ACKNOWLEDGEMENT AND RECEIPT OF

PERSONNEL POLICIES AND PROCEDURES

OF FLATHEAD COUNTY

I acknowledge receipt of a copy of the Personnel Policies and Procedures adopted by Flathead County. I understand that I will be responsible for complying with the terms and conditions contained in this manual.

DATE: _____

Employee Name (Please Print)	Employee Signature
Employee Work Location	Employee Position Title

Debbie Pierson, Flathead County MT by DD
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Personnel Policies and Procedures Of Flathead County

RESOLUTION NUMBER 2487

A RESOLUTION TO ADOPT THESE PERSONNEL POLICIES AND PROCEDURES, SUPERSEDING ALL OTHER PERSONNEL POLICIES AND PROCEDURES

WHEREAS, the Board of Flathead County Commissioners desires to establish uniform policies and procedures for personnel administration;

NOW, THEREFORE, BE IT HEREBY RESOLVED that this Policy Manual of Personnel Policies and Procedures be adopted effective July 1, 2019.

BOARD OF COUNTY COMMISSIONERS FOR

FLATHEAD COUNTY, MONTANA

Philip B. Mitchell

Philip B. Mitchell / Chair

Pamela J. Holmquist

Pamela J. Holmquist / Member

Randy L. Brodehl / Member

May 20, 2019
Date

TABLE OF CONTENTS

INTRODUCTION **1**
Welcome Statement 1
Statement of Management Rights 1
Severability Statement 1
Changes to Personnel Policies and Procedures 1
Collective Bargaining Agreements 1

EMPLOYMENT POLICIES **2**
Definitions 2
Equal Employment Opportunity 2
Preventing Harassment and Discrimination 3
Compliance with the Federal Genetic Information Nondiscrimination Act of 2008 (GINA) 5
Compliance with the Americans with Disabilities Act (ADA) 5
Whistleblower Protections 6
Nepotism 6
Recruitment and Selection 6
Position Descriptions 7
Salary Plan 7
Probationary Period 9
Employee Discipline 10
Employee Grievance 11
Employee Personnel Records 12
Hours of Work, Meal Breaks, and Rest Breaks 13
Driver's License Requirement 14
Outside Employment 14
Drug and Alcohol Free Workplace 14
Drug and Alcohol Testing 15
A. NON-DOT DRUG TESTING 16
B. DOT CONTROLLED SUBSTANCES AND ALCOHOL USE POLICY 21
C. FLATHEAD COUNTY FTA SUBSTANCE ABUSE POLICY 27
Reduction in Workforce 35
Voluntary Resignation or Retirement 36
Return of Flathead County Property 36
Privacy and Searches 36
Worksite Breastfeeding 36
Credit Cards 37
Travel 38
Copyright Policy 43

EMPLOYEE LEAVE **43**
Sick Leave 43
Sick Leave Pool & Grants 45
Vacation Leave 46
Holidays 48
Military Leave 49
Jury and Witness Duty Leave 50
Maternity Leave and Parental Leave 50
Leave of Absence without Pay 51
Family and Medical Leave Act (FMLA) 52
Declared Emergency or Disaster 54

EMPLOYEE CONDUCT **55**
Prohibited Conduct and Guidelines for Appropriate Behavior 55
Ethics and Conflict of Interest Policy 58
Smoke-Free Workplace 59
Use of Scented Substances 59
Personal Appearance and Proper County Representation 59
Public Speech 60
Personal Telephone Calls and Personal Communication Devices 60
Computers, Internet, and Email 61

PAY AND BENEFITS **65**
Non-Exempt Employee's Overtime Pay 65
Exempt Employees' Compensatory Time 65
Time Sheets and Preparation of Payroll 65
Decedent's Warrant or Paycheck Reissuance 66
Termination Pay 66
Workers' Compensation 66
Health and Life Insurance 67
Retirement 67
Employee Assistance Program (EAP) 68
Tuition Reimbursement 68
Clothing Allowance 69

SAFETY **69**
Workplace Safety Program 69
Workplace Violence Prevention 70
Use of Vehicles and Equipment 70
Weapons on County Property 72

APPENDIX 1: DRUG TESTING CONTACTS **73**

APPENDIX 2: OBSERVED BEHAVIOR/REASONABLE SUSPICION FORM **74**

APPENDIX 3: POST-ACCIDENT DOCUMENTATION FORM **76**

APPENDIX 4: NON-DOT POST ACCIDENT FLOW CHART **78**

APPENDIX 5: DOT POST ACCIDENT FLOW CHART **79**

APPENDIX 6: FTA POST ACCIDENT FLOW CHART **80**

INTRODUCTION

Welcome Statement

Welcome to Flathead County employment and your important role in efficiently conducting the business of local government. You will be joining a dedicated group of individuals who have also chosen to serve the County with a career in public service. This Policy Manual is a general reference which will assist you in becoming familiar, as quickly as possible, with benefits and services available to you as a Flathead County employee and the policies and standards covering your employment.

Nothing in this Policy Manual should be construed as an expressed or implied employment agreement. We cannot anticipate every situation or answer every question about employment, and this Policy Manual is designed to provide guidance only.

In some places you will note citations to applicable state and federal laws, such as Montana Code Annotated (MCA) and the Code of Federal Regulations (CFR), which will lead you to further relevant information if you so desire it. If you need more information on any policy, you can contact Human Resource personnel.

We are happy to have you with us in providing essential civic services, and we look forward to our working relationship.

Statement of Management Rights

In order to achieve its mission, goals and objectives, Flathead County retains the exclusive right to exercise the customary functions of management. These include, but are not limited to, the rights to manage and control Flathead County buildings, property, grounds, and equipment; to contract out work; to select, hire, promote, assign, layoff, and discipline employees; to determine and change starting times and quitting times; to transfer employees within programs/services to other departments and other classifications; to train employees; to determine and change the size, composition, and qualifications of the workforce; to establish and adopt new policies, rules and regulations; to determine and modify job descriptions and classifications; and to carry out all other ordinary functions of management.

Severability Statement

If any part of this Policy Manual is found to be unenforceable, invalid, or in conflict with the law, the other provisions of this Policy Manual are still applicable and valid.

Changes to Personnel Policies and Procedures

Flathead County provides all employees with general information regarding employee benefits and established personnel policies and procedures through the issuance of this Policy Manual. However, it is not a contract and is subject to change at any time. Policies and procedures shall be added to, updated, or deleted as determined appropriate by Flathead County. Flathead County specifically reserves the right to repeal, modify or amend these policies at any time, with or without notice. The policies are also not to be interpreted as promises of specific treatment.

Collective Bargaining Agreements

If you are a member of a collective bargaining unit subject to a Collective Bargaining Agreement (CBA), the CBA primarily governs your employment with Flathead County. If your CBA does not address an issue, the

personnel policies and procedures in this Policy Manual shall apply. In the event of conflict between provisions in this Policy Manual and any CBA, individual employment contract, state or federal law, or resolution or rule of Flathead County, the terms and conditions of such CBA, individual employment contract, law, or Flathead County resolution or rule shall prevail.

EMPLOYMENT POLICIES

Definitions

The following employment definitions apply to this Policy Manual:

- ***Exempt employee*** is one not subject to the overtime pay provisions of the federal Fair Labor Standards Act of 1938 (FLSA) as amended, and its regulations; i.e., employees exempt from the overtime pay provisions of the FLSA in a position designated as executive, administrative, professional, or other exemption as these terms are defined in law. The employee must meet the definition of *exempt* as defined by the FLSA and the Montana Minimum Wage and Overtime Compensation Act. (See FLSA website: http://www.dol.gov/compliance/laws/comp-flsa.htm)
- ***Non-exempt employee*** means one who is subject to the overtime provisions of the federal Fair Labor Standards Act of 1938 as amended, and its regulations.
- ***Full-time employee*** means one who normally works 40 hours a week.
- ***Part-time employee*** means one who normally works less than 40 hours a week.
- ***Permanent employee*** means one who is assigned as permanent who has attained or is eligible to attain permanent status.
- ***Permanent status*** means the state an employee attains after satisfactorily completing an appropriate probationary period.
- ***Seasonal employee*** means a permanent employee designated by Flathead County as seasonal who performs duties interrupted by the seasons and whom Flathead County may recall without a loss of rights or benefits accrued during the preceding season.
- ***Short-term employee*** is one hired by Flathead County for an established hourly wage, who may not work for Flathead County for more than 90 days in a continuous 12-month period, who is not eligible for permanent status, who Flathead County cannot hire into another position without a competitive selection process, and who is not eligible to earn leave and holiday benefits, or entitled to group health insurance benefits.
- ***Temporary employee*** is one designated by Flathead County as temporary for a definite period of time not to exceed 12 months, who performs temporary duties or permanent duties on a temporary basis, whose employment terminates at the end of the employment period, and who is ineligible to become a permanent employee without a competitive selection process. Temporary employees are eligible to earn leave and holiday benefits, and group health insurance benefits if they are scheduled to work at least 6 consecutive months at 20 or more hours per week.

***Relevant Information*: Definitions at MCA 2-18-101**

Equal Employment Opportunity

Flathead County is an equal employment opportunity employer (EEO). Flathead County does not refuse employment or discriminate in compensation or the other terms, conditions, and privileges of employment based upon race, color, national origin, age, physical or mental disability, marital status, pregnancy, religion, creed, sex, sexual orientation, political beliefs, genetic information, or veteran's status. Flathead County does not tolerate discrimination or harassment because a person is married to or associates with any of these protected categories.

Flathead County shall follow all federal and state laws and regulations prohibiting discrimination.

***Relevant Information*: Montana Human Rights Act, Title 49, MCA**

Preventing Harassment and Discrimination

Flathead County's policy is to provide employees with a work environment free of discrimination and harassment. Harassment of employees and any persons doing business with Flathead County government because of a person's race, color, national origin, age, physical or mental disability, marital status, pregnancy, religion, creed, sex, sexual orientation, political beliefs, genetic information, or veteran's status is illegal and prohibited. Discrimination is a violation of civil rights law and is a prohibited practice subject to disciplinary and civil action.

A. Employee's Responsibilities

Flathead County will not tolerate sexual harassment or discrimination of any kind based on protected status. All employees are encouraged to immediately report any such misconduct or violation to their supervisors or the first level of management not involved in the harassment or discrimination, or the Human Resource personnel.

Employees who are responsible for harassment or discrimination may be subject to disciplinary action or discharge from employment. Sexual harassment or other illegal discrimination can result in immediate discharge if an investigation substantiates it. The severity and extent of the harassment will ultimately guide the decision on how discipline will be determined.

B. Management's Responsibilities

All supervisors and managers are responsible for following this policy. Members of management who witness discrimination shall immediately take steps to stop the behavior, document the actions, and report the behavior to Human Resource personnel. Management shall review any report or complaint of harassment or discrimination and take appropriate action.

C. What Constitutes Harassment

Sexual harassment may include a range of subtle or not-so-subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, or sexual deficiencies; leering, whistling, or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal, or visual conduct of a sexual nature when, for example:

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

Sexual harassment constitutes discrimination and is illegal under federal, state, and local laws.

Flathead County strictly prohibits harassment on the basis of any other protected characteristic. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, national origin, age, physical or mental disability, marital status, pregnancy, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran's status, or any other category protected by law or that of his or her relatives, friends, or associates, and which:

1. has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
2. has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening, intimidating, or hostile acts; denigrating jokes; and/or written or graphic material that denigrates or shows hostility or aversion toward an individual or group and which is placed on walls or elsewhere on the employer's premises or is circulated in the workplace.

D. Reporting Procedure

1. Employee's Responsibility

An employee who believes he/she has been the victim of harassment or discrimination should report the incident or action as soon as possible after the alleged incident occurs. Early reporting is important, because management's ability to investigate and act on reports diminishes with time. Failure to report harassment because of a generalized fear of retaliation or belief in the futility of reporting harassment deprives the employer of an opportunity to take corrective action and does not justify the failure to report.

Employees may bring reports to the attention of any of the following:

- the harasser, and the employee can request that the action stop immediately; and/or
- the immediate supervisor or the first level of management not involved, or Human Resource personnel.

The employee shall cooperate with the supervisor, manager, or other designated management representative in investigating and verifying the report.

2. Management's Responsibility

Any supervisor or manager who witnesses or receives a report of harassment or discrimination shall promptly inform the department head and/or Human Resource personnel. Upon receipt of a complaint alleging harassment or discrimination, the department head shall take steps to prevent the alleged conduct from continuing, pending completion of an investigation.

The department head shall initiate an investigation or recommend another appropriate management representative to investigate the complaint. Flathead County has the right to designate a representative of its choosing to perform any investigation. The factual report and final decision will remain confidential and be disseminated to only those persons having a need to know. The parties will be informed of the general results of the investigation. If the results establish that a policy violation occurred, appropriate action may be taken including, but not limited to, disciplinary measures or discharge from employment.

E. Retaliation

Neither Flathead County nor any employee shall retaliate against any employee for filing a complaint or for participating in any way in a complaint investigation procedure under this policy. Any employee who suspects he/she is being retaliated against because he/she made a complaint or participated in an investigation should immediately report the actions, following the guidelines above. The report shall be investigated and dealt with appropriately.

All employees have the right to make a complaint under this policy, either internally or to an outside agency. It is unlawful for Flathead County to retaliate against any employee for making such a complaint. Flathead County will not retaliate against any employee for making such a complaint whether the complaint is eventually substantiated or not. To be retaliation, the adverse employment action must be **because the employee submitted a discrimination complaint, and not due to any valid performance concerns or policy violations by the employee**.

Examples of retaliation could include:

- Reprimanding an employee or giving a performance evaluation that is lower than it should be;
- Transferring an employee to a less desirable position;
- Engaging in verbal or physical abuse;

- Threatening to make, or actually making false reports to authorities;
- Increasing scrutiny;
- Spreading false rumors, treating a family member negatively; or
- Making the person's work more difficult.

Adverse actions do not include petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, "snubbing" a colleague, or negative comments that are justified by an employee's poor work performance or history.

Employees are not excused from continuing to perform their jobs or follow Flathead County's legitimate workplace rules just because they have filed a complaint or opposed discrimination.

Any employee that believes they have been retaliated against should report their concerns immediately to any supervisor or Human Resource personnel. The matter will be investigated and Flathead County will respond accordingly.

False and malicious complaints of harassment, discrimination, or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) may be the subject of appropriate disciplinary action.

***Relevant Information*: Montana Human Rights Act, Title 49, MCA;**

Compliance with the Federal Genetic Information Nondiscrimination Act of 2008 (GINA)

GINA prohibits discrimination based on genetic information with respect to employment or group health plans. Managers may not request, require, or purchase genetic information about employees or their family members, or use genetic information to:

1. discriminate against an individual in hiring, discharge, compensation, terms, conditions, or privileges of employment;
2. make decisions about admission to apprenticeship and training programs, including on-the-job training;
3. limit, segregate, or classify an individual;
4. fail or refuse to refer an individual for employment;
5. deprive an individual of employment opportunities; or
6. acquire health insurance or set premiums under the group health plan.

***Relevant Information*: The Genetic Information Nondiscrimination Act of 2008**

Compliance with the Americans with Disabilities Act (ADA)

Flathead County is committed to complying fully with the Americans with Disabilities Act (ADA) and Montana Human Rights Act (MHRA). Flathead County will ensure equal opportunity in employment for qualified persons with physical or mental disabilities. Reasonable accommodation is available to employees with disabilities to the extent required by law. An accommodation which creates an undue hardship on the County or which endangers health or safety is not a reasonable accommodation.

Any employee or job applicant may request an accommodation by contacting the department head or Human Resource personnel verbally or in writing. A request for accommodation is the first step in an interactive process between the individual and Flathead County, to clarify the individual's request and to identify any appropriate reasonable accommodation. Flathead County has the right to request reasonable documentation to support any accommodation request.

***Relevant Information*: Americans with Disabilities Act**

Whistleblower Protections

Neither Flathead County, nor any employee shall retaliate against, condone or threaten retaliation, against any employee who, in good faith, alleges waste, fraud, or abuse by the County. For this section, retaliate means to take any of the below actions against an employee because of their good faith allegations of waste, fraud, or abuse:

- Terminate employment;
- Demote;
- Deny overtime, benefits, or promotion;
- Discipline;
- Decline to hire or rehire;
- Threaten or intimidate;
- Reassign to a position that hurts future career prospects;
- Reduce pay, work hours, or benefits; or
- Take another adverse personnel action.

Any employee who believes they have been retaliated against under this section and chooses to file a grievance must file one as outlined in **Employee Grievance** within this Policy Manual.

***Relevant Information*: MCA Title 2, Chapter 2, Part 1**

Nepotism

Nepotism is defined in state statute as the bestowal of political patronage by reason of relationship rather than of merit. In general, it prohibits the hiring and appointment of individuals within certain familial relationships. Flathead County prohibits nepotism. If an employment situation relating to marital status poses a conflict with the nepotism policy, the involved employees must notify the Human Resource personnel so that reasonable steps can be instituted to ensure statutory compliance.

The statutory prohibition does not apply to a sheriff appointing a cook and/or attendant, employment of election judges, or the renewal of an employment contract for a relative initially hired before a related member assumed duties of the office.

***Relevant Information*: MCA 2-2-302 and 2-2-303**

Recruitment and Selection

Department heads may choose to fill position vacancies internally or through an external competitive process. Temporary and short-term workers are not eligible to become permanent employees without an external competitive selection process.

Flathead County will use a fair and consistent competitive selection process that is designed to select the best candidate based on merit and qualifications. All statutory preferences shall be provided as required by law.

Flathead County will not pay incurred expenses of applicants for County positions unless prior approval is granted by the Board of Flathead County Commissioners in specific cases, (i) either to attend interviews for positions or (ii) to relocate to Flathead County after accepting a position with the County.

***Relevant Information*: MCA 49-3-201**

Position Descriptions

Official position descriptions are maintained and on file in the Human Resource Department. The position description does not constitute an employment agreement between Flathead County and the employee. It is subject to change as the needs of Flathead County and the requirements of the job change.

Department heads are required to periodically review position descriptions and submit recommended changes to the Human Resource Department as needed. Human Resource personnel will evaluate the changes and present the modified position description to the Board of Flathead County Commissioners with a recommendation of approval or denial. The Board of Flathead County Commissioners shall determine whether the proposed revision will be adopted, rejected, or revised.

Salary Plan

In determining salaries, consideration shall be given to current costs of living, Flathead County's financial condition, turnover rates, applicant availability, and suggestions of department heads. Consideration will also be given to the prevailing rates of pay for comparable work in the public and private employment sectors. Flathead County will obtain this salary data by periodically surveying private and public employers in the region.

The standard pay matrix consists of numbered pay ranges, each of which has five normal steps within the pay range, two steps for trainee status, and one for lead worker positions. Employees progress through the normal steps on an annual basis. Each employee classified on the standard pay matrix shall receive longevity pay after five years of continuous service with Flathead County, at the commencement of the employee's sixth year, at the rate of one half of one percent (.5%) of the employee's base rate. Each year of continuous service thereafter, an additional one half of one percent per year (excluding the first five years) will be added to the employee's longevity pay, provided however, the total of longevity increases will not exceed ten (10%) percent of the employee's base pay. Different terms may apply to positions that are not classified on the standard pay matrix.

Any cost-of-living increase approved by the Board of Flathead County Commissioners' for a fiscal year will be added to the base rates prior to making longevity increase calculations.

A. Trainee Status

Trainee status is an alternative to extending an unsuccessful search and beginning the recruitment process again when the applicants for a position fail to possess all qualifications needed to fill a position.

The training period shall vary in length from six to eighteen months. The training required to successfully complete the trainee status shall be developed by the supervisor into a training plan. The plan shall be filed with the Human Resource Department within fifteen (15) calendar days of hire. The training period will be completed when the employee demonstrates possession of all the knowledge, skills and abilities listed in the position description.

The salary differential for the position is five percent (5%) less than the "starting" step in the pay range, with the employee being eligible for an increase to two and a half percent (2.5%) under the "starting" step at a specified point in the training plan. Upon completion of the training plan, the employee will receive the "starting" pay rate of the position's pay range and progress through the normal steps on an annual basis thereafter.

B. Lead Worker Status

The purpose of a lead worker position is to improve the quality of services to the public in a cost effective manner, to streamline an organizational structure by making it more horizontal than pyramidal, and to give the first line supervisor the opportunity to spend more time on planning and evaluating services. The lead worker differential is not used for the purpose of providing additional compensation to a tenured employee.

Additional compensation for length of service is already being received in the form of longevity pay and additional fringe benefits such as additional vacation accrual.

Before considering whether a position should be granted lead worker status, the organizational structure of the department and the work unit in which the position is expected to function must be evaluated. That evaluation must consider the number of employees reporting to the supervisor, the lead worker or supervisory duties already assigned to the supervisor's position, and the duties of each other position in the work unit.

A lead worker position will not be authorized in a small unit where the supervisor reports to the department head and supervises ten or less employees. In a large work unit characterized by a heavy workload, where the supervisor supervises more than ten employees and is unable to escape a reactive rather than proactive, management-by-activity mode, a lead worker may be authorized.

A position is eligible for consideration as a lead worker when it meets all of the following criteria:

- directs and participates in the work of three or more coworkers whose positions are in the same classification.
- provides orientation to new employees and trainees as to the process, policy and procedure of performing the work;
- schedules, assigns, and reassigns work within the unit to meet deadlines established by the supervisor and to coordinate the work of the unit;
- provides guidance to co-workers on unusual or difficult tasks;
- reviews the work of co-workers for quality and quantity;
- meets with the supervisor periodically to assess co-workers' performance;
- leads and motivates co-workers;
- suggests changes to work processes and schedules with the supervisor;
- keeps records of work performed and employees attendance and other records as assigned; and
- performs some of the duties of the supervisor in the supervisor's absence.

An application for a lead worker position shall be reviewed by the Human Resource Director, and its recommendation shall be reviewed and approved by the Board of Flathead County Commissioners' before the lead worker position is implemented.

When a lead worker position is authorized, the designated position will include the criteria set forth above.

The lead worker differential is 5% above 'Top" rate for the grade assigned to the classification. The lead worker differential can be assigned on a permanent basis, seasonal basis, part-time basis, or rotated among employees to acquaint employees with quasi-supervisory responsibilities in order to develop a corps of trained candidates for supervisory positions.

Employees are not eligible for consideration as a lead worker while at the "start" or "first year" step of the grade assigned to that position.

C. Temporary Pay in Acting Position

In the event an employee is temporarily placed in a higher classified position pending the replacement or return of the incumbent, that employee will be paid at the starting rate of that position. In the event the employee's regular pay exceeds the starting rate of the higher position, the employee will receive a 5% increase in pay while serving in the higher position.

For positions that are not classified, the temporary replacement employee will receive a 10% increase in pay while serving in the higher position. Any increase beyond 10% would be determined by the Board of Flathead County Commissioners' after considering the job responsibilities assumed by the temporary replacement employee.

An employee shall not receive higher pay when placed in a higher position temporarily unless the employee carries out the duties of the higher position for more than two weeks.

D. Reinstated Employee

A former Flathead County employee returning to Flathead County service will be treated as a new employee and subject to the rules for determination of the range and step. The Board of Flathead County Commissioners, acting upon recommendation of the department head, may allow a former employee to return at the step he/she occupied at termination.

E. Voluntary Demotions

If, for personal reasons, an employee requests in writing to be assigned to a position of lower responsibility and pay, the department head may make such a demotion. In such cases, the demotion will be deemed to have been made on a voluntary basis and with consent of the employee, and there shall be no right of appeal. A copy of the employee's written request shall be placed in the employee's personnel file.

F. On-Call Duty

Flathead County recognizes that it may be necessary for various departments to require non-exempt employees to be available on an on-call basis. It is Flathead County's general policy that on-call assignments should be kept to a minimum.

Some employees may be required by their supervisor to carry a pager or cell phone on a regular basis to be reached immediately while not at work, in the event it is necessary for them to respond or report to work within a specified period of time. Such on-call duty is necessary to deal with after-hours situations, emergencies, or as the workload of the department requires.

Subject to approval from the Board of Flathead County Commissioners', a department head may pay non-exempt employees who are required to be on call a flat rate of $25 per day for each day on call. If called out, the employee should respond within one-half hour of the call and will be paid for all working time including any necessary travel to and from the work location. This time will not be considered overtime unless the employee actually works over 40 hours in the workweek.

Probationary Period

It is the policy of Flathead County that new employees shall complete a probationary period. The purpose of a probationary period is to provide a trial period to assess employees' abilities to perform their job duties, to assess their conduct on the job, and to determine if they should be retained beyond the probationary period and attain permanent status. All new employees shall be given a six-month probationary period, except for department heads, who shall be given a twelve-month probationary period. Deputy Sheriffs must serve a probation period of one year pursuant to Section 7-32-2105, MCA. An appointed undersheriff serves at the pleasure of the sheriff.

If a situation arises during an employee's probationary period for which a leave is granted, the probationary period will automatically be extended by the amount of granted leave.

Flathead County may choose to extend an employee's probationary period by three months. If the probationary period will be extended, the employee shall be notified of this in writing prior to the expiration of the initial probationary period. After the extended probationary period has been satisfactorily completed, the employee is considered a permanent employee.

This policy does not apply to temporary staff, short-term workers, or contractors, who cannot attain regular status.

The provisions of the **Employee Grievance** section of this Policy Manual do not apply to probationary employees.

Employee Discipline

Flathead County employees may be subject to disciplinary action or dismissal from employment. This may include informal and/or formal disciplinary actions, depending on the circumstances. This policy applies to employees who fail to perform job duties in a satisfactory manner, disrupt Flathead County operations or violate the County's procedures, policies, rules, or performance standards, or for any other legitimate business reasons. The following procedures shall apply:

1. Discipline shall be commensurate with the seriousness of the offense. For example, Flathead County, at its discretion, may utilize a verbal warning before more severe disciplinary action is taken. However, more significant disciplinary action or dismissal can be taken for offenses without having prior verbal or written counseling, based on the severity of the offense. Before taking action, management shall investigate and examine each case individually, considering the impact of the offense, the extent of the damage or disruption caused, and the circumstances of the offense.

2. Each of the following disciplinary actions is independent of the others and does not necessarily follow in the order listed. Consequently, an employee may be suspended without having been given a warning, or may be dismissed without having been either given a warning or suspended.

- **a.** A **verbal warning** consists of the supervisor outlining the unsatisfactory job performance and the corrective measures that the employee needs to take. It is not part of formal discipline and is not grievable.
- **b.** The **written warning** should contain a description of the specific conduct for which the employee is being disciplined. Employees may provide a response to a written warning which will be attached to the warning and included in their personnel file.
- **c.** A **suspension without pay** is for a specific time period. An employee who is suspended is to leave work for the period specified and will be charged a prorated health insurance premium for the period of suspension if they have elected health coverage. A disciplinary suspension must include a description of the specific conduct or reason for which the employee is being suspended, and should be documented by the supervisor. Employees may provide a response to a suspension which will be attached to the documentation and included in their personnel file.
- **d.** Flathead County retains the right to reassign (e.g., **demote or transfer**) an employee in conjunction with a corrective or disciplinary action (i.e., as an alternative to termination). A disciplinary demotion must include a description of the specific conduct or reasons for which the employee is being demoted or transferred, and should be documented by the supervisor. If appropriate, a disciplinary demotion or transfer may include a plan for improvement.
- **e.** A **dismissal** may not take place until an investigation of the employee's action has been undertaken and substantiated by the department head or Human Resource personnel.
- **f.** Department heads may place an employee on **administrative leave with pay** pending an investigation and consultation with Human Resource personnel.

3. Prior to potentially suspending a permanent employee without pay, demoting a permanent employee for disciplinary reasons or discharging a permanent employee, the department head shall give notice to the employee as follows:

- **a.** The notice shall be in writing and hand-delivered to the employee or shall be mailed to the employee's last known address. It can be sent to the employee electronically with his/her consent.
- **b.** The notice shall set forth the charges upon which the intended suspension, demotion or discharge is based; a summary of the evidence or reasons for suspension, demotion or discharge; and a time and place where the employee will be given an opportunity to present his/her side of the case.
- **c.** The notice will allow the employee a reasonable time to prepare his/her side of the case; the time to prepare shall not be less than 48 hours, unless the employee agrees, in writing, to a shorter period.
- **d.** Following the informal hearing, the department head may (a) withdraw the charges or (b) issue an order of suspension without pay, demotion or discharge.

If a disciplinary decision is discharge, the Human Resource Department shall, at discharge or within seven calendar days of the date of discharge, notify the discharged employee of the existence of Flathead County's Employee Grievance policy and procedures, and provide the discharged employee with a copy of the policy, as set forth below.

Employee Grievance

It is the policy of Flathead County to treat all employees equitably and fairly in matters affecting their employment. It is also the policy of Flathead County to provide employees who have attained permanent status an opportunity to resolve certain complaints/problems in relation to their job without fear of reprisal. The purpose of this policy is to secure equitable solutions to grievances that may arise.

Nothing contained in this policy should be construed as limiting the right of any employee to discuss any matter informally with an appropriate member of management. An attempt should be made to settle a grievance informally before a formal grievance is filed. For complaints alleging discrimination, employees should use the Reporting Procedure outlined in **Preventing Harassment and Discrimination** contained within this Policy Manual.

A. Acceptable Reasons for Filing Grievances

An employee may file a grievance based on the application or interpretation of laws, written rules, personnel policies and procedures, or disciplinary action which adversely affects the employee, unless such action is specifically prohibited in policy.

B. Preparing and Pursuing Grievances During Working Hours

An employee may not use paid working time to prepare and/or pursue a grievance. A grievant may request to use personal leave or leave of absence without pay to prepare a grievance. A request for use of personal leave or leave of absence without pay must be consistent with Flathead County's policy on leave requests. Time spent by the grievant attending a hearing or being interviewed by an investigative officer is considered paid working time and should take place during the grievant's regular work hours unless mutually agreed.

At the discretion of Flathead County, an employee other than the grievant may be allowed to use work time to participate in an investigation or hearing. This time would be considered paid working time if the employee's participation is at the request of Flathead County. Otherwise, an employee will need to request to use personal leave or leave of absence without pay to attend a hearing. All leave requests must be consistent with County policy regulating leave.

C. Grievance Filing Procedures

All departments, including those which do not have their own procedures or those governed by the grievance policy in a CBA, must provide at least the basic procedure outlined below. An employee must begin Step 1 of the procedure within ten business days of his/her knowledge of the situation.

Step 1. *Informal Resolution.* Employees should try to resolve their grievance informally whenever possible by discussing the situation and relevant information with their immediate supervisor.

Step 2. *Submission of Formal Grievance to Supervisor.* If the employee does not resolve the matter under the informal process, he/she should file a formal written grievance with his/her supervisor within ten business days from the supervisor's response to the attempt at informal resolution. In the grievance, the grievant must sign, date, and specifically state the law, rule, policy and/or procedure at issue; the date when the event happened; and what resolution he/she would like. The supervisor should respond in writing within ten business days after receiving the formal grievance. If the employee does not accept the supervisor's response or there is no response from the supervisor within the ten-day period, the employee may then, within ten business days, advance the grievance to Step 3. If the employee's supervisor and department head is the same person, the employee may advance the grievance to Step 4.

Step 3. *Submission of Grievance to Department Head/Elected Official*. For a grievance not resolved in accordance with Step 2 above, the employee may prepare and file a formal grievance with his/her department head or elected official within ten business days. The grievant must sign, date, and specifically state the law, rule, policy and/or procedure at issue; the date when the event happened; and what resolution he/she would like. The department head or elected official must respond in writing within ten business days. If the employee accepts the department head's or elected official's response or does not advance the grievance to Step 4 within ten business days of receiving the department head's or elected official's response, the grievance is resolved. If the employee does not accept the department head or elected officials response or there is no response from the department head or elected official within the ten-day period, the employee may then, within ten business days, advance the grievance to Step 4.

Step 4. *Submission of Grievance to Flathead County Commission.* An employee wishing to advance a grievance to this step must request a ruling on the grievance from the Flathead County Commission within ten business days of the department head's response. The Flathead County Commission shall within fifteen business days meet to hear the grievance with the grievant and the employee's representative, if applicable. After this meeting, the Flathead County Commission shall answer the grievance in writing within ten business days. The decision of the Flathead County Commission shall be final.

The Flathead County Commissioners' may, at their discretion, designate a representative to perform their obligations under this policy.

Failure of the employee to meet any of the deadlines in the grievance process shall constitute a waiver of the grievance. At any step, the employee and Flathead County can modify the time periods stated within this grievance procedure if done so by mutual agreement and placed in writing.

Flathead County does not tolerate any form of retaliation against employees availing themselves of this policy and procedure. However, this policy does not prevent, limit, or delay Flathead County from taking disciplinary action up to and including termination, when appropriate.

Employee Personnel Records

Flathead County limits access to employees' personnel records and medical information (physical or electronic) to protect private information. Individuals with authorized access to employee information are expected to preserve the confidentiality of this information.

A. Establishment of Procedures and Responsibilities for the Maintenance of Personnel Records

1. The Human Resource personnel are responsible for establishing and maintaining an official personnel file for each Flathead County employee.
2. All employee personnel records are confidential and access is restricted.
3. Department heads are responsible for the forwarding of documents for inclusion in the personnel files of those employees assigned to their department.
4. Each employee is responsible for the verification of information contained in their personnel file. Any employee wishing to review his/her personnel file may do so. The employee must request a review, and it shall be done at a mutually convenient time with Human Resource personnel present. The employee will not be permitted to remove any information from the file but can obtain copies of desired documents.

B. Identification of Information to be Included in the Employee's Personnel File

The following permanent documents are retained in the folder throughout the association of an employee with the Flathead County:

1. Employee application and résumé
2. Job description and specification information

3. Job performance reviews/evaluations
4. Education/training information
5. Personnel data
6. Personnel action forms
7. Documentation of disciplinary action or warnings

C. Confidential Medical Information

The Human Resource Department maintains confidential medical information in a medical file, separate from the personnel file.

D. Employee's Responsibility to Ensure that Files are Up to Date

To ensure that an employee's personnel or medical files are up to date, the employee must notify Human Resource personnel of any changes in status including, but not limited to, number of dependents, beneficiary designations, scholastic achievements, and the individuals to notify in case of an emergency.

***Relevant Information*: U. S. Dept. of Health & Human Services, Health Insurance Portability and Privacy Act Information**

Hours of Work, Meal Breaks, and Rest Breaks

A. Hours of Work and Attendance

Flathead County positions are vital to effectively manage County business during operating hours and, therefore, employees shall follow established work schedules and receive prior approval from their supervisor to deviate from normal schedules.

Flathead County operates around the clock and for this reason different jobs have different hours of work. Official business hours shall be Monday through Friday from 8:00 a.m. to 5:00 p.m., or as otherwise specified by the Board of Flathead County Commissioners'. Certain departments operate seven days per week, 24 hours per day. Work shifts are established by the department head. Employees will be informed by their immediate supervisor as to the start and end of their work day and the days which will comprise their work week. Variances must be approved by the appropriate department head or supervisor. Nothing in this policy limits Flathead County from establishing or changing work schedules as necessary for the successful operation of County programs.

Employees shall report to work on time. When an emergency is likely to cause tardiness, employees shall use the department's established notification procedure as soon as possible and give the expected time of arrival. Habitual tardiness shall subject the employee to disciplinary action.

Any unauthorized absence of an employee from duty may warrant disciplinary action and/or deduction of pay. An unauthorized absence for three consecutive working days shall be considered a resignation without notice by the employee.

Daily attendance records shall be maintained by each department; including date and time absent and reason for absence.

B. Rest and Meal Breaks

Generally, employees receive a paid rest period of 15 minutes for each four-hour work period. Rest periods are typically scheduled as near as possible to the midpoint of each four-hour work period. Rest periods shall be taken in accordance with the department schedule and shall not be added to lunchtime or accumulated in any manner.

Generally, employees receive an unpaid lunch period for each eight-hour work day. The exact time of the employees lunch period and the duration of the lunch period will be determined in accordance with the department schedule.

Driver's License Requirement

In order to use a Flathead County vehicle, Flathead County employees must have a valid Montana driver's license (appropriate for the type of vehicle to be used) and an acceptable use, which includes conducting business on behalf of Flathead County, getting food and lodging when in a travel status, and certain other approved activities.

All new employees hired for work that entails the operation of a Flathead County vehicle as an essential function of their position will, as a condition of employment, be required to submit to a Montana State Division of Motor Vehicles driving record check. Department heads or Human Resource personnel may conduct periodic checks of employees' driver's licenses through visual and formal Division of Motor Vehicles reviews. A report indicating a suspended or revoked license status may be cause to deny or terminate employment.

Employees performing work which requires the operation of a Flathead County vehicle must immediately notify their immediate supervisor in all cases where their license is expired, suspended, or revoked and/or if they are unable to obtain an occupational permit from the State Division of Motor Vehicles.

Outside Employment

An employee shall not engage in outside or other employment which is not compatible with the full and proper discharge of the duties and responsibilities of his/her position with Flathead County, or which tends to impair his/her capacity to perform the job in an acceptable manner. Written notification must be provided to the employee's department head prior to accepting secondary employment.

Drug and Alcohol Free Workplace

It is the policy of Flathead County to create a drug-free workplace in keeping with the spirit and intent of the Drug-Free Workplace Act of 1988. The illegal use of controlled substances is inconsistent with the behavior expected of our employees, subjects all employees, citizens, and visitors to unacceptable safety risks and undermines Flathead County's ability to operate effectively and efficiently.

The purpose of this policy is to ensure worker fitness for duty; to protect our employees and the public from the risks posed by the use of illegal drugs, controlled substances, or alcohol; and to maintain a safe working atmosphere conducive to effect operations. As stated in the **Prohibited Conduct Policy**, employees are subject to disciplinary action, which may include discharge for consumption, use, or being under the influence of alcohol or controlled substances while on County premises.

A. Prohibitions

All Flathead County employees are absolutely prohibited from:

1. Unlawfully manufacturing, distributing, dispensing, possessing, or using controlled substances in the workplace. "Controlled substances" are defined in schedules I through V of Section 812, Title 21, United States Code. Examples of controlled substances include illegal narcotics, cannabis, stimulants, depressants, and hallucinogens. Flathead County does not accommodate the use of medical marijuana in the workplace.
2. Reporting for duty, remaining on duty, or operating County equipment or personal vehicles on County business while under the influence or impaired by alcohol or a controlled substance.
3. Drinking alcohol at any time during work hours.
4. The illegal or unauthorized use of prescription drugs.

B. Disciplinary Action

Violations may result in disciplinary action up to and including termination. Violating the drug and alcohol prohibitions in the policy for **Use of Vehicles and Equipment** is also subject to disciplinary action up to and

including termination, whether the employee is operating Flathead County vehicles or equipment on County-owned property or anywhere else. Any use of illegal drugs or driving while intoxicated shall also be reported to the proper authorities for criminal prosecution.

C. Reporting Convictions of Drug Statute Violations

Any employee convicted of violating a criminal drug statute in the workplace or while conducting official Flathead County business must inform his/her immediate supervisor of such conviction within five business days after the conviction. The supervisor must inform the department head of any such communication immediately.

D. Exceptions – Prescription Drugs

The only exceptions to this policy are possession or use of a controlled substance as prescribed by a licensed health care provider, if the employee has given his supervisor or department head prior notice of such use and/or possession. Employees using medication prescribed by a licensed health care provider may be required to provide management with proof that such medication was prescribed. Employees taking prescribed or over-the-counter medications will be responsible for talking to a doctor and/or pharmacist about whether the medications may interfere with their ability to perform their job safely. If the use of a medication could compromise the safety of the employee, fellow employees, or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request a change of duty, notify supervisor, etc.) to avoid unsafe work practices. Flathead County has the sole discretion as to whether or not it will be safe for those employees to remain on duty. As stated above, it is a violation of our **Alcohol and Drug Free Workplace** policy to intentionally misuse prescription medications. Appropriate disciplinary action shall be taken if job performance deteriorates and/or accidents occur.

E. Searches

Flathead County reserves the right, at all times, while employees are entering, departing, or on the premises, properties, and work areas; when circumstances warrant; or when reasonable cause exists, to have properly authorized personnel conduct unannounced reasonable searches and inspections of Flathead County property.

F. Co-Worker, Supervisor Obligations

Any employee or supervisor who has observed or has personal knowledge that another employee is using or possessing illegal drugs or alcohol in violation of this policy should make a good faith report to a supervisor or department head. The employee shall refrain from discussing the matter with anyone except appropriate management personnel.

G. Possession of Alcohol on Flathead County Premises

Employees may not possess or use alcohol in any Flathead County facility with the exception of an authorized function, under the control of the holder of a valid liquor license, when the employee is attending as a private citizen and is not engaging in County business in any manner.

***Relevant Information*: U.S. Department of Justice, Title 21 USC, Controlled Substance Act; MCA 39-2-205, et seq.**

Drug and Alcohol Testing

To ensure a worker's fitness for duty and to maintain a safe working atmosphere, Flathead County has adopted a program to test for controlled substances and alcohol. The following statement of policy and procedure is intended to inform all covered employees of their rights and obligations under Flathead County's program, as well as to alert them to the possible consequences of violating these policies.

This program may apply to individuals engaged in the performance, supervision, or management of work in a hazardous work environment, security positions, positions affecting public safety or public health, positions in which driving is part of the job, or a fiduciary position for Flathead County. All employees needing a

Commercial Driver's License (CDL) to perform the essential functions of their position will be subject to testing pursuant to federal law.

Flathead County has adopted the following Non-DOT, DOT, and FTA drug testing policies.

A. NON-DOT DRUG TESTING

The legal sanctions under state law for the unlawful manufacture, distribution, possession, or use of a controlled substance range from six months in jail and/or a $500 fine for possession of and/or a $500 fine for possession of marijuana to 20 years in prison and/or a $50,000 fine for sale of dangerous drugs. The legal sanctions under federal law for the unlawful manufacture, distribution, possession, or use of a controlled substance range from civil fines up to $10,000 for possession of small amounts of controlled substances to life in prison and/or fines up to $20,000,000 for manufacture or distribution of controlled substances.

Employees are entitled, upon written request, to copies of any records pertaining to the covered employee's use of prohibited drugs, including any records pertaining to his/her drug tests.

Employees will be provided training upon hire and annually concerning the effects of alcohol and controlled substances on an employee's health, work, and personal life; signs and symptoms of a problem; and rehabilitation. In addition, all supervisors will receive training on alcohol misuse and controlled substances. Flathead County does provide an Employee Assistance Program (refer to benefits section).

All information, interviews, reports, statements, memoranda, and test results are confidential communication that may not be disclosed to anyone except:

- The tested individual;
- The designated representative of the employer; or
- In connection with any legal or administrative claim arising out of the employer's implementation of 39-2-205 through 39-2-211 or in response to inquiries relating to a workplace accident involving death, physical injury, or property damage in excess of $1,500, when there is reason to believe that the tested employee may have caused or contributed to the accident.

This policy applies to all employees engaged in the performance, supervision, or management of work in a hazardous work environment, security position or position affecting public safety or public health; in which driving a motor vehicle is necessary for any part of the individual's work duties; or involving a fiduciary responsibility for the employer. This policy does not apply to an elected official who serves on the governing body of a local government. Participation in this prohibited substance testing program is a condition of employment for those to whom it applies.

Prohibited Substances addressed by this policy include the following:

- Illegal drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), also found in Appendix D of the Federal Motor Carrier Safety Regulations.
- Illegally used drugs include misused legally prescribed drugs and illegally obtained prescription drugs.
- Alcohol includes beverages or substances containing alcohol, including any medication, the use of which results in alcohol being present in the body. The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device (EBT).

Legally prescribed drugs and non-prescription medicals are legal drugs which are not prohibited substances. However, the use of any substance which carries a warning label that indicates mental functions, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought, as appropriate, before performing a safety-sensitive job function. Marijuana use allowed under a state law does not constitute a valid medical explanation under federal law and will be considered a positive drug test result.

A legally prescribed drug means an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the

substance, dosage, and the period of authorization. The misuse or abuse of legal drugs while performing a job function covered under this policy is prohibited.

1. **Positive Alcohol Test**
   An alcohol concentration greater than 0.04 will be considered a positive alcohol test in violation of this policy.

2. **Positive Drug Test**
   A drug test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum threshold defined in the 49 CFR Part 40 as amended.

3. **Medical Review Officer (MRO)**
   The Medical Review Officer (MRO) shall be provided by the company with whom Flathead County contracts to provide testing services. He/she shall be a Medical Doctor authorized to practice medicine in the State of his/her residence. He/she shall follow federal regulation requirements regarding record and specimen storage. The name, address, and credentials of the current Medical Review Officer are set forth in Appendix 1.

   The MRO shall review all laboratory-confirmed test results. The MRO shall inform the tested individual of any positive test results and provide the individual the opportunity to discuss those results. The MRO shall inform the employer of any positive test results. The MRO shall inform the tested individual that his/her request for a retest must be made to the MRO within 72 hours of notice of the initial test result. The MRO shall, at the request of an individual who requests a second test on the split sample, review the results of the second test to determine whether the positive result is confirmed.

   The MRO shall determine a test is canceled when i) a sample is rejected for testing by the laboratory, ii) a test of the split specimen fails to confirm a positive drug test result or iii) the split specimen is unavailable, inadequate or untestable. The MRO shall report any canceled test to the employer and the tested individual.

   If the MRO reports that the specimen is “negative dilute” AND requires a repeat observed collection, then the Designated Employer Representative (DER) will contact the tested individual, who will be instructed to not drink any fluids and report for testing as soon as possible. The collector and the tested individual will be notified an observed collection will be done.

   If the MRO reports that the specimen is “negative dilute” but does not require a repeat observed collection, then the DER will contact the tested individual, who will then be instructed to not drink any fluids and report for testing as soon as possible. The collector and the tested individual will be notified that a non-observed collection will be done.

   If the individual cannot report to the collection site within a reasonable time (to be determined by DER) then it will be considered a ‘refusal to test.’ A second dilute specimen will be considered a ‘refusal to test.’

   Information obtained through testing that is unrelated to the use of controlled substance or alcohol must be held in strict confidentiality by the MRO and may not be released to the employer.

   If an individual tests positive, they shall be provided a copy of the test report. At the individual’s request, an additional test of the split sample will be conducted at an independent laboratory selected by the tested individual. If the additional test is negative, Flathead County will pay for the test. If the test is positive, the tested individual will pay for the test. The individual will be provided the opportunity to rebut or explain the results of any test.

   No adverse action including follow up testing may be taken by Flathead County if the individual presents a reasonable explanation or medical opinion indicating that the original test results were not caused by

illegal use of controlled substances or by alcohol consumption. If the individual presents a reasonable explanation or medical opinion, the test results must be removed from the individual's record and destroyed.

4. Prohibited Conduct

Any employee engaging in the manufacture, distribution, possession, use, or under the influence of prohibited substances on Flathead County premises, in County vehicles, or while on County business will be subject to disciplinary action or discharge from employment. Possessing or consuming alcoholic beverages while on County property (unless the employee is attending an event as a private citizen and is not engaged in County business in any manner) is a violation of this policy. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

5. Intoxication/Under the Influence

Any employee covered under this policy who is performing, about to perform, or has just completed performing a function, that is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of his/her condition. Employees who test positive after a drug or alcohol test, or who refuse to test, shall be removed from duty and terminated through Flathead County's disciplinary procedures.

No subject employee should report for duty, or remain on duty to perform any function when his/her blood alcohol concentration is greater than 0.04. No employee shall use alcohol while working.

6. Compliance with Testing Requirements

All employees who perform a job function that is covered under this policy will be subject to urine drug testing and breath alcohol testing. Any employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, dilution, adulteration, or substitution shall be removed from duty immediately, and subject to disciplinary action, up to and including termination of employment. Refusal can include an inability to provide adequate specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or the failure to arrive at the testing facility in a timely manner, resulting in the inability to conduct the test.

In the event a sample is contaminated to the extent that Flathead County's contractor is unable to complete a test on the sample and is unable to identify the contamination, the employee shall be required to produce a second sample. The employee shall be presumed to have contaminated the samples if the second sample cannot be tested successfully unless the employee produces medical or scientific evidence demonstrating that he/she did not contaminate the samples. Under Flathead County policy, the cost of producing such evidence shall be borne by the employee; provided, however, in the event that the evidence demonstrates the employee did not contaminate the samples, Flathead County will reimburse the employee the reasonable cost for producing the evidence.

7. Testing for Prohibited Substances

Analytical urine drug testing and breath testing for alcohol shall be conducted as required by federal regulations. Flathead County affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). Flathead County has, and will continue, to contract with private entities to provide services approved by the DHHS to test samples and to provide an MRO. The company shall follow federal regulation requirements regarding record and specimen storage and will use federal urine and breath test forms. The names, addresses and other relevant information concerning the contracted companies/facilities are set forth in Appendix 1 within this Policy Manual.

The contracts will provide that all collection and testing will be conducted consistent with the procedures set forth in 49 CFR Part 40.

8. Drug Testing

The urine sample will be tested for marijuana, cocaine, opioids, amphetamines, and phencyclidine. An initial drug screen will be conducted on each specimen. For those specimens that are not negative, a confirmatory gas Chromatography/Mass Spectrometry (GC/ms) test will be performed. The test will be reported positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40.

9. Alcohol Testing

Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). Employees are subject to alcohol testing just prior to performing, while performing, or immediately following performance of a safety-sensitive function. If an initial alcohol test indicates an alcohol concentration of greater than 0.04, a second test will be performed to confirm the results of the initial test.

10. Positive Test Results – Disciplinary Action

An employee who has a confirmed positive drug test, a confirmed alcohol concentration greater than 0.04, or violates the policy (e.g. refuses or fails to take a test, refuses valuation, or refuses to observe post-evaluation recommendations or treatment, etc.) shall be terminated.

11. Types of Testing

a. Pre-Employment Testing (Post Job Offer)

All applicants for positions which are covered under this policy shall undergo urine drug testing prior to employment. Flathead County's receipt of a negative test result is required prior to employment. A positive drug test, a refusal to test, a shy bladder with no medical explanation, or a specimen with no medical explanation will disqualify an applicant for employment.

b. Random Testing

Employees who are covered under this policy will be subjected to random, unannounced testing. At a minimum, Flathead County will test at the current Federal Motor Carrier Safety Administration (FMCSA) rates as set forth in 49 CFR Part 382 as amended. A copy is available from the Human Resource Department upon request. One-fourth of the total test population shall be randomly selected during each quarter of the calendar year. Employees will be selected for testing by a scientifically valid random method by the company with whom Flathead County contracts to provide testing services. Employees selected for random testing during one quarter will be included in the population for the next quarterly random selection and thus, each covered employee will have an equal chance of being tested each time selections are made.

c. Post-Accident Testing

Employees will be required to undergo urine and breath testing if they are involved in a workplace accident/incident involving death, physical injury needing a doctor's care or the care of someone directly supervised by a doctor, or property damage in excess of $1,500 when there is reason to believe that the tested employee may have caused or contributed to the accident. Where the law allows, an employee who cannot provide a sample or breathalyzer at the time of, or within four hours of the accident/incident because of serious injury or other reason, will provide the necessary authorization for obtaining hospital reports and other documents arising from or relating to the accident/incident that would indicate whether there were any controlled substances or alcohol in his or her system.

When required following a commercial motor vehicle accident, the employee will be tested for drugs and alcohol within two hours if possible; if a specimen is not obtained within two hours, a report shall

be filed as to why collection of a specimen was not possible and efforts to obtain a specimen will continue for eight hours. If a breath alcohol specimen is not obtained within eight hours, the attempt to collect a breath alcohol specimen will cease and the report as to why collection of a breath alcohol specimen was not possible will be updated. Any employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. In the event that a urinary drug test is not administered within 32 hours following an accident, attempts to collect a urinary drug specimen will cease.

Any employee who leaves the scene of the accident without appropriate authorization prior to submission to drug and alcohol testing will be considered to have refused the test.

d. Reasonable Suspicion Testing

All employees who are covered under this policy may be subject to a fitness for duty evaluation to include appropriate urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the long-or short-term effects of substance abuse. Examples of reasonable suspicion include, but are not limited to, the following:

1. Adequate documentation of unsatisfactory work performance or on-the-job behavior.
2. Physical signs and symptoms consistent with prohibited substance use.
3. Evidence of the manufacture, distribution, dispensing, possession or use of controlled substances, drugs, alcohol or other prohibited substances.
4. Occurrence of a serious or potentially serious accident that may have been caused by human error.
5. Fights, assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

Reasonable suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse. The department heads and supervisors making such determinations shall use the checklist set forth in Appendix 2.

For Reasonable Suspicion and Post-Accident testing, Flathead County will arrange for transportation to the sample collection facility to be provided by a department head or supervisor or outside transportation provider. Co-workers may not transport other employees.

No employee will be allowed to drive him/herself home if he/she is believed to be under the influence of alcohol or have a measurable quantity of an illegal drug in his/her system. If attempts to reach a third party for transportation home fail, someone designated by management will drive the employee home. In all cases, if the employee refuses to accept transportation and attempts to drive his/her vehicle, Flathead County will notify law enforcement officials immediately.

Employees will be paid through the time the sample is given. Employees being tested under Reasonable Suspicion will be placed on paid administrative leave until the test results are received. Employees being tested under post-accident testing will return to work unless Reasonable Suspicion also exists and the employee is placed on administrative leave. The tests results are typically processed within two days.

Any tested individual who questions the results of a required drug test may request that an additional test be conducted. This test must be conducted at a different testing DHHS-certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are paid by the tested individual unless the second test invalidates the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40. The individual's request for a retest must be made to the MRO within 72 hours of notice

of the initial test results. Requests after 72 hours will only be accepted if the delay was due to documented facts that were beyond the control of the individual.

All employees are encouraged to make use of the available resources for treatment of alcohol and substance abuse problems. Flathead County has an Employee Assistance Program (EAP) available to employees under which limited counseling services are available free of charge. Contact information for the EAP program is available in Appendix 1 or may be obtained from the Human Resource Department.

An applicant who fails the pre-employment testing, or an employee who is discharged for violation of Flathead County's Drug Safe Workplace Policy may apply for employment with Flathead County one year after his/her initial drug test date if he/she provides the following:

- A written evaluation from a Certified Chemical Dependency Counselor verifying that he/she has been assessed and successfully completed all recommended treatment plans/programs.
- Verification that the Chemical Dependency Counselor and/or Treatment Center have been recognized by the state as a Certified Chemical Dependency Counselor/Program.

An applicant who successfully completed the above requirements may be considered for employment or re-employment based on his/her experience and qualifications for the position of hire.

The Drug Free Workplace Act of 1988 requires all employees to notify the Human Resource personnel of any conviction under a criminal drug statute violation occurring on Flathead County property within five (5) calendar days of conviction. Additionally, the Flathead County's policy requires the employee to notify the Human Resource personnel of all convictions under a criminal drug statute for violations occurring off Flathead County property and of all moving violations causing the loss of a driver's license by State or local law enforcement involving drugs or alcohol. Failure to report such conviction or violation within five (5) calendar days will result in disciplinary action up to and including discharge.

B. DOT CONTROLLED SUBSTANCES AND ALCOHOL USE POLICY

The Federal Highway Administration (FHWA) of the U.S. Department of Transportation has enacted 49 CFR Part 382 and the Federal Transit Authority has enacted 49 CFR Parts 653 and 654. Both mandate urine controlled substance testing and breathalyzer alcohol testing for commercial motor vehicle operators and others performing safety-sensitive functions and prevent performance of safety-sensitive functions when there is a positive test result.

Employees are entitled, upon written request, to copies of any records pertaining to the covered employee's use of prohibited drugs, including any records pertaining to his/her drug tests.

Employees will be provided training concerning the effects of alcohol and controlled substances on an employee's health, work, and personal life; signs and symptoms of a problem; and rehabilitation. In addition, all supervisors will receive training on alcohol misuse and controlled substances. Flathead County does provide an Employee Assistance Program (refer to benefits section).

This policy applies to all employees who supervise operations and those employees who operate, dispatch or maintain a commercial motor vehicle as part of their job duties for Flathead County and those who are subject to the commercial driver's license requirements. Participation in this prohibited substance testing program is a condition of employment for those to whom it applies.

Prohibited Substances addressed by this policy include the following:

- Illegal drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), also found in Appendix D of the Federal Motor Carrier Safety Regulations.
- Illegally used drugs include misused legally prescribed drugs and illegally obtained prescription drugs.

- Alcohol includes beverages or substances containing alcohol, including any medication, the use of which results in alcohol being present in the body. The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device (EBT).

Legally prescribed drugs and non-prescription medicals are legal drugs which are not prohibited substances. However, the use of any substance which carries warning label that indicates mental functions, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought, as appropriate, before performing a safety-sensitive function. Marijuana use allowed under a state law does not constitute a valid medical explanation under federal law and will be considered a positive drug test result.

A legally prescribed drug means an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, dosage, and the period of authorization. The misuse or abuse of legal drugs while performing a safety-sensitive function is prohibited.

A safety-sensitive function is defined in 49 CFR, Part 382.107, and on duty functions are defined in 49 CFR, Part 395.2.

1. **Positive Alcohol Test**
   An alcohol concentration of 0.04 or greater will be considered a positive alcohol test in violation of this policy.

2. **Positive Drug Test**
   A drug test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum threshold defined in the 49 CFR Part 40 as amended.

   If you have questions regarding this policy, contact Human Resource personnel.

3. **Medical Review Officer (MRO)**
   The Medical Review Officer (MRO) shall be provided by the company with whom Flathead County contracts to provide testing services. He/she shall be a Medical Doctor authorized to practice medicine in the State of his/her residence. He/she shall follow federal regulation requirements regarding record and specimen storage. The name, address, and credentials of the current Medical Review Officer are set forth in Appendix 1 within this Policy Manual.

   The MRO shall review all laboratory-confirmed test results. The MRO shall inform the tested individual of any positive test results and provide the individual the opportunity to discuss those results. The MRO shall inform the employer of any positive test results. The MRO shall inform the tested individual that his/her request for a retest must be made to the MRO within 72 hours of notice of the initial test result. The MRO shall, at the request of an individual who requests a second test on the split sample, review the results of the second test to determine whether the positive result is confirmed.

   The MRO shall determine a test is canceled when i) a sample is rejected for testing by the laboratory, ii) a test of the split specimen fails to confirm a positive drug test result or iii) the split specimen is unavailable, inadequate or untestable. The MRO shall report any canceled test to the DOT, the employer and the tested individual.

   If the MRO reports that the specimen is "negative dilute" AND requires a repeat observed collection, the Designated Employer Representative (DER) will contact the tested individual, who will be instructed to not drink any fluids and report for testing as soon as possible. The collector and the individual will be notified an observed collection will be done.

   If the MRO reports that the specimen is "negative dilute" but does not require a repeat observed collection, the DER will contact the tested individual, who will then be instructed to not drink any fluids

and report for testing as soon as possible. The collector and the individual will be notified a non-observed collection will be done.

If the tested individual cannot report to the collection site within a reasonable time (to be determined by DER) then it will be considered a 'refusal to test.' A second dilute specimen will be considered a 'refusal to test.'

Information obtained through testing that is unrelated to the use of controlled substance or alcohol must be held in strict confidentiality by the MRO and may not be released to the employer.

If an individual tests positive, they shall be provided a copy of the test report. At the individual's request, an additional test of the split sample will be conducted at an independent laboratory selected by the tested individual. If the additional test is negative, Flathead County will pay for the test. If the test is positive, the tested individual will pay for the test. The individual will be provided the opportunity to rebut or explain the results of any test.

No adverse action including follow up testing may be taken by Flathead County if the individual presents a reasonable explanation or medical opinion indicating that the original test results were not caused by illegal use of controlled substances or by alcohol consumption. If the individual presents a reasonable explanation or medical opinion, the test results must be removed from the individual's record and destroyed.

4. Prohibited Conduct

Any employee engaging in the manufacture, distribution, possession, use, or under the influence of prohibited substances on Flathead County premises, in County vehicles, or while on County business will be subject to disciplinary action or discharge from employment. Possessing or consuming alcoholic beverages while on County property (unless the employee is attending an event as a private citizen and is not engaged in County business in any manner) is a violation of this policy. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

5. Intoxication/Under the Influence

Any employee covered under this policy who is performing, about to perform, or who has just completed performing a safety-sensitive function, that is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of his/her condition. Employees who test positive after a drug or alcohol test, or who refuse to test, shall be removed from duty and terminated through Flathead County's disciplinary procedures.

No subject employee should report for duty, or remain on duty to perform a safety-sensitive function when his/her blood alcohol concentration is 0.02 or greater. No employee shall use alcohol while working.

6. Compliance with Testing Requirements

All employees who perform a safety-sensitive function will be subject to urine drug testing and breath alcohol testing. Any employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, dilution, adulteration, or substitution shall be removed from duty immediately, and subject to disciplinary action, up to and including termination of employment. Refusal can include an inability to provide adequate specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or the failure to arrive at the testing facility in a timely manner, resulting in the inability to conduct the test.

In the event that a sample is contaminated to the extent that Flathead County's contractor is unable to complete a test on the sample and is unable to identify the contamination, the employee shall be required to produce a second sample. The employee shall be presumed to have contaminated the

samples if the second sample cannot be tested successfully unless the employee produces medical or scientific evidence demonstrating that he/she did not contaminate the samples. Under Flathead County policy, the cost of producing such evidence shall be borne by the employee; provided, however, in the event that the evidence demonstrates the employee did not contaminate the samples, Flathead County will reimburse the employee the reasonable cost for producing the evidence.

7. Testing for Prohibited Substances

Analytical urine drug testing and breath testing for alcohol shall be conducted as required by federal regulations. Flathead County affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). Flathead County has, and will continue, to contract with private entities to provide services approved by the DHHS to test samples and to provide an MRO. The company shall follow federal regulation requirements regarding record and specimen storage and will use federal urine and breath test forms. The names, addresses and other relevant information concerning the contracted companies/facilities are set forth in Appendix 1.

The contracts will provide that all collection and testing will be conducted consistent with the procedures set forth in 49 CFR Part 40.

8. Drug Testing

The urine sample will be tested for marijuana, cocaine, opioids, amphetamines, and phencyclidine. An initial drug screen will be conducted on each specimen. For those specimens that are not negative, a confirmatory gas Chromatography/Mass Spectrometry (GC/ms) test will be performed. The test will be reported positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40.

9. Alcohol Testing

Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). Employees are subject to alcohol testing just prior to performing, while performing, or immediately following performance of a safety-sensitive function. If an initial alcohol test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test.

10. Positive Test Results – Disciplinary Action

An employee who has a confirmed positive drug test or a confirmed alcohol concentration of 0.04 or greater shall be discharged. The employee will be informed of the requirement to be evaluated by a SAP. An employee who violates the policy (e.g. refuses or fails to take a test, refuses valuation) will be considered to have tested positive.

An employee who has a confirmed alcohol concentration of 0.020 to 0.039 will be removed from duty (performing a safety-sensitive function) for a minimum of twenty-four hours. The employee will be in an unpaid leave of absence status during the twenty-four hour period. The employee will receive a letter of concern regarding the ramifications of testing at the 0.020 to 0.039 alcohol concentration level and will be advised of educational and rehabilitation programs available.

11. Types of Testing

a. Pre-Employment Testing (Post Job Offer)

All applicants for positions which are covered under this policy shall undergo urine drug testing prior to employment. Flathead County's receipt of a negative test result is required prior to employment. A

positive drug test, a refusal to test, a shy bladder with no medical explanation, or a specimen with no medical explanation will disqualify an applicant for employment.

b. Random Testing

Employees who are covered under this policy will be subjected to random, unannounced testing. At a minimum, Flathead County will test at the current Federal Motor Carrier Safety Administration (FMCSA) rates as set forth in 49 CFR Part 382 as amended. A copy is available from the Human Resource Department upon request. One-fourth of the total test population shall be randomly selected during each quarter of the calendar year. Employees will be selected for testing by a scientifically valid random method by the company with whom Flathead County contracts to provide testing services. Employees selected for random testing during one quarter will be included in the population for the next quarterly random selection and thus, each covered employee will have an equal chance of being tested each time selections are made.

c. Post-Accident Testing

Employees will be required to undergo urine and breath testing if they are involved in a commercial motor vehicle accident that results in a fatality so long as the employee is able to give consent. Testing will include the driver of any vehicle involved in a fatal accident and other covered employees whose performance could have contributed to the accident.

In addition, a post-accident test will be conducted if a commercial motor vehicle accident results in a citation being issued to the Flathead County driver; and (1) it results in injuries, to any individual involved requiring immediate medical treatment away from the scene; or (2) one or more vehicles incur disabling damage that requires towing from the scene. Testing will include the driver of any vehicle involved in an accident. Refer to the Post Accident Documentation Form in Appendix 3 within this Policy Manual.

When required following a commercial motor vehicle accident, the employee will be tested for drugs and alcohol within two hours if possible; if a specimen is not obtained within two hours, a report shall be filed as to why collection of a specimen was not possible and efforts to obtain a specimen will continue for eight hours. If a breath alcohol specimen is not obtained within eight hours, the attempt to collect a breath alcohol specimen will cease and the report as to why collection of a breath alcohol specimen was not possible will be updated. Any employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. In the event that a urinary drug test is not administered within 32 hours following an accident, attempts to collect a urinary drug specimen will cease.

Any employee who leaves the scene of the accident without appropriate authorization prior to submission to drug and alcohol testing will be considered to have refused the test.

d. Reasonable Suspicion Testing

All employees who supervise or perform a safety-sensitive function may be subject to a fitness for duty evaluation to include appropriate urine and/or breath testing when there are reasons to believe drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the long-or short-term effects of substance abuse. Examples of reasonable suspicion include, but are not limited to, the following:

1. Adequate documentation of unsatisfactory work performance or on-the-job behavior.
2. Physical signs and symptoms consistent with prohibited substance use.
3. Evidence of the manufacture, distribution, dispensing, possession or use of controlled substances, drugs, alcohol or other prohibited substances.
4. Occurrence of a serious or potentially serious accident that may have been caused by human error.
5. Fights, assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

Reasonable suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse. The department heads and supervisors making such determinations shall use the checklist set forth in Appendix 2.

For Reasonable Suspicion and Post-Accident testing, Flathead County will arrange for transportation to the sample collection facility to be provided by a department head or supervisor or outside transportation provider. Co-workers may not transport other employees.

No employee will be allowed to drive him/herself home if he/she is believed to be under the influence of alcohol or have a measurable quantity of an illegal drug in his/her system. If attempts to reach a third party for transportation home fail, someone designated by management will drive the employee home. In all cases, if the employee refuses to accept transportation and attempts to drive his/her vehicle, Flathead County will notify law enforcement officials immediately.

Employees will be paid through the time the sample is given. Employees being tested under Reasonable Suspicion will be placed on paid administrative leave until the test results are received. Employees being tested under post-accident testing will return to work unless Reasonable Suspicion also exists and the employee is placed on administrative leave. The tests results are typically processed within two days.

Any tested individual who questions the results of a required drug test may request that an additional test be conducted. This test must be conducted at a different testing DHHS-certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are paid by the tested individual unless the second test invalidates the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40. The individual's request for a retest must be made to the MRO within 72 hours of notice of the initial test results. Requests after 72 hours will only be accepted if the delay was due to documented facts that were beyond the control of the individual.

All employees are encouraged to make use of the available resources for treatment of alcohol and substance abuse problems. Flathead County has an Employee Assistance Program (EAP) available to employees under which limited counseling services are available free of charge. Contact information for the EAP program is available in Appendix 1 or may be obtained from the Human Resource Department.

An applicant who fails the pre-employment testing, or an employee who is discharged for violation of Flathead County's Drug Safe Workplace Policy may apply for employment with Flathead County one year after his/her initial drug test date if he/she provides the following:

- A written evaluation from a Certified Chemical Dependency Counselor verifying that he/she has been assessed and successfully completed all recommended treatment plans/programs.
- Verification that the Chemical Dependency Counselor and/or Treatment Center have been recognized by the state as a Certified Chemical Dependency Counselor/Program.

An applicant who successfully completed the above requirements may be considered for employment or re-employment based on his/her experience and qualifications for the position of hire.

The Drug Free Workplace Act of 1988 requires all employees to notify the Human Resource personnel of any conviction under a criminal drug statute violation occurring on Flathead County property within five (5) calendar days of conviction. Additionally, the District policy requires the employee to notify the Human Resource personnel of all convictions under a criminal drug statute for violations occurring off Flathead County property and of all moving violations causing the loss of a driver's license by State or local law enforcement involving drugs or alcohol. Failure to report such conviction or violation within five (5) calendar days will result in disciplinary action up to and including discharge.

C. FLATHEAD COUNTY FTA SUBSTANCE ABUSE POLICY

All text in boldface print indicates Federal Transit Administration required elements as set forth in 49 CFR Part 40 and Part 655 as amended. All other text is under the authority of Flathead County.

Flathead County is dedicated to providing safe, dependable, and economical transportation services to our transit system passengers. In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; and (3) encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

It is the policy of the company to enforce a strict "zero tolerance" policy for those individuals covered under this policy. No "second chance" consideration will be made for those individuals who have a positive alcohol or controlled substances test as outlined in this policy.

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risk posed by the misuse of alcohol and abuse of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation (US DOT) has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result. US DOT has published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. This policy incorporates those requirements for safety-sensitive employees and others when so noted. Part 40 is available online at http://www.dot.gov/ost/dapc/index.html.

This policy applies to all safety-sensitive transit system employees, paid part-time employees, contract employees, volunteers (who receive remuneration in excess of expenses incurred while performing a covered activity or are required to hold a CDL to operate a vehicle) and contractors when they are on transit property or **when performing any transit-related safety-sensitive business.** This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work.

A safety-sensitive function is any duty related to the operation of public transit service including operating a revenue service vehicle (whether or not the vehicle is in revenue service), dispatching, maintaining a revenue service vehicle or equipment used in revenue service, carrying a firearm for security purposes, and operating a non-revenue service vehicle when required to be operated by a holder of a Commercial Driver's License. Safety-sensitive positions are identified as Eagle Transit employees to include all Bus Drivers, Dispatchers, and Operation Managers.

1. PROHIBITED SUBSTANCES - "Prohibited substances" addressed by this policy include the following:

a. Illegally Used Controlled Substances or Drugs

The use of any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21 CFR 1300.11 through 1300.15, is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to: **marijuana (including medical marijuana), amphetamines, opioids, phencyclidine (PCP), and cocaine,** as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

b. Legal Drugs

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance, which carries a warning label that indicates mental functioning, motor skills, or judgment may be adversely affected, must be reported to a transit system supervisor. In addition, the employee must obtain a written release from the attending physician releasing the person to perform their job duties any time they obtain a performance-altering prescription. Marijuana use allowed under a state law does not constitute a valid medical explanation under federal law and will be considered a positive drug test result.

A legally prescribed drug means the individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing transit business is prohibited.

Transit employee(s) performing safety-sensitive job functions and taking over-the-counter (OTC) and legally prescribed drugs must:

- Confer with their physician prescribing the medication to ascertain pertinent side effects of prescription and/or OTC medications and inquire into alternative treatment options.
- Seek medical advice, as appropriate, before performing work-related duties.
- Advise his/her supervisor/management staff personnel if the use of such prescribed drugs/medication affects his/her ability to drive and/or work safely.

c. Alcohol

The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy or any other substance such that alcohol is present in the body while performing transit business is prohibited. **The concentration of alcohol is expressed in terms of alcohol per 210 liters of breath as measured by an evidential breath-testing device. No safety-sensitive employee should report for duty or remain on duty when his/her breath alcohol concentration is 0.02 or greater. No safety-sensitive employee shall use alcohol while performing safety-sensitive functions, within four hours prior to performing a safety-sensitive function, or during on-call hours.** Violation of these provisions is prohibited and punishable by termination.

2. COMPLIANCE WITH TESTING REQUIREMENTS

In accordance with Part 655, all safety sensitive employees shall be subject to urine drug testing and breath alcohol testing as a condition of employment. Any safety-sensitive employee who refuses to comply with a request for testing shall be immediately removed from duty, referred to a substance abuse professional (SAP), and terminated from employment. **Any safety-sensitive employee who is suspected by the collector during the specimen collection process of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an immediate observed second collection. Verification of these actions will result in the employee's immediate removal from duty** and termination of employment.

Any person who has been given a conditional job offer subject to pre-employment drug testing and leaves the testing site once testing has commenced (i.e., once the collector provides the individual with the urine collection cup), shall be deemed to have refused the test. Failure to show up for or leaving the collection site prior to commencement of the pre-employment drug test is not considered a refusal. Failure to undergo a medical examination or evaluation directed by the MRO shall constitute a refusal of a pre-employment test only if the pre-employment test is conducted after a contingent offer of employment.

The following circumstances constitute a test refusal:

a. Failure to appear for any test (except pre-employment) within a reasonable time after being notified to go
b. Failure to remain at the testing site until the testing process is complete
c. Failure to provide adequate specimen for any drug or alcohol test required by DOT/FTA rules

d. **Refusal to allow the observation or monitoring of a specimen collection when it is required**
e. **Failure to provide a sufficient urine or breath sample without an adequate medical explanation for the failure**
f. **Failure to take a second drug test that the employer or collector has directed the employee to take**
g. **Failure to undergo a medical exam as directed by the employer or the medical review officer (MRO) as part of the verification process, or "shy bladder" or "shy lung" procedures**
h. **Failure to cooperate with the testing process (examples: refusal to empty pockets when requested, behaving in a confrontational manner that disrupts the process, or failure to wash hands after being directed to do so by the collector)**
i. **For an observed collection, failure to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants to mid-thigh, and to turn around to allow the observer to see if employee is wearing a prosthetic or similar device that could be used to interfere with the collection process**
j. **Possession or wearing of a device as described above intended to help the employee pass the drug test**
k. **Admitting adulteration or substitution of the specimen to the collector or the MRO**
l. **If the MRO reports a verified adulterated or substituted test result**
m. **Refusal to sign Step 2 of the Alcohol Testing Form**
n. **Failure to remain readily available for post-accident drug and alcohol testing until a decision is made that no testing is required or until testing is completed**

A drug test can be performed any time a safety sensitive employee is on duty. A random or reasonable suspicion alcohol test can only be performed just before, during or immediately after the performance of a safety sensitive duty.

3. TREATMENT REQUIREMENTS

All employees are encouraged voluntarily to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with transit system requirements for treatment, after care, or return to duty shall be subject to termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program. The provisions of this paragraph apply to employees who voluntarily seek treatment prior to notification for a drug or alcohol test. Any employee with a positive test result will be subject to termination.

4. TESTING PROCEDURES

All safety-sensitive employees shall be subject to pre-employment, reasonable suspicion, post-accident, and random testing as defined in this policy.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment and laboratory facilities, which have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended. A copy of 49 CFR Part 40 is available from the DER upon request.

The five drugs that will be tested for in a urine specimen include marijuana, cocaine, opioids, amphetamines and phencyclidine. All urine specimen drug testing will be conducted at a DHHS-certified laboratory. An initial drug screen will be conducted on each urine specimen. For those specimens with non-negative initial drug screen results, confirmatory gas chromatography/mass spectrometry (GC/MS) testing is conducted.

The test result will be considered positive if the amount(s) present are above the minimum thresholds established in 49 CFR 40.87, as amended.

Breath alcohol testing will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved testing device operated by a trained breath alcohol technician. If the initial test indicates a breath alcohol concentration of 0.02 or greater, a second test will be performed by the breath alcohol technician. The confirmatory test will be performed using an NHTSA-approved evidential breath-testing device operated by a trained breath alcohol technician. A safety-sensitive employee who has a confirmed breath alcohol concentration of 0.02 or greater but less than 0.04 will be immediately removed from duty for eight hours or the remainder or the work day whichever is longer, **unless a retest results in a concentration measure of less than 0.02. A confirmed breath alcohol concentration of 0.04 or greater will be considered a positive alcohol test in violation of this policy and a violation of the requirements set forth in 49 CFR Part 655 for safety-sensitive employees.**

The consequences for covered employees, including applicants for safety-sensitive positions, who have a verified drug or a confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuse to submit to a test under this part, include the mandatory requirements that the covered employee be removed immediately from his/her safety-sensitive function and referred to a SAP. Any employee who tests positive for drugs and/or alcohol or refuses to test will be terminated from employment. The cost of any treatment or rehabilitation services will be paid directly by the employee.

Flathead County affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

Consistent with the requirements in 49 CFR Part 40, as amended, an immediate urine specimen collection will be conducted under direct observation (by a person of the same gender) with no advance notice if:

a. **The DHHS-certified laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the designated employer representative (DER) that there was not an adequate medical explanation for the result**
b. **The MRO reports to the DER that the original positive, adulterated, or substituted test result had to be canceled because the test of the split specimen could not be performed**
c. **The MRO directs the DER to conduct a recollection under direct observation because the creatinine concentration of the initial specimen collected was equal to or greater than 2 mg/dL but less than or equal to 5 mg/dL**
d. **The collector must immediately conduct a collection under direct observation if:**
    - **The employee is directed by the DER to do so, or the employees conduct clearly indicates an attempt to tamper with a specimen**
    - **The collector observes materials brought to the collection site by the donor or the donor's conduct clearly indicates an attempt to tamper with a specimen**
    - **The temperature of the original specimen is outside the acceptable range of 90-100 degrees Fahrenheit**
    - **The original specimen appeared to be tampered with**
e. The DER will direct an employee to provide a urine specimen under direct observation for return-to-duty and follow-up drug tests.

5. **Employee Requested Testing**

Any safety-sensitive employee or applicant who questions the results of a verified positive required drug test or refusal to test may request that the split sample be tested at a second DHHS certified testing laboratory. This test must be conducted on the split specimen (the original

specimen was separated into two bottles – the primary specimen and the split specimen). Flathead County will seek to be reimbursed from the employee for all costs of such testing unless the test result of the split specimen invalidates the test result of the primary specimen. **The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the MRO within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted by the MRO if the delay was due to documentable facts that were beyond the control of the employee.**

6. **Pre-Employment Testing**

   All applicants for safety-sensitive positions shall undergo urine drug testing prior to hiring or transfer into a safety-sensitive position. All offers of employment for safety-sensitive positions shall be extended conditional upon the applicant passing a drug test. If any employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days or more, regardless of reason, and the employee had been removed from the random testing selection pool during that time, a pre-employment drug test is required. An MRO-verified negative result must be obtained prior to the performance of any safety-sensitive work. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded.

   Flathead County will provide each applicant or employee who fails a pre-employment drug test with the name, address, and telephone number of the available SAP meeting the qualifications listed in 49 CFR Part 40, as amended. Any individual who has previously either failed or refused a DOT required pre-employment test must provide evidence of successfully completing a SAP referral and evaluation, and treatment plan compliant with the requirements in 49 CFR Parts 40 and 655, as amended, prior to further consideration for employment. The cost for the assessment and any subsequent treatment will be the sole responsibility of the individual. **If the drug screen test is canceled by the MRO, the applicant must retake and pass the drug screen test before being hired.**

7. **Reasonable Suspicion Testing**

   All safety-sensitive employees may be subject to urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made based on documented contemporaneous and articulable observations consistent with substance abuse and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors trained to detect the signs and symptoms of drug abuse and alcohol misuse and conclude that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. The decision to test for alcohol under reasonable suspicion will be made based on observations made just before, during or immediately after performing a safety-sensitive function.

   Examples of reasonable suspicion include, but are not limited to, the following:

   a. **Physical signs and symptoms consistent with prohibited substance use or alcohol misuse which includes specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of an employee.**
   b. Evidence of the manufacture, distribution, dispensing, possession, use, or under the influence of controlled substances, drugs, alcohol or other prohibited substance.
   c. Fights, assaults and flagrant disregard or violations of established safety, security or other operation procedures.

8. **Post-Accident Testing**

   All safety-sensitive employees will be required to undergo urine drug and breath alcohol testing if they are involved in an accident involving the operation of a Flathead County revenue service vehicle (regardless of whether or not the vehicle is in revenue service at the time of the accident) that results in a fatality. This includes any surviving safety-sensitive employee that was operating the vehicle and any other employee whose performance could have contributed to the accident.

In addition, post-accident drug and alcohol testing will be conducted if the accident involves the operation of a revenue service vehicle, whether or not in revenue service, and

a. **An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or**
b. **Any vehicle involved sustains disabling damage requiring a tow away from the scene.**
   For non-fatal accidents, drug and alcohol testing will be conducted on all covered employees operating the public transit vehicle unless their performance can be completely discounted as a contributing factor based on the best information available at the time of the decision, and all other covered employees whose performance could have contributed to the accident, as determined by Flathead County using the best information available at the time of the decision to test.

Following an accident, a safety-sensitive employee will be tested as soon as possible, but not to exceed eight hours for alcohol testing and 32 hours for drug testing. Any safety sensitive employee involved in an accident must refrain from consuming alcohol for eight hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first. Any safety-sensitive employee who leaves the scene of the accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and terminated from employment. Employees tested under this provision will include any covered employee whose performance could have contributed to the accident.

Post-accident testing is stayed while the employee assists in the resolution of the accident or receives medical attention following the accident.

Flathead County will make every effort to complete breath alcohol testing within 2 hours of the accident. If alcohol testing cannot be completed within 2 hours, a report must be maintained that documents the reason for the testing delay. If alcohol testing cannot be accomplished within 8 hours of the accident, all attempts to obtain a specimen must cease and the documentation on the testing delay must be updated.

9. **Random Testing**
   Employees in safety-sensitive positions will be subject to random, unannounced, and unpredictable drug and alcohol testing. The selection of safety-sensitive employees for random drug and alcohol testing will be made using a scientifically valid method that ensures that each covered employee has an equal chance of being selected for testing each time selections are made with no influence from operations or management. Random drug testing will be conducted throughout the calendar year and at all times of the day when safety-sensitive functions are performed. Once an employee is notified of his/her selection for random testing, he/she must proceed to the testing site immediately. Random drug tests can be conducted at any time while an employee is on duty. Random alcohol testing will be conducted just before, during, or immediately after performing a safety-sensitive function. At a minimum, Flathead County will test at the current FTA established rates set forth in 49 CFR Part 655, as amended. A copy of 49 CFR Part 655 is available from the DER upon request.

10. **Return-to-Duty Testing**
    All safety-sensitive employees who previously voluntarily entered into a rehabilitation program as set forth in the “Treatment Requirements” paragraph must test negative on a drug or alcohol test (0.00 for alcohol) on a return-to-duty test and be evaluated and released to duty by the Substance Abuse Counselor before returning to work. Return-to-duty testing is conducted under Flathead County authority using non-DOT testing forms.

11. **Follow-Up Testing**

Safety-sensitive employees who previously voluntarily entered into a prescribed rehabilitation program will be required to undergo frequent, unannounced urine and/or breath testing following their return to duty. The follow-up-testing will be performed for a period of time determined by the company after conferring with the Substance Abuse Counselor. Follow-up testing is conducted under Flathead County authority using non-DOT testing forms.

12. Dilute Negative Policy

A dilute specimen is a specimen with creatinine and specific gravity values that are lower than expected for human urine. As permitted in 49 CFR 40.197, Flathead County will **perform a second unobserved, DER directed test on any applicant/employee with a dilute negative drug test result. The second test will be the result of record. If the employee declines to take the second DER ordered unobserved drug test as directed, it will be considered a test refusal. If a second test is directed by the MRO and the employee declines to take the second observed drug test as directed, it will be considered a test refusal.**

13. REFERRALS FOR TREATMENT

Any safety-sensitive employee who tests positive for the presence of illegal drugs and/or alcohol above the minimum thresholds set forth in 49 CFR Part 40 and 49 CFR Part 655, as amended, will be referred for evaluation to a SAP that meets the qualifications set forth in 49 CFR Part 40, as amended. The SAP will evaluate each employee to determine what assistance (treatment and/or education) the employee needs in resolving problems associated with prohibited drug use or alcohol misuse. Any cost of treatment will be paid solely by the employee.

14. CONSEQUENCES OF A POSITIVE TEST

All employees who test positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth above will be terminated.

15. RE-ENTRY CONTRACTS

Employees who re-enter the workforce after voluntarily submitting to a rehabilitation program prior to testing positive on a drug or alcohol test must agree to a re-entry contract. That contract may include (but is not limited to):

a. A release to work statement from the Substance Abuse Counselor
b. A negative test for drugs and/or alcohol
c. An agreement to unannounced frequent follow-up testing for a period of one to five years with at least six tests performed the first year
d. An agreement to follow specified after care requirements with the understanding that violation of the re-entry contract is grounds for termination

16. EMPLOYEE AND SUPERVISOR TRAINING

All safety sensitive employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use in personal health, safety, and the work environment. The training will also include manifestations and behavioral cues that may indicate prohibited drug use.

Supervisors will also receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

17. INFORMATION DISCLOSURE

Flathead County shall release information regarding a covered employee's record as directed by specific, written consent from the employee authorizing release of the information to an identified person.

A covered employee is entitled, upon written request, to obtain copies of any records pertaining to his/her use of prohibited substances, including any records pertaining to test results.

Flathead County may disclose information that is required to be maintained to the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the employee tested.

When requested by the National Transportation Safety Board as part of an accident investigation, Flathead County shall disclose information related to its administration of drug and alcohol tests following the accident investigation.

Records shall be made available to subsequent employers upon receipt of written request from the covered employee.

Flathead County shall disclose data for its drug and alcohol testing program and any other information pertaining to its anti-drug program, when requested by the Secretary of Transportation or any DOT agency with regulatory authority over Flathead County.

Flathead County shall disclose drug and alcohol testing information to the Montana Department of Transportation as the oversight agency for the program.

To be considered for employment, all applicants will be asked to give consent to Flathead County for a background check of the applicant's previous DOT covered employer over the past two years. The information requested will include:

a. **Alcohol test results of 0.04 or higher alcohol concentration**
b. **Verified positive drug tests**
c. **Refusals to be tested (including verified adulterated or substituted drug test results)**
d. **Other violations of DOT agency drug and alcohol testing regulations**
e. **With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests)**

18. PROPER APPLICATION OF THIS POLICY

The transit system is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

19. SYSTEM CONTACT

The names, addresses and other relevant information concerning the contracted companies/facilities are set forth in Appendix 1. Any questions regarding this policy or any other aspect of the drug free and alcohol free transit program should contact Human Resource personnel.

20. FUTURE CHANGES OR MODIFICATIONS

Flathead County, at the direction of the Montana Department of Transportation, will update this drug and alcohol policy to reflect all regulatory modifications, clarifications, and FTA and US DOT interpretations that are relevant to our company. In addition, the Flathead County reserves the right to change the provisions of this policy and testing program in the future. Employees will be notified in writing of any change(s) pertinent to this policy.

Reduction in Workforce

If a reduction in the Flathead County workforce (layoff) becomes necessary, consideration will be given to the programs to be carried out by the County. Flathead County will consider their program requirements, the employee's skills and qualifications necessary to meet these requirements, and other factors to decide the best way to conduct a reduction in workforce.

If a position is part of a collective bargaining unit (i.e., a union), the provisions of the agreement regarding reduction in force take precedence over this policy.

A. Temporary, Seasonal, and Short-Term Workers

Temporary, seasonal, and short-term workers within the classification and department affected by the reduction in force shall be terminated before any permanent employees will be laid off.

B. Deciding Factors for Permanent Employees

Permanent employees within the same job classification, department, and geographical area affected by the reduction in force will be evaluated for layoff based on program requirements, the employee's skills and qualifications necessary to meet these requirements, and other factors (e.g., other alternatives such as reduced work hours, furloughs, or employee seniority). Employee skills and qualifications may include education, experience, certification, and capabilities in relation to the continuing needs of the department or program; and employment history may include previous performance and disciplinary actions. If there is no documented difference in employment history factors, an employee's length of continuous employment with Flathead County shall be used as the criterion for retention, with the most senior employee being retained. "Continuous employment' means working within the same jurisdiction without an employee's service being interrupted by a termination of employment. An employee who has been reinstated shall not be credited with previous service regardless of the length of the break in service, unless the employee was reinstated from a lay off period of less than ninety (90) calendar days.

C. Veterans' Preferences

A veteran, disabled veteran, or eligible relative shall be retained over other employees with similar job duties and qualifications and the same length of service. A disabled veteran with a service-connected disability of 30% or more shall be retained over other veterans, disabled veterans, and eligible relatives with similar duties, qualifications, and length of service. The preference in retention does not apply if a performance appraisal system is being used and the eligible employee has been rated unacceptable. The preference in retention does not apply to a position covered by a Collective Bargaining Agreement.

D. Re-Staffing Preferences

An employee who is laid off may, at his/her option, receive accumulated sick and vacation cash outs or maintain his/her accumulated sick and vacation leave while on layoff status for up to ninety (90) calendar days. Employees who are reemployed by Flathead County within ninety (90) calendar days of the layoff will retain prior service credit for purposes of calculating longevity as long as the employee has not cashed out his/her vacation and/or sick leave.

In the event Flathead County decides to staff the position as it did prior to the reduction in force, individuals who have been laid off shall have a preference for recall to the position they were removed from for a period of ninety (90) calendar days from the effective date of layoff. In the event Flathead County decides to fill the position within the ninety (90) day period, the laid-off individual shall be sent a written notice at his/her last known address. The individual shall have five business days to respond to the written notice. If the individual fails to respond or declines the recall, the individual shall have no further recall rights.

***Relevant Information*: MCA 39-29-111**

Voluntary Resignation or Retirement

Employees desiring to voluntarily terminate their employment relationship with Flathead County in good standing should notify the County in writing at least two weeks in advance of their intended termination. The written resignation notice should preferably be given to the supervisor and Human Resource personnel. Unless it is a medical separation, the last day actually worked will be considered as the separation date.

A qualified employee may retire in accordance with applicable state law. Employees who plan to retire are urged to provide Flathead County with a minimum of one month's notice. A retired employee may continue Flathead County health insurance coverage if the employee meets the criteria established in MCA 2-18-704, and the premium amounts are paid in accordance with policies established by the Plan Administrator.

An employee who intends to resign or retire may not use accrued vacation, sick leave, or comp time just prior to that resignation or retirement (within that two week notification, unless it is protected leave); he/she must be given the lump sum payment for accrued leave time according to state and federal law.

***Relevant Information*: MCA 2-18-704; 2-18-617; 2-18-618; 29 CFR 553.27**

Return of Flathead County Property

Employees are responsible for all Flathead County property, materials, equipment, and written/digital information issued to them, in their possession or control, or created or modified by them. Any Flathead County property issued to or created/modified by employees including, but not limited to, laptops, cell phones, pagers, computer equipment, keys, credit cards, digital files, or physical files must be returned to Flathead County upon request or at the time of termination. Where permitted by applicable laws, Flathead County may withhold from the employee's check or final paycheck the cost of any items that are not returned when required. Flathead County may also take all action deemed appropriate to recover or protect its property.

Employees are also accountable for equipment located in their work area. Employees should report any missing equipment immediately to their supervisor or department head. Whenever equipment with a property tag is moved from one location to another or when new equipment is acquired, follow the appropriate documentation procedures.

***Relevant Information*: MCA 39-2-102**

Privacy and Searches

Employees should not have an expectation of privacy in work-related areas. Employee privacy in non-work areas will be respected to the extent possible. Flathead County reserves the right, at all times, while employees are entering, departing, or on the premises, properties, and work areas; when circumstances warrant; or when reasonable cause exists, to have properly authorized personnel conduct unannounced reasonable searches and inspections of Flathead County property.

Worksite Breastfeeding

Flathead County shall provide nursing mothers with suitable space, privacy, and time to breastfeed or express milk for at least one year after the nursing child's birth.

A. General Provisions and Management Responsibilities

Flathead County shall provide nursing mothers with a suitable space, other than a bathroom, that is clean, private, and reasonably close to the work area. The space will include lighting, seating, and electrical outlets for breast pumps. Flathead County may provide an employee the ability to store breast milk as requested.

The department head or direct supervisor shall provide nursing mothers with time to breastfeed or express milk as needed, but nursing mothers should plan to use break time whenever possible. Department heads will set up a schedule that works best for everyone.

B. Pay Stipulations for Exempt and Non-Exempt Employees

If an employee is non-exempt from the FLSA, Flathead County will not cover breastfeeding time that takes longer than the standard break period or number of breaks. Employees can use sick or vacation leave or compensatory ("comp") time to cover extra time or breaks, or the time will be unpaid. Flathead County shall not reduce the wages of exempt employees for the time it takes to breastfeed or express milk. However, the exempt employee will be required to use accrued leave time for time that takes longer than the standard break time or number of breaks.

***Relevant Information*: MCA 39-2-215 through 39-2-17**

Credit Cards

The Flathead County credit card program is intended to streamline and simplify the Purchasing and Claims functions by significantly reducing low value activities. The credit card is a tool that reduces transaction costs, facilitates timely acquisition of materials and supplies, automates data flow for accounting purposes and offers flexible controls to help ensure proper usage.

The success of the County credit card program relies on the cooperation and professionalism of cardholders and department heads/supervisors. This policy is provided to guide all parties.

A. Uses

The Flathead County Credit Card can be used for any business related expense with any vendor or merchant who accepts the card for payment and is in an approved Merchant Category group.

B. Travel Usage

Flathead County credit cards may be used only for transportation and lodging travel expenses. Meals while traveling are not to be paid with your credit card. Please refer to the current Flathead County travel policy for more information.

C. Restrictions

Flathead County credit cards CANNOT be used for any of the following:

1. Any personal use.
2. Cash advances.
3. Meals or food except for those allowed in the Food Policy.
4. Any selected merchant category exclusions (including but not limited to liquor stores, cigar stores, casinos, movie theaters).

D. Supervisor/Department Head Responsibilities

1. Request the issuance of cards to appropriate staff. Supervisors will work with the Finance Director to determine credit limits. Credit card request forms can be found on Open County under Finance.
2. Ensure that all purchases are an appropriate use of Flathead County funds.
3. Review, sign, and approve the monthly statement submitted by the cardholder.
4. Ensure the approved statement is received by the Finance Department by the established deadline.
5. Upon termination of an employee with a credit card, obtain possession of the card and notify the Finance Department. Follow the Finance Department's instructions for disposal of the card.

E. Cardholder Responsibilities

1. Ensure all purchases have an allowable public purpose.
2. Comply with Flathead County travel policy and purchasing/expenditures claims procedures.
3. Purchases should be made responsibly (best value).

4. The card is not to be used for personal purchases, cash advances, or entertainment expenses.
5. Retain all original itemized sales slips and register receipts.
6. Verify all charges shown on the monthly statement are legitimate.
7. Report lost or stolen cards immediately to Finance. Report the loss or theft to your Supervisor at the first opportunity during business hours.
8. Know your credit limit and ensure you do not exceed it.
9. **Do not allow anyone else to use your credit card.**
10. Any account changes (name, credit limit, etc.) should be approved by your supervisor and submitted to the Finance Department.
11. Upon termination of employment or at the request of your supervisor, your credit card must be relinquished to the County.

Failure to follow this policy may result in revocation of the card, disciplinary action up to and including termination of employment, and/or criminal action or civil liability.

Travel

Traveling is an integral operation of County government. Travel expenses must be consistent with the organizational objectives of the department and accounted for in the annual operating budget of the Department. Elected County Commissioners are subject to the meals, lodging, and traveling expense stipulations in MCA 2-18-501. The following guidelines shall apply to all other Flathead County employees:

- All travel must be approved by the Department head or their designee in advance.
- Lodging expenses should be kept as low as possible but must be in conformance with the remainder of this policy regarding lodging.
- Time away from the office should be minimized.
- The least expensive mode of travel should be considered factoring in the minimization of time away.

Reimbursable travel expenses are the business-related expenses incurred when traveling on official Flathead County business. Travel expenses must have a **public purpose and serve the public interest**. All travel expenditures must be reasonable and necessary.

All transportation expenses for air travel, lodging, and motor vehicles **must** be paid with a Flathead County credit card. Any exception needs approval from a Commissioner or the Administrator acting on behalf of the Commissioners. This applies to ticket purchases made through a travel agent, purchased directly from an airline, or purchased from an online travel source.

Alcoholic beverages and expenditures of a personal nature are not reimbursable.

When an employee combines personal travel with an official Flathead County business trip, reimbursements and payments will be made only for those costs associated with County business. Transportation reimbursement will be based on the most reasonable and cost effective mode of travel. Reimbursement for meals and lodging will be allowable only during the time the employee is in County travel status. No costs will be reimbursable for vacation or personal days. If an employee chooses to drive rather than fly, whether to accommodate family members or to provide additional opportunities, transportation as allowed within this Policy Manual and per diem expenses will be paid at the most cost effective rate to Flathead County.

Travel expense reimbursements in compliance with this policy should be submitted on a Flathead County Reimbursement Form found on the County website. Each form needs to be supported by:

- Detailed original receipts.
- Explanation of the trip such as complete program agenda, conference schedule, registration, etc., that supports the public purpose of the trip.

Approval: All travel claims need to be signed by the employee and approved (by signature) by their department head.

The expense report and request for reimbursement should be filed within 90 calendar days after incurring the expenses. If a claim is not filed within 90 days, appropriate disciplinary action may be implemented.

Mileage reimbursement meeting the Flathead County guidelines should be requested on the Personal Vehicle Use authorization form. This form can be found on the Flathead County website. Approvals should follow the same guidelines as reimbursement forms. It should be supported by:

- Documentation supporting the mileage using the distance calculator found on the Mt.Gov website.
- Document personal auto insurance coverage.
- A detailed program agenda or conference schedule supporting the public purpose.
- Documentation of:
    - the non-availability of a Flathead County vehicle from the employee's department and the Commissioner's vehicle pool, **or**
    - 3rd Party funding policy or grant, **or**
    - documentation that the use of a personal vehicle is considered to be in the best interest of Flathead County.
    - the employee's choice to use their own vehicle for personal reasons.

Paid working time in travel status is determined by the Fair Labor Standards Act. Contact the Human Resource Department for further clarification.

A. In State Travel

The employee shall request the government rate if the regular lodging rate is higher.

Lodging in advance will be paid directly to the hotel/motel by Flathead County check or paid through the use of a Flathead County procurement card.

Lodging must be authorized at the actual **single occupancy rate** of lodging, not exceeding the federal rate per day for the location plus the applicable taxes on the allowable cost. The federal per diem room rates for Montana are available at: www.gsa.gov

All claims for lodging expense reimbursement must be documented by an appropriate **original detailed receipt** and supported by a copy of adequate justification such as detailed conference agenda.

See out-of-state policy regarding lodging with other persons.

To be eligible for a meal allowance while traveling on Flathead County business, you must be in a travel status for more than three continuous hours during the following periods:

If away between 12:01 a.m. and 10:00 a.m. breakfast may be claimed ($8.00)
If away between 10:01 a.m. and 3:00 p.m. lunch may be claimed ($12.00)
If away between 3:01 p.m. and 12:00 a.m. dinner may be claimed ($20.00)

When traveling outside Flathead County, but within Montana, a maximum of $40.00 per day shall be paid by the County. The meal allowance is a fixed amount per meal, **inclusive of taxes and tips.**

No meal allowance will be paid for meals included in conference or registration fees. Availability of a continental breakfast or coffee and pastries at a seminar or meeting will not be considered an included meal and will not preclude reimbursement for breakfast. Food provided by the lodging facility as an amenity to your stay will not be considered a provided meal for per diem purposes.

All travel completed without an overnight stay, will be included as taxable income for tax purposes and subject to withholding, as required by current IRS rules. This type of reimbursement will be paid through payroll. When an overnight stay is involved in travel, the reimbursement will not be included as taxable income. This type will be reimbursed through accounts payable.

With prior approval of the department head, Flathead County shall pay in-state meal allowances to County officers and employees who are required to attend lunch or dinner meetings within Flathead County on County business.

The employee shall choose among modes of travel on the basis of the lowest overall cost to Flathead County. Employees shall carpool when two or more Flathead County employees travel to the same destination during the same duration. Use of more than one vehicle in such circumstances must be pre-approved by the department head and the Board of Flathead County Commissioners.

The least expensive means of in-state travel is the use of a County-owned vehicle. Employees should use department-assigned vehicles or motor pool vehicles for business travel based on availability. If a County vehicle is not available, documentation of the unavailability is required in order to be reimbursed for personal vehicle use.

Note: Using your own personal auto on Flathead County business is highly discouraged, as the County's auto insurance policy protects you on an excess basis only. If a personal vehicle is used on Flathead County business, the personal auto insurance policy will be primary insurance coverage and County insurance will be secondary.

Flathead County vehicles may be reserved through the Flathead County Commissioners' office. Reservations will be made on a case-by-case basis. Reservations may be lost or modified if a greater need arises for the use of that vehicle reserved.

The Flathead County Commissioners' Office will record:

- Who is using the vehicle;
- The name of the department;
- The dates that the vehicle is needed;
- The destination; and
- The expected return time.

It is the employee's responsibility to log in their name, department, destination, mileage out, mileage in, number of miles, and fuel purchased or any problems encountered. The sheet shall be returned to the Commissioners' Office. In the event an employee travels in a Flathead County vehicle and is entitled to payment of mileage by an agency other than the County, the employee shall remit the mileage payment to Flathead County. **Personal business with a motor pool vehicle is prohibited**. Any question regarding what constitutes "official Flathead County business" shall be referred to the Department Head and the Flathead County Human Resource Director.

Section 2-18-503, MCA establishes three rates for personal vehicle use. These are referred to as the standard, high and low rates in this policy. Reimbursement for miles traveled in a personal car must be actual map miles from point A to point B and back. There are **only three instances** where personal vehicle mileage reimbursement will be authorized.

- A Flathead County vehicle is not available from the employee's department or from the Commissioners' Vehicle Pool for the specific time and date. Must have documentation from the clerk to be authorized. (Reimbursed at high/low rate)
- The use of a personal vehicle is considered to be in the best interest of Flathead County. The department head may approve personal vehicle usage for staff when they believe there is sufficient justification it is in the best interest of Flathead County for a personal vehicle to be used on County

business. A personal vehicle use authorization form must be completed and submitted for reimbursement. Reimbursement will occur at 48.15% of IRS mileage rate.

For any of these instances, in order to claim reimbursement, you must use the personal vehicle use authorization form authorized by your department head prior to using your personal vehicle. Department head reimbursement must be approved by a Flathead County Commissioner or the Administrator acting on behalf of a Flathead County Commissioner. This form is available on the Flathead County website. (Special programs like AOA may have their own submission requirements.)

The reimbursement rate for personal vehicle use is established by the Internal Revenue Service for the current year. If you are entitled to the "**High**" rate, you will receive the IRS rate for the first 1,000 miles traveled within a given calendar month. After the 1,000 mile threshold is reached, the employee meeting these conditions will be reimbursed at the high rate less 3 cents (the "**low rate**"). This reimbursement rate is only available for use when a Flathead County vehicle **is not** available.

If you are participating in a travel activity primarily for the purpose of a third party agency and only secondarily because you are a Flathead County employee, you are allowed to follow the travel policies of that third party and/or to be reimbursed for all costs incurred and do not have to follow County policies as long as the County does not incur **any** expenditures associated with this travel. (3rd party agency policy must be attached to reimbursement request.)

When renting a vehicle from a car rental company is in the best interest of Flathead County, employees should purchase the additional insurance offered by the company. This should include a loss damage waiver and liability insurance. All rental agency agreements should be authorized by the department head.

B. Out of State or Foreign Travel

The employee shall request the government rates if the regular rate is higher.

Lodging in advance will be paid directly to the hotel/motel by Flathead County check or paid through the use of a Flathead County procurement card.

Lodging must be authorized at the actual **single occupancy rate** of lodging, not exceeding the federal rate for the location involved plus taxes on the allowable cost. Reimbursement is at the standard federal rate unless the area or location is listed in the federal schedules with a specific maximum lodging rate that is higher than the standard. The federal per diem room rates are available at www.gsa.gov.

If an employee is accompanied by a spouse or family member, the lodging invoice must bear a notation, signed by an authorized representative of the establishment, as to the single occupancy room rate, including tax. The employee is responsible for the difference between single and double occupancy room rates.

If an employee shares lodging with a person from another agency, it is expected that the cost of lodging will be split between the two agencies.

If you stay in a non-receiptable facility, e.g. with friends or relatives or in a camper or trailer, or you fail to obtain a receipt, Section 2-18-501(5), MCA authorizes you to claim $12 per night for lodging expenses.

You cannot claim lodging expense if it is provided at no charge.

Lodging reimbursement may be claimed and reimbursed at a higher rate than established by GSA if it meets the following criteria:

1. You request government rates and they are not available at the hotel where the conference or meeting you are attending is being held; **and**

a. Government rates or rates significantly lower than the conference hotel rates are not available at another hotel within a reasonable distance from the conference hotel (considering the cost of a taxi and your safety or convenience walking to other nearby lodging); **or**

b. It is necessary for purposes of accessibility and/or security to stay at the hotel in which the conference you are attending is being held; **or**

c. Emergency or last minute travel arrangements preclude finding accommodations within the federal guidelines; **and**

2. Reimbursement at actual cost is within the agency's appropriation level.

All claims for lodging expense reimbursement must be documented by an appropriate original detailed receipt and supported by adequate justification such as conference/training agenda or program.

Meals: For qualifying travel outside of Montana, the per diem amounts shall be in accordance with GSA recommendations for the travel destination. Flathead County will not reimburse the incidental expenses component identified within the GSA tables.

To be eligible for a meal allowance while traveling on Flathead County business, you must be in a travel status for more than three continuous hours during the following periods:

If away between 12:01 a.m. and 10:00 a.m. breakfast may be claimed.
If away between 10:01 a.m. and 3:00 p.m. lunch may be claimed.
If away between 3:01 p.m. and 12:00 a.m. dinner may be claimed.

The meal allowance is a fixed amount per meal, **inclusive of taxes and tips.**

No meal allowance will be paid for meals included in conference or registration fees. Availability of a continental breakfast or coffee and pastries at a seminar or meeting will not be considered an included meal and will not preclude reimbursement for breakfast. Food provided by the lodging facility as an amenity to your stay will not be considered a provided meal for per diem purposes.

The employee shall choose among modes of travel on the basis of the least expensive overall cost to Flathead County.

Air: All commercial air travel should be the least expensive service available. The traveler is responsible for class upgrades and itinerary or booking changes which are not the result of an emergency or required to satisfy the business needs of Flathead County. When a lower airfare can be obtained with an additional overnight stay and the fare is less than per diem and lodging for the additional stay, Flathead County will pay the extra day's meals and lodging.

In the event that automobile travel is chosen over air travel by the employee for personal reasons, time away from the job for automobile travel, insofar as it exceeds the time required for air travel, shall be charged against the employee's accrued vacation time. In the event that air travel would be cheaper than automobile travel, the employee will be reimbursed in an amount equal to the airfare.

Rail: Coach or tourist class is reimbursable.

A rental vehicle is a justifiable expense if it is cheaper than other forms of transportation; anyone requesting use of a rental vehicle must demonstrate that it is the least cost alternative. The department head must approve a rental vehicle prior to travel. Employees should purchase the additional insurance offered by the company. This should include a loss damage waiver and liability insurance.

Taxis, Shuttle Buses, Parking, Tolls: Such expenses should be charged on the Flathead County credit card. Taxi fares, including gratuities of 15% or less, are allowable with receipts. Valet parking, unless it is the only parking option available, and parking tickets are not eligible for reimbursement.

All requests for travel advances should be short-term. Travel advances for per-diem will not be paid more than seven (7) calendar days prior to the date of departure. Travel advances should not exceed $200.00 or be used for lodging or car rentals. Flathead County may use discretion to avoid financial hardships for employees. Whenever possible, all advances should be settled within seven (7) calendar days of returning to work. If the claim is less than the advance, the employee must reimburse Flathead County for the difference using either a personal check or cash. All travel advances must be approved by the Flathead County Commissioners.

***Relevant Information*: MCA 2-18-501**

Copyright Policy

All Flathead County employees, while on the job and using County equipment, shall adhere to all provisions of Title 17 of the United States Code, entitled "Copyrights," and other federal regulations related to the duplication, retention and use of copyrighted materials.

The following activities are prohibited:

- producing unlawful copies of the copyrighted materials on Flathead County-owned equipment;
- use of unlawful copies of copyrighted materials on County-owned equipment, in County-owned facilities or at County-sponsored functions; unlawful copies currently in use shall be destroyed.

All computer software used on Flathead County-owned equipment shall be licensed and documentation of its license or purchase shall be maintained by the installer of the software.

The Flathead County Library personnel shall comply with the Copyright Policy adopted by the Library Board of Trustees and are exempt from compliance with this County policy so long as the Library has a Copyright Policy for its employees.

An employee who violates any provision of this policy shall be subject to disciplinary action up to and including discharge from employment.

EMPLOYEE LEAVE

Sick Leave

Flathead County follows Montana law on the qualification, accrual, and use of sick leave. Sick leave is an authorized paid leave of absence from work when an eligible employee or qualifying family member is sick or requires care. Accumulated sick leave credits are a valuable resource that maintains an employee's income during a period of personal illness or family emergency. The total number of sick leave hours approved, combined with any other paid hours during that workweek, may not exceed the number of hours in a regular workweek for that employee.

A. Qualification and Calculation

Employees are not entitled to use paid sick leave until they have been continuously employed for 90 calendar days. Permanent, temporary, and seasonal employees earn sick leave credits from the first day of employment. Short-term workers do not earn sick leave credits. The provisions of MCA 2-18-618 govern sick leave for Flathead County employees.

Sick leave credits shall be credited at the end of each pay period at the rate of twelve (12) working days per year for full-time employees. Part-time employees earn prorated sick leave credits. There shall be no limit to

the amount of sick leave accumulation during the course of an employee's service to Flathead County. Employees do not accrue sick leave credits during a leave of absence without pay.

Should an employee become ill or injured during his or her vacation, the employee may take sick leave for the period of his or her illness or injury in lieu of vacation leave upon the condition that written verification of the illness from a medical provider is submitted to Flathead County.

Sick leave credits cannot be used before they are earned and credited at the end of each payroll.

B. Sick Leave Pay Out Upon Termination

Upon termination, an employee who has worked the qualifying period shall be entitled to a lump sum payment in an amount equal to one-fourth (25%) of the amount attributed to accumulated sick leave. The pay attributed to the accumulated sick leave must be computed on the basis of the employee's salary or hourly wage at the time the employee terminates employment with Flathead County. A transfer between agencies within Flathead County is not considered a termination, and therefore the employee is not entitled to a lump-sum payment.

Employees may be subject to participation in a Voluntary Employee Beneficiary Association (VEBA). Participation and contributions are based on group elections. Please contact the Human Resource Department for more information. (MCA 2-18-1302, et seq.)

An employee of Flathead County who receives a lump sum payment and who is again employed by Flathead County shall not be credited with any sick leave for which compensation has been received.

C. Use of Sick Leave Pay

An employee must request to use sick leave by following their department's notification procedure. The department head may require the employee to furnish a medical certificate before approving the sick leave.

Sick leave pay may be granted for:

- time off when an employee is unable to perform job duties because of physical or mental illness, injury or disability;
- time off for the employee to care for an immediate family member* who is suffering from a physical or mental illness, injury or disability;
- maternity or pregnancy-related disability or treatment, including prenatal care, birth, or other medical care for either employee or child;
- parental leave as provided in MCA 2-18-606;
- quarantine resulting from exposure to contagious disease;
- consultation, examination, or treatment by a licensed health care provider;
- short-term attendance, not to exceed 5 working days (prorated for part time employees) in a rolling 12 month period, to care for a relative or household member that is not considered an immediate family member* due to physical or mental illness, injury, disability, or examination or treatment until other care can reasonably be obtained;
- necessary care of a spouse, child, or parent with a serious health condition, as defined in the Family and Medical Leave Act of 1993;
- death or funeral attendance of an immediate family member* up to 5 days not to exceed 40 hours (prorated for part time employees), unless unusual circumstances exist; and
- death or funeral attendance of a person other than an immediate family member, not to exceed 4 hours.

* Immediate family member is defined as a spouse, child, father, mother, brother, sister, grandparent, grandchild, or guardian or relative of employee's spouse in like degree. Immediate family member also includes stepmother, stepfather, stepchild or stepsibling.

D. Reporting

Absences which will necessitate use of sick leave shall be reported by the employee to the supervisor or department head as soon as it is practical. Failure to report such leave according to your department's notification procedure could result in an absence without approved leave. Absences without approved leave are grounds for disciplinary action.

E. Abuse

Abuse of sick leave is cause for dismissal and forfeiture of payment for accumulated sick leave. Sick leave abuse occurs when an employee uses sick leave for unauthorized purposes or misrepresents the actual reason for charging an absence to sick leave. Abuse may also occur when an employee establishes a pattern of sick leave usage over a period of time. The employee's supervisor may require an employee to submit a medical certification signed by a licensed medical provider to substantiate use of sick leave.

F. Medical Exam

The employer may require a medical exam when an employee is returning to duty following an illness or absence due to injury or the department head has a reasonable belief, based on objective evidence, that the employee's ability to perform the job is impaired or that the employee will pose a direct threat to self or others.

Relevant Information: **MCA 2-18-618 and 2-18-1302, et seq.**

Sick Leave Pool & Grants

A sick leave pool and sick leave grants are established to allow Flathead County employees to share accrued sick leave between employees and the pooling of sick leave, according to the following procedures. Shared and pooled sick leave may be available to a qualifying employee who suffers an extensive illness or accident.

A. Sick Leave Pool

1. On October 13, 2005, the Board of Flathead County Commissioners made the decision to discontinue the sick leave pool once the current pool hours have been exhausted. No new members are allowed to join the pool**.**
2. Members of the sick leave pool as of October 13, 2005, shall be governed by and are subject to the following terms and conditions**:**
   - **a.** An employee maintains membership in the pool until the employee terminates employment with Flathead County or resigns in writing from the pool.
   - **b.** Only a member of the sick leave pool may receive sick leave from the pool**.**
   - **c.** The maximum amount of sick leave an employee may receive from the pool and from direct grants combined in any twelve-month period shall be 160 hours. Part-time employees will receive sick leave hours from the pool on a prorated basis, based on FTE.
   - **d.** To be eligible to receive sick leave from the sick leave pool, an employee shall:
     - Experience an extensive illness or injury resulting in an absence from work of no less than thirty (30) consecutive calendar days;
     - Exhaust all personally accrued paid leave;
     - Provide a medical certification from licensed health care provider of the extensive illness or injury which requires the employee to remain away from work for an extended period of time; and
     - Apply to the Board of Flathead County Commissioners, with the recommendation of the employee's department head and Human Resource personnel, for the additional sick leave.
   - **e.** Any return to work, whether temporary or permanent, part-time or full-time, will result in lack of eligibility for sick leave pool hours unless and until all criteria are again met.
   - **f.** Sick leave pool hours will not be retroactively applied.

B. Sick Leave Grants

Eligibility to Receive Sick Leave Grants

1. An employee who meets the eligibility requirements may receive no more than a maximum of 160 hours of sick leave in any rolling 12-month period. Leave approved for a part-time employee shall be prorated. The maximum allowable benefit in any rolling 12-month period from either the sick leave pool or direct grants is 160 hours.
2. Meeting the eligibility requirements of this procedure does not guarantee that receipt of sick leave shall be approved in any specific case by the department head.
3. To be eligible to receive a direct grant, an employee must:
   - **a.** have met the 90-day qualifying period to take sick leave [MCA 2-18-618(1)];
   - **b.** experience an extensive illness or injury which results in absence from work of no less than thirty (30) consecutive calendar days;
   - **c.** exhaust all personally accrued paid leave;
   - **d.** provide a medical certification from a licensed health care provider of the extensive illness or injury which requires the employee to remain away from work for an extended period of time; and
   - **e.** apply to the Board of Flathead County Commissioners', with the recommendation of the employee's department head and Human Resource personnel, for the additional sick leave.
4. Any return to work, whether temporary or permanent, part-time or full-time, will result in lack of eligibility for sick leave direct grants unless and until all criteria are again met.
5. Sick leave grants will not be retroactively applied.

Eligibility to Make a Direct Grant

1. To be eligible to make a direct grant of sick leave, an employee shall have completed the 90-day qualifying period to take sick leave [MCA 2-18-618(1)] and shall have a minimum balance of 120 hours of accrued sick leave remaining in the employee's account following the contribution. The minimum balance for a part-time employee shall be prorated.
2. An employee may directly grant a maximum of 40 hours of accrued personal sick leave in any rolling 12-month period to another employee.
3. An employee may make a direct grant of sick leave to an eligible employee in any department of the same government entity.
4. Any contribution by an employee to another employee shall be voluntary and irrevocable.

Prohibited Uses

An employee shall not receive direct grants of sick leave or a grant from the sick leave pool:

1. if the employee is eligible for workers' compensation benefits;
2. if the employee is no longer employed by Flathead County; or
3. while the employee is on a leave of absence without pay for a reason other than extensive illness or accident; or
4. to provide care or attendance to an immediate family member.

***Relevant Information*: MCA 2-18-618 and 2-18-1311**

Vacation Leave

Vacation leave is an authorized paid absence from work.

Permanent, seasonal, and temporary employees are eligible to earn vacation leave. Short term employees are not eligible to earn vacation leave. Seasonal employees must report back to work immediately when recalled in order to avoid a break in service.

An employee begins earning vacation leave on the first day of employment, and must complete six calendar months (180 days) of continuous employment to use vacation leave or to cash it out upon termination.

A. Procedures for Calculating Vacation Leave, Accumulating Credits, and Scheduling

Vacation leave is calculated and credited each pay period based on years of service as illustrated in the chart below, and an employee can use it only after earning it. If an employee is part-time, he/she earns vacation leave on a prorated basis (for example, if an employee works 20 hours per week, he/she will earn leave at half of the full-time rate). An employee does not accrue leave for hours in an unpaid status or based on hours in an overtime status.

Vacation Rate Earned Schedule	
Years of Employment*	**Working Days Credit Per Year**
1 day through 10 years	15
10 years through 15 years	18
15 years through 20 years	21
20 years or more	24

*Years of employment need not be consecutive, and prior Montana public service or military service may apply. The employee is responsible for informing the Human Resource Department of previous qualifying service, and for providing documentation of that service in order to increase his/her rate of vacation earned. No retroactive increase shall be allowed.

An employee is credited with 80 hours of service for each bi-weekly pay period in which the employee is in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in the pay period, per MCA 2-18-612 (2)(a)(i). Temporary employment which immediately precedes the transfer of an employee to permanent status shall be counted for purposes of calculating years of employment.

An employee must request to schedule vacation leave according to the employee's department leave request procedure. Approval or denial of leave is based on the department's and employee's interests, and management reserves the right to deny requests. The total number of vacation leave hours approved, combined with any other paid hours during that workweek, may not exceed the number of hours in a regular workweek for that employee. If a recognized holiday falls within an employee's scheduled vacation, the holiday will not be charged against the employee's accrued vacation time.

An employee may accumulate a vacation leave balance up to two times the eligible accrual rate per year. Balances exceeding this limit are "excess." Except as provided in this policy, excess vacation leave may be forfeited unless used within 90 calendar days from the last day of the calendar year in which the excess leave was earned.

Department heads are responsible for actively managing vacation leave for employees by providing reasonable opportunity for an employee to use rather than forfeit accumulated vacation leave as provided in MCA 2-18-617. To avoid forfeiture of vacation leave, management is encouraged to work with employees who have excess vacation leave balances as early as possible in the 90-day grace period or at an earlier time if the employee's leave balance is projected to exceed two times the annual accrual rate.

Employees are responsible for making a reasonable written request to use excess vacation leave during the 90-day grace period. Agency management may approve all, some, or none of the employee's request by written response. If the original request is not approved, management and the employee may negotiate alternate leave dates during the 90-day grace period. If management denies all or any portion of the written request to use excess vacation, the department head must notify Human Resource personnel to request a final determination from the Board of Flathead County Commissioners. If the Flathead County Commissioners deny the request to use excess vacation during the 90-day grace period, the excess

vacation is not forfeited and the manager and employee shall ensure the employee may use the excess vacation leave before the end of the calendar year in which the leave would have been forfeited. Any excess vacation leave not used by the end of the calendar year in which the grace period was extended must be forfeited.

B. Vacation Pay Out at Termination

If an employee terminates employment after the eligibility period for a reason not reflecting discredit on the employee, he/she is entitled to compensation for the unused vacation leave balance.

***Relevant Information*: MCA 2-18-611 to 617**

Holidays

A. Eligibility and Holiday Benefits Calculations

Holiday leave is a paid absence from work provided to eligible permanent, seasonal, and temporary employees on legal Montana State holidays. Short term employees are not eligible for holiday pay.

To be eligible, active employees must be in a paid status or an FMLA protected status the last regularly scheduled working day immediately before the holiday or on the employee's first regularly scheduled working day immediately after the holiday.

If the observed holiday falls on an employee's regularly scheduled day off, the employee is entitled to receive a day off with pay either on the day preceding the holiday or on another day following the holiday, whichever allows a day off during the workweek in addition to the employee's regularly scheduled days off.

B. Holidays Falling on Weekends

If any holiday falls upon a Sunday, the Monday following is an observed holiday. When a holiday falls on a Saturday, the holiday shall be observed on the preceding Friday.

C. Holiday Benefit Calculations

Holiday benefits shall not exceed eight hours. Holiday hours count as time worked for purposes of calculating overtime.

Part-time employees receive holiday benefits on a prorated basis (MCA 2-18-603). The prior pay period's number of hours paid and the current pay period's number of hours paid (excluding time paid on holidays), divided by the number of business days in the two pay periods will be used in determining the number of holiday hours paid. Flathead County's normal business days are Monday through Friday, excluding observed holidays.

D. Pay for Work Performed on a Holiday

Flathead County reserves the right to require an employee to work on the day a holiday is observed. No employee shall work on a holiday, or on a day he/she was to have off in place of a holiday unless authorized to do so by the immediate supervisor or unless an emergency situation exists.

An employee who is designated as non-exempt under the Fair Labor Standards Act (FLSA) and who works on the day a holiday is observed by Flathead County shall be paid for all hours actually worked at one and a half (1.5) times their regular hourly rate. Hours actually worked on a holiday will not count towards regular working hours for purposes of calculating overtime since it is already paid at time and one half (1.5). Overtime will not be pyramided or duplicated.

An employee who is exempt from the FLSA and who works on the holiday will receive regular paid time for all hours worked.

***Relevant Information*: MCA 1-1-216 and 2-18-603; The Fair Labor Standards Act, U.S. Department of Labor**

Military Leave

A. Procedures under the Montana Military Service Employment Rights Act

The Montana Military Service Employment Rights Act (MMSERA) provides paid military leave for eligible Flathead County employees. This benefit supports employees in fulfilling military obligations and compensates employees for loss of income due to time spent performing military service.

Employees who are members of the Montana Army, Air National Guard or Armed Forces Reserves (active or inactive duty), and are permanent, or seasonal employees or student interns become eligible for paid military leave after *six continuous months* of employment. Time spent in a leave of absence without pay status does not count toward the six-month requirement.

Eligible full-time employees earn 120 hours of paid military leave each calendar year (prorated for part-time employees). Employees cannot earn more than 120 hours of paid military leave per calendar year, and cannot accrue more than 240 hours (prorated for part-time employees). Once employees reach the maximum, they do not accrue additional paid military leave until their balance drops below 240 hours (or the prorated limit for part-time employees). Employees do not accrue paid military leave during leaves of absence without pay. Flathead County does not cash out unused military leave when employees terminate employment.

Employees must provide as much advance notice of military leave as possible, either verbally or in writing, to their supervisor (i.e., as soon as they learn of the need to take military leave). Supervisors may request a copy of the orders that direct the employee to report for duty.

Employees may also use paid military leave intermittently with leave without pay while performing military service. Supervisors may grant paid military leave only for hours the employee normally works, and may deny paid military leave if it results in overtime. When employees are taking authorized paid military leave, they shall receive regular salary and benefits. If active duty is more than 31 calendar days, employees need to evaluate options regarding benefits and complete an Active Duty Benefits Election Form and an Active Duty Reinstatement Form.

Employees who are eligible to be reemployed must be returned to employment with the same seniority, status, pay, health insurance, pension, and other benefits as the member would have accrued if the member had not been absent for the state military duty unless:

- the member is no longer qualified to perform the duties of the position, subject to the provisions of MCA 49-2-303 prohibiting employment discrimination because of a physical or mental disability;
- the member's position was temporary and the temporary employment period has expired;
- the member's request to return to employment was not done in a timely manner, as defined in MCA 10-1-1007(3).;
- the employer's circumstances have changed so significantly that the member's continued employment with the employer cannot reasonably be expected;
- the member's return to employment would cause the employer an undue hardship;
- the member did not inform the employer at the time of hire that the member was a member of the state's organized militia or the national guard of another state; or
- the member enlisted in the state's organized militia or another state's national guard during the course of employment with the employer and did not inform the employer of the enlistment.

B. Uniformed Services Employment and Reemployment Rights Act Procedures

An employee ordered to federally funded military service is entitled to all of the rights provided pursuant to the Uniformed Services Employment and Reemployment Rights Act (USERRA). Employees have the right

to be reemployed in their last Flathead County job, or the job they would have attained had they not been absent for military service, if they:

- leave that job to perform service in the uniformed service and they provide advance written or verbal notice of the service;
- have five years or less of cumulative service in the uniformed services while with Flathead County;
- have not been separated from service with a disqualifying discharge or under other than honorable conditions.

***Relevant Information*: MCA 10-1-1001 through 10-1-1009**

Jury and Witness Duty Leave

Jury and witness duty leave provide paid time off for permanent, seasonal, and temporary Flathead County employees who receive a legal summons or subpoena to serve on a jury or as a witness.

A. Notification and Leave Request

An employee shall request leave using the request procedures established by their department. An employee must inform their supervisor of the date(s) and anticipated length of the absence as soon as possible after receiving a summons or subpoena, and provide a copy of the summons or subpoena with the leave request.

B. Pay Options

If an employee is subpoenaed or summoned, they have two choices regarding pay and expenses:

- Use accrued annual leave or compensatory time for the time away from work, and keep the fees and allowances paid for service as a juror or witness; or
- Receive regular pay and benefits while on approved jury duty or witness leave, and remit the fees and allowances received for service as a juror or witness to the Treasurer's Office within three business days of receipt. An employee is not required to remit to the employer any expense or mileage allowance paid by the court.

Employees must notify their supervisor of their choice upon requesting leave.

C. Expense Claims and Return to Work

If an employee serves as a witness for work-related reasons, he/she may submit a claim for expenses and mileage reimbursement. Employees who receive payment from the court or a third party for the same expenses must return such dual payments to Flathead County. If a Flathead County vehicle is used, the employee must return any mileage allowance to Flathead County.

Employees who take leave to serve on a jury or as a witness must return to work on the next regularly scheduled shift upon release from duty. If the shift is in progress at the time of release, they must either return to work immediately or arrange with their supervisor to return at a later specified time.

***Relevant Information*: MCA 2-18-619**

Maternity Leave and Parental Leave

The maternity and parental leave policy provides for unpaid leave for eligible employees associated with the birth or placement of a child. It is unlawful for Flathead County to terminate a woman's employment because of her pregnancy. Even if she is ineligible for sick leave or FMLA leave, a woman is still eligible for maternity leave; and she may also be eligible for parental leave.

Maternity or parental leave must be requested in accordance with the procedures established by the employee's department. Employees should give at least 30 calendar days' advance oral or written notice of the need for leave, or as soon as practical when advance notice is not possible.

A. Maternity Leave

Maternity leave is an unpaid leave of absence available to female employees for temporary disability because of pregnancy and delivery. Montana law requires female employees receive a reasonable leave of absence for maternity leave. "Reasonable leave" is determined case-by-case and is based upon the employee's ability to perform her job. The Montana Human Rights Bureau provides guidance regarding what is reasonable leave, stating that an employee is entitled to a reasonable leave of absence for the temporary disabilities associated with childbirth, delivery, and related medical conditions. The employer may not place restrictions on the leave which would not apply to leaves of absence for any other valid medical reason.

In the case of normal pregnancy and delivery, the state assumes a minimum of six (6) calendar weeks after the birth of a child as a reasonable period for recovery. Leave may be longer if the employee is unable to perform her job prior to delivery or if additional leave after delivery related to the pregnancy is needed and reasonable. Employees may voluntarily return to work before the minimum six (6) week maternity leave expires if they submit a medical release and inform their supervisor two (2) weeks in advance of the new return date.

Upon return from maternity leave, the employee must be reinstated to the employee's original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other service credits.

B. Parental Leave

Parental leave applies to both male and female employees. If the employee has FMLA leave available, that leave shall be used instead of parental leave. However, if no FMLA leave is available, parental leave is an unpaid leave of absence for permanent, seasonal, and temporary employees not to exceed 15 working days immediately following the birth or placement of a child (e.g., if the employee is adopting a child or is a birth father). Employees may be required to provide documentation for the use of parental leave.

Both maternity and parental leaves are unpaid. However, employees may request to use accrued paid leave concurrently with maternity or parental leave, according to Flathead County policy applicable to the type of leave requested.

For eligible employees, paid leave (sick, vacation or compensatory time) and FMLA shall run concurrent with any maternity or parental leave.

***Relevant Information*: Montana Human Rights Bureau: *Rights of Pregnant Employees*, MCA 49-2-310 and -311; *Parental Leave for State Employees*, MCA 2-18-606**

Leave of Absence without Pay

A leave of absence without pay is a period of unpaid absence from employment provided by Flathead County that does not result in a break in service. Typical requests for leave without pay are in situations where an employee has exhausted all applicable leave balances and needs to be absent from work for personal reasons. Leaves of absence without pay are contingent on the approval of the employee's department head on a case-by-case basis.

A. Requests, Qualifications, and Procedures

Requests for leave of absence without pay shall be in writing and specifically state the reasons for the request, the date the employee wishes to begin the leave, and the return-to-work date. The request shall be submitted by the employee to the affected department head. The department head shall make a decision

based upon the best interest of Flathead County, giving due consideration to the reasons given by the employee and the requirements of any departmental procedures and applicable state and federal laws.

A department head may grant a permanent, temporary, or seasonal employee a leave of absence without pay not to exceed 40 hours in any rolling twelve (12) month period, prorated for part-time employees. The Board of Flathead County Commissioners may grant an extension of leave without pay. This leave will be granted only upon written recommendation of the department head and requests for such leave shall be made one month in advance.

No sick leave, holiday, annual vacation benefits, or any other fringe benefits shall accrue while an employee is on leave of absence without pay. An employee may continue to participate in the Flathead County insurance plan, but the employee must pay 100% of the premiums in a manner prescribed by the Plan Administrator. Employees may be required to use all appropriate accrued leave or compensatory time before a leave of absence without pay. However, Flathead County may not require an employee to exhaust annual leave balances for reasons of illness unless he/she agrees.

B. Returning to Work

Upon expiration of the approved leave of absence, the employee is not guaranteed to be placed in the same position but shall be placed in a position at the needs of Flathead County. If an employee fails to comply with the return-to-work requirement and does not arrange for an approved extension of leave, he/she may lose reinstatement rights, and be subject to termination.

C. Other Leaves That Take Precedence Over Leave of Absence Without Pay

FMLA and military policies take precedence over this policy to the extent there are differences. Leave of absences without pay shall run concurrently with eligible FMLA, military leave, or other protected leaves.

Relevant Information: **MCA 10-1-1006**

Family and Medical Leave Act (FMLA)

The Family and Medical Leave Act (FMLA) provides eligible employees up to 12 weeks of unpaid, job-protected leave for certain family and medical reasons, and up to 26 weeks to care for a covered service member with a serious injury or illness sustained in the line of duty.

A. Eligibility

To be eligible for FMLA leave, the employee must have worked for Flathead County for a total of 12 months minimum, and for at least 1,250 working hours during the 12-month period immediately preceding the leave.

B. Duration

Eligible employees may take up to 12 weeks of leave within a rolling 12-month period measured backward. The 12 weeks of leave may be taken in a single block of time or, if medically necessary, on an intermittent basis or a reduced schedule. When the leave is taken for childbirth or placement of a child for adoption or foster care, intermittent or reduced leave schedules are subject to approval. Any leave taken to bond with a new child after birth or upon adoption or foster care must be taken within one year of the event.

Military caregiver leave provides up to 26 weeks of leave in a single 12-month period. The maximum amount of FMLA leave combined cannot exceed 26 weeks of leave.

C. Qualifying Reasons for FMLA Leave

Under the FMLA, Flathead County must grant up to 12 weeks of job-protected leave for any of the following reasons:

1. The birth of a son or daughter and to care for the newborn child.
2. Placement with the employee of a son or daughter for adoption or foster care.
3. To care for the employee's spouse, son, daughter, or parent with a serious health condition.

4. A serious health condition that renders the employee unable to perform the functions of his/her job.
5. Any qualifying exigency (e.g., short-notice deployment, military events, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and other events which arise out of the covered member's active duty or call to active duty status) arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.
6. To care for a covered service member with a serious injury or illness sustained in the line of duty on active duty if the employee is the spouse, son, daughter, parent, or next of kin of the service member. Eligible employees are entitled to up to 26 weeks of leave in a single 12-month period to care for the service member. This military caregiver leave is available during "a single 12-month period" during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

D. Serious Health Condition Qualifications

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider. Serious health conditions include:

1. A condition that requires the person to be hospitalized, or any subsequent treatment in connection with such inpatient care.
2. A condition that keeps a person away from his/her normal activities for three consecutive calendar days if treated at least twice by a health care provider during that period, or requires at least one visit to a health care provider and a regimen of continuing treatment thereafter.
3. Any period of incapacity due to pregnancy or prenatal care.
4. Any period of incapacity due to a chronic condition that requires occasional visits for treatment by a health care provider (defined as at least twice per year), continues over an extended period of time, and may cause episodic rather than continuing periods of incapacity.
5. A permanent or long-term condition under the continuing supervision of a health care provider for which treatment may not be effective, such as Alzheimer's Disease, severe stroke, terminal stages of disease, etc.
6. Any period of absence to receive treatment from a health care provider for a condition that could result in an illness of more than three consecutive calendar days in the absence of medical treatment.

E. Notice and Certification

Employees are required to provide advance notice of leave requests whenever possible and may be required to provide medical certification. Taking of leave may be denied if requirements are not met. Thirty calendar days' notice is required when the need for leave is foreseeable. When advance notice is not possible, the employee must provide notice as soon as practical. Requests for FMLA leave must be made following Flathead County's normal requirements for requesting leave and providing enough information so the County can determine whether the FMLA may apply to the leave request. Flathead County must promptly (within five business days, absent extenuating circumstances) notify the employee of the employer's response to the request for FMLA leave. If the request is approved, Flathead County should formally designate the leave as FMLA.

Flathead County may require medical certification to support a request for leave because of a serious health condition, and may require a fitness for duty report to return to work. The employee has 15 calendar days to return a completed medical certification form. The Human Resource Department may contact the employee's health care provider for clarification and authentication of the medical certification. Some examples of deficiencies might be when the certification does not provide necessary information such as the duration of the leave, the nature of the restrictions, or the medical necessity of the leave or restrictions. In these instances, correspondence with the employee and health care provider shall be coordinated through Flathead County Human Resource personnel and shall not be made by the direct supervisor.

F. Supervisor's Responsibilities

If a department head or supervisor becomes aware of an employee taking leave for a potentially qualifying event (e.g., those described in the **Qualifying Reasons** listed above), he/she will immediately notify Human Resource personnel for further instructions.

G. Use of Paid Leave

Employees must use accrued sick leave and available compensatory time, in that order, concurrently with FMLA leave if the leave meets the conditions of the Flathead County Sick Leave Policy and/or Compensatory Time Policy. When an employee has exhausted accrued sick leave and compensatory time, FMLA leave shall be unpaid leave, except that an employee may elect to use accrued vacation leave for all or part of the unpaid leave. The hours used shall be counted against the employee's Family and Medical Leave Act entitlement.

If a workers' compensation leave of absence qualifies as FMLA leave, it will be recorded as both on the timecard.

H. Maintenance of Employee Benefits

During any FMLA leave, Flathead County must maintain the employee's coverage under the group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. Therefore, any share of group health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA leave period. If premiums are raised or lowered, the employee would be required to pay the new premium rates. The employee should make necessary arrangements for payment of premiums during periods of unpaid FMLA leave. Payments are due at the same time as it would be made if by payroll deduction. Coverage is cancelled if the payment is not made within a 30 calendar day grace period from the due date.

An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee is entitled to reinstate coverage.

Paid holidays will not be counted against an employee's FMLA leave entitlement.

I. Reinstatement

An employee returning to work following a FMLA leave shall be returned to the same or equivalent position with equivalent pay as when the leave began. The use of FMLA leave shall not result in the loss of any employment benefit accrued prior to the start of an employee's leave. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.

***Relevant Information*: 29 CFR Part 825**

Declared Emergency or Disaster

If an employee is working in a geographical location in which the Governor of the State of Montana has declared either a disaster or an emergency and the employee is unable to report to work, Flathead County shall pay the employee as if he/she had worked.

If an emergency or disaster is declared by Flathead County officials and employees are allowed to leave work at an earlier hour than usual, or an employee is unable to report to work at the assigned hour, the time not worked will be charged to vacation leave, or, if the employee elects, may be unpaid leave; provided however, that the Board of Flathead County Commissioners may determine to allow such employees to be paid as if they had worked.

An employee who is absent from work during a declared emergency or disaster due to a planned absence such as vacation or previously approved sick leave shall be compensated at the normal rates for vacation and/or sick leave as if no emergency or disaster was declared.

EMPLOYEE CONDUCT

Prohibited Conduct and Guidelines for Appropriate Behavior

Standards of conduct provide ethical and behavioral guidance for public employees. As an integral member of the Flathead County team, employees are expected to accept certain responsibilities and adhere to acceptable conduct and business practices.

This not only involves demonstrating respect for the rights and feelings of others but also demands that employees refrain from any behavior that might be detrimental to themselves, their co-workers, the public, and/or Flathead County. Employee conduct reflects on Flathead County. Consequently, employees are encouraged to observe the highest standards of professionalism at all times.

Flathead County employees are expected to accept certain responsibilities, protect the public from harm, adhere to acceptable principles in matters of personal conduct, and exhibit a high degree of personal integrity at all times.

A. Prohibited Conduct

Listed below are types of prohibited workplace conduct and behavior. This list should not be viewed as being all-inclusive. Actions Flathead County deems inappropriate and that will lead to disciplinary action or discharge from employment include, but are not limited to:

1. Falsifying employment or other County records or making false statements.
2. Violating Flathead County's policy on **Equal Employment Opportunity,** which prohibits refusing employment or discriminating in compensation or other terms, conditions, and privileges of employment based on race, color, national origin, age, physical or mental disability, marital status, pregnancy, religion, creed, sex, sexual orientation, political beliefs, genetic information, or veteran's status.
3. Harassment of employees, or any person doing business or interacting with Flathead County, because of a person's race, color, national origin, age, physical or mental disability, marital status, pregnancy, religion, creed, sex, sexual orientation, political beliefs, genetic information, or veteran's status. (See **Preventing Harassment and Discrimination** within this Policy.)
4. Sexual or other unlawful or unwelcome harassment. (See **Preventing Harassment and Discrimination** within this Policy Manual.)
5. Violating the Montana Code of Ethics statute (MCA 2-2-101) which prohibits using public time, facilities, or resources for private business or political purposes; acts that create a conflict of interest between public and private interests; accepting substantial gifts; and sets forth other standards, prohibitions, and requirements outlined in **Ethics and Conflict of Interest** within this Policy Manual.
6. Violating the nepotism statute (MCA 2-2-304). Nepotism is an unfair practice that occurs when hiring is based on personal connections rather than ability or merit, and is further addressed in **Nepotism** within this Policy Manual.
7. Establishing a pattern of absenteeism or tardiness.
8. Abusing break times and/or lunch periods as outlined in the **Hours of Work, Meal Breaks, and Rest Breaks** policy within this Policy Manual.
9. Babysitting of children and/or pets in Flathead County offices by employees. Children and/or pets will not be allowed to wait in the County offices for their parents/owners while they are on shift.
10. Failing to possess or maintain a driver's license, commercial driver's license, or other license, when the license is necessary for the performance of job duties.
11. Failing to report an accident involving a Flathead County vehicle in writing as soon as possible (immediately or up to 24 hours, unless there are extenuating circumstances).
12. Use of Flathead County equipment, vehicles, supplies, time, or facilities for private purposes or any other violation of the **Use of Vehicles and Equipment** policy within this Policy Manual which includes, but is not limited to, failing to operate or maintain Flathead County vehicles and equipment safely or in

the proper manner; abusing or defacing vehicles, equipment, or Flathead County property; or operating County vehicles or equipment while under the influence (as defined in MCA 61-8-401).

13. Violating drug and alcohol rules and regulations established for employees required to have Commercial Driver's Licenses.

14. Violating the Drug Free Workplace Act described in **Drug- and Alcohol-Free Workplace** within this Policy Manual, including, but not limited to, reporting to work intoxicated or under the influence of unprescribed drugs, testing positive for drug and/or alcohol use, bringing or using drugs or alcoholic beverages on Flathead County property, or using drugs or alcoholic beverages while engaged in County business away from County property. This includes possessing or using alcohol or unprescribed drugs in Flathead County vehicles or private vehicles being used for County business. Legally prescribed drugs and non-prescription medicals are legal drugs which are not prohibited substances. However, the use of any substance which carries a warning label that indicates mental functions, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought, as appropriate, before performing a safety-sensitive job function.

- **a.** Employees are allowed to possess and consume alcoholic beverages while on Flathead County property when the employee is attending a function open to the public at which alcohol is served as a private citizen and the employee is not engaging in County business in any manner.

15. Threatening, fighting, or causing or performing violent acts in the workplace or any other violation outlined in **Workplace Violence Prevention** within this Policy Manual.

16. Using abrasive, impolite, or offensive conduct, gestures, or language toward the public, Flathead County officials, or other employees.

17. Theft of property from Flathead County employees, the County, or the public, including removal from the premises, without proper authorization, company property or property of other employees, customers, and the general public.

18. Possessing dangerous, unauthorized materials that could be used to harass, intimidate or injure another person, such as firearms or explosives, on County premises, in County vehicles, or while on County business. See **Weapons on County Property** within this Policy Manual.

19. Disregarding safety or security regulations as outlined in **Workplace Safety Program** within this Policy Manual.

20. Engaging in insubordination, which is the refusal to follow a direct order by the supervisor.

21. Failing to maintain the security of confidential information.

22. Failing to perform duties in a satisfactory manner.

23. Violating the **Smoke-Free Workplace** policy within this Policy Manual, which adheres to the Montana Clean Indoor Air Act. The MCIAA bans smoking in all enclosed workplaces in Montana. Smoking is prohibited in all Flathead County facilities and vehicles.

24. Violating the **Personal Telephone Calls and Personal Communication Devices** policy within this Policy Manual.

25. Violating the **Computers, Internet, and Email** policy within this Policy Manual, which prohibits improper use of these products and services including, but not limited to; altering or installing unauthorized software or hardware, revealing pass codes and files without authorization, using Flathead County Internet and Email systems for non-County business-related purposes, and creating, transmitting, or viewing any offensive or inappropriate material, data, or images.

26. Misrepresenting travel expenses and/or using Flathead County credit cards inappropriately or without authorization as set forth in the **Credit Cards** and **Travel** policies within this Policy Manual.

27. Failing to appear or dress in a manner acceptable for the position, including use of personal protective equipment (PPE) as needed.

28. Failure to return Flathead County equipment or property. (See **Return of Flathead County Property** within this Policy Manual.)

29. Failure to respond or conduct Flathead County business appropriately while performing on-call duties.

30. Gambling on Flathead County time.

31. Conviction of a felony.

32. Refusing to adhere to the **Use of Scented Substances** policy contained within this Policy Manual, after a supervisor reasonably requests that an employee not come to work wearing a perfume, lotion, moisturizer, etc.

33. Any other act, failure to act, failure to adhere to any policy, or negligence which is injurious to Flathead County, its employees, or the general public.

B. Guidelines for Appropriate Behavior

In accepting employment with Flathead County, the employee assumes certain duties, responsibilities, and relationships which are to be observed during his/her tenure of employment. Upon hiring, all employees shall agree and accept the following responsibilities and work rules as a condition of continued employment. The employee agrees to:

1. Work conscientiously toward achieving the objectives of Flathead County in compliance with its philosophy, policies, rules, procedures, and performance standards.
2. Perform assigned duties in a satisfactory manner and within specified guidelines.
3. Work with other staff members in a sincere, tactful, and positive manner.
4. Be punctual and utilize working hours in an effective and productive way; notify his/her supervisor, in accordance with applicable policy, when the employee is unable to show up for work; refrain from excessive tardiness or absences; and refrain from leaving the work station early without prior approval.
5. Keep personal visitors to a minimum in time and frequency so that it does not impede the employee or other Flathead County employees from performing their jobs in an acceptable manner.
6. Respect the confidentiality of citizens' and employees' information, and not disclose confidential information and/or administrative matters.
7. Report in writing (immediately or up to 24 hours, unless there are extenuating circumstances) any accident occurring at work, whether or not there is evidence of personal injury.
8. Immediately report any unsafe condition observed at the work site.
9. Use Flathead County's property in a responsible and appropriate manner. Employees shall not provide unauthorized access to Flathead County facilities to any individual. Employees shall protect the County's property from damage and refrain from taking or using County property for personal use.
10. Be constantly mindful that Flathead County and its staff have an obligation for the welfare and wellbeing of citizens served through its programs.
11. Respect co-workers and maintain appropriate conduct during work hours. If employee calls or use of a personal communication device causes disruptions or loss in productivity, the employee shall become subject to disciplinary action per Flathead County policy. Cell phones shall be turned off or silenced during meetings, conferences, and in the office or other locations where personal incoming calls may disrupt normal workflow.
12. Refrain from and report any witnessed embezzlement; theft; insubordination; unsatisfactory work performance; harassment or discrimination; falsifying or using falsified records, materials, requisitions, passes, time sheets, or other documents used by Flathead County; violation of County policies and procedures; and misuse or neglect of County benefits, property, co-workers, suppliers, vendors, contractors, or citizens.
13. Refrain from and report any conduct which may endanger the safety of others, which is disruptive of Flathead County's operation, or impairs the ability of others to accomplish their work.
14. Refrain from interfering with or obstructing investigations and the investigator when suspected or alleged violations of any work rules, procedures, or policies may require investigation by or on behalf of management. Should the need for investigation arise, employees are expected to be cooperative in assisting the investigator, and answer questions honestly and thoroughly.

Employees are advised that in no circumstances are these rules and policies to be interpreted as limiting the employee's ability to discuss workplace policies and procedures. However, policies and procedures are ultimately a management right.

C. Disciplinary Action

Violations of the above standards or other County, state, or federal rules, or conduct which is injurious to Flathead County's interests or those of its employees, may result in disciplinary action which can include written or oral warnings, suspension, demotion, termination*, or other discipline as deemed appropriate by Flathead County. In all cases, an employee subject to disciplinary action shall be informed by the department head of the alleged violations and employer's evidence, and the employee shall be allowed to

present his/her side of the story and evidence orally and/or in writing before discipline, if appropriate, is imposed.

*If the disciplinary decision is termination, the Human Resource Department shall, at discharge or within seven (7) calendar days of the date of discharge, notify the discharged employee of the existence of Flathead County's Employee Grievance policy and procedures, and shall provide the discharged employee with a copy of the policy on **Employee Grievance**.

***Relevant Information*: MCA 2-2-101 and 2-2-304**

Ethics and Conflict of Interest Policy

Flathead County employees serve the people of Flathead County and owe them a duty to uphold their trust and maintain their confidence in the integrity of public employees. These principles require employees to avoid conflicts of interest, bias and favoritism, and the appearance of impropriety (i.e., acts that appear illegal or wrongful to the average citizen). Flathead County employees must conduct themselves in adherence to the rules of conduct stipulated for public employees in MCA 2-2-104. The general provisions are outlined in subparagraph **'A'** below.

Please refer to the section above on **Prohibited Conduct and Guidelines for Appropriate Behavior** for a more comprehensive, yet not all inclusive, list of inappropriate conduct, as well as appropriate conduct and behavior to which all Flathead County employees must adhere. Failure to abide by or comply with any of the items in those policies or this **Employee Ethics Policy** is a basis for disciplinary action up to and including termination.

A. In General, Flathead County Ethics Standards Prevent Employees From:

1. using public time, facilities, or resources for private business or political purposes (unless authorized by law);
2. acts that create a conflict between public and private interests (MCA 2-2-101), which may include major financial transactions with someone an employee regulates or supervises, performing official acts to harm private competitors, performing official acts to benefit an employee's own business interests, and other conflicts of interest;
3. disclosing or using confidential information for personal economic benefit;
4. accepting payment for helping people to obtain a contract, claim, license, or economic benefit from Flathead County;
5. taking payment for overlapping hours in two or more public jobs;
6. requesting or accepting employment with a person the employee regulates without notifying department heads; and
7. accepting substantial gifts or economic benefits (i.e., generally anything more than $50.00) that could influence or reward official actions.

The list above includes only some of the ethical standards and requirements that Flathead County employees must follow.

Violations of this Code of Ethics may not only result in disciplinary action, but may result in the County Attorney bringing a civil action in district court or criminal charges which may be prosecuted to the full extent of the law (MCA 2-2-144).

B. Conflict of Interest

Flathead County employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative or other party of interest (as described below) as a result of Flathead County's business dealings.

If employees have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to a supervisor or department head as soon as possible the existence of any actual or potential conflict of interest, so that safeguards can be established to protect all parties. Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm with which Flathead County does business, but also when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealings involving the County.

C. Seeking Guidance on Ethical Dilemmas or Issues

Before doing anything that might create an ethical problem, employees should ask their department head for guidance. Employees should also report ethical concerns to supervisors, who can advise them on how to avoid or resolve potentially serious problems. After an employee notifies a department head of a possible violation, they can also file a complaint through established Flathead County protocols.

***Relevant Information*: MCA 2-2-101, et. Seq.**

Smoke-Free Workplace

A. Smoking Prohibitions

In compliance with the Montana Clean Indoor Air Act (MCIAA), which bans smoking statewide in all enclosed workplaces in Montana, smoking is prohibited in ALL Flathead County vehicles and in ALL Flathead County facilities. The County recognizes the need of many of its employees to work in an environment free of tobacco smoke and e-cigarette vapors. Smoking and vaping is not permitted inside of any Flathead County building, equipment or vehicle.

B. Designated Smoking Areas

Flathead County also respects the rights of employees who choose to smoke or vape to make personal decisions without interference, as long as these decisions do not interfere with the rights of other workers or local or state laws. In order to prevent smoke and vapor from entering a Flathead County building, smoking and vaping is permitted beyond 25 feet of any doorway, window, ventilation system or exterior wall of a Flathead County building. Employees may also smoke or vape in designated outdoor smoking areas.

***Relevant Information*: Montana Department of Health and Human Resources, Montana Clean Indoor Act – MCA 50-40-101, et. Seq.**

Use of Scented Substances

The ability to perform one's job may be adversely affected by scented substances, i.e., perfume, lotion, oil, and scented deodorants. Staff members are encouraged to inform their supervisor or department head if a reasonable accommodation is required regarding their reaction to a scented product. Flathead County may request reasonable documentation to support the accommodation request. Flathead County may instruct employees to refrain from using scented substances that bother their fellow employees.

Personal Appearance and Proper County Representation

A. Proper Representation of Flathead County to the Public

It is the responsibility of all employees to represent Flathead County to the public in a manner which shall be courteous, efficient, and helpful.

B. Proper Personal Appearance While at Work

Flathead County employees should be dressed in a manner suitable for the public service environment and to reflect favorably on the County's image. Flathead County employees should wear clothing appropriate to ensure their safety in the workplace. Supervisors may develop specific rules appropriate to their workplace.

C. Personal Protective Equipment (PPE)

Employees in positions needing the use of PPE are required to wear the appropriate PPE.

Public Speech

Employees shall not express anything in any public forum as an official Flathead County position without specific permission to do so. If an employee wishes to speak in their official capacity on a matter related to County business, their statements must be approved in advance. Employees shall carefully distinguish between public statements made as an individual and as a representative of Flathead County.

This policy does not prevent or prohibit an employee from expressing an opinion or idea involving concerted activity regarding their wages or other terms and conditions of employment.

A. Political Activity

Employees may not use their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; directly or indirectly coerce, attempt to coerce, command or advise an employee to pay, lend or contribute anything of value to a party, committee organization, agency or person for political purposes; or be a candidate for public elective office in a partisan election. Employees may not be coerced or required to contribute money or services to a political candidate or committee.

There are no restrictions on political activity on the employee's own time. Employees may express opinions on political subjects and candidates; take an active part in political management and political campaigns; and be candidates for office within a political party.

A public employee may run for office and the law requires that he/she be granted 180 days of leave per year while serving in that office.

***Relevant Information*: MCA 2-2-121, 39-2-104**

Personal Telephone Calls and Personal Communication Devices

A. Personal Telephone Calls Using Flathead County Telecommunication Systems

Flathead County-provided phones are to be used for County business and may be used for personal business on a limited basis only. The use of telecommunications equipment for essential personal business (e.g., calls to children, teachers, doctors, day care centers, and family members to inform them of unexpected schedule changes and other essential business) must be kept to a minimum, and not interfere with conducting Flathead County business.

In the event an employee has to make an essential long distance or cellular phone call (using a County-provided cell phone), the call must be collect, charged to a third-party number, or charged to a personal credit card, or the employee must make arrangements to reimburse Flathead County for any charges. It is the employee's responsibility to ensure that no cost to Flathead County results from personal phone calls.

B. Personal Communication Devices

The use of personal communication devices such as cell phones, smart phones, tablets, PDA devices, etc., to communicate, Email, text, or interact with personal social media sites (Facebook, Twitter, etc.) on work time is prohibited, except in the case of occasional personal business (e.g., calls to children, teachers, doctors, day care centers, and family members to inform them of unexpected schedule changes and other essential business). Personal business must be kept to a minimum, and not interfere with conducting Flathead County business.

All personal communication devices should have any tones set to low or inaudible to other employees and members of the public. Employees whose jobs require public interaction should not use a personal communication device while interacting with and serving members of the public.

Utilizing a computer or personal device that connects with the Internet to visit an offensive site or inappropriate material during work hours or break periods is prohibited and subject to disciplinary action. This prohibition includes sexually explicit or offensive messages or images, cartoons or jokes, ethnic or religious slurs, racial epithets, or any other statement or image that might be construed as harassment or disparagement on the basis of race, color, national origin, age, physical or mental disability, marital status, pregnancy, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran's status, or any other category protected by law.

In order to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rule (See **Employee Personnel Records**) regarding the safeguarding of confidential information, Flathead County employees must refrain from the use of Instant Messaging, cell phones, texting, unprotected Email, or any other unsecured communication (e.g., unsecured Bluetooth interfaces or unsecured Internet conferencing) to transmit confidential information regarding Flathead County employees or citizens.

Computers, Internet, and Email

All Flathead County business equipment, hardware, software, network equipment, communications systems, Internet, Email, and data are the property of Flathead County, and employees can use these only for authorized purposes such as conducting Flathead County business. Please see the department head or coordinate with the Flathead County Information Technology (IT) department for instructions (and when troubleshooting is necessary) about the operation of computers, telecommunication systems, or other electronic devices used on the job. Employees must operate all IT equipment according to manufacturers' user instructions and Flathead County policy.

A. Computers

Employees shall not install, modify, or remove any software operating on Flathead County computers. Employees may request review of additional software applications that may enhance or improve existing systems. In order to protect the County computer systems from viruses, external storage devices, software, etc., should be reviewed and approved by the Flathead County IT department prior to installation. The IT department is responsible for the overall operation of the Flathead County computer systems; and all installation, modification, or removal of software, hardware, or data should be reviewed and approved by the IT department.

1. **Cyber Security Policy: User System and Network Access–Normal User Identification**
   All users will be required to have a unique logon ID and password for access to systems. The user's password should be kept confidential and must not be shared with management and supervisory personnel and/or any other employee whatsoever. All users must comply with the following rules regarding the creation and maintenance of passwords:
   - **a.** Password should not be found in any English or foreign dictionary. That is, do not use any common name, noun, verb, adverb, or adjective. These can be easily cracked using standard "hacker tools".
   - **b.** Passwords should not be posted on or near computer terminals or otherwise be readily accessible in the area of the terminal.
   - **c.** Password must be changed every ninety (90) days.
   - **d.** User accounts will be locked after five (5) failed logon attempts.
   - **e.** Logon IDs and passwords will be disabled after (30) days without use.
   - **f.** Users are not allowed to access password files on any network infrastructure component. Password files on servers will be monitored for access by unauthorized users. Copying, reading, deleting, or modifying a password file on any computer system is prohibited.
   - **g.** Users will not be allowed to logon as a System Administrator. Users who need this level of access to production systems must request a Special Access account.

h. Employee Logon IDs and passwords will be deactivated as soon as possible if the employee is terminated, fired, suspended, placed on leave, or otherwise leaves the employment of the County office.

i. Supervisors/Managers shall immediately and directly contact the Flathead County IT Department to report change in employee status that requires terminating or modifying employee logon access privileges. Please see the IT department Employee Termination Policy.

j. Employees who forget their password must call the IT department to get a new password assigned to their account.

k. Employees will be responsible for all transactions occurring during logon sessions initiated by use of the employee's password and ID. Employees shall not logon to a computer and then allow another individual to use the computer or otherwise share access to the computer systems.

B. Internet and Email

1. Cyber Security Policy: Use of the Internet

Flathead County will provide Internet access to employees and contractors who are connected to the internal network and who has a business need for this access. Employees and contractors have this access designated on their electronic registration and signed off for approval by their Department Head, Department Authorized Signer or the Owner of the data.

The Internet is a business tool for the County. It is to be used for business-related purposes such as: communicating via electronic mail with customers, staff and business partners, obtaining useful business information and relevant technical and business topics.

The County Internet service may not be used for transmitting, retrieving or storing any communications of a discriminatory or harassing nature or which are derogatory to any individual or group, obscene or pornographic, or defamatory or threatening in nature or any other purpose which is illegal or for personal gain.

Employees should not expect any privacy with Flathead County Internet and Email use. Flathead County may monitor Internet use for planning and managing network resources, performance, troubleshooting, and suspected or potential abuse. All messages employees create, send, or retrieve over the County's systems are the property of Flathead County.

2. Email Use: Security, Privacy, and Retention

This policy is applicable to all users of Flathead County computer resources. Failure to follow the policy set forth in this document may result in temporary or permanent loss of access to a Flathead County computer resource and/or disciplinary action up to and including discharge.

It is the responsibility of the department head to enforce these policies within each department. In the event that an individual who violates these policies is not appropriately disciplined, the Board of Flathead County Commissioners reserves the right to terminate the responsible department's access to the Flathead County computer resources.

The Flathead County provided email system is to be used for the conduct of government business and delivery of government services.

All messages created, sent or retrieved, over Flathead County's systems are the property of Flathead County. Privacy of email is not guaranteed. Employees should not have expectations of privacy for any messages. Department Heads or their designees and Flathead County IT employees can monitor email for performance, troubleshooting purposes, or if abuses are suspected. Employees should use their best judgment in sending confidential messages over the email system. The use of encryption should be considered when sending these types of messages.

The Flathead County IT department may block email from specified domains, from specific email addresses, or email that contains specific information in its subject line. These filters may be put into place because of their effect on Flathead County's email system or computer network.

Prohibited uses of the County's email system include:

a. Using the County email system for: 1) "for-profit" activities, 2) "non-profit" or public, professional or service organization activities that are not related to an employee's job duties, or 3) for extensive use for private, recreational, or personal activities;

b. Transmission or solicitation of information or statements that contain profane language, pander to bigotry, sexism, or other forms of prohibited discrimination, or can in any way be construed as intending to harass or threaten another individual, sexually or otherwise;

c. Any activity with religious or political purposes outside the scope of the user's assigned and authorized governmental duties;

d. Opening any "executable" email attachments (e.g., .exe, .bat, .scr, .vbs) from any source;

e. Sending or forwarding "chain" letters, i.e., those that ask the receiver to forward the message to multiple recipients;

f. Disruption, obstruction, or burden of network resources;

g. Unauthorized enhancements or add-on software to Outlook (e.g., animations, backgrounds, pictures);

h. The intentional or negligent introduction of computer viruses into any County systems; and

i. Broadcasting e-mails to all employees or groups in the County's email address book.

Employees should check their mail with a frequency appropriate to their job duties and their departmental policy. If employees are unable to check their mail for an extended period of time, they should use the "auto reply" feature or make arrangements to have their mail picked up by someone else (supervisor or department head) and reviewed to see if messages need a response. Flathead County IT department can assist with making this available.

In drafting and sending email messages, employees should not include anything they are not prepared for the public to read. Statements can potentially become a basis for litigation (e.g. sexual harassment comments) and/or civil or criminal liability. Email communication should resemble typical professional and respectful business correspondence.

The chance of receiving a virus increases with the use of email. Many viruses come embedded in attachments. Suspicious email messages should be forwarded to the Flathead County IT department (helpdesk@flathead.mt.gov) for investigation before they are opened.

Communications sent or received by the email system may be "documents" under Article II, Section 9 of the Montana Constitution or public records under Section 2-6-101, MCA, and should be generated and maintained accordingly. Employees should delete items from their inbox and sent items when they are no longer needed. If a mail item needs to be retained, it should be moved to an archive folder, a disk, or be printed. Items placed in an employee's archive are the employee's responsibility. The need for retention of an item should be reevaluated after it has been stored for 6 months.

Department Heads are responsible for setting their departmental records retention requirements and for training their employees on these requirements. Employees can contact Flathead County Records Preservation with any questions on retention schedules.

C. Social Media

This policy applies to all Flathead County employees, contractors, volunteers, consultants, vendors, boards, committees and agencies that request any use of social media on the Flathead County network.

All Flathead County social media sites shall be approved by the requesting department head and be registered with the Flathead County Information Technology department. Requesting departments must fill out, sign and submit a “Registration for Social Media Site” form to the IT department. Most social media sites are blocked and are not available from within the County network. Access to these sites is only available through the wireless County Guest network where present, or through the Flathead County secure network with written approval by the requesting department head and the IT Director. Access to limited social media sites may be made available through the Flathead County Computing and Information Network for investigative research. Social media use on the network will require additional security training and other security related requirements deemed necessary by the IT department.

Social media sites shall be constructed and administered by the requesting department head or their authorized designee (Content Manager). Management of content on a social media site shall be the responsibility of the department, board, committee, or agency authorized to manage a social media site. All content must be approved by the department head or their authorized designee. Use of personal social network accounts and user IDs for Flathead County social media sites is prohibited. Use of personal email accounts for Flathead County social media sites is prohibited. It is the responsibility of the requesting department head to ensure unauthorized persons are not allowed to make changes to Flathead County social media sites. Comments and postings from the public shall not be allowed on Flathead County social media sites. Correspondence from the public can be accomplished through existing means including US Mail, telephone, email and web “contact us” forms.

Under Montana law, public records are subject to disclosure and include records in electronic form (§ 2-6-1001 through 2-6-1020, MCA). Therefore, communication to or from county personnel through Social Media is subject to disclosure pursuant to the Flathead County Public Information Request Policy adopted November 12, 2015. Comments and postings by the public and Flathead County are also subject to the same records retention requirements as for any records for the given department. It is the responsibility of the department head to ensure that these records are maintained according to their department’s retention requirements. The department, board, agency, or committee maintaining a social media site is responsible for responding completely and accurately to any public records request for social media content. Content related to Flathead County business shall be maintained in an accessible format and produced in a timely manner in response to a request for public records and in compliance with law. Departments may not rely on third-party sites for document retention or public record request purposes unless they have negotiated a contract directly with these companies for these purposes.

A public record is subject to disclosure upon citizen request. See §2-6-1006, MCA. Since citizens using county government social media sites may be unaware of public record laws, a department using social media should post a statement on the social networking site indicating that communications on the site are presumed to be public records subject to disclosure to third parties.

The requesting department’s Department Head will ensure that the use of social media sites by their department complies with Terms of Service (TOS) or Terms of Use (TOU), as applicable.

Content posted shall direct users back to the Flathead County's principle website for in-depth information, forms, documents or online services necessary to conduct business with Flathead County.

All Flathead County social media sites and content shall comply with all County policies, including the “Employee Conduct” policy found in this Personnel and Policy manual. Anyone representing Flathead County via social media outlets shall conduct themselves at all times as a representative of Flathead County.

PAY AND BENEFITS

Non-Exempt Employee's Overtime Pay

Non-exempt employees (an employee in a position not meeting the definition of *exempt* as defined by the Fair Labor Standards Act, Montana Minimum Wage and Overtime Compensation Act) may receive overtime compensation for hours worked in excess of 40 hours per week at the rate of 1½ times the regular hourly rate of pay. No employee shall work overtime unless authorized to do so by the immediate supervisor or department head, or unless an emergency situation exists.

Absences while in a leave status (e.g., vacation, sick leave, etc.) shall not be considered hours worked for the purpose of calculating overtime. Holiday hours count as time worked for purposes of calculating overtime. Hours actually worked on an observed holiday will not count towards regular working hours for purposes of calculating overtime since it is already paid at time and one half (1.5). Overtime will not be pyramided or duplicated.

If an employee undertakes, on an occasional or sporadic basis and solely at the employee's option, part-time employment for Flathead County which is in a different capacity from the capacity in which the employee is regularly employed, the hours performing the different employment shall not be counted as time worked for purposes of determining overtime hours. (29 CFR 553.30)

Exempt Employees' Compensatory Time

Exempt employees are identified using the criteria listed in The Federal Labor Standards Act (FLSA). Exempt employees do not receive overtime pay.

Flathead County exempt employees receive compensatory time off for hours worked in excess of 40 hours per week at the rate of one hour for each hour worked in excess of 40. Compensatory time earned and used must be recorded on timesheets and accounted for in the same manner as other earned leave time. Compensatory time shall be taken within eight pay periods of it being earned; compensatory time shall not remain as accumulated after the passage of eight pay periods. No compensation for unused compensatory time shall be allowed at any time.

Paid holiday hours shall count toward hours worked. However, absences while in a leave status (e.g., vacation, sick leave, etc.) shall not be considered hours worked for the purpose of calculating compensatory time.

Time Sheets and Preparation of Payroll

In order to prepare County payrolls, it is the policy of Flathead County to have employees prepare and complete time sheets according to established guidelines. Employees and department heads shall ensure that all hours are recorded accurately on the employee's time card as it occurs. The work week restarts every Sunday at 12:00 am. Pay periods and pay days shall be established by the Board of Flathead County Commissioners.

No employee shall be given an advance on salary yet to be earned.

Payroll may be distributed by direct deposit with proper authorization from the employee. Paychecks will be distributed to the employee's department head unless other arrangements have been preapproved. An employee's paycheck may be released to the employee's spouse, designated family member, or another person only if authorized in writing by the employee.

Flathead County shall make payroll deductions from the salaries of employees for union or association dues or representation fees as provided for in any collective bargaining agreement signed by the Board of Flathead County Commissioners' and authorized by the employee in writing.

***Relevant Information*: Fair Labor Standards Act (FLSA); Code of Federal Regulations (CFR), Title 29-Labor**

Decedent's Warrant or Paycheck Reissuance

Employees may file a designation of a person who, notwithstanding any other provision of law, is entitled, upon the death of the employee, to receive all warrants or paychecks that would have been payable to the decedent. The employee may change the designation from time to time. A designated person shall claim the warrants or paychecks from Flathead County, and on sufficient proof of identity, Flathead County shall reissue the warrant or paycheck in the name of the designated person and deliver the warrant or paycheck to the designated person**.**

***Relevant Information*: MCA 7-4-2521**

Termination Pay

Upon separation from employment, employees, including employees separated for cause or laid off, shall receive termination pay on the next regular pay day for the pay period during which they last worked, or 15 calendar days from separation, whichever occurs first. Termination pay includes any wages due at the time a person is separated from Flathead County employment. Termination pay will include accrued vacation and one-fourth (1/4) of the pay attributable to accumulated sick leave if the employee has worked the qualifying periods as noted in the EMPLOYEE LEAVE section of this manual.

No compensatory time shall be considered for exempt employees for termination pay purposes; if compensatory time is not used prior to termination, it is forfeited.

Seasonal employees who do not use the vacation and sick leave earned during the season shall carry over the unused vacation and sick leave to the next season. Seasonal employees who do not return to work at the start of the next season shall be given termination pay as set forth above.

Workers' Compensation

As required by law, Flathead County pays to cover employees with workers' compensation insurance, which provides payment for medical expenses resulting from a work-related injury or disease.

Employees who are injured or become ill from an occupational hazard may be entitled to reasonable doctor, hospital, prescription and medical care costs. After they file a claim, Flathead County's workers' compensation provider shall evaluate the claim, use appropriate fee schedules, and apply certain laws and rules to establish wage loss payments and medical care cost benefits. The provider may investigate the validity of the claim. Workers' comp benefits apply only toward medical conditions directly related to the industrial injury or occupational disease claim.

A. Reporting Provisions

Every work-related injury should be reported immediately to the injured employee's supervisor. Appropriate forms should be completed within 24 hours, or as soon as possible, and submitted to the Human Resource Department.

B. Benefits

Benefits for compensable injuries are governed by state law and include wages, medical, hospital and related services, and other compensation. Wage loss benefits begin after a 4 working day waiting period. Employees may use accrued vacation or sick leave benefits to cover wage loss during the 4-day waiting period.

An employee who is unable to work due to an injury covered by worker's compensation benefits could potentially qualify for FMLA benefits. See the **Family and Medical Leave Act** policy contained in this Policy Manual.

An injured employee who is capable of returning to work within two (2) years from the date of injury, and who has received a medical release to return to work, will be given a preference over other applicants for a comparable position that becomes vacant if the position is consistent with the employee's physical condition and vocational abilities.

C. Fraud

Criminal proceedings may be initiated against a person who obtains or assists in obtaining workers' compensation benefits to which the person is not entitled.

***Relevant Information*: MCA 39-71-101, et. Seq.**

Health and Life Insurance

Group health and life insurance programs are described more fully in documents that are issued to each employee once he/she is eligible to participate. A complete description of the group health insurance programs can be obtained from Flathead County Human Resource Department. Human Resource personnel can explain the provisions in master insurance contracts and help employees choose the best options.

In the event of any contradiction between the information appearing in this policy, other County documents, and the information that appears in the master contracts or master plan documents, the master contracts and documents shall govern in all cases. Employees may request all benefit forms and information from Flathead County Human Resource personnel. Employees will be responsible for notifying the benefit plan personnel, within specific timelines outlined in the plan documents, of any change of status that may affect their benefits. Employees must meet eligibility requirements (e.g., qualifying events) of the benefit program in order to change benefit elections.

A. Health Insurance

Flathead County offers eligible employees a health insurance program that may include medical, dental, and vision care. Permanent employees regularly scheduled to work at least 20 hours per week are eligible for health insurance. Seasonal and temporary employees regularly scheduled to work at least 20 hours per week may also be eligible for health insurance if they are scheduled to work at least 6 continuous months in a year. Each eligible Flathead County employee shall be given a copy of the health insurance plan selected. The ruling authority of the plans is the providing company, and it makes final determinations of claims. An appeal procedure is a part of the plan.

B. Life Insurance

Flathead County offers eligible employees a life insurance program that will help alleviate the financial burdens left to beneficiaries should an unfortunate loss of life occur. Under this program, employees may purchase life insurance. There may be conversion provisions at termination of employment, if the employee desires.

Retirement

Flathead County offers a retirement program guaranteed by the Montana Constitution through the Montana Public Employees Retirement Administration (MPERA). Participation includes contributions from both the employee and Flathead County. Membership in the applicable MPERA retirement system is mandatory for

all County employees, except for those excluded by Section 19-3-403, MCA, and those who opt out under Section 19-3-412.

Flathead County also offers a deferred compensation plan such as a 457(b) account.

***Relevant Information*: MCA 19-3-101, et seq.; Montana Public Employee Retirement Administration**

Employee Assistance Program (EAP)

The Flathead County Employee Assistance Program has been implemented to assist employees in coping effectively with personal or job-related problems. The program provides this assistance through special arrangements with outside, professional counseling resources designed to deal with a broad range of problems such as emotional, behavioral, family, marital, chemical dependency, financial, legal and other personal problems.

This program is available to all employees and their immediate household family members. Cost for this service is covered by Flathead County. The employee or family member shall be responsible for the costs of services provided by a referral resource and some of these expenses may be eligible for payment by the employee's health insurance.

Participation in the EAP is voluntary and self-referral is encouraged. Management may refer employees to the EAP when appropriate to assist in resolving job performance problems. If an employee initiates discussion of a personal problem with a supervisor, the supervisor may recommend the employee to use the EAP.

Employee referral to, and participation in the EAP, as well as all records and discussions of personal issues, will be handled in accordance with strict confidentiality regulations. Records will be kept by the designated counseling resource and will not become part of an employee's personnel file. Information can only be released with written and informed consent of the client; when EAP staff determines that there is a clear and imminent risk to the client or to the community; or when required by a court order. In addition, child abuse must be reported in accordance with state law.

When an employee is referred to the EAP in lieu of discipline or discharge, management may require the employee to authorize verification of attendance at EAP meetings.

Tuition Reimbursement

Flathead County encourages employees to improve their job skills and opportunities for promotion. In general, the course or courses to be reimbursed should be directly related to the responsibilities of the employee and result in development of a skill or increased expertise that can be applied in the performance of job duties. Therefore, consideration will be given on an individual basis to reimbursing employees for educational expenses.

To be eligible for tuition reimbursement, the employee must have at least one year of service. The lifetime maximum amount an employee can be reimbursed is $1,000.

It is the responsibility of the employee to submit to the department head a completed tuition assistance request form prior to enrolling in the course, which describes the course content, schedule, cost and reason for requesting enrollment, along with applicable supporting documentation. The application and supporting documentation shall be submitted to the Human Resource Department with a recommendation from the department head. It will then be transmitted to the Board of Flathead County Commissioners.

The Board of Flathead County Commissioners has the authority to approve or disapprove request for tuition reimbursement.

Reimbursement of tuition, books or other related fees shall be paid after submission of an itemized statement of actual expenses paid and proof that the employee has completed the approved course with a minimum passing grade of a C, or appropriate certification.

The Board of Flathead County Commissioners may approve an advance payment to the employee upon a showing of need and the written approval of an agreement to repay the advance through payroll deductions if the course is not satisfactorily completed.

All tuition reimbursement shall be contingent upon the employee's written approval of an agreement to repay Flathead County in the event the employee ceases employment within one year after completion of the course for which the expenses are reimbursed.

Clothing Allowance

Flathead County may provide work clothing for those positions requiring specialized uniforms and may provide a cleaning and maintenance allowance.

SAFETY

Workplace Safety Program

Flathead County has a workplace safety program established to maintain a safe and healthy work environment for employees and the citizens they serve. The success of the safety program depends on the alertness and personal commitment of all. The department shall provide information to employees about workplace safety and health issues through regular internal communication channels such as supervisor-employee meetings, bulletin board postings, Email, memos, or other communications.

Flathead County has a safety committee comprised of representatives from each department. The committee meets monthly for safety trainings, reviews accident investigations and inspections, and reports any concerns to the Risk Management Committee. The safety committee members relay this monthly information to their respective departments.

It is the responsibility of the department head or elected official to coordinate departmental safety programs and address any safety or environmental concerns in a prompt manner, to identify and correct hazardous conditions which may lead to human injury and/or property damage, participate in investigation of incidents within the department, ensure safety inspections and training are conducted monthly, and work with the Risk Management and Safety Committee.

The Board of Flathead County Commissioners, at its discretion, may provide up to a $50 safety bonus to employees once per year. Providing this bonus for any number of prior years shall not create an expectation of such provision in future years, nor will it constitute a past practice.

A. Contributing Suggestions and Reporting Concerns

Excellent safety improvement ideas often come from employees, since they are the ones who are most familiar with their work environment. Those with ideas, concerns, or suggestions for improved safety in the workplace are encouraged to raise them with their supervisor, department head, safety committee member, or Human Resource personnel. Reports and concerns about workplace safety issues may be made anonymously if the employee wishes. All reports can be made without fear of reprisal.

B. Reporting Violations and Disciplinary Action

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate supervisor. Employees who violate safety standards, cause hazardous or dangerous situations, or fail to report in a timely manner or (where appropriate) remedy such situations may be subject to disciplinary action, up to and including termination of employment. In the case of accidents that result in injury, regardless of how insignificant the injury may appear, employees should immediately notify the appropriate supervisor. Such reports are necessary to comply with laws and initiate insurance and workers' compensation benefit procedures.

Workplace Violence Prevention

Flathead County is committed to preventing workplace violence and to maintaining a safe work environment. Flathead County has adopted guidelines to deal with intimidation, harassment, or other threats of (or actual) violence that may occur during business hours or on its premises. All Flathead County employees contribute to the type of environment in which they work, and it is therefore essential to follow these guidelines, treat fellow workers with dignity and respect, and immediately report any violations or inappropriate behavior.

All employees, including supervisors and temporary employees, should be treated with courtesy and respect at all times. Employees are expected to refrain from fighting, roughhousing, or any other conduct that may be dangerous to others. It is important to note that employees with different backgrounds might have very different ideas about what is innocent horseplay and what seems to be threatening and intrusive. Work is not the place for it.

Firearms, weapons, explosives and other dangerous or hazardous devices or substances are prohibited from Flathead County buildings unless required by statute, and/or necessary for the employee to perform the essential functions of the job and when the employee has received permission by the Flathead County Commission.

Conduct that threatens, intimidates, or coerces another employee, a customer, or a member of the public at any time, including off-duty periods, will not be tolerated. This prohibition includes all acts of harassment, including harassment that is based on an individual's race, color, national origin, age, physical or mental disability, marital status, pregnancy, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran's status or any other category protected by law.

All threats of (or actual) violence, both direct and indirect, should be reported as soon as possible to the immediate supervisor or any other member of management. Flathead County shall promptly and thoroughly investigate all reports of threats or violence and of suspicious individuals or activities.

Use of Vehicles and Equipment

Employees whose jobs require them to travel using Flathead County vehicles or equipment to perform their duties for the County are expected to treat such property with the utmost degree of care and respect. The vehicles and equipment owned by Flathead County are essentially paid for by Flathead County citizens; and as public servants, employees' actions should reflect positively upon Flathead County by doing everything possible to maintain well-functioning, carefully maintained, and clean vehicles and equipment to ensure longevity. This also includes safe operation according to all relevant laws. This policy also covers situations when an employee uses a personal vehicle to conduct Flathead County business. The following guidelines shall be observed.

A. Vehicle Use Guidelines

1. Employees are to use Flathead County vehicles for business purposes. Authorized drivers may use County vehicles to conduct business on behalf of Flathead County and to respond to medical or other emergency situations. Using Flathead County vehicles or equipment for personal convenience

is prohibited and will result in disciplinary action. Certain employees (emergency response, on-call, etc.) may be authorized by their department head to take Flathead County vehicles home.

- Department heads shall determine which employees are authorized to take County vehicles home for purposes that serve Flathead County's interest. Those vehicles which meet the criteria of a "qualified non-personal use vehicle" under IRS regulations (see IRS Publication 15-B which is on file in the Finance office) are considered exempt. Employees who drive vehicles which are not exempt under the IRS regulations are required to keep a log book denoting personal mileage. The log books shall be turned in at the end of each month and the value of the mileage (per current IRS regulations) will be included in the employee's wage once per month. For "qualified non-personal use vehicles", no log book is required.

2. To use a County vehicle, an employee must have an acceptable use. Acceptable uses include conducting business on behalf of Flathead County as stated above, getting food and lodging when in a travel status, and certain other activities that may be up to the department head's discretion.

3. Flathead County employees are expected to travel in an efficient and cost-effective manner. The traffic laws and established safety practices must be followed at all times. Any abuse of Flathead County vehicles when in an employee's possession or violations of safety practices or traffic laws may result in disciplinary action.

4. Employees shall not leave the scene of an accident until given approval by the supervisor, department head, or investigating officer.

5. The ability to legally operate a vehicle is an essential job duty for some positions. Employees who, as part of their job, have to operate Flathead County vehicles are required to have an acceptable driving record. A copy of the employee's current, valid driver's license must be on file with the Human Resource Department or designee before they may operate a Flathead County vehicle.

6. Employees should use Flathead County vehicles for work-related travel whenever possible. With pre-approval, employees may use their personal vehicles for County business when the supervisor determines it is in the best interest of Flathead County. Employees who are operating their personal vehicles during the course of employment must have liability insurance and provide evidence of such to Flathead County.

7. If employees drive their personal vehicles for Flathead County business, they must maintain it according to the manufacturer's specifications and have current registration. Flathead County's insurance protects the employee on an excess basis only. The employee must rely on their own personal auto insurance policy for primary insurance coverage. Employees are responsible for deductibles and co-insurance payments under their personal vehicle policies.

8. Flathead County employees who use vehicles in the course of their jobs shall maintain a current, valid licensure or certification (a Montana driver's license or CDL, as required by the job). Employees are responsible for immediately notifying their supervisor of any change in the status of their driver's license and any convictions affecting their driving record.

9. Flathead County employees are required to wear seat belts while driving or riding in County-owned vehicles or when using personal vehicles for County business. The driver is responsible to ensure all occupants of the vehicle also wear seat belts.

10. Employees must operate vehicles in a careful and prudent manner at all times to avoid endangering other people and property. Employees are prohibited from operating a vehicle for Flathead County business if they are under the influence of alcohol, illegal drugs, improperly used prescription drugs, or legally prescribed drug if that drug affects their ability to safely operate the vehicle. Employees taking prescription drugs are responsible for notifying their medical providers if they are required to operate a vehicle for County business, and they must notify their supervisor of any restrictions on operating a vehicle.

11. In compliance with the Montana Clean Indoor Air Act (MCIAA) and the County's Smoke-Free Workplace Policy which bans smoking statewide in all enclosed workplaces in Montana, smoking is prohibited in ALL Flathead County vehicles and in all Flathead County facilities.

12. Neither employees nor any passengers can have an alcoholic beverage container in the passenger compartment of a Flathead County-owned, leased, or loaned vehicle.

13. Employees are prohibited from using personal communication devices while driving a vehicle on Flathead County business. Use of a cell phone while driving is prohibited unless calls can be made

using hands-free devices. Texting is prohibited by the driver at all times while operating the motor vehicle.

14. Employees must follow established Flathead County procedures regarding the care, maintenance, and cleaning of Flathead County vehicles. Employees must immediately report any problems or issues to their department head and/or Flathead County maintenance department to ensure that all problems are fixed promptly and vehicles safely operate at maximum efficiency for as long as possible.

Weapons on County Property

Flathead County strives to provide a safe and healthy work environment for all employees. As part of this effort, the County has a policy limiting the possession and storage of firearms in County-owned buildings and vehicles.

A. Firearms

Employees on County business may not carry a firearm on their person or carry or store a firearm in a County-owned or County-leased building or vehicle, unless they are:

1. specifically authorized by state or federal law to carry a firearm as a condition of employment;
2. in actual service as a member of the National Guard; or
3. engaged in firearm instruction or field work in which the employee carries a firearm for conducting official County business.

Flathead County may grant an individual employee or job class a written exception to this policy.

B. Dangerous Weapons

Possession of other dangerous weapons, explosives, large knives, swords, etc., and/or any other weapon deemed inappropriate by Flathead County is prohibited in all County buildings and in County vehicles except if permitted by statute or necessary to perform county business and the employee has obtained authorization from the Flathead County Commissioners.

APPENDIX 1: DRUG TESTING CONTACTS

CONSORTIUM – SUBSTANCE ABUSE PROGRAM SERVICES
Occupational Health & Wellness Services (OHWS)
75 Claremont, Suite F
Kalispell, MT 59901
Phone: (406) 751-4189
Fax: (406) 751-4527

MEDICAL REVIEW OFFICER – MRO
Thomas McClure, M.D.
Occupational Health & Wellness Services
75 Claremont, Suite F
Kalispell, MT 59901
Phone: (406) 751-4189
Fax: (406) 751-4527

FLATHEAD COUNTY DRUG AND ALCOHOL PROGRAM MANAGER – DAPM
Tammy Skramovsky
800 South Main Street, Suite 219
Kalispell, MT 59901
Phone: (406) 758-5522
Fax: (406) 758-5905

SUBSTANCE ABUSE COUNSELOR
Substance abuse counselors may be accessed through the County's Employee Assistance Program (EAP):
1-877-851-1631
TDD 1-800-327-1833
www.workhealthlife.com/Standard6

SUBSTANCE ABUSE PROFESSIONAL (SAP)
Provider: Deborah Bressler, MA, LAC, LCPC, SAP
Address: 4 1st Street E, Ste. 200, Kalispell, MT 59901 (by appointment only)
Phone: (406) 270-9286

Provider: Laura Dickerson, MA, LAC, NCAC1, SAP
Address: 17 2nd Street E, Ste. 204, Kalispell, MT 59901 (by appointment only)
Phone: (406) 752-0530

LABORATORY
Pathology Associates Medical Laboratory/LabCorp
110 W. Cliff Drive
Spokane, WA 99204
Phone: (509) 755-8991
Fax: (509) 922-5281

POSSIBLE LABORATORY FOR REFERRAL OF SPLIT-SPECIMEN
Quest Diagnostics
10101 Renner Blvd.
Lenexa, KS 66219
913-982-2900

APPENDIX 2: OBSERVED BEHAVIOR/REASONABLE SUSPICION FORM

EMPLOYEE NAME	DATE OBSERVED
ADDRESS OF INCIDENT	TIME OBSERVED FROM _____ AM PM TO _____ AM PM

Record employee observed behavior for reasonable suspicion for the use of alcohol or controlled substances. According to 49 CFR 382.307 *Reasonable Suspicion Testing,* the employer shall require the employee to submit to a controlled substance or alcohol test if a supervisor or company official who is trained in accordance with 382.603 determines that reasonable suspicion exists.

Mark items that apply and describe specifics

1. WALKING/BALANCE

_____ Stumbling _____ Staggering _____ Falling _____ Unable to stand
_____ Swaying _____ Unsteady _____ Holding on _____ Rigid
_____ Sagging at knees _____ Feet wide apart

2. SPEECH

_____ Shouting _____ Whispering _____ Slow _____ Rambling
_____ Slurred _____ Slobbering _____ Incoherent

3. ACTIONS

_____ Resisting communications _____ Insulting _____ Hostile _____ Drowsy
_____ Fighting/insubordinate _____ Profanity _____ Threatening _____ Erratic
_____ Hyperactive _____ Crying _____ Indifferent

4. EYES

_____ Bloodshot _____ Watery _____ Dilated _____ Glassy
_____ Droopy _____ Closed _____ Wearing sunglasses

5. FACE

_____ Flushed _____ Pale _____ Sweaty

6. APPEARANCE/CLOTHING

_____ Disheveled _____ Messy _____ Dirty _____ Partially dressed
_____ Having odor _____ Stains on clothing

7. BREATH

_____ Alcoholic odor _____ Faint alcohol odor _____ No alcohol odor _____ Marijuana odor

8. MOVEMENTS

_____ Fumbling _____ Jerky _____ Slow _____ Nervous
_____ Hyperactive

9. EATING/CHEWING

_____ Gum _____ Candy _____ Mints _____ Tobacco
_____ Other

Other observations:

_____

_____

_____

WITNESSED BY:

_____	_____	_____	_____ a.m / p.m.
Signature	Title	Preparation date	Time
_____	_____	_____	_____ a.m / p.m.
Signature	Title	Preparation date	Time

Describe interaction with employee when you notified them of the reasonable suspicion drug test requirement:

Did employee admit to using drugs or alcohol? _____ Yes _____ No

When: _____ Substance: _____

How much: _____ Where taken: _____

Narrate interaction with employee: _____

_____

_____

_____

_____

_____

_____

_____

_____

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WITNESSED BY:

_____	_____	_____	_____ a.m / p.m.
Signature	Title	Preparation date	Time
_____	_____	_____	_____ a.m / p.m.
Signature	Title	Preparation date	Time

APPENDIX 3: POST-ACCIDENT DOCUMENTATION FORM

Flathead County Drug and Alcohol Policy

Date of Accident: _____

Time of Accident: _____

County Vehicle Involved: _____

Employee(s) involved in accident:	Employee(s) contributing to accident:

On Site Determination to Test

Check all that apply

As a result of the accident:	Non-DOT	DOT	FTA
Death			
Bodily injury to anyone requiring medical treatment away from the accident scene			
One or more vehicles incurring disabling damage that requires towing from scene			
Property damage in excess of $1500 when there is reason to believe the tested person may have caused or contributed to accident			

If one or more boxes above are checked the following applies:

___ Test driver only if able to give verbal or written consent.

___ Test other employee(s) that could have contributed, unless the employee can completely be discounted as a contributing factor.

Details of decision eliminating employee(s) as contributing factor:

_____

_____

_____

_____

_____

Post Accident Testing

1. ALCOHOL test time: _____

If more than two (2) hours passed from the time of accident to time of alcohol test, please explain the delay:

_____

_____

_____

_____

_____

If more than eight (8) hours passed from time of accident without an alcohol test, please explain why test was not conducted:

_____

_____

_____

_____

_____

Note: After 8 hours make no further attempt to administer an alcohol test and document the reasons.

2. DRUG (urine) test time: _____

If more than eight hours passed from time of accident to time of urine collection for drug test, please explain delay:

_____

_____

_____

_____

_____

Note: The employee will remain at the collection site and continue to consume reasonable amounts of fluids until the specimen has been provided or until the expiration of a period up to 8 hours after the accident.

If more than 32 hours passed from time of accident without a urine collection for drug test, please explain why collection was not conducted:

_____

_____

_____

_____

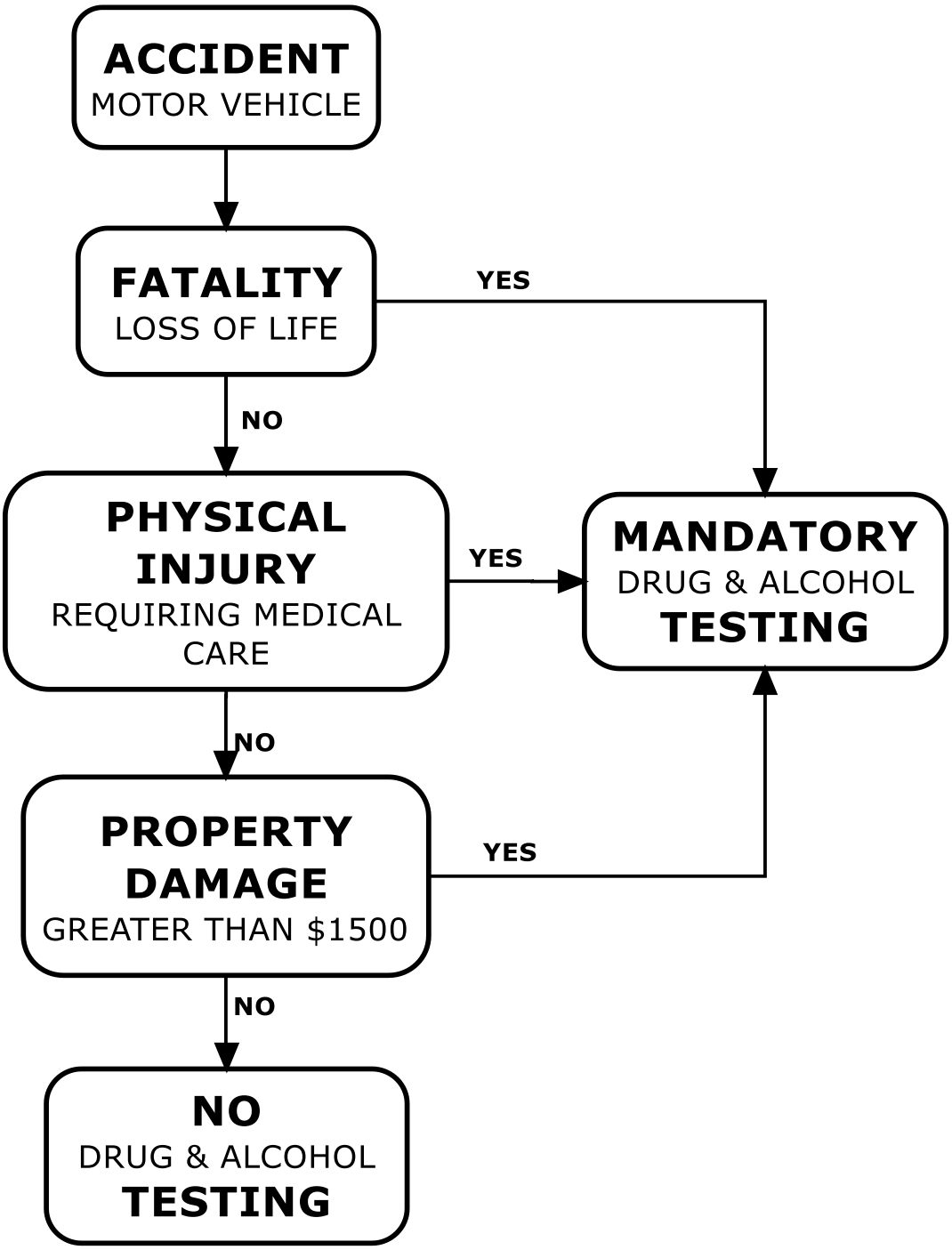
_____

Note: In the event a drug test is not administered within 32 hours following an accident, do not continue to administrate the drug test.

Safety sensitive employees found to have an alcohol concentration of 0.02 or greater, who test positive for controlled substances, refuse to test or refuse to sign the control form must be removed from their safety-sensitive position and be told of the resources available for evaluation. Employees must then be referred to a substance abuse professional and can only return to duty upon the recommendation of the Substance Abuse Professional (SAP).

_____	_____	_____
Signature of Supervisor at Accident Scene	Time	Date

APPENDIX 4: NON-DOT POST ACCIDENT FLOW CHART



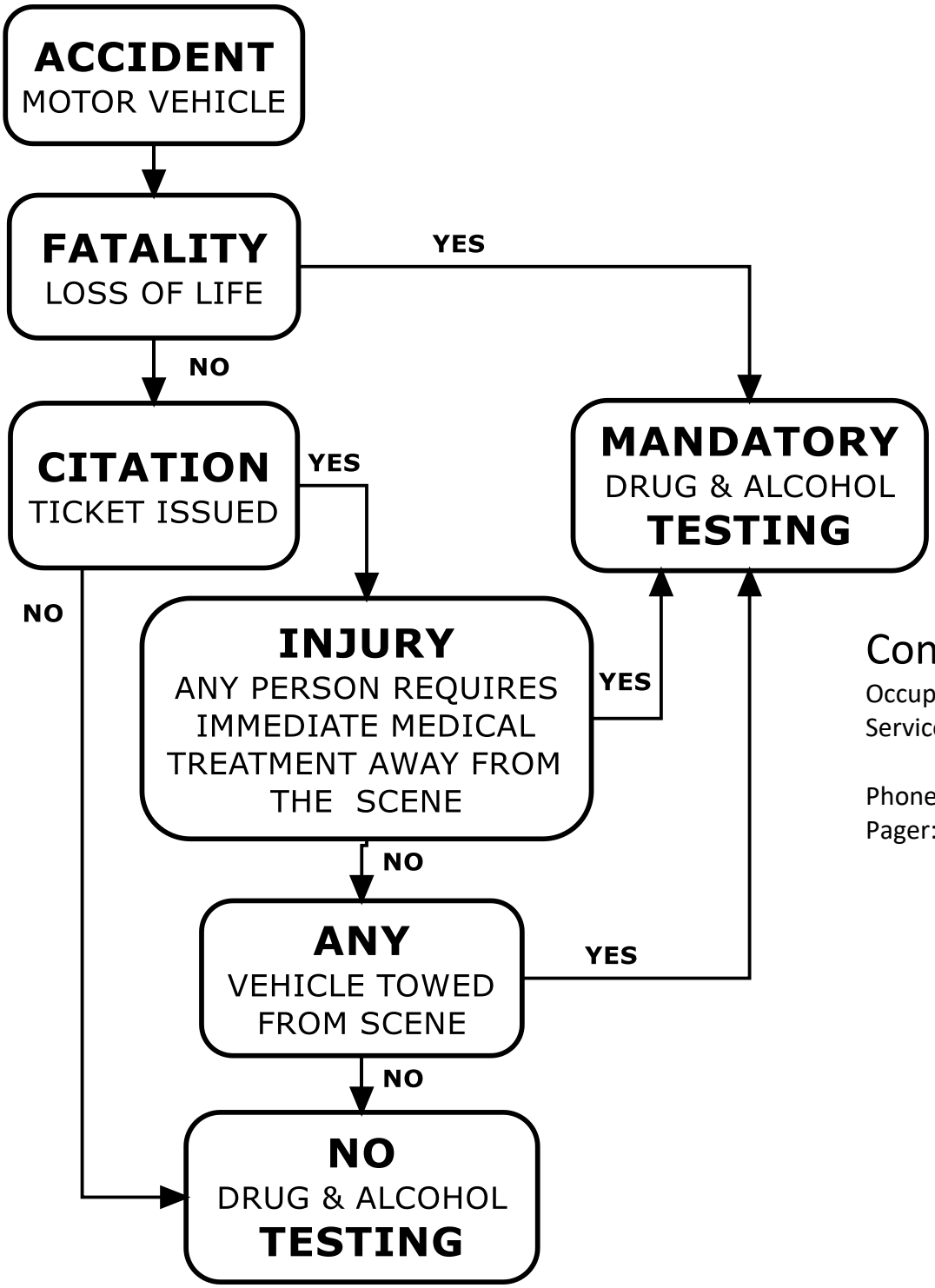
Contact:

Occupational Health Services (OHS)

Phone: 751-4189
Pager: 758-9330

Evaluate if reasonable suspicion testing should be completed.

APPENDIX 5: DOT POST ACCIDENT FLOW CHART



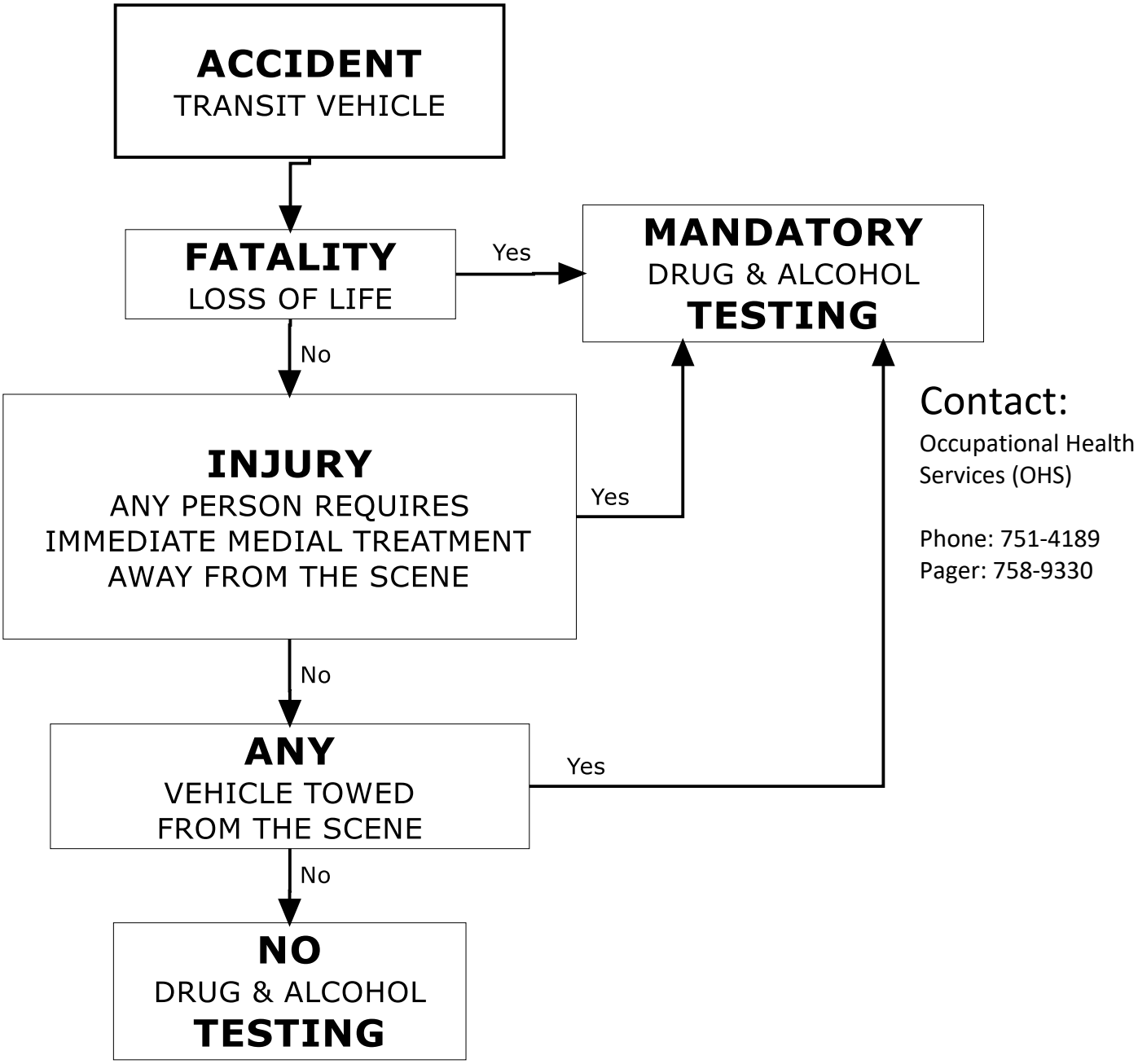
Contact:

Occupational Health Services (OHS)

Phone: 751-4189
Pager: 758-9330

Evaluate if reasonable suspicion testing should be completed.

APPENDIX 6: FTA POST ACCIDENT FLOW CHART



Evaluate if reasonable suspicion testing should be completed.

ADDENDUM
to the
Personnel Policies and Procedures of Flathead County

Under the "EMPLOYEE LEAVE" section add:

Bereavement Leave

Employees shall be given bereavement leave with pay for the death of an immediate family member up to a maximum of five (5) days, not to exceed 40 hours, prorated for part-time employees. The employee will be paid only for hours he/she is scheduled to work during the leave. The total number of paid bereavement hours, combined with any other paid hours during that workweek, may not exceed the total number of hours in a regular workweek for the employee.

Bereavement leave must be used within 2 weeks from the date of death unless services are scheduled at a later date. The delayed leave must be pre-approved by the department head.

This addendum will be removed from the Flathead County Personnel Policies and Procedures Manual if the Attorney General determines the County may not provide paid bereavement leave that is not charged to paid sick leave.

This Addendum to the Personnel Policies and Procedures of Flathead County is adopted effective July 1, 2019.

BOARD OF COUNTY COMMISSIONERS FOR
FLATHEAD COUNTY, MONTANA

Philip B. Mitchell /Chair

Pamela J. Holmquist /Member

Randy L. Brodehl /Member

Date: 10/21/2019

SEAL OF FLATHEAD COUNTY - STATE OF MT - COMMISSIONERS OFFICE