee to continued employment until “just cause” for discipline or dismissal is proved by Cross County at a pre-deprivation hearing, must be timely asserted in writing by the affected employee in accordance with this Grievance Hearing Procedure, or the property right claim will be waived by the employee.

B. Availability of Liberty Right Hearings

1. Any claim of illegal Cross County employment discrimination on the basis of race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any legally-protected status or because Cross County is acting in a manner that is arbitrary, capricious, or unreasonable, in hiring, compensation, conditions of employment, discipline, or dismissal must be timely made in writing by the affected applicant or employee in accordance with this grievance hearing procedure.
2. Any claim that any employee treatment, discipline, or dismissal is unconstitutional punishment due the employee’s exercise of a constitutionally protected “liberty right” or other constitutionally-protected activity of the employee must be timely made in writing by the affected employee in accordance with this grievance hearing procedure.
3. Any claim that any employee treatment, discipline, or dismissal is contrary to the public policy of Arkansas must be timely made in writing by the affected employee in accordance with this grievance hearing procedure.

C. Availability of Name Clearing Hearings

Any claim that any employee’s liberty interest in future employment has been damaged as a result of any “stigmatizing charge” publicly communicated by Cross County must be timely asserted by the affected employee in accordance with this grievance hearing procedure.

D. Availability of Hearings Generally

1. A grievance hearing requested by an applicant or employee is not required to be held unless it is requested in a timely manner required by this Employee Grievance Hearing Procedure and required by the constitution or by this policy.
2. Neither liberty rights nor property rights are created by this document.
3. Cross County may, at its discretion, hold a hearing prior to any decision or deprivation.

E. Timely Request for Grievance Hearings

1. It is the applicant's or employee's duty to request a grievance hearing.
2. The applicant or employee must file in a timely manner a written grievance hearing request after any claimed deprivation of the applicant's liberty or employee's liberty or property, or any right to a hearing or to object to the deprivation shall be waived.
3. The grievance hearing request should state, in writing:
 - a. the grievance for which a hearing is requested
 - b. the factual basis of the grievance; and
 - c. the relief sought.
4. The written grievance hearing request shall be delivered to the Cross County Grievance Committee in care of the Cross County Judge no later than four-thirty o'clock (4:30) p.m. on the third full business day (weekends and holidays excluded) after any claimed deprivation for which a grievance hearing is requested.
5. Any dismissal decision shall automatically be a suspension with pay for three full business days (weekends and holidays excluded) during which time the employee subject to dismissal may request a pre-deprivation hearing, in which case the suspension with pay shall continue until the conclusion of the Cross County Grievance Committee hearing. (In no event shall a suspension with pay status extend more than fourteen (14) days, unless the suspension with pay status is extended by decision of the Cross County Grievance Committee. All accrued but unpaid leave time will automatically run concurrently with the period of suspension with pay, unless the employee prevails in his or her grievance.) Any discipline decision that will result in reduction or removal of pay or position shall automatically be deferred for three full business days (weekends and holidays excluded) during which time the employee subject to discipline may request a pre-deprivation hearing, in which case the deferral shall continue until the conclusion of the Cross County Grievance Committee hearing.
6. The Cross County Grievance Committee shall respond in writing to all timely submitted Grievance Hearing requests stating:
 - a. the time and place of the hearing, if the hearing request is granted, and
 - b. the reason for denial, if the hearing request is denied.

F. Hearing Procedures

1. NOTICE

After an employee requests a grievance hearing, the employee shall be notified of the date, time, and place of the hearing.

2. SUSPENSION with PAY

If it is determined that the grieving employee should continue to work until the hearing is concluded, the employee may be requested to perform duties for the benefit of Cross County with pay pending the outcome of the hearing.

3. HEARING RECORD

The hearing shall be reported by a court reporter (not merely a tape recorder) for transcription upon request by either party at the expense of the requesting party.

4. PROCEDURAL ISSUES

At the hearing, on the record, the parties shall suggest any desired hearing procedures and state any complaints regarding:

- a. the notice
- b. the date, time, and place of the hearing
- c. the opportunity to refute fairly the charges; and
- d. the impartiality of the decision maker(s).

5. RULES of PROCEDURE and EVIDENCE

Informal rules of procedure and evidence (Arkansas Code Annotated 25-15-208) shall be followed:

- a. Witnesses shall testify under oath
- b. Parties shall be allowed, at their expense, to obtain and use legal counsel for representation
- c. Parties shall be allowed to obtain and use the presence of witnesses for examination, cross-examination, and rebuttal; and
- d. Parties should be granted a reasonable continuance if requested in writing prior to the hearing and if reasonably necessary for stated reasons to prepare adequately for the hearing.

6. PUBLICATION

The Cross County Grievance Committee shall hear the evidence offered by the parties, hear any argument desired by the parties, and vote without public discussion or deliberation. Therefore, only the decision and not the factual or legal reasons shall be announced publicly. The hearing shall be held in public if so required by the Freedom of Information Act; however, the employee may, at any time, decline the hearing and accept the intended discipline or dismissal.

7. CONFIRMATION in WRITING

After the hearing, the grieving applicant or employee shall be sent a letter stating the factual and legal bases found by the Cross County Grievance Committee for any refusal or removal of pay or position.

G. Hearing Issues and Burdens of Proof

1. Property Interest Hearings

- a. Since this Cross County employment policy affirmatively creates at-will employment as the default employment policy of Cross County, the employee has the burden of proving by a preponderance of the evidence that he or she has a property interest in his or her employment.
- b. Where the employee meets his or her burden of proof, the supervisory official has the burden of proving "just cause" for the supervisory official's intended discipline or dismissal of the employee.

2. Liberty Interest Hearings

- a. Claim of Arbitrary Discrimination (Unequal Treatment)

- i. The grieving employee has the burden of proving by a preponderance of the evidence that he or she is being treated differently than another person in an otherwise similar situation with the employee.
 - ii. Where the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the reason for the difference in treatment is rationally related to the effectuation of a legitimate Cross County objective.
- b. Claim of Unconstitutional Punishment
 - i. The employee has the burden of proving by a preponderance of the evidence that he or she has engaged in Constitutionally protected conduct that was a substantial or motivating factor in any adverse employment decision, discipline, or dismissal.
 - ii. Where the employee meets his or her burden of proof, the supervisory official has the burden of proving that the adverse employment decision, discipline, or dismissal would have occurred even in the absence of the Constitutionally protected conduct.
- c. Claim of Discrimination due to Race, Color, Religion, Gender, Sex, or National Origin
 - i. The grieving applicant or employee has the burden of proving by preponderance of the evidence that he or she is being treated or effected differently than another person who, other than for race, color, religion, gender, sex, or national origin, is similarly situated with the applicant or the employee.
 - ii. Where the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the proven inequality of treatment or effect is necessary to effectuate a compelling Cross County objective.
- d. Claim of Discrimination due to a Disability
 - i. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is a qualified individual with a disability who, because of the disability, is being treated or effected differently than another person regarding job application, procedures, advancement, dismissal, compensation, training, or other terms, conditions, or privileges of employment.
 - ii. Where the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the proven difference in treatment or effect is job-related and necessary to effectuate a compelling Cross County objective, that performance of the job cannot be accomplished by reasonable accommodation, or that the needed accommodation would result in undue hardship on Cross County.
 - iii. Definitions
 - The following definitions apply to claims of discrimination due to a disability.
 - 1. “Disabled” or “Disability”: A physical or mental impairment that substantially limits one or more of the major life activities of an

individual; having a record of such an impairment; or being regarded as having such an impairment.

2. "Regarded as having such an impairment" includes those with conditions such as obesity or cosmetic disfigurement, and individuals perceived to be at high risk of incurring a work-related injury.
3. "Discrimination" includes:
 - a. Limiting, segregating, or classifying a job applicant or employee in a manner that adversely affects his or her opportunities or status
 - b. Participating in contractual or other arrangements that have the effect of subjecting individuals with disabilities to discrimination
 - c. Using standards, criteria, or methods of administration in such a manner that results in or perpetuates discrimination
 - d. Imposing or applying tests and other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the test or selection criteria are job-related and consistent with business necessity
 - e. Failing to make reasonable accommodations to the known limitations of a qualified individual with a disability, unless the covered entity can demonstrate that an accommodation would impose an undue hardship on the operation of the business; or
 - f. Denying employment opportunities because a qualified individual with a disability needs reasonable accommodations.
4. "Reasonable Accommodation" examples include:
 - a. Making existing facilities used by employees readily accessible to the disabled
 - b. Job restructuring
 - c. Flexible or modified work schedules
 - d. Reassignments to other positions; and
 - e. The acquisition or modifications of equipment or devices.
5. "Undue Hardship" is an action requiring "significant difficulty or expense," considering:
 - a. The overall size of the county with respect to the number of employees, number and type of facilities, and size of the budget
 - b. The type of operation maintained by Cross County including the composition and structure of the work force of that entity; and
 - c. The nature and cost of the accommodation needed.
6. "Qualified Individual with a Disability":

An individual with a disability who, with or without reasonable accommodation, can perform the "essential functions" of the employment position held or desired.

7. Claim of a Completely Arbitrary Decision

- a. The grieving employee has the burden of proving by a preponderance of the evidence that the action taken against him or her is not rationally related to the effectuation of any conceivable, legitimate governmental objective of Cross County
- b. Where the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the action taken against the grieving employee is rationally related to the effectuation of a conceivable, legitimate governmental objective of Cross County.

3. Name Clearing Hearings

- a. The grieving applicant or employee has the burden of alleging that a “stigmatizing charge” has been publicly communicated by Cross County or a Cross County official or Cross County employee and requesting an opportunity to publicly clear his or her name.
- b. Where the applicant or employee meets his or her burden of proof, Cross County shall provide the applicant or employee a public hearing opportunity to clear his or her name.

18. COUNTY GRIEVANCE COMMITTEE

- A. The Cross County Grievance Committee for employees hired by the Cross County Judge shall be the Quorum Court, but the decision of the grievance committee shall only be **advisory** to the Cross County Judge. (Arkansas Constitution Amendment 55, Section 3).
- B. The Cross County Grievance Committee for employees **not** hired by the Cross County Judge shall be the Cross County Quorum Court, and the decision of the Grievance Committee **shall be the decision** of Cross County. (Arkansas Constitution Amendment 55, Section 1).
- C. The purpose of the grievance hearing is to enable Cross County, through its grievance committee, to hear from both the employee and the employee's supervisory official and thereafter to determine whether an executive decision of the Cross County official or employee violates the Constitution or the Law. If the decision being challenged in the grievance hearing process is determined by the Cross County Grievance Committee to violate the Constitution or the Law, then the Cross County Grievance Committee shall declare the decision to be unconstitutional or illegal and shall direct the supervising elected Cross County official to modify that executive decision to conform that decision to the requirements of the Constitution or the Law.
- D. The Cross County Grievance Committee is not to substitute its operational judgment for that of an elected official if the decision of the Cross County official or employee does not violate the Constitution or the Law.
- E. If the employee's supervisory official refuses to abide by the Cross County Grievance Committee's decision, then the Cross County Grievance Committee must either access the courts to seek an order enjoining the supervisory official from acting contrary to the Constitution or the Law or the Cross County Grievance Committee shall be deemed to have acquiesced to the decision of the supervisory official and the decision of the supervisory official shall become Cross County's final

decision with respect to the employment action taken. [Added 02/15/2000 per 02/11/2000 Order by J. Barnes in Edwards v. Columbia County, U.S.D.C. #98-1110. Modified 09/24/01]

19. RELEASE OF EMPLOYEE GRIEVANCE RECORDS

Public Access to employee grievance records is authorized only if approved by the affected employee or authorized by the Arkansas Freedom of Information Act.

20. FAMILY and MEDICAL LEAVE ACT (FMLA) POLICY

- A. Purpose. The purpose of the Family and Medical Leave Act (FMLA) of 1993 is to balance the needs of families with the demands of the workplace. It was designed to promote our country's interest in preserving family unity while accommodating the legitimate interest of employers.
- B. Equality. The FMLA legislation seeks to minimize the potential for employment discrimination on the basis of gender consistent with the Equal Protection Clause of the Fourteenth Amendment by assuring that leave is available when necessary for both men and women.
- C. Basic Leave Entitlement. Cross County will provide up to twelve (12) weeks of unpaid, job - protected leave per year to eligible employees for certain family and medical reasons.
- D. Eligible Employees. Employees are eligible for FMLA leave if they have been employed for at least one year and have worked at least 1,250 hours during the previous twelve (12) months.
- E. Purposes for Which Basic Family Medical Leave Can Be Taken.
Eligible employees are entitled to take up to twelve (12) weeks of unpaid, job-protected FMLA leave per year for any of the following reasons:
 - 1. For incapacity due to pregnancy, prenatal medical care, or childbirth
 - 2. To care for the employee's child after birth, or placement for adoption or foster care
 - 3. To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
 - 4. For a serious health condition that makes the employee unable to perform his or her job.
- F. Purposes for Which Military Family Medical Leave Can Be Taken
 - 1. Eligible employees with a spouse, son, daughter, or parent on active duty or called to active-duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
 - 2. FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty while on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

G. Intermittent Leave

Eligible employees may take FMLA leave on an intermittent basis or work a reduced work schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatments so as not to unduly disrupt work operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

H. Notice Required

Notice must be provided to the employee's department head and the Cross County Clerk's office of the employee's intention to take FMLA leave, at least thirty (30) days in advance, if the need to take leave is foreseeable. When thirty (30) days notice is not possible, the employee must provide notice as soon as practical and must generally comply with their supervisor or department heads normal call-in procedures. The notice must provide sufficient information to determine if the leave may qualify for FMLA and the anticipated timing and duration of the leave. The notice must also state whether the requested leave is for a reason for which FMLA leave was previously taken.

I. Medical Certification

Cross County requires medical certification to support a request for FMLA leave that is necessary due to the employee's own serious health condition or that of a family member. Cross County may, at Cross County expense, require a second medical opinion. If the first and second opinions differ, Cross County may request a third opinion, at Cross County's expense, which is then binding.

J. Continuation of Benefits

For the duration of FMLA leave, Cross County will maintain the employee's group health insurance coverage under the same terms and conditions as if the employee were working. The employee will still be required to pay his or her share of the premium. Leave under this act is not a "qualifying event" under COBRA. If the employee does not return to the job at the end of the FMLA leave, the employee shall be liable to Cross County for repayment of health insurance benefits paid by Cross County during the employee's FMLA leave.

K. Return to the Job

Upon return from FMLA leave, an employee is entitled to be restored to their original or equivalent position with equivalent pay, benefits and other employment terms and conditions.

L. Concurrent Leave

FMLA leave will automatically run concurrently with all other available paid leave time.

21. PUBLIC SAFETY EMPLOYEE DRUG and ALCOHOL TESTING

A. Public safety employees are subject to testing by Cross County to detect the presence of controlled substances and alcohol in their body including:

1. Pre-employment Testing (controlled substances only)
2. Reasonable Suspicion Testing
3. Random Testing
4. Post-accident testing
5. Return-to-Duty and Follow-up Testing

- B. Any prospective employee may be given a mandatory pre-employment drug test and will not be employed until the drug test results are received by the office of the Cross County Judge. The Cross County Judge will then notify the Cross County Clerk who shall notify the elected official or department head of the results. Public safety employees subject to random testing shall include only employees whose duties require them to:
 - 1. Maintain a commercial driver's license
 - 2. Drive a vehicle as a part of the employee's normal county duties (excluding to and from work)
 - 3. Carry a firearm
 - 4. Routinely operate an emergency vehicle (one equipped with siren and red or blue lights) to lawfully carry out their duties
 - 5. Serve as a mechanic on Cross County vehicles
 - 6. Be prepared to use justifiable physical force against persons to maintain order or secure security for persons detained by Cross County.
- C. The Drug and Alcohol Testing procedures required by the U.S. Department of Transportation (the rules) shall be the procedures followed by Cross County, which procedures shall not be contrary to procedures promulgated by the Association of Arkansas counties.
- D. Upon Cross County's adoption of this policy, or at the point of hiring, each Cross County employee shall certify in writing that:
 - 1. The employee has been informed of and understands his or her obligations under Cross County drug and alcohol testing policy and the drug and alcohol regulations of the U.S. Department of Transportation
 - 2. The employee understands that the possession of alcohol in any form is prohibited in the workplace, and that there are restrictions on alcohol use for a period prior to reporting for work and after an accident
 - 3. The employee understands that the possession or use of unauthorized or illegal drugs is prohibited at any time, whether in the workplace or not; and
 - 4. The employee understands that as a condition of employment, the employee must submit to collection of breath, urine, blood, and/or saliva samples when requested by the Cross County employer or a contractor acting for the Cross County employer and, also, that the employee may be subject to drug and alcohol testing in other circumstances including, but not limited to, post-accident and when the employer has reasonable suspicion to believe the driver has engaged in prohibited actions concerning controlled substances or alcohol.
- E. Drug and alcohol testing will be administered to employees in the circumstances and in the manner mandated by the Rules.
- F. Reasonable Suspicion testing shall not be conducted until after the facts are reviewed by the prosecuting attorney, a deputy prosecuting attorney, or a Cross County civil attorney and the reviewing attorney agrees with the supervising elected official that reasonable suspicion exists under the particular facts of the particular case.

- G. The following shall result in immediate discharge:
 - 1. Refusal to take a mandated test for drugs or alcohol
 - 2. A positive drug test result, once the time limit for requesting a second test of a split sample has expired, or upon receipt of a positive drug test result from the second test
 - 3. A positive alcohol test result.
- H. Employees whose initial drug test results are positive and who request a test of the second portion of the split sample will be suspended without pay until such time as Cross County's 'Designated Representative' receives the results of the second (split sample) test. Such second test will be paid by the employer and will be reimbursed to Cross County by the employee. A negative result from the second (split sample) drug test will render the first test invalid and the employee will be reinstated with back pay and reimbursement for the cost of the second test. (Revised 09/22/1997).
- I. An employee suspected of unlawful use of drugs or abuse of alcohol while on duty, as established by the Rules, or who is involved in an accident as defined in 49 CFR 390.5 (and receives a citation for a moving traffic violation in this section) by the Rules, shall be suspended immediately with pay until the results of the drug and alcohol test are received by Cross County 'Designated Representative.'

22. GENERAL EMPLOYMENT INFORMATION CLASSIFICATIONS and COMPENSATION

- A. All newly hired personnel must file the following items with the Cross County Clerk's office before they may begin work for Cross County. Failure to provide the following items to the Cross County Clerk's Office prior to beginning work for Cross County will result in a delay in the issuance of the employee's first paycheck.
 - 1. A job application and a copy of the applicant's driver's license and social security card or other such identification as may be deemed acceptable by the Cross County Clerk's office
 - 2. A Federal Form W-4
 - 3. A Federal Form I-9
 - 4. A form stating that the applicant has received a copy of the Cross County employment policy and that they have read and understood the same
 - 5. A cafeteria plan election form
 - 6. A Cross County group health insurance enrollment form, if the applicant wishes to accept coverage, or a waiver form if the applicant wishes to waive coverage
 - 7. APERS enrollment forms, if the applicant meets eligibility requirements to be enrolled in APERS
 - 8. An Appointment of Deputy form if the applicant needs to be deputized in order to perform job duties
 - 9. A Cross County life insurance enrollment form if the applicant meets the eligibility requirements
 - 10. Prospective employees who are required to register with the Selective Service System must certify compliance with the Military Selective Service Act as a condition for employment.
 - 11. Undergo pre-employment drug test and agree to random drug test
 - 12. Any other documentation or forms as required by the Cross County Clerk's office.

B. Employee Classifications

The County's offices' normal business hours are 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays. The County's Road department hours are 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding holidays.

A full-time County employee is an employee who occupies a full-time position with the County and who works a full-year schedule for the County. Full-time County employees are expected to work during County office hours, with an unpaid lunch break each day and two paid breaks each day of up to 15 minutes per paid break. Paid breaks may not be taken at the beginning or end of the workday, nor at the beginning or end of the unpaid lunch break. Each elected official will manage their own office to ensure they are open from 8:00 a.m. to 4 00 p.m.

A part-time County employee is an employee who works less than a full-year schedule for the County. A regular part-time employee is hired to work less than a full workweek on a non-seasonal basis and will be permitted to work no more than twenty-nine (29) hours per workweek.

A seasonal part-time employee is hired to work less than a full workweek during seasonal and/or peak periods. The temporary employment must be less than ninety (90) days. Regular part-time and seasonal part-time employees are not eligible for benefits (other than those required under state and federal law) that are afforded to regular full-time employees.

C. Employee Compensation.

County employees are paid on a biweekly basis (pay period is every two weeks; twenty-six (26) pay periods annually.) Each pay period covers the two weeks prior to the week of payment, but not the week of payment. After termination of employment, a County employee will be paid through the employee's final working day in the payment for the pay period following termination of employment. Annual raises are not guaranteed and annual budgets must be approved by the Quorum Court.

Each elected official and department head shall keep daily attendance records (timesheets) on each employee. These records shall be reviewed and then signed by both the elected official or department head and the employee as to correctness prior to submission of the timesheets to the Cross County Clerk's office at the end of each biweekly pay period. All Cross County employees, except for elected officials and salary-exempt employees, are required to submit timesheets, which are to be kept by the Cross County Clerk's office as a permanent record. Timesheets are due in the Cross County Clerk's office no later than 10:00 a.m. on the Monday following the end of the biweekly pay. If the elected official or department head fails to provide the required approved timesheets to the Cross County Clerk in a timely manner, the Cross County Clerk is not to issue subsequent paychecks. Cross County employee paychecks will be issued to employees no later than 2:00 p.m. on the Friday following the end of the biweekly pay period. All new employees will have one week held back on their first paycheck. (Effective December 31, 2014)

23. OVERTIME WORK and COMPENSATORY TIME

A. The County complies with the Fair Labor Standards Act (FLSA).

1. Any County employee who makes less than the minimum pay amount set by the FLSA is, regardless of job duties, eligible for overtime compensation.
2. Otherwise, only County employees defined by the FLSA as “non-exempt”, which means not employed in a bona fide “executive, administrative, or professional capacity,” are eligible for overtime compensation.
3. The fact that an employee is paid a “salary” has nothing to do with whether an employee is (or is not) eligible for overtime compensation.
4. As authorized by the FLSA, the County’s employees who are eligible for overtime compensation shall receive, in lieu of overtime pay, compensatory time off at the rate of one and one-half hours of compensatory time for each hour of overtime worked.
5. The normal work period shall be thirty-five (35) hours per week for all County courthouse employees and forty (40) hours per week for all other county employees except employees engaged in the provision of law enforcement (including jailers) and ambulance services. The normal work period for law enforcement (including jailers) and ambulance personnel shall be 171 hours per consecutive 28-day work period.
6. Overtime shall only be worked in emergencies or when public health, welfare, and the safety of the community is in danger. Overtime shall not be worked without the approval of the elected County official or supervisor designated by the elected County official to approve overtime. This includes checking emails and/or phone messages, or otherwise working outside of business hours without approval. Overtime worked shall be compensated as set forth in this policy whether approved in advance or not, but employees who work overtime without approval as set forth in this policy are subject to discipline up to and including termination.
7. No employee shall accrue more than eighty (80) hours of compensatory time. After an employee accrues the maximum eighty (80) hours of compensatory time, the employee shall be paid any additional overtime in cash at a rate of one and one-half times the employee’s normal hourly rate, for each hour of overtime worked (subject to normal withholdings for taxes, etc.). Payments for accrued compensatory time may be made at any time and shall be paid at the regular rate earned by the employee at the time the employee receives such payment. At the end of each year, all accrued but unused compensatory time will be paid in full.
8. Upon termination of employment, an employee who has accrued compensatory time shall be paid for the unused compensatory time at the employee’s average hourly rate during the last three years of employment, or the employee’s final hourly rate, whichever is higher.
9. An employee who has accrued compensatory time off and who has requested the use of compensatory time off shall be permitted to use such time within a reasonable period after making the request if the use of compensatory time does not unduly disrupt the operation of the County or employing department. The County requests that any compensatory time incurred in a 28-day work period (for law enforcement, including

jailer, and ambulance personnel) be used by the employee during the next 28-day work period. If an employee fails to schedule time off according to this policy, the elected official may place them on paid leave to exhaust comp time in compliance with the above.

10. All County elected officials and department heads will maintain timesheets to be filled out by each non-exempt employee on a weekly basis. All timesheets shall be signed under oath by the non-exempt employee and signed by the elected official or department head. Timesheets shall be provided to the County Clerk's Office at the end of each month to be kept as permanent records. If an elected County official or department head fails to provide the required and approved timesheets to the County Clerk, the County Clerk shall not issue subsequent paychecks.
11. Paid leave days shall not count toward time worked in a work period for calculating overtime. Only time worked by an employee shall count toward calculating overtime (including time worked on a holiday).
12. A person who accepts employment with the County or continues in employment with the County shall be deemed to have agreed to receive compensatory time off in lieu of overtime compensation as set forth in this policy.

B. Overtime and Leave Time Liability Control Procedure

1. Employees Required to Personally Sign and Certify Timesheets

Each non-exempt County employee shall *personally* sign his or her timesheet, certifying: "My signature certifies that the above recorded hours worked and leave taken are correct."

2. County Clerk to Keep Employee Timesheets as Permanent Records

The signed/certified employee timesheets shall be timely provided to the County Clerk's office at the end of each pay period to be kept as a permanent record (for at least five years).

3. County Clerk to Calculate Payroll from Non-Exempt Employee Timesheets

The County Clerk will calculate payroll for non-exempt employees, including overtime pay, vacation leave pay, sick leave pay, and holiday pay, based on the signed/certified timesheets and in reliance upon the employee's signed certification that the hours worked and the leave time taken are correct.

4. County Clerk Not to Issue Check without Signed/Certified Timesheet

The County Clerk shall not issue a paycheck to a non-exempt employee if the required employee time sheet(s) is/are not signed and certified by the employee *personally* or are not timely provided to the County Clerk.

5. Logbook of County's Total Overtime Liability

The County Clerk shall keep a record in a separate logbook of accumulated compensatory time, sick leave time, and vacation leave time, showing all such time earned and all such leave time taken by the employees who have earned such leave

6. Report Total County Overtime Liability Monthly

The County Clerk shall provide a monthly report to the County Treasurer, the County Judge, and the Quorum Court, reporting the amount of the County's accrued compensatory time debt.

7. Pay Overtime in Cash when Required by Policy

The County Clerk shall issue an overtime check to an employee any time the employee's total hours of accrued compensatory time exceed the compensatory time limit set by the Quorum Court in the County's Personnel policy (80 hours).

8. Quorum Court to Manage the County's Compensatory Time Debt from Month to Month

The Quorum Court shall use its appropriation power (including re-appropriation power) to modify the County' budget throughout the year so that the County has the funds to pay the compensatory time debt that has accumulated throughout the year at the end of the year.

C. No County Gifts

The Arkansas Constitution prohibits the County from using public money to confer a private benefit. Arkansas Constitution Article 12, §5. County elected officials, department heads, and supervisors shall comply with this constitutional provision and shall not offer or award more paid leave time (holiday, vacation, sick, or compensatory) than authorized by this County Personnel Policy.

24. INCLEMENT WEATHER POLICY

- A. If, in an employee's opinion, conditions are too hazardous for him or her to get to work safely, or to remain at work, in the case of inclement weather during working hours, he or she may, with supervisor approval, have the option of taking the time off without pay or using accrued paid leave time. Regardless of the situation, an employee shall give his or her supervisor immediate notice if he or she is unable to report for work. (Emergency Services Personnel and other essential personnel are expected to make arrangements to report to work on time regardless of the weather conditions).
- B. If, in the opinion of the Cross County Judge, conditions are too hazardous to open Cross County offices, or for Cross County offices to remain open, in the case of inclement weather during working hours, and the Cross County Judge officially closes Cross County offices, all non-essential personnel who are required to report to work, regardless of weather conditions, will be paid with compensatory time, for the hours that Cross County offices are officially closed, in addition to their regular hours worked
- C. All inclement weather closings or delayed opening decisions shall be made by 6:00 a.m. and reported to television stations KAIT 8 and WREG 3 and radio station KWYN 1400.

25. OTHER MISCELLANEOUS EMPLOYMENT POLICIES

- A. Employee employment records shall be established and maintained in the Cross County Clerk's office in a confidential and secure manner. Employment records contain pertinent employee information including, but not limited to employment applications, tax withholding forms, emergency contacts and telephone numbers, payroll history, leave time records, retirement data forms and unemployment claims.
- B. Absence of an employee from work, including any absence for a single or part of a day that is not authorized by the elected official or department head, shall be deemed to be an absence without leave. County employees are expected to be on the job during their regular work hours. Unexcused and excessive tardiness and/or absenteeism may result in disciplinary action, up to and including termination. Disciplinary action consists of:

1. 1st offense: Verbal Warning
2. 2nd offense: Written Warning
3. 3rd offense: Suspended for 3 days without pay

County employees will be permitted absence without prior authorization under only the following conditions:

1. Emergency
 2. Family sickness or funeral
 3. County business
 4. Inclement weather conditions where the employee is unable to travel safely
 5. Other, if subsequently approved by the employee's supervisor. Excused absences with prior or contemporaneous authorization are governed by the leave policies set forth separately below. Any employee who is absent for three (3) consecutive days without approved leave shall be deemed to have resigned.
- C. Vehicles owned by Cross County are to be used for Cross County business only, unless the employee's department supervisor has granted prior authorization for personal use due to extenuating circumstances. Any employee that is found to be in violation of this policy will, upon the 1st offense, be suspended without pay for three (3) days and on the 2nd offense be terminated.
- D. Mileage reimbursement, for travel that is related to legitimate Cross County business, will be paid for each mile of travel from the courthouse address in Cross County to the destination address and the return trip only. MapQuest will be used by the Cross County Clerk's office to determine the appropriate mileage. The rate of reimbursement per mile shall be the same rate that is being utilized by the State of Arkansas at that time.
- E. Reimbursement for meals is for overnight travel only. The current reimbursement rate for meals shall not exceed \$50 per day. Reimbursement requests will only be considered for payment if accompanied by **itemized** receipts. Tips, gratuities, and alcoholic beverages are not reimbursable expenses. Credit and debit card receipts are not acceptable unless itemized.
- F. Lodging will be reimbursed for overnight travel when accompanied by an **itemized** receipt. Personal entertainment, valet services, gratuities, hotel telephone, room service charges and other "extra charges" will not be reimbursed. Lodging will only be reimbursed for meetings over 125 miles from the courthouse address in Cross County or over four hours of driving time.
- G. Dating Policy
An environment where employees maintain clear boundaries between employees' personal and business interactions is most effective for conducting business. Although this policy does not prevent the development of friendships or romantic relationships between co-workers, it does establish very clear boundaries as to how relationships will progress during working hours and within the working environment. Individuals in supervisory relationships or other influential roles are subject to more stringent requirements under this policy due to their status as role models, their access to sensitive information and their ability to influence others.

Procedures related to the Dating Policy

1. During working time and in working areas, employees are expected to keep personal exchanges limited so that others are not distracted or offended by such exchanges so that productivity is maintained.
2. During non-working time, such as lunches and before and after work periods, employees are not precluded from having appropriate personal conversations in non-work areas as long as their conversations and behaviors could in no way be perceived as offensive or uncomfortable to a reasonable person.
3. Employees are strictly prohibited from engaging in physical contact that would in any way be deemed inappropriate by a reasonable person while anywhere on County premises, whether during working hours or not.
4. Employees who allow personal relationships with co-workers to affect the working environment will be subject to appropriate disciplinary action which may include counseling for minor problems. Failure to change behaviors and maintain expected work responsibilities is viewed as a serious disciplinary matter.
5. Employee off-duty conduct is generally regarded as private, as long as such conduct does not create problems within the workplace. An exception to this principle, however, is romantic or sexual relationships between supervisors and subordinates.
6. Department heads, supervisors, or anyone else in sensitive or influential positions must disclose the existence of any relationship with another co-worker that has progressed beyond a platonic friendship. Disclosure must be made to the employee's department head or the elected official responsible for that department. This disclosure will enable Cross County to determine whether any conflict of interest exists because of the relative positions of the individuals involved.
7. Where problems or potential risks are identified, Cross County will work with the parties involved to consider options for resolving the conflict. The initial solution would be to make sure that the parties involved no longer work together on matters where one is able to influence the other or act for the other. Matters such as hiring, firing, promotions, evaluations, financial transactions, etc. are examples of situations that may require reallocation of duties to avoid any actual or perceived reward or disadvantage.
8. In some cases, more extreme measures may be necessary, such as transferring to other positions or departments. The individual with the more senior position will be considered for transfer first to avoid any perception of retaliation against the less senior person.
9. Refusal of reasonable alternative positions, if available, will be deemed a voluntary resignation.
10. Continued failure to work with Cross County to resolve such a situation in a mutually agreeable fashion may be ultimately deemed insubordination and, therefore, serve as cause for immediate termination.
11. The provisions of the policy apply regardless of the sexual orientation of the parties involved.
12. Where doubts exist as to the specific meaning of the terms used above, employees should make judgments based on the overall spirit and intent of this policy.

CROSS COUNTY EMPLOYEE FRINGE BENEFITS

Only full-time employees as defined elsewhere in this employment policy booklet are eligible for fringe benefits.

1. HOLIDAYS

A. All full-time employees, except for emergency services personnel, are entitled to paid holiday leave that will be taken the same day as State offices. These holidays include employee's birthday, New Year's Day, Martin Luther King, Jr. 's birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, day after Thanksgiving by proclamation of the Governor, Christmas Eve, and Christmas Day. If the holiday falls on a Saturday, the holiday will be observed on the preceding Friday. If the holiday falls on a Sunday, the holiday will be observed on the following Monday. The employees' birthday will be used as a floating holiday to be used in the month that the employee's birthday falls. That date must be approved by the supervisor.

B. All full-time emergency services personnel will be paid for eight (8) hours at their regular rate of pay to compensate for the holidays listed above. Any employee required to work on a holiday shall be compensated at his regular hourly rate for all hours of work. Arrangements will be made for such employees to take off another day to make up for the holiday missed. To be eligible for holiday pay, the employee must have worked his last scheduled working day before the next scheduled working day after the holiday and must have performed some work for the County in the week in which the holiday occurs. Leave of absence authorized in writing shall be considered as time worked for the purpose of administering this section. Any additional days for holidays other than the day stated will be at the discretion of the County Judge. Anytime the courthouse is closed, notice of such dates should be made in the regularly circulated newspaper and radio stations.

2. EMERGENCY LEAVE

In case of death, serious illness, or injury in the immediate family, an employee may be granted, with supervisor approval, emergency leave of up to three (3) working days per year per family member. This shall be leave with pay in addition to other available leave time. Immediate family shall include spouse, parent, child, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, son-in-law, and daughter-in-law. Anytime an employee needs more than three (3) days off, due to the serious illness or injury of an immediate family member, the employee may utilize the unpaid leave available under the conditions set forth in the Family Medical Leave Act (FMLA).

3. OCCUPATIONAL LEAVE

Cross County provides Workers' Compensation coverage for its employees as required by the Constitution and by law. (Arkansas Code Annotated 11-9-101 et seq). In the event an employee sustains a compensable occupational injury which results in loss of work time, Cross County will pay the injured employee full salary for the first seven (7) days of lost time, if requested by the employee. Thereafter, Cross County will pay the difference between the employee's regular salary and the amount paid by the workers' compensation coverage, if requested by the employee. All such aforementioned payments by Cross County shall be charged against the employee's accrued

paid leave time at the ratio of the supplemental payment to the employee's regular salary. When all accrued leave time is used in this manner, payment from Cross County will cease.

Cross County will pay the difference in salary for emergency medical services personnel, between the standard forty (40) hours per work week (which is the maximum that Workers' Compensation Insurance will reimburse) and the hours that the employee is regularly scheduled to work for the week, provided that the employee has followed all required safety policies and procedures. This pay will not be charged against an employee's accrued leave.

4. MILITARY LEAVE

A. TRAINING:

All employees who request a leave of absence for the purpose of participating in the military training programs of the National Guard, or any of the Reserves, shall be entitled to such leave for a period of fifteen (15) days, plus necessary travel time, for annual training performed in any one (1) year. In addition, leave that is not used in a year may be carried forward to the next year for a maximum of thirty (30) days of military leave in any one (1) year. The leave of absence shall be in addition to regular leave time allowed to the employee. Employees shall be entitled to their regular salary during periods of such leave. (Arkansas Code Annotated 21-4-102)

B. CALLED to ACTIVE DUTY in EMERGENCIES:

Employees who are Members of the National Guard, or any of the Reserves, who are called to duty in "emergency situations" by the Governor or President shall be granted leave with pay not to exceed thirty (30) working days, after which leave without pay will be granted. This leave shall be in addition to all other leave. (Arkansas Code Annotated 21-4-102). According to AG opinion number 2002-342, the employee shall be entitled to paid leave up to thirty (30) days, regardless of whether he/she had already collected his full quota of paid leave for regular annual training.

C. UNIFORMED SERVICES EMPLOYMENT and REEMPLOYMENT RIGHTS ACT (USERRA)

Under (USERRA), an employee is entitled to return to his/her job with accrued seniority, provided he meets the following five eligibility criteria:

- a. Must hold or have applied for a Cross County job
- b. Must have given written or verbal notice to the employer prior to leaving the job
- c. Must not have exceeded the 5-year cumulative limit on periods of service
- d. Must have been released from service under conditions other than dishonorable; and
- e. Must report back to the Cross County job in a timely manner or submit a timely application for reemployment.

If a service member is on active duty for more than thirty (30) days, that member and his dependents should be covered by military health insurance. However, USERRA gives an employee the right to elect continued health insurance coverage (COBRA) through Cross County, for himself and his dependents, for up to eighteen (18) months. If military service is for thirty (30) days or less, the employee and his family can continue coverage at the same

cost as before service. USERRA also gives the employee the right to immediate reinstatement of Cross County health insurance coverage upon return to the job.

USERRA provides that a re-employed person must be treated as not having incurred a break in service with an employer-maintained pension plan. Also, military service must be considered service with an employer for vesting and benefit accrual purposes. For Cross County employees who are members of the Arkansas Public Employees Retirement System (APERS), a copy of the member's DD-214 must be submitted to APERS, once the service member has completed service. APERS will then contact Cross County by letter, requesting a listing of the salary that would have been reported. Upon receipt of the salary information, Cross County will then be notified to remit the employer contributions that are due to update the member's salary and service record.

5. CITIZENSHIP LEAVE

Employees shall be granted leave, with pay, when summoned for jury duty, subpoenaed as a witness in a judicial proceeding or other citizenship obligations with advance notice to, and approval from, the employee's supervisor. A County employee called to serve on a jury must notify his/her supervisor immediately upon notice so that his/her work schedule can be modified to accommodate jury duty. A full-time County employee serving as a juror in state or federal court shall be entitled to leave with pay and such service or necessary appearances in court shall not be counted as vacation leave or sick leave. This section shall not apply when the employee is personally involved in the lawsuit or litigation.

6. VACATION LEAVE and SICK LEAVE

A. VACATION LEAVE

Vacation leave is a benefit like salary that each full-time County employee earns, and that accrues to all eligible employees in accordance with the schedule set out in this section. Vacation leave begins to accrue with the enrollment date of the full-time employee, but employees are not eligible to request vacation leave before completing one year of continuous full-time, regular employment with the County. Vacation leave shall be granted by the employee's appropriate supervisor in advance of the leave and at such time, or times, as will least interfere with the efficient operation of the county. Vacation leave may be taken in increments as low as one (1) hour. No vacation leave may be taken unless earned – employees are not permitted to borrow against leave days to be accrued in the future. Employees may carry over a maximum of ten (10) vacation days at the end of the year. Any vacation leave above ten days at the end of the year will be automatically donated to the Catastrophic Leave Bank program. Employees will be paid for accrued, but unused vacation leave, following termination of employment. Vacation leave shall accrue as follows:

<u>Service Time Minimum</u>	<u>Accrued Vacation Leave</u>
● One (1) year	● Ten (10) days per year
● Five (5) years	● Fifteen (15) days per year
● Twelve (12) years	● Twenty (20) days per year

A “vacation day” consists of seven (7) hours for Courthouse employees and eight (8) hours for all other County employees.

B. SICK LEAVE

Sick leave accrues to all eligible employees at the rate of one (1) day per month. Sick leave begins to accrue with the enrollment date of the full-time employee. Sick leave shall be granted by the employee’s appropriate supervisor in advance of the leave whenever possible and at such time, or times, as will least interfere with the efficient operation of the County. Sick leave shall be deducted from the employee’s accrued leave based on the number of accrued sick leave hours requested and granted. Sick leave may be taken in increments as low as one (1) hour. No sick leave may be taken unless earned – employees are not permitted to borrow against leave days to be accrued in the future. A total of thirty (30) days maximum can be carried over from year to year. Any sick leave above thirty (30) days at the end of a year will be automatically donated to the Catastrophic Leave Bank program. Employees are not entitled to be paid for any accrued but unused sick leave. A sick day consists of seven (7) hours for Courthouse employees and eight (8) hours for all other County employees.

C. PLANNED LEAVE

All planned leave left (vacations, maternity leave, known medical, dental, and optical appointment, etc.) must be pre-arranged with the employee’s supervisor a minimum of two weeks prior to taking the planned leave. Personal time off and time off due to illness or emergencies must be arranged and reported to the employee’s supervisor in accordance with that elected official or department head’s individual department policy. Failure to report in a timely manner prior to scheduled shift may result in disciplinary measures:

1. 1st Offense: Verbal Warning
2. 2nd Offense: Written Warning
3. 3rd Offense: Suspended for three (3) days without pay

County employees will be permitted absence without prior authorization under only the following conditions:

1. Emergency
2. Family sickness or funeral
3. County business
4. Inclement weather conditions where the employee is unable to travel safely
5. Other, if subsequently approved by the employee’s supervisor.

Excused absences with prior or contemporaneous authorization are governed by the leave policies set forth separately below. Any employee who is absent for three (3) consecutive days without approved leave shall be deemed to have resigned.

Leave must be earned before it can be used; therefore, it may not be used from anticipated future accruals.

D. CATASTROPHIC LEAVE

A Cross County Employee may elect to donate a maximum of forty (40) hours per year to another full-time Cross County employee or employees who are paid out of the same fund who are suffering from a catastrophic illness. Written records of a donation, its acceptance,

and any subsequent actions will be placed in the employee's permanent employment file which is kept in the Cross County Clerk's office. Catastrophic illness is defined as an employee's personal illness or accident that prevents the employee from returning to their normal work schedule for a minimum of thirty (30) calendar days. The illness or accident must be verified in writing by a licensed physician before the employee is eligible to receive any donated sick leave. Such a transaction shall be approved by the elected official or department head of the affected employee. The employee must first use all vacation, compensation time, and regular sick days before using any catastrophic leave time. A total of thirty (30) days can accumulate and carry over into the following year. Only employees who donate to this fund will be allowed to use days from this fund. A five-member committee shall be appointed to administer the sick leave: one from the Courthouse, one from the Road Department, one from the Sheriff's Office, one from the County Judge's office, and one appointed from the Quorum Court.

E. LEAVE-WITHOUT-PAY

Leave-without-pay may be granted at the discretion of an employee's supervising elected official or department head. An employee on leave-without-pay retains all earned vacation leave and sick leave, but does not accumulate leave time, does not participate in County Group Insurance programs at County expense, and does not receive pay for legal holidays or otherwise. An employee on leave-without-pay status shall have the right to reinstatement to the position vacated or an equivalent position upon the conclusion of the approved leave-without-pay status. An employee on leave-without-pay status may pay the total cost of any County group health insurance program during such leave and be fully reinstated into such a program on return, where the program allows this.

7. HEALTH INSURANCE COVERAGE

- A. Cross County may, at its discretion, provide group health insurance coverage to Cross County Employees. The cost of coverage to the employee is subject to change each plan year and will be based upon the rates provided by the insurance carrier as selected by the Cross County Judge. If an employee wishes to enroll their dependents on the plan, the employee will be responsible for the full cost of the dependent coverage. In order to be eligible to participate in the Cross County Group Health Insurance Plan, an employee must be in active employment for Cross County on a full-time basis, performing all customary duties of his or her occupation and averaging at least thirty (30) hours of work per week. Eligible employees may sign up to participate in the Cross County group health insurance plan upon their starting date. The effective date will be on the first day of the month following a 60-day waiting period. If an employee fails to enroll within thirty (30) days of their starting date, coverage will be effective only in accordance with the insurance company's late enrollment provisions. The Cross County Clerk's office will advise new employees of the current rates upon their hire. Open enrollment for all employees is held during the month of December. Any employee who wishes to enroll on the Cross County Group Health Insurance Plan or make additions, deletions, or changes to their existing coverage, must do so during that month. In December of each year, the Cross County Clerk's office will provide to each eligible Cross County

employee information regarding open enrollment, as well as the new insurance rates for the coming year.

- B. If an employee is terminated, resigns, or has his or her hours reduced to less than thirty (30) hours per week, after they have been enrolled on the Cross County Group Health Insurance plan, they may continue their health insurance coverage under federal COBRA laws. The total cost of the health insurance will be the responsibility of the employee/former employee. The length of the continued insurance coverage is eighteen (18) months. If a defendant of a covered employee loses their dependent status due to the death of the employee, divorce or legal separation from the employee, or the Medicare eligibility of the employee, the dependent may continue their health insurance coverage under federal COBRA laws. The total cost of the health insurance coverage will be the responsibility of the defendant. The length of the continued insurance coverage is thirty-six (36) months.
- C. All eligible employees who wish to enroll in the Cross County Group Health Insurance plan must elect to participate in the County's Cafeteria (Section 125) plan. Under the cafeteria plan, money withheld from the employee's paycheck for insurance premiums is not taxable. Please note, because insurance premiums withheld from an employee's paycheck were never taxed, they may not be claimed as a tax deduction.
- D. Cross County Group Health Insurance may not be canceled during the middle of a month. If one wishes to cancel their Cross County Group Health Insurance Policy, they must notify the Cross County Clerk's office prior to the time their timesheet is due to be turned in for the first biweekly pay period of a month.
- E. Cross County may, at its discretion, provide life insurance coverage to its employees. Life insurance will be provided by Cross County, at no charge, to each eligible employee working at least thirty (30) hours per week. Life insurance amounts are subject to change each plan year. The Cross County Clerk's office will provide the current amount to each employee upon hire and to current employees prior to the open enrollment period for health insurance each December.

8. RETIREMENT

Membership in the Arkansas Public Employees Retirement System (APERS) is compulsory for all employees who are hired with the intent to work at least ninety (90) consecutive calendar days, working at least 70 hours per biweekly pay and earning at least the federal minimum wage.

Effective with the first period, salaries earned on or after July 1, 2005, all new hires who meet the eligibility requirements for participation in this retirement plan must contribute 5% of their pre-tax earnings to this plan (this is in addition to the employer matching contribution). The only exception is if a member resigns from an employer covered by APERS and then returns to work for another covered employer within six (6) months. Those members have the option of remaining non-contributory.

This mandatory requirement was adopted by the Arkansas General Assembly as Act 2084 of 2005. A member is eligible for benefits at:

- Age 65 with at least five years of service
- Any age with 28 years of service.

As of January 1, 1997, members of the Arkansas Public Employees Retirement System (APERS) are vested in the system for retirement benefits with five (5) years of actual service. A membership handbook will be mailed to each employee from the APERS office in Little Rock, upon receipt of the employee's enrollment application. These handbooks give general information about the retirement system and show how to calculate benefits. A benefits calculator and additional information about the retirement system are also available online at www.apers.org.

Questions or issues may arise that are not specifically addressed in the County's Personnel Policy. As explained above, the County elected officials and County Judge have discretion to determine the application, meaning, and intent of the provisions of the personnel policy as they relate to the policies of that County elected official's office. Consistent with that discretion, the County elected officials and County Judge may issue policy memoranda to County staff to address questions or issues that are not addressed in the County Personnel policy.

I Have received a copy of the Cross County employment policy that was adopted by the Cross County Quorum Court. I further state that I have read and understand the policy. I also understand and agree that Cross County is an "at will" employer and may terminate my employment at any time without prior notice or liability of any kind, except for wages earned and unpaid at the time of such termination.

Employee Signature

Date