

HIDALGO COUNTY, TEXAS CIVIL SERVICE COMMISSION

RULES

Includes All Revisions through June 26, 2003

STATEMENT OF INTENT

JANUARY 9, 1995
(Amended September 20, 1995)
(Amended December 13, 2000)
(Amended June 12, 2002)
(Amended March 27, 2003)

The Rules supersede all County and District personnel policies in conflict with the Rules. The Hidalgo County Personnel Policy Manual, effective October 1, 1991, except as modified by the Rules, remains in effect. The Head Start Personnel Policies Manual is replaced by these Rules, effective as of September 20, 1995. (Amended September 20, 1995)

All benefits afforded to County and District personnel under the Manual are subject to change to the extent that the cost of all or portion of such benefits may be charged against County and District employees, subject to such employee's consent to pay for same, should the employee desire to continue such coverage. Benefits available under the Manual are also subject to approval of the Governing Authority, and are contingent on the availability of funds.

These Rules are subject to change at any time, by direction of the Commission, and to the extent applicable, are contingent upon the availability of funds and any required approval of the Governing Authority. The Rules shall govern and control the operation of a civil service system for County and District employees in Hidalgo County, Texas. The Commission may amend or repeal all or any portion of the Rules. The Rules, including all benefits available as provided in the Manual, are not contractual, and are subject to unilateral repeal or amendment by the Commission, or if applicable, the Governing Authority.

The Rules do not restrict County and District departments from establishing other departmental policies and procedures governing the operation of County and District departments so long as such policies and procedures are not in conflict with these Rules, are consistent with good employment practices and promote equal employment opportunity.

HIDALGO COUNTY, TEXAS CIVIL SERVICE COMMISSION
Benita R. Valadez, Chairperson
Frank Perez, Member
Rigoberto Villarreal, Member

CHAPTER I
ORGANIZATION¹

PURPOSE:

1.00 The Commission was created under the authority of Chapter 158 of the Local Government Code. Its purpose is to establish, administer and enforce rules adopted by the Commission for County employees in accordance with Section 158.009 of said chapter. In addition pursuant to an Interlocal Cooperation Agreement dated April 18, 2002, by and among the County, the District and the Commission, the Commission also administers a civil service system for District employees. (Amended June 12, 2002)

CREATION AUTHORITY:

1.01 Role: The Commissioners Court is the legally authorized elected body that manages the County's governmental entity. The Commissioners Court, sitting as the governing board for the District, is the legally authorized elected body that manages the District's governmental entity. (Amended June 12, 2002)

1.02 Appointments: The Commissioners Court appoints the three (3) Commissioners of the Commission, designating one (1) Commissioner to serve as Chairperson. The Commissioners shall select one of the two (2) remaining Commissioners as Vice-Chairperson.

1.03 Term of Office: Each Commissioner holds office for a term of two (2) years and until a successor is appointed. Vacancies on the Commission must be filled by appointment of the Commissioners Court for the unexpired term of the Commissioner whose position has been vacated. (Amended June 12, 2002)

1.04 Responsibilities: Pursuant to Tex. Loc. Govt. Code § 158.009 and the Interlocal Agreement, the Commission has the responsibility to adopt, publish and enforce rules (the "Rules") relating to:

- a. The definition of a County and District employee;
- b. Selections and classifications of County and District employees;
- c. Competitive examination;
- d. Promotions, seniority, and tenure;
- e. Layoffs and dismissals;
- f. Disciplinary action;
- g. Grievance procedures;
- h. Other matters regarding the selection of County and District employees and the procedural and substantive rights, advancement, benefits and working conditions of County and District employees.

(Amended June 12, 2002)

¹ Entire Chapter I added February 8, 1995

1.05 Meetings: The Commission shall meet monthly on the second Thursday each calendar month, at six p.m. (6:00 p.m.), in the Commissioners Court Meeting Room on the first floor of the Hidalgo County, Texas Administration Building located at 100 E. Cano, Edinburg, Hidalgo County, Texas, or such other place as designated in the notice of meeting. In addition, special meetings may be called by the Chairperson or by the two (2) remaining Commissioners upon five (5) days written notice to all Commissioners. Except for grievance hearings when the employee requests that such hearing be closed to the public, all meetings of the Commission are open to the public and notice of each shall be posted in accordance with the Texas Open Meetings Law, Tex. Govt. Code. § 551.001, et. seq. (Amended December 9, 1998; Amended May 16, 2001; Amended March 27, 2003)

1.06 Agenda Items for Commission Meetings: Any person may request, in writing, that the Commission address a particular matter at a future regular or special Commission meeting. The written request should be addressed to the Chairperson of the Commission and it should be delivered to the Commission Secretary. The Chairperson, in his or her discretion, will determine if the matter should be placed on the agenda for a future Commission meeting.

1.07 Quorum: Two (2) Commissioners shall at all times constitute a quorum.

1.08 Rules of Order: The Hidalgo County Civil Service proceedings shall be conducted in accordance with "Roberts Rules of Order." The normal order of business for each regular or special meeting shall be:

- a. Approval of minutes of the previous meeting;
- b. Communications and correspondence;
- c. Discussion of reports;
- d. Unfinished business; and
- e. New business.

Any Commissioner may record in the minutes his or her approval of, or objection to, any act of the Commission, together with his/her reasons therefor.

1.09 Minutes: The Secretary of the Commission shall be responsible for recording the minutes of each meeting and shall note the following:

- a. The time and place of each meeting of the Commission;
- b. The names of the Commissioners present;
- c. All official actions of the Commission;
- d. The official vote by each Commissioner except where the action is unanimous; and
- e. Upon request, a Commissioner's dissent with his/her reasons therefor.

The minutes prepared by the Secretary shall be presented for approval at the next regular or special meeting of the Commission. The minutes, upon approval by the Commission, are open for public inspection, subject to the provisions of the Texas Open Meetings Law and the Texas Open Records Act, Tex. Govt. Code § 552.001, et. seq. In addition, the Secretary shall make and retain an audio tape recording of each Commission meeting which shall be available to the public subject to provisions of the Texas Open Meetings Law and Texas Open Records Act.

1.10 Communications: All communications or requests to the Commission shall be made in writing. A summary of the request and the resultant action of the Commission will be made in the official minutes of the Commission.

1.11 Attendance: If a Commissioner is absent from three (3) regular meetings during his/her term without the approval of the remaining members, the absent Commissioner is deemed to have submitted his/her resignation, and the position will be declared vacant. A request will be made by the Commission to the Governing Authority for the replacement of such Commissioner.

DIRECTOR OF HUMAN RESOURCES DEPARTMENT AND CIVIL SERVICE:

1.12 Appointment: The Human Resources Director for the County and/or District is appointed by the Governing Authority. As an additional duty, the Human Resources Director may also be appointed by the Commission to serve as Secretary for the Commission.

1.13 Duties: The Secretary will provide staff support to the Commission as may be necessary to record and maintain the minutes of the Commission and will provide staff support for the day to day functions of the Commission. In addition, the Secretary will:

- a. Be the general manager of the Human Resources Department for the County and/or District and be responsible for the direction of the work and the staff of said department;
- b. Administer a broad personnel program which includes, but is not limited to:
 - (1) Recruitment and examination of applicants;
 - (2) Classification of positions;
 - (3) Employee information and counseling;
 - (4) In-service training;
 - (5) Performance appraisal system;
 - (6) Leaves of absence;
 - (7) Maintenance and development of personnel standards and programs;
and
 - (8) Any other task(s) or project(s), as may be directed by the Governing Authority.

(Amended April 10, 1996)

APPLICABILITY

1.14 The Rules apply to the employees of all departments that are specifically identified as "Employees" and "Probationary Employees" under the provisions of these Rules.

HUMAN RESOURCES DEPARTMENT RECORDS:

1.15 [Reserved for expansion] (Amended April 10, 1996)

1.16 [Reserved for expansion] (Amended April 10, 1996)

CERTIFICATION:

1.17 The Secretary shall certify to the county auditor and the appropriate authority within the District, the name and date of appointment of each person employed by the County and/or District in accordance with the provisions of these Rules, and any change in status of such persons. (Amended June 12, 2002)

RULES AND REGULATIONS:

1.18 Establishment: The Rules that are currently in effect are contained in subsequent sections of this manual. These Rules have been approved by the Commission and are in effect until amended, revised, or eliminated by the Commission. The Secretary shall, at all times, maintain, in his or her office, an official copy of the Rules. (Amended April 10, 1996)

1.19 Amendment of the Rules: Amendments to the Rules may be made at any meeting of the Commission, subject to notice of such action under the Texas Open Meetings Law. Unless otherwise provided, all rules and amendments shall become effective on the date of their approval by the Commission. All rules and amendments shall be printed for distribution by the Secretary to all departments that have Employees and/or Probationary Employees.

LEGAL COUNSEL:

1.20 An attorney retained by the Governing Authority may serve as legal counsel to the Commission.

CONSTRUCTION:

1.21 Gender and Number: All nouns and pronouns used in these Rules shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

1.22 Captions: The captions contained in these Rules are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any chapter, section or paragraph hereof.

1.23 Severability: In the event any one or more of the provisions contained in these Rules shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and these Rules shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

CHAPTER II

APPLICABILITY AND DEFINITIONS²

APPLICABILITY

2.00 The Rules concern the operation of an employee civil service system for the County and the District. The Rules supersede all County and District personnel policies in conflict with the Rules. The Hidalgo County Personnel Policy Manual, effective October 1, 1991, except as modified by the Rules, remains in effect. The Head Start Personnel Policies Manual is replaced by these Rules, effective as of September 20, 1995. (Amended September 20, 1995)

2.01 Except as provided in Section 2.00, these Rules apply to actions or events occurring on or after January 9, 1995, as to County employees, and on or after April 18, 2002, as to District employees. Actions taken or events occurring prior to January 9, 1995, as to County employees, shall be governed by the Manual. (Amended June 12, 2002)

DEFINITIONS

2.02 Administrative Leave is a period of time in which an employee is off work with pay granted to an employee by an Elected Official/Department Head. Administrative leave includes leave pending a disciplinary action. (Adopted June 19, 1995)

2.03 Adverse Personnel Action means: (i) a disciplinary suspension without pay; (ii) an involuntary demotion; or (iii) a dismissal of an employee; other than such action taken against a Probationary Employee. (Adopted December 13, 1995)

2.03A Allotted Sick Leave Pool Hours has the meaning assigned to such term in Section 7.214 of these Rules. (Adopted March 28, 2002)

2.04 Annual Leave is a benefit earned by an employee which the employee may use for vacation or other appropriate absences. Annual Leave is not available to Head Start Program employees. (Amended September 20, 1995)

2.04A Benefits Committee means the five member committee established by the Governing Authority to review eligibility decisions made by the Sick Leave Pool Administrator. Each member of the Governing Authority appoints one member to the committee. Vacancies on the Benefits Committee are filled by the member(s) of the Governing Authority who appointed the member responsible for the vacancy. During January of each year, the Benefits Committee will select a chairperson who will serve as chairperson until his or her successor is selected. (Adopted March 28, 2002)

2.05 Deleted Effective June 12, 2002.

2.06 Christmas Leave, as defined in Sections 7.169 through 7.172 hereof, is a benefit available only to eligible employees in the Head Start Program. (Adopted September 20, 1995)

2.07 Commission means the Hidalgo County, Texas Civil Service Commission established pursuant to the Texas Local Government Code. (Adopted May 10, 1995)

² Chapter II Originally Adopted May 10, 1995

2.08 Commissioners Court means the Commissioners Court of Hidalgo County, Texas, in its capacity as the governing authority, as applicable, for the County and/or the District, established pursuant to the constitution and laws of the State of Texas. (Amended June 12, 2002)

2.09 Compensatory Leave is accrued by an employee when the employee works in excess of the employee's scheduled work hours. (Adopted June 19, 1995)

2.09A Contributed Sick Leave Hours means the number of Sick Leave hours contributed by an employee to the Sick Leave Pool during the Enrollment Period as a condition to such employee's participation in the Sick Leave Pool for the following calendar year. The minimum number of Sick Leave hours to be contributed by an employee during the Enrollment Period is twenty-four hours, and the maximum number of hours is forty hours. (Adopted March 28, 2002)

2.10 Conviction or conviction means a final, non-appealable finding of guilt by either a judge or jury, or a suspension of sentence, probation or deferred adjudication. (Adopted December 13, 1995)

2.11 County means Hidalgo County, Texas, as organized and existing under the constitution and laws of the State of Texas. (Adopted May 10, 1995)

2.12 Court Leave is a benefit granted to an employee for jury service and to appear as a witness for the County. Court leave is only granted for the actual time served as a juror or witness. (Adopted June 19, 1995)

2.13 Department means a county, district, or precinct office, agency, or board that has jurisdiction and control of designated governmental functions. (Adopted May 10, 1995)

2.14 Department Head means an individual appointed as a supervisor of a department by one of the following: the Governing Authority; County Judge; a designated representative of the Governing Authority; or an Elected Official. (Amended June 12, 2002)

2.14A District means the Hidalgo County Drainage District No. 1. (Adopted June 12, 2002)

2.15 Educational Leave, as defined in Sections 7.173 through 7.177 hereof, is a benefit available only to eligible employees in the Head Start Program. (Adopted September 20, 1995)

2.16 Elected Official means an individual elected to a position created by the constitution or by statute. The term of an Elected Official is limited by the constitution. (Adopted May 10, 1995)

2.17 Emergency Appointment means an individual hired by the County or District to fill a position on an emergency basis, so long as the position to be filled has already been budgeted and approved by the Governing Authority. For purposes of these Rules, an "Emergency Appointment" is a special subcategory of a Temporary Employee.

The following factors must exist to justify classification as an "Emergency Appointment:" (i) the appointment requires work of a specialized nature; (ii) the work is not of a type regularly performed by others employed by the County and/or District; (iii) the work is not of a type that the requesting Elected Official/Department Head, in the exercise of reasonable and prudent personnel management practices, could have foreseen; (iv) the work is expected to be fully completed in six months or less; and (v) that when the work is completed, the Elected Official/Department Head requesting such "Emergency Appointment" will not, in the reasonably foreseeable future, again have the need for the same or similar services. Each Elected Official/Department Head, in coordination with the Secretary, shall require each person selected to fill an "Emergency Appointment" acknowledge, in writing, prior to employment, that such person is being employed on a temporary basis and for a limited duration, generally not to exceed six months.

In addition to the foregoing, when an Elected Official/Department Head: (i) has received written notice that federal and/or state funding is in jeopardy unless certain types of regular County and/or District positions are filled immediately; or (ii) learns that an employee in a currently filled position will be absent from work for an indefinite period of time, generally not to exceed six months, due to illness or injury of the employee, or the employee's spouse, child or parent (as those terms are defined in Rule 7.92), and the Elected Official/Department Head is either required by law or elects to continue such person's employment during such absence from work; the Elected Official/Department Head may temporarily fill such vacancies as an Emergency Appointment without meeting the other criteria required for such an appointment, so long as the Elected Official/Department Head certifies such fact, in writing, to the Secretary prior to filling such vacancies. Persons employed to fill such vacancies must also acknowledge, in writing, that such person is being employed on a temporary basis and for a limited duration, generally not to exceed six months. The Elected Official/Department Head should also promptly request any vacancies which, under the circumstances, need to be filled on the termination of such temporary appointments be advertised as provided in Chapter III of these rules. (Amended November 12, 1997; Amended December 9, 1998; Amended June 9, 1999)

The Elected Official/Department Head shall fill an Emergency Appointment with either an existing employee or from qualified applicants who have an Application on file in the office of the Human Resources Director. (Amended November 12, 1997)

The Secretary shall establish procedures which insure that the Commission receives, on a quarterly basis, statistical information concerning the frequency and areas in which Emergency Appointments are being used in the County and/or District. (Adopted August 9, 1995)

2.18 Employee,³ [whether the term is capitalized or not], unless the context clearly indicates otherwise, means any person employed by the County and/or District. The term "employee" excludes:

- a. persons who are exempt from the System under Texas Local Government Code § 158.013 (an elected or appointed officer under the Texas constitution, employees of the criminal district attorney's office, and the official shorthand reporter of a court);
- b. persons who are authorized by statute to perform governmental functions involving an exercise of discretion in the person's own right, except for deputy sheriffs and deputy constables, who shall be considered Employees;
- c. a person who holds an office the term of which is limited by the Texas constitution;
- d. the personal secretary and the chief administrative assistant/deputy of each elected official and appointed official under the Texas constitution;
- e. justice of the peace and staff, county court at law and district court staff, including bailiffs and court coordinators and assistant bailiffs and assistant court coordinators (Amended November 15, 2000);
- f. adult and juvenile probation officers and employees of the adult and juvenile probation offices;
- g. the county auditor, assistant or deputy county auditors and employees of the county auditor;
- h. the head or chief of each Department (Amended December 13, 1995); and

³ Amended November 12, 1997

- i. the following positions in the Hidalgo County Sheriff's Department: Commander of Criminal Enforcement and Commander of Detention (Amended June 12, 2002)

2.18A Enrolled Employee means an employee who, in any calendar year, has elected to participate in the Sick Leave Pool, and who, during the Enrollment Period, meets all requirements of Section 7.210 of these Rules with respect to the following calendar year, or with respect to an employee who elects to participate in the Sick Leave Pool after twelve months of County and/or District employment, for the remainder of the calendar year following enrollment. (Adopted March 28, 2002)

2.18 B Enrollment Period with respect to the Sick Leave Pool means: (a) during the month of November in each calendar year; or during the twelfth month of County and/or District employment for employees who, based on length of County and/or District service, are not eligible to enroll in the Sick Leave Pool during the preceding November. (Adopted March 28, 2002)

2.19 Family and Medical Leave means leave available to "eligible employees" pursuant to a leave program adopted by the Governing Authority which complies with 29 U.S.C. 2601-2654, as amended. (Adopted June 19, 1995)

2.19A Governing Authority means the Commissioners Court, in its capacity, as applicable, of the County and/or the District. (Adopted June 12, 2002)

2.20 Head Start Administrative Staff means Head Start Program employees who are not classified as Head Start Center Staff. (Adopted September 20, 1995)

2.21 Head Start Center Staff means Head Start Program employees who are assigned to work at the Head Start Program centers whose primary job responsibilities involve the delivery of services to clients. The Head Start Program Director is responsible for classifying employees as Head Start Center Staff. (Adopted September 20, 1995)

2.22 Head Start Policy Council means the Head Start Policy Council established by the County under the Head Start Program. (Adopted September 20, 1995)

2.23 Head Start Program means the federal grant program administered by the County under 42 U.S.C.A Section 9831, et. seq., as amended, and implementing regulations and guidelines. (Adopted September 20, 1995)

2.24 Head Start Program Director means the person selected by the Governing Authority and Head Start Policy Council as Head Start Program Director. For purposes of these rules, the Head Start Program Director is a Department Head. (Adopted September 20, 1995)

2.25 Holidays means authorized days off from work as declared by the Governing Authority. (Adopted June 19, 1995)

2.25A. Internal Announcement Procedure means the advertising procedure used to advertise a Vacancy when the Vacancy is to be filled from qualified individuals who are already employed by the County and/or District. When the Internal Announcement Procedure is used, the Human Resources Director screens only the Applications received from existing County and/or District employees for the Vacancy and forwards the names of those applicants meeting minimum qualifications to the Elected Official/Department Head. If the Elected Official/Department Head notifies the Human Resources Director that the Elected Official/Department Head was unable to make a selection from the applicants submitted, the Elected Official/Department Head may request the Human Resources Director to screen such other Applications available in the Human Resources Director's files received from qualified individuals who did not specifically apply for the Vacancy, and if such Applications are determined to exist, the Human Resources Director shall

forward such Applications to the Elected Official/Department Head for his or her consideration in filling the Vacancy. (Adopted May 14, 1997; Amended June 9, 1999)

2.25B Interlocal Agreement means an Interlocal Cooperation Agreement dated April 18, 2002, by and among the Commission, the County and the District governing the administration of a civil service system for District employees. (Adopted June 12, 2002)

2.26 Leave Without Pay is a period of time without pay designated "Leave Without Pay" which the Elected Official/Department Head may grant to an employee when the employee has no available time left in the employee's applicable leave accounts. (Adopted June 19, 1995)

2.27 Manual refers to this manual of rules adopted by the Commission, as amended from time to time. (Adopted June 19, 1995)

2.28A. Open Announcement Procedure means the advertising procedure used to advertise a Vacancy when the Vacancy has not been filled using the Internal Announcement Procedure. When the Open Announcement Procedure is used, the Human Resources Director screens all Applications received for the Vacancy and forwards the names of those applicants meeting minimum qualifications to the Elected Official/Department Head. If the Elected Official/Department Head notifies the Human Resources Director that the Elected Official/Department Head was unable to make a selection from the applicants submitted, the Elected Official/Department Head may request the Human Resources Director to screen such other Applications available in the Human Resources Director's files received from qualified individuals who did not specifically apply for the Vacancy, and if such Applications are determined to exist, the Human Resources Director shall forward such Applications to the Elected Official/Department Head for his or her consideration in filling the Vacancy. (Adopted May 14, 1997)

2.29 Personal Leave, as defined in Sections 7.178 through 7.184 hereof, is a benefit available only to eligible employees in the Head Start Program. (Adopted September 20, 1995)

2.30 Human Resources Department means the County's and/or District's Human Resources department under the supervision of the Human Resources Director. (Adopted May 10, 1995)

2.31 Human Resources Director means a person employed by the County and/or District who is responsible for the operation of the Human Resources Department. (Adopted May 10, 1995)

2.31A Primary Sick Leave Pool Benefits means, in any calendar year, the lesser of: seven hundred and twenty Sick Leave hours; or one-third of the total Sick Leave hours in the Sick Leave Pool on the date an Enrolled Employee submits his or her request for Primary Sick Leave Pool Benefits. (Adopted March 28, 2002)

2.32 Probationary Employee means an employee who has not completed his or her applicable Probationary Period with the County and/or District. Probationary Employee, however, does not include an employee who is placed on disciplinary probation pursuant to Chapter IV hereof. (Amended December 13, 1995)

2.33 Probationary Period means: (i) a six (6) month period of actual work following the date a person becomes employed or reemployed by the County and/or District; or (ii) a three (3) month period of actual work following the date a County and/or District employee is promoted as provided by these Rules. A Probationary Employee's approved absence from the job during the Probationary Period which exceeds five (5) working days in the aggregate, shall automatically extend the Probationary Period by the total period of time such Probationary Employee was absent from the job. In such event, the Probationary Period for such employee does not expire until the Probationary Employee has completed six (6) months or three (3) months, as applicable, of actual work in the position; however, under no circumstances will: (i) a six (6) month

probationary period ever extend beyond nine (9) months following the date a person becomes employed or reemployed by the County and/or District; or (ii) a three (3) month probationary period ever extended beyond four and one-half (4½) months following the date a County and/or District employee is promoted. The Probationary Period does not include time served as a Temporary Employee. During the Probationary Period, the person serves at the discretion of the Elected Official/Department Head and may be separated "at will" from employment at any time prior to completion of such Probationary Period; subject, however, to the requirements of Section 3.31 with respect to promoted employees serving a Probationary Period. If a person is dismissed during the Probationary Period, no cause need be cited and no access to the grievance procedure is permitted, unless such claim is that the County and/or District did not follow the procedures provided in Section 3.31 of these Rules. (Amended November 8, 1995)

2.34 Regular, Full-time Employee means an individual hired by the County and/or District to fill a position budgeted and approved by the Governing Authority, which position requires such person to perform work on a regular, on-going schedule of forty (40) hours per seven day work period or eighty (80) hours per fourteen (14) day work period. For employees assigned to the Head Start Program, a Regular, Full-time Employee means an individual hired by the County and/or District to fill a position in the Head Start Program which has been budgeted and approved by the Governing Authority, which position requires such person to perform work on a regular, on-going schedule of forty (40) hours or other number of hours during a seven day work period in order to be classified as a "full-time" employee. (Amended September 20, 1995)

2.35 Regular, Part-time Employee means an individual hired by the County and/or District to fill a position budgeted and approved by the Governing Authority, which position requires such person to perform work on a regular, on-going schedule of less than forty (40) hours per seven day work period or eighty (80) hours per fourteen (14) day work period. For employees assigned to the Head Start Program, a Regular, Parttime Employee means an individual hired by the County to fill a position in the Head Start Program who is not otherwise classified as a Regular, Full-Time Employee, which position has been budgeted and approved by the Governing Authority as a part-time position, which position requires such person to perform work on a regular, on-going schedule of less than forty (40) hours during a seven day work period and such position has been classified "part-time." (Amended September 20, 1995)

2.36 Secretary means the Secretary of the Commission, as appointed by the Commission from time to time, and his or her assistants or designees. (Adopted May 10, 1995)

2.36A Secondary Sick Leave Pool Benefits means, in calendar year, up to two hundred and forty Sick Leave Hours available to an Enrolled Employee who, in any calendar year, has received Primary Sick Leave Pool Benefits, and who, prior to submitting a request for Secondary Sick Leave Pool Benefits associated with the same or another catastrophic illness or disability, returned to work for at least one calendar day prior to such Enrolled Employee's application for Secondary Sick Leave Pool Benefits. (Adopted March 28, 2002)

2.37 Sick Leave is a benefit earned by an employee which may be used when the employee is ill, or for medical/dental appointments for the employee. Head Start Program employees may also use Sick Leave for an illness or for medical/dental appointments for such employee's spouse, child and/or parent. The terms "spouse," "child" and/or "parent" for purposes of eligible Sick Leave for Head Start employees, has the same meaning given such terms in Section 7.92 hereof. Sick Leave for Head Start Program employees also includes such employee's brothers or sisters. (Amended September 20, 1995)

2.37A Sick Leave Pool means the County and/or District voluntary Sick Leave Pool adopted by the Commissioners Court and/or District for Enrolled Employees with a catastrophic illness or disability. (Adopted March 28, 2002)

2.37B Sick Leave Pool Administrator means the County's and/or District's Human Resources Director, or his or her designee. (Adopted March 28, 2002)

2.37C Sick Leave Pool Request means a request for Sick Leave Pool benefits which meets the requirements of Section 7.211 of the Rules. (Adopted March 28, 2002)

2.38 Spring Break Leave, as defined in Sections 7.185 through 7.188 hereof, is a benefit available only to eligible employees in the Head Start Program. (Adopted September 20, 1995)

2.39 Summer Leave, as defined in Sections 7.189 through 7.194 hereof, is a benefit available only to eligible employees in the Head Start Program. (Adopted September 20, 1995)

2.40 System means the Hidalgo County, Texas Civil Service system as administered by the Commission for County and/or District employees. The Commission, in administering the System, shall treat the County and District as separate, distinct organizations. (Amended June 12, 2002)

2.41 Temporary Employee means an individual hired by the County and/or District to fill a position budgeted and approved by the Governing Authority as a "temporary position," which temporary position requires such person to perform work for a limited period of time, generally not to exceed six (6) months. Temporary employees include persons whose work schedule is full-time (forty (40) hours per seven day work period or eighty (80) hours per fourteen (14) day work period) or part-time (less than forty (40) hours per seven day work period or eighty (80) hours per fourteen (14) day work period). Each Elected Official/Department Head, in coordination with the Secretary, shall require each Temporary Employee acknowledge, in writing, prior to employment, that such person is being employed on a temporary basis and for a limited duration, generally not to exceed six (6) months. (Amended April 10, 1996; Amended July 14, 1999)

2.42 Rules shall mean these Rules, regulations, policies, procedures and benefits, as amended from time to time. (Amended June 12, 2002)

2.43 Unauthorized Absence means a period of time an employee is off the job without obtaining permission from the appropriate Elected Official/Department Head. An Unauthorized Absence includes an employee's failure to report for duty after the expiration of any authorized leave. (Adopted June 19, 1995)

2.44 Vacancy or Vacancies mean(s) a County and/or District position, duly created by the Governing Authority, which has not been abolished, which is not occupied, and for which a valid Human Resources Department Requisition Form has been received by the Human Resources Director. (Adopted May 10, 1995)

2.45 Workers' Compensation is a type of benefit for employees who have been injured or become ill in the course and scope of their employment. Workers' Compensation is created and controlled by state statute. (Adopted June 19, 1995)

CHAPTER III
EMPLOYMENT PROCEDURES⁴

APPLICATION AND REQUISITION

3.00 Any person desiring to be employed by the County and/or District for a position subject to these rules must complete an application ("Application") through the Human Resources Department. County and/or District employees who apply for another County and/or District position subject to these rules while employed by the County and/or District are also required to complete an Application so that the Elected Official/Department Head filling a Vacancy is provided the latest information. (Amended April 10, 1996)

3.01 Any material misrepresentation of fact or failure to report pertinent data on the Application shall be just cause for dismissal.

3.02 To be eligible for employment with the County and/or District, a person must be able to show proof of citizenship or legal authority to work in the United States. Such proof must be in the form required by the Immigration Reform Act of 1986, as amended from time to time.

3.03 All persons employed by the County and/or District must have attained the minimum age of sixteen (16) years, and must be able to provide proof of age (e.g. driver's license or birth certificate).

3.04 Persons below the age of eighteen (18) years of age employed by the County and/or District are permitted to work only as provided for under Fair Labor Standards Act Regulations (29 C.F.R., Part 570), as amended from time to time.

3.05 Prospective employees will be required to pass performance tests to qualify for positions which have appropriate tests developed. The Commission shall be the final judge of the scope and content of such tests.

3.05A Persons selected to fill certain vacancies in the Head Start Program must also undergo and pass a criminal history check during the person's Probationary Period if such investigation is required by the Texas Department of Protective and Regulatory Services and the Department of Health and Human Services as a condition to employment. (Adopted May 15, 1996)

3.06 The completed Application must be returned to the Human Resources Director. If a Vacancy exists for which the applicant is qualified under the Internal Announcement Procedure and/or the Open Announcement Procedure, the applicant will be referred to the appropriate Elected Official/Department Head for review and possibly an interview. Otherwise, the completed Application will be maintained in the Human Resources Director's office for future reference. At the discretion of the Elected Official/Department Head filling a Vacancy, if the Vacancy is not filled from the Applications received after utilizing the Notice of Available Positions - Internal Announcement Procedure and/or the Notice of Available Positions - Open Announcement Procedure, other qualified Applications on file in the Human Resources Director's office may be considered for a Vacancy in the manner authorized in these rules. (Amended May 14, 1997; Amended December 9, 1998)

3.07 A complete, approved Human Resources Department Requisition Form (HCCS-3) must be submitted to the Human Resources Director by the Elected Official/Department Head seeking to fill a Vacancy before the Elected Official/Department Head interviews any potential employee for such Vacancy, and such interviews are limited to the applicants referred by the Human Resources Director to the Elected Official/Department Head. The Human Resources Director will

⁴ Chapter III Originally adopted May 10, 1995

not refer potential employees to an Elected Official/Department Head until the Human Resources Department Requisition Form has been received and processed by the Human Resources Director. At the time the Elected Official/Department Head submits the HCCS-3 Form to the Human Resources Director, the Elected Official/Department Head shall indicate on such form whether the Vacancy is to be processed under the Internal Announcement Procedure or the Open Announcement Procedure. Under no circumstances may the Open Announcement Procedure be used by an Elected Official/Department Head unless the Vacancy was previously announced under the Internal Announcement Procedure and such Vacancy was not filled following the advertising of the Vacancy utilizing the Internal Announcement Procedure. (Amended May 14, 1997)

3.08 The Human Resources Director, upon receipt of a Personnel Requisition, will initially publish the Vacancy utilizing the Internal Announcement Procedure in the following manner:

- a. A notice (the "Notice of Available Positions - Internal Announcement Procedure") summarizing all Personnel Requisitions received by the Human Resources Director during each calendar week which are ready for posting utilizing the Internal Announcement Procedure will be posted by the Human Resources Director on the first workday of the following week.
- b. The Notice of Available Positions - Internal Announcement Procedure will be posted at the places at the County courthouse designated by the Commissioners' Court as places for posting notices of Commissioners' Court meetings. In addition, the Human Resources Director will also forward each Elected Official/Department Head a listing of the Vacancies announced in the Notice of Available Positions - Internal Announcement Procedure, together with a request that the Elected Official/Department Head make such list accessible to all County and/or District Employees.
- c. Once posted, the Notice of Available Positions - Internal Announcement Procedure will remain posted for five (5) calendar days, excluding County and/or District holidays (the "Internal Announcement Procedure Posting Period"). (Amended May 14, 1997)

3.08A The Human Resources Director, upon receipt of a Personnel Requisition regarding a Vacancy which was not filled utilizing the Internal Announcement Procedure, will publish such Vacancies following the Open Announcement Procedure in the following manner:

- a. A notice (the "Notice of Available Positions - Open Announcement Procedure") summarizing all Personnel Requisitions received by the Human Resources Director during each calendar week which are ready for posting utilizing the Open Announcement Procedure will be posted by the Human Resources Director on the first workday of the following week.
- b. The Notice of Available Positions - Open Announcement Procedure will be posted at the places at the County courthouse designated by the Commissioners' Court as places for posting notices of Commissioners' Court meetings. In addition, the Human Resources Director will also forward each Elected Official/Department Head a list of the Notice of Available Positions - Open Announcement Procedure together with a request that the Elected Official/Department Head make such list accessible to all County and/or District Employees.
- c. Once posted, the Notice of Available Positions - Open Announcement Procedure will remain posted for five (5) calendar days, excluding County and/or District holidays (the "Open Announcement Procedure Posting Period").

Elected Officials/Department Heads who desire to also advertise Vacancies published using the Open Announcement Procedure in additional ways, such as in an area newspaper or magazine of general circulation, must submit all proposed job announcements to the Human Resources Director for prior approval. (Adopted May 14, 1997)

3.09 The Human Resources Director shall initially utilize the Internal Announcement Procedure to process any Applications received for a Vacancy. The Human Resources Director will review the Applications and schedule appropriate interviews for Applicants who meet the minimum job qualifications under the Internal Announcement Procedure. The Human Resources Director, however, need not schedule interviews for all qualified Applicants unless requested to do so by the Elected Official/Department Head who submitted the Personnel Requisition. (Adopted May 14, 1997; Amended June 9, 1999)

3.10 In the event that fewer than three (3) qualified applicants are available for any Vacancy announced under the Open Announcement Procedure, the requesting Elected Official/Department Head may elect to interview such number of qualified applicants as are available, or to request that the Human Resources Director take further steps to solicit additional applicants as the Elected Official/Department Head and the Human Resources Director, in their sole discretion, may determine necessary or appropriate. (Adopted May 14, 1997; Amended June 9, 1999)

3.11 Except as provided in Section 3.49 hereof, no applicant shall be considered for a Vacancy, including a Vacancy proposed to be filled with a Temporary Employee, unless referred to the Elected Official/Department Head by the Human Resources Director in accordance with the procedures set forth in this Chapter III of the Rules. (Amended May 14, 1997; Amended December 9, 1998)

3.12 Any starting salary above the minimum starting salary must be cleared through: (i) the County Judge's Office and/or the comparable District office for availability of budgeted funds; and (ii) the Human Resources Director for compliance with Commission rules concerning compensation; and such increased starting salary must have the prior approval of the Commissioners' Court. (Adopted May 14, 1997; Amended June 9, 1999)

3.13 Following the interviews, the Elected Official/Department Head filling the Vacancy shall notify the Human Resources Director of the applicant selected for the position. Persons selected to fill a Vacancy in the Head Start Program must notify the Human Resources Director of the person selected to fill the Vacancy. (Adopted May 14, 1997; Amended June 9, 1999; Amended June 12, 2002)

3.14 Each new employee and each employee filling a Vacancy by promotion, will be classified as a Probationary Employee unless otherwise specified at the time of the appointment to the position.

3.15 All new employees will report to a designated representative of the hiring Elected Official/Department Head on their first day of work to process necessary forms. (Amended April 10, 1996)

LATERAL TRANSFERS

3.16 A lateral transfer is defined as an employee's movement within a Department or between Departments, from one position into another position, which new position has the same salary grade as the person's previous position, or until salary grades are established, is not budgeted for a higher salary than the employee's existing position.

3.17 An employee transferring laterally shall not receive a salary increase or decrease.

- 3.18 Lateral transfers may or may not involve a change in job responsibilities.
- 3.19 Employees may not transfer between Departments without prior approval from both affected Elected Officials/Department Heads and the Secretary. (Amended April 10, 1996)
- 3.20 A lateral transfer of an employee within a Department or from one Department to another within the same job classification is generally discouraged unless it is of benefit to both the County and/or District and the employee in order to improve productivity or morale.
- 3.21 Requests for lateral transfers must be submitted to the Secretary for a determination that the proposed transfer complies with the provisions of this Chapter. If such a determination is made, a lateral transfer may be made without advertising the Vacancy into which the employee is transferred. (Amended April 10, 1996)

RECLASSIFICATION

- 3.22 Offices and Departments may submit reclassification request at any time during the year, but they will be considered for approval during the annual budget process. If an immediate business necessity exists, a reclassification request may be considered at a time other than the annual budget process, but a Commissioners' Court waiver is required. (Amended January 2, 2008)
- 3.23 Position reclassifications may be required when fundamental changes in the position duties have occurred over a period of time and are the result of required business changes, organizational restructuring or changes in a program or department mission. Reclassifications will only occur when a position's job responsibilities have changed significantly in level and/or scope over an extended period of time compared to the duties and responsibilities listed on the position job description. A reclassification request may or may not result in a change in salary grade and until salary grades are established, a change in salary. (Amended January 2, 2008)
- 3.24 Reclassification request must be submitted on a completed Personnel Adjustment Request Form with a copy of the current job description and a copy of the proposed job description to Department of Budget and Management with a copy to the Human Resources Department.

The Human Resources Department will conduct a job audit (desk audit or on-site audit) of the position to determine if a reclassification is justified, and will make a recommendation on the job title and job description. The Department of Budget and Management will conduct a salary audit of the position to determine the appropriate salary grade and until salary grades are established, the appropriate salary and will make a recommendation on the proposed salary. Both departments will submit their recommendations to the Classification Committee⁵ for approval. If approved by the committee, the Elected Official/Department Head will present the requested reclassification to the Governing Authority for its approval. All approved adjustments will be effective on the first day of the first full pay period following approval of the Governing Authority.

Note: Department Heads/Elected Officials may assign other (additional) duties to an employee in addition to those listed in a job description without requiring a reclassification. The job description is intended to provide a general job description with examples of work and duties to be performed and these may change according to the changing needs of a Department and/or the County. A reclassification may be warranted when fundamental changes in the position duties occur over time as defined above. (Amended April 10, 1996)(Amended January 2, 2008)

⁵ Classification Committee will consist of a representative from the Human Resources Department, Treasurer's Office, and Department of Budget & Management.

3.25 Employees who occupy a job classification at the time of a reclassification, will be subject to meeting the minimum qualifications of the new job classification in order to remain incumbent in said job.

3.26 Positions occupied at time of a reclassification need not be advertised, so long as the incumbent meets the minimum qualifications of the new job classification and provided all procedures provided for reclassifications have been met.

3.27 An incumbent in a reclassified position is not subject to a new Probationary Period.

3.28 Positions that are Vacant at the time of a reclassification request must be advertised as provided in this Chapter.

PROMOTIONS

3.29 A promotion is defined as an employee's movement within a Department or between Departments, from one position into another position, which new position results in the employee moving from a lower salary grade to a higher salary grade, or until salary grades are established, results in an increase in salary for such employee, or which new position which is budgeted at a salary higher than the employee's existing position.

3.30 Employee promotions must be based on the County and/or District's compliance with the Commission's policy on advertising Vacancies set forth in this Chapter.

3.31 An employee who is promoted is placed on a three (3) month Probationary Period from the effective date of the promotion. During the Probationary Period, the promoted employee must satisfactorily demonstrate his or her ability to perform the duties required. Failure of the employee to satisfactorily complete the three (3) month Probationary Period will result in demotion to the employee's old position and salary, with the affected Elected Official's/Department Head's approval, provided such position is available, or transfer to another suitable Vacancy, or termination in the event no suitable positions are open.

DEMOTIONS

3.32 A demotion is defined as an employee's movement within a Department or between Departments, from one position into another position, which new position results in the employee moving from a higher salary grade to a lower salary grade, or until salary grades are established, results in a decrease in salary for such employee, or which moves the employee into a new position which is budgeted at a salary lower than the employee's existing position. Demotions may or may not involve a change in job responsibilities. Acceptable reasons for demotions are:

- a. the inability of an employee to fulfill the functions of the job;
- b. the employee's request for such change;
- c. disciplinary action; or
- d. reduction-in-force.

REORGANIZATION AND/OR CONSOLIDATION

3.33 A County and/or District reorganization and/or consolidation ("reorganization") occurs when the structure of a single Department or several Departments is changed in such a way as to significantly alter the number of employees and/or level of job classes within that Department.

Such changes may be proposed by an Elected Official/Department Head, or in certain instances, initiated by the Governing Authority.

3.34 All reorganization plans must be submitted, in writing, to the Commission, and must have attached a completed personnel action request form with specific changes requested for each affected position.

3.35 The Secretary will review and coordinate administrative items such as job descriptions and support documents with requesting Departments, and will forward the completed package to the Commission for approval.

3.36 If the reorganization is approved by the Commission, the completed package will be forwarded to the Governing Authority for its approval, unless the Governing Authority is the entity which requested the reorganization.

3.37 In all cases, the affected employees must be given at least seven (7) days written notice prior to the implementation of the reorganization.

3.38 Promotions resulting from a reorganization do not require announcement in accordance with these rules, but the employee so promoted must have completed his or her probationary period.

3.39 Any Vacancy resulting from a reorganization, or any Vacancy which occurs during a reorganization, must be announced in accordance with the provisions of this Chapter.

REDUCTION-IN-FORCE

3.40 Whenever it becomes necessary to reduce the number of employees of any Department in the County and/or District, such as through a reorganization, or termination or reduction in County and/or District programs based on action of the Governing Authority, the Elected Official/Department Head of the affected Department shall communicate, in writing, the following information to the Human Resources Department:

- a. the number of positions to be eliminated; (Amended April 10, 1996)
- b. the salary grade(s) or, until salary grades are established, the salaries for each position involved;
- c. the job title(s) of the affected positions; and
- d. the date the layoffs are to be effective.

Upon receipt of such notice, the Secretary will prepare a reduction in force list, by Department, of all employees affected. Whenever possible, the reduction in force list will group like positions. The reduction in force list will assign an order of layoff to each affected employee and the Department must conform to that order. The intent and purpose of this subsection is to insure fairness and equity in the exercise of employee layoffs.

3.41 The order of layoff of employees in the Department in which the reduction in force is to be made shall be:

- a. Temporary Employees;
- b. Probationary Employees;
- c. Regular, Part-time Employees; and

d. Regular, Full-time Employees.

3.42 Regular, Full-time Employees shall also be laid off according to a layoff rating. Seniority shall be the sole layoff rating, unless two or more affected employees have equal seniority, in which event, performance appraisal ratings shall be taken into consideration in determining an employee's layoff rating. Employees with the lowest ratings will be laid off first. Among employees with equal layoff ratings, the order of layoff shall be determined by the Commission.

3.43 Generally, seniority shall be the sole layoff rating. The seniority rating will be determined simply by such employee's continuous County and/or District service as a Regular, Full-time Employee. Leaves of Absence shall not be included in computing continuous County and/or District service. An employee who resigns from County and/or District service shall lose all seniority credited to him/her prior thereto for purposes of this layoff formula, and subsequent reemployment of that employee shall not restore the seniority so lost. An employee shall receive two (2) points for each year of continuous County and/or District service. Portions of a year shall be prorated.

3.44 The second component of the layoff rating, applicable only to those with equal seniority ratings, will be the performance appraisal rating index derived by averaging the total scores of all "overall ratings" shown on all performance appraisals filed in that individual's official personnel file for the two year period preceding such computation. The value assigned to each "overall rating" shall be: the addition of ten (10) points for the highest possible overall rating (Superior); or five (5) points for the next highest overall rating (Exceeds Requirements); or two (2) points for a rating of "Meets Requirements"; or minus two (-2) points for a "Does Not Meet Requirements" rating.

REINSTATEMENT FOLLOWING REDUCTION-IN-FORCE

3.45 If an employee should be laid off as the result of a reduction-in-force, and if within a period of one (1) year thereafter, a Vacancy should occur in the same Department and in the same or in a lower salary grade, the said employee shall be reinstated in the vacant position, provided that such employee is willing to accept the offered employment, and provided further that such employee meets all qualifications for said position. When more than one person qualifies for reinstatement under this Section, the preference shall be given to the person laid off last.

NEPOTISM

3.46 The hiring of County and/or District employees shall not violate Hidalgo County's Nepotism Policy or any applicable federal and state laws against nepotism, including laws contained in the Penal Code of the State of Texas.

EQUAL EMPLOYMENT OPPORTUNITY

3.47 It is the Commission's policy to provide equal employment opportunities to all applicants; to that end the Commission will cause the County and/or District to recruit, hire and promote qualified persons for all job positions without regard to race, color, creed, sex, age, national origin, handicap, or political affiliation. The Commission, however, may establish "bona-fide occupational qualifications" that relate to physical or mental abilities required to perform a job.

SPECIAL POSTING PROCEDURES FOR ENTRY LEVEL DEPUTY SHERIFF POSITION

3.48 The posting procedures provided in this Rule 3.48 are an exception to the requirement that all Vacancies first be announced utilizing the Internal Announcement Procedure. Posting of Vacancies under this Rule 3.48 shall be announced utilizing the Open Announcement Procedure, as modified by this Rule. The Sheriff's Department may use the Human Resources Department

Requisition Form to request that the Human Resources Director advertise for any job openings which may occur in an entry level deputy sheriff position during the six month period immediately following the posting, even if there are no Vacancies at the time of the request. If such a request is received, the Human Resources Director will publish such request for applications in the following manner:

- a. A notice soliciting applications for any openings which may occur for the entry level deputy sheriff position during the six month period immediately following the posting is posted at the places at the County courthouse designated by the Commissioners Court as places for posting notices of Commissioners Court meetings. In addition, the Human Resources Director will also forward each Elected Official/Department Head a copy of the notice soliciting applications pursuant to this Rule 3.48, together with a request that the Elected Official/Department Head make such notice accessible to all County and/or District Employees;
- b. The notice, once posted, will remain posted for fourteen (14) calendar days, excluding County and/or District holidays; and
- c. A statement should be included in the job announcement indicating that applications are being accepted for any existing or future job openings for the entry level deputy sheriff position which are now available or which will become available during the six month period following the posting.

If the notice provided in this Section has been given, the Sheriff's Department may fill Vacancies in entry level deputy sheriff positions during the six month period immediately following the posting of such notices without further advertising such Vacancies. Such Vacancies are filled by the Sheriff's Department otherwise completing the Human Resources Department Requisition Form required by this Chapter for each Vacancy, complying with all other provisions of this Chapter, and requesting that the Human Resources Director send the Sheriff's Department the names and Applications of those applicants meeting minimum qualifications who responded to the general job announcement permitted by this Section rather than by posting such Vacancy. If the Secretary, at the request of the Sheriff's Department, has conducted testing of the eligible applicants following testing procedures acceptable to the Sheriff's Department, the Secretary may, at the request of the Sheriff's Department, in lieu of sending the Sheriff's Department a list of all applicants who met the minimum qualifications for the Vacancies, send the Sheriff's Department the names and Applications of the applicants with the highest over-all test scores, and absent good cause, following a personal interview with the Sheriff's Department, and such additional testing as the Sheriff's Department shall determine to be reasonable under the circumstances, such applicant shall be selected to fill such Vacancy. (Amended May 14, 1997)

SPECIAL POSTING PROCEDURES FOR DETENTION MATRON/DETENTION OFFICER POSITIONS

3.48A The posting procedures provided in this Rule 3.48A are an exception to the requirement that all Vacancies first be announced utilizing the Internal Announcement Procedure. Posting of Vacancies under this Rule 3.48A shall be announced utilizing the Open Announcement Procedure, as modified by this Rule. The Sheriff's Department may use the Human Resources Department Requisition Form to request that the Human Resources Director advertise for any job openings which may occur in the detention matron and/or detention officer positions during the six month period immediately following the posting, even if there are no Vacancies at the time of the request. If such a request is received, the Human Resources Director will publish such request for applications in the following manner:

- a. A notice soliciting applications for any openings which may occur for the detention matron and/or detention officer position during the six month period

immediately following the posting is posted at the places at the County courthouse designated by the Commissioners Court as places for posting notices of Commissioners Court meetings. In addition, the Human Resources Director will also forward each Elected Official/Department Head a copy of the notice soliciting applications pursuant to this Rule 3.48A, together with a request that the Elected Official/Department Head make such notice accessible to all County and/or District Employees;

- b. The notice, once posted, will remain posted for fourteen (14) calendar days, excluding County holidays; and
- c. statement should be included in the job announcement indicating that applications are being accepted for any existing or future job openings for the detention matron and/or detention officer positions which are now available or which will become available during the six month period following the posting.

If the notice provided in this Section has been given, the Sheriff's Department may fill Vacancies in any detention matron and/or detention officer positions during the six month period immediately following the posting of such notices without further advertising such Vacancies. Such Vacancies are filled by the Sheriff's Department otherwise completing the Human Resources Department Requisition Form required by this Chapter for each Vacancy, complying with all other provisions of this Chapter, and requesting that the Human Resources Director send the Sheriff's Department the names and Applications of those applicants meeting minimum qualifications who responded to the general job announcement permitted by this Section rather than by posting such Vacancy. If the Secretary, at the request of the Sheriff's Department, has conducted testing of the eligible applicants following testing procedures acceptable to the Sheriff's Department, the Secretary may, at the request of the Sheriff's Department, in lieu of sending the Sheriff's Department a list of all applicants who met the minimum qualifications for the Vacancies, send the Sheriff's Department the name and Application of the applicant with the highest over-all test score, and absent good cause, following a personal interview with the Sheriff's Department, and such additional testing as the Sheriff's Department shall determine to be reasonable under the circumstances, such applicant shall be selected to fill such Vacancy.(Amended May 14, 1997)

EXCEPTIONS TO EMPLOYMENT PROCEDURES

3.49 The following situations do not require that an Elected Official/Department Head use the employment procedures described in this Chapter III to fill a vacancy for:

- a. a position used to settle a complaint, grievance or civil rights complaint, provided the Elected Official/Department Head certifies such fact to the Secretary;
- b. a position to which an individual charged with a crime under a criminal complaint or indictment is transferred pending final resolution of the criminal complaint or indictment, provided the Elected Official/Department Head certifies such fact to the Secretary;
- c. Emergency Appointments;
- d. an upgrade or downgrade of an occupied position as the result of a reclassification, so long as the procedures described in Section 3.22 through 3.28 hereof have been followed;
- e. a lateral transfer so long as the procedures described in Sections 3.16 through 3.21 hereof have been followed;
- f. a voluntary or involuntary demotion as described in Section 3.32 hereof;

- g. a reorganization and/or consolidation so long as the procedures described in Sections 3.33 through 3.39 hereof have been followed. If the reorganization and/or consolidation also involves a reduction in force, the procedures described in Sections 3.40 through 3.44 hereof must also be followed;
- h. an entry level position filled by an individual referred to the Elected Official/Department Head from programs associated with a Workforce Development Board (“WDB Programs”), provided the Elected Official/Department Head notifies the Secretary, in writing, prior to the selection of such person, that the Elected Official/Department Head has a vacant position, identified by job number, for the WDB Programs participant, and the Elected Official/Department Head represents to the Secretary that such position will remain vacant until the earlier of: (i) the WDB Programs participant is dismissed; or (ii) funding for the WDB Program position expires, at which time the Elected Official/Department Head shall process the paperwork necessary for such WDB Programs participant to be placed in such position on the County payroll. The WDB Programs participant's Probationary Period with the County begins on the day such participant is first assigned to work for the Elected Official/Department Head, NOT the date such participant is placed on the County payroll;
- i. a position filled based on a specific, prior, written waiver granted by the Commission; or
- j. persons employed in the Head Start Program as “substitute teachers” for a period of twelve months or less so long as such employees are not scheduled to work a regular, recurring schedule, but rather are on call to work as substitute teachers for other employees in the Head Start Program who are not available for work on any particular school day (Adopted August 9, 1995; Amended July 14, 1999)

CHAPTER IV

DISCIPLINE⁶

GENERAL DISCIPLINE GUIDELINES

4.01 Every employee is expected to be familiar with and follow all County and/or District and Commission rules, policies and procedures, including the standards of conduct described in Chapter V hereof. Any employee who fails to meet job performance standards, or who fails to follow rules, policies or procedures, is subject to disciplinary action up to, and including, dismissal.

4.02 The rules in this Chapter IV serve as guidelines to Elected Officials/Department Heads in disciplining employees and discusses the factors the Commission will take into consideration in reviewing a disciplinary action whenever an employee appeals an Elected Official's/Department Head's decision.

4.03 To the extent reasonable under the circumstances, the Elected Official/Department Head should use a progressive discipline approach to correct performance problems or violations of rules, policies or procedures. Some performance problems or violations of rules, policies or procedures, however, may have sufficiently serious effect to warrant bypassing some or all of the steps of progressive discipline. For example, it is generally inappropriate to terminate an employee for minor infractions of work rules or so-called "first offense" violations. In such instances, a "warning" or "short-term" suspension is usually more appropriate. Although it is impossible to list all the fact situations and the steps an Elected Official/Department Head should follow in disciplining an employee, as a general rule, an employee should be warned and given an opportunity to correct the problem before further disciplinary action is taken against the employee. If uncorrected, disciplinary probation or a short term suspension may follow. Repeated violations generally justify imposing a longer suspension or even dismissal. An employee, however, should never assume that an Elected Official/Department Head is always required to use progressive discipline prior to terminating an employee if the circumstances otherwise justify immediate dismissal. If an employee appeals a disciplinary action to the Commission, the Commission will review that employee's case on its own merits to determine whether the discipline imposed was reasonable or unreasonable under the circumstances.

4.04 In all Adverse Personnel Actions brought before the Commission, the burden of proof is on the County and/or District to show that the Elected Official/Department Head acted properly in bypassing one or more of the steps of progressive discipline if the employee's grievance alleges that the Elected Official/Department Head should have used a less stringent discipline measure of progressive discipline. In all other cases brought before the Commission where the employee alleges that the Elected Official/Department Head should have used a less stringent discipline measure of progressive discipline, the burden of proof is on the employee. (Amended March 27, 2003)

4.05 The choice of the type of disciplinary action imposed requires the exercise of responsible and reasonable judgment by the Elected Official/Department Head. Each incident must be evaluated on a case by case basis; however, an Elected Official/Department Head should attempt to impose like disciplinary action for like violations.

4.06 All disciplinary actions involving employees assigned to the Head Start Program, including Adverse Personnel Actions involving a Probationary Employee assigned to the Head Start Program, must also be approved by the Head Start Policy Council.

⁶ Entire Chapter IV added April 10, 1996

COMMISSION REVIEW STANDARDS

4.07 The Commission, in reviewing a disciplinary action taken against an employee, considers all factors applicable to a particular case, including:

1. the employee's past work and disciplinary record. Generally, the Commission only considers disciplinary actions which occurred during the previous two years, except in instances of serious misconduct, in which event the Commission will consider disciplinary actions which occurred during the previous three years;
2. the seriousness of the offense;
3. the frequency of the offense;
4. any mitigating circumstances;
5. whether the action taken is fair and just in the employee's particular situation; and
6. whether the Elected Official's/Department Head's action is supported by substantial evidence or was arbitrary, capricious or tainted with illegality.

EXAMPLES OF DISCIPLINARY ACTIONS

4.08 There are many situations in the workplace which may call for disciplinary action. The following, generally in order of priority or importance, are examples of the types of disciplinary action available to an Elected Official/Department Head in disciplining an employee:

1. Conferences;
2. Oral or Written Reprimand;
3. Disciplinary Probation;
4. Temporary Removal from the Workplace;
5. Temporary Reassignment;
6. Furlough with Pay Pending Investigation;
7. Furlough Without Pay Pending Investigation;
8. Disciplinary Suspension Without Pay;
9. Involuntary Demotion; and
10. Dismissal.

CONFERENCES

4.09 An Elected Official/Department Head should schedule a conference with an employee to counsel the employee concerning his or her failure to maintain job performance standards or failure to follow rules, policies or procedures, and to explain to the employee the Elected Official's/Department Head's expectations of that employee. The Elected Official/Department Head may use the HCCS Form 7, Conference Notes, to document the conference.

ORAL OR WRITTEN REPRIMAND

4.10 An Elected Official/Department Head may reprimand an employee orally or in writing for failure to maintain job performance standards or for failure to follow rules, policies or procedures. The Elected Official/Department Head, prior to giving an employee a formal oral or written reprimand, should:

1. discuss the situation with the employee in a conference and give the employee an opportunity to offer an explanation or information, orally or in writing. The Elected Official/Department Head must be specific about the nature of the violation which justifies the oral or written reprimand;
2. following the employee's explanation, if appropriate, issue an oral reprimand or a written reprimand to the employee; and
3. if the reprimand is an oral reprimand, document the nature of the oral reprimand and the employee's response. The Elected Official/Department Head may use the HCCS Form 7, Conference Notes, to document an oral reprimand.

DISCIPLINARY PROBATION

4.11 When an employee is not meeting job performance standards or is not following rules, policies or procedures, the Elected Official/Department Head may place the employee on disciplinary probation for up to six months. The primary purpose of disciplinary probation is to give the employee an opportunity to correct the situation which resulted in the Elected Official's/Department Head's decision to place the employee on disciplinary probation. If appropriate, other disciplinary action may be taken against the employee during or at the end of the disciplinary probation period; however, the Elected Official/Department Head, at the end of the six month period, or sooner if the circumstances justify it, must either lift the disciplinary probation against the employee, or take other disciplinary action against the employee.

4.12 The Elected Official/Department Head, prior to placing an employee on disciplinary probation, should:

1. discuss the situation with the employee in a conference and give the employee an opportunity to offer an explanation or information, orally or in writing. The Elected Official/Department Head must be specific about the nature of the violation justifying the disciplinary probation; and
2. following the employee's explanation, if appropriate, provide the employee a written memo notifying the employee of the disciplinary probation.

TEMPORARY REMOVAL FROM THE WORKPLACE

4.13 If an employee is behaving in a life-threatening or disruptive manner, the Elected Official/Department Head may require the employee leave the workplace. Whenever it is justified and in the best interest of the County and/or District and the employee, the Elected Official/Department Head may grant the employee Administrative Leave pending further review, investigation and/or disciplinary action. The Elected Official/Department Head should promptly follow-up such decision to temporarily remove the employee from the workplace with other appropriate disciplinary action such as furlough with or without pay, or restore the employee to his or her job assignment or another assignment.

TEMPORARY REASSIGNMENT

4.14 An Elected Official/Department Head may temporarily reassign an employee to other duties to allow the Elected Official/Department Head time to review or investigate alleged poor job performance and/or alleged violations of policies, rules or procedures. If the subsequent review or investigation reveals that other disciplinary action is indicated, the Elected Official/Department Head takes appropriate action against the employee. If the Elected Official's/Department Head's subsequent review or investigation reveals further disciplinary action is not appropriate, the employee is restored to his or her previous job assignment or another assignment.

FURLOUGH WITH PAY PENDING INVESTIGATION

4.15 An Elected Official/Department Head, with prior approval of the Governing Authority, may place an employee on furlough with pay to investigate alleged actions or incidents involving the employee. If the Elected Official's/Department Head's subsequent review or investigation reveals further disciplinary action is not appropriate, the employee is restored to his or her previous job assignment or another assignment. If further disciplinary action is appropriate, the Elected Official/Department Head should take such action promptly.

FURLOUGH WITHOUT PAY PENDING INVESTIGATION

4.16 An Elected Official/Department Head may place an employee on furlough without pay to provide the Elected Official/Department Head time to investigate alleged actions or incidents involving the employee. The Elected Official/Department Head, prior to placing an employee on furlough without pay, should:

1. discuss the situation with the employee in a conference and give the employee an opportunity to offer an explanation or information, orally or in writing. The Elected Official/Department Head must be specific about the nature of the suspected violation which justifies the furlough without pay; and
2. following the employee's explanation, if appropriate, provide the employee a written memo notifying the employee of the furlough without pay.

If the Elected Official's/Department Head's subsequent review or investigation reveals further disciplinary action is not appropriate, the employee is restored to his or her previous job assignment or another assignment. If further disciplinary action is appropriate, the Elected Official/Department Head should take such action promptly.

DISCIPLINARY SUSPENSION WITHOUT PAY

4.17 The Elected Official/Department Head follows the process outlined in Section 4.23, Process for Adverse Personnel Actions, prior to placing an employee on disciplinary suspension without pay; however, subject to Section 4.06 hereof, the Elected Official/Department Head may recommend disciplinary suspension without pay of a Probationary Employee for any non-discriminatory reason at any time during the Probationary Period without following the process for Adverse Personnel Actions.

4.18 An employee is not allowed to substitute paid leave while on disciplinary suspension without pay.

INVOLUNTARY DEMOTION

4.19 The Elected Official/Department Head follows the process outlined in Section 4.23, Process for Adverse Personnel Actions, prior to placing an employee on involuntary demotion; however, subject to Section 4.06 hereof, the Elected Official/Department Head may recommend

involuntary demotion of a Probationary Employee for any non-discriminatory reason at any time during the Probationary Period without following the process for Adverse Personnel Actions.

4.20 An Elected Official/Department Head may require an employee take an involuntary demotion when an employee is not meeting job performance standards in the current job, but may be able to meet the standards applicable to a different job. An Elected Official/Department Head may also require an employee take an involuntary demotion for violations of rules, policies or procedures when demotion to another position is an appropriate corrective action.

DISMISSAL

4.21 The Elected Official/Department Head follows the process outlined in Section 4.23, Process for Adverse Personnel Actions, prior to dismissing an employee; however, subject to Section 4.06 hereof, the Elected Official/Department Head may recommend dismissal of a Probationary Employee for any nondiscriminatory reason at any time during the Probationary Period without following the process for Adverse Personnel Actions.

4.22 A dismissed employee is entitled to a post-dismissal conference with such employee's Elected Official/Department Head. The employee's right to a post-dismissal conference, however, does not extend the time limit in which an employee must file a grievance with the Commission pursuant to Chapter X hereof. The post-dismissal conference is generally held within five (5) working days of the actual date of dismissal. The purpose of the post-dismissal conference is to review the Elected Official's/Department Head's reasons for the dismissal and give the employee an opportunity to provide the Elected Official/Department Head additional information. If the Elected Official/Department Head rescinds the dismissal based on additional information furnished by the employee or other third parties, the dismissal is considered null and void.

PROCESS FOR ADVERSE PERSONNEL ACTIONS

4.23 The Elected Official/Department Head, prior to taking an Adverse Personnel Action against an employee, takes the following steps:

1. Discusses the proposed Adverse Personnel Action with any County and/or District personnel which the Elected Official/Department Head determines are appropriate before advising the employee of the proposed Adverse Personnel Action;
2. Confers with the employee about the proposed Adverse Personnel Action in an employee conference. During the conference:
 - a. the Elected Official/Department Head discusses the proposed Adverse Personnel Action with the employee;
 - b. the Elected Official/Department Head gives the employee an opportunity to offer an explanation or information, orally or in writing, about the proposed action;
 - c. the Elected Official/Department Head evaluates the employee's response and decides if it is appropriate to proceed with the Adverse Personnel Action; and
 - d. if proceeding, the Elected Official/Department Head provides the employee a written notice of the Adverse Personnel Action and any reasonably available supporting documentation relied on by the Elected Official/Department Head to justify the Adverse Personnel Action, advises the employee of his or her right to protest the Adverse Personnel

Action, and has the employee sign a HCCS Form 4, Acknowledgment of Rights. The written notice should, at a minimum, contain the information listed in Section 4.24 hereof. If the employee refuses to sign the HCCS Form 4, the Elected Official/Department Head signs the form certifying that the employee refused to sign and that a copy of the Adverse Personnel Action and supporting documentation was given to the employee. If the proposed Adverse Personnel Action is dismissal, and the employee refuses to sign, the Elected Official/Department Head asks a witness to sign the certification;

3. If the employee submits a written response after the Elected Official/Department Head has taken an Adverse Personnel Action against the employee, the Elected Official/Department Head decides whether a written response to the employee's written response is appropriate. If a written response is prepared, the Elected Official/Department Head sends a copy of the response to the employee; and
4. If the employee against whom an Adverse Personnel Action has been taken was not available for an employee conference, the Elected Official/Department Head promptly sends a copy of the written notice of Adverse Personnel Action, supporting documentation, and the HCCS Form 4, Acknowledgment of Rights, to the employee's last known address by regular and certified mail.

WRITTEN NOTICE IN ADVERSE PERSONNEL ACTIONS

4.24 The written notice of an Adverse Personnel Action provided to the employee should advise the employee of the following:

1. describe the action that caused the need for discipline;
2. whenever possible, include a reference to the specific policy or rule violated;
3. describe the nature of discipline being enforced;
4. include the effective date of the discipline;
5. except in the case of dismissal, include a statement of the corrective action required;
6. except in the case of dismissal, include a statement of the range of discipline or action that may be taken if the corrective action is not taken or the policy or rule is violated again; and
7. include a statement of the employee's rights to appeal the Adverse Personnel Action as provided in the HCCS Form 4, Acknowledgment of Rights, attached to the written notice.

CHAPTER V
STANDARDS OF CONDUCT⁷

NON-DISCRIMINATION

5.00 No person employed by the County and/or District shall discriminate against anyone on the basis of race, sex, national origin, citizenship, age, religious preference, physical handicap or veterans status, nor shall any employee participate in any function that violates, either directly or indirectly, the civil rights of other employees or any member of the general public.

SEXUAL HARASSMENT:

5.01 Employees shall not:

- a. Engage in conduct constituting sexual harassment; or
- b. Engage in conduct constituting retaliation against either an employee who files a complaint of sexual harassment or any person who gives information related to an employee's complaint of sexual harassment.

5.02 Sexual harassment is defined as unwelcome sexual advances, request for sexual favors, or other sexual conduct, either verbal, physical, or visual conduct of a sexual nature, or any conduct or other offensive unequal treatment of an employee or group of employees that would not occur but for the sex of the employee or employees, when:

- a. The advance, request, or conduct has the effect interfering with performance of duties or creating an intimidating, hostile, or otherwise offensive work environment; or
- b. Submission to such advance, request, or conduct is explicitly or implicitly a term or condition of employment; or
- c. Submission to or rejection of such advance, request, or conduct is used as a basis for employment decisions.

GIFTS:

5.03 Except as permitted in Section 36.10, Texas Penal Code, employees shall not accept gifts from contractors, vendors or other persons who deal with the County and/or District.

PERSONAL APPEARANCE:

5.04 Employees shall maintain a neat appearance and shall wear reasonable dress, as prescribed by department heads, which is appropriate for public service and is reasonable for the fiscal means of the employee. "Reasonable dress" means attire that is:

- a. Appropriate to the position of such employee, accepted by society in establishments of common use by the general public, and appropriate for environments frequented by children and adolescents of impressionable age; and
- b. Of a fiscal category that does not impose undue hardship on employees of the lowest salary range for the job.

⁷ Entire Chapter V added March 8, 1995

USE OF COUNTY AND/OR DISTRICT-OWNED PROPERTY:

5.05 Any time that County and/or District property is used in conjunction with employment, care should be exercised to minimize damage to the equipment or waste of supplies. Office machines, maintenance equipment, tools, etc., should be properly stored and cared for at the close of each business day. No employee shall intentionally or negligently damage County and/or District equipment or property.

5.06 Employees who are assigned County and/or District property, including a County and/or District owned vehicle, must comply with Texas statutes on official conduct, and are subject to the following provisions: (Amended April 10, 1996)

- a. No facilities, services, equipment, supplies or other thing of value belonging to the County and/or District shall be used by any employee or other person for purposes of or resulting in a private benefit or with intent to harm another. Neither shall an employee misuse or misappropriate County and/or District property of any value, for the purpose of benefiting his or her personal gain, or for benefiting a relative, friend, or associate.
- b. Employees who are allowed to take a County and/or District owned vehicle to their residence before and after working hours shall only use the vehicle for County and/or District business.
- c. Unauthorized persons are not allowed to ride in County and/or District owned vehicles.
- d. Employees driving County and/or District owned vehicles are required to maintain a valid driver's license and a copy of such license shall be forwarded to the Elected Official/Department Head, and such employees must be insurable by the County and/or District's insurance carrier.
- e. Any employee who in the course of employment drives a County and/or District owned vehicle, and who is identified by the County and/or District's insurance carrier as an unacceptable risk because of the employee's driving record, shall be re-classified to a lower position. If no position is available, the individual may be terminated.

CONFIDENTIALITY:

5.07 A considerable amount of County and/or District business is conducted pursuant to public disclosure legislation. County and/or District business is therefore public business and shall be open for public inspection and copying in the manner provided by law unless it pertains to those matters made private by law under the Texas Open Records Act, or any similar state or federal law or regulation. No employee shall release, cause to be released or use any confidential County and/or District information for any purpose, including to advance any personal interest, financial or otherwise, or to harm the interests of the County and/or District. (Amended December 13, 1995)

OFFICE DONATIONS, POLITICAL CONTRIBUTIONS AND POLITICAL SERVICE:

5.08 Employees shall not be forced to contribute to or make donations to any fund or collection process. All such funds or collections made during working hours must be approved by the appropriate elected official or department head prior to any contact with employees. No employee shall be required to participate in political campaigns, political services, or related activities, as a condition of employment. Nor shall any employee be disciplined in any fashion for failure to participate in such activities. Employees are prohibited from participating in political

services, campaigns, or related activities during working hours. Employees are also prohibited from using County and/or District equipment, vehicles, uniforms or other property in the political service, influence, or effort to advance the political cause of any candidate for public office. No employee shall attempt, while on duty, to affect the results of an election or nomination to public office. This Section does not prohibit any employee from voluntarily engaging in political activities and/or making or receiving private political endorsements during non-duty hours.

OUTSIDE EMPLOYMENT:

5.09 Employees shall devote all their time and effort during their assigned work hours to their specified work for the County and/or District. Employees shall not engage in outside work or employment to any extent that conflicts with the County and/or District interest or which adversely affects the employee's availability and usefulness to the County and/or District during their regular work hours. All employees who receive income in the form of other employment, or a business, or are considering other outside employment, or business operation, should submit a written statement to his or her supervisor, and work closely with their Department Head or Elected Official on the details of such outside employment or business interest to assure no conflict exists with such person's employment by the County and/or District. Employees are not permitted to engage in any exchange, purchase, or sale of goods or services with the County and/or District as an additional income source. However, this Section does not prohibit outside employment and personal initiative that is unrelated to an employee's duties, is specifically defined as not on County and/or District time via payroll transmittals, or is otherwise carefully documented as being outside the prohibitions of this Section. Each Elected Official or Department Head shall have the option of prohibiting any outside employment that is in conflict with the policies set forth in this Section. (Amended April 10, 1996)

PUBLIC STATEMENTS BY EMPLOYEES:

5.10 An employee shall not represent the County and/or District in an official capacity before any entity where potential private gain to that employee may occur or where a County and/or District obligation or liability may be incurred, or where such representation detracts from the County and/or District, unless such employee is, in fact, officially and legally representing the County and/or District in their official capacity, or authorized by law, or executing an appropriate order of the Governing Authority.

5.11 Any employee who has a Substantial Interest (defined herein), direct or indirect, in any individual or entity involved in any decision pending before such employee, or the body of which the employee is a member, shall not vote or otherwise participate in any consideration of action on the matter. Such employee will, as provided herein, disclose the nature and extent of such interest to his or her supervisor prior to any discussion or determination of action on the matter. A "Substantial Interest" exists if:

- a. The ownership interest is ten (10%) percent or greater of the voting stock or shares or a business, or ownership of \$5000 or more of the fair market value of the business;
- b. Funds received by the employee from an individual or business exceeds ten (10%) percent of the employee's gross income for the previous year; or
- c. The employee's equitable or legal ownership in real property related to the matter under consideration has a fair market value of \$2500 or more.

For purposes of this Section, a "Substantial Interest" includes an interest of a person related to the employee in the first or second degree, by either affinity or consanguinity. (Amended April 10, 1996)

Whenever a potential conflict of interest arises pursuant to this Section, such affected employee shall file in advance of any determination or action, a disclosure statement with the appropriate board, elected official, or governing body responsible for the business in which the conflict has or may occur, with a copy filed with the Human Resources Director. It shall be the responsibility of the receiving agent or agency to maintain records of all such disclosures in accordance with applicable law(s). Such records shall be open for inspection and must be retained for a period of three (3) years from the date of the final action on the matter which prompted such disclosure before the appropriate board, elected official or governing body.

PERSONAL DATA CHANGES

5.12 If an employee changes his or her address or telephone number, he or she should promptly notify his or her Elected Official or Department Head in writing of such change. (Amended April 10, 1996)

5.13 If it becomes necessary for an employee to change the filing status or number of dependents reflected on his or her form W-4, he or she should contact the County Auditor's office and/or the similar office in the District for the appropriate forms. (Amended April 10, 1996)

5.14 A name change of an employee will be entered on the County and/or District employee roster unless and until a replacement social security card is received by the employee reflecting such change. Upon receipt of such card, the Elected Official or Department Head will complete the necessary forms to have the change made and send such information to the County Auditor. (Amended April 10, 1996)

SUBSTANCE ABUSE

5.15 All employees shall endeavor to maintain a safe workplace that is free of substance and alcohol use and abuse, in compliance with applicable state and federal laws.

5.16 The unlawful manufacture, distribution, dispensing, or possession of alcohol or a controlled substance by an employee or an employee's use of alcohol or a controlled substance on County and/or District premises or while on duty with the County and/or District is prohibited.

EMPLOYEE STANDARDS OF CONDUCT

5.17 Employees are expected to observe all employee standards of conduct. Observance of the standards of conduct may extend beyond regular work hours and beyond the employee's work site. In these cases, a demonstrable relationship must exist between the employee's conduct and job performance or there must be an adverse effect on the work area or the County and/or District. Violating the standards of conduct may result in disciplinary action, including dismissal. When appropriate, a standards of conduct violation may result in immediate dismissal and possible criminal prosecution. Any employee who knows of an employee's violation of the standards of conduct and who does not report such violation to an appropriate County and/or District official, usually the employee's Elected Official/Department Head, may be subject to disciplinary action, including dismissal. (Adopted December 13, 1995)

EXAMPLES OF PROHIBITED CONDUCT

5.18 The following activities are examples of employee conduct prohibited by the rules contained in this Chapter V:

- a. Fighting on the job (Adopted March 8, 1995);
- b. Threatening, intimidating, coercing or interfering with fellow employees or other persons during working hours (Adopted March 8, 1995);

- c. Creating a negative work atmosphere during working hours (Adopted March 8, 1995);
- d. Sleeping while on duty (Adopted March 8, 1995);
- e. Gambling while on duty (Adopted March 8, 1995);
- f. Insubordination (Adopted March 8, 1995);
- g. Theft, damage, misuse, sale, destruction or unauthorized possession of property belonging to the County and/or District, fellow employees or others (Amended December 13, 1995);
- h. Falsifying County and/or District records, reports or any other written document (Adopted March 8, 1995);
- i. Immoral conduct which violates common decency on the job or associated with job related activities (Adopted March 8, 1995);
- j. Sexual harassment of County and/or District employees or other persons (Adopted March 8, 1995);
- k. Violations of the County and/or District's equal employment opportunity policy (Adopted March 8, 1995);
- l. Violation of existing federal, state or County and/or District laws, rules or regulations (Adopted March 8, 1995);
- m. Possession or use of alcohol or a controlled substance on the job or in areas that are associated with job related activities as well as reporting for work or attempting to report for work after consuming alcohol or a controlled substance (Adopted March 8, 1995);
- n. Engaging in work other than on County and/or District property or on County and/or District projects during working hours (Adopted March 8, 1995);
- o. Carelessness affecting personal safety or property of any employee, the County and/or District or others (Adopted March 8, 1995);
- p. Failing to report every accident, injury or any damage occurring to or involving County and/or District property or personnel to the employee's department head, supervisor or foreman and the Human Resources Department (Adopted March 8, 1995);
- q. Use of County and/or District vehicles, equipment, tools, material or facilities for personal or private purposes (Adopted March 8, 1995);
- r. Use of telephones for personal long distance calls and excessive use of telephones for personal calls unless authorized by the employee's supervisor (Adopted March 8, 1995);
- s. Improper maintenance of County and/or District equipment (Adopted March 8, 1995);

- t. Deliberate waste of County and/or District materials or parts (Adopted March 8, 1995);
- u. Deliberate or reckless conduct which causes damage to equipment or property belonging to County and/or District, another employee or another person (Adopted March 8, 1995);
- v. Wasting time or loitering (Adopted March 8, 1995);
- w. Absence from duty or job site during working hours without permission from the employee's immediate supervisor (Adopted March 8, 1995);
- x. Failing to report an absence from work to the employee's department head, supervisor or foreman prior to the commencement of the work day (Adopted March 8, 1995);
- y. Abuse of sick leave (Adopted March 8, 1995);
- z. Excessive absenteeism or tardiness (Adopted March 8, 1995);
- aa. Knowingly harboring or refusing treatment of a contagious disease or other physical condition which endangers other employees or other persons (Adopted March 8, 1995);
- bb. Discourtesy to the public (Adopted March 8, 1995);
- cc. Acceptance of any gratuity or gift for the performance or nonperformance of official duties or any use of position as County and/or District employee for private gain (Adopted March 8, 1995);
- dd. Failure to wear presentable dress and/or uniform if required (Adopted March 8, 1995);
- ee. Conduct or actions that seriously impair an employee's job effectiveness (Adopted December 13, 1995);
- ff. Conduct which is detrimental to or has an adverse affect on the County and/or District (Adopted December 13, 1995);
- gg. Failure to obtain and maintain any job qualifications, licenses or certifications required by the employee's job description (Adopted December 13, 1995);
- hh. Conviction of: felony offenses; Class B or above misdemeanor offenses which impair an employee's job effectiveness; or any crime involving moral turpitude (Adopted December 13, 1995);
- ii. Failure to satisfactorily complete, obtain or maintain any required physical and/or psychological fitness for duty (Adopted December 13, 1995);
- jj. Engaging in conduct off the job location and off duty which negatively affects the employee's effectiveness on the job or negatively affects the County and/or District (Adopted December 13, 1995);
- kk. Gross or repeated neglect of duty (Adopted December 13, 1995);
- ll. Poor job performance (Adopted December 13, 1995);

- mm. Perjury (Adopted December 13, 1995);
- nn. Knowingly creating and submitting false and/or slanderous reports concerning, and/or gossip regarding, fellow employees, supervisors, subordinates, Elected Officials and/or Department Heads (Adopted December 13, 1995);
- oo. Dishonesty characterized by a lack of trust, honesty or truthfulness (Adopted December 13, 1995);
- pp. Failure to observe assigned office hours, including time limits set for work and lunch breaks. In this regard, it is not appropriate for an employee to use work breaks to come to work late, extend lunch breaks, or leave work early (Adopted December 13, 1995);
- qq. Personal reading, wasting time, visiting excessively or behaving in a way that distracts other employees or disrupts the workplace (Adopted December 13, 1995);
- rr. Failing to follow a supervisor's instruction in performing job tasks (Adopted December 13, 1995);
- ss. Except for authorized law enforcement personnel, having firearms or other dangerous weapons on County and/or District owned or leased property or in areas that are associated with job related activities (Adopted December 13, 1995);
- tt. Engaging in activities that endanger fellow employees or other persons (Adopted December 13, 1995);
- uu. Failing to maintain a clean, safe work area and/or failing to observe all safety and security rules (Adopted December 13, 1995);
- vv. Failing to observe leave policies, including compliance with the overtime compensation requirement of the Fair Labor Standards Act (Adopted December 13, 1995);
- ww. Excessive or inappropriate use of leave (Adopted December 13, 1995); and
- xx. Unexcused absenteeism (Adopted December 13, 1995).

ADDITIONAL WORK RELATED STANDARDS OF CONDUCT

5.19 Elected Officials/Department Heads may adopt additional work related standards of conduct, not in conflict with these rules, when necessary: (a) for receipt of federal, state or local grant funds; or (b) to carry out the responsibilities of such Elected Official's/Department Head's responsibilities. Each Elected Official/Department Head shall maintain written evidence that such work related standards of conduct have been provided to his or her employees. The Elected Official/Department Head shall also obtain and maintain the employee's written acknowledgment of his or her receipt of such additional work related standards of conduct. A copy of all additional work related standards of conduct adopted by the Elected Official/Department Head shall be provided to the Commission Secretary. The Elected Official/Department Head must maintain written evidence to substantiate that a copy of such additional work related standards of conduct was provided to the Commission Secretary. Delivery of the copy to the Commission Secretary is for information only. (Adopted September 20, 1995)

5.20 The Elected Official/Department Head has the burden of: (a) justifying the need for the adoption of such additional work related standards of conduct; and (b) confirming that his or her employees were provided a copy of standards of conduct in any grievance proceeding brought before the Commission based on such additional work related standard of conduct. (Adopted September 20, 1995)

5.21 The Commission, on its own initiative, or on the written request of an Employee, may request the Commission Secretary to review the additional work related standards of conduct adopted by an Elected Official/Department Head. The Commission may request the Commission Secretary submit a report to the Commission, along with appropriate recommendations concerning such standards of conduct. (Adopted September 20, 1995)

CHAPTER VI
EMPLOYEE COMPLAINTS⁸

AVAILABILITY OF COMPLAINT PROCESS

6.00 An employee should make every effort to resolve an employee's work-related problems or issues informally through discussion and consultation. The complaint process should be used by an employee to resolve any work-related problem or issue which concerns the employee other than an Adverse Personnel Action. If informal efforts do not resolve the problem or issue, the employee may file a written complaint with the Commission, which complaint shall be processed as provided in this Chapter. (Amended July 14, 1999)

6.01 An employee's written complaint does not delay any action which might otherwise affect the employee who submits the written complaint. The written complaint process provides the employee another opportunity to resolve an employee's work-related problem or issue without Commission intervention. If the employee's written complaint is not resolved, the Commission, as provided in this Chapter, may review the decision reached on an employee's written complaint. (Amended July 14, 1999)

GROUP WRITTEN COMPLAINT

6.02 A group written complaint is one expressed by two or more employees. The group selects a spokesperson to discuss the issues. Other group members participate in the process only if contacted by the affected Elected Official/Department Head. A group written complaint is processed in the same manner as an employee written complaint. (Amended July 14, 1999)

FILING A WRITTEN COMPLAINT

6.03 Written complaints should be filed promptly. To file a written complaint, the employee completes Section I of the HCCS Form 1, Complaint/Response, and submits it to the Commission Secretary within seven (7) calendar days of the incident which is the subject of the written complaint. If the written complaint involves a disciplinary action (one other than an Adverse Personnel Action) the written complaint must be filed within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the County's and/or District's deposit in the mail; of written notice of the disciplinary action taken against the employee. If the last calendar day for filing the written complaint falls on a County and/or District holiday or weekend, the written complaint must be filed with the Commission Secretary on the first workday following the County and/or District holiday or weekend. The written complaint and all other correspondence to the Commission Secretary or the Commission should be addressed as follows:

Hidalgo County Civil Service Commission
Attention: Civil Service Secretary
100 E. Cano, Suite 102
Edinburg, Texas 78539

(Amended December 9, 1998)

6.04 An employee should attach to the HCCS Form 1 whatever documentation he or she considers appropriate. As used in this Chapter, references to the "written complaint" or the "completed HCCS Form 1" mean the HCCS Form 1 and any documentation attached to the Complaint/Response form by any party involved in the written complaint process at each stage of the formal written complaint process.

⁸ This revised Chapter VI applies to Employee Complaints filed on or after January 1, 1996.

DELAY IN FILING OR APPEALING WRITTEN COMPLAINT

6.05 The time limits to file a written complaint with the Commission Secretary or to appeal any decision reached at any level in the written complaint process may not be extended unless the Commission determines there is good cause for the employee's delay in filing the written complaint or appealing such decision.

EMPLOYEE REPRESENTATIVE

6.06 The employee may designate a representative to assist the employee in preparing or presenting the written complaint. The representative may participate in follow-up meetings.

WRITTEN COMPLAINT PROCESS

6.07 The written complaint process is initiated when an employee files the HCCS Form 1 with the Commission Secretary. After the Commission Secretary receives the employee's written complaint, the Commission Secretary forwards the original of the HCCS Form 1 to the affected Elected Official/Department Head. The Elected Official/Department Head should respond, in writing, to the written complaint by completing Section II of the HCCS Form 1. An Elected Official/Department Head's response should be made within fourteen (14) days of the date the Elected Official/Department Head receives the HCCS Form 1 from the Commission Secretary. In responding, the Elected Official/Department Head may:

- a. meet with the employee to discuss the written complaint;
- b. gather relevant information and interview others who may have information about the written complaint; and
- c. meet with the employee to discuss the Elected Official's/Department Head's response to the written complaint.

The Elected Official/Department Head may attach any documentation to the HCCS Form 1 which the Elected Official/Department Head believes is relevant to his or her decision. The Elected Official/Department Head returns the original, signed, HCCS Form 1 to the Commission Secretary. The Commission Secretary then provides the employee the original of the HCCS Form 1 which includes the Elected Official's/Department Head's written response. (Amended July 14, 1999)

6.08 The employee, after receiving the Elected Official's/Department Head's written response from the Commission Secretary, either accepts or appeals the Elected Official's/Department Head's decision by checking the appropriate box in Section II of the HCCS Form 1, indicating with respect to an appeal, the employee's preference as to an open or closed hearing, and signing the form. If the employee fails to return the original HCCS Form 1 to the Commission Secretary within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail; of the Elected Official's/Department Head's written response, it is presumed that the employee accepted the Elected Official's/Department Head's decision, and the written complaint process is concluded. Depending on which box is checked, the written complaint is then processed as follows:

- a. If the employee accepts the Elected Official's/Department Head's decision, the employee returns the original HCCS Form 1 to the Commission Secretary, with a copy to the Elected Official/Department Head, within 7 calendar days of the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail; of the Elected Official's/Department Head's written response, and the written complaint process is concluded. The

Commission Secretary, however, follows up with the Elected Official/Department Head to be sure any agreed action contained in the written decision is implemented; or

- b. If an employee, other than a Head Start Program employee, decides to appeal the Elected Official's/Department Head's decision, the employee returns the original HCCS Form 1 to the Commission Secretary, with a copy to the Elected Official/Department Head, within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail; of the Elected Official's/Department Head's written response from the Commission Secretary. The Commission Secretary then sends a copy of the original HCCS Form 1 to the Commission members; or

- c. If a Head Start Program employee decides to appeal the Elected Official's/Department Head's decision, the employee returns the original HCCS Form 1 to the Commission Secretary, with a copy to the Head Start Program Director, within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail; of the Elected Official's/Department Head's written response from the Commission Secretary. The Commission Secretary then forwards the original HCCS Form 1 to the Head Start Program Director for processing. The Head Start Program Director sends the original HCCS Form 1 to the Head Start Policy Council. The Head Start Policy Council responds, in writing, to the written complaint by completing Section III of the HCCS Form 1. Generally, the Head Start Policy Council's response should be made within twenty-one (21) days of the date the Head Start Program Director receives the original HCCS Form 1 from the Commission Secretary. The Head Start Policy Council then returns the original, signed, HCCS Form 1 to the Commission Secretary. The Commission Secretary then forwards the original HCCS Form 1, with the Head Start Policy Council's decision, to the employee. The Head Start Program employee either accepts or appeals the Head Start Policy Council's response by checking the appropriate box in Section III of the HCCS Form 1, indicating with respect to an appeal the employee's preference as to an open or closed hearing, and signing the form. If the employee fails to return the original HCCS Form 1 to the Commission Secretary the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail, of the Head Start Policy Council's decision, it is presumed that the employee accepted the Head Start Policy Council's decision, and the written complaint process is concluded. Depending on which box is checked, the Head Start Program employee's written complaint is then processed as follows:
 - (i) If the Head Start Program employee accepts the Head Start Policy Council's decision, the Head Start Program employee returns the original HCCS Form 1 to the Commission Secretary, with a copy to the Head Start Program Director, the earlier of: (i) seven (7) calendar days of the employee receipt; or (ii) ten (10) calendar days of the deposit in the mail; of the Head Start Policy Council's decision from the Commission Secretary, and the written complaint process is concluded. The Commission Secretary, however, follows up with the Head Start Program Director to be sure any agreed action contained in the written decision is implemented; or

 - (ii) If the Head Start Program employee decides to appeal the Head Start Policy Council's decision, the employee returns the original HCCS Form 1 to the Commission Secretary, with a copy to the Head Start Program Director, the earlier of: (i) seven (7) calendar days of the employee's

receipt; of (ii) ten (10) calendar days of the deposit in the mail; of the Head Start Policy Council's decision from the Commission Secretary. The Commission Secretary then sends a copy of the completed HCCS Form 1 to the Commission members.

WRITTEN COMPLAINT APPEALED TO THE COMMISSION

6.09 The Commission Secretary is responsible for placing all written complaints appealed to the Commission on an agenda for an appropriate Commission meeting. The Commission may:

- a. decline to hear an employee's written complaint, in which event the decision of the Elected Official/Department Head and/or Head Start Policy Council stands, but such action by the Commission, in and of itself, is not admissible in any subsequent proceeding before the Commission to justify the action then under review by the Commission unless, at such subsequent proceeding before the Commission, the party relying on such incident makes an independent offer of proof concerning the facts and circumstances of the prior incident;
- b. uphold or reverse the decision of the Elected Official/Department Head and/or Head Start Policy Council based on the record submitted to the Commission on the completed HCCS Form 1; or
- c. grant the employee an oral hearing before the Commission on the employee's written complaint, and following such oral hearing, uphold or reverse the decision of the Elected Official/Department Head and/or Head Start Policy Council. A Commission decision may include an award for lost wages, back pay or fringe benefits. In computing lost wages or back pay the Commission may reduce an employee's proposed award by any unemployment compensation or earnings from other jobs held by the employee subsequent to the date of the action which is the subject of the Commission hearing. (Amended September 18, 2002)

All written complaints reviewed by the Commission under Subsection a. or b. of this Section will be based on the written record before the Commission under a substantial evidence review. Under a substantial evidence review, the Commission looks solely at the prior written record to determine if the Elected Official's/Department Head's decision is reasonably supported by substantial evidence.

6.10 If the Commission grants an employee's request for an oral hearing on the employee's written complaint, the hearing is conducted as provided in Chapter X hereof under a substantial evidence do novo review, the standards of which review are described in Chapter IX hereof.

PRESUMPTION OF VALIDITY

6.11 The burden of proof is on the employee to support the relief the employee requests in the written complaint.

COMMISSION DECISION

6.12 A copy of the Commission's final decision shall be provided to the employee, the affected Department Head/Elected Official, and in appropriate circumstances, the Head Start Policy Council. Except with respect to Head Start Program employees, the Commission's action on an employee's written complaint is the final administrative review available to the employee. With respect to Head Start employees:

- a. Any Commission decision which has the effect of upholding the action taken by the Head Start Policy Council is the final administrative review available to the employee; and
- b. Any Commission decision which reverses an action of the Head Start Policy Council must be returned by the Commission Secretary to the Head Start Program Director for final review and action by the Head Start Policy Council. The Head Start Policy Council, generally within twenty-one (21) days of the Commission Secretary's delivery of the Commission decision to the Head Start Program Director, meets to either confirm its original decision or adopt the recommendations of the Commission. The Head Start Policy Council shall note its final decision on the original HCCS Form 1 and returns the original, signed HCCS Form 1 to the Commission Secretary, who, in turn, will provide the employee and the Commission a copy of the decision. (Amended July 14, 1999)

6.13 It is the affected Elected Official's/Department Head's responsibility to implement any final decision reached by the Commission and/or Head Start Policy Council on an employee's written complaint. The Commission Secretary, however, follows up with the Elected Official/Department Head to be sure any agreed action contained in the final decision is implemented. (Amended July 14, 1999)

CHAPTER VII

WORK HOURS, LEAVE AND BENEFIT PROGRAMS

WORK HOURS

7.00 County and/or District work hours are scheduled so that all County and/or District offices are open by 8:00 a.m. and close no earlier than 5:00 p.m., Monday through Friday, except on official Holidays. Each Elected Official/Department Head establishes work hours for employees in his or her Department. In setting work hours, an Elected Official/Department Head considers the needs of the Department and the County and/or District, and ensures that any changes in work hours are in the County's and/or District's best interest.

7.01 Effective May 1, 1995, the County's (effective April 18, 2002, for the District) regular work period for all employees, except law enforcement personnel, is a seven day period which commences at 12:01 a.m. on Monday of each week and ends at 12:00 p.m. midnight on the following Sunday. The County's regular work period, effective May 1, 1995, for "law enforcement personnel," as such term is used in the federal Fair Labor Standards Act, is a fourteen day period which commences at 12:01 a.m., on Monday and ends at 12:00 p.m. midnight 14 days later.

7.02 There are 40 regular work hours in a seven day work period and 86 regular work hours in a fourteen day work period; however, the County schedules employees subject to a fourteen (14) day work period to work a minimum of 80 hours during such work period. In the event of a conflict between the work hours rules set forth in Sections 7.01 through 7.08 hereof for Head Start Program employees, the work hours set forth in the County's approved grant application for operation of the County's Head Start Program shall control. (Amended September 20, 1995)

7.03 An employee is required to be present at his or her duty station at the beginning of each workday.

7.04 Every employee is allowed one hour for lunch each workday.

7.05 Each Elected Official/Department Head should schedule his or her employees each workday for a fifteen (15) minute rest break in the morning and a fifteen (15) minute rest break in the afternoon.

7.06 An employee's time and attendance record (Form SFA-CA-008 for non-law enforcement personnel and Form SFA-CA-046 for law enforcement personnel) should coincide with an employee's work period. A completed time and attendance record is completed and turned in to the payroll section of the County Auditor's office and/or similar office in the District no later than 10:30 a.m. on the first employee work day following two seven day work periods or one fourteen day work period. Head Start Program employees shall follow procedures established by the Head Start Program Director for preparing and processing time and attendance records. (Amended September 20, 1995)

7.07 Effective May 1, 1995, all County employees (effective April 18, 2002, for District employees) are paid biweekly on the Friday following the end of two seven day work periods or one fourteen day work period. If that Friday is a holiday, employees will generally receive their pay checks on the last work day which precedes the holiday.

7.08 An employee's pay check is based on the hours worked by the employee during the applicable work period(s), plus any eligible hours of paid leave, all as shown on a signed time and attendance record.

FAIR LABOR STANDARDS ACT ("FLSA")

7.09 The Fair Labor Standards Act ("FLSA") is the federal law which governs overtime compensation for employees covered by the provisions of that Act. Most County and/or District non-management employees are covered by the overtime compensation requirements of the FLSA. An FLSA covered employee receives: (i) time and one-half compensation; or (ii) compensatory leave of one and one-half hours; for each hour physically worked in excess of 40 hours for employees with a seven (7) day work period and 86 hours for those employees with a fourteen (14) day work period. The County provides straight hourly pay or compensatory leave on an hour for hour basis for employees with a fourteen (14) day work period who work between 80 and 86 hours in such work period. Hours for which an employee receives pay, such as paid leave and holiday hours, but which are not physically worked, are not considered hours worked for purposes of calculating FLSA overtime.

7.10 Each Elected Official/Department Head must require that his or her employees keep daily records of time worked and leave taken. Each Elected Official/Department Head must report all additional time worked for FLSA covered employees.

7.11 Except in unusual circumstances, the Elected Official/Department Head must have requested and approved, in advance, that an employee work extra hours or overtime hours. An example of an unusual circumstance is when an off-duty worker responds to an emergency. In this case, the employee is required to report the emergency and its circumstances to the Elected Official/Department Head at the beginning of the employee's next workday.

7.12 An employee who works extra hours or overtime hours without supervisory approval shall be compensated for the extra or overtime hours, but such employee is subject to disciplinary action.

7.13 The Elected Official/Department Head tracks and reports hours worked and leave used using the following forms:

- a. Form SFA-CA-008, Time and Attendance Record - Non-Law Enforcement Personnel;
- b. Form SFA-CA-046, Time and Attendance Record - Law Enforcement Personnel;
- c. Form SFA-CA-044, Leave Request Form;
- d. Form P-2, Summary of Vacation and Sick Leave; and
- e. Form P-3, 12 Month Period Summary of Leave Taken under the Family and Medical Leave Act of 1993 (FMLA).

7.14 To minimize the County and/or District's liability under FLSA for overtime or extra work hours, each Elected Official/Department Head is expected to manage work hours efficiently and effectively. An Elected Official/Department Head may need to adjust work hours for an FLSA covered employee to accomplish work assignments. When an FLSA covered employee's time and attendance record reflects hours worked in excess of that employee's standard work period, the Elected Official/Department Head and the County Auditor and/or similar office for the District shall immediately notify the County Judge and/or similar office within the District of such fact by forwarding to such party a copy of the time and attendance record for such employee (Form SFA-CA-008 or Form SFA-CA-046).

7.15 When an Elected Official/Department Head allows or requires an FLSA covered employee to work extra hours or overtime hours, the Elected Official/Department Head should make every effort to adjust the work hours during the applicable work period so that the employee

does not physically work in excess of 40 hours if the employee is on a seven day work period or in excess of 80 hours if the employee is on a fourteen (14) day work period.

ADMINISTRATION OF LEAVE AND BENEFIT PROGRAMS

7.16 The Governing Authority is solely responsible for authorizing compensated leave and benefit programs for County and/or District employees and such leave and benefit programs may be changed at any time by appropriate order of the Governing Authority. The County and/or District's existing compensated leave and benefit programs are as set forth in this Chapter.

7.17 Elected Officials and Department Heads administer the County and/or District leave and benefit programs according to law and regulations. Elected Officials/Department Heads are responsible for determining eligibility for paid leave for their employees. Each Elected Official/Department Head is also responsible for insuring that a leave account is established and maintained on each of his/her employees.

7.18 An Elected Official/Department Head may designate personnel from his or her office to be responsible for controlling absence and leave administration. Such delegation, however, does not relieve each Elected Official/Department Head of his or her ultimate responsibility for maintaining leave records on his or her employees.

7.19 Regular attendance at work is important to the overall operation of all County and/or District Departments. Any non-emergency leave, whenever practical, must therefore be scheduled in advance. Each Elected Official/Department Head may establish rules for requesting and scheduling leave not inconsistent with this Chapter. Each employee will be given a copy of any Department leave rules and amendments, and will acknowledge, in writing, receipt of such rules. A copy of the written acknowledgment shall be maintained in the employee's personnel file.

7.20 Every request for leave must:

- a. Be submitted to the Department Head/Elected Official, in writing, on a Form SFA-CA-044 which is signed by the employee;
- b. Clearly reflect when the requested leave is to begin and end;
- c. Include a brief explanation setting forth the reasons for taking the requested leave;
- d. To the extent applicable, be accompanied by any required documentation, such as a doctor's statement or military orders; and
- e. Be approved or disapproved, in writing, by the employee's supervisor, and if required, by the Department Head/Elected Official and/or the Governing Authority or its representative.

7.21 Departments shall respond to leave requests within a reasonable time, generally not to exceed five (5) business days.

7.22 After a leave request (Form SFA-CA-044) has been approved or disapproved, such completed form is processed as follows:

- a. The original is placed in the employee's personnel file; (Amended April 10, 1996)
- b. A copy is returned to the employee; and

- c. A copy is forwarded to the County and/or District's Insurance Office whenever the leave request relates to Family and Medical Leave, Leave Without Pay and/or Military Leave. Head Start Program employees should forward a copy to the Head Start Program Director in lieu of forwarding a copy to the County Insurance Office. (Amended December 9, 1998)

7.23 Compensatory Leave is controlled by the Fair Labor Standards Act (29 U.S.C. 201-219) ("FLSA"). All Departments must follow FLSA rules and regulations with regard to such leave.

7.24 Workers' Compensation claims are controlled by state law. All Departments must follow such statutes and any rules and regulations issued by the County and/or District's Insurance Office when dealing with Workers' Compensation issues. (Amended December 9, 1998)

7.25 Family and Medical Leave is controlled by the Family and Medical Leave Act. (29 U.S.C. 2601-2654). All Departments must follow such statutes and any rules and regulations issued with regard to such leave.

7.26 New Regular, Full-time Employees and new Regular, Part-time Employees who commence employment on the 1st through the 15th days of the month earn the applicable hours of Annual Leave and Sick Leave for that month.

7.27 Annual Leave and Sick Leave for each month are earned by an employee on a pro rata basis for each pay period.

7.28 All new or re-hired Regular, Full-time Employees and Regular, Part-time Employees are not eligible to use their accumulated Annual Leave or Sick Leave until their Probationary Period has expired. All Regular, Full-time Employees and Regular, Part-time employees who are placed on a three month Probationary Period due to a promotion, remain eligible to use their accumulated Annual Leave and/or Sick Leave during their Probationary Period. (Amended December 9, 1998)

7.29 All leave is rounded to the nearest fifteen (15) minute increment.

7.30 Annual Leave and Sick Leave accumulated over the maximum during a calendar year is not lost until the end of the calendar year.

7.31 [Reserved for expansion]

7.32 An Elected Official/Department Head who has reason to believe that an employee is using leave excessively or inappropriately may request that the employee provide a statement attesting to the necessity for the absence.

7.33 Temporary Employees are not eligible for Annual Leave, Sick Leave, optional tax method-insurance benefits (cafeteria plan) under Sections 7.125 and 7.126, Court Leave, group health and life insurance under Sections 7.100 through 7.107, paid Holidays, Leave Without Pay, retirement under Sections 7.128 and 7.129, and veteran reemployment rights under Sections 7.195 through 7.199. Temporary Employees assigned to the Head Start Program are also not eligible to receive any of the special benefits described in these Rules applicable only to Head Start Program employees. (Amended September 20, 1995)

7.34 Violations of leave policies may result in disciplinary action, which disciplinary action may include termination.

ADMINISTRATIVE LEAVE

7.35 Administrative Leave may be granted at the discretion of the Elected Official/Department Head or authorized by the Governing Authority. The following is a list of situations in which Administrative Leave may be granted:

- a. registration to vote;
- b. voting;
- c. group dismissals (hereinafter defined);
- d. emergency situations which require the Elected Official/Department Head to get an employee off a work location immediately and before any adverse action has been initiated (this includes situations where there is an immediate threat to County and/or District property or the well-being of the employee, a co-worker of the public); and
- e. during investigations into employee wrongdoing when it is in the best interest of the County and/or District to have the employee off the job.

7.36 A group dismissal occurs when the Governing Authority or a properly authorized official:

- a. suspends normal operations of the County and/or District or an office/Department of the County and/or District because of events beyond the control of the County and/or District;
- b. closes a Department/office of the County and/or District for managerial reasons;
- c. allows employees to participate in activities which are encouraged by the County and/or District and the dismissal is in the best interest of the public; or
- d. allows all employees to attend the funeral of a government or prominent public official.

ANNUAL LEAVE

7.37 County and/or District employees traditionally refer to Annual Leave as "vacation leave."

7.38 Regular, Full-time Employees accrue Annual Leave each month based on the number of years of continuous employment in accordance with the following formula:

Less than five (5) years of continuous employment - Eight (8) hours per month;

At least five (5) years, but less than ten (10) years, of continuous employment - Nine (9) hours per month; and

Ten years (10) or more of continuous employment - Ten (10) hours per month.

(Amended June 13, 2001)

7.39 Regular, Part-time Employees accrue Annual Leave on a pro rata basis, based on the number of years of continuous service listed in Rule 7.38, at a rate equal to the number of hours such employee works in a month bears to 173.33 hours. For example, if a Regular, Part-time Employee with less than five (5) years of continuous service, works twenty (20) hours a week, or

86.67 hours a month, such employee earns four (4) hours of Annual Leave per month [(86.67 hours per month/173.33 hours per month) x 8 = 4]. (Amended June 13, 2001)

7.40 Temporary Employees do not accrue Annual Leave.

7.41 A Regular, Full-time Employee and a Regular, Part-time Employee with less than ten (10) years of continuous service may maintain an accrued Annual Leave reserve not to exceed one hundred sixty (160) hours, or the equivalent of twenty (20), eight (8) hour, work days. (Amended June 13, 2001)

7.42 A Regular, Full-time Employee and a Regular, Part-time Employee with ten (10) or more years of continuous service, but less than fifteen (15) years of continuous service, may maintain an accrued Annual Leave reserve not to exceed two hundred forty (240) hours, or the equivalent of thirty (30), eight (8) hour, work days. (Amended June 13, 2001)

7.42A A Regular, Full-time Employee and a Regular, Part-time Employee with fifteen (15) or more years of continuous service may maintain an accrued Annual Leave reserve not to exceed three hundred twenty (320) hours, or the equivalent of forty (40), eight (8) hour, work days. (Added June 13, 2001)

7.43 Elected Officials/Department Heads are responsible for determining when Annual Leave may be taken. Annual Leave will be scheduled considering the needs of the County and/or District, the Department and the requests of the employee. However, all reasonable accommodation shall be given to the employee in determining when Annual Leave may be taken. Notwithstanding the foregoing, any request for extended, consecutive days, Annual Leave, i.e. requests submitted by an employee to take eleven (11) or more consecutive work days of Annual Leave in any twelve month period, may be granted or denied by the employee's Elected Official/Department Head, in such Elected Official's/Department Head's sole and absolute discretion. (Amended June 13, 2001)

7.44 Annual Leave requests for five (5) days or less generally require at least seven (7) days notice. Annual Leave requests for six (6) or more days should be submitted at least fifteen (15) days in advance. (Amended June 13, 2001)

7.45 Deleted June 13, 2001.

7.46 Elected Officials/Department Heads and employees should ensure that, whenever possible, Annual Leave is scheduled for use by an employee in order to prevent any loss of accrued Annual Leave at the end of the calendar year.

7.47 On separation from employment, an employee will be paid in a lump sum for accrued Annual Leave up to the maximum accumulation.

7.47A Sections 7.37 through Section 7.47 hereof are not applicable to Head Start Program employees. (Adopted September 20, 1995)

COMPENSATORY LEAVE - FLSA COVERED EMPLOYEES

7.48 Compensatory Leave, on an hour for hour basis, for an FLSA covered employee is earned:

- a. by law enforcement personnel who actually work in excess of 80 hours, but no more than 86 hours, in a fourteen (14) day work period; or
- b. by any employee, including law enforcement personnel, when the total of hours actually worked is less than 40 hours for an employee who has a seven day work

period or 80 hours for an employee who has a fourteen day work period, but the total of such hours actually worked, plus paid leave used, and official Holiday hours, exceeds 40 hours for an employee who has a seven day work period or 80 hours for an employee who has a fourteen day work period.

7.49 An FLSA covered employee earns Compensatory Leave for overtime hours worked when the employee physically works more than 40 hours if the employee has a seven (7) day work period or 86 hours if the employee has a fourteen (14) day work period. When this occurs, the employee is credited with time and one-half leave (converted overtime) for each hour of overtime.

7.50 Unless authorized by the Elected Official/Department Head, an FLSA covered employee is expected to avoid working extra hours or overtime hours. Failure to secure prior approval subjects an employee to disciplinary action.

7.51 An employee receives compensation for extra hours or overtime hours as follows:

Upon approval of the Governing Authority, wages for extra hours or overtime hours may be paid in cash and included in the employee's pay check for the work period in which the extra hours or overtime hours occurred or in the pay check following such work period. If no such approval is given, the employee is credited with Compensatory Leave as provided in this Chapter.

7.52 The maximum amount of Compensatory Leave an employee may accrue is 240 hours if the employee has a seven (7) day work period and 480 hours if the employee has a fourteen (14) day work period.

7.53 If an employee's Compensatory Leave balance exceeds the applicable maximum at the end of a pay period, the employee must receive a cash payment for the number of hours over the applicable maximum.

7.54 A separating FLSA covered employee must receive a cash payment for any balance of Compensatory Leave.

7.55 When a cash payment for extra or overtime hours or any accrued Compensatory Leave is required or requested, the Elected Official/Department Head submits a Form SFA-CA-045, Request to Pay Accumulated Comp-Time, to the Governing Authority. The original is sent to the County Judge, or comparable official within the District, a copy is provided to the employee, and a copy is placed in the employee's personnel file.

7.56 An FLSA covered employee must obtain Elected Official/Department Head approval to use Compensatory Leave. The employee should use the leave as soon as possible after it is earned. The Elected Official/Department Head should allow an employee to use Compensatory Leave within a reasonable time provided it does not disrupt Department and/or County and/or District operations.

7.57 An Elected Official/Department Head may require an FLSA covered employee to use Compensatory Leave when it is in the best interest of the Department. The Elected Official/Department Head considers the employee's preference when making decisions about the use of Compensatory Leave.

7.58 The Elected Official/Department Head may not require an employee to use Compensatory Leave in lieu of Sick Leave if an employee is ill or injured and the employee wishes to use available Sick Leave.

7.59 The following are examples of situations in which a FLSA covered employee earns Compensatory Leave:

Example No. 1

A covered employee's regular work hours are 8 a.m. to noon and 1 p.m. to 5:00 p.m., Monday through Friday, and the employee is on a 40 hour, seven day work period. The Elected Official/Department Head requires the employee to work an additional two hours each day (5 p.m. to 7 p.m.) on Monday and Tuesday. The Elected Official/Department Head may adjust the employee's work hours by requiring the employee to take off work at noon on Friday so that the employee works 40 hours during the work period. Even though the employee worked a total of four extra hours on Monday and Tuesday, there is no overtime or extra work hours for the seven day work period.

Example No. 2

A covered employee's regular work hours are 8 a.m. to noon and 1 p.m. to 5 p.m., Monday through Friday, and the employee is on a fourteen day work period. The Elected Official/Department Head knows in advance that the need exists for the employee to work from 5 p.m. to 7 p.m. each day on Thursday and Friday of the first week in the fourteen day work period. The Elected Official/Department Head may instruct the employee to take off work on Monday of the second week in the fourteen day work period from 8 a.m. to noon. Because this adjustment results in the employee working 80 hours for the fourteen day work period, there is no overtime or extra work hours for the fourteen day work period.

Example No. 3

An FLSA covered employee's regular work hours are 8 a.m. to noon and 1 p.m. to 5 p.m., Monday through Friday, and the employee is on a 40 hour, seven day work period. The employee works regularly scheduled hours except the employee takes eight hours of Sick Leave on Tuesday. The Elected Official/Department Head requires the employee to work two extra hours on Thursday from 5 p.m. to 7 p.m. The employee physically works 34 hours during the 40 hour work period and earns two hours of Compensatory Leave (34 hours worked, plus eight hours sick leave, equal 42 hours minus the standard 40 hour work period equals two hours of Compensatory Leave earned). This Compensatory Leave is earned hour for hour because the number of hours actually worked is less than 40 hours.

Example No. 4

An FLSA covered employee's regular work hours are 8 a.m. to noon and 1 p.m. to 5 p.m., Monday through Friday, and the employee, a law enforcement officer, has an 80 hour, fourteen (14) day work period. This employee has no balance of Compensatory Leave. The Elected Official/Department Head requires the employee to work extra hours on Sunday from 1 p.m. to 4 p.m., but the Elected Official/Department Head is unable to adjust the employee's work hours during the 14 day work period. The employee works the regular 80 hour work period. The employee physically works a total of 83 hours. In this case, the employee receives additional pay for the three hours at the employee's regular rate if the Governing Authority elects to immediately pay the employee for the extra work or the employee earns 3 hours of Compensatory Leave for the three extra hours worked (83 hours worked minus the 80 standard work hours = three extra work hours).

Example No. 5

An FLSA covered employee's regular work hours are 8 a.m. to noon and 1 p.m. to 5 p.m., Monday through Friday, and the employee, a law enforcement officer, has an 80 hour, fourteen (14) day work period. This employee has no balance of Compensatory Leave.

The Elected Official/Department Head requires the employee to work extra hours on Sunday from 1 p.m. to 5 p.m., and on Monday from 1 p.m. to 5 p.m., but the Elected Official/Department Head is unable to adjust the employee's work hours during the work period. The employee works the regular 80-hour work period. The employee physically works a total of 88 hours. In this case, the employee receives additional pay for six hours at the employee's regular rate and overtime pay at time and one half for two hours if the Governing Authority elects to immediately pay the employee for the overtime work or the employee earns 9 hours of Compensatory Leave for the additional eight hours worked as follows: one for one hours for the first six extra hours worked and the last two hours worked at time and one-half ($[6 \times 1 = 6] + [2 \times 1.5 = 3] = 9$).

Example No. 6

An FLSA covered employee's regular work hours are 8 a.m. to noon and 1:00 p.m. to 5 p.m., Monday through Friday and the employee has a 40 hour, seven (7) day work period. This employee has a current balance of 237 hours of Compensatory Leave. The Elected Official/Department Head requires the employee to work extra hours on Sunday from 8 a.m. to 4 p.m., with a one hour lunch break, but is unable to adjust the employee's work hours during the remainder of the work period. The employee works the regular 40-hour work period. The employee physically works a total of 47 hours.

In this case, assuming the Governing Authority again did not direct that the employee was to be paid immediately for the overtime work, the employee earns 10 hours and 30 minutes of Compensatory Leave for the seven hours of overtime (47 hours worked minus the 40-hour standard work hours = seven hours overtime multiplied by 1.5 = 10 hours and thirty minutes of converted overtime). Because of the 10:30 converted overtime, the employee exceeds the 240-hour Compensatory Leave maximum at the end of the pay period. The previous balance of 237 hours of Compensatory Leave plus 10:30 converted overtime = 247:30 minus the 240 - hour maximum = 7:30 for which the employee must be paid at the regular hourly rate. The remaining balance of Compensatory Leave for the employee is 240 hours.

COMPENSATORY LEAVE - FLSA NON-COVERED EMPLOYEES

7.60 An FLSA non-covered employee is one whose job functions are executive, administrative, or professional as defined by the FLSA or who qualify for the special exemption for employees of political subdivisions. An FLSA non-covered employee is not subject to the overtime compensation requirements of the FLSA. Such employees are also not subject to any maximum accrual of Compensatory Leave.

7.61 County and/or District employees who are classified as "exempt" by the FLSA and regulations issued pursuant thereto therefore are not eligible to receive Compensatory Leave for extra hours, overtime pay or converted overtime hours for hours actually worked in excess of their standard work hours in their applicable work period. (Amended June 9, 1999)

7.62 In the event that an FLSA non-covered employee works extra hours or overtime hours, that employee's Elected Official/Department Head may, but is not required to, grant that employee comparable time off for those hours worked by that employee.

7.63 Deleted June 9, 1999.

7.64 Deleted June 9, 1999.

7.65 Deleted June 9, 1999.

7.66 Deleted June 9, 1999.

COURT LEAVE

7.67 Court Leave is available when an employee is called as a prospective juror, is selected as a juror or is asked by the County and/or District to be a witness for the County and/or District. Any time taken by an employee to serve as a witness, other than as provided in this Section, must be without pay or charged to Annual Leave or Compensatory Leave. Court Leave does not include any time spent in Court as an employee whose job duties include the possibility that such employee will be testifying as a witness as a part of such employee's regular job assignment, such as an employee in law enforcement.

7.68 An employee on Leave Without Pay status or unpaid Family and Medical Leave is not eligible for Court Leave.

7.69 When an employee is called for jury duty or to be a witness for the County and/or District and that employee is on Annual Leave or Compensatory Leave, the Elected Official/Department Head shall substitute Court Leave for such leave upon request and proper documentation from the employee.

7.70 Court Leave is only granted for the hours actually served by the employee. If there is sufficient time before the work day ends, the employee must report to work when released by the Court, even if the employee has to report to Court the next day. An employee may be required to give the employee's Elected Official/Department Head documentation of the amount of time spent in Court and any release time(s) from Court.

7.71 An employee is not required to account for compensation time(s) received from the Court for jury service.

FAMILY AND MEDICAL LEAVE

7.72 The Family and Medical Leave Act is a federal law that requires the County and/or District provide "eligible employees" (as defined in Rule 7.73) up to twelve(12) work weeks of unpaid leave ("Family and Medical Leave") within a twelve (12) month period and to restore the employee to the same or an equivalent position upon return from leave. A copy of the forms used in Family and Medical Leave matters is attached as Appendix Three.

7.73 An "eligible employee" is a person who has worked for the County and/or District at least 1,250 hours. (Amended June 9, 1999)

7.74 The County and/or District uses a "rolling" twelve (12) month period measured forward from an employee's first use of Family and Medical Leave for purposes of computing the twelve (12) work weeks of Family and Medical Leave entitlement.

7.75 It is the County and/or District's responsibility, through the Elected Official/Department Head, to designate paid and unpaid leave as qualifying for Family and Medical Leave based on information provided by the employee.

7.76 The Elected Official/Department Head must immediately notify the employee that leave is designated as Family and Medical Leave, and that such leave will be counted as Family and Medical Leave. Generally, a determination as to the designation of leave as Family and Medical Leave occurs prior to or while the leave is being taken. In no event may an Elected Official/Department Head designate leave as Family and Medical Leave after the leave has ended.

7.77 An employee may take Family and Medical Leave for any of the following reasons:

- a. the birth of a child and in order to care for such child;
- b. the placement of a child with the employee for adoption or foster care;
- c. to care for a spouse, child, or parent with a serious health condition; or
- d. because of the employee's own serious health condition which renders the employee unable to perform the essential functions of the position.

Family and Medical Leave because of reasons (a) or (b) must be completed within the twelve (12) month period beginning on the date of birth or placement. In addition, spouses who are both employed by the County and/or District and who both request leave because of reasons (a) or (b), or to care for a parent (but not a parent "in-law") with a serious health condition, may only take a combined total of twelve (12) weeks leave during a twelve (12) month period. Where the husband and wife both use a portion of the twelve (12) weeks of Family and Medical Leave because of reasons (a) or (b), or to care for a parent (but not a parent "in law") with a serious health condition, each spouse is entitled to the difference between the amount he or she has taken individually and twelve (12) weeks of Family and Medical Leave for other reasons. For example, if each spouse took six weeks of leave for the birth of a child, each could later use an additional six weeks due to a personal illness or to care for a sick child.

7.78 Generally, Family and Medical Leave is unpaid, unless the employee has available paid leave. In such event, available paid leave must be used as set forth in Sections 7.79 and 7.80 prior to the employee using unpaid Family and Medical Leave.

7.79 Where an employee has accrued Annual Leave or Compensatory Leave, the County and/or District requires that the employee use all that leave before using unpaid Family and Medical Leave relating to the birth, adoption and foster care placement of a child, or care for a family member or to care for a family member. Head Start Program employees who are eligible to use Sick Leave for a family member are also required to exhaust that leave before using unpaid Family and Medical Leave. Head Start Program employees who are eligible for Personal Leave must also exhaust that leave before using unpaid Family and Medical Leave. (Amended September 20, 1995)

7.80 Where an employee has accrued Annual Leave, Sick Leave, Personal Leave or Compensatory Leave, the County and/or District requires that the employee use all that leave before using unpaid Family and Medical Leave to care for the employee's own serious health condition. (Amended September 20, 1995)

7.81 Using paid leave as part of Family and Medical Leave does not extend the 12 week leave period.

7.82 If an employee's need for Family and Medical Leave is foreseeable, the employee must give the County and/or District at least thirty (30) days prior written notice. If this is not possible, the employee must at least give notice as soon as practicable. Failure to provide such notice may be grounds for delay of Family and Medical Leave. (Amended June 9, 1999)

7.83 Where the need for Family and Medical Leave is not foreseeable, the employee is expected to notify the employee's Elected Official/Department Head within one to two work days of learning of the need for such leave, except in extraordinary circumstances.

7.84 If an employee is requesting Family and Medical Leave because of the employee's own or an eligible relative's serious health condition, the employee and the relevant health care provider may be asked to supply appropriate medical certification using Form HCCS-6, Certification of Physician or Practitioner.

When the employee requests Family and Medical Leave, the Elected Official/Department Head will notify the employee of the requirement for medical certification and when it is due. Failure to provide requested medical certification in a timely manner may result in denial of Family and Medical Leave until it is provided.

7.85 The County and/or District, at its expense, may require an examination by a second health care provider designated by the County and/or District, if it reasonably doubts the medical certification the employee initially provided. If the second health care provider's opinion conflicts with the original medical certification, the County and/or District, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion.

7.86 The County and/or District requires that the employee periodically report, generally once every thirty (30) days, on the employee's status while on Family and Medical Leave, and the employee's intent to return to work. The County and/or District may, under certain circumstances, require medical recertification at reasonable intervals, but not more often than once every thirty (30) days.

7.87 All employees whose Family and Medical Leave was due to their own serious health condition which prevented the employee from performing the employee's job, must provide the County and/or District with medical certification of their ability to resume work. The certification applies only with regard to the particular health condition that caused the employee's need for Family and Medical Leave.

7.88 Family and Medical Leave may be taken intermittently (as defined in Rule 7.89) or on a reduced work schedule (as defined in Rule 7.90). Where Family and Medical Leave is taken because of a birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced work schedule only if the Elected Official/Department Head approves. Where Family and Medical Leave is taken to care for a sick family member or for an employee's own serious health condition, Family and Medical Leave may be taken intermittently or on a reduced work schedule when medically necessary.

7.89 "Intermittent Leave" is leave taken in separate blocks of time due to a single illness, rather than one continuous period of time, and may include leave periods from an hour or more to several weeks.

7.90 A "reduced work schedule" is a work schedule that reduces an employee's usual number of working hours per work period, or hours per workday.

7.91 Employees planning medical treatment of an on-going nature, and employees needing intermittent Family and Medical Leave or leave on a reduced work schedule, must attempt to schedule their leave so as not to disrupt the County and/or District's operations. In addition, while the employee is on an intermittent or reduced work schedule, the County and/or District may temporarily transfer the employee to an alternative position which better accommodates the employee's recurring Family and Medical Leave needs and which has equivalent pay and benefits.

7.92 For purposes of Family and Medical Leave, the terms "spouse," "child" and "parent" means:

- a. The term "spouse" means a husband or wife, as the case may be;
- b. The term "child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in place of a parent who is under 18 years of age, or 18 years of age or older and incapable of self-care because of mental or physical disability; and

- c. The term "parent" means the biological parent of an employee or an individual who stands or stood in place of a parent to an employee when the employee was a child. The term does not include parents "in-law."

7.93 For purposes of Family and Medical Leave, the term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- a. Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility;
- b. Any period of incapacity requiring absence from work, school, or other regular daily activities of more than three calendar days, where the patient is also under continuing treatment by or under the supervision of a health care provider;
- c. Continuing treatment by or under the supervision of a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or
- d. Prenatal care.

7.94 For purposes of Family and Medical Leave, a "health care provider" is defined as any of the following:

- a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices;
- b. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the state and performing within the scope of their practice as defined by state law;
- c. Nurse practitioners and nurse-midwives authorized to practice under state law and performing within the scope of their practice as defined by state law; and
- d. Christian Science practitioners who are listed with the First Church of Christ, Scientist in Boston, Massachusetts.

7.95 On return from Family and Medical Leave, an employee is generally entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment; however, under certain special circumstances, the County and/or District may be justified in not permitting the employee to return to work.

7.96 Ordinarily, an employee will be restored to the same position the employee held prior to the Family and Medical Leave, with the same pay and benefits, if the position remains available. An employee, however, has no right to return to the same position, or any greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the Family and Medical Leave period.

7.97 The Family and Medical Leave Act allows the County and/or District the right to refuse to allow an employee on Family and Medical Leave the right to return to work, if that employee is classified as a "key employee " (as defined in Rule 7.98), and such refusal to allow the employee the right to return to work is necessary to prevent substantial and grievous economic injury to the County and/or District's operations.

7.98 A "key employee" is a salaried employee who is eligible for Family and Medical Leave and who is among the highest paid 10 percent of all County and/or District employees employed by the County and/or District within 75 miles of the employee's worksite. Key employees may be denied restoration to their original or equivalent positions under the following conditions:

- a. The employee is provided written notice (on the earlier of the date Family and Medical leave is requested or FMLA Leave begins) that he or she is a "key employee," and informed of the potential consequences with respect to reinstatement and maintenance of health benefits if the County and/or District determines that substantial and grievous economic injury will result to County and/or District operations if the employee is reinstated from Family and Medical Leave. If such notice cannot be given immediately because of the need to determine whether the employee is a key employee, it must be given as soon as practicable after receipt of a request for leave or the commencement of leave, if earlier;
- b. The Governing Authority determines, based on the facts available, that denial of restoration is necessary to prevent substantial and grievous economic injury to the County and/or District;
- c. On making the determination that injury would occur, the County and/or District shall notify the employee, in writing, either in person or by certified mail, (i) of such determination, (ii) that it cannot deny Family and Medical Leave and (iii) that it intends to deny restoration to employment on completion of Family and Medical Leave. The notice must explain the basis for the Governing Authority's finding of injury and must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of leave and the urgency of the need for the employee's need to return to work;
- d. If the employee does not return to work in response to the County and/or District's notice, the employee continues to be entitled to maintenance of health benefits at the County and/or District's expense during Family and Medical Leave, and the County and/or District may not recover its cost of health insurance premiums. The employee's Family and Medical Leave rights continue unless and until the employee gives notice he or she no longer wishes to return to duty or the County and/or District actually denies restoration at the end of the Family and Medical Leave period; and
- e. The employee who received notice as set out in this Section 7.98 is still entitled to request reinstatement at the end of the Family and Medical Leave period. The County and/or District must then determine whether it will suffer substantial and grievous economic injury from reinstatement based on the facts at that time. If such a determination is made, the County and/or District shall notify the employee in writing (in person or by certified mail) of denial of restoration.

7.99 Deleted June 9, 1999.

GROUP HEALTH AND LIFE INSURANCE

7.100 All Regular, Full-time Employees, and Regular, Part-time Employees who work 1,040 or more hours per year, are provided health and term life insurance under the County and/or District's self-insured group insurance plan. Premiums for such employees are generally paid by the County and/or District, subject to certain exceptions for certain kinds of leave described in this Chapter.

7.101 Health and term life insurance coverage is effective from the date of employment.

7.102 All Regular, Full-time Employees, and Regular, Part-time Employees who work 1,040 or more hours each year, may purchase dependent health insurance coverage through the County and/or District's self-insured group insurance plan by making an application for such dependent coverage through the County and/or District Insurance Office. Head Start Program employees should make an application for dependent coverage through the Head Start Program Director. If dependent coverage is chosen, such coverage is generally handled through an authorized payroll deduction. (Amended September 20, 1995; Amended December 9, 1998).

7.103 Except as provided in section 7.104, an employee on Leave Without Pay status may elect to continue employee and/or dependent health insurance coverage by arranging to make timely payment directly to the County and/or District Insurance Office. Head Start Program employees on Leave Without Pay status may elect to continue employee and/or dependent health insurance coverage by arranging to make timely payment directly to the Head Start Program Director. "Timely payment" means the payment is received at least three (3) days prior to the date such health insurance premium is otherwise due from all other County and/or District employees electing to purchase dependent coverage. Coverage is canceled if the employee fails to pay the premium within the required time. (Amended September 20, 1995; Amended December 9, 1998; Amended June 9, 1999).

7.104 An employee on Family and Medical Leave continues to have his/her health insurance premium paid by the County and/or District, and such employee may elect to continue dependent health insurance by arranging to make timely payments to the County and/or District Insurance Office. A Head Start Program employee on Family and Medical Leave continues to have his/her health insurance premium paid by the County and/or District, and such employee may elect to continue dependent health insurance by arranging to make timely payments to the Head Start Program Director. If an employee gives unequivocal notice of intent not to return to work, the County and/or District's obligations under the Family and Medical Leave Act to maintain health benefits ceases. (Amended September 20, 1995; Amended December 9, 1998)

7.105 The County and/or District may recover its share of health care premiums paid on behalf of an employee during a period of unpaid Family and Medical Leave if the employee fails to return to work after his or her Family and Medical Leave entitlement has been exhausted or expires, unless one of the following conditions exists:

- a. The continuation, recurrence, or onset of a serious health condition that would entitle the employee to leave under Family and Medical Leave; or
- b. Other circumstance beyond the employee's control.

7.106 When an employee fails to return to work from Family and Medical Leave, except for the reasons stated in Section 7.105, health premiums paid by the County and/or District during a period of unpaid Family and Medical Leave are a debt owed to the County and/or District by the nonreturning employee, and such amounts may be recovered by the County and/or District through deduction of any sums due to the employee or through legal action.

7.107 For further information concerning benefits available under the County and/or District's group health and life insurance program, the procedures to use in filing insurance claims and/or to obtain copies of claim forms, contact the County and/or District Insurance Office. Head Start Program employees should contact the Head Start Risk Management Office. (Amended September 20, 1995; Amended December 9, 1998)

HOLIDAYS

7.108 Holidays declared by Governing Authority order are authorized days off from work for all County and/or District employees. The County and/or District Holiday schedule is planned and

granted by the Governing Authority from year to year, or may be omitted from one year to the next. Upon adoption by the Governing Authority, Holiday schedules apply to all employees.

7.109 Only Regular, Full-time Employees and Regular, Part-time employees receive paid Holidays.

7.110 The County Courthouse and District offices are closed for business during Holidays. However, to facilitate ongoing essential County and/or District services such as law enforcement, Department Heads/Elected Officials may adjust Holiday schedules for "essential personnel." An employee who works on a holiday receives his or her pay for working on the holiday and is also credited with compensatory time for the number of hours in that employee's regular work day.

7.111 [Reserved for expansion]

7.112 Holidays immediately preceding/immediately following an employee's use of Annual Leave, Sick Leave or Compensatory Leave, or wholly within a period when an employee is on Annual Leave, Sick Leave or Compensatory Leave, are not charged against such leave.

LEAVE WITHOUT PAY

7.113 In an emergency or in special circumstances, if an employee has exhausted all Sick Leave, Annual Leave and Compensatory Leave, an employee may apply to the Elected Official/Department Head for Leave Without Pay.

7.114 Authorized Leave Without Pay is a matter of administrative discretion and no employee may demand that such leave be granted.

7.115 Leave Without Pay is generally discouraged because it deprives a Department of needed services; however, Elected Officials/Department Heads should carefully consider reasonable requests for Leave Without Pay.

7.116 An Elected Official/Department Head should not recommend approval of a request for Leave Without Pay unless the Elected Official/Department Head can recommend the employee for the leave without reservation, and the Elected Official/Department Head is willing to keep the employee's job available for that employee when the Leave Without Pay ends. An Elected Official/Department Head may, subject to obtaining all necessary approvals as described in this Section, subsequently elect not to continue to keep an employee's job available if:

- a. the employee is subsequently scheduled for separation because of a reduction in force; or
- b. it is subsequently discovered that the employee's performance did not meet requirements or the employee's conduct before being granted Leave Without Pay makes the employee ineligible to return; or
- c. the employee engages in conduct while on Leave Without Pay which would interfere with the performance of duties, operations of the office, or the goals and objectives of the County and/or District.

An Elected Official/Department Head must appropriately document any reason not to continue to keep an employee's job available or to deny an employee a position when the employee's Leave Without Pay ends, and such Elected Official/Department Head must obtain all approvals necessary to process an adverse disciplinary action against such employee prior to taking such action.

7.117 Generally, an employee must have exhausted all Sick Leave, Annual Leave, Personal Leave and Compensatory Leave before being granted Leave Without Pay. In addition, an employee must: (i) be meeting job performance requirements and observing work rules; and (ii) have appropriately used Sick Leave if the requested leave involves a reason for which Sick Leave is authorized. (Amended September 20, 1995)

7.118 An employee is not required to exhaust all forms of paid leave under the following circumstances:

- a. An employee is not required to exhaust all Sick Leave prior to being granted Leave Without Pay if the reason for such leave has nothing to do with illness;
- b. An employee is not required to exhaust all Annual, Compensatory, Personal or Sick Leave when off work due to a workers' compensation injury or illness; and
- c. An employee is not permitted to use other types of leave in case of a disciplinary suspension without pay. (Amended September 20, 1995)

7.119 An employee who is on Leave Without Pay for the full calendar month does not accrue Annual Leave or Sick Leave for that month. An employee who is on Leave Without Pay for a portion of a month does, however, accrue Sick Leave and Annual Leave for the month if, for any day during the month, the employee is entitled to a pay check for paid leave or hours actually worked.

7.120 [Reserved for expansion]

7.121 Adopted December 13, 1995; Deleted July 14, 1999.

7.121A After executing and delivering HCCS - Form 5 to the Employee's Department Head/Elected Official supervisor, an Employee, during non-work hours, or on an Employee's own time during a County and/or District work day, after obtaining approval of appropriate leave as provided in these rules, may be a candidate for, and if elected, serve as an unpaid elected official in, any public office in which none of the candidates for such public office represent a political party whose candidates received electoral votes in the preceding presidential election, such as a school board or city council. An Employee need not resign or take a leave of absence to be a candidate for, or serve in, such public office. (Adopted July 14, 1999)

7.121B Except for an Elected Official, any Employee who declares his or her candidacy for public office in an election in which any of the candidates represent a political party whose candidates received electoral votes in the preceding presidential election ("Partisan Election"), must resign, or request Leave Without Pay, and remain off the County and/or District payroll until after the election results are final. For purposes of this rule, the Commission adopts the definition of "candidate" as that term is defined in Section 251.001, Texas Election Code. Under the Texas Election Code, a "candidate" is a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include:

- a. filing an application for a place on the ballot;
- b. filing an application for nomination by convention;
- c. filing of a declaration of intent to become an independent candidate or a declaration of write-in candidacy;
- d. making a public announcement of a definite intent to run for public office in a

particular election, even if the specific office sought is not mentioned;

- e. making a statement of definite intent to run for public office and soliciting support by letter or other means, prior to a public announcement of intent;
- f. soliciting or accepting a campaign contribution or making a campaign expenditure; or
- g. seeking the nomination of an executive committee of a political party to fill a vacancy. The circulation of a petition for the purpose of avoiding the filing fee for a general primary does not, however, constitute an announcement or candidacy.

An Employee who is granted Leave Without Pay to run for an elected office in a Partisan Election may be paid accrued Annual Leave and Compensatory Leave in accordance with existing County and/or District policies. (Adopted July 14, 1999)

7.121C An Employee may not:

- a. Use any County and/or District-owned vehicle, equipment, telephone, materials, or time in connection with any type of political campaign;
- b. Use local, state or federal funds under the Employee's control to directly or indirectly hire employees or in any other way fund or support candidates for the legislative, executive or judicial branches of government of the State of Texas or the United States of America;
- c. Use the Employee's official authority or influence or permit the use of the programs administered by the County and/or District for the purpose of interfering with or affecting the results of an election or for any political purpose;
- d. Coerce, command, restrict, attempt to coerce or restrict, or prevent the payment, loan or contribution of any thing of value to a person or political organization for a political purpose;
- e. Be a paid lobbyist of any individual, firm, association or corporation; or
- f. Wear or display political badges, buttons, or stickers while on duty if the Employee has contact with the public or if these activities interfere with the proper performance of duties or office operations. (Adopted July 14, 1999)

MILITARY LEAVE

7.122 Every employee of the County and/or District who is a member of the state military forces or a reserve component of the armed forces is entitled to a leave from duties, for authorized military duty or training, without loss of pay, time, accrued leave, or efficiency rating, for up to fifteen (15) calendar days in any federal government fiscal year (October 1 through September 30). A copy of the military orders must accompany a request for military leave.

7.123 Employees who are ordered to military duty by proper authority shall be restored, when relieved from duty, to the position held by such employees when ordered to duty.

7.124 [Reserved for expansion]

OPTIONAL TAX METHOD - INSURANCE BENEFITS (CAFETERIA PLAN)

7.125 The County and/or District has traditionally deducted the cost of dependent health insurance from an employee's paycheck on an after tax basis. Regular, Full-time Employees and Regular, Part-time Employees who work 1,040 or more hours each year may, however, choose to have the same payroll deduction made before the employee's taxes are withheld.

7.126 Information and forms on the County and/or District's "Cafeteria Plan" program may be obtained from the County and/or District Insurance Office. Head Start Program employees can obtain information and forms on the County and/or District's "Cafeteria Plan" program from the Head Start Risk Management Office. (Amended September 20, 1995; Amended December 9, 1998)

RELIGIOUS OBSERVANCES

7.127 Elected Officials/Department Heads shall reasonably accommodate an employee's request for time off from work to participate in religious observances and practices, so long as the employee's absence from work does not impose an undue hardship on the Department's ability to conduct County and/or District business. Such time off from work shall be without pay unless the employee uses an available and appropriate form of leave.

RETIREMENT SYSTEM

7.128 All Regular, Full-time Employees and Regular, Part-time Employees who work 900 or more hours per year must become members of the Texas County and District Retirement System, unless such employee is an employee of the Head Start Program. All Regular, Full-time Employees and Regular, Part-time Employees assigned to the Head Start Program who work 900 or more hours per year must become members of the Hidalgo County Head Start Retirement Plan. Each member, under either retirement system, contributes 7% of his or her salary each pay period to the retirement system. The employee's contribution is matched by the County and/or District. (Amended September 20, 1995)

7.129 Information and forms on the Retirement System may be obtained from the County Auditor's Office. Head Start Program employees should obtain information and forms on the Retirement System from the Head Start Program Director. (Amended September 20, 1995)

SICK LEAVE

7.130 Sick Leave accrues at the rate of eight (8) hours per month for Regular, Full-time Employees.

7.131 Regular, Part-time Employees accrue Sick Leave at the rate of four (4) hours per month.

7.132 Temporary Employees do not accrue Sick Leave.

7.133 [Reserved for expansion]

7.134 A Regular, Full-time Employee may maintain an accrued Sick Leave reserve not to exceed three hundred sixty (360) hours.

7.135 A Regular, Part-time Employee may maintain an accrued Sick Leave reserve not to exceed three hundred sixty (360) hours.

7.136 The purpose of Sick Leave is to provide leave time when employees are ill and cannot do their jobs due to a non-job related illness or injury or it may be used for a reason related to illness/health, such as a medical, dental or optical appointment. An employee, other than an

eligible Head Start Program employee, may not use Sick Leave for illnesses, injuries or health appointments for family members. (Amended September 20, 1995)

7.137 Pregnancy is treated as any other condition warranting use of Sick Leave.

7.138 All employees will apply in advance for Sick Leave for prearranged medical, dental and optical appointments, when possible.

7.139 All employees must furnish their Elected Official/Department Head a written physician's statement prior to returning to work when the employee has been on Sick Leave for a period of three (3) or more consecutive business days. A physician's statement is also required for any physical injury, regardless of length, which prevents an employee from performing assigned duties. When a pattern of abuse is suspected to exist, an Elected Official/Department Head may require a written doctor's statement for any illness, regardless of duration, as well as for medical, dental or optical appointments.

7.140 An employee who becomes ill at work should notify the employee's supervisor before leaving the job, whenever possible.

7.141 Each Department shall adopt reasonable regulations regarding notification of Sick Leave usage ("call-in" procedures) which are not inconsistent with this Chapter. All call-in procedures shall be in writing and distributed to employees. Each employee shall acknowledge receipt of these procedures, a copy of which will be kept in the employee's personnel file.

7.142 It is an employee's responsibility to follow the Department's rules regarding call-in procedures. An employee who fails to follow Department call-in rules may be disciplined, which discipline may include termination.

7.143 An employee who is unable to report to work for more than one day should ensure that his/her Department Head/Elected Official is informed of the employee's progress and prognosis.

7.144 [Reserved for expansion]

7.145 Abuse of Sick Leave may result in disciplinary action, which disciplinary action may include termination. Abuse of Sick Leave includes an employee's use of Sick Leave for any purpose other than those set out in these rules.

7.146 On separation from employment, any unused Sick Leave is canceled and may not be restored if the employee is later rehired.

SOCIAL SECURITY (FICA Contributions)

7.147 All employees contribute to the federal Social Security program according to state and federal laws. The County and/or District matches the employee's contributions based on the requirements of federal law.

TRAVEL REIMBURSEMENT

7.148 On June 25, 1996, the Governing Authority approved new travel policies, guidelines and procedures which are applicable to all County and/or District employees. Attached hereto as Appendix One is a copy of applicable portion of the Hidalgo County Auditor's Accounting Procedures Manual which outlines the County and/or District's travel policies, guidelines and procedures. (Amended November 13, 1996)

7.149 Intentionally Omitted. (Amended November 13, 1996)

7.150 Intentionally Omitted. (Amended November 13, 1996)

7.151 Intentionally Omitted. (Amended November 13, 1996)

7.152 Intentionally Omitted. (Amended November 13, 1996)

7.153 Intentionally Omitted. (Amended November 13, 1996)

TRAVEL REIMBURSEMENT - OTHER THAN HEAD START PROGRAM EMPLOYEES

7.153A The travel reimbursement rules referenced in Sections 7.148 do not apply to Head Start Program employees. Travel reimbursement rules applicable to Head Start Program employees are located in Sections 7.154 through 7.163. (Adopted September 20, 1995; Amended November 13, 1996)

TRAVEL REIMBURSEMENT - HEAD START PROGRAM EMPLOYEES

7.154 Allowable travel expenses for Head Start Program employees include charges for travel, lodging, meals, all fees and tips to waiters, porters, bellboys, and hotel maids, and taxi fares and other usual and customary expenses. Reimbursement for allowable travel expenses is set forth in Sections 7.155 through 7.163, and limitations do apply on reimbursement of travel expenses. (Adopted September 20, 1995)

7.155 All travel in the Head Start Program must be authorized or approved by the Head Start Program Director or by an official to whom such authority has been delegated. (Adopted September 20, 1995)

7.156 All payments for travel of a Head Start Program employee, parents of Head Start Program children, volunteers, community representatives, consultants and members of governing or administrative boards must be supported by properly approved travel documentation covering both travel and, if applicable, per diem. All requests for reimbursement must be addressed to the Head Start Program Director. (Adopted September 20, 1995)

7.157 Mileage costs for use of privately owned automobiles in the Head Start Program shall be paid in accordance with federal rates. In no event may the rates exceed the federal allowable rates. (Adopted September 20, 1995)

7.158 Lodging shall be reimbursed at actual charges subject to the limitations on use of "first-class accommodations" as set forth in these Rules. (Adopted September 20, 1995)

7.159 Public travel accommodations are reimbursed at actual charges subject to the limitations on use of "first-class accommodations" as set forth in these Rules. (Adopted September 20, 1995)

7.160 In addition, to mileage for private vehicle, lodging and public travel accommodations, persons eligible for travel reimbursement in the Head Start Program are entitled to a per diem computed on a "quarter day system." Per diem quarters begin from the time of departure to time of return. The total hours on approved travel status is divided by six (6) (number of hours in a quarter) to determine number of quarters for which the employee is eligible to be reimbursed. If the remainder of hours is three (3) or more, the employee may round to the next full quarter. The number of quarters eligible for reimbursement is then multiplied by allowable per diem rate. (Adopted September 20, 1995)

7.161 The allowable per diem rate per quarter is \$8.75. (Adopted September 20, 1995)

7.162 Local travel reimbursement in the Head Start Program is subject to the following additional requirements:

- a. Reimbursement for local travel expenses in the Head Start Program for persons whose positions require daily or intermittent travel must be submitted on an approved Head Start Program form and will be approved only if accompanied by a statement of the reason such travel was necessary. The rate of reimbursement for local travel expenses shall not exceed the federal allowable rate.
- b. Head Start Program employees will not be reimbursed for costs incurred due to mechanical and/or other automobile malfunctions. (Adopted September 20, 1995)

7.163 Out of town travel reimbursement in the Head Start Program is subject to the following additional requirements:

- a. Less than first-class travel and lodging shall be used in all instances except when not available and must be appropriately documented on the voucher submitted with the reimbursement request. Moderately priced accommodations will vary from region to region. Travelers should attempt to stay at a hotel or motel in close proximity to the meeting or conference which necessitated the travel.
- b. Whenever a privately owned automobile is used for official out of town travel, in lieu of common carrier transportation, payment on a mileage basis shall be limited to the comparable cost of appropriate common carrier transportation, the federal allowable rate or any applicable statutory maximum, whichever is less. In no event, however, shall such reimbursement exceed the federal allowable rate. In addition, such reimbursement shall be paid to only one person if more than one person is traveling together on the same trip and in the same vehicle. The Head Start Program Director must approve, in writing, prior to planned trip, use of more than one vehicle on the same trip.
- c. Transportation and lodging may, the option of the Head Start Program Director, be arranged and paid directly to the vendor by the Head Start Program.
- d. Appropriate documentation includes evidence that within the time required for such travel and/or lodging:
 1. less than first-class travel and/or lodging would result in a higher overall cost because of required routing, time urgency, baggage differential or other factors; and/or
 2. the physical condition of the traveler or other extenuating circumstances require the use of first-class travel and/or lodging.(Adopted September 20,1995)

OTHER PAYROLL DEDUCTIONS - HEAD START PROGRAM EMPLOYEES

7.164 Head Start Program employees may participate in voluntary payroll deduction programs approved by the Head Start Program Director following enrollment in such programs. Existing voluntary payroll deduction programs include:

- a. Dental insurance;
- b. Credit Union;

- c. Certain approved charitable contributions; and
- d. Payments for uniforms.(Adopted September 20, 1995)

7.165 For further information on the voluntary payroll deduction programs available to Head Start Program employees, contact the Head Start Program Director. (Adopted September 20, 1995)

7.166 Deleted June 13, 2001 - Now See Rule 7.225.

7.167 Deleted June 13, 2001 - Now See Rule 7.226.

7.168 Deleted June 13, 2001 - Now See Rule 7.227.

CHRISTMAS LEAVE-HEAD START EMPLOYEES

7.169 Regular, Full-time Employees in the Head Start Program are allowed eighty (80) hours of paid Christmas Leave. (Adopted 9/20/1995 and amended May 15, 1996).

7.170 All other Head Start Program employees shall take unpaid Christmas Leave. Head Start Program employees on Leave Without Pay Status or unpaid Family and Medical Leave are not eligible for Christmas Leave. (Adopted September 20, 1995)

7.171 The Head Start Program Director will determine when eligible Head Start Program employees may take Christmas Leave. (Adopted September 20, 1995)

7.172 Christmas Leave is lost if not taken. (Adopted September 20, 1995)

EDUCATIONAL LEAVE - HEAD START PROGRAM EMPLOYEES

7.173 Educational Leave, up to four (4) work hours per week, with pay, is available to eligible Head Start Program employees in order to attend approved courses which are job-related and which courses are not offered to the employee during that employee's non-work hours. (Adopted September 20, 1995)

7.174 A Head Start Program employee on Leave Without Pay status or unpaid Family and Medical Leave is not eligible for Educational Leave. (Adopted September 20, 1995)

7.175 Educational Leave is granted or denied at the sole discretion of the Head Start Program Director and/or the Head Start Policy Council. The approval of both the Head Start Policy Council and the Head Start Program Director, in writing, are needed for Educational Leave. (Adopted September 20, 1995)

7.176 Educational Leave, once approved, may be revoked at anytime at the sole discretion of the Head Start Program Director or the Head Start Policy Council. (Adopted September 20, 1995)

7.177 A Head Start Program employee who is granted Educational Leave must continue to fulfill all of his or her job responsibilities in order to continue to be eligible for such leave. (Adopted September 20, 1995)

PERSONAL LEAVE - HEAD START EMPLOYEES

7.178 Personal Leave is paid leave taken by an eligible Head Start Program employee to attend to personal matters. (Adopted September 20, 1995)

7.179 Regular, Full-time Employees in the Head Start Program are allowed forty eight (48) hours of paid Personal Leave during the period January through December in each calendar year. Personal Leave is fully earned in January of each year. (Adopted September 20, 1995)

7.180 No more than sixteen (16) hours of Personal Leave may be taken at the same time. (Adopted September 20, 1995)

7.181 Personal Leave not used during a calendar year is lost. (Adopted September 20, 1995)

7.182 An eligible Head Start Program employee whose employment is terminated, whether by resignation or otherwise, shall not be paid any unused Personal Leave. (Adopted September 20, 1995)

7.183 Head Start Program Probationary Employees who would otherwise be eligible to use Personal Leave, may use such leave following the successful completion of their Probationary Period based on the following schedule: (Adopted September 20, 1995)

<u>Completion Month of Probation</u>	<u>Available Personal Leave</u>
JANUARY	48 HOURS
FEBRUARY	44 HOURS
MARCH	40 HOURS
APRIL	36 HOURS
MAY	32 HOURS
JUNE	28 HOURS
JULY	24 HOURS
AUGUST	20 HOURS
SEPTEMBER	16 HOURS
OCTOBER	12 HOURS
NOVEMBER	8 HOURS
DECEMBER	4 HOURS

7.184 Request to take Personal Leave must be submitted, in writing, three (3) days in advance and must be authorized, in writing, by the immediate supervisor and the Head Start Program Director. (Adopted September 20, 1995)

SPRING BREAK LEAVE - HEAD START EMPLOYEES

7.185 Regular, Full-time Employees in the Head Start Program are allowed forty (40) hours of paid Spring Break Leave. (Adopted September 20, 1995)

7.186 All other Head Start Program employees shall take unpaid Spring Break Leave. Head Start Program employees on Leave Without Pay Status or unpaid Family and Medical Leave are not eligible for Spring Break Leave. (Adopted September 20, 1995)

7.187 The Head Start Program Director will determine when eligible Head Start Program employees may take Spring Break Leave. (Adopted September 20, 1995)

7.188 Spring Break Leave is lost if not taken. (Adopted September 20, 1995)

SUMMER LEAVE - HEAD START EMPLOYEES

7.189 Regular, Full-time Employees classified as Head Start Center Staff will be allowed a maximum of two hundred and eighty (280) hours of paid Summer Leave. The actual number of paid Summer Leave hours shall be fixed annually by the Governing Authority, the Head Start Policy Council and the Head Start Program Director. Approved paid Summer Leave may, at the

option of the Head Start Program Director, not all be consecutive days. (Adopted 9/20/1995 and amended May 15, 1996)

7.190 Regular, Full-time Employees classified as Head Start Administrative Staff will be allowed one hundred sixty (160) hours of Summer Leave. (Adopted September 20, 1995)

7.191 All other Head Start Program employees shall take unpaid Summer Leave. Head Start Program employees on Leave Without Pay Status or unpaid Family and Medical Leave are not eligible for Summer Leave. (Adopted September 20, 1995)

7.192 Three (3) Summer Leave cycles (May through July) will be established by the Head Start Program Director. The Head Start Program Director will also determine when eligible Head Start Program employees may take Summer Leave. (Adopted September 20, 1995)

7.193 Summer Leave is lost if not taken. (Adopted September 20, 1995)

7.194 Probationary Employees on unpaid Summer Leave who complete their Probationary Period during their Summer Leave cycle are eligible to be paid for the remainder of their Summer Leave cycle. (Adopted September 20, 1995)

VETERANS REEMPLOYMENT RIGHTS

7.195 Within five years from the date of enlistment or call to active service, any employee who leaves his or her position with the County and/or District to enter into active duty with the regular or reserve Armed Forces of the United States or with the Texas National Guard or Texas State Guard, if discharged, separated, or released from such active duty under honorable conditions, is eligible to be restored to employment in the same position held at the time of entering into active service or to a position of like seniority, status, and pay if the employee is still physically and mentally qualified to perform the duties of such position.

7.196 If a former employee otherwise meets the qualifications set out in Section 7.195 but is not qualified to perform the duties of his or her previous position by reason of disability sustained during such military service, but is qualified to perform the duties of another position with the County and/or District, such person is eligible to be restored to employment in another position which he or she is qualified to hold and which position shall provide like seniority, status, and pay or the nearest approximation thereto.

7.197 Persons eligible for restoration to employment under the terms of Sections 7.195 or 7.196 must make written application for such restoration to the County Judge, with a copy to the Secretary, within ninety (90) days after such person's discharge or release from active federal or state military service. The person must attach to such application evidence of discharge, separation, or release under honorable conditions. (Amended April 10, 1996)

7.198 Any person restored a leave of absence during military service and such person is entitled to participate in retirement and other benefits available to other employees in like positions.

7.199 A person restored to County and/or District employment as provided in Section 7.195 or 7.196 may not be dismissed from his or her position, without cause, for one year following restoration of employment.

WORKERS' COMPENSATION

7.200 The County and/or District provides Workers' Compensation benefits for all eligible employees.

7.201 For information concerning Workers' Compensation, the procedures to follow in reporting accidents and/or processing a Workers' Compensation claim, contact the County and/or District Insurance Office. Head Start Program employees should contact the Head Start Risk Management Office for information concerning Workers' Compensation, and the procedures to follow in reporting accidents and/or processing a Workers' Compensation claim. (Amended September 20, 1995; Amended December 9, 1998)

UNAUTHORIZED ABSENCE AND ABUSE OF LEAVE

7.202 An employee unable to report for work, for any reason, must notify the employee's immediate supervisor at the earliest time possible.

7.203 An employee will not receive any pay nor will the employee's leave account be credited during any period of Unauthorized Absence.

7.204 An Elected Official/Department Head may excuse an Unauthorized Absence with appropriate adjustments to pay and credits of leave time upon receiving adequate documentation of the circumstances surrounding the employee's Unauthorized Absence.

7.205 Any Unauthorized Absence that continues for three (3) consecutive business days will be considered an automatic resignation. Written notice of automatic resignation shall be sent to the employee's last known address on file with the Elected Official/Department Head. (Amended April 10, 1996)

7.206 Unauthorized Absences are subject to disciplinary action, which disciplinary action may include termination.

LEAVE AUDITS

7.207 The Secretary periodically conducts audits of leave records to ensure that leave policies and procedures are being followed and to initiate corrective action when appropriate. (Amended April 10, 1996)

SICK LEAVE POOL

7.208 A Sick Leave Pool for the County and a Sick Leave Pool for the District has been created by the Governing Authority. The responsibility for establishing Sick Leave Pool policies, and issuing Sick Leave Pool policy interpretations, rests with the Governing Authority. Administration of the Sick Leave Pool, including the responsibility for developing and implementing procedures for the operation of the Sick Leave Pool, and forms for contributing leave to, or requesting leave from, the Sick Leave Pool, lies with the Sick Leave Pool Administrator. Decisions of the Sick Leave Pool Administrator may, at an employee's option, be reviewed by the Benefits Committee. (Adopted March 28, 2002)

7.209 A "catastrophic illness or disability" is an Employee's extended critical illness, surgery, injury, or temporary disability due to injury or illness. To qualify as a catastrophic illness, an employee: (Adopted March 28, 2002)

- a. must be unable to perform the duties of his or her position for an extended period of time;
- b. must require the services of a licensed medical practitioner for a prolonged period of time; and

- c. is expected to have an extended absence from work for treatment or recovery after the Employee has exhausted all accumulated available paid leave and compensatory time, irrespective of the form of such leave .

7.210 Sick Leave Pool participation is limited to County and/or District employees:

- a. with twelve or more months of continuous County and/or District employment;
- b. who are paid from the County and/or District's general fund, a special County and/or District fund, or special grant funds;
- c. who, in connection with the applicable Enrollment Period in the Sick Leave Pool, contribute the Contributed Sick Leave Hours to the Sick Leave Pool, and who authorize the Sick Leave Pool Administrator to transfer those Contributed Sick Leave Hours to the Sick Leave Pool; and
- d. who, in connection with the applicable Enrollment Period in the Sick Leave Pool, authorizes the Sick Leave Pool Administrator to contribute an additional eight Sick Leave hours (one calendar day), once during each calendar year, if, at any time during the calendar year, the total number of Sick Leave days (based on eight Sick Leave hours per day) available in the Sick Leave Pool is less than two times the number of Enrolled Members. For example, if there are 40 Enrolled Members, and the total number of Sick Leave Hours in the Sick Leave Pool is less than 640 Sick Leave hours (40 x 2 x 8), then the Sick Leave Pool Administrator, at his or her option, may, on behalf of each Enrolled Employee, transfer an additional eight Sick Leave Hours otherwise available to each Enrolled Employee, to the Sick Leave Pool. Enrolled Employees receiving Sick Leave Pool benefits at the time such additional Sick Leave hours are transferred to the Sick Leave Pool are exempt from the required additional contribution requirement. (Adopted March 28, 2002)

The Sick Leave Pool Administrator form entitled "Hidalgo County Sick Leave Donation Form" is hereafter designated as HCCS - Form 13 (February 6, 2002).

7.211 Primary Sick Leave Pool Benefits and Secondary Sick Leave Pool Benefits are available to an Enrolled Employee who is suffering from a catastrophic illness or disability, after such Enrolled Employee has exhausted all paid leave and compensatory time, provided that such Enrolled Employee is not, at the time of the Sick Leave Pool Request, eligible for, or actually receiving, payments from a third party source for such catastrophic illness or disability ("Third Party Benefits"). In addition, Primary Sick Leave Pool Benefits and Secondary Sick Leave Pool Benefits are not available to an Enrolled Employee if the Enrolled Employee, at the time of the Sick Leave Pool Request, had received Third Party Benefits at any time during the calendar year applicable to the Sick Leave Pool Request. To receive Primary Sick Leave Pool Benefits or Secondary Sick Leave Pool Benefits, an Enrolled Employee, or such employee's spouse or immediate supervisor, should apply for such benefits by submitting the following documents and information to the Sick Leave Pool Administrator ("Sick Leave Pool Request"):

- a. a completed Sick Leave Pool Administrator form entitled "Hidalgo County Request for Extended Sick Leave Form", which form is hereafter designated as HCCS - Form 12 (February 6, 2002);
- b. a physician's report describing the catastrophic illness or disability;
- c. expected dates of absence from work for the catastrophic illness or disability; and

- d. the number of Sick Leave Pool hours requested for such Enrolled Employee from the Sick Leave Pool, up to a maximum of two hundred and forty hours in any single request, which requested hours must be supported by a physician's estimate of the length of time such Enrolled Employee will be off work due to the catastrophic illness or disability.

A Sick Leave Pool Request is generally not submitted until an Employee is close to exhausting all accumulated paid leave and compensatory time. (Adopted March 28, 2002)

7.212 An eligible County and/or District employee may enroll in the Sick Leave Pool during the Enrollment Period, which enrollment is effective for the following calendar year, or in the case of a County and/or District employee who enrolls in the Sick Leave Pool following twelve months of County and/or District Service, for the remainder of that calendar year. All Enrolled Employees cease to be a member of the Sick Leave Pool at midnight on December 31 of each year, unless such employee, during the Enrollment Period each year, elect to continue enrollment in the Sick Leave Pool for the following year, and who, in connection with such enrollment contributes the Contributed Minimum Sick Leave Hours to the Sick Leave Pool. (Adopted March 28, 2002)

7.213 An employee's participation in the Sick Leave Pool is not a guarantee that Sick Leave Pool hours will be available to such employee from the Sick Leave Pool if the employee should suffer a catastrophic illness or disability. For example, in any calendar year, the number of contributed Sick Leave hours in the Sick Leave Pool may be exhausted, based on the Sick Leave Pool Administrator's approval of requests for Sick Leave Pool hours received from other Enrolled Employees, prior to an employee's request for benefits from the Sick Leave Pool. In that event, no Sick Leave Pool hours may be allotted to such employee even though the employee is an Enrolled Employee and otherwise eligible for Sick Leave hours to be allotted to such employee from the Sick Leave Pool. (Adopted March 28, 2002)

7.214 Based on the information in a completed Sick Leave Pool Request, the Sick Leave Pool Administrator will determine an Enrolled Employee's eligibility for Sick Leave Pool hours, and if determined eligible, the Sick Leave Pool Administrator will allot from the Sick Leave Pool the number of Sick Leave hours granted by the Sick Leave Pool Administrator to such Enrolled Employee from the Sick Leave Pool ("Allotted Sick Leave Pool Hours"), which Allotted Sick Leave Pool Hours may be less than the number of Sick Leave Pool hours requested for an Enrolled Employee. The number of Allotted Sick Leave Pool Hours made available to an Enrolled Employee will be credited to such Enrolled Employee's Sick Leave account. (Adopted March 28, 2002)

7.215 An Enrolled Employee may use Allotted Sick Leave Pool Hours for such Enrolled Employee's catastrophic illness or disability in accordance with the County and/or District's general policies regarding use of Sick Leave, based on an Enrolled Employee's standard work day and salary immediately preceding the catastrophic illness or disability. Any unused Allotted Sick Leave Pool Hours are transferred by the Sick Leave Pool Administrator from such Enrolled Employee's Sick Leave account, and re-credited to the Sick Leave Pool:

- a. when the employee returns to work; or
- b. on the employee's death; or
- c. on voluntary or involuntary termination of County and/or District employment.

7.216 An employee does not accrue Sick Leave, Annual Leave or any other form of paid leave (including paid holidays), while an employee is being paid by the County and/or District based on an employee's use of Allotted Sick Leave Pool Hours; however, any use of Allotted Sick Leave Pool Hours will be included in computing an employee's length of service with the County and/or District, as well as the computation of any benefits available to an employee under the County

and/or District's Family and Medical Leave program so long as the Elected Official/Department Head makes the applicable Family and Medical Leave designation and notifies the employee of such designation in the time and manner described in Sections 7.72 through 7.98 of these Rules. (Adopted March 28, 2002)

7.217 A County and/or District employee who retires or resigns from County and/or District employment, whether or not such employee is a member of the Sick Leave Pool, may contribute up to eighty hours of such employee's accrued, but unused, Sick Leave, to the Sick Leave Pool.

EDUCATIONAL INCENTIVES - HEAD START EMPLOYEES

7.218 Head Start Program Employees classified as "classroom staff" may request reimbursement of costs actually paid by the Head Start Program Employee for tuition, books and fees associated with such Employee's actual attendance at a college/university ("College Expenses"). In order to be considered for reimbursement of College Expenses, eligible Head Start Program Employees must furnish the Head Start Program Director written documentation reflecting the following:

- a. College Expenses are associated with actual attendance in classes required for a degree ("Degree Plan") in Early Childhood Development, or a related field approved by the Head Start Program Director;
- b. the Employee has at least a 2.5 grade point average on all course work associated with the Employee's Degree Plan, and at least a "C" grade on any course for which reimbursement of College Expenses is requested;
- c. the Employee applied for financial assistance in the form of loans, grants, scholarships, etc., and the Employee was either denied, or ineligible, for such financial assistance;
- d. course work has not interfered with the Employee's performance of assigned work under the Head Start Program; and
- e. requested reimbursement of College Expenses may not exceed amounts associated with more than seven course hours in any one semester.

As used herein, the term "classroom staff" includes those Employees designated as teachers, assistant teachers (aides) and center managers. (Adopted November 15, 2000)

7.219 Reimbursement of College Expenses for classroom staff may not be made until the Head Start Program Director receives all required documentation, including a copy of the Employee's grade for the courses associated with the reimbursement request. (Adopted November 15, 2000)

7.220 Head Start Program employees classified as "non-center staff" may also request reimbursement of College Expenses. In order to be considered for reimbursement of College Expenses, eligible Head Start Program employees must furnish the Head Start Program Director written documentation reflecting the following:

- a. College Expenses are associated with actual attendance in classes based on a Degree Plan associated with the Employee's current position in the Head Start Program which will assist the Employee in carrying out his or her job responsibilities, or in a related field, in either instance, such Degree Plan must be approved by the Head Start Program Director;

- b. College Expenses may be reimbursed for no more than two semesters in any school year (August through July), with a maximum reimbursement for seven college hours in each semester;
- c. the Employee has at least a 2.5 grade point average on all course work associated with the Employee's Degree Plan, and Employee earns at least a "C" grade on any course for which reimbursement of College Expenses is requested or previously made;
- d. the Employee applied for financial assistance in the form of loans, grants, scholarships, etc., and the Employee was either denied, or ineligible, for such financial assistance;
- e. course work has not interfered with the Employee's performance of assigned work under the Head Start Program; and
- f. Employee executes a promissory note for the reimbursed College Expenses, payable to the Hidalgo County Head Start Program, the form of which note shall be acceptable to the Head Start Program Director, and which note shall include, at a minimum, the following terms and conditions:
 - 1. Interest shall accrue on the amount advanced for College Expenses, prior to maturity, at the rate of eight percent per annum (8%), and following maturity, at the maximum rate allowed by law;
 - 2. Any unpaid principal and accrued interest owing under the note is due and payable on the date the Employee terminates his or her employment with the Head Start Program (whether or not such person remains an employee of the County), and Employee authorizes the County to withhold amounts he or she owes the Head Start Program from any amount otherwise payable to such Employee;
 - 3. So long as Employee is employed with the Head Start Program on the anniversary date of the note, beginning one year after the date of the note, and Employee has a satisfactory performance evaluation, the unpaid principal owing on the note shall be reduced by an amount equal to 1/3rd of the original principal owing on the note, together with interest accrued on such amount. Similar reductions, based on the same requirements, are available to Employee in each of next two years. Notwithstanding the foregoing, no reduction in unpaid principal and/or accrued interest, is allowable on any College Expenses associated with a course for which the Employee received a grade of less than a "C", or on any course from which Employee withdraws ("Mandatory Repayments"); and
 - 4. Unpaid principal and accrued interest associated with Mandatory Repayments shall be due and payable in four monthly installments, with the first installment due and payable one month following the Head Start Program's demand for payment. Employee authorizes the County to withhold amounts he or she owes the Head Start Program for Mandatory Repayments from amounts otherwise payable to such Employee.

As used herein, the term "non-center staff" specifically excludes "classroom staff," but includes all other Head Start Program Employees, such as Employees designated as administrative staff and non-classroom field staff, such as coordinators, monitors, assistants, and specialists. (Adopted November 15, 2000)

7.221 Reimbursement of College Expenses for non-center staff may be made prior to Employee receiving his or her grade for the associated course; however, such reimbursement is subject to Mandatory Repayment as provided in Rule 7.220 hereof. (Adopted November 15, 2000)

7.222 Reimbursement of College Expenses for classroom staff and non-center staff is subject to availability of funds and/or proration of limited funds among eligible Employees. No Head Start Program Employee, by virtue of the Educational Incentives Policies, is guaranteed reimbursement of eligible College Expenses. (Adopted November 15, 2000)

7.223 With regard to reimbursement of College Expenses for non-center staff, the maximum amount available, in the aggregate, to reimburse all eligible employees for College Expenses in any school year (August through July) shall not exceed the amount determined annually by the Head Start Policy Council, and in the absence of such a determination, no more than \$25,000.00, in the aggregate, shall be available in any school year for reimbursement of College Expenses for all eligible non-center staff Head Start Program Employees. (Adopted November 15, 2000)

TOBACCO USE POLICY

7.224 Effective August 8, 2000, pursuant to order of the Governing Authority:

- a. the use of tobacco products is prohibited within the interior of all County and/or District buildings and property (owned, rented, leased or operated); and
- b. "Tobacco Use Permitted" areas are to be designated outside of each County and/or District building (owned, rented, leased or operated) by the County and/or District Risk Manager, said designated areas to be at least thirty feet (30') from the front of each County and/or District building (owned, rented, leased or operated). (Adopted November 15, 2000)

BEREAVEMENT LEAVE

7.225 Bereavement Leave, up to three (3) days, with pay, is available in the case of death of a member of an employee's immediate family. For purposes of this Section, "immediate family" means the employee's spouse, mother, father, brother, sister, and employee's children, foster children or legal wards, and includes the mother/father of the spouse, brother and/or sister of the spouse, employee's grandparents and grandchildren. (Adopted June 13, 2001)

7.226 An employee on Leave Without Pay status or unpaid Family and Medical Leave is not eligible for Bereavement Leave. (Adopted June 13, 2001)

7.227 Bereavement Leave is only granted for the time reasonably needed to attend the funeral of the deceased and to assist with the affairs of the deceased member's family. (Adopted June 13, 2001)

CHAPTER VIII9

CONFERENCES AND PERFORMANCE APPRAISALS

HEAD START PROGRAM EMPLOYEES

CONFERENCES - HEAD START PROGRAM EMPLOYEES

8.00 The Head Start Program Director shall require each supervisor to conduct at least two personnel conferences per year with each of his or her employees. One of the two required conferences may be to discuss the employee's annual performance appraisal required by this Chapter. The Head Start Program Director shall require each supervisor to conduct other personnel conferences with his or her employees as needed.

8.01 Employee representatives are not allowed to attend personnel conferences.

8.02 After each conference, the supervisor prepares an original and two copies of written conference notes. The supervisor should use the HCCS-7 form "Conference Notes" for this purpose. Conference notes include the date of the conference and the topics discussed.

8.03 The supervisor should place the original conference notes and any supplementary documentation in the employee's personnel file. The supervisor retains a copy of the conference notes for his or her file and also provides the employee a copy.

8.04 The supervisor and the employee both sign and date the conference notes. By signing, the employee acknowledges reading and receiving a copy of the notes. The employee's signature does not necessarily mean the employee agrees with the contents. The employee may write comments in a space designated for comments on the conference notes or may write comments on an attachment.

8.05 If an employee refuses to sign the conference notes, the supervisor documents on the conference notes that the employee refused to sign and that the employee received a copy.

8.06 If the conference was held to discuss a recommendation for dismissal and the employee refuses to sign the conference notes, the supervisor has a witness sign to verify that the employee received a copy of the conference notes.

PERFORMANCE APPRAISAL SYSTEM - HEAD START PROGRAM EMPLOYEES

8.07 A performance appraisal system is adopted for Head Start Program employees. On and after December 1, 1995, the Head Start Program Director should use the forms adopted by the Commission in identifying job tasks/responsibilities and in setting standards/objectives for employees subject to the performance appraisal system. If the Head Start Program Director desires to use an alternate form, such form must be submitted to the Commission for its approval prior to its use for Head Start Program employees.

8.08 The Performance Assessment and Development Plan Form (HCCS-8) and/or the Performance and Development Plan and Evaluation Form (HCCS-9) should be used to identify job tasks/responsibilities and in setting standards/objectives for employees.

8.09 The information from the performance appraisal process is used to improve an employee's performance, direct performance, and identify individual development needs. The supervisor gives the employee feedback on performance and develops improvement/enhancement plans. A performance appraisal is used to:

- a. help an individual employee improve performance;

- b. strengthen supervisor-employee relationships;
- c. recognize employee accomplishments and good work;
- d. guide personnel actions such as pay increases, promotions, demotions and terminations;
- e. identify job requirements and standards and keep employees and supervisors aware of them;
- f. make and keep employees aware of their supervisor's judgments on their work performance; and
- g. identify training needs.

8.10 The degree of employee understanding and acceptance of the performance appraisal system often determines the degree of the system's success. The Head Start Program Director should make as simple and understanding as possible any instructional material prepared for employees and should see that employees receive and read the material. The Head Start Program Director is primarily responsible for each employee's understanding of the performance appraisal system. Employees should have, at least, the following information:

- a. explanation of the importance and value of the performance appraisal system to both employees and management;
- b. description of the essentials of the performance appraisal system;
- c. explanation of the meaning of the different rating levels and of the differences between them; and
- d. explanation of employees' appeal rights.

PERFORMANCE APPRAISALS FOR PROBATIONARY EMPLOYEES - HEAD START PROGRAM

8.11 The supervisor for each Head Start Program employee must identify job tasks/responsibilities and set standards/objectives for each new or promoted employee under his or her supervision in order to measure such employee's job performance. During the Probationary Period, the supervisor and the employee periodically discuss the employee's progress toward meeting job tasks/responsibilities and performance standards/objectives. At the end of each month of the probationary appraisal period, the supervisor appraises the employee's job performance based on performance of job tasks/responsibilities and attainment of performance standards/objectives.

8.12 The performance appraisal for a Probationary Employee who is recommended by the supervisor for dismissal must be completed and submitted to the Head Start Program Director prior to 10 workdays before the probationary period ends. The Head Start Program Director is responsible for obtaining all necessary approvals in a timely manner prior to the expiration of the Probationary Period.

8.13 The performance appraisal for other Probationary Employees is due in the Head Start Program Director's office no later than three (3) workdays before the Probationary Period ends.

PERFORMANCE APPRAISALS FOR OTHER HEAD START PROGRAM EMPLOYEES

8.14 The Head Start Program Director shall cause each supervisor to identify on at least an annual basis, job tasks/responsibilities and set standards/objectives for each employee under his or her supervision in order to measure each employee's job performance. During such annual appraisal periods, the supervisor and employee periodically discuss the employee's progress toward meeting job tasks/responsibilities and performance standards/objectives. At the end of the appraisal period, the supervisor appraises the employee's job performance based on performance of job tasks/responsibilities and attainment of performance standards/objectives.

8.15 Annual evaluations are completed on each employee during the month of November in each year. Appraisals due during the month of November 1995 may utilize the evaluation form in use by the Head Start Program as of the effective date of this Rule. All future evaluations required by these Rules shall comply with Section 8.07 hereof.

8.16 New or promoted employees will have several performance appraisals in a given year due to the Commission's requirement for monthly performance appraisals on each employee during such employee's Probationary Period.

SPECIAL PERFORMANCE APPRAISALS - HEAD START PROGRAM EMPLOYEES

8.17 A supervisor may submit a special performance appraisal on an employee at any time. A special performance appraisal is usually done when the employee's performance deserves special recognition or fails to meet requirements.

REBUTTALS FOR PERFORMANCE APPRAISALS - HEAD START PROGRAM EMPLOYEES

8.18 An employee may submit a written rebuttal to a performance appraisal after the supervisor discusses the appraisal with the employee. The employee should submit the rebuttal within five (5) workdays after being provided a copy of the appraisal. An employee sends the original rebuttal to the supervisor and a copy to the Head Start Program Director. The supervisor files the original of such rebuttal in the employee's performance appraisal.

CHAPTER IX

EMPLOYEE GRIEVANCES⁹

AVAILABILITY OF GRIEVANCE PROCESS

9.00 The grievance process described in this Chapter IX is available to an employee to protest an Adverse Personnel Action. The grievance process is an employee's opportunity to have the Commission review an Adverse Personnel Action.

9.01 The filing of a grievance does not delay the effective date of an Adverse Personnel Action.

FILING A GRIEVANCE

9.02 A grievance should be filed promptly. To file a grievance, the employee completes a HCCS Form 2, Grievance Statement, and submits it to the Commission Secretary within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail, by CERTIFIED MAIL, RETURN RECEIPT REQUESTED; of written notice of an Adverse Personnel Action. If the last calendar day falls on a County and/or District holiday or weekend, the grievance must be filed with the Commission Secretary on the first workday following the County and/or District holiday or weekend. The written grievance and all other correspondence to the Commission Secretary or the Commission should be addressed as follows:

Hidalgo County Civil Service Commission
Attention: Civil Service Secretary
100 E. Cano, Suite 102
Edinburg, Texas 78539

(Amended December 9, 1998)

9.03 An employee should attach to the HCCS Form 2 whatever documentation he or she considers appropriate. As used in this Chapter, references to the "Grievance Statement" or the "completed HCCS Form 2" means the HCCS Form 2 and any documentation attached to it by either party during the grievance process.

DELAY IN FILING OR APPEALING GRIEVANCE

9.04 The time limits to file a Grievance Statement with the Commission Secretary or to appeal any decision reached at any level in the grievance process may not be extended unless the Commission determines there is good cause for the employee's delay in filing the Grievance Statement or appealing such decision.

EMPLOYEE REPRESENTATIVE

9.05 The employee may designate a representative to assist the employee in preparing or presenting his or her grievance. The representative may participate in follow-up meetings.

⁹ This new Chapter IX applies to Employee Grievances filed on or after January 1, 1996.

GRIEVANCE PROCESS

9.06 The grievance process is initiated when an employee files a Grievance Statement, HCCS Form 2, with the Commission Secretary. After the Commission Secretary receives an employee's Grievance Statement, the Commission Secretary forwards the HCCS Form 2 to the affected Elected Official/Department Head. The Elected Official/Department Head should respond, in writing, to the Grievance Statement by completing Section II of the HCCS Form 2. An Elected Official/Department Head's response should be made within 14 days of the date the Elected Official/Department Head receives the HCCS Form 2 from the Commission Secretary. In responding, the Elected Official/Department Head may:

- a. meet with the employee to discuss the Grievance Statement;
- b. gather relevant information and interview others who may have information about the Grievance Statement; and
- c. meet with the employee to discuss the Elected Official's/Department Head's response to the Grievance Statement.

The Elected Official/Department Head may attach any documentation to the his or her response which the Elected Official/Department Head believes is relevant to his or her decision. The Elected Official/Department Head returns the original, signed HCCS Form 2 to the Commission Secretary. The Commission Secretary then provides the employee the Elected Official's/Department Head's written response to the employee's Grievance Statement. (Amended July 14, 1999)

9.07 The employee, after receiving the Elected Official's/Department Head's written response from the Commission Secretary, either accepts or appeals the Elected Official's/Department Head's decision by checking the appropriate box in Section II of the HCCS Form 2, indicating with respect to an appeal, the employee's preference as to an open or closed hearing, and signing the form. If the employee fails to return the original HCCS Form 2 to the Commission Secretary within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail, by CERTIFIED MAIL, RETURN RECEIPT REQUESTED; it is presumed that the employee accepted the Elected Official's/Department Head's decision, and the grievance process is concluded. Depending on which box is checked, the Grievance Statement is then processed as follows:

- a. If the employee accepts the Elected Official's/Department Head's decision, the employee returns the original of the HCCS Form 2 to the Commission Secretary, with a copy to the Elected Official/Department Head, within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail, by CERTIFIED MAIL, RETURN RECEIPT REQUESTED; of the Elected Official/Department Head's written response, and the grievance process is concluded. The Commission Secretary, however, follows up with the Elected Official/Department Head to be sure any agreed action contained in the written decision is implemented; or
- b. If an employee, other than a Head Start Program employee, decides to appeal the Elected Official's/Department Head's decision, the employee returns the original HCCS Form 2 to the Commission Secretary, with a copy to the Elected Official/Department Head, within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail, by CERTIFIED MAIL, RETURN RECEIPT REQUESTED; of the Elected Official/Department Head's written response from the Commission Secretary. The Commission Secretary then sends a copy of the HCCS Form 2 to the Commission members; or

- c. If a Head Start Program employee decides to appeal the Elected Official's/Department Head's decision, the employee returns the original HCCS Form 2 to the Commission Secretary, with a copy to the Head Start Program Director, within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail, by CERTIFIED MAIL, RETURN RECEIPT REQUESTED; of the HCCS Form 2 with the Elected Official/Department Head's written response from the Commission Secretary. The Commission Secretary then forwards the original HCCS Form 2 to the Head Start Program Director for processing. The Head Start Program Director sends the original HCCS Form 2 to the Head Start Policy Council. The Head Start Policy Council responds, in writing, to the Grievance Statement by completing Section III of the HCCS Form 2. Generally, the Head Start Policy Council's response should be made within twenty-one (21) days of the date the Head Start Program Director receives the HCCS Form 2 from the Commission Secretary. The Head Start Policy Council then returns the original HCCS Form 2 to the Commission Secretary. The Commission Secretary then forwards the original HCCS Form 2, with the Head Start Policy Council's decision, to the employee. The Head Start Program employee either accepts or appeals the Head Start Policy Council's response by checking the appropriate box in Section III of the HCCS Form 2, indicating with respect to an appeal the employee's preference as to an open or closed hearing, and signing the form. If the employee fails to return the original HCCS Form 2 to the Commission Secretary within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail, by CERTIFIED MAIL, RETURN RECEIPT REQUESTED; it is presumed that the employee accepted the Head Start Policy Council's decision, and the grievance process is concluded. Depending on which box is checked, the Head Start Program employee's written complaint is then processed as follows:
- (i) If the Head Start Program employee accepts the Head Start Policy Council's decision, the Head Start Program employee returns the original HCCS Form 2 to the Commission Secretary, with a copy to the Head Start Program Director, within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail, by CERTIFIED MAIL, RETURN RECEIPT REQUESTED; of the Head Start Policy Council's written response from the Commission Secretary, and the grievance process is concluded. The Commission Secretary, however, follows up with the Head Start Program Director to be sure any agreed action contained in the written decision is implemented; or
 - (ii) If the Head Start Program employee decides to appeal the Head Start Policy Council's decision, the employee returns the original HCCS Form 2 to the Commission Secretary, with a copy to the Head Start Program Director, within the earlier of: (i) seven (7) calendar days of the employee's receipt; or (ii) ten (10) calendar days of the deposit in the mail, by CERTIFIED MAIL, RETURN RECEIPT REQUESTED; of the Head Start Policy Council's written response from the Commission Secretary. The Commission Secretary then sends a copy of the completed HCCS Form 2 to the Commission members.

ADVERSE PERSONNEL ACTION GRIEVANCES APPEALED TO THE COMMISSION

9.08 The Commission Secretary is responsible for placing all grievances appealed to the Commission on an agenda for an appropriate Commission meeting.

9.09 All Commission decisions on Grievance Statements will be based on a hearing conducted by the Commission under a substantial evidence de novo standard. The hearing before the Commission on an Adverse Personnel Action shall be conducted as provided in Chapter X hereof.

BURDEN OF PROOF

9.10 The burden of proof is on the County and/or District to show that the Elected Official's/Department Head's decision is supported by substantial evidence. (Amended March 27, 2003)

SUBSTANTIAL EVIDENCE DE NOVO REVIEW

9.11 Under a substantial evidence de novo review, the Commission conducts an evidentiary hearing for the purpose of determining whether, at the time of the disputed action, there then existed sufficient facts to justify the action. In other words, the Commission, considering all of the evidence introduced at the hearing and the prior record of any review of the disputed action by the Elected Official/Department Head and/or Head Start Policy Council, determines whether the Elected Official's/Department Head's decision is reasonably supported by substantial evidence, or if such decision is tainted by fraud, bad faith or an abuse of discretion. Under a substantial evidence de novo review, the decision of the Elected Official/Department Head must stand unless the evidence as a whole is such that reasonable minds could not have reached the conclusion reached by the Elected Official/Department Head. The Commission may not set aside a decision of the Elected Official/Department Head merely because it would have reached a different conclusion. The Commission may only reverse the action of the Elected Official/Department Head if it finds that such decision was made without regard to the law or the facts and therefore was unreasonable, arbitrary or capricious.

QUESTIONS OF FACT

9.12 An Elected Official's/Department Head's findings of fact, if not arbitrary or capricious, will generally not be disturbed by the Commission. The Commission may not set aside an Elected Official's/Department Head's decision merely because the testimony was conflicting or disputed, or because the testimony did not compel the result reached by the Elected Official/Department Head. Generally, the thought processes or motivations of an Elected Official/Department Head are irrelevant in a Commission determination of whether an Elected Official's/Department Head's action is reasonably supported by appropriate findings and conclusions based on the evidence. Where the employee seeks to set aside the Elected Official's/Department Head's decision on grounds that the decision violated the employee's constitutional rights, the Commission may elect, at its option, to conduct a completely independent review of the facts.

QUESTIONS OF LAW

9.13 The Commission is not bound by an Elected Official's/Department Head's determination, however, on questions of law. Questions of law include:

- a. Whether the action is within the power of the Elected Official/Department Head;
- b. Whether the Elected Official/Department Head complied with applicable laws and regulations;
- c. Whether the Elected Official/Department Head abused its discretion;
- e. Whether the Elected Official's/Department Head's findings are supported by substantial evidence; and

- f. Whether the Elected Official's/Department Head's decision is reasonably supported by substantial evidence.

COMMISSION ACTION ON EMPLOYEE GRIEVANCE STATEMENT

9.14 The Commission, in reaching its decision, will not substitute its judgment for the judgment of the Elected Official/Department Head on questions legitimately committed to the Elected Official's/Department Head's discretion, but must either:

- a. affirm the Elected Official's/Department Head's decision; or
- b. reverse and render or reverse or remand the matter for further proceedings if substantial rights of the employee have been prejudiced because the Elected Official's/Department Head's findings, inferences, conclusions, or decisions are:
 - (i) in violation of a constitutional or statutory provision;
 - (ii) in excess of the Elected Official's/Department Head's authority;
 - (iii) made through unlawful procedure;
 - (iv) affected by other error of law;
 - (v) not reasonably supported by substantial evidence considering the reliable and probative evidence in the record as a whole; or
 - (vi) arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

A Commission decision may include an award for lost wages, back pay or fringe benefits. In computing lost wages or back pay the Commission may reduce an employee's proposed award by any unemployment compensation or earnings from other jobs held by the employee subsequent to the date of the action which is the subject of the Commission hearing. (Amended September 18, 2002)

9.15 A copy of the Commission's final decision shall be provided to the employee, the Elected Official/Department Head, and in appropriate circumstances, the Head Start Policy Council. Except with respect to Head Start Program employees, the Commission's action on an employee's Grievance Statement is the final administrative review available to the employee. With respect to Head Start Program employees:

- a. Any Commission decision which has the effect of upholding the action taken by the Head Start Policy Council is the final administrative review available to the employee; and
- b. Any Commission decision which reverses an action of the Head Start Policy Council must be returned by the Commission Secretary to the Head Start Program Director for final review and action by the Head Start Policy Council. The Head Start Policy Council, generally within twenty-one (21) days of the Commission Secretary's delivery of the Commission decision to the Head Start Program Director, meets to either confirm its original decision or adopt the recommendations of the Commission. The Head Start Policy Council shall thereafter promptly issue a written decision and furnish a copy of such decision to the employee and the Commission Secretary.

9.16 It is the Elected Official's/Department Head's responsibility to implement any final decision reached by the Commission and/or Head Start Policy Council on an employee's Grievance Statement. The Commission Secretary, however, follows up with the Elected Official/Department Head to be sure any agreed action contained in the final decision is implemented.

CHAPTER X11

COMMISSION HEARING PROCEDURES

HEARINGS BEFORE THE COMMISSION

10.00 Every hearing before the Commission shall be conducted in accordance with the rules in this Chapter X and any applicable provisions of Chapter I hereof. As used in this Chapter, "hearing" means the actual hearing on the merits before the Commission on an employee's written complaint or grievance statement.

RIGHTS OF PARTIES

10.01 Every party to a hearing before the Commission has the right to:

- a. be dealt with impartially and objectively;
- b. be free from constraint, interference, coercion, discrimination, or reprisal;
- c. be accompanied by a representative;
- d. be given reasonable time to prepare and present the case; and
- e. confront and cross-examine all witnesses called to testify for the other party at the hearing for a full disclosure of the facts.

DOCKETING OF CASES

10.02 The Commission Secretary shall assign a unique number to each written complaint and grievance statement filed with the Commission.

COMMUNICATIONS WITH COMMISSION

10.03 No party to a written complaint or grievance statement, or his or her representative, may communicate with any member of the Commission concerning such complaint or grievance except:

- a. in writing, with a copy to the other party; or
- b. in open meeting, or executive session, which meeting has been duly called, noticed and conducted in accordance with applicable law.

All written communications with the Commission Secretary or the Commission should be addressed as follows:

Hidalgo County Civil Service Commission
Attention: Civil Service Secretary
100 E. Cano, Suite 102
Edinburg, Texas 78539

(Amended December 9, 1998)

SCHEDULING, NOTICE OF HEARING, AND EFFECT OF FAILURE TO APPEAR AT HEARING

10.04 The Commission, through the Commission Secretary, shall notify the employee and the Elected Official/Department Head of the hearing date, time, and place. Unless waived by written

agreement, signed by all parties to the hearing, the employee and Elected Official/Department Head are entitled to at least 10 calendar days prior notice of a Commission hearing.

10.05 If the employee or the employee's representative does not attend the hearing or does not notify the Commission Secretary, in writing, prior to the start of the hearing, of the employee's inability to attend, such failure to attend will be presumed by the Commission to be the employee's acceptance of the action taken by the County and/or District on the matter before the Commission. In such event, the Commission will convene and enter an order which confirms that the employee and/or his or her representative failed to notify the Commission Secretary, in writing, of the reason(s) why the employee could not attend the hearing. The Commission shall also dismiss the proceeding without taking further action on the employee's pending written complaint or grievance statement.

10.06 If the Elected Official/Department Head or his or her representative does not attend the hearing or does not notify the Commission Secretary, in writing, prior to the start of the hearing, of the Elected Official's/Department Head's inability to attend, such failure to attend, as to Adverse Personnel Actions, will be presumed by the Commission to be the Elected Official's/Department Head's decision to reverse the Adverse Personnel Action then before the Commission. In all other hearings, the Commission shall proceed with the hearing, and following such hearing, enter such orders.

10.07 In all hearings involving Adverse Personnel Actions where the Elected Official/Department Head and/or his or her representative does not appear, or does not notify the Commission Secretary, in writing, prior to the start of the hearing, of the Elected Official's/Department Head's inability to attend, the Commission will convene and enter an order which confirms that the Elected Official/Department Head and/or his or her representative failed to notify the Commission Secretary, in writing, of the reason(s) why the Elected Official/Department Head could not attend the hearing. The Commission, subject to Section 10.08 hereof, shall also enter an order reversing the Adverse Personnel Action taken against the employee by the Elected Official/Department Head, and also enter any other orders which the Commission determines are appropriate.

10.08 With regard to Head Start Program employees, the Commission action in Section 10.07 hereof is subject to approval of the Head Start Policy Council. If such approval is not obtained, the Commission shall enter an order rescinding its original order and it shall thereafter set the grievance for hearing pursuant to this Chapter.

10.09 On written request of either an employee and/or Elected Official/Department Head, which written request must be filed with the Commission Secretary within three calendar days of the date following the date of the employee's scheduled hearing, and a copy of such written request provided to the other party within that same time period, the Commission, for good cause shown in such written request, may modify the action it took pursuant to Sections 10.05 through 10.07 of this Chapter. The non-requesting party, within three calendar days of his or her receipt of the moving party's request for reconsideration, may file a written statement with the Commission setting forth his or her position on the moving party's request. The Commission, at a subsequent Commission meeting, shall rule on the request for reconsideration. Neither party is entitled to a hearing and/or argument before the Commission on such reconsideration; however, the Commission, in its sole discretion, may grant a hearing and/or argument on the pending request for reconsideration. The Commission, following its consideration of the request for reconsideration, shall enter an order approving or denying the request for reconsideration. If the request is granted, the Commission shall enter an order rescinding its original order and set the complaint or grievance for hearing pursuant to this Chapter.

CONTINUANCES

10.10 The Commission chairperson, on written request of either party to the hearing, for good cause shown, may grant an initial request, and one subsequent request, for continuance filed by a party. The moving party must contact the other party prior to filing the written request for continuance, advise him or her of the party's need for a continuance, and determine whether the other party objects to the requested continuance. The written request must include a statement as to whether the other party objects or does not object to the requested continuance. The non-requesting party may, but is not required to, file a written statement setting forth the reasons such party objects or supports the requested continuance. Except in emergencies or unusual circumstances set forth in the written request, no continuance will be granted within one (1) day of a scheduled hearing. (Amended December 9, 1998)

10.11 Repealed December 9, 1998

10.12 All subsequent requests for continuances must be acted on by the Commission. Such requests for continuances must be in writing, filed with the Commission Secretary, and must set forth the reasons for the requested continuance. The moving party must contact the other party prior to filing the written request for continuance, advise him or her of the party's need for a continuance, and determine whether the other party objects to the requested continuance. The written request must include a statement as to whether the other party objects or does not object to the requested continuance. The non-requesting party may, but is not required to file, a written statement with the Commission Secretary setting forth the reasons such party objects or supports the requested continuance. Except in emergencies or unusual circumstances set forth in the written request, no continuance will be granted within one (1) day of a scheduled hearing.

FILING PREHEARING STATEMENT AND DOCUMENTS BEFORE THE HEARING

10.13 No later than five (5) calendar days before a hearing, the employee and the Elected Official/Department Head shall jointly or individually file with the Commission Secretary an original and four copies of:

1. a completed HCCS Form 10 (Amended September 19, 2001);
2. a completed HCCS Form 11; and
3. all exhibits which either party proposes to introduce at the hearing.

The filing requirements of this Section 10.13 excludes rebuttal evidence that reasonably could not be anticipated before the hearing. Failure to file the required documents is grounds for the Commission to dismiss or reverse the pending written complaint or grievance.

10.14 No later than five (5) calendar days before a hearing, the parties shall also provide each other a copy of all documents filed with the Commission Secretary which are listed in Section 10.13 hereof. Failure to furnish the other party a copy of the required documents is grounds for the Commission to dismiss or reverse the pending written complaint or grievance.

ARRANGEMENTS FOR COURT REPORTER AT HEARING

10.15 Either party to the hearing may arrange for a Court Reporter to record the evidence at the hearing so long as:

1. Such fact is disclosed to the Commission and the other party in the completed HCCS Form 10 (Amended September 19, 2001); and

2. A copy of the written transcript is furnished to the Commission at such party's expense.

FILING OBJECTIONS WITH THE COMMISSION PRIOR TO THE HEARING

10.16 No later than two (2) calendar days before a hearing, the employee and the Elected Official/Department Head may file with the Commission Secretary any written rebuttal which such party believes is appropriate concerning the information set forth in such other party's HCCS Form 10, and any written objections as to the admissibility of any documents listed by either party in the HCCS Form 11 previously filed with the Commission. A copy of such rebuttal statement and/or objections to documents shall be provided to the other party within the same time period. Failure to furnish the other party a copy of such rebuttal statement and/or objections is grounds for the Commission to dismiss or reverse the pending written complaint or grievance. (Amended September 19, 2001)

10.17 The Commission chairperson, at his or her sole discretion, may, at the beginning of the hearing, rule on some or all of such written objections as to the admissibility of documents listed by either party in the filed HCCS Form 11, or defer his or her ruling on such written objections until such documents are offered by the party seeking to introduce such documentary evidence at the hearing.

EFFECT OF FAILING TO FILE WRITTEN OBJECTIONS AS TO USE OF AFFIDAVITS

10.18 A party who does not file with the Commission Secretary, within two (2) calendar days before the hearing, an objection as to the proposed use of affidavits submitted by the other party in his or her HCCS Form 11, claiming a denial of the right to confront and cross examine witnesses, may not thereafter complain of the introduction of such affidavits at the hearing based on such party's claim of a denial of the right to confront and cross examine such witnesses. Such objections will be routinely granted by the Commission Chairperson. If objections are filed, the other party may request a continuance of the hearing if such witnesses are not available to attend the hearing on the scheduled date, and the Commission Chairperson rules that the affidavits are not admissible at the hearing.

PARTY REPRESENTATIVES

10.19 The employee and the Elected Official/Department Head both have the right to select one or more third parties to represent them at the hearing. Once a representative or representatives have been chosen by either the employee or the Elected Official/Department Head, the representative, not the employee or the Elected Official/Department Head, shall address the Commission on behalf of the employee or Elected Official/Department Head. In the event a party has more than one representative, the party shall designate one representative to be the party's spokesperson to address the Commission.

PERSONS ATTENDING THE HEARING

10.20 The employee is allowed to have the hearing open to the public or closed. The employee advises the Commission on his or her HCCS Form 1 or HCCS Form 2 whether the employee wants an open or closed hearing. If the employee chooses to have a closed hearing, the following persons are allowed to be present during the Commission hearing:

1. Commission Members;
2. Commission Secretary;
3. Attorney to the Commission;

4. Court Reporter and/or the staff person responsible for recording the hearing;
5. Employee;
6. Employee's Representative or Representatives;
7. County and/or District Representative or Representatives; and
8. Elected Official/Department Head, and if the Elected Official/Department Head determines it is necessary, one other staff person designated by the Elected Official/Department Head to assist the County and/or District Representative.

RULES OF EVIDENCE APPLICABLE TO COMMISSION HEARINGS

10.21 Except as otherwise provided in this Chapter, the admissibility of all evidence presented to the Commission is subject to the Texas Rules of Evidence.

APPLICATION OF "THE RULE"

10.22 Either party, or the Commission chairperson on his or her own motion, may invoke "The Rule" (Texas Rule of Evidence 613), which means that all witnesses will not be allowed to remain in the hearing or discuss their testimony with other witnesses. If "The Rule" is invoked, the persons listed in Section 10.20 hereof, however, may remain in the hearing irrespective of whether the hearing is held in open or closed session.

TIME ALLOTTED TO EACH PARTY FOR HEARING PRESENTATION

10.23 Generally, a maximum of one hour is allotted to each party for a hearing before the Commission. This time period includes all time for such party's opening statement, presentation of evidence, including testimony of all witnesses, and closing argument. On written request, submitted prior to the hearing in such party's HCCS Form 10, the Commission chairperson, in his or her sole discretion, may extend the time for one or both parties to complete his or her presentation before the Commission. Notwithstanding the foregoing, the Commission Chairperson, in his or her sole discretion, may also reduce the time allotted to each party to complete his or her presentation before the Commission. (Amended September 19, 2001)

AUTHORITY OF THE COMMISSION CHAIRPERSON DURING COMMISSION HEARING

10.24 The Commission chairperson, at all Commission hearings, has the authority to do the following:

1. Rule on the admissibility of evidence;
2. Exclude irrelevant, immaterial, or repetitious evidence and note any objections to offers of evidence in the record;
3. Specify and enforce maximum time limits on all phases of the hearing;
4. Invoke "The Rule";
5. Ensure the oath is administered to witnesses;
6. Maintain decorum and ensure a fair hearing;
7. Release witnesses after testifying;

8. Recall witnesses for further clarification of testimony;
9. Recognize Commission members who wish to ask the witnesses and/or parties any questions; and
10. Ensure the hearing is recorded using a court reporter or tape recorder.

ORDER OF PROCEEDINGS BEFORE THE COMMISSION

10.25 Commission hearing shall proceed as follows:

Step	Procedure
1	The Commission Chairperson calls the hearing to order, states the purpose of the hearing, and asks participants to identify themselves. The Chairperson closes the hearing to the public if a closed hearing was requested by the employee.
2	The employee or representative and the County and/or District representative may make an opening statement that summarizes the evidence to be introduced.
3	The County and/or District has the burden of proof at all hearings involving Adverse Personnel Actions. The employee has the burden of proof at all other hearings.
4	The party who has the burden of proof presents such party's case. Witnesses are subject to cross-examination.
5	The other party presents such party's case. Witnesses are subject to crossexamination.
6	Any rebuttal testimony and evidence is presented.
7	The employee and the County and/or District may make closing statements. The party who has the burden of proof has the right to divide the closing statement into two parts and present one immediately before and one immediately after the party who does not have the burden of proof makes a closing statement.

The following hearing outline may be used by the Commission Chairperson in conducting a hearing on an employee's complaint or grievance:

COMMISSION CHAIRPERSON

The Hidalgo County, Texas Civil Service Commission will now hear the [complaint/grievance] presentation of [name of complainant/grievant], Commission File Number [identify Commission File Number].

The following Commission members are present: [names of Commission members present]. I am [name of Commission Chairperson], Chairperson of the Hidalgo County, Texas Civil Service Commission. For the record, a quorum is present. Will the representatives for the [complainant/grievant] and the Elected Official/Department Head please stand, approach the podium, and introduce yourselves.

This hearing will be [select closed or open], at the

[complainant's/grievant's] request, in accordance with the Chapter 551 of the Texas Government Code, and in accordance with Commission Rules.

I will now instruct the [complainant/grievant] and the Department Head/Elected Official on procedures to be followed in this [complaint/grievance] presentation. This [complaint/grievance] hearing is being conducted in accordance with the Commission's Rules governing employee [complaints/grievances].

The Commission will first listen impartially to a presentation by the [complainant (on complaints) or Elected Official/Department Head (on grievances)] and/or their representatives, which presentation may include witnesses called by such party. The other party and/or such party's representatives may cross-examine the [complainant (on complaints)/Elected Official/Department Head (on grievances)] and his or her witnesses. Upon completion of the [complainant's (on complaints)/Elected Official/Department Head's (on grievances)] presentation, the Commission may ask questions; however, the Commission will not be questioned. The other party may then present a response, including witnesses, which response and/or witnesses are also subject to cross-examination. Upon completion of the presentation, the Commission may ask questions; however, the Commission will not be questioned. Each presentation shall be limited by a reasonable time limit.

The presentation rules for this hearing are as follows:

- a. Only one person talks at a time.
- b. The [complainant/grievant], his or her representatives, and the Department Head/Elected Official and his or her representatives are not to argue directly with each other.
- c. Any disruptive behavior by either party will result in his/her expulsion from the hearing room.
- d. All participants shall conduct themselves with common courtesy and respect for the rights of others.

To provide a record of the proceedings, an audio recording is being made. Please avoid talking when others are speaking so that the record will reflect the proceedings accurately.

The [complainant/grievant] and the Department Head/Elected Official will each have [insert time limit] to make their respective presentations. Time spent in cross-examining witnesses is not charged against a party; however, the Commission reserves the right to limit the time allotted for cross-examination of witnesses. Rebuttal, if necessary, is limited to [insert time limit] minutes for each side. As Chairperson, I will consider requests, if the need

arises, for reasonable extensions of time; however, the parties are encouraged to limit their presentations to their allotted times.

Are there any questions regarding the presentation procedure? [Pause for questions]

COMMISSION CHAIRPERSON The [Elected Official/Department Head (on grievances) / complainant (on complaints)] may now make his or her opening argument.

The other party may now make his or her opening argument.

COMMISSION CHAIRPERSON The [complainant (on complaints) / Elected Official/Department Head (on grievances)] and his/her representative may now proceed with their presentation.

PARTY WITH BURDEN OF PROOF

AND REPRESENTATIVE [The complainant (on complaints) / Elected Official/Department Head (on grievances) and his or her representative present their case. Cross-examination by the other party.]

COMMISSION CHAIRPERSON Does the Commission have any questions for the [complainant (on complaints) / Elected Official/Department Head (on grievances)]?

OTHER PARTY AND

REPRESENTATIVE [The other party and his or her representative present their case. Cross-examination by complainant (on complaints) / Elected Official/Department Head (on grievances) and his or her representative.]

COMMISSION CHAIRPERSON Does the Commission have any questions for the [Department Head/Elected Official (on complaints) / grievant (on grievances)] ?

COMMISSION CHAIRPERSON Does either party have any rebuttal testimony?

COMMISSION CHAIRPERSON The [complainant (on complaints) / Elected Official/Department Head (on grievances)] may now make his or her closing argument.

COMMISSION CHAIRPERSON The other party may now make his or her closing argument.

COMMISSION CHAIRPERSON The [complainant (on complaints) / Elected Official/Department Head (on grievances)] now has an opportunity complete his or her closing argument.

COMMISSION CHAIRPERSON The Commission members will now go into executive session pursuant to Section 551.074, Texas Local Government Code, to deliberate. Upon return to open session, this Commission, having heard the presentations, may take any action it deems appropriate under the Commission Rules, including no action at all.

[Return to Open Session]

COMMISSION CHAIRPERSON Is there any discussion on this grievance/complaint?

[Following discussion, if any]

COMMISSION CHAIRPERSON Do I have a motion regarding this grievance/complaint?

[Call for vote on motion if a motion is made and seconded]

COMMISSION CHAIRPERSON [Following vote on motion] This grievance/complaint hearing is concluded.

(Amended March 27, 2003)

COMMISSION QUORUM AND VOTING

10.26 Two commissioners shall constitute a quorum at any Commission hearing.

10.27 Two affirmative votes are necessary to reverse the decision of an Elected Official/Department Head and/or grant an employee the relief requested in his or her written complaint or grievance statement. In the absence of two affirmative votes, the decision of the Elected Official/Department Head and/or Head Start Policy Council is deemed to be the decision of the Commission; however, in such cases, the Commission decision may not be cited as precedent for any future Commission decision involving other employees.

ISSUANCE OF FINAL DECISION

10.28 Following a Commission hearing, the Commission shall issue a written decision as provided in Chapters VI, IX or X hereof.

THE OFFICIAL HEARING RECORD

10.29 The Official Hearing Record includes:

1. the HCCS Form 1 or HCCS Form 2, as applicable, together with any documents attached to such forms;
2. all correspondence between the Commission and either party;
3. all written motions, written objections and any written orders issued by the Commission on such motions and/or objections;
4. the HCCS Form 10, and HCCS Form 11 filed with the Commission (Amended September 19,2001);
5. documentary evidence received and considered;
6. the written transcript (if a court reporter is used) or the tape recording made at the hearing, and if requested by the Commission chairperson, a written transcript of the tape recording of the hearing; and
7. the Commission's written decision, and in the case of Head Start Program employees, any follow-up decision made by the Head Start Policy Council.

PURCHASE OF OFFICIAL HEARING RECORD

10.30 Any party to a hearing, at such party's own expense, may make arrangements with the Commission Secretary to purchase a copy of the Official Hearing Record. The cost of such copy will be established by the Commission from time to time in accordance with the Texas Open Records Act.

THE END

FOLLOWED BY: APPENDIX ONE