

CHAPTER 2

EMPLOYMENT

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CHAPTER 2

EMPLOYMENT

Purpose: The purpose of this chapter is to describe personnel policies related to recruitment and selection for County positions and general policies pertaining to employment with the County.

Intent: It is intended that: 1) the system of personnel selection and employment is based on merit principles and objective procedures; 2) these policies will follow applicable Federal, State, and local regulations; and 3) these policies will be administered on an equitable and non-discriminatory basis.

2.0 ADMINISTRATION AND COVERAGE

- (A) The County Administrator is authorized to administer these policies as established by the Board of Supervisors for all employees in classified positions.
- (B) The County Administrator will require the utilization of forms necessary to administer and manage these personnel policies.

2.1 COMPETITION FOR COUNTY JOBS^{1,2,3,4}

- (A) Recruitment for County positions will be conducted in a manner that assures open competition in that vacancies will be advertised publicly and filled through external competition unless an exception has been granted by the County Administrator.
- (B) Exceptions to external competitive advertisement may be granted by the County Administrator in the following circumstances:
 - (1) When the position is filled due to disciplinary action, reduction in force, recall, or other compelling operational needs of the organization,
 - (2) When the position must be filled immediately to ensure continuous provision of a critical service, to prevent a loss of funding, or public safety needs (this may be approved as a temporary measure)
 - (3) When a Constitutional Officer is exercising his or her authority under state code to promote or transfer incumbents,²
 - (4) When the vacancy is less than 1.0 FTE and the hours will be assigned to a current regular employee(s),
 - (5) When the vacancy will be filled through a lateral transfer in the same department or,
 - (6) When the vacancy will be filled as described below in D.

¹Revised March 5, 1997

²Revised July 17, 1996

³Revised July 6, 2011

⁴Revised June 5, 2012; Effective July 1, 2012

- (C) The County Administrator may approve reclassification of an existing vacant or filled job due to operational needs, functional re-organizations, changing job duties, or other reasons. If the position is filled, the incumbent employee will normally be reclassified with the position, without additional competition.

2.2 SELECTION OF EMPLOYEES FOR COUNTY POSITIONS.

2.2.01 Authority

Only Department Directors have the authority and responsibility to hire employees. Aspects of the selection process may be delegated to other departmental employees, typically those at a limited supervision level who have been trained in selection and hiring.

2.2.02 Selection Procedures

- (A) Employment applications are screened to assess whether candidates meet minimum position requirements as outlined on the class specification. In the screening process, equivalent education and experience may substitute for one another on a year-for-year-basis.
- (B) Expenses associated with any stage of selection process (i.e., exams, tests, record checks, etc.) will be the responsibility of the County, although candidates are generally expected to possess or obtain at their own expense all certifications and licenses required for the position. Candidates are typically responsible for travel expenses associated with the selection process, although reimbursement may be provided at the discretion of the County Administrator.
- (C) Employees are selected for County positions based on relative ability, knowledge, skills, and suitability for the position. Departments should use selection procedures which are relevant to the position are job-related and necessary to appropriately assess candidates. Selection procedures must be consistent with equal employment opportunity standards and should maximize validity, reliability, and objectivity. Selection procedures are to be applied uniformly among candidates at each stage of the selection process. The selection process should result in hiring the most suitable person to perform the job.
- (D) The following procedures may be used by departments in the selection process (consultation with Human Resources is strongly encouraged):
- Evaluation of education, experience, and training
 - Written or oral examination
 - Interview
 - Performance tests that evaluate skills or abilities
 - Reference check or verification of credentials

The following procedures may be used by departments in the selection process (consultation with Human Resources **is required** prior to use):

- Physical or psychological examinations or tests
- Criminal, credit
- Polygraph
- Background Investigation

- (E) In accordance with The Americans with Disabilities Act, Loudoun County provides reasonable accommodations to enable qualified disabled persons to perform the job, unless the accommodation would pose an undue burden. Accommodation may take the form of a shift of job duties, the purchase of adaptive equipment, modifying office arrangements, etc. Departments should consult Human Resources for guidance and assistance.
- (F) In accordance with Virginia Code 15.2-1509, Loudoun County shall take into consideration or give preference to an applicant's status as an honorably discharged veteran of the armed forces of the United States, provided such veteran meets all the knowledge, skills, and eligibility requirements for the position for which he or she applied. Consideration is also given to veterans who have a service-connected disability rating fixed. For the purposes of this policy, a veteran is any person who has received an honorable discharge and has (i) provided more than 180 consecutive days of full-time, active-duty service in the armed forces of the United States or reserve components thereof, including the National Guard, or (ii) has a service-connected disability rating fixed by the United States Veterans Affairs.⁵

2.2.03 Employment of Minors⁶

Human Resources must be consulted, and federal and state guidelines must be followed when hiring individuals under 18 years of age.

2.2.04 Physical Examination Policy for Public Safety Employees⁷

Purpose: The County has established procedures for conducting pre-employment, retention, release-to-work and re-evaluation physical examinations for public safety job candidates and current employees within specific categories (i.e., firefighters, sheriff deputies, dispatch personnel, and crossing guards).

Intent: These examinations are based solely on the essential functions of specific job occupations and are within the lawful parameters of federal, state, and local guidelines as set forth under the Occupational Safety and Health Administration, the Americans with Disabilities Act, the Code of Virginia, the Loudoun County Human Resources Policy Handbook, and other relevant authorities.

⁵Revised July 19, 2005

⁶Revised July 7, 2009

⁷Revised October 16, 2007

2.2.05 Physical Examination Procedures

- (1) Scheduling an Examination: The requesting department notifies the County's Occupational Health Contractor that the individual(s) is to undergo a physical examination. The employee/candidate schedules and provides written confirmation to both the requesting department and affected individual. The Occupational Health Contractor maintains copies of all relevant job descriptions.
- (2) Conducting the Exam: The Occupational Health Physician conducts the physical examination and coordinates tests administered by outside agencies, under the guidelines and standards established for specific job classification categories.
- (3) Potentially correctable disqualifying conditions: A physical condition or medical event that is found to prevent employee from meeting the functional requirements of a position and which may be correctable by medical treatment or, which may (after further evaluation of medical records) be found to be non-disqualifying.
- (4) Pre-employment Physical Examinations
 - (a) Only those individuals who have been extended a conditional offer of employment receive a pre-employment physical.
 - (b) The department provides the candidate with a packet of forms pertinent to the employee's job satisfaction.
 - (c) The candidate completes all required forms and signs the "Authorization to Use/Disclose Protected Health Information" form **prior** to the examination.
 - (d) The Occupational Health Physician determines the medical fitness of a job candidate and submits the findings to the requesting department. The Occupational Health Physician may provide examination results to the job applicant in accordance with applicable federal and state laws.
- (5) Retention Physical Examinations
 - (a) The Occupational Health Physician determines the medical fitness of an employee and submits the findings to the requesting department and the employee.
 - (b) Employees who are determined to be medically unfit to carry out the essential functions of their jobs are subject to action that is consistent with County policy and/or federal and state guidelines. These include possible temporary reassignment of duties or use of Sick Leave or Leave Without Pay. The Department Director determines what action must be taken when the employee is determined medically unfit for duty.

- (c) Employees, to include Sheriff Deputies, who fail to comply with the physical examination schedule assigned to their job classification may be subject to disciplinary action pursuant to Chapter 10 of the Human Resources Policy Handbook and/or General Orders of the Sheriff's Office.

(6) Appeals Panel⁸

- (a) If the Department Director wishes to initiate the appeals panel because of a determination by the County's Occupational Health Physician that an employee, in one of the designated categories, is or is not medically fit for duty, an Appeals Panel may be convened. The Human Resources Manager, or designee, is responsible for coordinating all aspects of the appeals process.
- (b) The appeals panel consists of the Director of Public Health and a private physician selected from the County's current list of Workers' Compensation Panel Physicians.
- (c) A review of the medical case by the physicians, in conjunction with the established occupational medical standards, shall be completed. A recommendation will be made by the panel physicians and given to the Department Director and Human Resources Manager by the Director of Public Health. If the panel physicians are unable to reach a consensus recommendation, the majority of the three medical opinions of the physicians will prevail.

(7) Payment Responsibility

- (a) The County, through funds budgeted in the Loudoun County Health Department, pays for costs associated with:
 - (1) pre-employment physical examinations of job candidates;
 - (2) examinations for current public safety employees who have been promoted
 - (3) retention examinations;
 - (4) release-to-work physical examinations; and
 - (5) re-evaluation physical examinations of employees when ordered pursuant to Chapter 9 of the Human Resources Policy Handbook.
- (b) The dissenting department pays for all costs associated with convening an Appeals Panel.
- (c) Job candidates pay for referral examination costs associated with potentially correctable disqualifying conditions.
- (d) Costs associated with re-evaluation physical examinations of current employees in Workers' Compensation situations may be filed with the employee's health insurance carrier or referred to Human Resources for disposition. Employees may be responsible for costs not covered by health insurance or Workers' Compensation.

- (e) Referral examination costs associated with "potentially correctable disqualifying conditions" of current employees, including public safety employees participating in an internal promotion process, may be filed with the employee's health insurance carrier, or referred to Human Resources for disposition. Employees may be responsible for costs not covered by health insurance or Workers' Compensation.

(8) Referral Procedure

- (a) Department Notification. The Occupational Health Physician notifies the requesting department and the affected individual if the physical examination reveals a potentially correctable disqualifying condition. At his or her discretion, the Occupational Health Physician may recommend a referral.
- (b) Referral of Employees. At the employee's expense, a private physician selected by the employee with the approval of the Occupational Health Physician conducts additional medical evaluations. Referrals will be made consistent with the county's current health plan.
- (c) Referral of Job Candidate. At the job candidate's expense and discretion, a private physician selected by the job candidate conducts additional medical evaluations. The job candidate furnishes necessary medical records to the Loudoun County Health Department for evaluation.
- (d) Fitness Determination. The Occupational Health Physician considers the results of the additional medical evaluation conducted by the private physician when making his or her final determination on the affected individual's medical fitness.

(9) Re-evaluation Examination

The Occupational Health Physician may (in lieu of or in addition to a referral) conduct re-evaluation examinations for employees who have had a "potentially disqualifying condition" to determine medical fitness. The re-evaluation examination includes a medical records assessment and release-to-work examination.

(10) Failure to Meet Physical Standards

- (a) Job candidates who fail to meet the required medical fitness standards set forth in the "pre-employment" physical examination are disqualified from further consideration.
- (b) Current employees who fail to meet the required medical fitness standards set forth in the retention physical examination and who have been provided a reasonable period for medical treatment relative to a potentially disqualifying condition and/or a reasonable opportunity to correct the condition may be subject to dismissal pursuant to Chapter 9 of the Human Resources Policy Handbook.

(11) Confidentiality of Medical Information

All official County medical records are confidential. Access to official County medical records is on a "need-to-know" basis only by authorized officials. Employees and job applicants must provide written consent prior to release of any specific medical information to any other third party.

2.2.06 Alcohol, Marijuana, and Controlled Substance Testing Policy for Transportation Employees⁹

- (A) In accordance with the Department of Transportation's Omnibus Transportation Employee Testing Act, the County will conduct mandatory alcohol, marijuana, and controlled substance testing of transportation employees, i.e., employees who function as a commercial motor vehicle operator and are subject to the commercial drivers' license (CDL requirement).
- (B) Pre-employment/pre-duty, reasonable suspicion, random, post-accident, return to duty, and follow-up alcohol, marijuana, and controlled substance testing will be conducted and will be procedurally conducted in full compliance with regulations in the Act.
- (C) Employee notification, record-keeping, reporting requirements, supervisory training, employee information, and referral requirements will be procedurally conducted in full compliance with regulations in the Act.

2.3 PERSONNEL FILES¹⁰

Official Personnel Files (including records of pay) are centrally maintained as prescribed by the County Administrator. The retention and destruction of these files are in accordance with applicable state laws. Employee files maintained by individual departments are not Official Personnel Files and are for departmental information only. Appropriate documents must be forwarded by departments to Human Resources for inclusion in the Official Personnel File to ensure accurate and complete records of employment.

2.3.01 Content of Official Personnel Files¹¹

Official Personnel Files contain information and documents sufficient to fulfill administrative and legal requirements and enforcement of personnel policies. It is intended that Official Personnel Files provide a complete employment history of service with Loudoun County Government.

This information may include, but is not limited to:

- Employment Applications
- Offers of employment
- Personnel Action Forms
- Reclassification Notices
- Performance-related documents (e.g., performance assessment forms or memos)
- Formal Disciplinary Actions
- Documents related to any type of separation from County employment
- Reduction in Force and Recall Notices

⁹Revised October 22, 2021

¹⁰Revised March 17, 2009

¹¹Revised March 17, 200

2.3.02 Protection of Personnel and Access to Personnel Files

The contents of Official Personnel Files are not disclosed or released except as required by law or for a proper purpose of a government agency collecting or maintaining such records. The following individuals have authorized access during business hours to Official Personnel Files: the employee who is the subject of the file, any authorized supervisor of the employee, authorized management personnel, and any other person authorized by the employee (written authorization must be provided and will be maintained in the file).

The County complies with the Virginia Freedom of Information Act which requires that all public records (with certain exceptions set forth in the Act) be open to the people of the Commonwealth of Virginia. This may include certain information about employees, except that which is protected by law. Information pertaining to County employees which must be released to the public, on request, if the employee's annual rate of pay meets the rate of pay as set by the Code of Virginia:

- a. Position classification
- b. Rate of pay
- c. Reimbursements such as travel voucher and expense statements

2.3.03 Providing Employee References

Ordinarily, only verification of employment (dates of employment and job titles) is provided in response to reference requests about current or former employees. When additional information about current or former employees is requested, managers should consult Human Resources for guidance.

2.4 NEPOTISM AND CONFLICT OF INTEREST¹²

A. Nepotism and Relationships

Nepotism, which is favoritism toward family members on the job, conflicts with the Loudoun County Code of Conduct and is not acceptable. The Sheriff's Office will maintain separate General Orders governing this issue and the Department of Fire Rescue will maintain a separate SOP.

- a. No person will be hired, reinstated, transferred, promoted, rehired, or demoted by the County to a position that places him or her in a supervisory or subordinate role with a family member within a department.
- b. Relationships that involve partiality, preferential treatment, or the improper use of authority or position for personal and/or professional gain are prohibited.
- c. The definition of a family member for purposes of this policy will follow the definition of Extended Family in Chapter 6.01.

B. Conflict of Interest

County employees will not engage in any employment activity or enterprise that is inconsistent, incompatible, or in conflict with duties, functions, or responsibilities of their positions. (See also 3.6 Outside Employment)

2.5 AUTHORIZED COUNTY PROPERTY

County employees are expected to use County property only for authorized work (not personal business). Property and equipment at the worksite, e.g., files, furniture, offices, mail, electronic equipment, computer systems, voicemail systems, phones, calendars, County vehicles, etc., are County property (even if locked). All County property may be examined by a Department Director, Division Manager, other designee of the Department Director, or appropriate authorities only on a need-to-know basis and if necessary to provide services, accomplish work, or investigate an issue. Employees should ensure that any personal items, such as disks, computers, files, etc., containing personal information are not kept at the worksite.

2.6 EMPLOYMENT STATUS¹³

There are three types of status associated with County employment:

Temporary Employment - Hired to work for a fixed period, generally not to exceed two years or hired to work sporadically on an as-needed basis.

Probationary Employment - Hired to work in a regular position but is serving the required probationary period.

Regular Employment - Hired to work in a regular position and has completed the required probationary period.

2.7 PROBATION¹⁴

- (A) The probationary period is the final stage of the selection process during which job performance and suitability for employment is evaluated. Department Directors are responsible for evaluating performance during probation and for exercising discipline or discharge, if necessary.
- (B) Only regular employees serve a probationary period. The probationary period is a fixed period beginning on the first day of employment with the County and is twelve months in duration. The probationary period is automatically extended (for the length of time absent) if the employee is absent for thirty calendar days or longer.
- (C) For absences less than thirty days, the probationary period may be extended, at the Department Director's discretion, only if and for the length of time an employee has been absent from work during probation and performance could not be evaluated.
- (D) Employees are on probation only once; transfer to a different position does not result in a new probationary period. However, employees who transfer into sworn fire or law enforcement positions must complete a total of twelve months' probation in sworn fire or law enforcement.

¹³Revised June 5, 2012; Effective July 1, 2012

¹⁴Revised July 30, 2007

- (E) Probationary periods for the hiring and promotion of sworn employees of the Office of the Sheriff are contained in Sections 315 and 321 of the General Orders and take precedence over these County policies.

2.8 HOLDING MULTIPLE COUNTY POSITIONS¹⁵

If an employee wishes to accept a County position in addition to his/her primary County position, the employee must notify and receive approval from his/her Department Director. If the additional position is in another department, the employee must also obtain approval from the Department Director where the additional position resides.

¹⁵Revised October 21, 2008