



COUNTY OF WHARTON

PERSONNEL POLICY

**REVISED: December 27, 2021,
April 25, 2022 &
July 11, 2022**

By Date of Amendment

Section Description & Reference

17.04	Vehicle Use February 25, 2013 Commissioners Court Minutes
2.01	Categories
5.04	Job and Grade Classification Plan
6.04	Workers Compensation
6.06	Disability Insurance
7.05	Injury Leave
7.06	Disability leave October 28, 2013 Commissioners Court Minutes
3.09	Carrying of Handguns and Other Weapons January 11, 2016 Commissioners Court Minutes
3.10	Circumstances Associated with Expression of Breast Milk January 25, 2016 Commissioners Court Minutes
6.14	Voluntary Sick-Leave Program (VSP) February 8, 2016 Commissioners Court Minutes
8.00	Emergency Duty September 11, 2017 Commissioners Court Minutes
5.06	Promotions & Pay Grade Reductions May 14, 2018 Commissioners Court Minutes
6.07	Vacation Benefits January 14, 2019 Commissioners Court Minutes
12.00	Harassment May 26, 2020 Commissioners Court Minutes
19.00	Drug testing May 26, 2020 Commissioners Court Minutes
7.07	Paid Quarantine Leave for Law Enforcement & Detention Officers December 27, 2021 Commissioners Court Minutes

By Date of Amendment

Section Description & Reference

- 7.08 Mental Health Leave for Law Enforcement Officers
December 27, 2021 Commissioners Court
- 9.01 Meals, Mileage and Hotel
April 25, 2022 Commissioners Court
- 3.08 Overtime Compensation (Payable Overtime Compensation)
July 11, 2022 Commissioners Court

APPROVED by Commissioners Court on the 11th day of July, 2022.

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Phillip Spentath, County Judge

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Richard Zahn Commissioner Pct. 1

Steven Goetsch
Steven Goetsch, Commissioner, Pct. 3

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Bud Graves, Commissioner Pct. 2

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Doug Matheys, Commissioner, Pct. 4

ATTEST: *Barbara Svatek*
Barbara Svatek, County Clerk

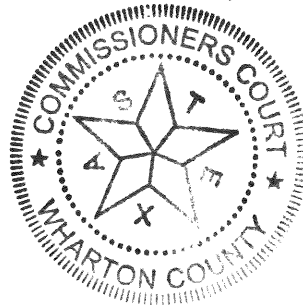




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1.00 INTRODUCTION

1.01 AUTHORITY

The Commissioners Court, consisting of four County Commissioners elected from each of the four precincts and the County Judge, elected at large, is the policy making body of the County. All of the policies in this manual have been approved by your Commissioners Court effective March 22, 2021, April 26, 2021 & Amended Dates

1.02 RESPONSIBILITY FOR IMPLEMENTATION

Each (Department Head) elected or appointed official of Wharton County is responsible for the administration of the personnel policies and procedures within his/her department(s).

1.03 PURPOSE

These policies set forth the primary rules governing employment policies and practices within the County of Wharton

The policies contained herein inform employees of the benefits and obligations of employment. They have been prepared and adopted in order to promote consistent, equitable, and effective practices by both employees and supervisors which will result in quality public service and harmony among County personnel. These policies are not a substitute for the basic concept for employment at will doctrine as defined by Texas case law.

1.04 APPLICABILITY

The personnel policies apply equally to all employees of Wharton County.

In cases where federal or state law or regulations supersede local policy, such laws or regulations will substitute for these personnel policies only as necessary to comply.

1.05 DISSEMINATION

An official record copy of personnel policies shall be filed with the County Clerk and on the website of the County Auditor.

<http://www.co.wharton.tx.us/page/wharton.countyauditor>

Each new employee and each department head shall be furnished a copy of a complete up-to-date set of personnel policies.

1.06 CONSTRUCTIVE SUGGESTIONS AND ADMENDENTS

Officials and employees are encouraged to make constructive suggestions for improvements to these policies. Any recommended amendments must be approved by the Commissioners Court.

1.07 EMPLOYMENT AT WILL

All employment with Wharton County shall be considered “at will” employment. The “at will doctrine” allows the employee or the employer to terminate the employment at any time for any reason as long as the reason is not a legally protected one.

No contract of employment shall exist between any individual and Wharton County for any duration, either specified or unspecified.

Wharton County shall have the right to terminate the employment of any employee for any legal reason, or no reason, at any time either with or without notice, as well as, change any condition, benefit, policy, or privilege of employment at any time, with or without notice. Employees of Wharton County shall have the right to leave their employment with the County at any time, with or without notice.

2.00 TYPE OF EMPLOYMENT

2.01 CATEGORIES

There are four categories of employment within the County of Wharton:

FULL-TIME: A full time employee is employed to hold an authorized position that involves, on the average, at least forty (40) hours per week. Budgeted full-time positions offer full fringe benefits to the employee, except where specifically exempted by legal statute or County policy.

PART-TIME: A part-time employee is employed to hold an authorized position that involves, on the average, fewer than forty (40) hours per week. Budgeted part-time positions will receive a fractional part of full-time benefits. Employees working less than 20 hours will not receive Vacation, Sick, Holiday, Funeral or Citizenship Leave nor be eligible for the Sick Bank.

TEMPORARY: A temporary employee is an employee hired to complete a specific project within a nine (9) month period and must work less than thirty (30) hours a week. Check with the Personnel office for details. These employees are not entitled to any fringe benefits and budgeted funds are not specific by position.

SUPPLEMENTAL POSITIONS: A supplemental employee is an employee of entities and agencies other than the County. The fringe benefits shall be provided by the employer. Wharton County shall only pay supplemental salaries, travel and other specific benefits as authorized by the Commissioners Court.

3.00 WORK RULES AND EMPLOYEE RESPONSIBILITIES

3.01 GENERAL

The County of Wharton is a political subdivision of the state of Texas supported by tax dollars. Its employees and officials must adhere to high standards of public service that emphasize professionalism, courtesy, and avoidance of impropriety. Employees are responsible for carrying out efficiently the work items assigned, maintaining good moral conduct, and maintaining good relationships with the public, with other government employees and officials, with their supervisors, and with fellow employees.

3.02 ATTENDANCE AND TIMELINESS

ATTENDANCE

Each employee shall report to work each day he or she is scheduled to work unless prior approval for absence is given by the employee's supervisor or the employee is unable to report for work because of circumstances beyond the control of the employee.

TARDINESS

Each employee shall be at his or her place of work at the starting time set by his/her supervisor unless prior approval is given by the supervisor or the employee is unable to be at work on time for reasons beyond the control of the employee.

Each employee shall remain on the job until the normal quitting time established by the supervisor unless permission to leave early is given by the supervisor.

NOTIFICATION

If an employee is unable to be at work at his/her normal reporting time, the employee shall be responsible for notifying his/her supervisor as soon as possible of the circumstances causing the tardiness or absence.

EXCUSED AND UNEXCUSED

Each supervisor shall be responsible for determining if any unscheduled absence or tardiness is to be classified as excused or unexcused, based on the circumstances causing the absence or tardiness. Leave time shall be used to offset all absences.

Frequent unexcused absences or tardiness shall make an employee subject to disciplinary measures, up to and including termination of employment.

ABANDONMENT OF POSITION

An employee who does not report for work for three consecutive scheduled work days, and who fails to notify his or her supervisor, shall be considered to have resigned his/her position by abandonment.

3.03 OUTSIDE ACTIVITIES

Employees may not engage in any outside employment or enterprise determined by the Department Head to (1) be inconsistent or incompatible with employment with Wharton

County or (2) adversely affect the employee's job performance during hours of County employment.

3.04 CONFLICT OF INTEREST

An official or employee of the County shall not have financial interest in the profits of any contract, service, or other work performed by the County or personally profit directly or indirectly from any contract, purchase, sale, or service between the County and any person or company.

Employees involved in conflict of interest situations shall be subject to discipline, up to and including termination.

3.05 DRESS CODE

Officials and employees of the County shall wear attire deemed appropriate by the Department Head.

3.06 WORK SCHEDULE AND WORK WEEK

WORKWEEK

For purposes of record-keeping and to determine overtime in compliance with the fair labor standards act (FLSA), the workweek for Wharton County shall begin at 12:01 a.m. on each Monday and end seven (7) consecutive work days later (168 hours).

WORKDAY

The workday for the County shall begin at 12:01 a.m. each day and end 24 consecutive hours later.

All full-time County employees will work a minimum of forty (40) hours per week. Coffee breaks will be regulated by the Department Head. In order to meet the needs of the County, certain departments or employees may be required to work a schedule that varies from the normal work schedule, or they may be subject to call back in case of emergency or special need.

3.07 HOURS WORKED AND OVERTIME

HOURS WORKED

Hours worked shall include all time actually spent in the service of the County as defined in the Fair Labor Standards Act (FLSA) and its regulations.

OVERTIME APPLICATION

Overtime, as defined by this policy, shall apply to all employees eligible for overtime compensation under the FLSA

OVERTIME DEFINITION

Overtime shall include all time actually worked for the County in excess of 40 hours in any workweek or 86 hours in a two week work schedule for law enforcement as regulated by FLSA.

Except in emergency situations, an employee shall be required to have authorization from his/her supervisor before working overtime.

3.08 OVERTIME COMPENSATION

POLICY APPLICATION

- This policy shall apply to all County employees eligible for overtime compensation under the Fair Labor Standards Act (FLSA).
- Overtime compensation shall be accrued in the form of compensatory time off in accordance with the provisions of the FLSA.

PAYABLE OVERTIME COMPENSATION (COMP TIME)

- Covered employees shall receive comp time at a rate of one and one-half (1 ½) times the amount of overtime worked exceeding 40 working hours or 86 working hours for law enforcement employees.
- In the event that the overtime pay is externally funded (example, grant funded) and the employee has taken days off using compensatory time, other time, vacation time, holiday time, emergency closing, and accrues more than 40 hours in a 7 day period or more than 86 hours (LE) during a 14-day period, this overage time will be considered at time and a half (1 ½) times the employees regular pay rate to be compensated with externally funded overtime pay. No other time will be considered in calculating overtime. (EX. Bereavement Leave, Covid, Jury Duty, Sick Leave, Worker's Comp, FMLA Leave, etc. Docked time will be reduced according to hours worked.)

PAYABLE OTHER TIME COMPENSATION

- "Other time" is actual excess hours worked in a work week, that with other benefit leave, equals more than 40 hours.
Law enforcement "Other time" is actual excess hours worked in a pay period, that with other benefit leave, equals more than 86 hours.
- "Other time" shall be accrued at straight time rates as defined in the regulations governing the Fair Labor Standards Act (29 CFR, Section 553.28).

MAXIMUM COMP TIME

- The maximum amount of unused Comp Time an employee shall be allowed to have at any one time is 40 hours.
- When an employee has exceeded the maximum accrual of Comp Time, any additional overtime worked shall be paid until Comp Time balance reduces to the maximum. Comp Time is accrued at a rate of one and one half hours worked which equates to time and one half pay.

Work 2 hours overtime = 3 hours accrued time on record
Regular payrate \$10.00 x 3 hrs. = \$30.00 pay

USE OF COMP TIME

- Employees shall be allowed to use earned Comp Time within a reasonable period after it is requested provided that the employee's absence will not place an undue hardship on the operations of the department in which the employee works.
- Comp Time may be used for any purpose desired by the employee.
- Comp Time shall be used before Vacation Time, Holiday Time and Other Time.

TERMINATION

- If an employee terminates employment, for any reason, prior to using all earned FLSA Comp Time, he/she shall be paid for all unused "Comp Time" and "Other Time" in accordance with the requirements of the FLSA.

BUY BACK OF COMP TIME

- The County shall retain the right to "buy back" all or part of an employee's unused Comp Time by paying the employee for that time at the employee's current regular rate of pay.

CASH PAYMENT FOR COMP TIME

- The County shall retain the right to pay all or part of the Comp Time worked in any workweek by paying for that Comp Time at one and one-half (1 ½) the employee's current regular rate of pay.

RECORD KEEPING

- Each employee shall be responsible for recording any Comp Time used within a pay cycle on the time sheet for that pay cycle.
- The Personnel Department shall be responsible for keeping records of all Comp Time earned and used by each eligible County employee in his/her department and shall update the balance due to each employee at the end of each pay period.
- The timesheet serves as documentation of the employee's Comp Time earnings, use, and balance at the end of each pay period.

OTHER ISSUES

- Any issues on overtime compensation not addressed in this policy shall at least meet the minimum requirements of the FLSA and the regulations issued by the Department of Labor to administer that act.
- Major incidents – refer to Section 8.00 #6 and #7.

USAGE OF "OTHER TIME"

- Employees use "Other time" as paid leave with supervisory approval but only after all comp time (as set out in this section) has been used in full.
- The maximum amount of unused "Other time" an employee shall be allowed to have at any one time is 40 hours.

- In the event of a separation of employment, the “Other time” accrual will be paid to the separating employee.

3.09 CARRYING OF HANDGUNS AND OTHER WEAPONS

POSSESSION OF WEAPONS

The unlawful possession of any weapons by County employees on County premises during working hours or while on duty is strictly prohibited.

As permitted by Section 411.203 of the Texas Government Code, and Section 52.62 of the Texas Labor Code, County employees are prohibited from openly carrying firearms or ammunition either on County premises during work hours or while on-duty for the County unless:

- the employee is a commissioned law enforcement officer or the employee has specific job duties that require or authorize use of a firearm as part of their employment; OR
- the employee is a person identified by Texas Penal Code Section 46.15(a), who is lawfully licensed to carry the firearm, and has received prior supervisory approval to openly possess a firearm.

This prohibition on openly carrying or displaying a firearm applies regardless of whether the employee has been issued a handgun license under Subchapter H, Chapter 411, Government Code and also applies regardless of whether the firearm is holstered.

EMPLOYEES REPORTING UNLAWFUL POSSESSION OF WEAPONS

Any County employee who believes that a member of the public is illegally possessing or displaying a weapon including a firearm, while on County property shall report the matter to law enforcement. Except for those employed as peace officers, no individual County employee is authorized to control or otherwise prohibit the possession of weapons by members of the public.

Employees who have questions about this policy should discuss the issue with their supervisor who may contact the County Attorney for consultation. Violations of this policy may result in disciplinary action, up to and including termination of employment.

3.10 CIRCUMSTANCES ASSOCIATED WITH EXPRESSION OF BREAST MILK

The Patient Protection and Affordable Care Act amended the Fair Labor Standards Act to require reasonable breaks for nursing mothers to express breast milk. The Texas Right to Express Breast Milk in the Workplace Act also imposes duties on public employers and, under other state law, is applicable for

the duration of a nursing mother's need to express breast milk. Wharton County supports the practice of expressing breast milk.

Wharton County will provide reasonable [paid or unpaid] breaks for a nursing mother to express breast milk. The nursing mother will be allowed whatever time is needed to express breast milk.

The County will provide the nursing mother with a private location, other than a bathroom. The location will be shielded from view and free from intrusion and appropriate for expressing breast milk. The specific location will be determined on a case by case basis.

Wharton County does not allow any retaliation against a nursing mother for asking for the break. Nursing mothers are entitled to this break for the duration of the time they are expressing breast milk. A reasonable accommodation will be given for the needs of employees who express breast milk. An employee of the county who needs to express breast milk may not be discriminated against.

All other employee breaks are determined by each department head and are not required to be given. If your department provides you with a break, it may not be accumulated or used for time off. The Fair Labor Standards Act does not require any breaks other than for a nursing mother, however, if paid breaks are provided for employees, a nursing mother must be given the same amount of paid break time.

4.00 HIRING PRACTICES

4.01 EQUAL EMPLOYMENT OPPORTUNITY

Wharton County is an equal opportunity employer. The county will not discriminate on the basis of race, color, religion, national origin, sex, age, genetic information, pregnancy, veteran status, and disability, or any other condition or status protected by law in hiring, promotion, demotion, raises, terminations, training, discipline, use of employee facilities or programs, or any other benefit, condition, or privilege of employment except where required by state or federal law or where a bona fide occupational qualification exists. If an employee needs an accommodation as a result of a condition or status protected by law, please advise your elected official, appointed official, department head or the county attorney.

4.02 METHOD OF RECRUITMENT AND SELECTION

- Each Elected Officials determines the method of selection for positions within his/her department. Some methods are: (1) promotion from within; (2) lateral transfer from within; (3) public announcement and competitive consideration of applications for employment. The Commissioners Court determines the method of selection for staff positions for which it has responsibility.

- Except for appointments reserved to the District Judge or the Commissioners Court by statute, the Official or Department Head has exclusive authority to select and employ personnel within the limits of the overall comprehensive budget.

4.03 AGE REQUIREMENT

Persons under eighteen (18) years of age will be employed only in compliance with State or Federal Child Labor Laws applicable to the County.

4.04 APPLICATION FOR EMPLOYMENT

Each applicant is required to submit a Wharton County application for employment with pertinent information regarding training and experience. Each Department Head will make appropriate inquiries to verify experience, character, and availability of any applicant.

4.05 PHYSICAL STANDARDS

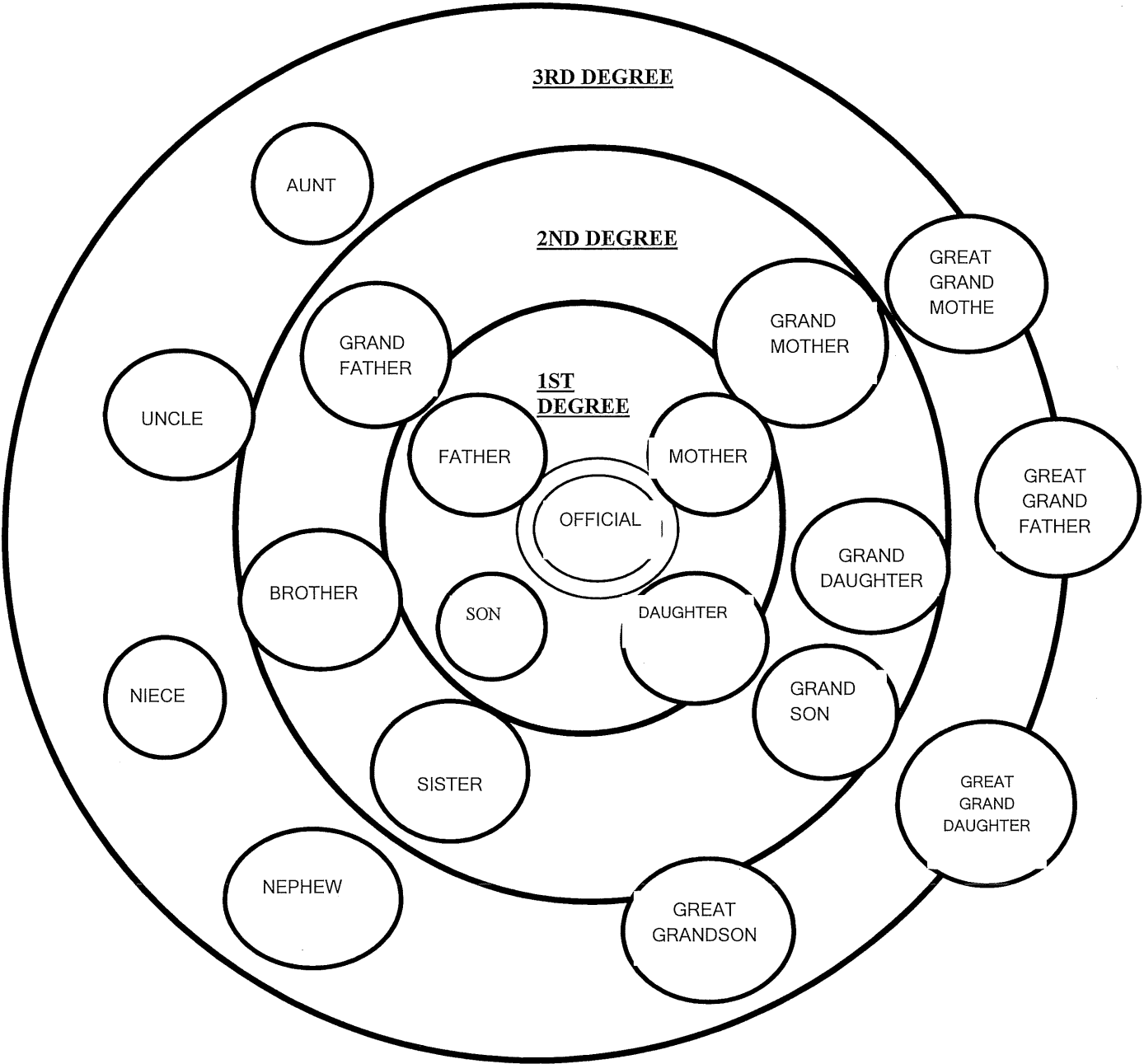
PHYSICAL STANDARDS FOR EMPLOYEES

- All potential full-time and part-time employees must successfully complete a physical examination and drug test prior to employment.
- Employees must be able to perform the essential job functions with or without reasonable accommodations.
- Employees may be required to pass a fitness for duty medical exam throughout their employment after an illness or injury that may impair one's condition to ensure employee is not a direct threat to the health and safety of themselves or others.
- All precinct employees that operate county trucks or heavy equipment and have a CDL license will be subject to drug testing as required by the Department of Transportation.
- Failure to comply may result in termination of employment or withdrawal of job offer. Specifications of physical examination and doctors will be approved by Commissioners Court and paid by the County.

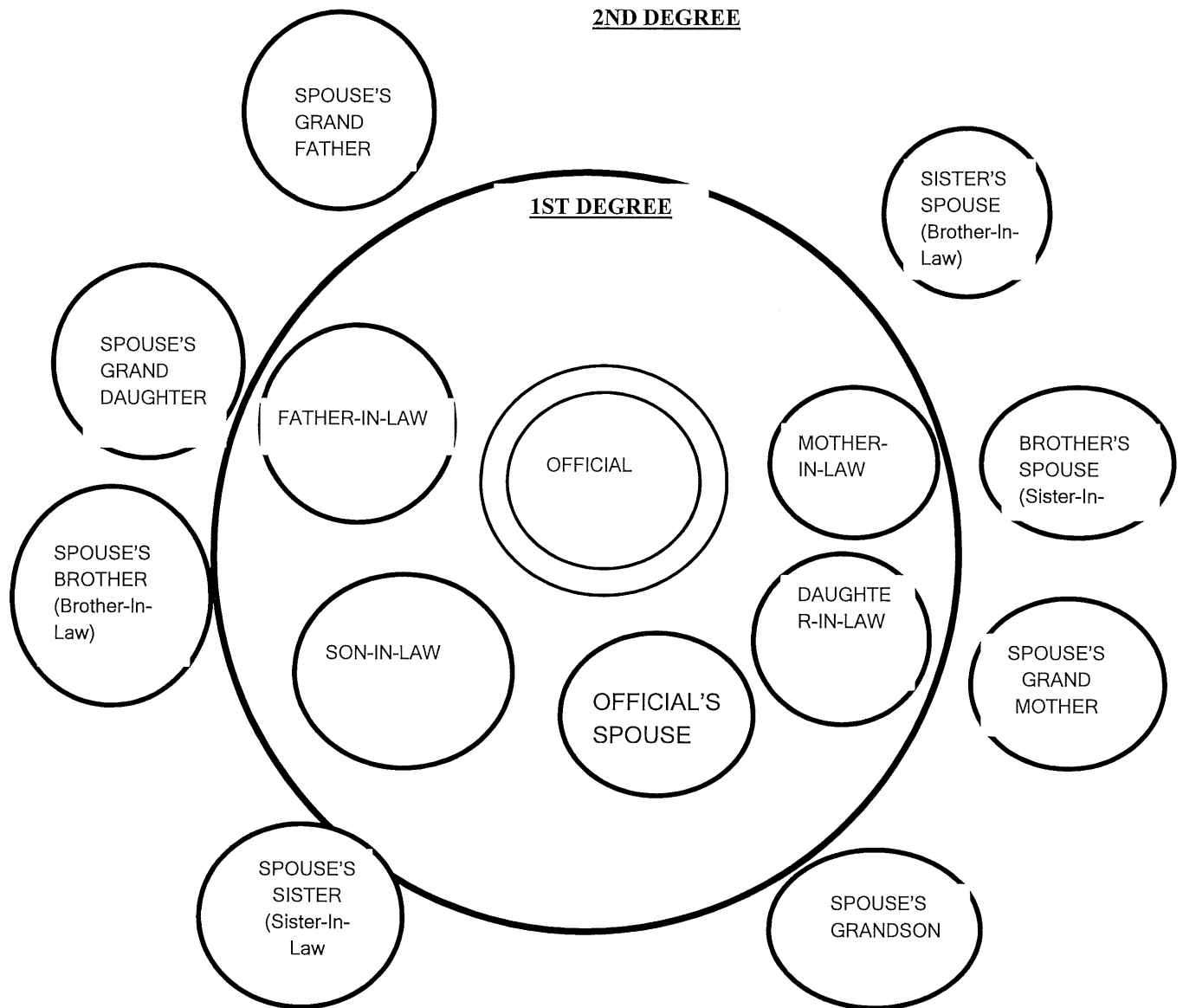
4.06 EMPLOYMENT OF RELATIVES

Nepotism is the showing of favoritism toward a relative. The practice of nepotism in hiring personnel or awarding contracts is forbidden by the County. No person may be hired who is related by consanguinity or affinity to any member, or spouse of any member, of the Commissioners Court or to the Official Department Head who is in charge of hiring and supervising the employee. See charts on the following pages.

TEXAS NEPOTISM CHART
CIVIL LAW METHOD
Consanguinity Kinship Chart
(Blood)



**Affinity Kinship
(Marriage)**



4.07 CRIMINAL BACKGROUND CHECKS

Criminal background research will be performed on all potential County employees including temporary employees with the exception of those who are hired for two (2) weeks or less.

5.00 EMPLOYEE COMPENSATION AND ADVANCEMENT

5.01 PROCESS OF PAYROLL AND CALCULATION OF PAY

Pay periods for employees are on a bi-weekly schedule; 26 times per year for a 14 day period, with pay delivered on Friday following the close of a bi-weekly cycle.

Any deviation from the pay schedule will be at the sole discretion of the County Treasurer and the County Auditor and/or Commissioners Court.

Time and/or attendance logs are required by all personnel that accrue benefit leave. Logs shall be turned into the personnel office by 10:00 a.m. (Monday 10:00 a.m.) following the close of a pay cycle (Sunday, 12:00 a.m.). The employee and the designated official must sign and approve the timesheet to initiate the pay process. Deadlines may be altered by the Auditor's office to accommodate processing due to holidays, etc.

Logs for personal use of county vehicles shall be turned in with timesheets.

5.02 PAYDAY AND CHECK DELIVERY

To promote efficiency and cost savings, employees have delivery options for receiving pay: Direct Deposit, Pay Card and/or check. Consult the Auditor's office for information on these options. Payday is the last banking day of the week following the end of a pay cycle.

5.03 PAYROLL DEDUCTIONS

Deductions will be made from each employee's pay which currently include:

Statutory Deductions: Federal Income Tax, Social Security and Medicare, Texas County and District Retirement System and any other deduction as a matter of law.

Discretionary Deductions: Approved by Commissioners Court and authorized by employee as cafeteria plan or savings plan. Schedule of deductions will be determined by the Auditor's office to facilitate payment of these obligations.

5.04 JOB AND GRADE CLASSIFICATION PLAN

Every full-time County employee will be classified under a job and grade classification schedule. The schedule is built around the job position, rather than the employee holding a position in Wharton County.

Pay ranges for each group are established by a pay plan which is approved by the Commissioners Court.

The pay schedule itself is a progressive schedule with grade classifications tied to qualifications of the job and with steps in each grade tied to performance. There is a salary

increase between each step and grade in the schedule. These vary depending on the pay schedule in effect at the present time.

Pay rates for **temporary** employees will be as follows:

Clerical	PG1A –PG5A general clerical duties
Summer Main	PG1A supervised general maintenance duties
Pct. 3 rd Class	skilled and prior experience in job requirements, and ability to perform same duties as full time employee
Rehiring of Retired Employees	PG at retirement, step A

Note: To avoid jeopardizing TCDRS plan status, there **MUST** be a true separation of service with **NO** prearrangement of employment with retiring employees.

In the event a full-time employee is absent from work and a replacement is needed, the Department Head may hire a temporary employee at the full-time employees pay level step “A”, provided the replacement is performing the same duties and funds are in that department’s budget. Any Department Head wanting to pay outside the temporary schedule must get approval from Commissioners Court prior to hiring.

In the event a former employee has to perform additional training, the former employee may be paid at the pay grade that is budgeted for that position, Step “A”.

5.05 LONGEVITY PAY

The purpose of longevity pay is to provide a means whereby the County can reward its employees for continuous service with Wharton County.

Effective January 1, 1996, full-time employees will receive longevity pay at a rate of \$5.00 per year beginning on their fifth year anniversary. If the employee's anniversary falls on or before the 15th day of the month, the employee will receive longevity pay on the month of their anniversary. If the anniversary date falls on the 16th through the last day of the month, the employee will receive longevity pay beginning the first day of the following month.

Part-time employees will receive longevity pay at a fractional rate.

5.06 PROMOTIONS & PAY GRADE REDUCTIONS

Promotions are changes in the duty assignments of an employee from a position in one classification to a position in another classification in a higher paygrade. A promotion recognizes advancement to a higher classification requiring higher qualifications and involving greater responsibility.

5.07 APPROVING AUTHORITY

The Commissioners Court is the approving authority for all payrolls under the terms of (1) policies, (2) the classification and pay plan, and (3) the annual budget.

6.00 BENEFITS

6.01 MEDICAL AND LIFE INSURANCE

The County provides group medical, dental, life, and accidental death and dismemberment insurance for employees working 30 or more hours a week. The County may pay a portion of the employee’s dependent coverage.

In the event of separation of employment, an employee may be eligible for continued coverage at their own expense under the Consolidated Omnibus Budget Reconciliation Act (COBRA).

An employee having attained the age of sixty-two (62) may, at his/her option, upon otherwise being qualified for County retirement (Section 6.03), have a portion of his/her medical and dental premium paid under a tiered schedule, until they become eligible for Medicare.

Age	Years of Service	Annual Approved Supplement
62	08 – 12	50%
62	13+	100%

A surviving spouse of a retiree can continue medical and dental coverage until Medicare eligible or 10 years whichever comes first.

Effective January 1, 2010, retirees will receive the annual approved supplement if they meet the “75 Rule” under TCDRS requirement, until he/she becomes legally eligible for Medicare. Employees must also be employed with Wharton County for eight (8) consecutive years.

6.02 SOCIAL SECURITY

All employees, except those exempt by law, are covered by social security. The County’s and employee’s contribution is regulated by Federal law.

6.03 RETIREMENT

The County of Wharton is a member of the Texas County and District Retirement System. Membership in the retirement system is mandatory for all full-time and part-time employees. Both the employees and the County contribute to the employee's retirement account. Benefits payable to the employee will be determined by Texas County and District Retirement System.

Any member is eligible for service retirement if the member satisfies either of the following three requirements:

1. The member has completed at least eight (8) years of creditable service and has attained the age of 60 years.
2. The member has completed at least twenty (20) years of creditable service (effective January 1, 2007).
3. The member has met the rule of seventy-five (75). Age and years of service equal seventy-five (75)(effective January 1, 2000)

The retirement plan is a Section 414 tax deferred plan for income tax purposes.

Employees who separate employment prior to retirement eligibility, will upon request, be refunded only their portion of the retirement account plus any interest earned on their portion.

6.04 WORKERS' COMPENSATION

All Wharton County employees are covered by Workers' Compensation Insurance while on duty for the County. Workers' Compensation Insurance pays for medical bills and partial salary resulting from injury or illness incurred while carrying out the duties of his/her job. Wharton County counts an employee's leave due to a work related injury or illness toward the employee's 12-week leave entitlement under the Family Medical Leave Act.

6.05 UNEMPLOYMENT INSURANCE

All employees of the County are covered under the Texas Unemployment Compensation Insurance Program. This program provides payments for unemployed workers in certain circumstances. The County pays the premiums for this coverage.

6.06 DISABILITY INSURANCE

Disability insurance is provided by the County to employees that become disabled and unable to hold their job positions due to a major accident, injury, or illness that is not job related. Major illness typically requires hospitalization and three weeks recovery time. The County is self-insured under the disability program and pays a monthly deposit into the disability fund. This insurance is provided at no cost to the employee.

Disability insurance is available to full-time and part-time employees who work twenty (20) or more hours per week to be eligible. Part time employees receive disability pay on a pro rata basis comparing hours per week they work to a forty (40) hour work week.

Disability Leave (Refer to Section 7.06) is subject to the applicable provisions of FMLA.

6.07 VACATION BENEFITS

Full-time employees of the County accrue vacation leave based on a forty (40) hour work week. "Part-time employees working a minimum of twenty (20) hours a week for the

county will accrue vacation leave based on a fraction of a forty (40) hour work week”
Temporary employees are not eligible for vacation leave. New employees are eligible to take vacation leave as it is earned.

Full time employees accrue vacation benefit each pay cycle as follows:

Year 1	1.54 hours (40 hrs/yr)
Year 2 through 8	3.08 hours (80 hrs/yr)
Year 9 through 19	4.62 hours (120 hrs/yr)
Year 20	4.92 hours (128 hrs/yr)
Year 21	5.23 hours (136 hrs/yr)
Year 22	5.54 hours (144 hrs/yr)
Year 23	5.85 hours (152 hrs/yr)
Year 24 and thereafter	6.15 hours (160 hrs/yr)

Separating employees shall accrue vacation through their last full pay cycle.

USAGE

If an employee has accrued Comp Time or Other Time hours as set out in section 3.08 of this policy, the employee must first utilize all those hours before using vacation time.

Each employee must give notice of his/her request to the Department Head at least one week prior to the time he/she desires vacation time to start. The final decision for vacation schedules will rest with each Department Head.

No employee will take vacation time in advance of earning vacation time.

The maximum amount of accrued vacation time eligible for carryover into the following year shall be **120** hours. All vacation time exceeding **120** hours at the end of the last pay cycle of a budget year will be lost.

In the event of a separation of employment an employee will be paid for any unused vacation up to a maximum of 40 hours, provided the maximum has been accrued.

6.08 SICK LEAVE

Full-time employees are granted sick leave at the rate of 3.69 hours per pay period based on a forty (40) hour work week. “Part-time employees working a minimum of twenty (20) hours a week for the County will accrue sick leave based on a fraction of a forty (40)

hour work week.” Sick leave is calculated by date of hire.

Sick leave shall accumulate each pay cycle and carries forward into future years up to a maximum of 480 hours. No sick leave will be earned upon reaching the maximum accrual.

USAGE

Sick leave may be used for non-job-related injury or illness of the employee, or employee's immediate family (defined as employee's spouse, children, parents, or spouse's parents.) Sick leave is governed by applicable provisions of the FMLA policy contained herein and all qualifying illness must be reported to Personnel immediately. Any unauthorized activities not listed above may cause employee to be subject to disciplinary action and/or termination.

If an employee is absent for three (3) or more working days, a doctor's certificate is required from the attending physician, clinic, or hospital. Failure to provide the doctor's certificate shall cause sick leave to be disallowed. Illness or injury must be reported to the Department Head or the immediate supervisor at the start of the work day on the first day of leave if possible; otherwise as soon as possible. The employee shall give reason why he/she was absent and when he/she expects to return to work. Members of immediate family can report if the employee is unable to report. Failure to report by the end of the second day shall cause sick leave to be disallowed. If no report is received by the end of the third day, the employee is considered to have resigned his/her position by failure to report. If the employee can show proof that reporting by the end of the third day was impossible, the Department Head can waive the resignation.

Each Department Head shall maintain and report to the Personnel Office all sick leave taken, so records may be updated and maintained on each employee.

Temporary employees do not earn sick leave.

If an employee does not have enough sick leave accumulated to cover the sick leave taken, the employee shall take accumulated time in order as follows: comp, other time and then all other accrued time available. If an employee becomes disabled, he/she may become eligible for weekly disability after using all available accrued time. Refer to the disability section for explanation of benefits. Employees who qualify for disability and work a partial pay cycle, will be given a fractional part of sick leave.

In the event of a separation of employment, the employee will not be paid for unused sick leave.

6.09 SICK LEAVE APPROVAL

All leave taken by employees must be approved by a Department Head. Department Heads are responsible for determining that leave time is available for use in the amount requested by an employee.

Approval of sick leave for non-emergency medical, dental or optical appointment must be secured at least 24 hours in advance. In all other instances of use of sick leave, the employee must notify his/her supervisor as early as practical on the first day of absence and request that approval of sick leave be granted. Refer to Section 6.08

6.10 FUNERAL LEAVE

When there is a death of an employee's relative, funeral leave can be taken with normal pay subject to the following conditions:

- A. Up to 24 hours for employee's immediate family (defined as employee's spouse, employee or spouse's children, employee's mother, father, mother-in-law, father-in-law, brother, sister, grandchildren.)
- B. Up to eight (8) hours for employee's or spouse's step-father, step-mother, grandparents, step-brother, step-sister, nieces, nephews, uncles, aunts, brother-in-law, sister-in-law, half-brother, half-sister provided the funeral is on a work day.

The Department Head shall approve all funeral leave. If employee needs more than 24 hours to attend the funeral of the immediate family, the employee may use accrued time in order as follows: comp, other time and then all other accrued time. If no accrued time is available, then the employee may be granted time off without pay, with Department Head approval. Part-time employees see Section 2.01.

6.11 HOLIDAY

The Commissioners Court approves County holidays. Holiday pay shall be for eight (8) hours at the straight-time rate in effect at the time of the holiday. Temporary employees shall not be paid for the holiday unless they actually work on that day. Part-time employees with set days will receive the holiday benefit up to eight (8) hours if the holiday falls on their normal working day. Part-time employees who work flex-hours receive no holiday benefit.

Effective July 25, 2011, employees that are required to work on approved holidays to provide necessary service to the public shall be paid straight time for the actual hours worked plus eight (8) hours of Holiday pay at straight time. Employees whose regularly scheduled day off falls on an approved holiday will be credited eight (8) hours of holiday leave. The Department Head shall determine when credited Holiday hours can be taken. Departments' that have different work schedules must adjust their work time not to exceed a total of forty (40) hours when adding the holiday time to work time for that week. The maximum amount of accrued Holiday Leave eligible for carryover shall be forty-eight (48) hours. In the event of separation of employment, unused Holiday Time will not be paid to the separating employee.

For law enforcement, holidays worked will be paid according to FLSA calculation.

6.12 CAFETERIA PLAN

Wharton County sponsors a qualified Cafeteria Plan to all employees working thirty (30) hours per week or more. The plan is organized under rules promulgated under section 125 of the Internal Revenue Code. An employee may tax exempt dependent insurance costs as well as any qualified supplemental insurance paid for by the employee. Such cost are deducted from gross pay in determining the amount of income tax and social security withheld and thus reduces the amount of such taxes paid by the employee. Contact the Personnel Office for more details.

6.13 COUNTY VEHICLES

Employees who operate a County passenger vehicle and are not a certified peace officer shall be obligated, according to the United States Internal Revenue Code, for any personal use of the vehicle incidental of official county business. Each pay cycle reports of incidental personal use must be submitted to the County Auditor's Office. Any taxable benefit will be deducted from the employee's payroll. Refer to Vehicle Policy Section 17.00

6.14 VOLUNTARY SICK LEAVE PROGRAM (VSP)

The voluntary sick-leave program, (VSP), is designed to offer employees, who experience a serious injury/illness, an opportunity to access sick-leave hours through donation of hours by other county employees, on their behalf.

In this section the term "serious" is defined as a condition or series of conditions that results in an opinion by a licensed physician of the State of Texas, that an employee is incapacitated to such an extent that he or she cannot perform the job duties assigned them.

This program is open to all County employees who accrue benefits and may be used in addition to sick-leave bank or as a standalone option. Voluntary sick leave program runs concurrent with FMLA. No benefits (sick leave, vacation, etc.) will accrue while on VSP.

The VSP can only be used for **employee** injury/illness and all personal accrued leave must be utilized prior to application.

The Personnel office, having received medical verification from duly licensed physician as to the extent of employee's medical condition, shall have the authority to approve or deny the application for VSP. If approved, personnel may grant sick-leave in increments of up to 160 hours based upon physician's prognosis for employee. At any time, personnel may request physician updates on employee's health status.

The VSP donation forms must be signed by employees who wish to contribute their respective sick-leave hours to ill/injured employee. Donations shall be in the amount of 8-40 hours per contributor and the total number of hours shall be limited to the lesser of actual hours donated or 480 hours. Completed forms shall be turned into the personnel

department for verification. Only hours needed will be used per payroll.

7.00 ABSENCES AND LEAVES

7.01 DEFINITIONS

LEAVE TIME - Leave time is time during working hours of a regular business day when an employee does not engage in the performance of job duties by virtue of an authorized absence. Leave time may be either paid or unpaid.

UNAUTHORIZED ABSENCE - An unauthorized absence is one in which the employee is absent from regular duty without permission of the Department Head. Employees are not paid for unauthorized absences, and such absences are cause for disciplinary action up to and including termination.

7.02 CITIZENSHIP DUTY LEAVE

JURY DUTY

- Citizenship duty leave is for jury duty, witness, or testimony as requested by a judicial authority on behalf of someone else over which employee has no control. If an employee is called or required to be present on his/her own behalf, the employee does not qualify for the citizenship duty benefit.
- The employee will be paid the same amount as if this day was worked as a regularly scheduled work day contingent on employee submitting a copy of the jury summons along with time sheet to the Personnel Office.

MILITARY DUTY

- Employees who are members of Armed Services Reserve and National Guard of the United States and State of Texas shall be granted a leave of absence with pay to report to duty as required by proper authorities for a period not to exceed fifteen (15) working days in Federal fiscal year (Oct. – Sept.). The employee must give a copy of the order to the Department Head before the leave of absence is granted. After the 15 day period, the employee will not accrue benefits and may continue health and dental coverage through COBRA up to 24 months. It will be the employees responsibility to reimburse the County for the full premium if COBRA is selected.

If an emergency call-up, then the employee shall give proof of service to the Department head as soon as possible.

7.03 LEAVE WITHOUT PAY

The purpose of leave without pay is to allow employees to conduct personal matters that cannot be done after hours or on weekends.

Leave without pay can be granted to employees with Department Head's approval up to a

maximum of forty (40) hours per calendar year for full-time employees. All comp, other time, vacation and holiday. must be depleted before leave without pay is granted. Part-time employees are not eligible.

An employee wishing to take leave without pay exceeding forty (40) hours must appear before Commissioners Court for ruling. An employee exceeding forty (40) hours leave without pay is responsible for the full costs of health insurance based on a daily rate and payable prior to leave taken or deducted out of current payroll check if applicable.

7.04 MATERNITY LEAVE – SEE FMLA SECTION

7.05 INJURY LEAVE

An employee who is injured on the job is covered by Workers' Compensation Insurance. Any employee who suffers job related illness or injury must immediately notify his/her supervisor. Circumstances that may delay or jeopardize eligibility of benefits are: the Department Head failing to promptly file an official accident report with the Personnel office; an injury resulting from employee under the influence of drugs or alcohol or while engaging in horseplay or; employee failing to seek medical treatment from a Worker's compensation Alliance physician.

The County will pay the employee's normal salary the first seven days of lost time. Insurance will calculate the weekly rate of indemnity payment thereafter. Law Enforcement benefit for Workers Compensation will follow guidelines of the law. The employee shall report the amount of indemnity payment received to the Personnel Office to prevent loss of coverage. An employee out on leave shall pay the County, on a biweekly schedule, any pre-authorized payroll deductions.

During the time an employee is not working, he/she should communicate his/her status to his/her Department Head every two weeks to insure the employee's records are current and accurate. A DWC73 is required to be delivered to Personnel after every doctor examination. An employee can return to work only when a medical statement (DWC73) from the treating physician is presented to the Personnel office for evaluation.

There are two return to work options:

1. Return to prior position full duty with a doctor release stating that the employee can perform their job functions without restrictions, or.
2. Light duty assignment for an employee who is not able to return to their prior position and perform the regular duties of that job but can return with restrictions. The County will try to accommodate light duty when possible, but cannot guarantee the availability of light duty. Light duty assessments are temporary arrangements intended to facilitate the healing process.
3. A written, bona fide offer of employment must clearly state:
 - position offered and duties of the position,
 - the County's agreement to meet the conditions set out by the treating physician
 - the job's wage, working hours and location.

It is a violation of policy for an employee receiving worker's compensation benefits to be employed with a third party. Such action will be grounds for termination.

7.06 DISABILITY LEAVE

Any employee who is unable to perform his/her job duties due to a major illness or injury (not job related - refer to section 7.05) shall be placed on disability leave after forty (40) hours of consecutive accrued time and/or leave without pay has been utilized and the employee has no available accrued time. Disability leave runs concurrent with FMLA.

Determination of disability requires a physician's statement describing the major illness or injury indicating the employee can no longer perform the essential job functions with an approximate determination of time off work. The Personnel Department will determine if the physician's statement has sufficient information to make an assessment of a major illness to qualify for disability leave.

The benefits provided while qualified for Disability are limited to 35% of salary and longevity and payment of county medical and dental premiums for the employee and covered dependents for up to twelve (12) weeks. Payment schedules coincide with the payroll cycle. The first pay period shall start after forty (40) hours of consecutive accrued time and/or leave without pay has been utilized and the employee has no available accrued time. Refer to Section 11.00 Family Medical Leave Act.

If the employee is eligible for FMLA the employee's job position shall be held for twelve (12) weeks as long as illness or injury continues to affect the employee's capacity to perform the job requirements.

The employee shall notify the Department Head he/she will return to work within the twelve (12) week period. If the employee is placed into the same job position prior to the time of disability leave, the salary and benefits will be reinstated. A medical release from the employee's physician is required before the employee can return to work when receiving disability benefits. Medical updates from the employee's doctor may be requested by the Personnel Department.

Disability claims shall be considered cumulative and under one (1) benefit year unless at least one calendar year(365 days) separates payment of last claim and beginning of another claim. Cumulative means that disability claim benefits will be added together and once the disability payments reach the twelve (12) week benefit total, all benefits cease.

7.07 PAID QUARANTINE LEAVE FOR LAW ENFORCEMENT & DETENTION OFFICERS

Wharton County shall provide paid quarantine leave for Law Enforcement officers and Detention Officers employed by Wharton County and ordered by a supervisor or the health authority to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty. This includes Law Enforcement and Detention Officers, as defined by this policy, who are employed by, appointed to or elected to their position.

“Detention officer” means an individual appointed or employed by a county as a county Jailer or other individual responsible for the care and custody of individuals incarcerated in a county jail.

“Health authority” has the meaning assigned by Section 122.021, Health and Safety Code. A health authority is a physician appointed under the provisions of Chapter 121 to administer state and local laws relating to public health within the appointing body’s jurisdiction. A health authority must be: a competent physician with a reputable professional standing who is legally qualified to practice medicine in the state and a resident of the state. They must take an official oath and file with the department. For counties that do not establish a local health department or public health district, they may appoint a physician as health authority to administer state and local laws relating to public health in the county’s jurisdiction.

“Law Enforcement officer” means an individual described by Article 2.12, Code of Criminal Procedure, who is elected for, employed by, or appointed by the county.

Eligible employees who are on qualifying paid quarantine leave shall receive all employment benefits and compensation, including leave accrual, retirement, and health benefits for the duration of the leave; and, if applicable, shall be reimbursed for reasonable costs related to the quarantine, including lodging, medical, and transportation. Reasonable costs will be determined and approved by the Supervisor upon receipt of proper documentation. An employee on qualifying paid quarantine leave will not have their leave balances reduced.

Off duty exposures will not be covered under this policy.

7.08 MENTAL HEALTH LEAVE FOR LAW ENFORCEMENT OFFICERS

A policy allowing the use of paid mental health leave by Law Enforcement officers employed by Wharton County who experience a traumatic event in the scope of employment shall refer to the Sheriff’s departmental policy for details for granting and use of mental health leave. The Sheriff’s Department, Constables and departments that employ certified law Enforcement officers may adopt departmental policies that supplement this policy after acknowledgement of the policies by formal action of the Commissioners Court. The departmental policies must be on file in the office of the County Judge and Personnel.

8.00 EMERGENCY DUTY

In the event of a natural disaster or civil emergency, all County personnel shall be available for service.

Wharton County Commissioners Court has adopted the following emergency closing procedures:

1. Whenever a Wharton County Commissioner, the County Judge, or Emergency Management Coordinator has reason to believe that an emergency situation

exists (or is imminent) necessitating closure of County facilities, if time permits, an emergency meeting of the Wharton County Commissioners Court shall be held to consider official action.

2. If, in the opinion of the County Judge, or, in his absence, of the senior available County Commissioner, insufficient time exists to hold an emergency meeting of the Commissioners Court, then that individual shall, based on concern over safety of County employees and other citizens as well as interest in the availability of governmental services, determine whether to close buildings in whole or in part. All elected officials will strive to make every effort to keep their respective offices open in order to provide support and necessary relief efforts throughout the county.
3. Once a decision has been made to close any governmental building, the County Judge or County Commissioner making the decision shall make every attempt to notify local media to inform citizens of such closure. Affected County Department Heads will also be notified of the closure.
4. In the event that an emergency closing is ordered by the County Judge, those regular full-time employees who are not required to work will be paid their regular wage, as the day will be recorded as an official closed day. This time off is not considered time worked and will not be used to determine eligibility for overtime.
5. Whenever there is an official emergency closure of all County operations, any exempt and non-exempt essential personnel who are required to work will be compensated at 1½ times their hourly rate or awarded Comp Time. Essential personnel may include Correctional Officer, Deputy Sheriff's, Road & Bridge Crews, Emergency Management Personnel, Maintenance, and other personnel designated by the County Judge, County Commissioners, Sheriff, or other Elected Officials/Department Heads.
6. With Commissioners Court approval, major incidents that would affect any department such as escapes, major crime scenes or any other major incidents shall allow Departments to carry the additional comp for no more than 90 days to allow the employees time to reduce accrued time to 40 hours or below.
7. Any employee who is off or scheduled to be off on sick leave, vacation, holiday, comp, other time, FMLA or leave without pay during a period of emergency closure shall have their leave recorded as such. An employee may request to have leave rescinded, 24 hours prior to closing and become available to report to duty.
8. An elected official may choose to close his or her office during an emergency. An employee shall be granted leave until a safe return is granted. There may be instances when only certain building/offices are officially closed. In these instances the affected employees will be compensated in accordance

with paragraph 4 of this policy, and all unaffected employees' compensation will be the same as during regular working conditions.

Any essential employee who fails to report to work as scheduled during inclement weather or disaster shall use accrued time in the following order: comp, other time and then all other accrued time.

9.00 TRAVEL AND TRAINING

9.01 MEALS, MILEAGE AND HOTEL

Employees may be reimbursed up to the current maximum GSA-Texas travel rate per day for County business requiring overnight stay. County business requiring departure after 12:00 noon or for business not requiring overnight stay will be reimbursed up to \$35.00 per day. **Receipts are required for all reimbursements.** Any reimbursement not requiring an overnight stay will be subject to federal taxes.

Hotel stays while attending a conference or training for County business will be paid for by the County at a reasonable rate. Valet parking is subject to the Department Head's approval.

Mileage for use of personal vehicle to conduct County business shall be reimbursed by the County in accordance with the current IRS rate.

9.02 OUT OF STATE TRAINING AND TRAVEL

All out of State training/travel requires pre-approval by Commissioners Court.

10.00 AMERICANS WITH DISABILITIES ACT

Wharton County is aware that certain applicants and employees may have rights guaranteed by the Americans with Disabilities Act, 42 U.S.C. 12101, et seq. (1990). Wharton County does not discriminate on the basis of disability in admission, access, treatment, or employment in its programs or activities. If you feel you qualify under this Act, please contact the Personnel Office.

The County shall make reasonable accommodation for otherwise qualified disabled individuals to afford them the same opportunities for employment and all other benefits and privileges of employment afforded to non-disabled individuals.

11.00 FAMILY & MEDICAL LEAVE ACT

11.01 FEDERAL ACT

The federal Family & Medical Leave Act of 1993 (FMLA) as amended in 2009 requires employers with 50 or more employees to provide eligible employees with unpaid leave. There are two types of leave available, including the basic 12-week leave entitlement

(Family and Medical Leave), as well as the Military Family Leave entitlements (MFL) described in this policy.

11.02 ELIGIBILITY

Employees are eligible for FMLA leave if they: 1) have worked for the County for at least 12 months in the last 7 years; 2) have worked at least 1,250 hours for the County during the 12 calendar months immediately preceding the request for leave; and 3) are employed at a work site that has 50 or more employees within a 75-mile radius.

An employee may use up to 12 weeks leave per 12-month period under this policy. Wharton County sets the 12-month period used under this policy as a “rolling” 12-month period measured backward from the date an employee uses FMLA leave.

If you are married and both work for Wharton County then each of you together may take a combined total of 12 week’s leave during any 12 month period for reasons unless it is your own serious health condition. Employees with any questions about their eligibility for FMLA leave should contact the Personnel Department located in the County Auditor’s Office for more information.

11.03 MEDICAL QUALIFICATIONS FOR FMLA

Family or medical leave under this policy may be taken for the following situations:

- 1) the birth of a child and in order to care for that child;
- 2) the placement of a child in the employee’s home for adoption for foster care;
- 3) to care for a spouse, child (under the age of 18 or if over 18 incapable of self-care due to a disability), or parent with a serious health condition;
- 4) the serious health condition of the employee that makes the employee unable to perform the essential functions of their job;
- 5) a qualifying exigency arising out of the fact that an employee’s spouse, child or parent is a covered military member of the Armed Forces (Regular, Reserve or National Guard), deployed to a foreign country or has been notified of an impending call or order to active duty in a foreign country;
- 6) to care for a covered service member (Regular, Reserve or National Guard) with a serious injury or illness if the employee is the spouse, child, parent or next of kin (nearest blood relative) of the service member; or
- 7) to care for a covered veteran who is undergoing medical treatment, recuperation or therapy, for a serious injury or illness and who was a member of the Armed Forces (Regular, Reserve or National Guard) at any time during the period of 5 years preceding the date on which the veteran began that medical treatment, recuperation or therapy.

11.04 MILITARY QUALIFICATIONS FOR FMLA or MFL

- 1) a qualifying exigency leave; and
- 2) leave to care for a covered service member.

Employees meeting the eligibility requirements described above may be entitled to use up to 12 weeks of their FMLA Leave entitlement to address certain qualifying exigencies. Leave may be used if the employee's spouse, son, or daughter, in the Armed Forces (Regular, Reserves or National Guard) is on active duty or called to active duty status in a foreign country. Qualifying exigencies may include:

- 1) short-notice deployment (up to seven days of leave);
- 2) attending certain military events and related activities;
- 3) arranging for alternative childcare;
- 4) addressing certain financial and legal arrangements;
- 5) periods of rest and recuperation for the covered military member (up to fifteen days of leave);
- 6) attending certain counseling sessions;
- 7) attending post-deployment activities (available for up to 90 days after the termination of the covered military member's active duty status);
- 8) other activities arising out of the covered military member's active duty or call to active duty in a foreign country and agreed upon by the county and the employee;
- 9) attending family support or assistance programs and informational briefings;
- 10) acting as the covered military member's representative before a governmental agency;
- 11) addressing issues that arise from the death of a covered military member while on active duty status in a foreign country; and
- 12) other activities arising out of the covered military member's active duty or call to active duty in a foreign country and agreed upon by the county and employee.

There is also a special leave entitlement that permits employees who meet the eligibility requirements for FMLA leave to take up to 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 (Regular, Reserve or National Guard) who has been rendered medically unfit to perform his or her duties due to 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. This also includes a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces (Regular, Reserve or National Guard) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

11.05 SCHEDULING LEAVE

Military Family Leave due to qualifying exigencies may also be taken on an intermittent basis. Leave may not be taken on an intermittent basis when used to care for the employee's own child during the first year following birth, or to care for a child placed with the employee for foster care or adoption, unless both the employer and employee agree to such intermittent leave.

During an approved active duty family medical leave, the County will maintain the employee's health benefits as if the employee continued to be actively employed. If paid leave is substituted for unpaid family medical leave, the County will deduct the employee's portion of the health plan premium as a regular payroll deduction. If leave is unpaid, the employee must pay his or her portion of the premium to the Personnel Department. An employee's healthcare coverage will cease if the employee's premium payment is more than 30 days late. If the employee elects not to return to work at the end of the leave period, the employee will be required to reimburse the County for the cost of the premiums paid by the county for maintaining coverage during the unpaid leave, unless the employee cannot return to work because of a serious health condition or other circumstances beyond the employee's control.

If the need to use FMLA leave is foreseeable, the employee must give the County at least 30 days prior notice of the need to take leave. When 30 days' notice is not possible, the employee must give notice as soon as practicable (within 1 or 2 business days of learning of the need for leave except in extraordinary circumstances). Failure to provide such notice may be grounds for delaying the start of the FMLA leave.

Whenever possible, requests for FMLA leave should be submitted to the Personnel Department. When submitting a request for leave, the employee must provide sufficient information for the county to determine if the leave might qualify as FMLA leave, and also provide information on the anticipated date when the leave would start as well as the duration of the leave.

Sufficient information may include that the employee is unable to perform job functions; that a family member is unable to perform daily activities; that the employee or family member needs hospitalization or continuing treatment by a healthcare provider; or the circumstances supporting the need for military family leave. Employees also must inform the County if the requested leave is for a reason for which FMLA leave was previously taken or certified.

When an employee requests leave, the Personnel Department will inform the employee whether they are eligible under the FMLA or MFL. If the employee is eligible, the employee will be given a written notice that includes details on any additional information he or she will be required to provide. If the employee is not eligible, the Personnel Department will provide the employee with a written notice indicating the reason for ineligibility. If leave will be designated as FMLA or MFL protected, the County will inform the employee in writing and provide information on the amount of leave that will be counted against the employee's 12 or 26 week entitlement.

If the employee is requesting leave because of the employee's own or a covered relation's serious health condition, the employee and the relevant healthcare provider must supply appropriate medical certification. Employees may obtain Medical Certification forms from the Personnel Department. When the employee requests leave, the Personnel Department will notify the employee of the requirement for medical certification and when it is due (no more than 15 days after the employee requests leave).

If the employee provides at least 30 days' notice of medical leave, they should also provide the medical certification before leave begins. Failure to provide requested medical certification in a timely manner may result in denial of leave until it is provided. The county, at its expense, may require an examination by a second healthcare provider designated by the county, if it reasonably doubts the medical certification initially provided. If the second healthcare provider's opinion conflicts with the original medical certification, the county, at its expense, may require a third, mutually agreeable, healthcare provider to conduct an examination and provide a final and binding opinion. The County may require subsequent medical recertification. Failure to provide requested certification within 15 days, except in extraordinary circumstances, may result in the delay of further leave until it is provided.

If an employee takes leave because of the employee's own serious health condition or to care for a covered relation, the employee must contact the County each month regarding the status of the condition and his or her intention to return to work. In addition, the employee must give notice as soon as practicable (within 2 business days, if feasible) if the dates of the leave change, are extended, or were unknown initially.

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. If leave is unpaid, the County will reduce the employee's salary based on the amount of time actually worked. In addition, while an employee is on an intermittent or reduced-schedule leave, the County may temporarily transfer the employee to an available alternative position that better accommodates the recurring leave and which has equivalent pay and benefits.

Wharton County requires substitution of paid leave for all FMLA or MFL events. Employees must follow the vacation and sick policy guidelines. Employees also must use all of the time for FMLA or MFL events by using accrued Comp Time, Other time, Vacation Time, and Holiday Time. Once all accrued leave is used, remaining time on family medical leave will be unpaid. FMLA and MFL run concurrently with all substituted paid leave, including worker's compensation leave.

During FMLA leave, the employer will maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. An employee is required to provide a fitness-for-duty certification before the employee returns to work. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave. Upon return from FMLA leave, all employees will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

12.00 HARASSMENT

12.01 POLICY

- Wharton County is committed to provide a workplace free from harassment.
- Employees engaging in harassment shall be subject to discipline, up to and including termination of employment.
- Harassment is strictly prohibited whether committed by an elected official, appointed official, department head, co-worker or non-employee with whom the county does business.

12.02 DEFINITION

- Harassment includes unlawful, unwelcome words, actions, jokes or comments based on sex, race, color, religion, national origin, age, disability or any other legally protected characteristic. Various types of harassment includes:
 - **Verbal Abuse** – Any language that degrades or berates others, including, but not limited to, racial, religious, age, disability, national origin, color or sexual comments, jokes, sexual innuendoes, or threats of any kind.
 - **Non-verbal Abuse** – Distribution, display or discussion of any written or graphic material that ridicules, insults, belittles, or shows hostility or aversion toward an individual or group because of national origin, race, color, religion, age, gender, pregnancy, disability or marital status.
 - **Physical Abuse** – Includes inappropriate touching, hitting, slamming, throwing, kicking or threatening another person, including restraining by force or blocking the path of another.
 - **Interference or Hostile Environment** – Any behavior or action taken because of an aversion to national origin, race, color, religion, age, gender or some other protected class which interferes with an employee's ability to perform work assignments or which results in or creates a hostile or intimidating work environment.
 - **Sexual Harassment** – Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other physical or verbal conduct of a sexual nature when:
 - 1) the submission to such conduct is made a condition of employment
 - 2) the submission to or rejection of such conduct is used as a basis for an employment decision; or
 - 3) the conduct creates an offensive, intimidating or hostile working environment or interferes with work performance.

12.03 CLAIMS

All claims of harassment shall be taken seriously and investigated promptly and thoroughly.

- No retaliation or other adverse action shall be taken against an employee who, in good faith, files a claim of harassment.

12.04 REPORTING

- Employees who feel they have been harassed should immediately report the situation to the elected or appointed official who is responsible for the department in which they work.
- If, for any reason, the employee feels that reporting the harassment to their Department Head may not be the best course of action, the report should be made to the County Attorney or a member of the Commissioners Court.
- The Official or Department Head to whom a claim has been reported shall be responsible for seeing that prompt action is taken to investigate the claim.
- Once the investigation is complete, the employee making the claim shall be notified of the result of the investigation and any actions which are to be taken.

13.00 SICK LEAVE BANK POLICY

13.01 PURPOSE

The purpose of the Wharton County sick leave bank is to provide additional sick leave days to County employees in the event of a catastrophic illness or injury that caused the employee to exhaust all accrued leave and prevents the employee from active employment. *See, Tex. Loc. Gov't Code Ann. § 157.075.*

13.02 DEFINITIONS

1. “Administrator “appointed by Commissioners Court.
2. “Employee” means a County employee with 12 or more months of continuous employment with the County who is paid from the general fund of the County, from a special fund of the County, or from special grants paid through the County.
3. “Member” is an eligible employee who voluntarily contributes eight (8) to forty (40) hours of accumulated sick leave per calendar year to the bank.
4. A “catastrophic illness or injury” is defined as a terminal, life-threatening, and/or severe condition or combination of conditions affecting the mental or physical health of the employee that requires the services of a medical physician for a prolonged period of time and that forces the employee to exhaust all accrued leave.
5. A “medical physician” as defined by the Texas Insurance Code, is one who is practicing within the scope of his/her license.

6. "Sick leave days from the bank" are those days granted to a member who has a qualifying condition and is unable to perform the duties of his/her position.
7. "Qualifying conditions" is a catastrophic condition or combination of severe conditions affecting the physical health of a member as authenticated by a medical physician.
8. "Unit of sick leave days" is the number of sick days which are awarded from the bank and shall be within the discretion of the Administrator up to 120 hours per sick leave bank request.

13.03 PROCEDURES FOR MEMBERSHIP

1. Eligible employees may join in the month of January each year by contributing eight (8) to forty (40) hours of accumulated sick leave per year.
2. Application for membership must be submitted to the Administrator of the sick leave bank during the enrollment month.
3. The Administrator of the sick leave bank will approve qualifying applications for membership and direct adjustments of sick leave on the employee's record.
4. The sick leave day(s) will become property of the bank and cannot be returned.
5. Members who terminate their employment with Wharton County forfeit membership in the bank at the effective date of termination.
6. Members on approved leave of absence shall retain membership in the bank during the year in which they contributed
7. If the bank falls below thirty (30) days, the Administrator shall request that membership contribute an extra day up to the maximum of three (3) days.
8. On December 31 of each year, the number of unused days in the bank will be determined and carried forward for the next year.

13.04 APPLYING FOR SICK LEAVE DAYS

1. If a member has a qualifying condition requiring additional sick leave days after all accumulated sick leave days and other accrued time has been used, the member may submit a request for sick leave days from the bank with the Administrator.
2. A member who requests sick leave days must submit to the Administrator a sick leave bank request form which includes the attending physician's statement which:
 - A. Identifies the nature of the qualifying condition;
 - B. The date medical attention was sought for the qualifying condition; and,
 - C. The anticipated date the member will be eligible to return to work for either an

unrestricted full-time or on a part-time limited performance basis per requirements of his/her department.

3. Sick leave bank request forms must be submitted no more than ten(10) working days before the exhaustion of the member's accumulated leave.

The committee may refuse to consider a request that does not contain the required information.

4. If a member is critically ill and unable to file a request for sick leave days from the bank, the department head may assist a family member in contacting the Administrator for assistance.
5. After a unit of sick leave days has been completed, a member may be required to undergo a medical review by a second opinion physician of the Administrator's choice at the member's expense.
6. A member may be required to undergo periodic return visits to his/her physician to access progress reports and make reports to the Administrator.

13.05 GRANTING OF DAYS FROM THE BANK

1. Days granted from the bank shall be in units of not more than 120 hours. At the end of 120 hours, the member may apply for an extension by submitting an updated statement from the physician on the proper form. An employee may draw out as many hours that was accumulated in their record at the time the catastrophic illness or injury began, up to a maximum of 480 hours.
2. Bank days shall be granted only for absences from working days and shall not be granted for holidays or other such days for which the member may not be paid.
3. The bank may be used only by the individual member for his or her personal qualifying condition and/or immediate family. Immediate family is defined as spouse and/or children.
4. The Administrator shall review and forward to the Committee its decision on all requests to draw on the bank within five (5) working days after a request is received.
5. An eligible member may not use time in the bank in an amount that exceeds the lesser of one-third of the total amount of time in the bank or up to 480 hours. The Administrator shall determine the exact amount that an eligible employee may use.
6. A member absent on sick leave assigned from the bank will be treated for all purposes as if the employee were absent on earned sick leave; however, no accrual of vacation, sick or holiday time will be given during the time the employee is receiving leave from the sick bank.

7. Pregnancy will not be covered by the bank, but complications due to the pregnancy or delivery will be considered.
8. The estate of a deceased employee is not entitled to payment for unused sick leave acquired by that employee from the bank.
9. Sick leave days from the bank may not be granted for the period of disability when monies are paid to the member under the Worker's Compensation Act.

13.06 COMPOSITION OF COMMITTEE

1. The committee shall be composed of seven (7) voting representatives and shall be: Sheriff, County Clerk, County Attorney, County Auditor, County Treasurer, District Clerk and a member of the Commissioners Court; with the Administrator appointed by the Commissioners' Court.

Vacancies that arise during the year shall be filled by an Elected Official appointed by the Committee.

13.07 COMMITTEE DUTIES AND RESPONSIBILITIES

1. At the yearly meeting, the committee shall elect a vice-chairperson and a secretary.
2. Requests for sick leave bank days shall be confidentially and individually reviewed by the Committee in a called meeting. A member may be required to appear before the committee to substantiate a request.
3. The committee reserves the right to approve, disapprove, or modify the number of hours requested from the bank. Sick leave hours shall be awarded in units up to the maximum 120 hours.
4. The decision of the Committee shall be based on a majority vote of the quorum. A quorum shall be based on at least four committee representatives.
5. The Administrator shall notify the Department Head and the applicant of all approved sick bank requests.
6. The Committee reserves the right to modify or waive any requirement listed above, with the approval of the Commissioners Court, to address any special circumstances that arise.

13.08 APPEALS

1. A member may appeal the administrator's decision by submitting a written request to the committee or in their absence, Vice Chairperson to appear before the committee.

14.00 COMPLAINTS AND GRIEVANCES

14.01 GRIEVANCE PROCEDURE

Any employee having a grievance related to his/her job should discuss the grievance with his/her immediate Supervisor.

If the discussion with the immediate Supervisor does not resolve the grievance, and if the immediate Supervisor is not the Elected or Appointed Official with final responsibility for the employee's department, the employee shall have the right to discuss the grievance with that Official.

The decision of the Elected or Appointed Official with final responsibility for the employee's department shall be final in all grievances.

15.00 INTERNET, E-MAIL, SOCIAL MEDIA AND CELL PHONE USAGE

15.01 PURPOSE

This policy establishes rules governing employee use of employer-provided internet services. The internet is a powerful communications tool and a valuable source of information about vendors, customers, technology, and new products and services. However, an employee's improper use of employer-provided internet services can waste time and resources and create legal liability and embarrassment for both employer and the employee.

15.02 POLICY

This policy applies to any internet service that is:

- accessed on or from employer's premises;
- accessed using County computer equipment or via County-paid access methods; and/or
- used in a manner that identified the individual with the County

15.03 PROHIBITED ACTIVITIES

Employees are strictly prohibited from using employer-provided internet services in connection with any of the following activities:

- engaging in illegal, fraudulent, or malicious conduct;
- working on behalf of organizations without any professional or business affiliation with employer;
- sending, receiving, or storing offensive, obscene, or defamatory material;
- annoying or harassing other individuals;
- sending uninvited e-mail of a personal nature;
- monitoring or intercepting the files or electronic communications of employees or third parties;
- obtaining unauthorized access to any computer system;

- using another individual’s account or identity without explicit authorization;
- attempting to test, circumvent, or defeat security or auditing systems of employer or any other organization without prior authorization; or
- distributing or storing chain letters, jokes, solicitations, offers to buy or sell goods, or other nonbusiness material of a trivial or frivolous nature.

15.04 PERSONAL USE

Internet services are provided by employer for employees’ business use. Very limited or incidental use of internet services for personal, nonbusiness purposes is acceptable. However, personal use must be infrequent and must not:

- involve any prohibited activity (see section 3);
- interfere with the productivity of the employee or his or her co-workers;
- consume system resources or storage capacity on any ongoing basis; or
- involve large file transfers or otherwise deplete system resources available for business purposes.

15.05 EMPLOYER MONITORING RIGHTS

Employees should not expect privacy with respect to any of their activities using employer-provided internet access or services. Employer reserves the right to review any files, messages, or communications sent, received, or stored on employer’s computer systems.

15.06 SOCIAL MEDIA

For purposes of this policy “social media” includes, but is not limited to, online forums, blogs and social networking sites, such as Twitter, Facebook, LinkedIn, You Tube, and Instagram, etc.

Wharton County recognizes the importance of social media for its employees. However, use of social media by employees may become a problem if: it interferes with the employee’s work; is used to harass supervisors, co-workers, customers or vendors; creates a hostile work environment; or harms the goodwill and reputation of Wharton County among the community at large. Wharton County encourages employees to use social media within the parameters of the following guidelines and in a way that does not produce the adverse consequences mentioned above.

Where no policy or guideline exists, employees are expected to use their best judgment and take the most prudent action possible. If you are uncertain about the appropriateness of a social media posting, check with your manager or supervisor.

- If your posts on social media mention Wharton County make clear that you are an employee of Wharton County and that the views posted are yours alone and do not represent the views of Wharton County.
- Do not mention Wharton County supervisors, employees, customers or vendors without their express consent.
- Do not pick fights. If you see a misrepresentation about Wharton County,

- respond respectfully with factual information, not inflammatory comments.
- Remember, you are responsible for what you write or present on social media. You can be sued by other employees, supervisors, customers or vendors, and any individual that views your social media posts as defamatory, pornographic, proprietary, harassing, libelous or creating a hostile work environment. Employees can be subject to disciplinary action, up to and including termination for what they post on social media platforms, even if the employee did not use a county computer or if the post did not occur during work hours or on county property.
 - Employees may not use Wharton County computer equipment for non-work related activities without written permission. Social media activities should not interfere with your duties at work. Wharton County monitors its computers to ensure compliance with this restriction.
 - You must comply with copyright laws, and cite or reference sources accurately.
 - Do not link to Wharton County's website or post Wharton County material on a social media site without written permission from your supervisor.
 - All Wharton County policies that regulate off-duty conduct apply to social media activity including, but not limited to, policies related to illegal harassment and code of conduct.
 - Any confidential information that you obtained through your position at Wharton County must be kept confidential and should not be discussed through in social media forum.
 - Violation of this policy may lead to discipline up to and including the immediate termination of employment.

It is the policy of Wharton County that supervisors do not engage in social media activities with their employees.

15.07 CELL PHONE USAGE

Wharton County determines on a case by case basis the need for county provided cell phones. County cell phones are to be used for business purposes only.

Wharton County strongly discourages the use of any cell phone while operating any vehicle.

Employees should plan calls to allow placement of calls either prior to traveling or while on rest breaks.

Wharton County bans all employees from texting while operating any county owned vehicle. County employees who are driving their own personal vehicle are also banned from texting while driving on county business. Federal law prohibits any CDL driver operating any vehicle over 10,000 GWR from texting with fines and penalties, up to including loss of CDL.

Employees in possession of a Wharton County owned cellular phone are required to take

appropriate precautions to prevent theft and vandalism.

Each department may set their own rules and regulations regarding personal cell phone usage while at work.

15.08 DISCIPLINE

Employees violating this policy are subject to discipline, up to and including termination of employment. Employees using employer's computer system for defamatory, illegal, or fraudulent purposes also are subject to civil liability and criminal prosecution.

16.00 OPEN RECORDS GUIDELINES

Wharton County adheres to the principle that government is the servant and not the master of the people. It is the policy of this county that each person is entitled, unless otherwise expressly provided by law, to complete information about the affairs of Wharton County government and the official acts of County officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. With these principles in mind

the following checklist is adopted to establish consistent responses to open records requests throughout all County departments.

WHAT TO DO WHEN YOU GET A REQUEST FOR RECORDS

1. Recognize the Request
 - a. No verbal requests.
 - b. Must be in writing, fax or email.
 - c. Request should include requestors name and contact information
2. Date-stamp the Request – *Government Code §552.301(e)(1)(c)*
3. Has the same information already been provided to requestor?
 - a. If request is redundant contact County Attorney before rejecting the request – *Government Code §552.232*
4. Does the Request seek public information?
 - a. Any information upon any type of media collected and maintained in connection with county business is public information.
 - b. Also, any records created by anyone that have been collected by you in connection with county business.
5. Do you have the information they seek?
 - a. IF YES, then assemble all information requested.
 - b. IF YES BUT, records are held by another department then immediately direct the request to the department.
 - c. IF NO, then send written notification to requestor that the information they

seek does not exist.

d. You have no responsibility to:

- i. Create a document that does not exist.
- ii. Answer a list of questions.
- iii. Do legal research.

6. Release the information/records only if:

- a. It is NOT confidential by law and
- b. It is NOT information list under Government Code §552.101, et seq.
- c. Contact the County Attorney if you are not sure you are authorized to release.
- d. ALWAYS CONTACT THE COUNTY ATTORNEY IF YOU DO NOT RELEASE AN INFORMATION/RECORDS THAT HAVE BEEN REQUESTED.

17.00 COUNTY VEHICLE POLICY

17.01 DEFINITION

A county vehicle/equipment is defined as a vehicle/equipment owned, leased or rented by Wharton County and includes vehicles/equipment awarded to Wharton County.

17.02 ACQUISITION

All fleet acquisitions are approved and coordinated through the Commissioners Court of Wharton County.

17.03 ASSIGNMENT

The Sheriff's Department, Constables and departments that employ certified law enforcement officers may adopt departmental policies that supplement this policy. The policies must conform to requirements that allow for the proper IRS reporting of take home vehicles. After acknowledgement of the policies by formal action of the Commissioners Court, the departmental policies must be on file in the office of the County Judge and Personnel

Vehicle assignments to department shall be established by the Commissioners Court.

Vehicle assignments to individuals will be approved by department heads and reviewed as necessary. Before a vehicle is assigned as a take-home vehicle, it MUST be on the approval list adopted by Commissioners Court. Assignment shall be in accordance with the following criteria:

- a. Agreement between the employee and the employer either prior to, or after, employment. This agreement should be documented and placed in the employee's personnel file in the Personnel Department in the County Auditor's office.
- b. The vehicle is equipped with tools and/or instrumentation that are essential in an emergency response situation. The employee responds directly to the scene of an emergency and is trained to use the tools and equipment.

- c. An employee's responsibilities require that he/she perform certain job functions on a regular basis during off-hours, between home and job destination justify the decision. This documentation must be turned in with employee's timesheet to the Personnel office.

17.04 VEHICLE USE

All county employees shall be responsible for the proper use and maintenance of all vehicles in their care, custody, and control.

All county employees who operate county vehicles shall have a valid State of Texas driver's license necessary for that vehicle or equipment. Annually, the Department Head is responsible to provide a current photocopy of a Texas driver's license by January 31st to the Personnel Office.

Each county employee who is required to have a driver's license/and or insurance, shall immediately notify his/her supervisor of any change in the status of that license. Suspension or revocation of the driver's license/and or insurance of an employee who is required to operate a vehicle or equipment as a normal part of his/her job may result in a job change, demotion, or discharge.

Any employee operating county vehicles or equipment shall report all accidents and property damage to his/her supervisor immediately. Department heads/elected officials shall report all accidents and property damage to the proper law enforcement authority immediately. Copies of all accident and incident reports completed by the employee of the County shall be sent to the supervisor of the employee, to the County Judge, County Treasurer and the County Auditor. All County employees in county vehicles shall submit to a drug and alcohol test in accordance with the Drug and Alcohol Policy in the Employee Safety Manual.

All operators of, and passengers in county vehicles shall use the vehicle seat and lap belts if the vehicle is so equipped. Airbags shall not be rendered inoperable on vehicles so equipped. County vehicles shall not be altered in any way without obtaining written approval from the appropriate Department Head. No county vehicles will have any stickers, posters, signs, or any other similar attachment placed on or affixed to them unless previous approval or directive has been issued by Commissioners Court. All county vehicles/equipment shall have county markings on them, unless exempt by law.

Employees will not operate county vehicles for the purpose of conducting a private business or enterprise or any other personal use. For example, children are not to be transported to and from school, spouses to and from work or on errands, friends to lunch, etc. Acceptable uses would be to take an official from another city or county on official county business, business lunch, or any other official county business. Another example would be a deputy transporting juveniles, prisoners, or witnesses, etc. It is, however, recognized that a minimum amount of personal use of a county vehicle may be required for those employees who:

- a. Are assigned a take-home vehicle and therefore, commute to and from work in the vehicle.
- b. Conduct their daily work in and from a vehicle.
- c. Are on county authorized travel.
- d. Minimum personal use shall be limited to:
 1. Commuting to and from work.
 2. Driving to and from a restaurant during approved meal breaks.
 3. Personal emergencies.

Alcohol, smoking and other tobacco products are not allowed in any county vehicle/equipment at any time.

17.05 TAXABLE BENEFIT

Use of a take home county vehicle may be a taxable benefit to the employee. A copy of a take home vehicle assignment shall be forwarded to the County Auditor. If it is determined that IRS regulations require the reporting of a taxable benefit, the Department Head/Elected Official is responsible to see that the employee reports the use of a take home vehicle in a format determined by the County Auditor and approved by Commissioners Court. All employees will be required to keep a personal logbook in the vehicle that will have the following information; date, odometer reading to and from, amount of miles, destination and purpose.

18.00 DRUG-FREE AND ALCOHOL-FREE WORKPLACE

Wharton County is a drug-free and alcohol-free workplace. An employee who violates the County's policies regarding a drug-free and alcohol-free workplace may be subject to disciplinary action, up to and including immediate termination of employment.

Wharton County recognizes the dangers of drug and alcohol abuse. Wharton County also recognizes the adverse effects of drug and alcohol abuse on productivity, health, safety and security. Information regarding the signs, symptoms and dangers of drug and alcohol abuse are presented in Appendix 19-A.

19.00 DRUG AND ALCOHOL DETECTION AND DETERRENCE

19.01 PURPOSE

Wharton County is committed to maintaining a safe, healthful and productive work environment for all employees, and ensuring the safe and efficient delivery of services to citizens of Wharton County. The purpose of this policy is to facilitate the establishment of a work environment that is free from the effects of abuse or misuse of alcohol and any type of illegal or illicit drug and to establish a procedure for drug and alcohol testing.

This policy incorporates the requirements of the Federal Drug Free and Alcohol Free Workplace Act, the Omnibus Transportation Employee Testing Act of 1991, and the

Department of Transportation regulations 49CFR Part 40, 49CFR Part 382, and 49CFR Part 655.

19.02 SCOPE

The policies and procedures herein apply to all employees in positions which require the performance of safety sensitive duties as defined by the Department of Transportation. A list of these positions is available in Appendix 19-B. *When drug or alcohol testing is required as provided in 49CFR Parts 382 and 655 for applicants or employees who perform DOT defined safety sensitive duties, testing will be conducted in accordance with 49 CFR Part 40. The applicant or employee shall be required to sign the Federal Drug Testing Custody and Control Form and/or the DOT Alcohol Testing form. Participation in the drug and alcohol testing program is a condition of employment for all employees in DOT defined safety sensitive positions. The DOT Federal Transportation Administration (FTA) requirements in this policy are presented in italicized print.*

Except where noted, the policies and procedures contained herein also apply to all Wharton County employees regardless of rank or position and include temporary and part-time employees, volunteers and appointed officials. Applicants or employees who are tested under the authority of Wharton County as provided in this policy will undergo non-DOT drug and alcohol testing. Participation in the drug and alcohol testing program is a condition of employment for all Wharton County employees.

19.03 PROHIBITED ACTIVITIES

Employees are prohibited from the manufacture, distribution, dispensation, possession, sale, attempted sale, use or having in their control any illegal drug, intoxicant and/or alcohol while in County vehicles whether on or off duty, on County premises whether on or off duty, or while acting in the course and scope of their employment at any geographic location, whether on or off County premises.

Employees are prohibited from performing DOT defined safety-sensitive duties while consuming or impaired by alcohol or other illegal or illicit substances or with alcohol or other illegal or illicit substances present in their systems.

Employees are prohibited from any off-duty use or misuse of any illegal or illicit substances that result in a positive DOT or non-DOT drug test pursuant to these procedures.

Employees are prohibited from any off-duty use or abuse of alcohol that results in a positive DOT or non-DOT alcohol test while on-duty or while operating a County vehicle.

The following activities are prohibited under DOT regulations, 49CFR Part 40, 382 and 655 for all employees who perform DOT defined safety sensitive duties:

1. *Being on duty and/or operating a commercial motor vehicle (CMV) or Revenue Service Vehicle (RSV) while possessing or consuming alcohol.*

2. *Consuming alcohol during specified on-call hours. An employee will be given the opportunity to acknowledge the use of alcohol at the time they are called to duty and the inability to perform safety sensitive functions.*
3. *When required to take a post-accident alcohol test, using alcohol within (8) hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.*
4. *Refusing to submit to any alcohol or controlled substance test required by this policy.*
5. *Reporting for duty or remaining on duty, if the employee tests positive for alcohol or controlled substances.*
6. *Being on duty when the employee's general appearance or conduct or some other substantiating evidence indicates alcohol use within the preceding four (4) hours.*

19.04 NOTIFICATION

Employees selected for drug and/or alcohol testing for any reason shall be notified by the appropriate elected official or department head or designee to submit to the drug and/or alcohol test and immediately proceed to the testing site. Once an employee has been notified to take a drug and/or alcohol test, unless hospitalized, no sick or other leave may be authorized until the collection process is completed.

19.05 SIX-PANEL DRUG TEST PROCESS

The use of illegal drugs is prohibited at all times and employees may be tested for drugs anytime while on duty, while operating a County vehicle on or off duty, or when operating any vehicle on County business.

When drug testing is required or authorized under the provisions of this policy and/or DOT regulations, all tests will be conducted as described in this section. A urinalysis test will be given to detect the presence of amphetamines, cocaine metabolites, opiate metabolites, phencyclidine, marijuana metabolites and Methylenedioxymethamphetamine (MDMA) commonly known as Ecstasy.

An employee has three (3) hours, and may drink up to forty (40) ounces of liquid, from the time of notification to complete all requirements of the drug test collection process. A notified employee may consult with anyone regarding the drug and/or alcohol test so long as the collection process is completed in a timely manner.

Following is a general description of the drug testing urine specimen collection process an applicant or employee can expect to encounter:

1. Picture identification must be presented.

2. The individual will be required to check his or her belongings and remove any unnecessary outer garments. The collector will request that the individual empty his or her pockets, display the items, and explain the need for them during the collection. The individual may retain his or her wallet. If any of the individual's items could be used as a potential adulterant, the collector may check it with the individual's other personal belongings.
3. The individual must rinse his or her hands with water and dry them.
4. A specimen of at least 45 milliliters (about 1 ½ ounces) is required. The donor must urinate into the provided collection cup.
5. The specimen will be sealed and labeled in the presence of the donor. It then will be sent to the laboratory and processed according to specific chain of custody procedures to account for the integrity of the specimen.

Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine.

The initial drug testing shall be by enzyme immunoassay technique (EMIT) test which shall be administered at a laboratory approved by the Federal Department of Health and Human Services, at County expense. If an initial drug test yields a positive result, a second confirmatory test, at County expense, using a gas chromatography/mass spectrometry (GC/MS) test will be conducted on a portion of the same urine provided by applicant or employee for use in the initial drug test.

19.06 SPLIT SPECIMEN TESTING

If the second test also results in a positive, the Medical Review Officer will notify the applicant or employee of the verified positive test result. The applicant or employee has 72 hours from this notification to request a split specimen test. The split specimen refers to the urine specimen collected during drug testing that is sent to the first laboratory and retained unopened. The split specimen is transported to and tested at a second laboratory at the applicant's or employee's request. The applicant or employee must submit the split specimen test fee to Wharton County, and the Personnel Office will coordinate the payment of fees.

19.07 MINIMUM LEVELS

The minimum levels of positive test results are the levels authorized by the Department of Transportation.

A negative dilute test result (creatinine level >2mg/dl but <5mg/dl) on a controlled substances test shall require a retest under direct observation. If the retest is negative, the test shall be deemed negative. A positive dilute test result will be considered a positive result.

19.08 ALCOHOL TESTING PROCESS

When alcohol testing is required or authorized under the provisions of this policy and/or DOT regulations, all tests will be conducted as described in this section. *A DOT alcohol test may only be conducted just before, during and just after performing DOT safety sensitive functions.* A non-DOT alcohol test may be conducted at any time an employee is on duty, is operating a County vehicle while on or off duty, or when operating any vehicle on County business.

Alcohol testing using a National Highway Transportation Safety Administration certified Evidential Breath Testing (EBT) device, shall be completed by a certified Breath Alcohol Technician (BAT). A breath alcohol level of .04 or greater will constitute a positive result. When an employee is testing for the first time and his breath alcohol level ranges from 0.02 to 0.039, a confirmation test will be performed. If the confirmation test result is in the range of 0.02 to 0.039, the employee will not be allowed to perform safety sensitive functions until the employee's next regularly scheduled duty period, but not less than eight hours following the administration of the test (FTA), 24 hours following the administration of the test (FMCSA).

It shall be the policy of Wharton County that any employee whose confirmation test indicates a breath alcohol level of .02 or greater may be relieved from duty without pay. An employee who has had a confirmed positive test at any time in the past who has a subsequent test showing a breath alcohol level of 0.02 or greater, will be subject to discipline, up to and including termination of employment.

19.09 THIRD PARTY SERVICE PROVIDER

Wharton County will use a third party vendor to provide drug and alcohol testing services. For information concerning the current drug/alcohol testing provider, please contact the Personnel Office.

19.10 REFUSAL TO TEST

Any employee, who refuses to consent to a DOT or non-DOT drug and/or alcohol test after notification of the consequences of refusal, shall be immediately removed from performing safety-sensitive functions where appropriate, referred to a substance abuse professional, and may be indefinitely suspended without pay and is subject to termination of employment. Note that refusal to take a non-DOT test does not constitute refusal of a DOT test.

Behavior that may constitute refusal to test includes but is not limited to:

1. Failure to appear at the collection site in a reasonable time
2. Refusal to provide a specimen (either verbal refusal or physical absence)
3. Failure to provide sufficient specimen with no medical explanation
4. Failure to remain at the testing site until the testing process is completed
5. Failure to have a medical evaluation is required by an Medical Review Officer

6. Failure to cooperate with any part of the testing process
7. Failure to allow monitoring or direct observation if required by an SAP or because of a suspected adulterated sample
8. Failure to take a second test if directed to do so
9. Medical Review Officer verification of a test as adulterated or substituted
10. Failure to sign Step 2 of the Alcohol Testing Form
11. Failure to remain available for testing following an accident
12. Failure to cooperate with any part of the observed collection process as specified in 49CFR Part 40
13. Admitting to the collector or Medical Review Officer that the specimen is adulterated or substituted.

19.11 OBSERVED COLLECTIONS

Consistent with 49CFR Part 40, DOT drug test urine specimens will be collected under the direct observation of the specimen collector in the following situations:

1. All DOT return to duty and follow up tests (see Section 19.27)
2. When the temperature of the original specimen is outside the acceptable range
3. When the test result is “negative dilute” meaning the creatinine level is less than 2mg/dl but greater than 5mg/dl
4. When the original specimen appears to have been tampered
5. When a collector has reason to believe, either from the employee’s conduct or possession of certain materials, that there has been an attempt to tamper with the specimen
6. When the original specimen is reported by the laboratory as invalid and the Medical Review Officer determines there is not an adequate medical explanation
7. When the original specimen test result is positive, adulterated or substituted, but a split specimen test cannot be performed

The process for direct observation shall be as specified in 49CFR Part40. Refusal to cooperate with any step in the direct observation process shall be considered refusal to test and the consequences for refusal shall be consistent with Section 19.10 of this policy.

19.12 CATEGORIES OF TESTING

An employee, applicant, reserve duty or volunteer of Wharton County may be required to submit to the following types of drug and alcohol testing:

1. Pre-placement
2. Reasonable Suspicion
3. Post-Accident
4. Random
5. Return to duty and follow-up

For information concerning the current drug/alcohol testing provider, please contact the Personnel Office.

19.13 PRE-PLACEMENT TESTING

Prior to beginning work as a County employee in a DOT regulated position, applicants must submit to a DOT drug test. Applicants for all other positions in the County must submit to a non-DOT drug test. Pre-placement drug tests will be administered after a conditional offer of employment has been made, and the Personnel Office must receive a negative drug test result before the applicant may report for duty. Applicants are not required to undergo an alcohol test pre-placement.

A pre-placement drug test is good for thirty (30) calendar days. If an applicant does not begin working within thirty calendar days, another drug test will be required prior to placement.

Any Wharton County employee who is promoted into a DOT safety sensitive position from a non-DOT safety sensitive position, or who has been removed for the DOT random pool for 30 days or longer for any reason, must undergo a pre-placement DOT drug test prior to performing safety sensitive functions.

19.14 REFUSAL TO SUBMIT TO PRE-PLACEMENT DRUG TEST

Any applicant who refuses to consent to a DOT or non-DOT pre-placement drug test, who fails to appear at the designated collection site or who fails to provide his/her urine sample after reasonable opportunity shall have the hiring process terminated and the conditional offer of employment shall be withdrawn.

19.15 CONSEQUENCES OF A POSITIVE RESULT

An applicant who has a confirmed positive test result shall have his/her hiring process terminated and the conditional offer of employment withdrawn. *An applicant for a DOT safety sensitive position who has a positive drug test shall be referred to a Substance Abuse Professional.*

19.16 REASONABLE SUSPICION DRUG AND/OR ALCOHOL TESTING

Employees who perform safety sensitive duties as defined by the DOT shall be subject to drug and/or alcohol testing if reasonable suspicion exists, as explained in Section 19.18, that the employee is under the influence of drugs and/or alcohol while on County property or while acting in the scope of their employment. In accordance with DOT regulations, a certified departmental supervisor may require a DOT alcohol test for reasonable suspicion only when the employee is performing, about to perform, or has just performed a DOT defined safety sensitive function. A DOT drug test may be required at any time a certified departmental supervisor determines that reasonable suspicion exists.

It shall be the policy of the County that a certified department supervisor may require a non-DOT drug and/or alcohol test if reasonable suspicion exists at any time an employee is performing in their capacity as a Wharton County employee.

19.17 BASIS FOR REASONABLE SUSPICION

If a certified departmental supervisor finds there are specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or a body odor of an employee, the supervisor may require the employee to undergo a drug and/or alcohol test. Circumstances which can constitute a basis for determining reasonable suspicion may include, but are not limited to:

- (a) A Pattern of Abnormal or Erratic Behavior – This includes, but is not limited to a single, unexplainable incident of serious abnormal behavior or a pattern of behavior which is radically different from what is normally displayed by the employee or grossly differing from acceptable behavior in the workplace.
- (b) Information provided by a Reliable and Credible Source – The first line supervisor or another supervisor/manager receives information from a reliable and credible source as determined by the County Attorney that an employee is violating the County’s Policy of Drug and/or Alcohol Detection and Deterrence.
- (c) Direct Observation of Drug and/or Alcohol Use – The first line or another supervisor/manager directly observes an employee using drug and/or alcohol while the employee is on duty. Under these circumstances, a request for drug and/or alcohol testing is MANDATORY.
- (d) Presence of Physical Symptoms of Drug and/or Alcohol Use – The supervisor observes physical symptoms that could include but are not limited to glassy or bloodshot eyes, slurred speech, poor motor coordination, or slow or poor reflex responses different from what is usually displayed by the employee or generally associated with common ailments, e.g. colds, sinus, hay fever, diabetes, etc.

19.18 CERTIFIED DEPARTMENTAL SUPERVISORS

The County shall provide “Certified Departmental Supervisor” training for supervisors on the signs and symptoms of illegal drug use and alcohol misuse or abuse, and the procedure for determining if a reasonable suspicion drug and/or alcohol test is warranted. Certified Departmental Supervisors shall be required to document in writing the specific facts, symptoms, and observations which form the basis for such reasonable suspicion. The certified departmental supervisor will consult with the County Attorney or designee on the facts and circumstances of the situation. If a reasonable suspicion drug and/or alcohol test is warranted, the Personnel Office shall assist in securing the appropriate test. If the Personnel Office or County Auditor is not available, the certified departmental supervisor shall consult with at least one other certified departmental supervisor and contact the drug and alcohol testing service provider directly to arrange testing.

An employee who is directed to undergo reasonable suspicion drug and/or alcohol testing should be accompanied to the testing site by the certified departmental supervisor, and should not be allowed to operate a county vehicle until a confirmed negative test result is received.

19.19 POST ACCIDENT TESTING

In accordance with 49CFR, an employee in a DOT safety-sensitive position whose

performance could have contributed to an accident involving a Commercial Motor Vehicle or Revenue Service Vehicle shall be required to submit to a DOT drug and alcohol test.

A DOT drug or alcohol test will not be required for those employees whose performance can be completely discounted as a contributing factor to an accident. However, a non-DOT test may still be required.

Any employee who has been involved in any type of work related incident or accident involving injury to self or to another or which causes property damage or involves other unusual circumstances shall be required to take a mandatory non-DOT drug and alcohol test under county policy. If a DOT drug or alcohol test is required and administered, a non-DOT test shall not be required.

Workers compensation benefits are not payable in the event an employee is under the influence of drugs or alcohol at the time of the injury/accident occurs. Post-accident testing will determine compensability of a claim resulting from such injury or accident.

19.20 TIME REQUIREMENTS

Nothing in this policy shall be construed to require the delay of necessary medical attending for the injured following an incident or accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident.

Employees who are involved in an incident or accident and are subject to post-accident testing must remain available for testing. Post-accident alcohol tests should be administered within two hours of the accident, but may be administered within eight hours following the accident. Post-accident drug tests must be administered within 32 hours following the accident. Lack of availability to test within a reasonable time will be considered a refusal to test. Employees must also refrain from consuming alcohol for eight hours following an accident, or until the post-accident alcohol testing is complete, whichever comes first. Failure to do so will be considered a refusal to test and subject to the consequences explained in Section 19.10.

19.21 RANDOM TESTING: DOT POSITIONS

All County employees in DOT regulated positions shall be subject to Random Drug and Alcohol Testing. The minimum number of tests to be conducted annually shall be as required by the FMCSA, or the FTA, whichever is higher. Currently, a minimum of 50% of DOT regulated employees shall be tested annually for controlled substances. A minimum of 10% of DOT regulated employees shall be tested annually for alcohol just before, during, or just after performing safety sensitive functions.

19.22 RANDOM COMPUTER SELECTION

A random computer selection process using a scientifically valid method shall be used to

generate random test lists for DOT employees.

All employees in the random pools will have an equal chance of being selected for testing and will remain in the pool, even after being tested. It is possible for some employees to be tested several times in one year, and other employees not to be tested for several years.

Random testing will be reasonably distributed throughout the year, and shall be immediate and unannounced. Random testing may be conducted during all hours and days when employees are on duty.

19.23 RANDOMLY SELECTED EMPLOYEES

Employees selected for a random test shall be notified by the elected official or department head or designee, and must immediately comply with the testing requirements. *DOT employees selected for a random test who are on leave for any reason at the time of testing, must be tested upon returning to work.*

19.24 EMPLOYEE ASSISTANCE PROGRAM

All employees are encouraged to make use of the available resources for treatment of drug and/or alcohol misuse and abuse problems. The Employee Assistance Program (EAP) may provide free or reduced cost access to treatment programs.

Under certain circumstances an employee may be required to seek assistance for drug and/or alcohol misuse and abuse problems. Circumstances which may prompt a mandatory referral to the EAP include a positive test result, other violations of this policy or drug and/or alcohol use related to behavior which negatively impacts an employee's job performance.

Disciplinary action based on a violation of the County's Drug and Alcohol Detection and Deterrence Policy is not suspended by an employee's participation in the Employee Assistance Program or a substance abuse program.

19.25 REHABILITATION AND FOLLOW-UP TESTING

Following a determination that an employee is in need of assistance in resolving problems associated with drug abuse and/or alcohol misuse, the employee may be subject to return-to-duty and unannounced follow-up drug and/or alcohol testing if directed by the Substance Abuse Professional (SAP). The employee is responsible for all costs of return to duty and follow up testing.

19.26 POSITIVE TEST RESULTS AND OTHER POLICY VIOLATIONS

Consistent with 49CFR Part 40, a DOT regulated employee with a confirmed positive result on a drug or alcohol test, or who refuses to submit to a DOT test, must be immediately

removed from performing safety-sensitive duties and referred to a Substance Abuse Professional.

An employee who tests positive to a properly authorized and administered test or is found to have any drug and/or alcohol in his/her possession shall be indefinitely suspended without pay and is subject to immediate termination of employment. Possession can include an employee's person or personal property if on County premises, a County motor-vehicle or equipment under the employee's control, or County-provided property under an employee's control.

DOT regulations 49CFR Part 40, Part 382, and Part 655 allow for employees to return to duty following a positive DOT test result. Depending on the circumstances and at the discretion of the Elected Official/Department Head, this opportunity may be extended to Wharton County employees. The employee must first comply with a course of treatment as recommended by an SAP, and the employee must undergo one (1) return-to-duty test and at least six (6) follow-up controlled substance and/or alcohol tests in the following twelve (12) months, or more if required by the SAP.

At the discretion of the Elected Official/Department Head, employees who test positive on a non-DOT drug or alcohol test may also be allowed to return to duty under the same treatment and testing requirements as specified above. The cost of the treatment and testing, beyond what may be covered under the Employee Assistance Program (EAP) is the responsibility of the employee.

19.27 ADA COMPLIANCE

Wharton County is aware that drug or alcohol addiction may constitute a disability as defined by the Americans with Disabilities Act. Wharton County does not discriminate on the basis of disability in admission, access, treatment, or employment in its programs or activities. However, the ADA does not preclude employers from enforcing the requirements of a drug and alcohol policy regardless of disability. Applicants for DOT regulated positions may be subject to return to duty and follow up testing if a pre-employment background check reveals a previous positive DOT drug or alcohol test result. Such applicants must provide documentation of successful completion of a substance abuse program.

19.28 GRANT OR CONTRACT EMPLOYEES

All employees engaged in the performance of a federal, state or local grant or federal, state or local contract valued at over \$25,000 shall be given a copy of the County's Policy on Drug and Alcohol Detection and Deterrence, and informed that they must comply with the policy as a condition of employment.

19.29 DRUG STATUTE CONVICTION

Grant or contract employees shall notify the elected or appointed official or the department head of any criminal conviction for a drug statute violation occurring in the workplace no

later than five (5) calendar days after the conviction. The elected or appointed official or the department head shall provide written notice to the grantor or contractor agency and the Personnel Office of any criminal drug statute conviction occurring in the workplace within ten (10) calendar days after receiving notice from the employee, or receiving actual notice of the conviction. The information provided by the appropriate official shall include the employee's position, title and the grant identification(s) for each grant on which the convicted employee was working.

19.30 CONFIDENTIAL RECORDS

All records related to employee drug and alcohol tests are confidential, to the extent allowed by law. Any employee who violates this confidentiality provision shall be subject to disciplinary action up to and including termination of employment. Records related to employee and applicant drug and alcohol testing shall be kept in a confidential file separate from the employee's personnel file. Employees are entitled, upon written request, to obtain copies of any records pertaining to their drug and alcohol tests.

19.31 DOT BACKGROUND CHECK REQUIREMENTS

DOT regulations require employers to confirm/verify the testing background of new hires and other employees beginning safety-sensitive work. Employers must have an employee's written consent (without which the employer may not hire the applicant) and send the signed consent to all other DOT regulated employers for whom the employee worked within the previous two (2) years. The employer may not allow the employee to perform safety-sensitive duties for more than thirty (30) calendar days without first obtaining, or making and documenting a good faith effort to obtain, the required information from previous employers.

19.32 DISCLOSURE OF INFORMATION

An employer must release information if it receives specific, written consent from an employee or former employee authorizing the release of information about the employee's drug and alcohol tests to an identified person.

Employers may release test result information in certain legal proceedings. Written consent authorizing disclosure from an employee is not required when drug and/or alcohol testing becomes the subject of a complaint or other judicial or quasi-judicial proceeding. The employer must immediately notify the employee in writing of any information released for this purpose.

19.33 COUNTY RESERVES RIGHT

The County reserves the right to interpret, change, suspend, cancel or dispute, with or

without written notice, all or any part of this policy, or procedures or benefits discussed herein.

19.34 POLICY DISTRIBUTION

A copy of the Wharton County Policy for Drug and Alcohol Detection and Deterrence shall be given to all employees. Employees will be required to acknowledge in writing that they have received a copy of this policy.

19.35 EMPLOYMENT-AT-WILL

Adherence to this policy is a condition of employment, however; nothing in this policy alters an employee's status and shall not constitute, nor be deemed a contract or promise of employment. Employees remain free to resign their employment at any time, for any or no reason, without notice, and the County retains the right to terminate any employee at any time, for any legal reason or no reason, without notice.

APPENDIX 19-A

SIGNS, SYMPTOMS AND DANGERS OF ALCOHOL AND DRUG ABUSE

Substance abuse, the misuse of drugs and alcohol, is not a new issue, but it is one of growing concern to employers. Substance abuse is a problem in the workplace, costing businesses billions of dollars per year. Research has shown that substance abuse affects organizations, as evidenced by increased medical benefit claims, increased absenteeism, increased worker's compensation claims, and decreased productivity. Substance abuse poses serious safety and health risks not only to the user, but also to those who work with or come into contact with the abuser.

ALCOHOL FACTS

Alcohol, when consumed primarily for its physical and mood-altering effects, is a substance of abuse. As a depressant it slows down physical responses and progressively impairs mental functions. Signs and symptoms of use include dulled mental processes, lack of coordination, odor of alcohol on the breath, slowed reaction rate, and slurred speech. The chronic consumption of alcohol over time may result in dependency, fatal liver disease, kidney disease, and birth defects.

It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body. Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body. A person who is legally intoxicated is six times more likely to have an accident than a sober person.

AMPHETAMINE FACTS

Amphetamines are central nervous system stimulants that speed up the mind and body. Signs and symptoms of use include hyper-excitability, restlessness, confusion, panic, talkativeness, inability to concentrate, and heightened aggressive behavior. Regular use produces strong psychological dependence and increasing tolerance to the drug.

Low-dose amphetamine use will cause short-term improvement in mental and physical functioning. With greater use, however, the effect reverses and has an impairing effect. Hangover effect is characterized by physical fatigue and depression, which may make operation of equipment or vehicles dangerous.

COCAINE FACTS

Cocaine is abused as a powerful physical and mental stimulant; the entire central nervous system is energized. Signs and symptoms of use include financial problems, increased physical activity and fatigue, isolation and withdrawal from friends and normal activities, unusual defensiveness, anxiety, agitation, and wide mood swings. Cocaine use causes the heart to beat faster and harder and rapidly increases blood pressure. Cocaine causes spasms of blood vessels in the brain and heart and can lead to ruptured vessels causing strokes or heart attacks. Extreme mood and energy swings create instability. Work performance is characterized by forgetfulness, absenteeism, tardiness, and missed assignments.

MARIJUANA FACTS

People use marijuana for the mildly tranquilizing, mood altering and perception altering effects it produces. Signs and symptoms of use include reddened eyes, slowed speech, chronic fatigue, and lack of motivation. Chronic smoking of marijuana causes emphysema-like conditions. Regular use can cause diminished concentration, impaired short-term memory, impaired signal detection and impaired tracking (the ability to follow a moving object with the eye.)

Marijuana smoking has a long-term effect on performance. Combining alcohol and other depressant drugs and marijuana can produce a multiplied effect, increasing the impairing effect of both the depressant and marijuana.

OPIATES (NARCOTICS) FACTS

Opiates (also called narcotics) are drugs that alleviate pain, depress body functions, and when taken in large doses, cause a strong euphoric feeling. Signs and symptoms of use include mood changes, impaired mental functioning, depression and apathy, impaired coordination, and physical fatigue and drowsiness. IV needle users have a high risk for contracting hepatitis and AIDS due to sharing needles.

Side effects of opiates such as nausea, vomiting, dizziness, mental clouding, and drowsiness place the legitimate user and abuser at higher risk for an accident. Workplace use may cause impairment of physical and mental functions.

PHENCYCLIDINE (PCP) FACTS

Phencyclidine acts as both a depressant and a hallucinogen, and sometimes a stimulant. Signs and symptoms of use include impaired coordination, severe confusion and agitation, extreme mood shifts, rapid heartbeat and dizziness. The potential for accidents and overdose is high due to the extreme mental effects combined with the anesthetic effect on the body. PCP use can cause irreversible memory loss, personality changes, and thought disorders.

APPENDIX 19-B

DEPARTMENT OF TRANSPORTATION SAFETY-SENSITIVE FUNCTIONS

The Federal Transit Administration (FTA) defines safety-sensitive functions as those duties that require:

- Operating a Revenue Service Vehicle
- Maintaining a Revenue Service Vehicle
- Dispatching or controlling movement of a Revenue Service Vehicle
- Carrying a firearm when required for security purposes
- Operating a non-Revenue Vehicle which requires a Commercial Driver's License

When a Revenue Service Vehicle is a vehicle used for the transportation of passengers as anticipated by the recipient.

The Federal Motor Carriers Administration (FMCA) defines safety-sensitive functions as any time an employee begins work, or is required to be in readiness work, until they are relieved from work, in the following functions:

- Waiting to be dispatched to operate a Commercial Motor Vehicle
- Inspecting, servicing or conditioning any Commercial Motor Vehicle
- Driving a Commercial Motor Vehicle
- Loading, unloading, supervising or assisting in loading or unloading of a Commercial Motor Vehicle
- Repairing, obtaining assistance, or remaining in attendance upon a disable Commercial Motor Vehicle

Where a Commercial Motor Vehicle is a vehicle with a gross combination weight or gross vehicle weight rating of 26,001 pounds or more, is designed to transport 16 or more passengers, or is of any size and is used in transportation of materials found to be hazardous and requires the vehicle to be placarded.

Wharton County positions that are required to perform Safety-Sensitive functions are listed on the following page. This list is subject to change without notice.

**WHARTON COUNTY
POSITIONS SUBJECT TO DOT
DRUG AND ALCOHOL TESTING POLICY**

DRAINAGE	ROAD & BRIDGE	OTHER
Foreman	Foreman	Vehicle Main: Master Mechanic & Mechanic
Heavy Equipment Operator/Truck Driver – Grade 7 - 20	Heavy Equipment Operator/Truck Driver – Grade 7 - 20	Fairgrounds: Supervisor, Maintenance Worker
Mechanic	Mechanic	Public Transportation: Reservationist** Scheduler** Operations Manager**
		Engineering: Recycle Center Coordinator
		Parks: Supervisor & Parks Operator I and II

**Denotes positions subject to the regulations of the FTA.
All other positions subject to the regulations of the FMCSA.

