

Blue Ridge Juvenile Detention Commission Meeting
Thursday, September 12, 2019
Blue Ridge Juvenile Detention Conference Room
195 Peregory Lane, Charlottesville, VA
10:30 AM

- I. Call to Order
- II. Matters from the Public
- III. Meeting Minutes – May 9, 2019
- IV. Old Business
- V. New Business
 - Unaudited FY19 Financial Report
 - Policy Amendments
- VI. Matters from Director
- VII. Matters from Commission Members
- VIII. Matters from Commission Attorney
- IX. Adjournment

Blue Ridge Juvenile Detention Commission Meeting May 9, 2019

A scheduled meeting of the Blue Ridge Juvenile Detention Commission was held on May 9, 2019 @ 10:30 AM, in the Conference Room at Blue Ridge Juvenile Detention, 195 Peregrory Lane, Charlottesville, Virginia.

Members Attending: Doug Walker (County of Albemarle), Eric Dahl (County of Fluvanna), Mike Murphy (City of Charlottesville), Mark Taylor (County of Greene)

Others Attending: Jay Boland, Jeff Brill, Jodi Dillow, Jeff Gore, Cathy Roessler

I. Call to Order

The meeting was called to order by Mr. Murphy, Chairman at 10:35 AM.

II. Matters from the Public

There were no matters from the public.

III. Meeting Minutes

A motion was offered by Mr. Dahl and seconded by Mr. Walker to approve the January 10, 2019 Meeting Minutes. The motion was approved by a 3-0 voice call vote. (Mr. Taylor abstained since he was not present for the January meeting)

IV. Old Business

There was no old business.

V. New Business

- March 31, 2019 YTD Financial Report – Mr. Brill presented the March 31, 2019 YTD financial report, discussion followed.

VI. Matters from Superintendent

Ms. Roessler gave an update to the Commission on the following items:

- CPP Per Diem Increase – we and several other CPP programs are currently pursuing a per diem increase
- Isle of Wight – was voted down as a new site for a DJJ Correctional facility.
- PREA Audit – the auditor that began this process developed health issues and was unable to complete the report. We now will be using someone else to finish it.
- July Meeting – the July meeting will be cancelled due to lack of business for the Commission and staff vacations.

VII. Matters from Commission Members

Mr. Walker brought up the consideration of the fiscal agent relationships between Albemarle County and their partner agencies; discussion followed.

VIII. Matters from Commission Attorney

Mr. Gore reported that the General Assembly approved an additional percentage for FY20 salary increases, making it 3% for state supported local employees, including juvenile detention. Discussion followed and it was decided that a flat 3% would be given to BRJD staff effective July 1, 2019.

IX. Closed Session

At 11:28 AM a motion was offered by Mr. Dahl and seconded by Mr. Taylor that the Commission go into Closed Session pursuant to Section 2.2-3711(A) 1 of the Code of Virginia to consider a personnel matter. The motion was carried by a 4-0 voice call vote.

At 11:39 AM the Commission reconvened into open session and a motion was immediately offered by Mr. Dahl and seconded by Mr. Taylor that the Commission certify by a recorded vote that to the best of each member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing closed session were heard, discussed or considered in closed session:

| | |
|------------------|-----|
| Albemarle County | Yes |
| Charlottesville | Yes |
| Fluvanna County | Yes |
| Greene County | Yes |

A motion was offered by Mr. Walker and seconded by Mr. Dahl to increase the Director's salary by 3% effective July 1, 2019. The motion was carried by a 4-0 voice call vote.

X. Adjournment

The meeting adjourned at 11:42 AM.

Respectfully submitted,
Jodi L. Dillow, Recording Secretary

BLUE RIDGE JUVENILE DETENTION COMMISSION

EXECUTIVE SUMMARY

| | |
|--|---|
| <u>AGENDA TITLE:</u> June 30, 2019, YTD Unaudited Financial Report | <u>AGENDA DATE:</u> September 12, 2019 |
| <u>SUBJECT/PROPOSAL/REQUEST:</u> | <u>FORMAL AGENDA:</u> <u>INFORMATION:</u> XXX <u>ACTION:</u> No |
| <u>STAFF CONTACTS:</u> Roessler, Brill | <u>ATTACHMENTS:</u> Yes |
| | <u>REVIEWED BY:</u> |

BACKGROUND

Total Compensation is under budget by \$151,092:

- Salaries under budget \$54,647.
- Health insurance under budget \$59,685.

Operating Expenditures is under budget by \$133,550:

- Professional fees under budget \$10,070
- Maintenance contract equipment under budget \$13,089
- Electricity under budget \$16,779
- Telecommunications under budget \$8,323
- Food supplies under budget \$19,680
- Janitorial and Laundry under budget \$8,848

Operating Capital is over budget by \$19,404:

- Machinery and Equipment New over budget \$16,463 due to an unbudgeted HVAC compressor unit.
- Motor vehicles over budget \$26,698 due to an unbudgeted replacement vehicle.

Total Expenditures is under budget by \$265,238.

Revenue is over budget by \$108,354:

- Interest revenue over budget \$21,796.
- DJJ programs over budget \$63,541 due to additional residents.
- DJJ Block Grant over budget \$21,015.
- USDA under budget \$13,753.

Total Net Income is over budget by \$373,592.

Estimated Distribution of the FY 19 net income of \$373,592 to the localities as follows:

| | | |
|-----------------|-------|---------------|
| Greene | 6.3% | 23,441 |
| Fluvanna | 8.1% | 30,081 |
| Culpeper | 18.9% | 70,732 |
| Charlottesville | 42.0% | 156,860 |
| Albemarle | 24.7% | 92,478 |
| | 100% | Total 373,592 |

Recommendations: None at this time. Distributions will be proposed in November after audit completion.

**Blue Ridge Juvenile Detention
Detailed Financial Report
June 30, 2019 YTD Unaudited**

| | G | H | S | T | U | V | X |
|----|--|--------------------|------------------|------------------|--------------------|---|--------------------|
| 1 | OBJECT DESCRIPTION: | 2019 Budget | May-19 | Jun-19 | YTD | Percent of Budget as of June 2019 = 100% | Variance |
| 2 | Total Combined Compensation: | | | | | | |
| 3 | Salaries | 2,120,538 | 166,512 | 174,202 | 2,065,891 | 97.42% | (54,647) |
| 4 | Overtime wages | | 0 | 0 | 0 | #DIV/0! | 0 |
| 5 | Part-time wages | 10,000 | 750 | 600 | 6,750 | 67.50% | (3,250) |
| 6 | Accrd ann. leave/sick leave accrual | | 0 | 0 | 0 | #DIV/0! | 0 |
| 7 | FICA 7.65% | 162,986 | 12,413 | 13,236 | 154,068 | 94.53% | (8,918) |
| 8 | VRS 6.5% | 100,514 | 6,929 | 7,014 | 86,712 | 86.27% | (13,802) |
| 9 | VLTD - program | 2,400 | 259 | 276 | 3,112 | 129.67% | 712 |
| 10 | VRS Hybrid | 6,000 | 568 | 606 | 6,944 | 115.73% | 944 |
| 11 | Early Retirement | | 0 | 0 | 0 | #DIV/0! | 0 |
| 12 | Health insurance \$7794 per emp | 383,938 | 25,898 | 25,939 | 324,253 | 84.45% | (59,685) |
| 13 | Dental insurance | 11,750 | 780 | 801 | 9,322 | 79.34% | (2,428) |
| 14 | HSA contribution | 15,000 | 0 | 368 | 12,972 | 86.48% | (2,028) |
| 15 | VRS group life 1.19% | 27,779 | 2,121 | 2,151 | 26,441 | 95.18% | (1,338) |
| 16 | Group/ Life Part Time | | 0 | 0 | 0 | | 0 |
| 17 | Unemployment insurance | 5,000 | 0 | 0 | 0 | 0.00% | (5,000) |
| 18 | Workers' compensation | 30,000 | 0 | 0 | 26,828 | 89.43% | (3,172) |
| 19 | Other Benefits | 2,000 | 0 | 0 | 0 | 0.00% | (2,000) |
| 20 | Clothing allow | | | 3,520 | 3,520 | #DIV/0! | 3,520 |
| 21 | Moving Expenses | | 0 | 0 | 0 | | 0 |
| 22 | Employee physicals | | 0 | | 0 | #DIV/0! | 0 |
| 23 | Total Compensation | \$2,877,905 | \$216,230 | \$228,713 | \$2,726,813 | 94.75% | (\$151,092) |
| 24 | | | | | | | |
| 25 | Total Combined Operating Expendit | | | | | | |
| 26 | Professional Services | 12,000 | 120 | 60 | 1,930 | 16.08% | (10,070) |
| 27 | Health services | 20,000 | 1,164 | 2,100 | 13,071 | 65.36% | (6,929) |
| 28 | Wellness Fund | 5,000 | 283 | 441 | 3,904 | 78.08% | (1,096) |
| 29 | Prof services - legal | 24,000 | 2,000 | 4,000 | 24,000 | 100.00% | 0 |
| 31 | Prof services - audit | 4,700 | 0 | 0 | 4,770 | 101.49% | 70 |
| 32 | Temporary Help | | 0 | 0 | 0 | | 0 |
| 34 | R&M Buildings | 45,000 | 10,318 | 2,306 | 46,694 | 103.76% | 1,694 |
| 35 | R&M - vehicles | 900 | 0 | 0 | 0 | 0.00% | (900) |
| 36 | Maint contract - equip | 110,000 | 527 | 0 | 96,911 | 88.10% | (13,089) |
| 37 | Maint contract - buildings grounds | 15,000 | 1,376 | 955 | 12,439 | 82.93% | (2,561) |
| 38 | Printing & Binding | 1,000 | 1 | 151 | 318 | 31.80% | (682) |
| 39 | Advertising | 400 | 0 | 0 | 0 | 0.00% | (400) |
| 40 | Employee physicals | 2,000 | (1) | 0 | 3,237 | 161.85% | 1,237 |
| 41 | Other purchased services | | 0 | 0 | 0 | #DIV/0! | 0 |
| 42 | Contract - refuse | 2,000 | 159 | 0 | 1,836 | 91.80% | (164) |
| 43 | Contract - fiscal agent | 73,936 | 18,484 | 0 | 73,936 | 100.00% | 0 |
| 44 | Data processing | 30,000 | 2,937 | 3,506 | 24,295 | 80.98% | (5,705) |
| 45 | Electrical service | 67,000 | 4,444 | 0 | 50,221 | 74.96% | (16,779) |
| 46 | Gas service | 15,000 | 3,249 | 0 | 13,481 | 89.87% | (1,519) |

**Blue Ridge Juvenile Detention
Detailed Financial Report
June 30, 2019 YTD Unaudited**

| | G | H | S | T | U | V | X |
|----|-------------------------------------|------------------|-----------------|-----------------|------------------|---|--------------------|
| 1 | OBJECT DESCRIPTION: | 2019 Budget | May-19 | Jun-19 | YTD | Percent of Budget as of June 2019 = 100% | Variance |
| 47 | Water & sewer | 11,000 | 791 | 893 | 7,445 | 67.68% | (3,555) |
| 48 | Postal services | 2,000 | 0 | 500 | 1,254 | 62.70% | (746) |
| 49 | Telecommunications | 25,000 | 1,794 | 1,156 | 16,677 | 66.71% | (8,323) |
| 50 | Property/Auto Insurance | 31,000 | (1) | 0 | 29,189 | 94.16% | (1,811) |
| 52 | Training | 5,000 | 1,567 | 0 | 3,897 | 77.94% | (1,103) |
| 54 | Travel - subsistence | 8,500 | 1,080 | 0 | 5,402 | 63.55% | (3,098) |
| 56 | Curry School Grant | 5,000 | 2,500 | 0 | 2,500 | 50.00% | (2,500) |
| 57 | Miscellaneous | 1,000 | 84 | 0 | 498 | 49.80% | (502) |
| 58 | Dues & memberships | 1,000 | 135 | 13 | 1,078 | 107.80% | 78 |
| 59 | Employee recognition | 5,000 | 1,605 | 623 | 5,037 | 100.74% | 37 |
| 60 | Personal Supplies (Hygiene) | 3,500 | 951 | 0 | 1,867 | 53.34% | (1,633) |
| 61 | Office supplies | 7,500 | 666 | 8 | 6,454 | 86.05% | (1,046) |
| 62 | Food supplies | 120,000 | 14,057 | 7,816 | 100,320 | 83.60% | (19,680) |
| 63 | Expenses ACRJ & BRJD | 36,000 | 9,000 | 0 | 36,000 | 100.00% | 0 |
| 64 | Meals for Meetings | 2,000 | 347 | 501 | 1,875 | 93.75% | (125) |
| 65 | Agricultural | | 0 | 0 | 1,581 | #DIV/0! | 1,581 |
| 66 | Medical & Pharmaceutical | 8,000 | 452 | 29 | 5,548 | 69.35% | (2,452) |
| 67 | Laundry & janitorial supplies | 20,000 | 1,842 | 265 | 11,152 | 55.76% | (8,848) |
| 68 | Linen supplies | 2,000 | 142 | 0 | 847 | 42.35% | (1,153) |
| 69 | Uniforms - Resident | 6,000 | 2,200 | 927 | 5,225 | 87.08% | (775) |
| 70 | R&M supplies | 13,000 | 1,319 | 145 | 9,085 | 69.88% | (3,915) |
| 71 | Vehicle & equip fuel | 2,000 | 212 | 39 | 2,136 | 106.80% | 136 |
| 72 | Vehicle & equip supplies | 2,000 | 0 | 1 | 1,143 | 57.15% | (857) |
| 73 | Security supplies | 3,000 | 1,187 | 0 | 2,776 | 92.53% | (224) |
| 74 | Uniforms - Staff | 8,000 | 0 | 1,651 | 2,516 | 31.45% | (5,484) |
| 75 | Books & subscriptions | 2,000 | 157 | 13 | 379 | 18.95% | (1,621) |
| 76 | Resident Education | 14,000 | 1,890 | 1,773 | 6,829 | 48.78% | (7,171) |
| 77 | Recreation Supplies & Equipment | 5,000 | 76 | 2,355 | 4,519 | 90.38% | (481) |
| 78 | Other operating supplies | 800 | 0 | 0 | 0 | 0.00% | (800) |
| 79 | Copy supplies | 600 | 0 | 0 | 14 | 2.33% | (586) |
| 80 | Prior year expense | | | | | #DIV/0! | 0 |
| 81 | State reduction Reimbursement | | 0 | 0 | | #DIV/0! | 0 |
| 82 | Total Operating Expenditures | \$777,836 | \$89,114 | \$32,227 | \$644,286 | 82.83% | (\$133,550) |

**Blue Ridge Juvenile Detention
Detailed Financial Report
June 30, 2019 YTD Unaudited**

| | G | H | S | T | U | V | X |
|-----|--|--------------------|------------------|------------------|--------------------|---|--------------------|
| 1 | OBJECT DESCRIPTION: | 2019 Budget | May-19 | Jun-19 | YTD | Percent of Budget as of June 2019 = 100% | Variance |
| 83 | | | | | | | |
| 84 | Total Combined Operating Capital: | | | | | | |
| 85 | Machinery & equip - new | 20,000 | 0 | 0 | 6,274 | 31.37% | (13,726) |
| 86 | M&E - replacement | | 0 | 0 | 16,463 | #DIV/0! | 16,463 |
| 87 | Furniture & fixtures - new | 10,000 | 0 | 0 | 9,958 | 99.58% | (42) |
| 88 | F&F - replacement | 35,000 | 0 | 6,007 | 35,895 | 102.56% | 895 |
| 89 | Communications equip | | 0 | 0 | 0 | #DIV/0! | 0 |
| 90 | Comm equip - replacement | | 0 | 0 | 0 | #DIV/0! | 0 |
| 91 | Motor vehicles | 30,000 | 32,736 | 0 | 56,698 | 188.99% | 26,698 |
| 94 | ADP Equipment | 8,000 | 0 | 4,625 | 4,625 | 57.81% | (3,375) |
| 95 | ADP Equipment - Rep | 5,000 | 0 | 0 | 0 | 0.00% | (5,000) |
| 96 | Software Upgrade | | 0 | 0 | 0 | #DIV/0! | 0 |
| 97 | Lease/Rent Equip. | 7,000 | 633 | 481 | 4,491 | 64.16% | (2,509) |
| 98 | Fund Transfers | | 0 | 0 | 0 | #DIV/0! | 0 |
| 99 | Total Operating Capital | \$115,000 | \$33,369 | \$11,113 | \$134,404 | 116.87% | \$19,404 |
| 100 | | | | | | | |
| 101 | Total Expenditures | \$3,770,741 | \$338,713 | \$272,053 | \$3,505,503 | 92.97% | (\$265,238) |

Blue Ridge Juvenile Detention
Detailed Financial Report
June 30, 2019 YTD Unaudited

| | G | H | S | T | U | V | X |
|-----|--|--------------------|--------------------|------------------|--------------------|---|------------------|
| 1 | OBJECT DESCRIPTION: | 2019 Budget | May-19 | Jun-19 | YTD | Percent of Budget as of June 2019 = 100% | Variance |
| 102 | | | | | | | |
| 103 | | | \$338,713 | \$272,053 | \$3,505,503 | | |
| 104 | Operating Revenues: | | | | | | |
| 105 | Interest | 5,000 | | 3,236 | 26,796 | 535.92% | 21,796 |
| 109 | Other jurisdictions | | | | 0 | #DIV/0! | 0 |
| 110 | Salvage Surplus | | | | 6,764 | #DIV/0! | 6,764 |
| 111 | Charlottesville | 871,266 | 72,603 | 72,600 | 871,266 | 100.00% | 0 |
| 112 | Albemarle County | 512,387 | 42,699 | 42,699 | 512,387 | 100.00% | 0 |
| 113 | Fluvanna County | 168,030 | 14,003 | 14,000 | 168,030 | 100.00% | 0 |
| 114 | Culpeper new 7-1-07 | 392,070 | 32,672 | 32,673 | 392,070 | 100.00% | 0 |
| 115 | Greene County | 130,690 | 10,891 | 10,889 | 130,690 | 100.00% | 0 |
| 116 | Phone System | 5,000 | 870 | 479 | 7,423 | 148.46% | 2,423 |
| 117 | Region Ten | 16,800 | | | 6,300 | 37.50% | (10,500) |
| 118 | Garden Funds | | 100 | | 463 | #DIV/0! | 463 |
| 119 | Miscellaneous | 3,500 | 65 | | 9,765 | 279.00% | 6,265 |
| 120 | Recovered Cost - Compensation | 25,000 | | | 27,850 | 111.40% | 2,850 |
| 121 | Insurance Recoveries | | | 1 | 8,340 | #DIV/0! | 8,340 |
| 123 | State Per Diem | | | 150 | 150 | #DIV/0! | 150 |
| 124 | DJJ Block Grant | 851,998 | | 3,753 | 873,013 | 102.47% | 21,015 |
| 125 | CPP Program/CAP/re-entry | 750,000 | 9,100 | 227,461 | 813,541 | 108.47% | 63,541 |
| 126 | Mis state Revenue | 1,000 | | | 0 | 0.00% | (1,000) |
| 127 | DCJS Grant | | | | 0 | #DIV/0! | 0 |
| 130 | US Dept. of Agriculture | 38,000 | 8,636 | | 24,247 | 63.81% | (13,753) |
| 134 | Subtotal Operating Revenues | \$3,770,741 | \$191,639 | \$407,941 | \$3,879,095 | 102.87% | \$108,354 |
| 135 | Excess of Oper Revs > Expenditures | \$0 | (\$147,074) | \$135,888 | \$373,592 | | \$373,592 |

BRJD Census Data

| FY 19 | <u>Albemarle</u> | <u>Cville</u> | <u>Culpeper</u> | <u>Fluvanna</u> | <u>Greene</u> | <u>Other</u> | <u>CPP</u> | |
|--------------|-------------------------|----------------------|------------------------|------------------------|----------------------|---------------------|-------------------|------|
| Jul-18 | 38 | 6 | 107 | 4 | 0 | 0 | 293 | 448 |
| Aug-18 | 77 | 16 | 69 | 0 | 4 | 0 | 277 | 443 |
| TOTAL | 115 | 22 | 176 | 4 | 4 | 0 | 570 | 891 |
| ADP | 1.9 | 0.4 | 2.8 | 0.1 | 0.1 | 0.0 | 9.2 | 14.4 |
| Percent | 12.9% | 2.5% | 19.8% | 0.4% | 0.4% | 0.0% | 64.0% | 100% |
| Local Share | 35.8% | 6.9% | 54.8% | 1.2% | 1.2% | N/A | N/A | 100% |

| FY 20 | <u>Albemarle</u> | <u>Cville</u> | <u>Culpeper</u> | <u>Fluvanna</u> | <u>Greene</u> | <u>Other</u> | <u>CPP</u> | |
|--------------|-------------------------|----------------------|------------------------|------------------------|----------------------|---------------------|-------------------|------|
| Jul-19 | 81 | 66 | 66 | 14 | 11 | | 353 | 591 |
| Aug-19 | 83 | 27 | 6 | 0 | 10 | | 346 | 472 |
| TOTAL | 164 | 93 | 72 | 14 | 21 | 0 | 699 | 1063 |
| ADP | 2.6 | 1.5 | 1.2 | 0.2 | 0.3 | 0.0 | 11.3 | 17.1 |
| Percent | 15.4% | 8.7% | 6.8% | 1.3% | 2.0% | 0.0% | 65.8% | 100% |
| Local Share | 45.1% | 25.5% | 19.8% | 3.8% | 5.8% | N/A | N/A | 100% |

BLUE RIDGE JUVENILE DETENTION COMMISSION

EXECUTIVE SUMMARY

| | |
|--|--|
| <u>AGENDA TITLE:</u> Proposed BRJD Policy P-61. | <u>AGENDA DATE:</u> September 12, 2019 |
| <u>SUBJECT/PROPOSAL/REQUEST:</u> Request approval of policy change to BRJD Policy P-61/62. | <u>FORMAL AGENDA:</u> <u>INFORMATION:</u> XXX <u>ACTION:</u> No |
| <u>STAFF CONTACTS:</u> Roessler | <u>ATTACHMENTS:</u> (1) Draft of proposed BRJD Policy P-61. <u>REVIEWED BY:</u> Jeff Gore |

BACKGROUND: BRJD Policy P-61/62, *Overtime/Compensatory Time Policy*, was modified from Albemarle County's §P-61, of the same name, and approved by the BRJD Commission on February 9, 2006. Albemarle County is currently implementing a new County-wide timekeeping system and as a result, they have updated §P-61, renaming it *Staff Schedules, Time Tracking, and Compensation*, effective April 1, 2019.

BRJD began utilizing the new timekeeping system in July of this year. During the process of training staff on the new timekeeping procedures, it became clear that a number of BRJD's policies would also need to be updated. The attached draft was modified from Albemarle County's most recent version of §P-61, dated April 1, 2019. All elements covered in the previous approved version of BRJD P-61/62 are included in the proposed version of BRJD P-61. In addition, the proposed version adds language for clarification specific to BRJD and removes sections/language that has not historically applied to BRJD.

Current Policy

BRJD P-61/62, *Overtime/Compensatory Time Policy*

Proposed Policy

BRJD P-61, *Staff Schedules, Time Tracking, and Compensation*.

RECOMMENDATION: I recommend noted changes to BRJD Policy P-61/62 take effect immediately with acceptable review from Commission Attorney.

~~COUNTY OF ALBEMARLE~~
BLUE RIDGE JUVENILE DETENTION
 PERSONNEL POLICY

BRJD P-61 STAFF SCHEDULES, TIME TRACKING, AND COMPENSATION POLICY

The ~~County~~ **Blue Ridge Juvenile Detention Commission** has established the following procedures to compensate employees fairly and in accordance with federal, state, and local laws for all time worked. ~~The County approves the annual staffing plan through the budget process each fiscal year. Staffing allocations are made for each department that determine the number and type of positions for employee payroll.~~ These policies and procedures establish guidelines and expectations for employees and supervisors.

I. Staff Schedules

A. Classified Staff

~~The supervisor of every classified employee~~ **BRJD Director** shall determine the employee's work schedule in accordance with the base weekly hours for that position and the needs of the department. ~~Department heads/designees~~ **The Director** may require that employees work additional time or alternative schedules to meet the needs of the department. Whenever possible, supervisors shall give advance notice as soon as the work schedule change is determined so that the employees are able to arrange their personal schedules.

II. Alternative Schedules

~~A. Guidelines: Department heads/designees may permit alternative work schedules for staff provided that the following conditions are met:~~

- ~~1. The department is open to the public on all days other than posted holidays and emergency closings;~~
- ~~2. Employees work the requisite number of hours for their positions; and~~
- ~~3. All applicable personnel policies are followed.~~

B. Flex Time: Non-exempt employees are paid based upon hours worked or leave taken during the workweek or work period. In lieu of taking leave, a supervisor may allow an employee to work an alternative schedule in a given workweek or work period as long as all base weekly hours are accounted for within the workweek or work period. Exempt employees may work alternative schedules with supervisor approval.

III. Overtime and Compensatory Time Leave Compensation

Non-exempt employees are entitled to overtime pay or compensatory time leave in accordance with the Fair Labor Standards Act (FLSA) for hours worked in excess of their maximum allowable hours at one and one-half (1.5) times their regular rates of pay. The following regulation establishes the general guidelines and procedures ~~the County~~ **BRJD** will follow regarding overtime and compensatory time leave

requirements of the FLSA and applicable state law. If any conflict arises between this policy and the FLSA or state law, the requirements of the FLSA and/or state law will govern.

PERSONNEL POLICY

PROCEDURE FOR STAFF SCHEDULES, TIME TRACKING, AND COMPENSATION

I. Overview and Key Terms

- A. **Base Weekly Hours.** Each regular employee has a designated number of official hours per workweek or work period that have been set for the position. While an employee's actual daily work schedule may vary, the employee's base weekly hours remain the same. For example, an employee with 40 base weekly hours may work five (5) eight (8)-hour shifts or may work four (4) 10-hour shifts.
- B. **Full-Day Increments.** Full-day increments refers to the entire scheduled day and not a "day of leave" as defined in Policy § XX Leave Program.
- C. **Exempt Employees.** Employees in certain positions are exempt from overtime pay requirements and compensatory time leave eligibility if the positions satisfy the criteria for the exemptions defined under the FLSA. Positions will be designated as exempt or non-exempt by the Department of Human Resources and approved by the County Executive/designee. **BRJD Director in consultation with the BRJD Commission's attorney.**
- D. **Fair Labor Standards Act.** The FLSA requires all covered employers, including the County, to comply with its minimum wage and overtime compensation requirements.
- E. **Hours Worked.**
 1. **General.** Non-exempt employees who work more than the maximum allowable hours in a workweek or work period must receive either overtime pay or compensatory time leave for their excess hours worked. Paid or unpaid time off during which the employee is absent from service for the County shall not be counted as "hours worked" in determining if the maximum allowable number of hours has been exceeded, ~~except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.).~~ Such absences include, but are not limited to, holiday, sick, annual, and compensatory time leave; leaves of absence; **and** meal breaks; ~~and building closures.~~
 2. **Breaks.** FLSA does not require rest breaks or meal breaks. However, supervisors should allow employees time to attend to health and hygiene needs. Supervisors may designate specific times for rest and meal breaks. Department heads may establish department-wide standards to ensure efficient operations and service. Non-exempt employee rest breaks longer than 20 minutes are not compensable as time worked as long as no work is performed and the employee is free to leave his/her post. Non-exempt employee meal breaks 30 minutes or longer are not compensable as time worked as long as the employee is completely relieved from duty and free to leave his/her post.

PERSONNEL POLICY

3. **Travel Time.** When non-exempt employees are required to work outside of ~~County facilities~~ **the facility**, the hours involved in the actual travel, as well as the hours working, shall be considered time worked. Employees shall report this time to their supervisors, using procedures established for that purpose. Ordinary travel/commute between an employee's home and work shall not be considered hours worked, unless approved as hours worked by the ~~Department of Human Resources.~~ **Director of BRJD.**
- ~~F. **Leaving Premises During the Workday.** Departments may establish their own sign-out/notification procedures for employees leaving the premises during the workday.~~
- G. **Maximum Allowable Hours.** A non-exempt employee must be compensated for overtime once the employee has exceeded the maximum allowable hours. Maximum allowable hours for employees are as follows:
- | | |
|--|--|
| 7(k) exempt ¹ Sworn Law Enforcement | 171 hours within the 28-day work period |
| 28-day Cycle Employees | |
| 7(k) exempt Uniformed Fire Rescue | 212 hours within the 28-day work period |
| All Other Employees | 40 hours within the workweek |
- H. **Non-exempt Employees.** Employees who are subject to the FLSA's overtime and compensatory time leave requirements are considered non-exempt.
- I. **Overtime.** This is time that non-exempt employees physically work in excess of the maximum allowable hours per workweek or work period, ~~except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). The County~~ **BRJD** must compensate an eligible employee for time worked in excess of the maximum allowable hours by making monetary payment at one and one-half (1.5) times the employee's regular rate of pay for each hour or portion thereof worked or by granting compensatory time leave at the rate of one and one-half (1.5) times for each hour or portion thereof worked.
- J. **Pay by Exception.** Albemarle County **is BRJD's fiscal agent and** operates on a "pay by exception" system. Each regular employee has a designated number of hours per fiscal year the employee has been allocated as part of the organization staffing plan. These annual hours are divided equally into the number of established pay cycles. The payroll system will pay this amount automatically unless the employee and supervisor submit adjustments to the base weekly hours such as overtime or leave without pay.

¹—"7(k) exempt" refers to 29 U.S.C. § 207(k), which provides public agencies a partial exemption to overtime compensation requirements for employees engaged in fire protection or law enforcement activities.

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- ~~K. **Premium Pay.** This refers to additional compensation, exclusive of overtime, non-exempt employees may receive as an incentive for specific types of work, i.e., shift differentials.~~
- L. **Regular Schedule.** All regular employees have a designated schedule each workweek or work period based upon the base weekly hours. Changes to a non-exempt employee's regular schedule that impact the base weekly hours may cause changes to the employee's pay, such as overtime or leave without pay.
- M. **Straight Time.** A non-exempt employee's non-overtime hours worked, compensated at the employee's hourly rate.
- N. **Work Schedules.** The department head/designee is responsible for establishing employee work schedules, including allowances for breaks and meal periods.
- ~~O. **Workweek and Work Period.** The County Executive Director has established the official workweek as seven (7) days, extending from Saturday at 12:01 a.m. to Friday at 12 midnight. The work period for 7(k) exempt law-enforcement and fire-rescue employees security staff is a 28-day period which is determined by the Director. The beginning and ending time for the 28-day work period under section 207(k) of the Fair Labor Standards Act shall be determined by the appropriate department head.~~

II. Tracking Time and Pay Adjustments

A. Non-exempt Employees

1. **Time Recording.** Non-exempt employees are paid for time worked on an hourly (or portion thereof) basis. All non-exempt employees must complete and submit, in a timely manner, accurate data recording their hours worked and leave taken. Failure to do so may result in disciplinary action in accordance with County BRJD policy.
2. **Increments.** Rounding rules up or down to the quarter-hour will be established for County-wide consistency. Departments The Director may set reasonable expectations for adherence to work schedules. An employee may be counseled or disciplined for tardiness; however, pay will follow the rounding rules.
3. **Reductions in Pay.** In the County's pay by exception system, when an employee misses work in the workweek or work period and has insufficient leave to make up the variance from the base weekly hours, the non-exempt employee will be docked pay for that workweek or work period in 15-minute increments. Employees may also be docked pay for disciplinary purposes in accordance with County BRJD policy.

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B. Exempt Employees

1. Time Recording. Exempt employees are expected to follow established procedures and policies for exempt employee time tracking and leave submission. Failure to do so may result in disciplinary action in accordance with ~~County~~ **BRJD** policy.
2. Increments. Exempt employees are compensated on a salary basis. The salary may be calculated on a daily or weekly basis depending on the position. However, exempt employees are not paid based upon physical time worked.
3. Reductions in Pay.
 - a. Exempt employees may be docked pay in accordance with FLSA, FMLA, Workers' Compensation laws, and other applicable laws. Generally, pay may be docked for partial weeks worked during the first and last weeks of employment and situations where a benefits-eligible employee has insufficient leave accrued or chooses to take leave without pay. Pay must be docked in full-day increments, excluding exceptions permitted under law. Benefits-ineligible employees may not be docked pay when work is performed in the workweek or work period, unless permitted by law. Supervisors may require any exempt employees to make up missed work in another workweek or work period.
 - b. Discipline. Any exempt employee may be docked pay in full-day increments for disciplinary purposes in accordance with ~~County~~ **BRJD** policy.

III. Overtime Pay and Compensatory Time Leave

A. Eligibility to Earn Overtime Pay/Compensatory Time Leave

1. Non-exempt Employees. Unless excluded by the FLSA, all non-exempt regular employees of the ~~County~~ **BRJD** who work in excess of 40 hours within a workweek or the maximum allowable hours within one 28-day work period are eligible to receive overtime pay and/or compensatory time leave. Temporary employees are not eligible to receive compensatory time leave, but are eligible to receive overtime pay.
2. Exempt Employees. Exempt employees are not eligible to earn overtime, whether as monetary payment or compensatory leave time. However, this does not preclude department heads from using their discretion to grant time off to exempt employees in recognition of time worked beyond normal work schedules.

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B. Calculation of Overtime/Compensatory Time Leave

All non-exempt employees are to be compensated for overtime hours worked. This compensation may be monetary or through the accrual of compensatory time leave. Time is calculated based on the entire workweek or work period and not on a daily basis. Overtime is not earned until the maximum allowable hours have been physically worked, ~~except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.).~~ Calculation of overtime/compensatory time leave shall be as follows.

1. ~~Fire Rescue Employees. Fire Rescue employees who are 7(k) exempt and work over 212 hours within the 28-day work period are to be paid overtime pay. They are also subject to the Gap Pay Act (Virginia Code § 9.1-700, et seq.). References to overtime pay throughout policy includes gap pay required by the Virginia Code.~~

2. ~~Sworn Law Enforcement Employees. Sworn law enforcement employees who are 7(k) exempt and work over 171 hours within the 28-day work period are to be paid overtime pay. They are also subject to the Gap Pay Act (Virginia Code § 9.1-700, et seq.). References to overtime pay throughout policy includes gap pay required by the Virginia Code.~~

28-day Cycle Employees. All security staff subject to the 28-day cycle and work over 171 hours within the 28-day work period are to be paid overtime pay or through the accrual of compensatory time leave.

3. All Other Employees. All other non-exempt employees who physically work over 40 hours within the workweek are to be paid overtime pay.

4. Compensatory Time Leave. A non-exempt regular employee may be compensated at the rate of one and one-half (1.5) hours of compensatory time leave for each overtime hour worked in a workweek or work period instead of overtime pay referenced in B.1-3. The employee and supervisor must agree to compensatory time leave as compensation. ~~If a supervisor is offering only compensatory time leave as payment, the employee must agree to accept compensatory time leave or be able to decline the additional work. Otherwise, overtime pay must be provided for required additional work.~~ Temporary employees are not eligible for compensatory time leave in lieu of overtime pay.

5. Compensation for Additional Non-Overtime Work. ~~When a non-exempt employee works more than his/her base weekly hours, the employee must be paid his/her hourly rate (straight time) for those excess hours worked, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). Compensatory time leave may not be earned except as overtime.~~ Non-exempt employees who work in excess of their regularly scheduled work hours, but who do not exceed the maximum allowable number of hours as defined above, may be granted compensatory leave in the amount of one hour of leave for each hour

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worked or may be paid their regular hourly rate in lieu of compensatory leave for hours worked.

6. ~~Dual Job Employees.~~

- a. ~~Two or More Non-exempt Positions.~~ Employees who have two or more non-exempt regular positions contributing to overtime hours are eligible for both overtime pay and compensatory time leave. These employees may receive overtime pay at the blended overtime rate or earn compensatory leave time in accordance with B.4. Department heads shall consult with Human Resources for guidance regarding the payment of overtime compensation to these employees.
- b. ~~Exempt and Non-exempt Regular Positions.~~ For employees who have one or more exempt regular position(s) and one or more non-exempt regular position(s), the eligibility for overtime is determined by the primary position (the position with the highest part-time percentage). When the primary position is classified as non-exempt, all work performed in both positions contributes to the total hours for the workweek or work period. When the primary position is classified as exempt, the employee is not eligible to earn overtime or compensatory time leave. The employee may receive straight time pay for hours worked in the workweek or work period beyond the base weekly hours in the non-exempt position.
- c. ~~Non-exempt Regular and Temporary Positions.~~ If a non-exempt regular employee also has time worked in a non-exempt temporary position during the workweek, all such time worked counts towards the maximum allowable hours. The supervisor of the regular position may deny the earning of compensatory time leave in lieu of overtime pay, regardless of which position(s) contributed to the overtime hours. If a supervisor denies compensatory time leave, overtime must be paid at the blended overtime rate.
- d. ~~Non-exempt Regular Employees Working Exempt Temporary Positions.~~ As long as the exempt temporary position is occasional and sporadic, the hours worked in the temporary position do not count towards the maximum allowable hours. Supervisors of temporary positions shall contact the Department of Human Resources before scheduling any non-exempt regular employee for exempt temporary work.

C. Compensatory Time Leave Payouts

- 1. ~~Maximum Balances.~~ Employees eligible for the public safety exemption may accrue up to 240 **80** hours of compensatory time

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leave. All other regular, non-exempt employees may accrue up to 100
hours of compensatory time leave.

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2. Job Changes. Upon termination of regular employment, non-exempt employees shall be paid for unused compensatory time leave. A non-exempt employee who is transferring to another department or who is changing from a non-exempt to an exempt position shall be paid for the unused compensatory time leave balance or reach an agreement with the current department head to use any accumulated compensatory leave prior to the effective date of the change. The employee's compensatory time leave balance must be zero (0) prior to the starting date for the new position.
3. Compensatory Time Leave Payout Requests.
 - a. ~~Department heads may offer periodically partial or full payouts of accrued compensatory time leave. Fair practices must be established to provide equal access to all eligible non-exempt employees. Department heads may not make payouts under the maximum compensatory time leave balance without employee approval.~~
 - b. Employees may request partial or full payouts of accrued compensatory time leave. Payouts are subject to department head approval and budgetary considerations. Department heads may set fair and consistent limits.
4. Compensatory Time Leave Payout Rate.
 - a. During Employment: When compensatory time leave is paid during the course of employment, it will be paid at the employee's current regular rate.
 - b. Upon Termination: When compensatory time leave is paid upon termination of employment, it will be paid at a rate of compensation not less than:
 - i. ~~The average regular rate the employee received during the last 3 years of employment, or~~
 - ii. The employee's final regular rate, ~~whichever is higher.~~

D. Employer Responsibilities

1. Managing the Accrual of Overtime. Department heads/designees may require employees to work additional time or overtime to meet the needs of the department. They are also responsible for managing non-exempt employees' hours worked whenever possible within the designated workweek or work period to avoid overtime. If an employee works more than the designated work hours in a day, the employee's supervisor may adjust the employee's work schedule for that

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workweek or work period by the amount of the excess time worked to avoid the accrual of overtime.

The County **BRJD** will compensate an employee for any time worked in excess of the employee's base weekly hours. However, an employee may be disciplined for working unapproved time.

2. Availability of Funds. Department heads/designees shall ensure that adequate funds are available to pay required overtime compensation and compensatory time leave payouts.
3. Scheduling Compensatory Time Leave. ~~(See Policy § P-XX, Leave Program.)~~

Employees are required to arrange use of compensatory leave in advance with their supervisors. In case of a conflict because of the work schedule in a particular department, leave will be granted at the discretion of their supervisors.

Department heads/designees and supervisors shall be responsible for scheduling compensatory leave so that it may be taken within a reasonable period of time after the employee requests it, so long as such use does not unduly disrupt the operations of the department. A "reasonable period" under the FLSA is determined by considering the customary work practices within the department, such as: a) the normal schedule of work; (b) anticipated workloads based on past experience; (c) emergency requirements for staff and services; and (d) the availability of qualified substitute staff. Leave is considered to "unduly disrupt the operations of the department" if it would impose an unreasonable burden on the department's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.

4. Recordkeeping. Department heads/designees shall ensure that all non-exempt employees complete and submit, on a timely basis, accurate data recording their hours worked and leave taken. They shall also ensure that exempt employees submit timely and accurate leave records.

E. Employee Responsibilities

Authorization for Overtime. Non-exempt employees may work additional time beyond their scheduled hours only with prior authorization from their supervisor. Failure to obtain prior authorization may result in disciplinary action in accordance with County **BRJD** policy.

~~IV. ON-CALL AND CALL-BACK COMPENSATION~~

~~A. On-Call Compensation~~

1. ~~Purpose.~~ Employees may be required to be available to return to work or “on-call” during a scheduled period. On-call periods have been established as 12-hour periods for the entire County. Department heads/designees may schedule employees to be on-call for shorter periods based on business needs.

2. ~~Compensation and Eligibility.~~ A regular or temporary non-exempt employee on-call will be paid a flat fee equal to one and a quarter (1.25) of the employee’s hourly rate for each 12-hour on-call period. When an on-call period of less than 12 hours has been designated, an employee will still receive one unit of on-call pay for the period. Periods during which an employee is on-call are not time worked and do not count towards maximum allowable hours for overtime. For example, an employee who makes \$10.00/hour and is on-call for a designated eight (8)-hour shift would receive \$12.50 for one on-call period. If the on-call shift was 13 to 24 hours, the employee would receive \$25.00 for two (2) on-call periods.

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~~Non-exempt employees who are on-duty while they are on-call are to be compensated for the time they are on-duty as time worked. Whether the FLSA considers an employee to be "on-duty" while on-call depends on a number of circumstances, including, but not limited to, being required to remain on the employer's premises and being restricted from using on-call time effectively for personal purposes.~~

~~Exempt employees are not eligible to receive on-call compensation.~~

- ~~3. Condition to Work. Employees who are "off-duty", but on-call, must remain in a work-appropriate condition. This includes, but is not limited to, refraining from consuming substances that impair or compromise an employee's ability to work.~~
- ~~4. Departmental Expectations. Departments may develop on-call guidelines and expectations for employees for "off-duty" on-call time based on departmental needs. Department heads must submit their proposed guidelines to the Human Resources Department for approval to ensure that they meet all applicable legal and policy requirements.~~

~~On-call compensation will be authorized only if the on-call service meets all the following criteria:~~

- ~~a. Service must be mandated.~~
- ~~b. On-call employees are expected to respond promptly to calls, resulting in partially restricted personal time of on-call employees. Specific required response times may vary depending on individual departmental requirements.~~
- ~~c. On-call employees will not be called if another employee is already on-duty and available to perform the required services.~~
- ~~d. The department's on-call guidelines have been approved by the Department of Human Resources.~~
- ~~5. Reporting for Work. While on-call, an employee may be contacted to report to work. An employee who is called in to work from on-call status is eligible for call-back compensation. The employees will also retain the on-call compensation in addition to wages for time worked.~~
- ~~6. Special Provisions Regarding CPS Workers. Child protective service workers employed by the Department of Social Services shall be compensated for their on-call service in accordance with all state-mandated requirements.~~

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B. Call-Back Compensation

1. Purpose. There may be times when supervisors may need employees to report back to work on short notice outside of the employee's work schedule. Call-Back status occurs when a department head/designee requires a non-exempt employee to report back to work outside of the employee's work schedule on less than 24-hour notice. Call-back is not hours worked beyond the schedule which require an employee to stay at work, such holdover time shall be compensated as straight time or overtime as applicable. Additionally, work schedule changes with more than 24 hours' notice are not call-back hours. Whenever possible, supervisors should give notice to employees when the need for call-back may occur, ~~such as for an anticipated snowstorm.~~
2. Eligibility for Call-Back Compensation. Any regular non-exempt employee who is called back to work as described above by the department head/designee shall be paid call-back compensation.

Temporary, non-exempt employees who have regular work schedules which are changed via call-back are eligible. Temporary employees who work on an intermittent, occasional, or sporadic basis do not qualify for call-back pay when scheduled or called to work with less than 24 hours' notice.

While exempt employees may be called back to work with short notice, they are not eligible for call-back pay.

3. Condition to Work. Employees who are called back for work must report in a work-appropriate condition that includes, but is not limited to, the non-consumption of substances that impair or compromise an employee's ability to work. If an employee is not in a condition to work, the employee must disclose that to the supervisor before reporting for duty.
4. Compensation. The call-back compensation rate is one and one-half (1.5) times the employee's regular hourly rate for call back hours. If an employee exceeds the maximum allowable hours for the workweek or work period, ~~or as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.),~~ the employee will receive overtime pay instead of call-back pay. The employee may not receive both for the same hours worked. In lieu of receiving overtime pay, employees may receive compensatory time leave in accordance with the established procedures above.

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Once an employee has been called back to work, the employee will be guaranteed a minimum of two (2) hours of call-back pay even if less than two (2) hours of work are performed. An employee will receive call-back pay for all hours worked. Ordinary travel/commute between an employee's home and work shall not be considered hours worked, unless approved as hours worked by the Department of Human Resources. Emergency travel time to a location other than the employee's regular place of business which requires travel of a substantial distance (more than the employee's typical commute) is considered hours worked. Only hours physically worked or call back emergency travel time to work count towards the maximum allowable hours. ~~An employee called back to work from "on-call" status may keep the on-call pay in addition to call-back pay received.~~ When work is completed, travel time home is not compensable as time worked.

~~If an essential personnel employee receives additional pay due to building closure, the employee is not eligible for call-back for the same hours worked.~~

~~V. HOLIDAY PAY~~

~~Please refer to Policy § XX, Leave Program, for information on pay for work performed on a holiday.~~

~~VI. SHIFT DIFFERENTIALS~~

~~Non-exempt regular and temporary employees may be regularly or periodically scheduled to work evening or midnight shifts and may receive premium pay for such work. When five (5) or more hours are physically worked in either shift, the employee will receive the following additional percentage of his/her hourly rate for each hour worked in the range.~~

~~Evening: 3:00 p.m. — 12:00 a.m. — 5% of the hourly rate premium pay~~

~~Midnight: 12:00 a.m. — 9:00 a.m. — 6% of the hourly rate premium pay~~

~~Shift differential premium pay will not be granted when less than five (5) hours of work are performed in the designated range. Although an employee may be regularly assigned to an evening or night shift, the shift premium will not be paid when paid leave is taken, nor will the employee be charged the premium for leave without pay. Fire Rescue employees who are 7(k) exempt are not eligible for this shift differential premium pay.~~

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VII. ~~BUILDING CLOSURES DUE TO INCLEMENT WEATHER AND/OR EMERGENCY SITUATIONS~~

~~Employees may be required by their supervisors to report to work during building closure periods designated by the County Executive/designee. Please refer to policy § P-XX, Coverage Due to Inclement Weather and/or Emergency, for more information. While they may be deemed essential personnel, employees on the public safety pay scales are not eligible for additional pay due to building closures. Compensation for other essential personnel will be as follows:~~

A. ~~Employees Required to Work.~~ ~~Any non-exempt, regular employee who is required by his/her supervisor to work during building closure periods shall be deemed essential personnel and will be paid a premium equal to the employee's hourly rate for any time the employee works during the building closure period. This premium is in addition to the regular wages essential personnel earn for any time worked in accordance with this policy.~~

~~For example, if the building closure period is 6am-10am, the employee's work schedule is 8am-4pm, and the employee works 9am-4pm (no lunch break) on the day of the closure as directed by the supervisor, the employee would receive one (1) hour of paid administrative leave due to building closure (8am-9am), one (1) hour of essential personnel additional pay due to building closure (9am-10am), and seven (7) hours of pay for time worked (9am-4pm).~~

B. ~~Employees Not Required to Work.~~ ~~Any non-exempt, regular employee who chooses to work when not required to report to work will not receive additional pay due to a building closure, but will be compensated for that time worked as straight time or overtime as appropriate.~~

VIII. PROFESSIONAL LEARNING

~~See Policy § P-87, Professional Learning, for more information on compensable work time for training and learning activities.~~

IX. COURT APPEARANCES / HEARINGS JURY DUTY

When employees are subpoenaed to appear as witnesses in legal proceedings or participate in hearings with other federal, state, or local agencies in their capacities as County **BRJD** employees, the time spent in such work-related proceedings will be treated as compensable work time. **Court time worked by Direct Care Staff outside of the regularly scheduled work hours for that day shall be compensated at one and one-half times the employee's regular hourly rate regardless of the number of hours worked in that work period.**

Employees who initiate or are otherwise involved in legal actions of any kind (excluding employee grievance proceedings) in their private capacity and not as a County **BRJD** employee, whether such actions involve the County **BRJD** or not, will not be permitted to treat such time as compensable work time. Leave may be requested in accordance with policy § P-XX, **BRJD P-86**, Leave Program.

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The Commission recognizes the duty of every citizen to serve on a jury when requested and will allow payment for the daily rate of pay for each day of jury service. Employees are expected to give notice of jury duty and to report to work when jury is not in session.

X. ~~SPECIAL PROVISIONS FOR SWORN LAW ENFORCEMENT EMPLOYEES~~

A. ~~Court Appearances/Hearings.~~ Work-related Court appearances/hearings worked by sworn law enforcement employees outside of the regular work schedule for that day will be paid at one and one-half (1.5) times the employee's regular hourly rate. If an employee exceeds the maximum allowable hours for the work period, or as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.), while attending work-related Court hearings, the employee will receive overtime pay instead of court pay. The employee may not receive both for the same hours worked. In lieu of receiving overtime pay, employees may receive compensatory time leave in accordance with the established procedures above. These employees will be guaranteed a minimum of two (2) hours of court pay even if less than two (2) hours of work are performed. Only hours physically worked count towards the maximum allowable hours.

B. ~~Contractual Overtime.~~ Contractual overtime is defined as work outside of County work hours assigned to a sworn law enforcement employee at the request of an outside entity and performed at the employee's option. Contractual overtime shall only be compensated monetarily. Those voluntary contractual hours worked by employees shall not count as hours worked for the County. Sworn law enforcement employees shall be paid for voluntary contractual hours worked at an established fixed rate.

Amended August 4, 1993; August 3, 1994; September 1, 1997; December 9, 2009; Adopted March 6, 2019, effective April 1, 2019

This is the first issuance of this Policy and supersedes all previous policies containing this content (BRJD P-61 / P-62).

Approved by the Blue Ridge Juvenile Detention Commission on 09/12/2019.

BLUE RIDGE JUVENILE DETENTION COMMISSION

EXECUTIVE SUMMARY

| | |
|--|--|
| <u>AGENDA TITLE:</u> Proposed BRJD Policy P-86. | <u>AGENDA DATE:</u> September 12, 2019 |
| <u>SUBJECT/PROPOSAL/REQUEST:</u> Request approval of policy changes to BRJD P-80, 81, and 85, resulting in new BRJD Policy P-86. | <u>FORMAL AGENDA:</u> <u>INFORMATION:</u> XXX <u>ACTION:</u> No |
| <u>STAFF CONTACTS:</u> Roessler | <u>ATTACHMENTS:</u> (1) Draft of proposed BRJD Policy P-86. <u>REVIEWED BY:</u> Jeff Gore |

BACKGROUND:

Albemarle County is currently implementing a new County-wide timekeeping system. As a result, several of their leave policies have been updated and combined into one new policy, §P-86, *Leave Program*. This new policy became effective July 1, 2019.

BRJD began utilizing the new timekeeping system in July of this year. During the process of training staff on the new timekeeping procedures, it became clear that a number of BRJD's policies would also need to be updated. The attached draft was modified from Albemarle County's most recent version of §P-86. All elements covered in the previous approved versions of BRJD P-80, P-81, and P-85 are included in the proposed version of BRJD P-86. In addition, the proposed version adds language for clarification specific to BRJD and removes sections/language that has not historically applied to BRJD.

Current leave policies followed by BRJD:

BRJD P-80, *Absences*
BRJD P-81, *Holidays*
Albemarle §P-82, *Unpaid Leave of Absence*
Albemarle §P-83, *Military Leave*
Albemarle §P-84, *Annual Leave*
BRJD P-85, *Sick Leave*
Albemarle §P-88, *Emergency Leave*

Proposed Policy

BRJD P-86, *Leave Program*

RECOMMENDATION: I recommend noted changes to BRJD Policies P-80, P-81, and P-85 take effect immediately with acceptable review from Commission Attorney.

~~COUNTY OF ALBEMARLE~~
BLUE RIDGE JUVENILE DETENTION
PERSONNEL POLICY

BRJD P-86

LEAVE PROGRAM

Consistent employee presence on the job promotes and maintains excellence at Blue Ridge Juvenile Detention by providing continuity of service and reduced temporary staffing costs. BRJD recognizes that some absences are necessary. In such cases, the employee's return to work at the earliest time commensurate with good health, safety, and reasonable personal consideration is an expectation. BRJD expects that all employees shall strive to maintain an acceptable attendance record and that the occasional absences of employees shall not have an adverse effect on services.

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PERSONNEL

I. General Information

A. Eligibility

All ~~Albemarle County~~ **BRJD** regular, benefits-eligible employees are eligible for the benefits and programs outlined in this policy. While non-benefits-eligible employees may not accrue paid leave as a benefit, they may be granted certain types of paid and unpaid leave under programs outlined in this policy. ~~(See also § P-02, Definition of Employee Status.)~~

B. Definitions

Unless otherwise stated in policy or defined by law, the following definitions apply only to this policy.

| | |
|-----------------------------|--|
| <u>Day of Leave or Day:</u> | A “day of leave”, a “day”, or “daily” shall equal the total hours scheduled per year divided by the number of days established for an employee’s position and number of months worked in a year (i.e., 12-, 11-, 10-month employee). This will not necessarily be the same amount an employee works on a given day. Unless otherwise noted, this definition applies to all leave policies. For example, a 12-month employee (260 days) scheduled for 2080 hours per year has an eight (8) hour day of leave; an 11-month employee (220 days) scheduled for 1760 hours per year has an eight (8) hour day of leave; a 10-month employee (200 days) scheduled for 1450 hours per year has a seven and one quarter (7.25) hour day of leave. |
| <u>Employee:</u> | “Employee,” unless otherwise noted in this policy, means regular, benefits-eligible employees. |
| <u>Fiscal Year:</u> | “Fiscal Year” means the fiscal year adopted by the Board (July 1 to June 30). |
| <u>Flex:</u> | “Flex” means the ability of a supervisor to allow an employee to work an alternative schedule. |
| <u>FTE:</u> | “Full-Time Equivalency” or “FTE” describes the full- or part-time status of an employee. |
| <u>Household Member:</u> | “Household Member” means 1) any individual who cohabits or who, within the previous 12 months, cohabited with the employee, and any children of either of them then residing in the same home with the employee, 2) the employee’s former spouse, whether or not he/she resides in the same home with the employee, or 3) any individual who has a child in common with the employee regardless if the employee and individual have been married or have resided together at any time. |

Immediate Family:

"Immediate family", unless otherwise defined in policy or defined by law, means the employee's spouse, children, parents, siblings, grandparents, or the employee's spouse's children, parents, siblings, grandparents (includes all direct lineage such as great-grandparents, grandchildren, etc. and step-immediate family members).

Parents include persons standing *in loco parentis* and children include biological, adopted, or foster children, stepchildren, legal wards, or children of a person standing *in loco parentis*.

In loco parentis includes those who have or had day-to-day responsibilities to care for or financially support a child who is under 18 years of age, or 18 years of age or older and incapable of self-care because of a physical or mental disability. A biological or legal relationship to the child is not necessary.

In Writing:

"In writing" mean generally any dated written statement including a leave slip, formal memo, or e-mail, unless otherwise noted or defined by law. Refer to specific policy sections or department requirements for specific forms that may be required.

Rolling Year:

"Rolling Year" means a rolling 12-month period measured backward from the date an employee uses leave.

Workday:

"Workday" specifically means a calendar day worked, as opposed to a "day of leave" or "day".

C. General Leave Guidelines and Responsibilities

1. Leave under the Family Medical Leave Act (FMLA), Workers' Compensation, Sick Leave Bank, Debilitating or Life-threatening Illness or Injury, and Income Replacement Program is managed by the Department of Human Resources for privacy reasons, with administrative support from the employee's department. All other leave is managed and administered by the employee's department with support from the Department of Human Resources.
2. Employees and supervisors should familiarize themselves with the types of leave available and the proper procedures for using each. Unless specifically stated, leave is used when an employee is absent from work, not as a means of additional compensation. Pay and leave for non-exempt employees are determined on a total workweek or work period basis, not a daily basis.
3. Leave is taken based on an employee's schedule. ~~Due to fluctuations in the day of leave and the varying base hours of different positions throughout the County, leave may be taken at a different rate from the rate at which it was accrued.~~ **therefore the amount of leave needed may not match the amount accrued (example: staff who work 12-hour shifts still only accrue 8 hours of annual leave per month during years 0-5 of service).**
4. ~~An employee with two or more regular positions (dual jobs) will have the FTEs for each position combined to determine eligibility for leave benefits. Leave will be held in a single account for all regular positions.~~
5. Employees are expected to only take leave for which they have sufficient leave balances. "Leave without pay" (LWOP) is not a leave type, but instead is a consequence of having

insufficient applicable leave. Applicable types of accrued leave will be used before an employee may take LWOP. ~~The Department of Human Resources~~ **Albemarle County is our fiscal agent and has** will established County-wide rules for the order in which different types of leave are used for different types of absences.

6. Employees may not borrow against future leave accruals. Paid leave may only be taken when the employee has earned enough leave to cover the absence ~~or when provided by established County programs/practices.~~
7. When an employee performs no work or is not in a paid leave status in a calendar month, no accrued leave will be earned for that month.
8. Employees are responsible for notifying their departments as far in advance as possible whenever they will be absent. Employees are responsible for following their department's applicable guidelines when making leave requests. Employees are responsible for notifying their supervisors at least ~~30 minutes~~ **2-hours** prior to their scheduled start time of unforeseeable delays and absences, ~~unless the department has established other guidelines for notification and otherwise follow the guidelines established in BRJD DOP-114, Employee Leave.~~ Employees should be aware of the notification requirements and procedures of their departments.
9. Employees are responsible for discussing workload/scheduling/coverage with their supervisors/designees when they need to be absent from work for any period either as a block of time or intermittently.
10. Both the department and the employee are responsible for tracking leave approvals and absences.
11. Employees should contact the ~~Department of Human Resources~~ **Business Office Manager** for extended use or use of special leave types which require additional approval/administration as outlined in this policy such as leave under the FMLA, leave without pay (or LWOP), ~~leaves of absence (LOA),~~ Workers' Compensation, or military leave. Also, supervisors should notify the ~~Department of Human Resources~~ **Business Office Manager** if an employee is out of work and may require extended use or use of special leave types which require additional approval/administration.
12. The department head/designee may approve leave that an employee has available as provided in this leave policy. The department head/designee, to the best of his/her ability, should ensure that processes/procedures are in place to prevent employees from taking unapproved or not yet accrued leave. Employees are responsible for being aware of their leave balances and usage and requesting leave use appropriately.
13. Any missed work that is not approved or foreseeable absences that are not requested in a timely manner may result in required leave use (**shortfall procedures in Kronos**), denial of leave use, loss of pay, and/or disciplinary action. Failure to give proper notice or abuse of any of these policies may lead to disciplinary action up to and including termination.
14. Signs of leave abuse or excessive absenteeism will be examined, including looking at patterns such as Friday/Monday absences and/or frequency of occurrences. ~~The Department of Human Resources staff shall provide guidance on initiating an investigation and any disciplinary action to be taken.~~
15. ~~Employees must receive prior authorization to work with an outside entity while on paid or unpaid leave pursuant to § P-33, Outside Employment.~~

16. It will remain the right of the department head/designee to:
 - a. Authorize or refuse to authorize the advance request of an employee for permission to be absent.
 - b. Investigate absences.
 - c. Deny leave for absences in violation of any ~~County~~ BRJD policy.
 - d. Impose reasonable disciplinary action upon employees who have been found by the department head/designee to have abused their leave privileges and/or violated the provisions of this policy.
 - e. Require written verification/proof of medical appointments or other types of absences, unless prohibited by policy or law.
17. The ~~County Executive/designee~~ BRJD Director may issue emergency regulations regarding employee work hours, absences, and leave usage in the event of a declared state of emergency, pandemic, or other crisis affecting the ~~County's~~ facility's ability to operate under normal policies and procedures.
18. Employees who are placed on administrative leave without pay for disciplinary reasons or other administrative reasons may not use other types of leave concurrently without permission from the ~~Director of Human Resources/designee~~ BRJD Director.
19. Employees changing ~~County~~ positions and/or departments without breaks in service shall maintain accrued leave and accrual rates in accordance with policy.
20. ~~Employees changing employment between the County and Albemarle County Public Schools shall maintain accrued leave in accordance with this policy and accrual rates shall be reciprocal.~~ Employees of a Partner Agency BRJD changing employment to the County, Albemarle County Public Schools, or another Partner Agency shall maintain accrued leave in accordance with this policy and accrual rates shall be reciprocal as agreed through a signed memorandum of understanding (MOU) or similar agreement.
21. Although non-benefits-eligible employees are not eligible for some of the leave programs in this policy, they are required to follow procedures for requesting time off, recording time worked, and acceptable attendance. When flex time is not approved, these employees will be docked pay in accordance with §- BRJD P-61 Staff Schedules, Time Tracking, and Compensation Policy, when applicable due to a lack of accrued paid leave.

D. Excused and Unexcused Absences

Acceptable attendance is a minimum expectation of all ~~County~~ BRJD employees. Absences will be classified as either excused or unexcused. Some types of leave may be either, depending on whether it was approved by the supervisor or not, regardless of whether it was paid. All unexcused absences are included into the acceptable attendance calculations. Sick leave is unexcused, except sick leave used concurrently with FMLA, Workers' Compensation, or Bereavement, which is excused. Any other paid or unpaid leave used in lieu of sick leave is also unexcused. Unapproved annual, personal, and compensatory time leave is unexcused even if the employee uses paid leave. Regardless of the leave type, an employee may be counseled or disciplined for failure to give proper notice or failure to receive prior approval.

E. Acceptable Attendance Standards

Generally, an employee's attendance is unacceptable when more than one (1) day of unexcused absences occurs per month, on average (~~10 days for 10 month, 11 days for 11 month, 12 days for 12 month per year~~). However, attendance should be examined, counseled, and disciplined by the supervisor on a case-by-case basis when appropriate. An employee may be disciplined for unacceptable attendance even if he/she has sick leave or other paid leave available.

F. Leave Usage

1. Exempt Employees

- a. Increments - Employees who are exempt from overtime provisions under the Fair Labor Standards Act (FLSA) (exempt employees) shall take leave in full-day increments.
- b. Work Expectations - An exempt employee is expected to work his/her full schedule. When an exempt employee takes a leave day, the supervisor should respect the employee's time off. However, there may be occasions when the employee may need to respond to an emergency. An exempt employee who performs a minimal amount of work shall still use a day of leave. If more than a minimal amount of work is performed, the employee should work with his/her supervisor to flex the time on a later date or not take the day as leave.
- c. Flex Time – Supervisors may approve exempt employees to work alternative schedules in lieu of using leave or in recognition of work above and beyond the employee's regular schedule. Time may be flexed outside of the workweek or work period for exempt employees.

2. Non-Exempt Employees

- a. Increments - Employees who are eligible for overtime under FLSA shall record leave in 15-minute increments.
- b. Work Expectations – A non-exempt employee must not perform any work while on leave. Permission to work while out must be granted by the supervisor in advance and should be recorded as compensable time instead of leave.
- c. Flex Time – Supervisors may approve non-exempt employees to work alternative schedules in lieu of using leave within the same workweek or work period. Pay and leave are determined on a total workweek or work period basis. Leave will only be used to supplement an employee's total weekly hours when the hours worked are less than his/her base hours. For example, if an employee misses two (2) hours of work for a doctor's appointment but works two (2) additional hours in the workweek with the supervisor's permission, no sick leave would be taken that week.
- d. ~~Special Flex Time Rules For Certain Public Safety Employees – Non-exempt employees who qualify for the public safety exemption may request flex time in lieu of leave use prior to the use of such leave. When these employees are in a paid status, all such time is considered time worked as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.).~~

II. Administrative Leave

Administrative leave may be granted or required on a case-by-case basis, such as for investigations, suspensions, releases from work for safety, or recognition of service. Administrative leave may be paid or unpaid as appropriate. Administrative leave with pay is not an adverse personnel or employment action.

III. Annual Leave

A. Purpose

Annual leave is provided to regular, benefits-eligible 12-month employees to recognize service provided to the County BRJD, foster wellness, and encourage work-life balance.

B. Accrual Rates

12-month benefits-eligible employees shall begin to accrue annual leave based on the employee's hire date of regular, continuous employment. Employees accrue annual leave monthly in an amount based on the employee's day of leave at the time of distribution as follows.

1. One (1) day per month for each month employed during the first five (5) years of continuous employment.
2. One and one-quarter (1.25) days for each month employed during the sixth through the tenth (6-10) years of continuous employment.
3. One and one-half (1.5) days for each month employed during the eleventh through the fifteenth (11-15) years of continuous employment.
4. One and three-quarter (1.75) days for each month employed during the sixteenth through the twentieth (16-20) years of continuous employment.
5. Two (2) days for each month employed during the twenty-first through twenty-fifth (21-25) years of continuous employment.
6. Two and one-quarter (2.25) days for each month employed during the twenty-sixth (26+) and succeeding years of continuous employment.

~~An employee who changes from a 10-month or an 11-month to a 12-month schedule shall begin to accrue annual leave based on the date he/she commenced continuous employment as a regular employee to include benefits-eligible and non-benefits-eligible employment as a 10, 11, or 12-month regular employee.~~

~~With the approval of the Director of Human Resources/designee and the County Executive/designee, an employee's annual accrual rate may be negotiated at a rate other than the rate determined by years of service and/or an employee may be granted a negotiated amount of additional leave.~~

C. Accumulation Maximum Cap

Annual leave balances are subject to a 320-hour maximum cap.

- ~~1. The annual leave maximum cap is 320 hours for employees, except as provided in subsection 2.~~
- ~~2. Partner Agency employees working for Constitutional Officers have a maximum cap of 6 weeks (240 hours or a fraction thereof for part-time employees) pursuant to state law, unless an agreement between the Constitutional Officer and the County includes such employees under this policy. If such an agreement exists, then employees of Constitutional Officers shall have an annual leave maximum cap of 320 hours.~~

D. Use of Annual Leave

1. An employee is required to obtain his/her department head's/designee's approval prior to taking annual leave.
2. Requests to use annual leave and approvals should be in writing. All requests should be made as far in advance as possible. Employees should also refer to department-specific requirements and procedures.
3. Annual leave use is granted at the discretion of the department head/designee.
4. The department head/designee must consider the workload and impact of leave on the County's facility's service delivery when approving or denying annual leave requests.
5. The department head/designee must reasonably accommodate annual leave requests as staffing permits.
6. An employee has the right to ask for and receive an explanation for the denial of an annual leave request.
7. Once annual leave has been approved by the department head/designee, changes shall not be made to the approved annual leave use without notification in writing to the employee by the department head/designee.

In the interest of fostering wellness for employees, non-probationary employees are strongly encouraged to take at least five (5) days of annual leave per year. Department heads/designees shall work with their employees to ensure that time is made available for annual leave use. Employees are responsible for knowing their leave balances and usage and scheduling leave in a timely fashion.

8. Department heads/designees shall not approve more than three (3) consecutive weeks of paid annual leave if the employee is not planning to return to work (i.e., going to retire/resign). Any annual leave requested by a terminating employee beyond three (3) weeks must be approved by the County Executive/designee **BRJD Director** prior to use.

E. Conversion of Unused Annual Leave

1. At the end of the employee's birth month each year, any annual leave balance that is above the maximum accumulation cap will be converted as follows: 50% to the employee's own sick leave balance and 50% donated to the **Albemarle** County Sick Leave Bank. The employee need not be a member of the Sick Leave Bank.
2. Employees are responsible for keeping track of their leave balances to avoid conversion of annual leave. Employees are also responsible for requesting time off as appropriate with as much advance notice as possible.

3. Employees and the department head/designee are encouraged to work together to facilitate leave use to avoid annual leave conversion.

F. Payout of Annual Leave

Payout of annual leave only occurs in the following situations:

1. Upon termination of regular employment, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap.
2. Upon transfer/hire from a 12-month position to a 10-month or 11-month position, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap. The employee may request to convert up to five (5) days of accrued annual leave to personal leave to be available for his/her use in the new 10- or 11-month position. If an employee requests leave conversion, it will be taken from the balance subject to the maximum cap. Employees transferring to benefits-ineligible positions will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap prior to the transfer.
- ~~3. Upon transfer/hire from a 12-month position eligible for annual leave under this policy to a Partner Agency position who does not have a signed memorandum of understanding (MOU) to accept leave, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap.~~
- ~~4. When an employee has two (2) regular 12-month positions (dual jobs), annual leave payout will be representative of the FTEs for each position. For example, a 0.60/0.40 employee would be paid 60% of the annual leave at the hourly rate of job A and 40% at the hourly rate of job B.~~

IV. Bereavement Leave

A. Purpose

The loss of an immediate family member ~~or household member~~ may deeply affect an employee. To allow an employee to grieve, tend to that person's estate, or other related matters, bereavement leave is available.

B. Bereavement Leave Days and Use

In the event of the death of a member of an employee's immediate family ~~or a household member~~, any regular employee may use up to five (5) days of unpaid bereavement leave per occurrence. Accrued sick leave may be used concurrently for up to the first five (5) days of absence. Any additional time required by the employee shall be covered by other applicable leave in accordance with this policy. In the event of the death of a non-immediate family member or non-household member, employees may not use bereavement leave, but may use other applicable leave in accordance with this policy. **Any exceptions to this section must be approved by the BRJD Director.**

C. Extraordinary Circumstances

In the event of extraordinary circumstances, such as the death of a current colleague, the department head/designee may allow employees to attend services with approval from the ~~County Executive/designee~~, **BRJD Director** so long as it does not cause an undue hardship on the department. Administrative leave with pay would be used in this situation for any regular employee.

~~V. Building Closure Leave~~

~~Paid leave and unpaid leave due to inclement weather and other County emergencies are addressed in § P-66, Coverage Due to Weather and/or Emergency.~~

VI. Compensatory Time Leave

A. Purpose

Because employees are paid with taxpayer dollars, to be good stewards of public money, public sector employers are able to offer employees compensatory time leave in lieu of money as compensation for overtime. Additionally, some non-exempt employees may value additional time off more than additional pay.

B. Accrual, Maximum Balance, and Payout

Please refer to § **BRJD** P-61, Staff Schedules, Time Tracking, and Compensation Policy, for information on compensatory time leave as it is earned for overtime work performed.

C. Use of Compensatory Time Leave

Accrued compensatory time leave may be used for any leave purpose. However, classified, non-exempt employees are required to arrange use of compensatory time leave in advance with their supervisors. Department heads/designees shall be responsible for allowing employees to use compensatory time leave within a reasonable period of time after the employee requests it, so long as such use does not unduly disrupt the operations of the department. A “reasonable period” under the FLSA is determined by considering the customary work practices within the department, such as: (a) the normal schedule of work; (b) anticipated peak workloads based on past experience; (c) emergency requirements for staff and services; and (d) the availability of qualified substitute staff. Leave is considered to “unduly disrupt the operations of the department” if the supervisor reasonably and in good faith anticipates that granting the request would impose an unreasonable burden on the department’s ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee’s services.

VII. Court Duty **Appearances**

A. Purpose

The County recognizes the duty of employees to appear before a court of law when summoned or subpoenaed. These procedures outline leave usage. Refer to § **BRJD** P-61, Staff Schedules, Time Tracking, and Compensation Policy, for information on when an employee’s appearance in court is considered compensable work time.

B. Eligibility

~~The County~~ **BRJD** provides unpaid court duty leave for employees consistent with Virginia Code § 18.2-465.1. Employees are expected to notify their supervisors in as far in advance as possible prior to using court duty leave. Supervisors may require verification that an employee has been called for court duty. Court duty leave does not apply to any employee who is the defendant in a criminal case for which the employee is summoned or subpoenaed.

~~C. Regulation~~

~~Employees who are summoned or subpoenaed to appear, except as defendants in criminal cases, in court proceedings which take place during their scheduled hours, are allowed unpaid~~

court duty leave for such appearances. Such employees may use accrued leave as applicable, subject to supervisor approval.

~~VIII. Election Officer Leave (Polling Leave)~~

~~A. Purpose~~

~~The County recognizes that serving as an election official can provide a unique learning and community service experience.~~

~~B. Eligibility~~

~~Albemarle County offers paid polling leave for benefits-eligible employees and unpaid polling leave for benefits-ineligible employees consistent with Virginia Code § 24.2-100, et. seq.~~

~~C. Guidelines~~

- ~~1. Any employee who serves as an officer of election (defined under Virginia Code § 24.2-101) shall not have any adverse personnel action taken against him/her for such service provided. An employee is not required to use accrued paid leave to serve as an officer of election.~~
- ~~2. An employee must give reasonable notice to his/her supervisor and comply with established procedures when he/she needs to take time off to serve as an officer of election.~~
- ~~3. Hours worked as an officer of election shall not be counted as "hours worked" for purposes of overtime compensation. Employees are not required to volunteer as an officer of election.~~
- ~~4. Employees who serve as officers of election for any locality are eligible for polling leave.~~
- ~~5. Employees are also eligible for any standard poll worker stipend that may be provided by an Electoral Board.~~
- ~~6. Employees employed by an elected official, the Electoral Board, or General Registrar are not eligible for polling leave.~~
- ~~7. Employees who work four (4) or more hours as an officer of election, including travel time, are not required to report for any shift which begins between 5 p.m. and 3 a.m. and will be granted polling leave.~~

IX. Emergency Leave

A. Purpose

Emergency leave is for employees who need to address emergency or urgent circumstances beyond their control that affect their residences.

1. For example, emergency leave may be granted for situations similar to the following:

A disaster affecting the home or residence of the employee or his/her immediate family, including damage occurring during a declared a state of emergency or an employee's house burning down.

2. Examples of circumstances for which emergency leave should not be granted are the following:
 - a. Animal/vehicle strikes and other car repair-related issues;
 - b. Employee's water pump breaks during the normal course of wear and tear and other household repairs due to normal wear and tear; and
 - c. Employee loses power due to a non-state of emergency

B. Eligibility and Days of Use

1. The department head/designee may grant up to two (2) days of emergency leave without loss of pay to any benefits-eligible employee per year.
2. These days do not accrue from year to year and are not paid out upon termination of employment.

C. Requesting and Using Emergency Leave

1. To the extent possible, employees should request emergency leave in writing from the department head/designee.
2. If the circumstances in a given case are unclear, the department head/designee shall confer with the ~~Director of Human Resources/designee~~ **Commission attorney** before granting approval.
3. Emergency leave is not intended and may not be used for absences covered by other types of leave, including sick, personal, or annual leave. In addition, emergency leave is not intended and may not be used as a substitute when other types of leave have been exhausted.

X. Employee Recognition Leave

Paid leave may be awarded to regular employees as recognition for extraordinary achievements and contributions to the County **BRJD**, including through the Employee Recognition Program.

~~XI. Employee's Debilitating or Life-Threatening Illness or Injury~~

~~An employee who has a debilitating or life-threatening illness or injury may be granted a reasonable period of unpaid leave for this purpose. The leave will be approved by the Department of Human Resources provided it does not cause an undue hardship to the County. This type of leave may be taken only in full-day increments and runs concurrently with paid leave, unpaid leave, any other leave program, and any reasonable accommodation if applicable.~~

~~An employee must submit medical documentation of his/her need for leave to the Department of Human Resources. Whenever possible, documentation must be provided prior to leave being taken. Approval from the Department of Human Resources must be obtained prior to leave being taken when foreseeable or as soon as possible.~~

XII. Family Medical Leave Act – Protected Leave Status

A. Purpose

This Family and Medical Leave ("FMLA") section is written to assist ~~Albemarle County~~ **BRJD** in complying with the provisions of the federal Family and Medical Leave Act of 1993, and its amendments. This section seeks to balance the needs of the County **BRJD** (the "employer") with the

needs of its employees and their families. Any variation between this policy and the FMLA will be determined in favor of the Act.

B. Definitions

Definitions set forth below are applicable to FMLA only and may be different from general definitions listed elsewhere in this policy. If definitions in this FMLA section require clarification or conflict with, federal and/or state laws, those laws will prevail over this policy.

| | |
|--------------------------------|---|
| <u>Child:</u> | Means a biological, adopted, or foster son or daughter, a stepchild, a legal ward, or a child of a person standing <i>in loco parentis</i> who is either i) under 18 years of age or ii) 18 years of age or older and “incapable of self-care because of a mental or physical disability” at the time FMLA leave is to commence. |
| <u>Covered Active Duty:</u> | <p>For a covered service member or for covered active duty, a child may be any age.</p> <p>In the case of a member of a regular component of the Regular Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and</p> <p>In the case of a member of a Reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S. Code § 101(a)(13)(B).</p> |
| <u>Covered Service Member:</u> | <p>A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or</p> <p>A veteran who was undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.</p> |
| <u>Eligible Employee:</u> | An eligible employee: 1) Has been employed at least 12 months or 52 weeks within the last seven years; 2) Has worked at least 1250 hours during the 12 months immediately preceding the proposed leave; 3) Has not used all available FMLA Leave in the current rolling year; and 4) Meets the conditions of the FMLA. |
| <u>Employer:</u> | For purposes of this section, “Employer” means the County and the Albemarle County Public Schools, as they are considered a single, integrated employer. See 29 C.F.R. §§ 825.104(2) and 825.108. |

Family:

Family is defined as the employee's spouse, employee's children, and employee's parents.

Health Care Provider:

A licensed doctor of medicine or osteopathy or any other person determined by the U.S. Secretary of Labor to be capable of providing health care service.

In Loco Parentis:

Persons who stand *in loco parentis* include those who have or had day-to-day responsibilities to care for or financially support a child who is under 18 years of age or is 18 years of age or older and incapable of self-care because of a physical or mental disability. In the case of an employee, those who had such responsibility when the employee was a child also stand *in loco parentis*. A biological or legal relationship to the child or employee is not necessary.

Job-Protected:

The employee is guaranteed the right to return to his/her former position or to an equivalent position.

Next of Kin:

"Next of Kin" generally means the nearest blood relative of an individual when used in respect to that individual.

The "next of kin" of a current service member is the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority:

1. A blood relative who has been designated *in writing* by the service member as the next of kin for FMLA purposes,
2. Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions,
3. Brothers and sisters,
4. Grandparents,
5. Aunts and uncles,
6. First cousins

When a service member designates in writing a blood relative as next of kin for FMLA purposes that individual is deemed to be the covered service member's *only* FMLA next of kin. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously.

Parent:

Includes biological, adoptive, step, foster, or any individual who stood *in loco parentis* when the employee was a child. This does not include parents-in-law.

Serious Health Condition:

An illness, injury, impairment, or physical or mental condition that involves the following:

1. any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
2. a period of incapacity requiring absence of more than three (3) calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
3. any period of incapacity due to pregnancy, or for prenatal care; or
4. any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
5. a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,
6. any absences to receive multiple treatments (including any period of recovery) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

Serious Injury or Illness:

In the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in the line of duty while on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty while on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

A veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during a period described in 29 U.S. Code § 2611(15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in the line of duty while on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty while on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Week:

A week is defined as the weekly authorized regular hours of the employee's position.

Year: A rolling 12-month period measured backward from the date an employee uses FMLA leave.

C. Posting and General Notice

The employer shall post and keep posted, in a conspicuous place, on the premises where notices to employees and applicants for employment are customarily posted, a notice prepared or approved by the U.S. Secretary of Labor explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor. This posting requirement may be satisfied by electronic posting if every employee has access to a computer at work.

Employees Rights and Responsibilities notification will be posted on the Department of Human Resources website.

D. Conditions of Leave

1. General Information

The Family and Medical Leave Act (FMLA) provides up to a combined total of 12 workweeks of unpaid job-protected leave per year to eligible employees for the birth of a child and to care for the newborn child, for the placement with the employee of a child for adoption or foster care, to care for the employee's spouse, child, or parent with a serious health condition, or because of the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position.

The FMLA also provides up to a combined total of 26 workweeks of unpaid job-protected leave per year to eligible employees because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty (or has been notified of an impending call or order to covered active duty status), or to care for a covered service member with a serious injury or illness if the employee is the spouse, child, parent, or next of kin of the covered service member. Military caregiver leave is available to an eligible employee once per veteran, per serious injury or illness. However, an eligible employee may take an additional 26 weeks of leave in a different 12-month period to care for the same veteran if the veteran has another serious injury or illness.

2. Notification Requirements

a. Foreseeable

When the need for leave under FMLA is foreseeable, the employee is required to provide at least 30 days' advance notice to the ~~ir Department of Human Resources~~ **supervisor and the Business Office Manager** either verbally or in writing. The employee shall make a reasonable effort to schedule the treatment, placement, or other foreseeable need for leave so as not to disrupt unduly the operations of the employer. In the event that it is not practicable to give such advance notice, the employee should give as much advance notice as is practicable, ordinarily within two (2) business days of when he/she learns of the need for the leave.

b. Unforeseeable

When the approximate timing of the need for leave is not foreseeable, an employee must provide notice to his/her supervisor or ~~and the Department of Human Resources~~ **Business Office Manager** as soon as practicable based on the facts and circumstances of the particular case.

If an employee is absent for more than three (3) consecutive workdays or if the employee's supervisor has reason to believe that an employee's leave may be for an FMLA-qualifying reason, the supervisor must contact the ~~Department of Human Resources~~ **Business Office Manager** and will remind the employee to contact ~~Department of Human Resources~~ **Business Office Manager** to determine eligibility.

c. Employee Request and Eligibility Notice

The employee's notice or request should be sufficient to make the employer aware that the employee needs FMLA-qualifying leave and of the anticipated timing and duration of the leave. When the employee requests FMLA leave or the ~~Department of Human Resources~~ **Business Office Manager** has knowledge that an employee's leave may be for an FMLA-qualifying reason, the ~~Department of Human Resources~~ **Business Office Manager** must notify the employee in writing of the employee's eligibility to take FMLA leave within five (5) business days, absent extenuating circumstances. The Eligibility Notice should state whether the employee is eligible for FMLA leave. If the employee is not eligible for FMLA leave, the Notice must state at least one (1) reason why the employee is not eligible.

d. Employee Rights and Responsibilities Notice

The ~~Department of Human Resources~~ **Business Office Manager** will provide the employee written notice detailing the specific expectations and obligations of the employee and explaining consequences of a failure to meet these obligations. If leave has already begun, the ~~Department of Human Resources~~ **Business Office Manager** will mail the Notice to the employee's address of record.

e. Certification of Health Condition, Designation Notice, Second Opinion(s), Recertification, and Status Updates

The ~~Department of Human Resources~~ **Business Office Manager** will provide the employee a Certification of Health Care Provider form that must be completed by the employee's physician and returned to the ~~Department of Human Resources~~ **Business Office Manager** within 15 calendar days after the Eligibility Notice. If the employee fails to return a Certification of Health Care Provider form or does not provide sufficient or complete information to determine whether the leave is FMLA-qualifying, FMLA leave may be denied or delayed. It is the employee's responsibility to maintain up-to-date medical status while on FMLA leave.

The ~~Department of Human Resources~~ **Business Office Manager** will give the employee written notice (Designation Notice) whether the leave will be designated and counted as FMLA leave within five (5) business days of when the ~~Department of Human Resources~~ **Business Office Manager** has enough information to determine whether the leave is being taken for a FMLA-qualifying reason.

The employer may require a second opinion by a health care provider of its choice and at its expense if it has reason to doubt the validity of the medical certification. The designated health care provider shall not be employed by the employer or regularly utilized by the employer. If the two opinions differ, a third opinion may be requested from a provider selected jointly by the employee and the employer. This third opinion, to be paid for by the employer, is final and binding. The employer shall provide the employee copies of the medical opinions within 5 days of the employee's request.

The employer may request recertification if it later has reason to question the appropriateness of the leave or its duration. The frequency for which the employer may request recertification is governed by federal regulation. The employee must provide a complete and sufficient certification within 15 calendar days after the ~~Department of Human Resources~~ **Business Office Manager's** request. When the ~~Department of Human~~

~~Resources~~ **Business Office Manager** requests certification, she will advise the employee of the anticipated consequences of the employee's failure to provide adequate certification.

The employer may also require periodic reports from the employee as to the employee's status and intent to return to work. If an employee gives unequivocal notice of intent not to return to work, the employer's obligations under FMLA to maintain health benefits (subject to the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) requirements) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

3. Spouses Both Working for the Employer

In cases where both spouses are employees, they may take a combined total of 12 weeks of FMLA leave for the birth, bonding, adoption, or foster care placement of a child, and the care of a parent with a serious health condition. They may each take 12 weeks for their own injury/illness or that of their spouse or child. An employee can at most take 12 weeks for FMLA purposes in a year (26 weeks for a service member covered by the FMLA).

4. Intermittent or Reduced Leave

While most FMLA occurrences will necessitate leave to be taken in a single block of several weeks, the employee may request "intermittent" leave or a "reduced leave schedule" to care for the serious health condition of a family member or for the employee's own serious health condition where the need for leave is foreseeable and based on planned medical treatment. In the case of the need for a reduced schedule or intermittent use of leave, a certification of medical necessity is required from the health care provider and an appropriate work schedule should be planned in advance with the supervisor, when possible. An employee may take intermittent or reduced leave for the birth, adoption or foster care placement of a child only if the employee and department head/designee agree to such an arrangement.

If the employee requests intermittent leave or reduced leave schedule, the employer may temporarily transfer the employee to an available alternative position with equivalent pay and benefits, if the employee is qualified for the position and it better accommodates recurring periods of leave than the employee's regular job. When a transferred employee no longer needs to continue on leave and is able to return to the prior position, the employee will be subject to restoration. See Section H(2) below.

E. Leave Related to a Qualifying Exigency arising from Covered Active Duty or a Call to Covered Active Duty

If the need for FMLA leave is because of a qualifying exigency arising because a family member is on covered active duty or has been notified of an impending call to covered active duty is foreseeable, the employee shall give notice to the employer as is reasonable and practicable. The employee's notice should be sufficient to make the employer aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The first time an employee requests leave because of a qualifying exigency arising out of the covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of a military member, the employer may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status and the dates of the military member's covered active duty service. A copy of new active duty orders or other documentation issued by the military shall be provided to the employer if the need for leave because of a qualifying exigency arises out of a different covered active duty

or call to covered active duty status (or notification of an impending call or order to covered active duty) of the same or a different military member.

F. Substitution of Paid Leave

Paid leave shall run concurrently with FMLA leave, as available. Employees should check with the ~~Department of Human Resources~~ **Business Office Manager** to determine what types of leave will run concurrently with their FMLA leave. The type of leave taken must be in compliance with the provisions of the applicable leave addressed in this policy. Otherwise, FMLA leave is unpaid. Time will be charged concurrently against paid leave and FMLA leave for a period of up to 12 weeks or up to 26 weeks for certain covered service member conditions.

Time missed during Workers' Compensation related injuries, which otherwise meet the requirements of the FMLA, will run concurrently with FMLA leave as applicable.

G. Benefits

1. Insurance Continuation Privileges

Employees on FMLA leave will continue to receive the employer portion of the medical and dental insurance benefits up to the maximum 12 workweeks allowed or 26 workweeks for certain covered service member conditions. These benefits will continue on the same basis as an active employee during the FMLA period. Employees are responsible for paying the necessary premium for the employee portion to cover themselves and eligible dependents by continuing to take paid leave or by making other payment arrangements.

2. Other Employee Benefits

In all cases where an employee is using some type of paid leave, all employee benefits continue as long as the employee remains on the payroll through the use of such paid leave time. If leave without pay is taken for one (1) continuous calendar month, employee benefits will be discontinued for the duration of the unpaid leave status as follows:

- a. Employer and employee contributions will not be made on behalf of the employee to the Virginia Retirement System (VRS). Upon returning to work, the employee may be eligible to purchase this service through VRS, if the leave is necessitated by birth or adoption as defined by VRS policies.
- b. Employees will not be eligible for any employer-paid life insurance during this period.
- c. Medical, dental, and optional life insurance premium payment arrangements may be made through the ~~Albemarle County's~~ **Department of Finance's** Payroll Division and/or the appropriate vendor when applicable.

H. Returning from FMLA Leave

1. Return to Work

- a. An employee returning from FMLA leave due to his/her own serious health condition must submit a medical release on the required return to work form to the ~~Department of Human Resources~~ **Business Office Manager**. The medical release must be from the employee's health care provider certifying the employee's fitness-for-duty based upon the serious health condition that caused the employee's need to take FMLA leave.

- b. If an employee would like and is medically certified to return to work in a restricted capacity or through alternative schedule arrangements, supervisors ~~and/or the BRJD Director and the Department of Human Resources~~ will discuss possible options with the employee.

2. Restoration to Position

When an eligible employee is released to return to work following FMLA leave, he/she will be restored to the position held at the time the leave began or, with approval of the ~~Department of Human Resources~~ **BRJD Director**, to an equivalent position with equivalent benefits, compensation, and other terms and conditions of employment. However, in the event that the employer needs to make reductions in staff, employees on FMLA leave are subject to the procedures in § **BRJD P-30**, Employee Reduction in Force Procedures. If an employee was subject to a reduction-in-force during FMLA leave and is subsequently reinstated, any rights would be the same as if the employee had not been on FMLA leave.

“Key” employees may be denied job restoration. A “key” employee is defined as a salaried FMLA-eligible employee who is among the highest paid 10% of all employees. A key employee will be notified as soon as practicable after receipt of a request for FMLA leave that he/she qualifies as a key employee. The employer will also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employer should determine that substantial and grievous economic injury to the employer’s operations will result if the employee is reinstated from FMLA leave.

I. Unable to Return to Work

If an employee is medically unable to return to work at the end of the 12 weeks of FMLA leave, the employee must request additional time off from his/her department head/designee or resign. Otherwise, employment may be terminated. Additional time is subject to **Director** approval.

J. Record Keeping and Anti-Retaliation

The ~~Department of Human Resources~~ **Business Office Manager** shall maintain records necessary to demonstrate compliance with FMLA. FMLA requires also that no employee be subject to any penalty for seeking to enforce rights under FMLA or for testifying for or otherwise helping other employees seek rights under FMLA.

XIII. Holiday Leave

A. Holidays Observed

~~The County has established the following holiday schedule for County 12-month employees. Other holidays are granted by special proclamation of the Board of Supervisors.~~ **BRJD follows the Commonwealth of Virginia Pay and Holiday Calendar. Additional holiday time may be granted by the Governor of the Commonwealth of Virginia.**

1. New Year’s Day – January 1
2. Lee-Jackson Day – Friday preceding the third Monday in January
3. Martin Luther King, Jr. Day - Third Monday in January
4. President’s Day (Washington’s Birthday) – Third Monday in February
5. Memorial Day – Last Monday in May
6. Independence Day – July 4
7. Labor Day – First Monday in September
8. Columbus Day – Second Monday in October
9. Veteran’s Day – November 11
10. Thanksgiving Day – Fourth Thursday in November
11. Friday after Thanksgiving
12. Christmas Day – December 25

~~Employees of departments who serve both the County and Albemarle County Public Schools as client groups may choose, with supervisor approval, which holiday leave schedule to follow each fiscal year. If business needs necessitate a mid-year change, an employee's schedule shall be adjusted so that the employee receives no more than the Board approved number of holidays granted that fiscal year.~~

~~Under certain situations, due to coverage requirements or non-County building closures, the holiday schedule for some departments or groups of employees within departments may fall on alternative dates within the fiscal year. Departments in these situations must receive Director of Human Resources/designee approval for the establishment of these alternative holiday schedules. These alternative holiday schedules must be equal in number to the approved holiday schedule.~~

B. Qualifying for Holiday Leave

- ~~1. Twelve (12)-month benefits-eligible employees are granted 12 paid days of holiday leave per fiscal year. Employees are eligible for holiday leave as soon as they begin working. New employees must be employed the day before a holiday to qualify for holiday leave.~~
- ~~2. Employees who are terminating employment with the County will not qualify for holiday leave unless they work a working day after the holiday. Approved paid leave may be used in lieu of working following a holiday. If a holiday falls on the last day of the month or week, holiday leave may be granted by the department head/designee for retiring employees.~~
3. If a holiday falls within the employee's scheduled annual leave, holiday leave may be used in lieu of annual leave.

C. Working on Holidays

1. While dates for observing holidays are established annually, due to coverage requirements, some employees may be required to work on a holiday. Any non-exempt, benefits-eligible, 12-month employee who is required by the department head/designee to work on a holiday which is observed by the ~~County~~ **Commonwealth of Virginia** shall:
 - a. Be paid the regular hourly rate for the hours worked on the holiday plus the hours normally granted for the holiday; ~~or~~
 - ~~b. Take another day in the workweek as holiday leave, including days in the workweek before the established holiday.~~
2. Exempt 12-month employees who work on a holiday may take the holiday on another day approved by the supervisor within the fiscal year. Employees may not take the holiday prior to the County designated holiday date, except within the workweek that the holiday falls. Unused holiday leave is never paid out and does not carry over fiscal years. Holiday leave does not transfer if an employee changes departments. It must be taken prior to transfer or it is forfeited.
- ~~3. Alternative Work Schedules: A "day of holiday leave" is equivalent to a "day of leave" as defined in section I(B), above. Employees are responsible for discussing the impact of holiday leave on their alternative work schedules with supervisors. Employees are responsible for making up any hourly difference between the hours granted for the holiday and the employees' work schedule by either using additional applicable leave or working at another time during the workweek or work period. Fire Rescue employees on 12- or 24-hour shifts will receive 12- hours of a "day of holiday leave" regardless of their "day of leave" status.~~

Example: ~~A non-exempt employee's day of leave is 8 hours/day and the employee's position is established at 8 hours/day, 5 days/week for a total of 40 hours/week. The employee has an alternative work schedule of 10 hours/day, 4 days/week for a total of 40/hours per week. Eight (8) hours of holiday leave would be granted and the employee must account for the remaining 2 hours by working 2 additional hours within that workweek or using 2 hours of compensatory time leave or annual leave.~~

D. Half-day Holidays

The ~~Board~~ **Governor of the Commonwealth of Virginia** may grant half-day holidays to benefits-eligible 12-month employees. A "half-day" is defined as half of an employee's day of holiday leave **or pay**. Any non-exempt employee who receives approval not to work the other half of the day is responsible for taking compensatory time leave, annual leave, leave without pay, or arranging with his/her supervisor to work those hours within the workweek. An exempt employee who doesn't work on the half-day may make arrangements with the supervisor to work the time missed on another day within the fiscal year or use annual leave for the half-day.

E. ~~Religious Holidays~~

~~Any regular or temporary employee observing a religious holiday occurring on the employee's workday may request time off. Supervisors should allow employees to take time off for such occasion if the time off can be accommodated without undue hardship to the department. Leave must be requested in advance in accordance with policy. Supervisors shall contact the Department of Human Resources prior to denying religious holiday leave requests. Applicable accrued leave shall be used. Leave without pay will be considered in the absence of accrued leave.~~

XIV. Income Replacement Program (IRP) – VRS Hybrid Plan members only

A. Purpose

Effective January 1, 2014, the Virginia Retirement System (VRS) created a new retirement plan called the Hybrid Plan. Part of the VRS Hybrid Plan includes the implementation of a Disability Program for Hybrid Retirement Program Participants. Albemarle County refers to this program as the Income Replacement Program (IRP). The IRP contains two components: Short-Term Disability (STD) and Long-Term Disability (LTD), which contain different eligibility requirements. IRP-STD occurs first. If an employee is not able to return to work after the IRP-STD period, he/she may move into the IRP-LTD portion of the benefit. These programs are outlined below.

This section is intended to fully implement the Disability Program for Hybrid Retirement Program Participants pursuant to Virginia Code § 51.1-1150, et seq. Any variation between this policy and the Virginia Code will be determined in favor of the Virginia Code.

B. Definitions

Catastrophic Condition:

A catastrophic condition exists when an employee is unable to perform at least two (2) of the following six (6) activities of daily living:

1. Bathing
2. Transferring, such as getting in and out of bed
3. Dressing
4. Toileting (using the bathroom)

5. Contenance

6. Eating (ability to feed oneself)

A condition may also be considered catastrophic if the employee has a severe cognitive impairment requiring substantial supervision to protect the employee from threats to health and safety.

Major Chronic Condition:

A major chronic condition is a life-threatening health condition that exists over a prolonged period of time and is not expected to improve. The employee must have been disabled with the condition within six (6) months of the date the claim is filed and be under the care of a licensed treating health care professional for the condition.

Disability:

A condition that prevents an employee from working or performing the full duties of the employee's job for a short or extended period. It may be non-work-related or work-related. A work-related disability is the result of an occupational illness or injury that occurs on the job and the cause is determined to be compensable under the Virginia Workers' Compensation Act.

Partial Disability:

An employee has a partial disability if the disability exists during the first 24 months following the occurrence or commencement of an illness or injury when an employee is earning less than 80% of his/her pre-disability earnings and, as a result of an injury or illness, is (i) able to perform one or more, but not all, of the essential job functions of his own job on an active employment or a part-time basis; or (ii) able to perform all of the essential job functions of his own job only on a part-time basis.

C. IRP Third-Party Administrator

The IRP program is administered through a Third-Party Administrator. The Third-Party Administrator handles all employee claims after detailed consultation with the Department of Human Resources designee for IRP. Any variation between this policy and the Third-Party Administrator's interpretation of the Virginia Code will be determined in favor of the Third-Party Administrator.

D. Qualifying for Income Replacement Program – Short-Term Disability (IRP-STD)

1. An employee must be an active full-time VRS Hybrid Plan member to be eligible.
2. Waiting Period – Employees must be employed for one (1) continuous year of service as an active Hybrid Plan member with a single employer before receiving non work-related disability benefits. The Albemarle County Public Schools and Partner Agencies, which have different VRS employer codes from the County, are considered separate employers for the purposes of this benefit. If, for example, a County employee transfers to the Albemarle County Public Schools, the one (1)-year waiting period will begin again. This waiting period is waived for a work-related disability. For work-related disabilities, the effective date of participation in the

program for participating employees shall be their first day of employment or the effective date of their participation in the VRS Hybrid Plan, whichever is later.

3. **Elimination Period** – The elimination period is the period after any required waiting period and when an eligible employee is unable to work more than twenty (20) hours over seven (7) consecutive calendar days due to his/her total or partial disability. To begin an elimination period, an employee must have an approved claim of total or partial disability.
 - a. The elimination period is waived for a catastrophic condition or as the result of a major chronic condition.
 - b. The elimination period requirement may be met during non-contract/non-scheduled days (i.e. over holidays).
4. IRP-STD runs concurrently with any other relevant benefits, including FMLA leave and Workers' Compensation. Receipt of other relevant benefits may offset IRP-STD benefits.
5. Once the waiting period and elimination period requirements have been met, Hybrid Plan members are eligible for the IRP-STD benefit. However, the IRP-STD benefit is only available when an employee would be actively working (i.e., during contract/scheduled work days).
6. IRP-STD benefits shall be payable for periods of:
 - a. total disability,
 - b. partial disability,
 - c. eligible maternity leave, or
 - d. periodic absences due to a major chronic condition

E. IRP-STD Benefit Amount

1. IRP-STD – Days of Income Replacement

The following charts show the number of days at the percentage of income replacement provided by the IRP-STD.

a. Days of Income Replacement: Non-Work-Related Disability

| Months of Continuous Service | Work days at 100% | Work days at 80% | Work days at 60% | Total Short-Term Paid Days |
|-------------------------------------|--------------------------|-------------------------|-------------------------|-----------------------------------|
| 0 – 12 | 0 | 0 | 0 | 0 |
| 13 – 59 | 0 | 0 | 125 | 125 |
| 60 – 119 | 25 | 25 | 75 | 125 |
| 120 - 179 | 25 | 50 | 50 | 125 |
| 180 or more | 25 | 75 | 25 | 125 |

b. Days of Income Replacement: Work-Related Disability

| Months of Continuous Service | Work days at 100% | Work days at 80% | Work days at 60% | Total Short-Term Paid Days |
|------------------------------|-------------------|------------------|------------------|----------------------------|
| Less than 60 | 0 | 0 | 125 | 125 |
| 60 – 119 | 85 | 25 | 15 | 125 |
| 120 or more | 85 | 40 | 0 | 125 |

2. Successive Periods of Short-Term Disability

- a. Within 45 consecutive calendar days. If an employee receiving IRP-STD returns to work with a release and then cannot continue to work for the same or a similar condition within 45 consecutive calendar days, the employee will be on the same IRP-STD claim. The employee does not have to fulfill another seven (7)-calendar day elimination period. The employee's income replacement will resume at the level he/she was receiving during the previous disability period. The number of days remaining on the 125-workday period for IRP-STD will also resume.
- b. On or After 45 consecutive calendar days. If an employee returns to work with a release and then cannot continue to work for the same or a similar condition on or after the 45th consecutive calendar day, the subsequent period will be considered a new claim. The employee will need to satisfy a new elimination period. If approved, the employee will have up to 125 work days of IRP-STD.

3. Partial Disability

If an employee is able to work, earnings from the employee's job during a period of IRP-STD for an eligible partial disability will offset the IRP-STD benefits. The IRP-STD benefits will be applied to the non-worked time.

4. Catastrophic Condition

If an employee is eligible to receive/is receiving 60% of pre-disability creditable compensation and is determined to have a catastrophic condition, the IRP-STD benefit will increase to 80% until his/her condition improves and is no longer considered catastrophic.

5. IRP-STD and Workers' Compensation

If an employee is eligible for compensable Workers' Compensation and IRP-STD, the Workers' Compensation benefit will be paid first; if the employee is to receive any additional compensation under the IRP-STD days chart, the IRP-STD benefit will further supplement.

F. IRP-STD Supplementing Benefit Amount

1. Employees must use current balances of sick, annual, personal, and compensatory time leave to supplement IRP benefits up to 100% of the employee's pre-disability credible compensation.
2. The total leave hours (IRP plus supplement) shall not exceed the employee's normally scheduled work hours (full creditable compensation amount).
3. Participating employees enrolled in the Virginia Retirement System (VRS) Hybrid Plan may not withdraw days from the Sick Leave Bank when the employee receives benefits pursuant to this program or has received benefits pursuant to this program for the same condition.

G. IRP-STD Effect on Benefits

1. Employees on IRP-STD will continue to receive the same benefits provided to active employees. Medical and dental insurance will continue to be available while on IRP-STD.
2. Life insurance through VRS paid for by the County will continue to be paid by the County.
3. Employees will continue to contribute their mandatory 5% VRS contributions while on IRP-STD. Retirement contributions will not be withheld from the employee's paycheck if an employee is only receiving Workers' Compensation and no supplemental pay. An employee may be eligible to purchase VRS service credit for the period if he/she is receiving only Workers' Compensation and retirement contributions are not being withheld from his/her Workers' Compensation payment.

H. Qualifying for Income Replacement Program – Long-Term Disability (IRP-LTD)

1. If an employee is unable to return to work after the IRP-STD period, a final interactive discussion on the likelihood of return and any additional reasonable accommodations that may help the employee reach full duty will occur. The employee will continue into the IRP-LTD period. If the employee is unlikely to return to full duty following the IRP-STD period and no additional reasonable accommodations are available to bring the employee back to full duty, the employee's position will no longer be held and the employee will no longer be considered an active employee and will be separated from service. The IRP-LTD benefit will continue in accordance with the terms outlined below and Virginia Code.
2. The IRP-LTD benefit runs concurrently with any other relevant benefits, including FMLA leave and Workers' Compensation.
3. Employee eligibility for the IRP-LTD benefit is only available when an employee would be actively working (i.e., during contract/scheduled days).
4. IRP-LTD benefits shall be payable during periods of:
 - a. total disability, or
 - b. partial disability

I. IRP-LTD Benefit Amount

1. IRP-LTD Amount
 - a. After short-term disability income replacement, if the employee continues to be disabled he/she may be approved for IRP-LTD.
 - b. This is insurance coverage providing 60% of the employee's pre-disability creditable compensation.
 - c. Unless otherwise directed, to be eligible for IRP-LTD benefits, the employee must apply for Social Security Disability Insurance (SSDI) benefits or other relevant retirement benefits available to him/her.
 - d. If the employee reaches normal retirement age while on IRP-LTD, his/her benefit will stop. Normal retirement age is defined under the Hybrid Retirement Plan.
 - e. Employees continue to accrue VRS service credit while on long-term disability income replacement.

2. Successive Periods of Long-Term Disability

- a. Within 125 consecutive work days. If an employee receives IRP-LTD, returns to work with a release, and then cannot continue to work for the same or a similar condition within 125 consecutive work days, the employee will be on the same IRP-LTD claim. Work days arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the employee's return to work period.
- b. On or After 125 consecutive work days. If an employee returns to work with a release and then cannot continue to work for the same or a similar condition on or after 125 consecutive work days, the subsequent period will be considered a new claim for IRP-LTD if still actively employed by the County. The employee will need to satisfy a new elimination period and if approved, will have up to 125 work days of IRP-LTD before becoming eligible for IRP-LTD again.

3. Partial Disability

If an employee is able to work, earnings from an employee's job during a period of IRP-LTD for an eligible partial disability will offset the amount of his/her IRP-LTD benefit.

4. Catastrophic Condition

If an employee is receiving 60% of pre-disability creditable compensation and is determined to have a catastrophic condition, the IRP-LTD benefit will increase to 80% until his/her condition improves and is no longer considered catastrophic.

J. IRP-LTD Effect on Benefits

1. Life insurance through VRS paid for by the County will continue to be paid by the County.
2. Employees on IRP-LTD will receive medical and dental insurance coverage as provided to retirees.
3. Employees on IRP-LTD are not eligible to contribute to their VRS defined benefit component (4%) or their VRS defined contribution component (1%).
4. Employees on IRP-LTD will be considered inactive for benefit purposes and will not continue to accrue leave. Employees will be responsible for any applicable employee contributions to their benefits during this period.

K. Returning to Work After Illness

1. An employee must submit a medical release prior to or upon the employee's return to work. The release must be from and signed by the employee's health care provider certifying that he/she is able to return to work with or without restrictions.
2. Other return to work guidelines apply to leave taken concurrently under FMLA or Workers' Compensation. Supervisors should consult with the Department of Human Resources when an employee is on concurrent leave under FMLA or Workers' Compensation prior to requesting a medical release or other information.
3. If a supervisor offers restricted duty or other alternative schedule arrangements which the employee is medically able to perform, the employee must return to work in that capacity.

L. End of IRP Benefit Coverage

1. Disability benefits shall cease to be paid to a participating employee upon the first of the following to occur:
 - a. The end of the period of disability coverage (e.g., return to work or no longer totally or partially disabled);
 - b. Voluntary separation or just cause termination from covered employment;
 - c. The date of death of the participating employee;
 - d. The date that the participating employee attains normal retirement age;
 - e. The effective date of the participating full-time employee's service retirement under the Hybrid Retirement Program;
 - f. Employee is determined to be no longer medically eligible;
 - g. Employee takes a refund of his/her member contributions and interest in the defined benefit component of his/her plan; or
 - h. Employee does not cooperate or comply with the requirements of the IRP-LTD.
2. Maximum Length of the IRP Benefit at Age 60 or Older

If an employee is age 60 or older, he/she will be eligible for an IRP benefit according to the following schedule:

| | |
|-----------------|--|
| Age 60 – 64 | Five (5) years from the date disability benefit begins |
| Age 65 – 68 | Until age 70 |
| Age 69 or older | One (1) year from the date disability benefit begins |

XV. Jury Duty Leave

A. Purpose

The County recognizes the duty of citizens to serve on a jury when summoned. These procedures outline leave usage.

B. Eligibility

The County provides paid jury duty leave for benefits-eligible employees and unpaid jury duty leave for benefits-ineligible employees consistent with Virginia Code § 18.2-465.1. Employees are expected to notify their supervisors as far in advance as possible prior to using jury duty leave. Supervisors may require verification that an employee has been called for jury duty.

C. Regulation

1. Employees may retain payment from the court for the daily rate of pay for each day of jury service in addition to jury duty leave provided by the County.

2. Employees are expected to report to work when jury is not in session, except:

If an employee has already been summoned for four (4) or more hours of jury duty, including travel time, on that day and starts his/her shift between 5 p.m. and 3 a.m., the employee is not required to report to work and will be granted jury duty leave. **Employees must notify their supervisor of the dates of potential jury duty immediately upon being notified of such date(s).**

XVI. Leave as a Reasonable Accommodation

Leave may be provided or used as a reasonable accommodation pursuant to the Americans with Disabilities Act, Title VII of the Civil Rights Act, or any other relevant statute. Leave granted as a reasonable accommodation will be considered on a case-by-case basis, may run in concert with other reasonable accommodations, and/or may run concurrently with other available leave.

XVII. ~~Maternity Leave~~

~~From the date of a child's birth, the County provides unpaid maternity leave to regular employee for up to six (6) weeks for natural birth and up to eight (8) weeks for Caesarian section, regardless if an employee qualifies for FMLA leave. If an employee qualifies for FMLA leave, IRP, or any other benefit program, these leaves will run concurrently. If an employee has paid leave available, it will run concurrently with maternity leave. All paid leave shall be exhausted before taking leave without pay, excluding any rights permitted under the FMLA. Medical documentation regarding the length of recovery time shall be provided to the Department of Human Resources by the employee within 15 calendar days after the start of maternity leave.~~

XVIII. Military Leave

A. Purpose

Military leave is available to employees and candidates who have accepted offers of employment from the County and perform service in the uniformed services while employed by the County. This section is intended to fully implement the United States Employment and Reemployment Rights Act (USERRA, 38 U.S. Code § 43, et. seq.) and Virginia Code § 44-93, et. seq.. Any variation between this policy and law will be determined in favor of the law.

B. Definitions

Federal Fiscal Year:

The "Federal Fiscal Year" is October 1 through September 30 of every calendar year.

Service in the Uniformed Services:

"Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes: active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the employment for the purpose of performing funeral honors duty as authorized by 10 U.S. Code § 12503 or 32 U.S. Code § 115.

Uniformed Services:

"Uniformed services" means any of the Armed Forces, the Army National Guard, and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the

commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency. "Uniformed services" shall also refer to former members of the armed services or members of the organized reserve forces of any of the armed services of the United States or National Guard.

Workday of Military Leave:

"Workday of military leave" means the period of time normally worked on approximately equal workdays on five or more days of each calendar week. If an employee does not normally work approximately equal workdays five or more days each calendar week, then "workday of military leave" means 1/260 of the total working hours such employee would be scheduled to work during an entire federal fiscal year, not including holidays, annual leave, or other absences.

C. Advance Notice

An employee who is leaving to perform military service shall provide advance written notice of the need for military leave to his/her immediate supervisor (including the best approximation of the expected dates of the leave), unless it would be unreasonable to provide notice at that time or the employee is precluded by military necessity from providing notice. When available, employees must provide a copy of their military orders to their supervisors. Supervisors shall forward any notice of military service or military orders to the Department of Human Resources.

D. Paid Military Leave

Upon presentation of a copy of final orders or other equivalent notice, any employee who is a member of the uniformed services shall be entitled to up to 15 workdays of paid military leave for service in the uniformed services per federal fiscal year. If service in the uniformed services spans more than one (1) federal fiscal year, employees are not entitled to an additional 15 workdays of paid military leave in the second year for the same tour. Employees on paid military leave shall be paid their full gross salaries for regularly scheduled work hours during this period. Employees are requested to attempt to make arrangements for service in the uniformed services at times other than during scheduled work hours when possible.

E. Unpaid Military Leave and Supplemental Pay

1. An employee shall be placed on unpaid military leave for up to five (5) years while serving in the uniformed services after paid military leave is exhausted.
- ~~2. If a regular employee's uniformed services gross base salary is less than the employee's County gross base salary, the employee may request supplemental pay. Supplemental pay provides the amount necessary to bring the employee's monthly gross base salary to the gross base salary earned as a County employee at the time of recall to service in the uniformed services.~~
- ~~3. An employee must provide the Leave Earning Statement (or equivalent) in order to receive supplemental pay. An employee is entitled to receive a maximum total of two (2) years of supplemental pay. Employees who are receiving supplemental pay are on unpaid military leave for purposes of benefits under this policy.~~

F. Reinstatement

1. An employee who is entitled to military leave by reason of service in the uniformed services shall be restored to the same position, if it has not been abolished; to a position with like seniority, status, and pay; or to a comparable position if no like position exists, unless to do so would be unreasonable. Restoration is contingent on whether the employee:
 - a. Has given advance notice of the need for military leave (unless notice is precluded by military necessity or is otherwise impossible or unreasonable);
 - b. Has not been absent from his/her job for more than five (5) years;
 - c. Provides documentation to the County from his/her respective military commands that indicates a release from this period of active duty and that the service was performed under honorable conditions; and
 - d. Returns to work in the timeframes outlined below.
2. If the employee was absent from work for service in the federal military for:
 - a. Thirty (30) calendar days or less, he/she must report back to work by the beginning of the next regularly scheduled work period after a reasonable amount of time to arrive home, rest, and report to work;
 - b. Thirty-one (31) calendar days to 180 calendar days, the employee must submit a notice of intent to return to work in writing within 14 calendar days after the completion of service; or
 - c. One hundred eighty-one (181) calendar days or more, the employee must submit a notice of intent to return to work in writing within 90 days after the completion of service.
3. If the employee was absent from work for service in the Virginia military:
 - a. One hundred eighty (180) calendar days or less, the employee must submit a notice of intent to return to work in writing within 14 days of release from duty or from hospitalization, or
 - b. One hundred eighty-one (181) calendar days or more, the employee must submit a notice of intent to return to work in writing within 90 days of his release from duty.
4. Upon returning from duty, a returning service member will be reinstated in the job that he/she would have attained had he/she not been absent for military service, (the “escalator principle”), with the same seniority, status and pay, as well as other rights and benefits determined by seniority, if the position exists, or to a comparable vacant position for which he/she is qualified, unless to do so would be unreasonable. ~~The County~~ **BRJD** is not obligated to reinstate persons returning from military leave in certain situations specified by state and federal law.

G. Benefits

During paid military leave, the employee will continue to accrue seniority and any other benefits available to him/her as if regularly employed by ~~the County~~ **BRJD**.

~~During unpaid military leave, the employee will continue to accrue seniority. Employees on unpaid military leave for more than one calendar month will be placed on a leave of absence (LOA) and will be eligible for benefits pursuant to the LOA policy.~~

H. Discrimination Against Members of the Uniformed Services Prohibited

Members of the uniformed services will not be denied initial employment, reinstatement, retention in employment, promotion, or any benefit of employment on the basis of that membership.

~~XIX. Personal Leave~~

~~A. Purpose~~

~~It is vital that staff are present at work to provide the quality services expected for the public. Personal leave is provided to allow 10- and 11-month employees time off from work to attend to personal matters that are not due to illness or injury. Personal leave accrues separately from sick leave, and sick leave is not to be used for personal reasons.~~

~~B. Accrual for 10- and 11-Month Employees~~

~~Regular, benefits-eligible 10- and 11-month employees accrue up to two (2) personal days of leave per year. Employees on Leave of Absences will not accrue personal leave. Personal days will be distributed on the following schedule:~~

~~New Hires~~

- ~~1. Employees who are hired into benefits-eligible positions effective between August 1st and October 1st will receive two (2) personal days granted on October 1st based on the day of leave as of October 1st.~~
- ~~2. Employees who are hired into benefits-eligible positions effective between October 2nd and December 31st will receive two (2) personal days at the time of hire or eligibility based on the day of leave at the time of distribution.~~
- ~~3. Employees who are hired into benefits-eligible positions effective between January 1st and June 30th will receive one (1) personal day at the time of hire or eligibility based on the employee's day of leave at the time of distribution.~~

~~Returning Employees~~

~~Employees who are employed with the County as of June 30th of the current year and return in August at the start of the new year, will receive two (2) personal days granted on October 1st based on the employee's day of leave as of October 1st as a benefits-eligible employee.~~

~~C. Accumulation Maximum Cap~~

~~Personal leave balances are subject to a maximum cap. Employees may accrue up to five (5) personal leave days.~~

~~D. Changes in Status~~

- ~~1. Personal leave is not paid out upon termination or transfer to a benefits-ineligible position and has no cash value. Employees who had breaks in service and are rehired will be treated as new hires per above. Balances are cleared upon termination of regular employment.~~
- ~~2. Employees transferring without breaks in service to 12-month positions may request to convert accrued personal leave to annual leave up to a maximum of five (5) days of leave of the new 12-month position.~~

- ~~3. Those employees changing to benefits-ineligible status will have their personal leave balances deactivated and leave will not accrue. In the event that they become benefits-eligible again without breaks in service, the personal leave balances will be re-activated for use and accrual will resume.~~
- ~~4. Employees who have increases in FTE during the year will not receive additional personal leave at the time of the increase. If an employee had an accrued personal leave balance of five (5) days and has an increase in the day of leave, the leave balance will be capped at the rate of the day of leave on the October 1st distribution.~~
- ~~5. Employees who change from regular benefits-ineligible to regular benefits-eligible positions will be treated as new hires per above.~~
- ~~6. If an employee who has a balance at the maximum cap has a decrease in FTE during the year, the balance will be capped at the rate of the new day of leave on October 1st.~~

E. Use of Personal Leave

~~Employees may use up to two (2) personal leave days per year. Personal leave requires approval from the department head/designee prior to the leave being taken. An employee must submit his/her request for personal leave to the department head/designee at least five (5) days in advance of the day or days to be taken. If it is necessary for an employee to request personal leave without five (5) days' notice, the department head/designee may require an explanation from the employee regarding the reason for the leave and the short notice.~~

~~Guidelines for granting personal leave for eligible personnel are as follows:~~

- ~~1. The department head/designee may limit the number of employees who may be granted personal leave on a given day in order to assure the orderly and efficient operation of the department.~~
- ~~2. Personal leave may be denied to an employee who has not met expectations for attendance during the current and/or previous year.~~

F. Exceptions

~~Department heads/designees may grant exceptions to the dates above when there is a bona fide reason for doing so. While two (2) days of personal leave is the standard allowance, they may approve up to five (5) days of personal leave for exceptional circumstances when an employee's personal leave balance permits.~~

XX. Professional Learning Leave

For information on compensation and leave options for professional learning, please refer to § P-87 Professional Learning Leave and Time.

XXI. Sick Leave

A. Purpose

The County **BRJD** recognizes that its employees may need time away from work due to personal health- related matters, health-related matters in their immediate families, and/or health-related appointments. The County **BRJD** provides a program of paid leave to benefits-eligible employees to cover such circumstances. Employees should schedule appointments and other health-related

matters outside of regular work hours whenever possible to minimize the impact on the efficient operation and delivery of services to the public.

~~Employees and supervisors are encouraged to be flexible when employees or their immediate family members are sick or injured. Depending on the situation, a telework, alternate schedule, or restricted duty accommodation may be considered instead of, or in combination with, sick leave use.~~

Sick leave is for legitimate health-related matters and may run concurrently with other leave programs available by County BRJD policy. Other types of accrued leave may be used in lieu of sick leave when sick leave has been exhausted, but sick leave may not be used in lieu of other types of leave unless specifically stated in a policy. An employee who is unable to return to work due to his/her own or an immediate family member's health-related matter may be separated from employment, subject to applicable law, if it causes an undue hardship on the department, regardless of the employee's sick leave balance. ~~Accrued sick leave is not paid out upon termination. It has no cash value and may not be exchanged for pay; except for those grandfathered employees who elected for a retirement sick leave payout as outlined in that agreement.~~ Employees who have breaks in service and are rehired will begin with zero balances.

While no system will eliminate improper use of sick leave, an employee who is not prone to improperly utilizing their sick leave should see an advantage in proper attendance rather than feel that less motivated employees are receiving undue rewards. Therefore, BRJD employees who have provided a minimum of five (5) years of full-time service upon their termination of their employment with BRJD shall be eligible to receive a payout for unused sick leave balances. BRJD will pay \$25 per 8-hour day of accumulated sick leave up to a maximum of \$2,500 (approved by the BRJD Commission on 05/14/2015).

Those employees changing to benefits-ineligible status will have their sick leave balances deactivated and leave will not accrue. In the event that they become benefits-eligible again without breaks in service, the sick leave balances will be re-activated for use and accrual will resume.

B. Accrual Rates

Employees accrue sick leave at the rate of one (1) "day" 8 hours per month worked (10 days per year for 10-month positions, 11 days for 11-month positions, and 12 days for 12-month positions) based on the employee's day of leave at the time of distribution.

Grandfathered Employees: County employees employed before November 1, 1989 accrue sick leave at a rate of 1.25 days per month (12.5 days per year for 10-month positions, 13.75 days per year for 11-month positions, and 15 days per year for 12-month positions).

~~An employee may be granted a negotiated amount of sick leave with the prior approval of the Director of Human Resources/designee and the County Executive/designee.~~

C. Accumulation Maximum Cap

1. There is no maximum cap on sick leave for employees not enrolled in the Virginia Retirement System (VRS) Hybrid Plan.
2. Employees enrolled in the VRS Hybrid Plan shall have a maximum cap of 720 hours.
3. Any employee who becomes eligible for the VRS Hybrid Plan may retain any accrued sick leave, even if it exceeds the maximum cap. However, the employee will not accrue sick leave until the balance is below the maximum cap and then will only accrue to the maximum cap.

D. Sick Leave Use

1. Sick leave may be used by employees for personal health-related matters, health-related matters in an employee's immediate family, an employee's health-related appointment, or health-related appointments in an employee's immediate family.

2. Sick leave may run concurrently as paid leave with other types of leave as appropriate/applicable (e.g., FMLA leave, bereavement leave, income replacement, and Workers' Compensation).

E. Medical Verification/Returning to Work

1. ~~The County~~ **BRJD** reserves the right to seek medical verification (i.e. a doctor's note) and medical clearance for sick leave used by the employee for him/herself or immediate family member at any time.
 - a. When an employee has been absent for his/her own medical issue, a supervisor may require that an employee submit to the supervisor a medical release from the treating health care provider certifying that he/she is well enough to return to work. Requests to provide a medical release should be made prior to the employee's return, when possible, so that the employee may obtain the medical release in a timely manner. If requested, an employee must provide the requested medical release to the supervisor within three (3) business days of the request or upon return to work, whichever comes later.
 - ~~b. The department head/designee may create reasonable guidelines as to when a medical release is expected for employees who are out on sick leave (excluding when concurrent with FMLA leave use). Such guidelines must be approved by the Director of Human Resources/designee prior to becoming effective.~~
 - ~~c. A medical release should specify the name of the employee, the date on which the employee was seen, if the absence from work was medically necessary, and the date on which the employee is/was able to return to work. It may further stipulate any period of partial or total disability or incapacity to perform a job. If a medical release identifies any disability or incapacity, the department head/designee must contact the Department of Human Resources.~~ **Business Office Manager.**
 - d. Supervisors may neither solicit information about the employee's underlying medical condition nor contact the employee's health care provider. If additional information is needed, the supervisor should contact the ~~Department of Human Resources.~~ **BRJD Director or Deputy Director.**
 - e. Other return to work guidelines apply to FMLA, Workers' Compensation, Sick Leave Bank, and IRP-STD. Supervisors should consult with the ~~Department of Human Resources~~ **Business Office Manager** when an employee is on these types of leave prior to requesting a medical release or other information.
2. ~~If a supervisor~~ **the BRJD Director** offers restricted duty or other alternative schedule arrangements which the employee is medically able to perform, the employee must return to work in that capacity.

XXII. Sick Leave Bank

A. Purpose

~~The Albemarle~~ County authorizes the creation and maintenance of the Sick Leave Bank to be used when a member of the Sick Leave Bank becomes incapacitated by extended illness or injury (defined as more than 20 work days) as long as one-third (1/3) of the eligible members agree to participate in accordance with the terms contained herein.

B. Administration of the Sick Leave Bank

~~The Albemarle County's~~ Director of Human Resources/designee is designated as the administrator

of the Sick Leave Bank. Members of the Sick Leave Bank will be assessed one (1) additional day of sick leave at

such time as the Sick Leave Bank is depleted to 1600 hours, unless they choose not to participate further in the Sick Leave Bank.

C. Employee Membership in the Sick Leave Bank

Membership in the Sick Leave Bank shall be voluntary and open to all benefits-eligible employees.

An eligible employee may enroll within the first 30 calendar days of employment by donating one (1) day of sick leave. An employee who does not enroll when first eligible may do so during any subsequent Benefits Open Enrollment period by applying, providing satisfactory evidence of good health, and donating one (1) day of sick leave. One (1) additional day may be requested for continued membership in the Sick Leave Bank whenever an assessment is required. The donated days of leave will be deducted from the donor's accrued sick leave balance. Members who have no sick leave to contribute at the time of assessment will be assessed one (1) day at the next available accrual.

D. Requesting Use of Sick Leave Bank

1. Requests for use of leave time from the Sick Leave Bank must be made in writing by the member or his/her representative prior to use of any Sick Leave Bank leave. Requests cannot be applied retroactively except in the case of absences that were presumed to be covered by Workers' Compensation but were subsequently denied.
2. Requests must be supported by appropriate medical documentation. ~~The Albemarle~~ **County's** Department of Human Resources may require additional medical documentation to support the request. Failure to meet applicable requirements set forth in this policy will result in the denial of the members Sick Leave Bank usage request.
3. Members should also be aware of leave under the Family and Medical Leave Act (FMLA) and how it relates to the use of sick leave and Sick Leave Bank leave. Members should also be aware of their rights and responsibilities under the Americans with Disability Act (ADA).

E. Rules for Use

1. General Information
 - a. For initial use of the Sick Leave Bank, a member of the Sick Leave Bank must miss scheduled work equivalent to 20 days of leave within 30 workdays for the same illness, injury, impairment, or physical or mental condition, and the member must also have exhausted all of his/her own sick leave. Members are responsible for using other available paid or unpaid leave for time not covered by the Sick Leave Bank.
 - b. Eligible members may take a maximum of 45 days of leave from the Sick Leave Bank in any year (defined as a 365-day period beginning with the first day of Sick Leave Bank usage). For example, if an eligible member begins Sick Leave Bank usage on March 1st, he/she may take up to 45 days of leave from the Sick Leave Bank in the following 365-day period.
 - c. Days drawn from the Sick Leave Bank for any one (1) period of eligibility must be consecutive, except recurrence or relapse of the original illness will be covered fully on a continuing basis up to the annual maximum of 45 days. There may be more than one period of eligibility (or qualifying illness) during the 365-day period, but only a maximum of 45 days total of Sick Leave Bank leave may be used in the 365-day period. Once a member has used all 45 days of Sick Leave Bank leave, he/she must return to work and

must meet the requirements of Section XXI, E(1) before becoming eligible to utilize Sick Leave Bank benefits again.

- d. Sick Leave Bank time will run concurrently with FMLA leave or as part of an ADA reasonable accommodation where applicable and appropriate.
- e. Members using Sick Leave Bank days will not have to replace those days except as a regular contributing member of the Sick Leave Bank.
- f. The Sick Leave Bank request form must be signed by the member's health care provider. The Albemarle County's Department of Human Resources reserves the right to require additional medical documentation supporting the request or documentation from a different health care provider.
- g. Participating members enrolled in the Virginia Retirement System (VRS) Hybrid Plan may not withdraw days from the Sick Leave Bank when the member receives benefits pursuant to the Income Replacement Program or has received benefits pursuant to the Income Replacement Program for a same condition.

2. Termination

- a. Upon termination of employment or membership in the Sick Leave Bank, a member may not withdraw the days he/she contributed to the Sick Leave Bank.
- b. The Sick Leave Bank may be dissolved if less than one-third (1/3) of eligible employees agree to participate.

XXIII. ~~Total Leave Exhaustion Guidelines~~

~~When an employee has exhausted all applicable paid leave types and wants additional time off from work, he/she should request short or long-term unpaid leave. If unpaid leave is not approved, he/she is obligated to report for work fit for duty. If an employee is unable to work due to injury or disability, he/she should discuss options with the Department of Human Resources prior to leave exhaustion. Employees who do not have approved paid or unpaid leave and do not come to work fit for duty may be disciplined up to and including termination.~~

XXIV. ~~Unpaid Leave – Leave of Absence (Long-Term)~~

~~A. Purpose~~

~~An employee may need to request an unpaid long-term leave of absence from his/her regular employment. The County authorizes the County Executive/designee to consider all requests for unpaid long-term leaves of absence and will establish a procedure by which these requests may be processed in a fair and consistent manner. The County Executive/designee will, however, make decisions on granting or denying leave of absence requests based on the best interests of the County. The following procedure is intended to be utilized for leave requests not covered by other County policies.~~

~~B. Eligibility~~

~~To qualify, an employee must have completed at least six (6) months of continuous employment in a benefits-eligible position prior to commencement of a leave of absence.~~

C. ~~Period of Leave of Absence~~

~~An unpaid long-term leave of absence is for a period of time from 28 consecutive calendar days to up to 12 consecutive months.~~

D. ~~Requesting Unpaid Leave~~

- ~~1. Leave of absence requests must be submitted in writing to the employee's supervisor as soon as possible in advance of taking the leave; however, this requirement may be waived by the department head/designee based on the circumstances and/or immediate need of the request. The request must state the reason for the leave and the starting and ending dates of the leave. Generally, requests for leave to pursue other employment will not be approved.~~
- ~~2. The employee, supervisor, department head/designee, and County Executive/designee will work together to determine if the request creates a hardship for the County or impedes the County's ability to provide the necessary level of service to the public and any other relevant factors.~~
- ~~3. The County Executive/designee will make a decision to approve or deny the request.~~

E. ~~Effect on Benefits~~

- ~~1. Employees on unpaid long-term leaves of absence will not accrue annual, personal, or sick leave and will not receive holiday leave or employer contributions to life insurance, VRS, medical insurance, or dental insurance.~~
- ~~2. If an employee has opted for any optional voluntary benefits, the employee must make additional arrangements with the Department of Finance's Payroll Division and/or the vendor providing the benefit/product (as applicable) to cover these obligations since he/she will not be paid salary or wages.~~
- ~~3. An employee requesting an unpaid long-term leave of absence should meet with the Department of Human Resources to discuss the effect of the leave on his/her benefit options.~~

F. ~~Completion of Unpaid Leave of Absence~~

- ~~1. After completion of the unpaid leave of absence, an employee will be assigned to a similar position in the department from which he/she took leave. However, if the County needs to make reductions in staff, employees on a leave of absence are subject to the procedures outlined in § P-30, Employee Reduction in Force Procedures.~~

XXV. Unpaid Leave – Leave Without Pay (Short-Term)**A. Purpose**

An employee's presence at work is essential. The County's **BRJD's** Leave Program has been created to recognize that life circumstances do not always permit an employee to work. There may be unforeseeable circumstances when employees are unable to work and do not have paid leave available to them. The County **BRJD may** authorize the use of short-term leave without pay and to establish a procedure by which these requests may be processed in a fair and consistent manner. To use leave without pay, **when** all other applicable leave options **must be have been** exhausted.

B. Period of Short-Term Leave Without Pay (LWOP)

LWOP may be requested and approved through the Time and Attendance System or other applicable process as follows. Requests should be reviewed to determine if they will create a hardship for the County facility, impede the County's facility's ability to provide the necessary level of service to the public, and any other relevant factors.

- ~~1. A regular employee's supervisor may approve up to 10 days per rolling year. Supervisors must also notify the department head/designee of employee LWOP use. Departments may create notification procedures for when and how supervisors keep department heads/designee informed of such use. Department heads/designees are responsible for ensuring reasonable audit procedures for LWOP usage to occur.~~
- ~~2. Eleven (11+) or more days of LWOP per rolling year requires department head/designee approval in writing, as well as department heads/designees notification to the County Executive/designee. The County Executive/designee may create notification procedures. LWOP may not be approved for more than 27 consecutive calendar days.~~
- ~~3. The Department of Human Resources may approve LWOP regardless of the length when it runs concurrently with FMLA leave, Workers' Compensation, IRP, Maternity Leave, Military Leave, or during the Sick Leave Bank initial waiting period, when applicable.~~

C. Effect on Benefits

1. As long as the employee has income by working or using paid leave in a calendar month, employees on LWOP will continue to accrue and may continue to use holiday leave, annual leave, and sick leave, and may continue to participate in life insurance, medical insurance, dental insurance, and VRS contributions.
2. If an employee on LWOP does not work during a calendar month and does not use any paid leave during the month, the employee will not accrue holiday leave, annual leave, or sick leave and the County will not contribute to the employee's life insurance, medical insurance, dental insurance, or VRS.
3. Employees will be responsible for any applicable employee contributions to their benefits during this period of leave.
4. Employees should meet with the Department of Human Resources Business Office Manager to discuss the effect of LWOP on benefits if taking leave for a block of longer than two (2) weeks.

XXVI. Workers' Compensation

For details on Albemarle County's Workers' Compensation Policy, see § P-90. 89. Any additional types of applicable leave will run concurrently with Workers' Compensation when an employee is out for a Workers' Compensation-related injury/illness.

~~Adopted: February 6, 2019~~

~~All Sections except Section XIX, effective April 1, 2019
Section XIX, Personal Leave, effective July 1, 2019~~

This is the first issuance of this Policy and supersedes all previous policies containing this content (BRJD P-80, P-81, P-85 and Albemarle §P-82, §P-83, §P-84, and §P-88).

Approved by the Blue Ridge Juvenile Detention Commission on 09/12/2019.