

**COUNTY OF UPSHUR  
COMMISSIONERS COURT ORDER**

**WHEREAS the Upshur County Commissioners Court desires to provide the employees of Upshur County with a uniform format for dealing with various employment related issues; and**

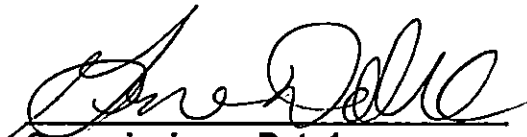
**WHEREAS the Upshur County Commissioners Court wishes to adequately communicate to employees the policies and procedures of the County:**

**THEREFORE, BE IT RESOLVED that the Upshur County Commissioners Court does hereby approve, and adopt, the UPSHUR COUNTY EMPLOYEE HANDBOOK.**

ADOPTED THIS 15 DAY OF MAY, 2024.



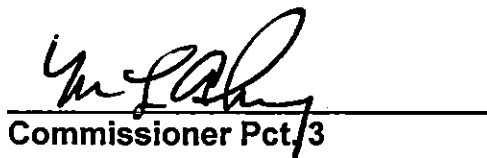
County Judge



Commissioner Pct. 1



Commissioner Pct. 2



Commissioner Pct. 3



Commissioner Pct. 4

**Witnessed and Attested By:**



County Clerk



# UPSHUR COUNTY EMPLOYEE HANDBOOK

*Adopted by  
Upshur County Commissioners Court  
June 30, 2020*  
**UPDATED: May 15, 2024**

**UPSHUR COUNTY**  
**EMPLOYEE HANDBOOK**

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## **EMPLOYEE HANDBOOK ACKNOWLEDGEMENT**

**I have received a copy of the Upshur County Employee Handbook that outlines my benefits and obligations as a County employee. I understand that I am responsible for reading and familiarizing myself with the information in this manual and understand that it contains general personnel policies of the County. If I need clarification on any of the information in this manual, I will contact my immediate supervisor.**

**I further understand that the Upshur County Employee Handbook is not a contract of employment. I understand that I am an at-will employee and that my employment may be terminated by either myself or the County elected or appointed official, at any time, with or without cause, and with or without notice.**

**I understand that this employee handbook is intended to provide guidance in understanding Upshur County's policies, practices and benefits. I understand that Upshur County retains the right to change this handbook at any time, and to modify or cancel any of its employee benefits when the need for change is recognized.**

**I understand as a county employee, I shall have no expectation of privacy when using county computers, networks, or other county owned equipment. Improper use may result in discipline up to and including termination!**

**I further understand that as an Upshur County employee, I am expected to provide quality service to the public; to work towards the highest degree of safety possible for my fellow workers, to continually make suggestions for improvements, and to display a spirit of team work and cooperation.**

**I understand that I will be granted compensatory time off in lieu of payment of overtime to the extent provided by law and I may be required to take earned compensatory time off at the County's discretion.**

**I understand that I may be subject to post-accident drug and alcohol testing. If I am required to have a Commercial Driver's License (CDL) for my county position, I will be subject to random and post-accident drug and alcohol testing.**

**I have read these policies and understand these policies and I agree to abide by and adhere to these policies.**

\_\_\_\_\_  
**Signature of Employee**

\_\_\_\_\_  
**Printed Name of Employee**

\_\_\_\_\_  
**Date signed**

**RESOLUTION FOR UPSHUR COUNTY**

**I the undersigned have read the Upshur County Employee Handbook that the Upshur County Commissioner's Court has adopted. As an ELECTED OFFICIAL of Upshur County, I endorse and approve the Employee Handbook. I approve the document as it reflects my commitment to Upshur County employees and it reflects my commitment to conform to appropriate state and federal laws. I agree to be bound by the terms and conditions of the Upshur County Employee Handbook, as witnessed by my signature below, with the understanding that I may draft a department-specific policy for the office which I hold.**

**I agree to be bound by the terms and conditions of the Upshur County Employee Handbook as witnessed by my signature below.**

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**OFFICE HELD**

\_\_\_\_\_  
**DATE**

## **Upshur County Employee Handbook**

Welcome to Upshur County!

We are excited to have you as an employee of Upshur County. You were hired because the elected official, appointed official or department head believes you can contribute to the success of Upshur County, and share our commitment to serving the public and our constituents with excellence.

Upshur County is committed to providing excellent service to the public in all of our county offices. As part of the team, we hope you will discover that the pursuit of excellence is a rewarding aspect of your career here.

This employee handbook contains some key policies, benefits, and expectations of Upshur County, and other information you will need. Each elected or appointed official may have detailed policy and procedures manuals for their office.

Your job is essential to fulfilling our mission of serving our county constituents every day and to meet or exceed their expectations. We achieve this through dedicated hard work and commitment from every Upshur County employee. You should use this handbook as a ready reference as you pursue your career with Upshur County. Please consult with your elected official, appointed official or department head regarding questions you may have concerning this employee handbook.

Sincerely,

Upshur County Commissioner's Court

# SECTION 1: GENERAL POLICIES

## A. COUNTY EMPLOYMENT

### 1A-1 EMPLOYMENT AT-WILL

All employment with Upshur County shall be considered "at will" employment. No contract of employment shall exist between any individual and Upshur County for any duration, either specified or unspecified. No provision of this employee handbook shall be construed as modifying your employment at will status.

All newly hired employees will complete a 90-day probationary period.

Upshur County elected and/or appointed officials shall have the right to terminate the employment of any employee for any legal reason, or no reason, at any time either with or without notice.

Upshur County elected officials shall also have the right to change any condition, benefit, policy, or privilege of employment at any time, with or without notice. Employees of Upshur County shall have the right to leave their employment with the county at any time, with or without notice.

### 1A-2 EMPLOYEE STATUS POLICY

Each county position has an employee status that identifies how the position is paid and how benefits are granted by Commissioners Court. This policy defines both health insurance and retirement benefits. The status of an employee cannot be changed without the approval of the Commissioners Court. Full time employees will be eligible for health insurance. All other classifications must be included in the county initial and/or standard measurement periods for the Affordable Care Act.

**Regular Full Time:** A full time employee shall be any employee in a position who has a normal work schedule of at least thirty (30) hours per week. Full time employees are eligible for county health insurance and retirement benefits. Other county policies will dictate eligibility for other benefits. Employees may be non-exempt, hourly employees or exempt employees. Non-exempt employees are eligible for overtime compensation. Exempt employees are not eligible for overtime compensation. Upshur County makes exempt status determination based on the Fair Labor Standards Act.



**Regular Part Time:** A part time employee shall be any employee in a position who has a normal work schedule of less than thirty (30) hours per week. All regular part time employees must be placed on TCDRS retirement regardless of the number of hours worked per week. Part time employees are not eligible for any other county benefits.

**Temporary Seasonal:** A seasonal employee shall be any employee who is hired into a position that lasts six (6) or less months and begins at approximately the same time each year. Examples may include, but are not limited to, summer mowers and election workers. The Commissioners Court must define and document the season that the employee is being hired for. Seasonal employees can be either part time or full time, and they do not qualify for health insurance through the county under the Affordable Care Act. Temporary seasonal employees are not eligible for retirement benefits under TCDRS. Temporary seasonal employees are not eligible for any other county benefits.

**Regular Variable Hour:** A variable hour employee shall be any employee for whom the county cannot determine the average amount of hours that the employee will work each week – hours are variable or indeterminate at the time of the employee's start date. If the employee works an average of thirty (30) or more hours a week in the measurement period, the employee will be eligible for health insurance through the county under the Affordable Care Act. If an employee's schedule becomes regular, then the employee shall be reclassified as full or part time depending on the hours worked. Regular variable hour employees are eligible for retirement benefits under TCDRS. Other county policies will dictate eligibility for other benefits.

**Temporary Part Time:** A temporary short term part time employee shall be any employee who is expected to work less than thirty (30) hours each week in a position that is expected to last for a specific period of time or until a specific project is completed, but no longer than 12 months. If this project goes beyond 12 months, the employee will move into a regular part time status. Temporary short term part time employees are not entitled to any benefits under the Affordable Care Act and are also not eligible for retirement benefits under TCDRS. Temporary Part Time employee are not eligible for any other county benefits.

### **1A-3 EQUAL EMPLOYMENT OPPORTUNITY**

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

#### **1A-4 AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT**

It is the policy of Upshur County to prohibit any harassment of, or discriminatory treatment of employees on the basis of a disability or because an employee has requested a reasonable accommodation. If an employee feels he or she has been subject to such treatment, or has witnessed such treatment, the situation should be reported to your elected official, appointed official, department head or the County Judge. All elected officials, appointed officials, department heads and employees with responsibilities requiring knowledge are instructed to treat the employee's disability with confidentiality.

It is Upshur County's policy to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship on the county. In accordance with the Americans with Disabilities Act, as amended (ADAAA), reasonable accommodations may be provided to qualified individuals with disabilities when such accommodations are necessary to enable them to perform the essential functions of their jobs, or to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment, and all employees. If you require accommodation, please contact your elected official, appointed official, department head or the County Judge. Reasonable accommodation shall be determined through an interactive process of consultation.

#### **1A-5 PERSONNEL FILES**

The Upshur County Treasurer's Office, which has been designated as the Human Resources Department by the Commissioner's Court, will retain basic employee information in an individual personnel file.

It is important that the personnel records of Upshur County be accurate at all times. In order to avoid issues, compromising your benefit eligibility or having W2's returned, Upshur County requests employees to promptly notify the Treasurer's Office of any change in name, home address, telephone number, marital status, number of dependents, or of any other pertinent information.

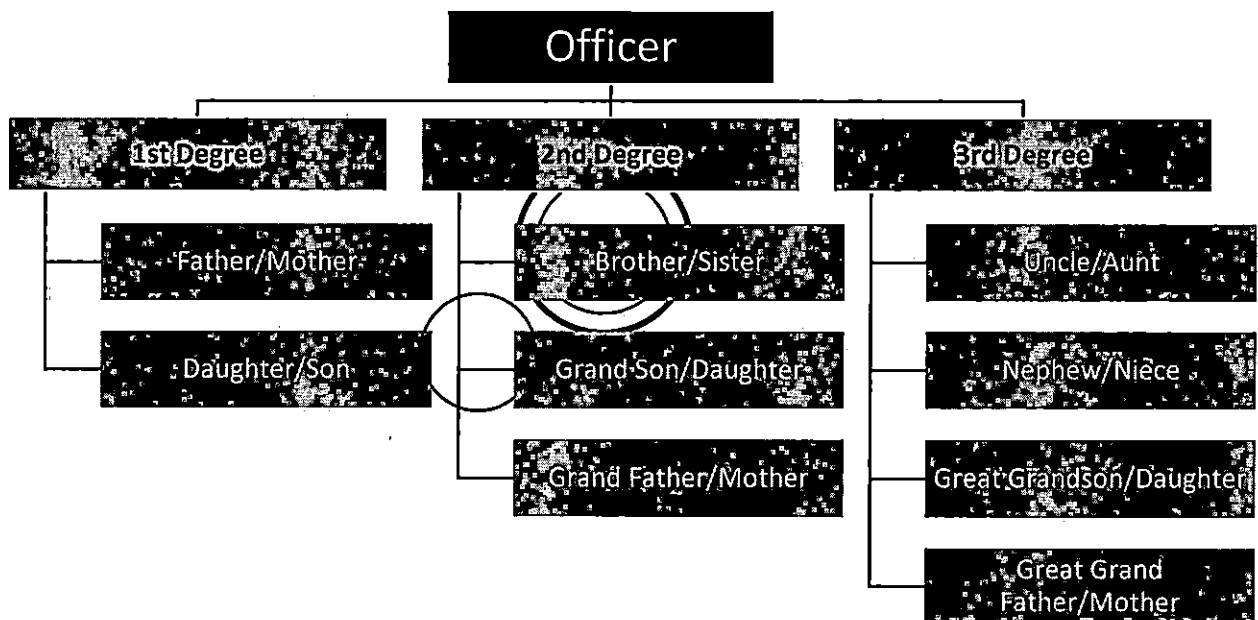
The Public Information Act allows county employees to keep their home addresses, email addresses, telephone numbers, social security numbers, emergency contact information, and information that reveals whether you have family members confidential. You may keep this information private by requesting in writing not to allow this information to be released to the public no later than 14 days after your first day of employment.

## 1A-5 NEPOTISM

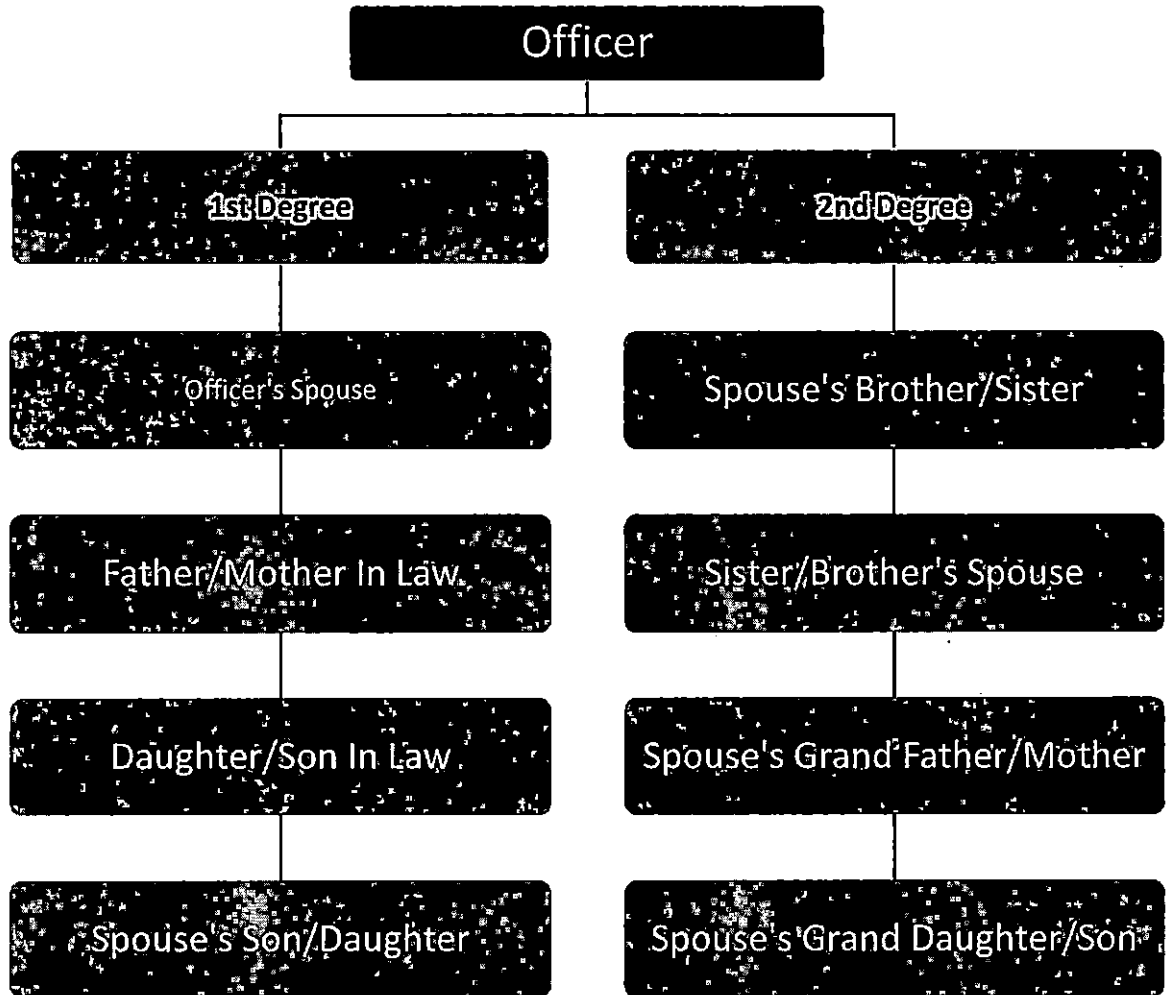
Texas Government Code Chapter 573, a Public Official of Upshur County is prohibited from hiring a relative related within the third degree of consanguinity (blood) or within the second degree of affinity (marriage) to work in a department that he or she supervises or exercises control over.

A degree of relationship is determined under Texas Government Code Chapter 573.  
(See the charts that follow.)

### CONSANGUINITY KINSHIP CHART (Relationship by Blood)



**AFFINITY KINSHIP CHART**  
(Relationship by Marriage)



## **B. WORK RULES AND EMPLOYEE RESPONSIBILITY**

### **1B-1 ATTENDANCE**

As an Upshur County employee you are expected to be punctual and demonstrate consistent attendance.

Each employee shall report to work on each day they are scheduled to work and at the starting time set by their supervisor unless prior approval for absence is given by the supervisor or the employee is unable to report for work because of circumstances beyond the control of the employee.

If an employee is unable to be at work at their normal reporting time, they shall be responsible for notifying their supervisor at least two hours prior to the scheduled start of their shift or as soon as it is reasonably practicable in the case of an emergency.

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

Each supervisor is responsible for determining if an unscheduled absence or tardiness is to be classified as excused or unexcused, based on the circumstances causing the absence or tardiness.

Frequent unexcused absences or tardiness, as determined by your immediate supervisor, may make an employee subject to disciplinary measures, up to and including termination of employment.

An employee who does not report for work for three (3) consecutive scheduled work days, and who fails to notify his or her supervisor, shall be considered to have resigned their position by abandonment.

### **1B-2 DRESS CODE**

Upshur County expects all employees to be well-groomed, clean, and neat at all times. Each elected/appointed official will determine the type of attire that is acceptable for their department.

### **1B-3 TOBACCO FREE WORKPLACE**

By order of the Upshur County Commissioner's Court, all county-owned buildings, vehicles, equipment and property are considered to be a Tobacco Free Environment except for designated smoking areas.

1. This order applies to all employees, visitors and any other persons.
2. The use, smoking or burning of any tobacco products, including but not limited to cigarettes, cigars, pipe tobacco, chewing tobacco, dipping tobacco, or snuff is strictly prohibited.
3. Use of tobacco products is allowed ONLY in personal vehicles or the hereinafter designated smoking areas.
4. The following areas of county property are designated as smoking areas and none other:
  - a. County Courthouse on the square. The east side entrance sidewalk beginning at the curb and traveling 20 feet west, and 6 feet north and south of the sidewalk. On days on which rain or any other precipitation is falling, when the ambient outside temperature is below 40 degrees F or above 85 degrees F, then on the south front porch of the County Courthouse but not closer than 6 feet from the double doors.
  - b. Upshur County Justice Center. At the southwest side exit door beginning 6 feet north of the double doors and extending to the curb of the parking lot, and extending west 20 feet from the southernmost corner of the building. On days on which rain or any other precipitation is falling, when the ambient outside temperature is below 40 degrees F or above 85 degrees F, then under the canopy on the west side main entrance of the Justice Center, and not closer than 6 feet from the double doors. Employees of the County are also authorized to smoke on the east side of the Justice Center at the Sheriff's Office back door anywhere within 10 feet south of the door and 15 feet east of the door extending to the sally port entrance.
  - c. Road and Bridge Designated Smoking Areas. At the main barn on the north side of the building under the awning; at the Precinct 1 station at the south end of the building, at the Precinct 2 station at the north end of the building, at the Precinct 3 station at the south side of the building under the awning, and at the Precinct 4 station at the southeast side of the building.
  - d. The Rock Building. At the end of the main entrance sidewalk.

Any violations of this policy will be handled through standard disciplinary procedures and may include termination of employment.

### **1B-4 CONFLICT OF INTEREST**

Employees of Upshur County shall not engage in any employment, relationship, or activity which could be viewed as a conflict of interest because of the potential or appearance of affecting the employee's job efficiency, or which would reduce his/her

ability to make objective decisions in regard to his/her work and responsibility as an Upshur County employee.

Employees involved in conflict of interest situations shall be subject to discipline, up to and including termination and these actions may have criminal consequences for employees.

Activities which constitute a conflict of interest shall include but not be limited to:

- 1) Soliciting, accepting, or agreeing to accept a financial benefit, gift, or favor, other than from the county, which might reasonably tend to influence the employee's performance of duties for the county or that the employee knows or should know is offered with the intent to influence the employee's performance;
- 2) Accepting employment, compensation, gifts, or favors that might reasonably tend to induce the employee to disclose confidential information acquired in the performance of official duties;
- 3) Accepting outside employment, compensation, gifts, or favors that might reasonably tend to impair independence of judgment in performance of duties for the county;
- 4) Making any personal investment that might reasonably be expected to create a substantial conflict between the employee's private interest and his or her duties for the county; or
- 5) Soliciting, accepting, or agreeing to accept a financial benefit from another person in exchange for having performed duties as a county employee in favor of that person.

### **1B-5 HARASSMENT**

Upshur County is committed to a workplace free of harassment. Harassment includes unlawful, unwelcome words, acts or displays based on sex, race, color, religion, national origin, age, genetic information, pregnancy, disability, family or military leave status or veteran's status. Such conduct becomes harassment when (1) the submission to the conduct is made a condition of employment; (2) the submission to, or rejection of, the conduct is used as the basis for an employment decision; or (3) the conduct creates an offensive, intimidating or hostile working environment or interferes with work performance.

Harassment is strictly prohibited by Upshur County whether committed by an elected official, appointed official, department head, co-worker or non-employee with whom the county does business.

Employees who feel they have been harassed should immediately report the situation to the elected or appointed official who is responsible for the department in which they work. If, for any reason, the employee feels that reporting the harassment to the department head may not be the best course of action, the report should be made to the County Judge or to the County Sheriff.

Every reported complaint will be investigated promptly and thoroughly. The official or department head to which a claim has been reported shall be responsible for seeing that prompt action is taken to investigate the claim.

Once the investigation is complete, the employee making the claim shall be notified of the result of the investigation and any actions which are to be taken.

Retaliation against an employee who reports harassment or who cooperates in the investigation is prohibited by law as well as this policy. Employees who feel they have been subjected to illegal retaliation should immediately report the situation to the elected or appointed official who is responsible for the department in which they work. If, for any reason, the employee feels that reporting the retaliation to the department head may not be the best course of action, the report should be made to the County Judge or to the County Sheriff.

Remedial action will be taken in accordance with the circumstances when the county determines unlawful harassment or retaliation has occurred, up to and including termination.

### **1B-6 SEXUAL HARASSMENT**

Sexual harassment is strictly prohibited by Upshur County, whether committed by elected official, appointed official, department head, co-worker or non-employee the county does business with. It is the policy of Upshur County to provide a work place free from sexual harassment for all employees and to take active steps to eliminate any sexual harassment of which the county becomes aware.

Employees engaging in sexual harassment shall be subject to discipline, up to and including termination of employment. Sexual harassment shall include, but not be limited to, unwanted sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature, which includes slurs, jokes, statements, gestures, touching, pictures, emails or cartoons where: (1) the submission to such conduct is either an expressed or implied condition of employment; or (2) the submission to or rejection of such conduct is used as a basis for an employment decision affecting the harassed person; or (3) the conduct has the purpose or effect of substantially interfering with an affected person's work performance or creating an intimidating, hostile, or offensive work environment.

All claims of sexual harassment shall be taken seriously and investigated promptly and thoroughly. While all claims of sexual harassment shall be handled with discretion, there can be no complete assurance of full confidentiality.

Employees who feel they have been sexually harassed should immediately report the situation to the elected or appointed official who is responsible for the department in which they work. If, for any reason, the employee feels that reporting the harassment to the department head may not be the best course of action, the report should be made to the County Judge or to the County Sheriff.

Every reported complaint will be investigated promptly and thoroughly. The official or department head to which a claim has been reported shall be responsible for seeing that prompt action is taken to investigate the claim.



Once the investigation is complete, the employee making the claim shall be notified of the result of the investigation and any actions which are to be taken.

Use the following procedures so that your complaint maybe resolved quickly and fairly.

- a. When practical, confront the harasser and ask them to stop the unwanted behavior.
- b. Record the time, place and specifics of each incident, including any witnesses.
- c. Report continuing sexual harassment to the elected official or appointed official who is responsible for your department or to the County Judge or the County Sheriff.
- d. If a thorough investigation reveals that unlawful sexual harassment has occurred, Upshur County will take effective remedial action in accordance with the circumstances, up to and including termination.

Retaliation against an employee who reports sexual harassment or who cooperates as a witness in the investigation is prohibited by law as well as this policy.

Employees who feel they have been subjected to illegal retaliation should immediately report the situation to the elected or appointed official who is responsible for the department in which they work. If, for any reason, the employee feels that reporting the retaliation to the department head may not be the best course of action, the report should be made to the County Judge or to the County Sheriff.

Reporting or failing to report claims in accordance with the procedure given in this policy shall not limit other legal recourse an employee may have in regard to sexual harassment charges.

### **1B-7 POLITICAL ACTIVITY**

Employees of Upshur County shall have the right to support candidates of their choice and to engage in political activity during their personal time.

County employees shall not: 1) Use their official authority or influence to interfere with or affect the result of any election or nomination for office; 2) Directly or indirectly coerce, attempt to coerce, command, or advise another person to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for a political reason; or 3) Use any equipment, property or material owned by the county for political activity or engage in political activity while on duty for the county.

### **1B-8 OUTSIDE EMPLOYMENT**

Upshur County employees are expected to give their full and undivided attention to their job duties. They should not use Upshur County facilities or equipment or their association with Upshur County to carry on a private business or profession. Unless express approval is obtained in advance and in writing from their immediate supervisor,

county employees should not engage in a profit-making business nor become involved with a non-profit organization outside of their employment with Upshur County that interferes with the employee's assigned duties with Upshur County.

### **1B-9 BREAKS**

The Patient Protection and Affordable Care Act amended the Fair Labor Standards Act to require reasonable breaks for nursing mothers to express breast milk. The Texas Right to Express Breast Milk in the Workplace Act also imposes duties on public employers and, under other state law, is applicable for the duration of a nursing mother's need to express breast milk. Upshur County supports the practice of expressing breast milk.

Upshur County will provide reasonable paid breaks for a nursing mother to express breast milk. The nursing mother will be allowed whatever time is needed to express breast milk.

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

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

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

### **1B-10 GRIEVANCES**

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

If the discussion with the immediate supervisor does not resolve the grievance, and, if the immediate supervisor is not the elected or appointed official with final responsibility for the employee's department, the employee shall have the right to discuss the grievance with that official.

The decision of the elected or appointed official with final responsibility for the employee's department shall be final in all grievances.

### **1B-11 DISCIPLINE**

Each supervisor shall have the authority to administer discipline to employees in their department for poor performance, violation of policies, disruptive behavior, or any other behavior or activity which the supervisor feels is not acceptable as it relates to the employee's job or the best interest of the department or county.

Depending on the severity of the situation, discipline may range from informal counseling up to and including immediate termination.

**All county employees are "at will" employees and nothing in this policy gives an employee any contract of employment, guarantee of any duration of employment, or any other property interest in his/her job.**

Upshur County elected and/or appointed officials retain the right to terminate the employment of any individual at any time for any legal reason, or no reason, with or without notice. The county also retains the right to change any condition, benefit, privilege, or policy of employment at any time, with or without notice.

### **1B-12 LICENSE AND CERTIFICATIONS**

Upshur County has many positions that require licenses and certifications. It is the responsibility of each employee to maintain all required licenses and certifications. If an employee is unable to renew or loses a license or certification, they must immediately notify their supervisor. If this license is a requirement for the position, the employee may be demoted, transferred or terminated. Under no circumstances will the employee be allowed to continue in the position where a license or certification is required if failure to have such license or certification is illegal under either Federal or State Law.

### **1B-13 WEATHER CLOSINGS AND EMERGENCIES**

As a general practice, Upshur County does not close its operations unless the health, safety, and security of county employees are seriously brought into question. When this happens, either because of severe weather conditions or other emergencies, the County Judge is responsible for initiating the closing.

The County Judge will notify the following entities for a public announcement: KLTV and the ETEX Community Message Channel. Closings will also be posted on the county website and Facebook page. Announcements of an emergency closing will, to the extent possible, specify the starting and ending times of the closing. However, each elected official controls the working hours of their employees, even in an emergency situation.

Many county departments are continuous operating public safety and service departments. Many county personnel will be required to work during emergency closings. Each department head is responsible for designating their own employees and providing alternate information to personnel designated as essential during emergency closings. Public safety will be foremost in the development of departmental emergency action plans.

#### **1B-14 CONFIDENTIALITY**

Upshur County is a public entity, however, some county employees acquire confidential (confidential, non-public) information as a result of their position with the county. This information must be protected. Employees who reveal confidential (confidential, non-public) information they have received as a result of their position may be subject to discipline up to and including termination.

Regarding the personnel information on employees of Upshur County; much of the information in an employee's personnel file, including salary and job evaluations is subject to disclosure under the Public Information Act, however, highly personal matters are typically not subject to disclosure. The county will adhere to the Public Information Act requirements.

#### **1B-15 WHISTLEBLOWER**

An employee may, in good faith, report an alleged violation of an Upshur County Policy or federal or state law to his or her supervisor, department head, or the County Judge, unless all of these persons are the alleged perpetrators of the alleged violation of policy or law. If all of the listed persons are alleged to be involved in the violation, the employee may report the allegation to the County Sheriff. The county will investigate the reported activity.

An official, supervisor, department director, or any other employee is prohibited from taking adverse employment action against an employee who, in good faith, reports an alleged violation of county policy or federal or state law to a designated person, pursuant to this policy.

An employee who intentionally makes a false report of wrongdoing may be subject to discipline up to and including termination.

An employee who, in good faith, believes he or she is being subjected to retaliation based on a report of alleged wrongdoing under this policy should immediately contact the County Sheriff.

An employee with a question regarding this policy should contact the Treasurer's Office.

## **C. COUNTY PROPERTY AND EMPLOYEE RESPONSIBILITY**

### **1C-1 COUNTY PROPERTY USAGE**

Each county employee shall be responsible for the care, maintenance, proper use, and upkeep of any county equipment assigned to him/her. County employees shall only use equipment, tools, and other county property that they are authorized to use. Personal use of county equipment, supplies, tools, and any other county property is not permitted and may result in discipline up to and including termination. Improper use may subject you to criminal prosecution.

### **1C-2 COUNTY VEHICLE USAGE**

Employees who operate county vehicles shall be responsible for the care, maintenance, proper use and upkeep of these vehicles. Employees may only use the vehicles they are authorized to use and may not allow other individuals to operate the vehicles they have been assigned.

Employees who operate vehicles must maintain a current active license for the operation of that vehicle. If they have any change in status of their license they must immediately notify their supervisor. An employee whose job involves operation of a vehicle requiring a license for its legal operation shall be subject to possible job change, demotion or termination if that license is suspended or revoked.

An employee whose job involves operation of a vehicle or equipment requiring a license for its legal operation, but who is deemed uninsurable by the county's vehicle liability carrier even though the employee's license has not been revoked or suspended, shall be subject to possible job change, demotion or termination

Any employee who is authorized to drive a county-owned vehicle is required to adhere to all traffic laws and regulations. Any citations or traffic violations are the responsibility of the driver.

Any employee involved in an accident while operating county equipment or vehicles shall immediately report the accident to his or her supervisor and to the proper law enforcement or other authority immediately. Following any accident, the employee or supervisor shall immediately contact the Treasurer's Office to schedule post-accident drug testing, per Upshur County Drug Testing Policy. A copy of all accident and incident reports prepared by the employee shall be sent to the supervisor and the County Auditor.

### **Take-Home Vehicles**

Employees who meet the following criteria may be authorized to have a take-home vehicle as approved by Commissioners Court:

1. The employee is on call 24/7 for the purposes of emergency response.

2. The employee is called in to a destination somewhere other than their regular duty station.
3. Special vehicle, tools, parts or equipment are required to perform after hours assignments; and,
4. An unacceptable delay in response time would result from their return to their normal duty station to retrieve the equipment.

### **Personal Use**

Personal use of county vehicles is strictly prohibited, other than commuting miles, which will be subject to payroll taxes at the current IRS rate in accordance with IRS rules and regulations

Any violation of this policy may result in removal of the vehicle from the department by Commissioner's Court.

***All vehicles used by law enforcement personnel are governed by the Sheriff's Office Vehicle Usage Policy (not to supersede this policy).***

### **1C-3 CELL PHONE USAGE**

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

Upshur County strongly discourages the use of any cell phone while operating any vehicle. Employees should plan calls to allow placement of calls either prior to traveling or while on rest breaks.

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

Employees in possession of an Upshur County owned cellular phone are required to take appropriate precautions to prevent theft and vandalism.

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

## **1C-4 COMPUTER AND INTERNET USAGE**

The use of Upshur County information systems, including computers, fax machines, smart phones, tablet computers and all forms of Internet/Intranet access, is for Upshur County business and for authorized purposes only. Brief and occasional personal use of the electronic mail system or the Internet is acceptable as long as it is not excessive or inappropriate, occurs during personal time (lunch or other breaks), and does not result in any expense to the county.

Use is defined as "excessive" if it interferes with normal job functions, responsiveness, or the ability to perform daily job activities. Electronic communication should not be used to solicit or sell products or services that are unrelated to the county's business; distract, intimidate, or harass coworkers or third parties; or disrupt the workplace.

Use of Upshur County computers, networks, and Internet access is a privilege granted by department heads and may be revoked at any time for inappropriate conduct carried out on such systems. Improper use may result in discipline up to and including termination.

Upshur County owns the rights to all data and files in any computer, network, or other information system used in the county. Upshur County also reserves the right to monitor electronic mail messages (including personal/private/instant messaging systems, Facebook, twitter, etc.) and their content, as well as any and all use of the Internet and of computer equipment used to create, view, or access e-mail and Internet content. Employees must be aware that the electronic mail messages sent and received using county equipment are not private and are subject to viewing, downloading, inspection, release, and archiving by county officials at all times. Upshur County has the right to inspect any and all files stored in private areas of the network or on individual computers or storage media in order to assure compliance with policy and state and federal laws. No employee may access another employee's computer, computer files, or electronic mail messages without prior authorization from either the employee or an appropriate county official. No employee shall break any copyright laws, download any illegal or unauthorized downloads. Upshur County monitors its entire informational systems and employees may be subject to discipline up to and including termination for any misuse of county informational systems.

Employees should not bring personal computers to the workplace or connect them to Upshur County electronic systems, unless expressly permitted to do so by their supervisor and or IT department. Violation of this policy, may result in disciplinary action, up to and including termination of employment.

**See attached Computer, Network & Data Use Policy.**

## D. SAFETY AND HEALTH EMPLOYEE RESPONSIBILITY

### 1D-1 WORKERS COMPENSATION

All Upshur County employees are covered by workers' compensation coverage while on duty for the county. Workers' compensation coverage pays for medical bills resulting from a covered injury or illness an employee incurs while carrying out the duties of his/her job. Employee will continue to receive his/her regular salary for any time off work due to an eligible injury or illness.

All employees who are placed on Worker's Compensation leave will fall under the Family Medical Leave Act if eligible. Upshur County runs FMLA and Worker's Compensation concurrently. ***Employee does not accrue vacation or sick hours while on leave (does not apply to law enforcement personnel).***

Any employee who suffers a job related illness or injury is required to notify his/her supervisor as soon as possible. Failure to promptly report job related injuries or illnesses may affect an employee's eligibility for benefits or delay benefit payments.

An employee who has lost time because of a work related accident or illness is required to provide a release from the attending physician before being allowed to return to work.

An employee's workers' compensation benefits may be adversely affected if the employee is injured while under the influence of alcohol or drugs or while the employee is engaging in horseplay or other activities not related to his/her job duties.

### 1D-2 EMPLOYEE SAFETY

Upshur County is committed to providing a safe workplace for our employees.

Each county employee must adhere to the general safety standards established for all employees as well as comply with their departmental safety requirements. Safety procedures may differ at each county department. Your supervisor will provide you with specific information pertaining to your position.

Failure to follow the safety standards set by the county or your supervisor subjects an employee to disciplinary action, up to and including termination.

Employees seeing unsafe working conditions shall either take steps to correct those conditions or report the unsafe conditions to their supervisor.



### **1D-3 DRUG AND ALCOHOL- ALL EMPLOYEES**

Upshur County is a drug and alcohol free workplace. A county employee may not be present at work during a period the employee's ability to perform his or her duties is impaired by drugs or alcohol. The county believes that a drug and alcohol-free workplace will help ensure a healthy, safe, and secure work environment.

This policy applies to all employees of Upshur County regardless of rank or position and shall include full time, part time and temporary employees.

The only exception to this policy is the possession of controlled substances by law enforcement personnel as part of their law enforcement duties.

An employee may not unlawfully manufacture, distribute, dispense, possess, sell, purchase, or use a controlled substance or drug paraphernalia on county property or while conducting county business not on county property.

An employee may not be under the influence of alcohol or illegal drugs while on county property or while on duty for the county.

An employee may not possess or use unauthorized prescription or over-the-counter drugs while on county property or while on duty for the county. An employee may not use prescription or over-the-counter drugs while on county property or while on duty for the county in a manner other than that intended by the manufacturer or prescribed by a physician.

An employee may use prescription and over-the-counter drugs in standard dosage or according to a physician's prescription if the use will not impair the employee's ability to do his or her job safely and effectively. An employee must keep prescription medications used at work in their original container.

An employee taking prescribed or over-the-counter medications is responsible for consulting the prescribing physician or a pharmacist to determine if the medication could interfere with the safe and effective performance of his or her job duties.

If the use of a medication could compromise an employee's ability to do his or her job or the safety of the employee, fellow employees or the public, the employee must report the condition to his or her supervisor at the start of the workday or use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty).

A supervisor must treat any information related to an employee's authorized use of prescription medications and any other medical information provided by the employee as confidential information.

An employee having problems with drugs or alcohol is encouraged to seek treatment from a qualified professional. Information on benefits provided for treatment of alcohol

and drug abuse problems provided by the county's health plan program is available in the employee's health plan booklet or from the Treasurer's Office.

Any employee who violates this policy shall be subject to disciplinary measures up to and including termination.

Any employee who admits to drug use may be terminated. An employee who voluntarily asks for time off to get treatment and recover from a drug or alcohol abuse problem will be given protections as required by law. Upon returning to work from a bona fide inpatient treatment facility, the employee will be subjected to a volunteer drug testing program as often as monthly until there is evidence the employee no longer uses. Failure to comply with the requirements of the post rehabilitative program including refusing the volunteer testing program will result in termination. The post rehabilitative program will last for as long as two years. If at any time the employee tests positive, or refuses the volunteer drug test during this post rehabilitative program the employee will be terminated.

Upshur County will drug test employees who ARE NOT CDL license holders under the following conditions:

**Pre-employment drug testing –**

Upshur County has a pre-employment drug testing requirement that must be passed post offer before an employee starts their first day of work. All offers of employment are conditional upon passing a drug and alcohol test. The employee will sign a consent waiver.

**Post-Accident Testing –**

All employees directly involved in an on-the-job accident or incident resulting in property damage and/or medical treatment shall be required by the Upshur County Commissioners Court to be tested. Test results will be provided to the Treasurer's Office.

**Testing Procedures –**

1. The employee will be escorted and driven to the designated facility for specimen collection and/or testing.
2. The employee will be required to follow the drug testing protocol of the medical facility providing the testing.
3. If the employee desires another test to be given, he/she may do so within 2 hours of the specimen being collected and the same specimen will be used. The cost of this request will be paid for by the employee. All initial costs will be paid for by Upshur County.
4. The employee will be placed on paid administrative leave until the results of the test are known. The elected official or supervisor will make arrangements to ensure that the employee is safely returned to his/her residence.
5. Under no circumstances, unless required or authorized by law, will alcohol or drug testing information be released without written consent from the employee.

Each employee is expected to cooperate and consent to a drug test when requested under the terms of this policy. Refusal to consent to a drug and/or alcohol test when requested is cause for termination.

Any employee who violates this drug and alcohol policy shall be terminated.

**Suspicion-Based Testing:** Under the influence shall be defined as having a blood alcohol concentration of .02 or more.

**Reasonable Suspicion:** If an employee is having work performance problems or displaying behavior that may be alcohol or drug related, or is otherwise demonstrating conduct that may be in violation of this drug and alcohol policy where immediate action is necessary, the elected official or supervisor will require that employee to submit to alcohol and drug test. The following conditions might be signs of possible alcohol or drug use (not an all-inclusive list):

- Abnormally dilated or constricted pupils
- Glazed stare-redness of eyes (sclera)
- Flushed face
- Change of speech (faster, slower, slurred)
- Constant sniffing
- Increased absences
- Redness under nose
- Sudden weight loss
- Needle marks
- Change in personality (i.e. paranoia)
- Increased appetite for sweets
- Forgetfulness, performance faltering, poor concentration
- Borrowing money from co-workers or seeking an advance of pay or other unusual display of need for money
- Constant fatigue or hyperactivity
- Smell of alcohol
- Difficulty walking
- Excessive, unexplained absences
- Dulled mental processes
- Slow reaction rate

Elected Officials or supervisors must take action if they have reason to believe one or more of the above listed conditions is indicated and that the substance abuse is affecting their employee's job performance or behavior. The following steps will be taken:

1. Confront the employee involved and keep them under direct observation until the situation is resolved. Inform the employee of the problem with their job performance and specific violations of the County Policy.

2. If the supervisor believes, after observing or talking to the employee, that the conduct or performance problem could be due to substance abuse, the employee will be immediately required to submit to a drug and alcohol test. If the employee will refuses to submit to testing for any reason, the employee may be terminated.
3. Employees will be asked to release any evidence, such as alcohol or drug paraphernalia, relating to the observation for further testing. Failure to comply may subject the employee to subsequent discipline, up to and including termination. All confiscated evidence will be receipted for with signatures of either the elected official or supervisor as well as the employee.
4. The elected official, or supervisor will remove the employee from county work station and ensure that the employee is transported to an appropriate collection site and thereafter to the employee's residence. Under no circumstance will the employee be allowed to drive a vehicle until a confirmed negative test result is received.
5. The elected official or supervisor shall, within 24 hours or before the results of the controlled substance test are released, document the particular facts related to the behavior or performance problems and present such documentation to the Treasurer's office for filing.

Upon approval, Reasonable Suspicion training will be carried out for all Elected Officials and supervisors with HR. Road and Bridge have already completed this training. This is a one-time training that does not need to be completed again. Once training is complete, the update will be added to the Upshur County Employee Handbook.

#### **1D-4 DRUG AND ALCOHOL- CDL EMPLOYEES**

CDL Drivers are an extremely valuable resource for Upshur County. Their health and safety is a serious county concern. Drug or alcohol use may pose a serious threat to driver health and safety. It is, therefore, the policy of the county to prohibit CDL employees from being under the influence of or using illegal drugs or alcohol during working hours.

The Federal Highway Administration ("FHWA") has issued regulations, which require the county to implement a controlled substance testing program. The county will comply with these. All CDL drivers are advised that remaining drug-free and medically qualified to drive are conditions of continued employment with the county.

Specifically, it is the policy of Upshur County that the use, sale, purchase, transfer, possession or presence in one's system of any controlled substance (except medically prescribed drugs) or alcohol by any CDL driver while on county premises, engaged in county business, while operating county equipment, or while under the authority of the county is strictly prohibited. Mandatory testing must apply to every person who

operates a commercial motor vehicle in interstate or intrastate commerce and is subject to the CDL licensing requirement. Upshur County will conduct pre-employment, random and post-accident drug testing in accordance with federal law.

It is the policy of Upshur County to comply with the U.S. Department of Transportation FMCSA Clearinghouse, a secure online database that provides employers with real-time information about CDL driver drug and alcohol program violations. Upshur County will conduct electronic queries as required by FMCSA's drug and alcohol use testing program, for checking CDL driver violation histories. Drivers may view their own records. Employees will be required to provide a consent form from the CDL holder to conduct both Limited and Specific inquiries.

### **1D-5 WORKPLACE VIOLENCE**

Upshur County is committed to providing a workplace free of violence. Upshur County will not tolerate or condone violence of any kind in the workplace. The county will also not tolerate or condone any threats of violence, direct or indirect, this includes jokes. All threats will be taken seriously and will be investigated. Employees must refrain from any conduct or comments that might make another employee suspicious or in fear for their safety. Employees are required to report all suspicious conduct or comments to their immediate supervisor. Employees should be aware of their surroundings at all times and report any suspicious behavior from the public, former employees or current employees to their immediate supervisor or the sheriff's department. No employee may possess a firearm or other weapon other than an authorized law enforcement official, with or without permits in all county offices and buildings owned or used by Upshur County, this also includes county owned vehicles. If employees believe that a person is violating this policy, they should immediately report to their immediate supervisor or the sheriff's department. Employees found in violation of this policy may be subject to discipline up to and including immediate termination.

### **1D-6 SOCIAL MEDIA**

For purposes of this policy "social media" includes, but is not limited to, online forums, blogs and social networking sites, such as Twitter, Facebook, LinkedIn and YouTube.

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

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

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

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

#### **SOCIAL MEDIA APPLICATIONS AND SERVICES PROHIBITED ON COUNTY DEVICES**

Upshur County prohibits the installation or use of the social media service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited; or a social media application or service specified by proclamation of the governor on any device owned or leased by Upshur County and requires the removal of covered applications from those devices.

The installation and use of covered application may be acceptable to the extent necessary for providing law enforcement; or developing or implementing information security measures. In order for the installation to be approved, Upshur County must require the use of measures to mitigate risks posed to this state during the use of the covered application, and the documentation of those measures.

# **SECTION 2: EMPLOYEE COMPENSATION AND BENEFITS**

## **A. EMPLOYEE PAYROLL**

### **2A-1 FAIR LABOR STANDARDS ACT SAFE HARBOR**

Upshur County makes every effort to pay its employees correctly. Occasionally, however, inadvertent mistakes can happen. When mistakes do happen and are called to the Treasurer's Office attention, Upshur County will promptly make any corrections necessary. Please review your pay stub when you receive it to make sure it is correct. If you believe a mistake has occurred or if you have any questions, please use the reporting procedure outlined below. If you are overpaid the county will make the necessary corrections at the next payroll.

Employees who are classified as non-exempt employees must maintain an accurate record of the total hours you work each day. It is the responsibility of each employee to verify that their timesheets are correct. Your timesheet must accurately reflect all regular and overtime hours worked; any absences, late arrivals, early departures, and meal breaks (meal breaks do not apply to law enforcement). Do not sign your timesheet if it is not accurate. When you receive each pay check, please verify immediately that you were paid correctly for all regular and overtime hours worked each work week.

Non-exempt employees, unless authorized by your supervisor, should not work any hours that are not authorized. Do not start work early, finish work late, work during a meal break (meal breaks do not apply to law enforcement), or perform any other extra or overtime work unless you are authorized to do so. That time worked is to be recorded on your timesheet. Employees are prohibited from performing any "off-the-clock" work. "Off-the-clock" work means work you may perform but fail to report on your timesheet. Any employee who fails to report or inaccurately reports any hours worked will be subject to disciplinary action, up to and including termination. If anyone directs you to work without documenting your time worked, you must tell the Treasurer's Office.

It is a violation of Upshur County policy for any employee to falsify a timesheet, or to alter another employee's timesheet. It is also a serious violation of county policy for any employee, supervisor or official to instruct another employee to incorrectly or falsely report hours worked, or to alter another employee's timesheet to under- or over-report hours worked. If anyone instructs you to (1) incorrectly or falsely under- or over-report your hours worked, or (2) alter another employee's time records to inaccurately or

falsely report that employee's hours worked, you should report it immediately to the Treasurer's Office located on the first floor of the courthouse. The phone number is 903-680-8140.

If you are classified as an exempt salaried employee, you will receive a salary which is intended to compensate you for all hours worked for the county. This salary will be established at the time of hire or when you become classified as an exempt employee. While it may be subject to review and modification from time to time, the salary will be a pre-determined amount that will not be subject to deductions for variations in the quantity or quality of the work you perform.

If you are an exempt employee, in any workweek in which you performed any work, your salary will not be reduced for any of the following reasons: 1) partial day absences for personal reasons, sickness or disability; or 2) your absence because the county is closed on a scheduled work day; or 3) your absence because of the county's operating requirements; or 4) absences for jury duty, attendance as a witness, or military leave in any week in which you have worked; or 5) any other deductions prohibited by state or federal law. Any hours worked over 40 in a work week does not increase pay, vacation or sick time.

In any workweek in which you performed any work, your pay may be reduced for any of the following reasons: 1) absence from work for one or more full days for personal reasons, other than sickness of the employee. (If accrued vacation or sick leave is available you may use it for this absence); 2) full day for disciplinary suspensions for infractions of written policies and procedures; or 3) full day suspension for violation of safety policies and procedures; or 4) Family and Medical Leave or Military Leave absences; or; or 5) the first or last week of employment. All leave time should be noted to be drawn either from vacation or sick time accordingly.

It is not an improper deduction to reduce an employee's accrued sick, vacation, or other forms of paid leave for full or partial day absences.

If you have questions about deductions from your pay, please immediately contact your supervisor. If you believe you have been subject to any improper deductions or your pay does not accurately reflect your hours worked, you should immediately report the matter to the Treasurer's office. If you are unsure of who to contact or if you have not received a satisfactory response within five business days after reporting the incident, please immediately contact the County Judge. Every report will be fully investigated and corrective action will be taken where appropriate, up to and including discharge for any employee(s) who violates this policy. In addition, the county will not allow any form of retaliation against individuals who report alleged violations of this policy or who cooperate in the county's investigation of such reports. Retaliation is unacceptable, and any form of retaliation in violation of this policy may result in disciplinary action, up to and including termination.



**There are three categories of exempt positions that are exempt from compensatory time pay. In Upshur County the exempt positions are as follows:**

**For the executive exemption**, employees must have a primary duty of managing the enterprise or a department or subdivision of the enterprise; must customarily and regularly direct the work of at least two employees; (2 part time equal 1 full time) and must have the authority to hire or fire, or their suggestions and recommendations as to the hiring, firing or changing the status of other employees must be given particular weight. The following positions are classified as executive:

- Maintenance Supervisor
- Road and Bridge Administrator
- County Librarian
- Juvenile Probation Chief Officer

**For the administrative exemption**, employees must have a primary duty of performing office or non-manual work directly related to the management or general business operations of the employer or the employer's customers, and their primary duty must include the exercise of discretion and independent judgment with respect to matters of significance. The following positions are classified as administrative:

- Election Administrator
- County Sheriff Chief Deputy
- County Jail Chief Deputy

**For a professional exemption**, employees must have a primary duty of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by prolonged, specialized, intellectual instruction and study, or must specialize in a few other similarly, highly specialized fields, such as teaching, computer analytics, and engineering. The following positions are classified as professional:

- County Auditor
- Assistant DA
- DA Investigator

Generally speaking, exempt employees are expected to be present at work during their scheduled work times in order to perform work that is essential to the unit's operations. They are also expected to arrive at a certain time in order to assure that the workplace is properly staffed for business. Management should discuss with their exempt employees how their expectations of work relate to time spent at work. Management can ask exempt employees to inform them if they will not be at work during some hours of a typical work day. It is not only common courtesy, but it is necessary so that others who need to coordinate with that employee can be informed of the change in work schedule for the day.

## **2A-2 Internal Revenue Service (IRS) FRINGE BENEFITS**

Upshur County will comply with the IRS with regard to fringe benefits such as county uniforms, county vehicle usage and day-trip meals. You may be responsible for paying payroll taxes on such fringe benefits.

## **2A-3 COMPENSATION**

Upshur County Commissioners Court annually sets the maximum compensation for each position in accordance with Texas State Law.

Upshur County complies with the Fair Labor Standards Acts as outlined in the Fair Labor Standards Safe Harbor policy.

Law Enforcement personnel are treated in accordance with the 207(k) exemption under the Fair Labor Standards Act. The Commissioners Court has adopted this exemption (see Section 2A-10).

Some employees may have the classification of hourly employees paid on a salary basis, but they remain non-exempt for FLSA purposes. For full time non-exempt employees, the semi-monthly salary compensates the employee for all hours worked up to 40 in each workweek of the month.

Temporary employees shall be paid hourly at least the minimum wage established by the Fair Labor Standards Act, as amended.

## **2A-4 PAYROLL DEDUCTIONS**

Deductions shall be made from each employee's paycheck for federal withholding, social security, Medicare, and any other deductions required by law.

Employees eligible for membership in the Texas County and District Retirement System shall have their contributions to that system deducted from each paycheck. Any optional deduction authorized by the Commissioners' Court and approved by the employee shall also be made from the employee's paycheck.

No optional deduction shall be made from an employee's paycheck unless the employee turns in written authorization for the deduction to the Treasurer's Office.

## **2A-5 WORK WEEKS AND WORK PERIODS**

For purposes of recordkeeping and to determine overtime in compliance with the Fair Labor Standards Act (FLSA), the workweek for Upshur County shall begin at 12:01 a.m. on each Saturday and end seven (7) consecutive days later (168 hours). Law Enforcement employees who fall under the FLSA 207(k) exemption shall have a work period of 28 days and 160 or 168 hours, depending on the position, as established by the Upshur County Commissioners Court.

## **2A-6 TIMESHEETS**

All exempt employees are required to fill out exception timesheets documenting leave time taken. All non-exempt employee must fill out a timesheet documenting all hours worked and leave time taken to be turned in to their supervisor on the last day of each pay period. Department heads/supervisors are responsible for verifying the accuracy of all timesheets and promptly submitting them to the Treasurer's Office. Failure to complete a timesheet may result in an employee only receiving minimum wage payment until the proper timesheet has been completed and turned into the payroll department. All corrections will be made on the next regularly scheduled payroll. The timesheet prepared by the employee shall show an accurate record of all time worked and leave taken, whether paid or unpaid, for the pay period. Timesheets are governmental documents and as such require accurate and truthful information. Falsifying a timesheet, a governmental record, is a criminal offense.

## **2A-7 PAYPERIODS**

The pay period for Upshur County shall be semi-monthly with employees being paid on the 15<sup>th</sup> and the last day of the month. If payday falls on a Saturday, employees will be paid on the Friday before. If payday falls on a Sunday, employees will be paid on the following Monday.

There is a two-week lag for processing pay periods.

*Examples: Timesheet dates January 1<sup>st</sup> - 15<sup>th</sup> will be paid on January 31<sup>st</sup>; timesheet dates January 16<sup>th</sup> - 31<sup>st</sup> will be paid on February 15<sup>th</sup>.*

## **2A-8 WORK SCHEDULES**

The normal hours of work for most positions in the county shall be from 8:00 a.m. until 5:00 p.m., Monday through Friday. Each department head shall determine the exact working schedules for their employees. In order to meet the needs of the county, certain departments or employees may be required to work a schedule that varies from the normal work schedule, or they may be subject to call back in case of emergency or special need.

## **2A-9 HOURS WORKED**

Hours worked shall include all time actually spent in the service of the county as defined in the Fair Labor Standards Act (FLSA) and its regulations. The workday for the County shall begin at 12:01 a.m. each day and end 24 consecutive hours later.

## **2A-10 LAW ENFORCEMENT PAY AND OVERTIME**

Upshur County Commissioners Court has adopted the 207(k) exemption under the Fair Labor Standards Act for law enforcement employees, which includes deputies and jailers. These employees have a work period of 28 days and overtime will be due **after 168 or 160 hours** (depending on shift) **actually worked**. Law enforcement employees' salary covers all hours up to 168 or 160 hours (depending on shift). **Paid leave shall not be counted in determining if overtime has been worked in any workweek.** Except in emergency situations, an employee shall be required to have authorization from their supervisor before working overtime. *(If you would like a copy of the Resolution adopted by the Commissioners Court please contact the Treasurer's Office at 903-680-8140).*

## **2A-11 OVERTIME CALCULATIONS AND RULES**

Overtime shall include all time actually worked for the county in excess of 40 hours in any workweek, with the exception of law enforcement (See policy on "Law Enforcement Pay and Overtime").

**Paid leave shall not be counted in determining if overtime has been worked in any workweek.** Except in emergency situations, an employee shall be required to have authorization from their supervisor before working overtime.

Overtime compensation shall be paid in the form of compensatory time off in accordance with the provisions of the FLSA. Covered employees shall receive paid compensatory time off at a rate of one and one-half (1 ½) times the amount of overtime worked.

The maximum amount of unused compensatory time an employee shall be allowed to have at any one time is 240 hours for regular employees and 480 hours for law enforcement. When an employee has reached the maximum accrual of compensatory time, any additional overtime worked shall be compensated at a rate of one and one-half (1 ½) the employee's regular rate of pay until compensatory time has been used to bring the balance below the maximum.

Employees shall be allowed to use earned compensatory time within a reasonable period after it is requested provided that the employee's absence will not place an undue hardship on the operations of the department in which the employee works. Compensatory time may be used for any purpose desired by the employee with supervisor approval. Compensatory time shall be used prior to vacation time unless it prevents the employee from accruing vacation time.

If an employee terminates employment, for any reason, prior to using all earned FLSA compensatory time, he/she shall be paid for all unused compensatory time at the higher of (1) his/her final regular rate of pay or (2) the average regular rate of pay during his/her last three years of employment in accordance with the requirements of the FLSA.

Upshur County shall retain the right to "buy back" all or part of an employee's unused compensatory time by paying the employee for that time at the employee's current regular rate. Upshur County shall retain the right to pay all or part of the overtime worked in any workweek by paying for that overtime at one and one-half (1 ½) the employee's regular rate of pay.

Each employee shall be responsible for recording any compensatory time used within a pay period on the timesheet for that pay period.

## **2A-12 DEMOTIONS**

Demotions are the movement of an employee from one position to another with a decreased responsibility or complexity of job duties or to a lower salary. Elected officials, appointed officials or department heads may choose to demote or re-assign any employees who are unable to meet performance requirements, for disciplinary reasons or for any other reason as deemed necessary by the official. Upon demotion, an employee's salary may be adjusted downward.

## **2A-13 TRANSFERS**

Elected officials, appointed officials or department heads may transfer an employee in their department to a vacant position. All transfers must be handled in accordance with the budget adopted by Commissioners Court.

## **2A-14 PROMOTIONS**

Promotions are the movement of an employee from one position to another with an increased responsibility or complexity of job duties, and to a higher salary. Elected officials, appointed officials or department heads may promote an employee in their department to a vacant position. All promotions must be handled in accordance with the budget adopted by Commissioners Court.

## **2A-15 SEPARATIONS**

A separation shall be defined as any situation in which the employer-employee relationship between the county and a county employee ends. All separations from Upshur County shall be designated as one of the following types:  
1) resignation; 2) retirement; 3) dismissal; 4) reduction in force; or 5) death.

A resignation shall be classified as any situation in which an employee voluntarily leaves his/her employment with Upshur County and the separation does not fall into one of the other categories. Employees who are resigning should submit a written notice of resignation to his/her supervisor.

A retirement shall be any situation in which an employee meets the requirements to collect benefits under the county's retirement program and voluntarily elects to leave

employment with the county to do so. An employee who is retiring should notify his/her supervisor of that intent at least 30 days prior to the actual retirement date to help prevent delays in starting the payment of retirement benefits.

A dismissal shall be any involuntary separation of employment that does not fall into one of the other categories of separation. Upshur County is an "at will" employer and a supervisor may dismiss an employee at any time for any legal reason or no reason, with or without notice.

An employee shall be separated from employment because of a reduction in force when his/her position is abolished or when there is a lack of funds to support the position or there is a lack of work to justify the position.

A separation by death shall occur when an individual dies while currently employed by the county. If an employee dies while still employed by the county, their designated beneficiary or estate shall receive all earned pay and payable benefits.

All separated employees (other than by death) will be asked to complete an exit interview form upon receipt of their final paycheck.

## **2A-16 RETIREE REHIRES**

**(TCDRS requires at least a full calendar month break in service with no pre-arranged return)**

Retired employees shall be eligible to apply for open positions with Upshur County as long as the following provisions are met: 1) The retiree has been retired for at least one full calendar month, 2) No prior arrangement or agreement was made between Upshur County and the retiree for re-employment, and 3) strict adherence to normal leaving employment procedures were followed at the time of the employee's retirement.

The retiree must have a bona fide separation of employment and have been retired for a minimum of one calendar month. A bona fide separation means there is no prior agreement or understanding between Upshur County and the retiree that the retiree would be rehired after retirement. According to Rule 107.4 adopted by the TCDRS Board of Trustees, restrictions apply to elected officials, people employed for the same or different position in the same or different department, employee status changes, and independent contractors.

Newly elected officials who have recently retired from the county cannot draw their retirement because they have an arrangement to return to work for the county. Employees also cannot retire with an agreement to go work in a different department or different position. Changing employee status does not matter when determining if someone is still working for the county. Also, an employee cannot retire from the county with an arrangement to begin work as an independent contractor either.

Rehired retirees who did not have a bona fide separation of employment may owe a 10 percent excise tax and be required to repay all of their monthly retirement payments. Abusing the retirement provisions in such a manner would violate a qualification requirement for retirement plans under Section 401(a) of the Internal Revenue Code, potentially resulting in significant tax consequences for the employer, its participating members and those retired employees.

Any retiree who meets all other TCDRS requirements, who is rehired consistent with this policy, must establish a new membership with TCDRS and will be considered to be a new member for the purposes of beneficiary determination and benefit selections.

## **B. EMPLOYEE BENEFITS**

### **2B-1 HEALTH AND DENTAL PLANS**

All full time regular employees of Upshur County shall be eligible for the group medical plan and dental plan benefits 90 calendar days after hire date. Regular variable hour employees who work an average of thirty (30) or more hours a week in the measurement period will be eligible for health insurance after the measurement period. Regular part time, temporary seasonal, temporary short term part time, and regular variable hour employees who work an average of less than thirty (30) hours a week in the measurement period will not be eligible for health insurance.

Premiums for the coverage for eligible employees shall be paid entirely by the county unless amended by the Commissioners Court. Eligible employees may cover their qualified dependents by paying the full premium for the dependents. Dependent children are eligible up to age 26. Deductions for dependent coverage shall be made through payroll deduction from the employee's paycheck each pay period.

Employees must notify the Treasurer's Office of any status changes **within 30 days** of the event date (i.e. birth/adoption of a child, marriage, divorce, loss of other coverage).

Details of coverage under the group medical insurance plan and dental plan are available in the County Treasurer's Office and may be obtained during the normal working hours for that office.

Employees who leave the employment of Upshur County or who lose their coverage eligibility, may be eligible for an extension of the medical plan for themselves and their eligible dependents under the Consolidated Omnibus Budget Reconciliation Act (COBRA). If an employee is unable to return to work following FMLA leave, if eligible, they will be offered COBRA. Information on extension of benefits under COBRA is available in the County Treasurer's Office and may be obtained during the normal working hours for that office. COBRA notifications will be provided to all employees within 30 days of their hire date. All eligible employees and qualified dependents will be provided with COBRA information following their termination.

## **2B-2 OTHER PLANS – LIFE, SUPPLEMENTAL**

Upshur County may provide a limited amount of life insurance on eligible employees as part of the group medical plan coverage. Upshur County may offer optional supplemental insurance policies to eligible employees when hired and annually during the open enrollment period. All supplemental insurance coverage premiums are the responsibility of the employee. Information regarding supplemental insurance policies may be obtained from the Treasurer's Office.

## **2B-3 VACATION**

The following employee classifications shall be eligible for the vacation benefit: Regular Full Time. These following employee classifications shall not be eligible for the vacation benefit: Regular Part Time, Seasonal Temporary and Temporary Part Time.

Employees who have worked for less than 10 years in a position eligible to receive vacation shall earn vacation at the rate of 4 hours per pay period, which is equivalent to 96 hours per year. Employees who have worked for 10 or more years in a position eligible to receive vacation shall accrue vacation at the rate of 5 hours per pay period, which is equivalent to 120 hours per year.

Vacation shall not be accrued while an employee is on leave without pay. Employees hired in a position eligible to accrue vacation are credited with 40 hours of vacation after their 12th month of employment and must work for a minimum of 12 full months in such a position before being eligible to take any vacation.

The maximum amount of unused vacation an employee shall be allowed to have at one time is 136 hours. When an employee reaches the maximum accrual, he/she shall not be allowed to accrue additional vacation time until the employee takes vacation hours to reduce the balance below the maximum allowed under this policy.

Scheduling of vacations shall be at the discretion of the individual department heads.

Employees shall only be able to use vacation which has already been accrued and shall not be allowed to borrow vacation against possible future accruals. Employees shall not be allowed to receive pay for vacation in lieu of taking time off.

If a holiday falls during an employee's vacation the employee will not be charged vacation time for the holiday.

If a non-exempt employee has worked for at least 12 months in a position which accrues vacation at the time the employee resigns, is discharged, or is terminated for any other reason, the employee shall receive pay for unused vacation time as follows:



0-1 Year Employment	0 Hours
2-5 Years Employment	40 Hours
6-10 Years Employment	80 Hours
11-15 Years Employment	120 Hours
16-plus Years Employment	136 Hours (Max)

Exempt employees will not receive pay for unused vacation time. Each employee shall be responsible for accurately recording all vacation time used on their timesheet. Only the appropriate amount of vacation hours will be used to account for the minimum number of hours needed for the designated work week/ work period.

**2B-4 SICK**

The following employee classifications shall be eligible for the sick leave benefit: Regular Full Time. These employee classifications shall not be eligible for the sick leave benefit: Regular Part Time, Seasonal Temporary and Temporary Part Time.

Eligible employees shall accrue sick leave at a rate of 3 hours per pay period. Accrual of sick leave shall start after an individual has worked thirty days for the county in a position eligible for the sick leave benefit.

The maximum amount of unused sick leave an employee shall be allowed to have at any time is 720 hours.

Sick leave may be used for the following purposes: 1) illness or injury of the employee; 2) appointments with physicians, optometrists, dentists, and other qualified medical professionals; or 3) to attend to the illness or injury of a member of the employee's immediate family. For purposes of this policy, immediate family shall be defined as spouse, child, parent, or other relative living in the employee's home who is dependent on the employee for care.

Where sick leave is to be used for medical appointments, an employee shall be required to notify his/her supervisor of the intent to use sick leave as soon as the employee knows of the appointment. Where use of sick leave is not known in advance, an employee shall notify his/her supervisor of the intent to use sick leave within 15 minutes of the employee's normal time to begin work, when practicable. Where it is not practicable to notify the supervisor within 15 minutes of the normal starting time, the employee should notify his/her supervisor as soon as is reasonably practicable. If the employee feels that the situation will cause the employee to miss more than one day of work, the employee should notify his/her supervisor of the anticipated length of absence. The employee will be placed on FMLA, if event and employee is eligible. If an employee uses three (3) or more consecutive days of sick leave, the supervisor shall have the right to require a physician's statement or some other acceptable documentation of injury or illness, for either the employees own illness or the illness of an immediate family member. Employees who have a pattern of abusing sick leave

may be required to provide a physician's statement for those absences as required by their supervisor.

Employees shall not be allowed to borrow sick leave against future accruals. Employees shall not be paid for unused sick leave at the termination of employment.

Sick leave may not be used as vacation or any other reason not addressed in this policy. Only the appropriate amount of sick hours will be used to account for the minimum number of hours needed for the designated work week/ work period.

## **2B-5 UPSHUR COUNTY SICK LEAVE POOL POLICY**

The purpose of the Upshur County Sick Leave Pool, (the pool) is to provide additional sick leave days to members of the pool in the event of a catastrophic illness, surgery or disability that prevents an employee from active employment. The pool is authorized by the Upshur County Commissioners' Court, (the Court). A Board of Directors, (the Board) shall rule on pool withdrawal requests in accordance with the pool policy. A Pool Administrator (the Administrator), shall administer the pool under the pool policy. The pool is an optional benefit offered to full-time employees and affords no right or claim other than as specifically expressed in this policy.

### **Pool Administration**

#### **Upshur County Commissioners' Court**

The Upshur County Commissioners' Court (the Court) shall establish all policy and procedure regarding the plan.

#### **Board of Directors**

A Board of Directors, (the Board) shall rule on pool withdrawal requests in accordance with the pool policy. The Board shall consist of three voting members (Directors) appointed by the Court and selected from full-time county employees and elected officials. The Court shall appoint one member of the Board as the Chair (the Chair). In the event the Court fails to appoint the Administrator as a Director, the Administrator shall serve as an ex officio, nonvoting member of the Board. The initial appointment of directors shall be for one, one year term and two, two year terms. Thereafter, one director shall be appointed in odd numbered years for a two year term and two directors shall be appointed in even numbered years for two year terms.

#### **Pool Administrator**

The Upshur County payroll administrator shall serve as the Pool Administrator. The Administrator shall perform all administrator functions for the pool, including but not limited to: maintaining a record of accumulated pool hours; maintaining a record of pool membership; receiving and approving membership applications; receiving and approving membership withdrawal requests; deducting mandatory sick leave donations from pool member payroll records; and coordination with county employees.

## **Membership**

### **Eligibility**

All regular full-time employees, who at the time of their enrollment, have twelve or more months of continuous employment with the county and fifty-four hours or more of accrued sick leave time are eligible for membership in the pool.

### **Enrollment and Donation of Hours**

Enrollment will be allowed within thirty days of an employee becoming initially eligible for enrollment or each September. In order to join, an employee shall meet all eligibility requirements and shall complete and submit a Sick Leave Pool Membership Application Form to the Administrator. Upon initial membership, an employee shall be required to donate a minimum of sixteen hours of sick leave. Thereafter, an employee shall be required to donate a minimum of sixteen hours of sick leave at the end of the fiscal year in September. All required, annual donations shall be automatically deducted from an employee's accrued sick leave hours unless and until the Administrator receives written notice of cancellation of membership in the Plan by the employee. Member employees shall be allowed to donate a maximum of thirty-two sick leave hours during any twelve month period. All donated hours shall be subtracted from the donating employee's accrued sick leave record. Donated hours may not be designated, by the donating employee, for use by any specific employee. All donated hours become the property of the Upshur County Sick Leave Pool and are for the exclusive use of member employees as specified by the policy.

### **Cancellation of Membership and Re-enrollment**

Member employees may cancel their membership in the plan at any time by submitting written notice of the cancellation of their membership to the Administrator. Upon cancellation of an employee's membership in the plan, all hours donated by that employee remain the property of the pool. Eligible employees may re-enroll in the plan during any subsequent September if they meet the eligibility requirements and donate sixteen hours of sick leave upon re-enrollment.

### **Withdrawal of Pool Hours**

A member employee may apply for withdrawal of sick leave hours, from the pool, if the member employee is experiencing a catastrophic injury or illness and has exhausted all of their accrued compensatory, vacation and sick leave time in that order. A catastrophic injury or illness is defined as an injury, illness, physical or mental impairment which is certified by a licensed medical physician.

**Examples of catastrophic illnesses or injuries which may qualify:**

- Back conditions requiring extensive therapy or surgery
- Heart conditions
- Most types of cancers
- Severe respiratory conditions
- Severe nervous disorders
- Serious injuries caused by accidents
- Kidney disease.

**Examples which normally do not qualify as catastrophic illnesses:**

- Migraines/Headaches
- Common Cold/Allergies
- Flu
- Earaches
- Upset Stomach
- Minor Ulcers
- Childbirth/Normal Recovery/Miscarriage (without complications)
- Elective Surgeries
- Routine dental or orthodontic problems
- Absence due to substance abuse
- Stress

**Application for Withdrawal of Hours**

An application for withdrawal of pool sick leave hours shall include the following forms made available by the Administrator: a completed Upshur County Sick Leave Pool Withdrawal Application and a completed Upshur County Sick Leave Pool Statement of Illness or Injury. The completed forms shall be returned to the Administrator.

The Administrator shall verify the membership status of the applicant in the pool; accrued sick leave, vacation, and compensatory time available to the applicant; and completeness of the required forms. After verification, the Administrator shall deliver the required forms to the Chair. Within five business days of receipt of the forms from the Administrator, the Chair shall call and hold a meeting of the Board to consider the request.

The Board shall review the Sick Leave Pool Withdrawal Application and the Sick Leave Pool Statement of Illness or Injury and determine if the injury or illness falls within the scope of this policy. Upon the affirmative vote of the two Directors, the Board may award the requested number of pool hours to the member or in the alternative the Board may award a fewer number of pool hours, as deemed adequate for the injury or illness, by the affirmative vote of two Directors. The total number of pool hours awarded to any member for an individual occurrence of injury or illness shall be limited to 320 pool hours or one third of the existing pool hours at the time if the award, whichever is less.

## **2B-6 HOLIDAY**

The following employee classifications shall be eligible for the holiday benefit: Regular Full Time. These employee classifications shall not be eligible for the holiday benefit: Regular Part Time, Seasonal Temporary and Temporary Part Time.

The county holidays shall be determined by the Upshur County Commissioners' Court.

Holiday hours (8 hours per day) will be paid when taken, provided the employee works their regularly scheduled shift the full day before and after such holiday unless extra time off is approved by their immediate supervisor. An employee who calls in sick the day before or after a holiday will not be paid for the holiday.

- If a holiday falls during a scheduled vacation, holiday time will not be paid in addition to vacation time off. (Example; off 5 days including Labor Day, 1 day is paid for holiday and 4 days are drawn from compensatory time or vacation time. Extra time allotted shall reduce leave time, if available, in the following order: compensatory, vacation.)
- If the employee is unable to take a holiday off due to a regular work day or because of mandatory training, the employee will be paid for the holiday (8 hours) in addition to his work day. If the employee takes an alternate "holiday" day off during the same week with their elected/appointed official's approval, they will not be paid for the holiday in addition to the work day. *If the holiday falls on the employee's regular day off the employee will also be paid for the holiday.*
- If the employee is recalled to work during a holiday to perform an essential function when previously not scheduled, the holiday (8 hours) will be paid in addition to the hours actually worked.
- In reference to non-exempt employees, anytime that an employee is absent from work in a way that reduces the number of hours from their regular work period, that time will be accounted for thru approved leave time, compensatory time or vacation time if available.

Special consideration shall be given to employees requesting time off for religious or other special observances which are not designated as paid holidays for Upshur County. Each supervisor is responsible for granting this leave based on the needs of their individual departments. Compensatory time, vacation time or leave without pay may be used for special leave granted.

## **2B-7 LONGEVITY**

Regular salaried employees are awarded longevity payments of \$2.00 per pay period for each year of service. Longevity payments begin after completion of the first year of service. Payments are increments of \$2.00 and are increased annually through the 15<sup>th</sup> year of continuous service. The maximum longevity payment is \$30.00 per pay period.

## **2B-8 JURY DUTY**

All Regular Full Time employees of Upshur County who are called for jury duty shall receive their regular pay for the period they are called for jury duty, which includes both the jury selection process and, if selected, the time they actually serve on the jury. Pay for serving on a jury shall only include the time the employee would have normally been scheduled to work and will not include extra pay if jury service involves time outside the employee's normal work schedule. Any fees paid for jury service may be kept by the employee.

All employees who are subpoenaed or ordered to attend court to appear as a witness or to testify in some official capacity on behalf of the county shall be entitled to leave with pay for such period as his/her court attendance may require. If an employee is absent from work to appear in private litigation in which he/she is a principal party, the time shall be charged to compensatory time, vacation, other eligible paid leave, or leave without pay.

## **2B-9 FUNERAL LEAVE**

All employees shall be allowed up to 3 days leave with pay for a death in the immediate family. For purposes of this policy, immediate family shall include the employee's spouse and the child, parent, grandparent, grandchild, brother or sister of the employee or the employee's spouse. Employees may be allowed time off with pay, up to a maximum of 4 hours, to attend the funeral of a relative who is not a member of the immediate family or the funeral of a friend (with department head's approval). If leave is needed beyond the limits set in this policy, it will be charged to available compensatory or vacation time (in that order) or to leave without pay.

## **2B-10 MILITARY LEAVE**

All Upshur County employees who are members of the National Guard or active reserve components of the United States Armed Forces shall be allowed up to fifteen (15) days off per federal fiscal year with pay to attend authorized training sessions and exercises. The fifteen (15) day paid military leave shall apply to the Federal Fiscal year and any unused balance at the end of the year shall not be carried forward into the next Federal Fiscal year. Pay for attendance at Reserve or National Guard training sessions or exercises shall be authorized only for periods which fall within the employee's normal work schedule. An employee may use annual leave, earned compensatory time, or leave without pay if he/she must attend Reserve or National Guard Training sessions or exercises in excess of the fifteen day maximum.

An employee going on military leave shall provide his or her supervisor with a set of orders within two (2) business days after receiving them.

Upshur County will provide upon request of the employee a statement that contains the number of workdays used for military leave in the fiscal year as well as a statement of the number of workdays left for use during the fiscal year.

Upshur County employees who leave their positions as a result of being called to active military service or who voluntarily enter the Armed Forces of the United States shall be eligible for re-employment in accordance with state and federal laws in effect at the time of their release from duty.

## **2B-11 RETIREMENT**

All regular employees (full time, part time, and regular variable hour) shall be eligible for the retirement benefit offered through the Texas County and District Retirement System. Temporary seasonal and temporary short term part time employees will not be eligible for retirement benefits. Eligible employees shall make contributions to the retirement program through a system of payroll deduction. Upshur County shall make a contribution to each eligible employee's retirement account according to requirements of TCDRS. Information on the retirement program may be obtained in the County Treasurer's Office during the normal working hours for that office.

## **2B-12 SOCIAL SECURITY/MEDICARE**

All county employees shall participate in the Federal Social Security/Medicare program which provides certain retirement, disability, and other benefits. Deductions for these programs will be taken from each paycheck.

## **2B-13 FAMILY MEDICAL LEAVE ACT/MILITARY FAMILY LEAVE (FMLA/MFL)**

The federal Family and Medical Leave Act of 1993 (FMLA) requires an employer to provide eligible employees with unpaid leave under certain circumstances. There are two types of leave available:

- (1) the basic 12-week FMLA entitlement; and
- (2) the Military Family Leave (MFL) entitlement described in this policy.

### **Family and Medical Leave**

#### **Eligibility:**

To be eligible for benefits under this policy, an employee must:

- 1) have worked for Upshur County at least 12 months (it is not required that these 12 months be consecutive; however a continuous break in service of 7 years or more will not be counted toward the 12 months); and
- 2) have worked at least 1250 hours during the previous 12 months; and
- 3) are employed at a work site that has 50 or more employees within a 75 mile radius.

An employee with any questions about his or her eligibility for FMLA leave should contact the Treasurer's Office for more information.

## **Qualifying Events:**

For FMLA, an employee who meet the eligibility requirements described above are eligible to take up to 12 weeks of unpaid leave during any 12-month period for one of the following reasons:

- 1) to care for the employee's son or daughter during the first 12 months following birth;
- 2) to care for a child during the first 12 months following placement with the employee for adoption or foster care;
- 3) to care for a spouse, child (under the age of 18 or if over 18 incapable of self-care due to a disability), or parent ("covered relation") with a serious health condition; or
- 4) because of the employee's own serious health condition that renders the employee unable to perform an essential function of his or her position.

If two employees of the county are married, they are only entitled to a combined total of 12 weeks' leave during any 12-month period for a qualifying event under (1) or (2).

## **Military Family Leave**

Under the MFL, there are two types of leave available:

- 1) a qualifying exigency leave;
- 2) leave to care for a covered service member; or
- 3) to care for a covered veteran who is undergoing medical treatment, recuperation or therapy, for a serious injury or illness and who was a member of the Armed Forces (Regular, Reserve, or National Guard).

## **Qualifying Exigency Leave:**

An eligible employee may be entitled to use up to 12 weeks of his or her FMLA leave entitlement to address certain qualifying exigencies. Leave may be used if the employee's spouse, son, or daughter in the Armed Forces (Regular, Reserves or National Guard) is on active duty or called to active duty status in a foreign country.

Qualifying exigencies may include:

- 1) short-notice deployment (up to seven days of leave);
- 2) attending certain military events and related activities;
- 3) arranging for alternative childcare;
- 4) addressing certain financial and legal arrangements;
- 5) periods of rest and recuperation for the covered military member (up to fifteen days of leave);
- 6) attending certain counseling sessions;
- 7) attending post-deployment activities (available for up to 90 days after the termination of the covered military member's active duty status);



- 8) other activities arising out of the covered military member's active duty or call to active duty in a foreign country and agreed upon by the county and the employee;
- 9) attending family support or assistance programs and informational briefings;
- 10) acting as the covered military member's representative before a governmental agency;
- 11) addressing issues that arise from the death of a covered military member while on active duty status in a foreign country; and
- 12) other activities arising out of the covered military member's active duty or call to active duty in a foreign country and agreed upon by the county and employee.

### **Military Caregiver Leave:**

An eligible employee may take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is either a current member or veteran of the Armed Forces (Regular, Reserve or National Guard).

An eligible employee may take up to 26 weeks of leave to care for a covered service member of the Armed Forces (Regular, Reserve, or National Guard) who has been rendered medically unfit to perform his or her duties due to a serious injury or illness incurred in the line of duty while on active duty for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

An eligible employee may take up to 26 weeks of leave to care for a veteran (Regular, Reserve, or National Guard) who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces (Regular, Reserve or National Guard) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

The MFL entitlement is applied on a per-injury basis and an eligible employee may be entitled to take more than one period of 26 weeks of leave if the leave is to care for different covered service members or covered veteran with a subsequent serious illness or injury, except that no more than 26 weeks may be taken within any single 12-month period.

An eligible employee may begin taking military caregiver leave up to five years after their family member was discharged or released from the military. The eligible employee's first date of leave must be within the five year period; however, the employee may continue to take such leave throughout the single 12-month period that is applicable to military caregiver leave, even if the leave extends beyond the five-year period.

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary.

Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the county's operations.

#### **Leave Calculation:**

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

#### **Intermittent Leave:**

An employee may take FMLA leave because of a serious health condition, or type of MFL leave for a qualifying exigency or serious health condition intermittently (in separate blocks of time due to a single health condition) or on a reduced-schedule leave (reducing the usual number of hours worked per workweek or workday) if medically necessary. If an employee's intermittent leave is unpaid, the county will reduce the employee's salary based on the amount of time actually worked. In addition, while an employee is on an intermittent or reduced-schedule leave, the county may temporarily transfer the employee to an available alternative position that better accommodates the recurring leave and which has equivalent pay and benefits.

Unless approved in advance in writing by the county, an employee may not take intermittent leave to care for the employee's own child during the first year following birth, or to care for a child placed with the employee for foster care or adoption.

#### **Substitution of Paid Leave:**

Upshur County requires substitution of paid leave for all FMLA or MFL events. An employee must follow the vacation and sick policy guidelines. **Employees must use accrued leave time for FMLA or MFL events in the following order: Sick, Compensatory, Vacation.** The balance of FMLA is unpaid leave. FMLA and MFL run concurrently with all substituted paid leave, including Workers' Compensation leave. ***Employee does not accrue vacation or sick hours while on leave.***

#### **Health Plan Benefits:**

During an approved FMLA leave, the county will maintain the employee's health plan benefits as if the employee continued to be actively employed. If paid leave is substituted for unpaid leave, the county will deduct the employee's portion of the health plan premium as a regular payroll deduction. If leave is unpaid, the employee must pay his or her portion of the premium through the Treasurer's Office. An employee's health plan benefits will be cancelled by the county if the employee's premium payment is more than 30 days late. The county will provide the employee with written notice of the proposed cancellation 15 days before of the cancellation. If the employee elects not to return to work at the end of the leave period, the employee will be required to reimburse the county for the cost of the premiums paid by the county for maintaining coverage

during the unpaid leave, unless the employee cannot return to work because of a serious health condition or other circumstances beyond the employee's control.

During FMLA leave, the county will maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work, provided the employee continues to pay his or her portion of the premium. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave.

**Return from FMLA Leave:**

Upon return from FMLA leave, an employee will be restored to his or her original or equivalent positions with equivalent pay, benefits, and other employment terms. An eligible employee is not guaranteed the actual job held prior to taking leave.

**Notice:**

If the need to use FMLA leave is foreseeable, the employee must give the county at least 30-days' prior notice of the need to take leave. If 30-days' notice is not possible, the employee must give notice as soon as practicable (within one or two business days of learning of the need for leave except in extraordinary circumstances). An employee's failure to provide adequate notice may be grounds for delaying the start of the FMLA leave.

Whenever possible, requests for FMLA leave should be submitted to the Treasurer's Office. When submitting a request for leave, an employee must provide sufficient information to allow the county to determine if the leave qualifies as FMLA leave, including information on the anticipated start date for the leave and the duration of the leave.

The employee may be required to provide information documenting that the employee is unable to perform job functions; that a family member is unable to perform daily activities; that the employee or family member needs hospitalization or continuing treatment by a health care provider; or the circumstances supporting the need for military family leave. An employee also must inform the county if the requested leave is for a reason for which FMLA leave was previously taken or certified.

**Certification:**

Employees may be required to provide a certification and periodic recertification supporting the need for leave. If an employee requests leave under this policy, the county will notify the employee if medical certification is required and when it is due (no more than 15 days after the employee requests leave).

When an employee requests leave, Upshur County will inform the employee whether the reasons for the leave request are eligible under the FMLA or MFL (FMLA form WH-381). If the employee is eligible, the employee will be given a written notice that

includes details on any additional information he or she will be required to provide (FMLA form WH-381). If the employee is not eligible, the county will provide the employee with a written notice indicating the reason for ineligibility. If leave will be designated as FMLA or MFL, the county will inform the employee in writing (FMLA form WH-382) and provide information on the amount of leave that will be counted against the employee's 12- or 26-week entitlement. The county will also inform the employee if a fitness for duty letter will be required when the employee returns from FMLA leave. If a fitness for duty letter is required, the county will attach a list of the employee's essential job functions to the FMLA form WH-382.

If the employee is requesting leave because of the employee's own or a covered relation's serious health condition, the employee and the treating health care provider may be to provide appropriate medical certification. An employee may inquire about the necessary medical certification forms from the Treasurer's Office.

If an employee provides at least 30-days' notice of medical leave, he or she should also provide the medical certification before leave begins. Failure to timely provide requested medical certification (if required) may result in denial of leave until certification is provided.

The county, at its sole expense, may require an examination by a second health care provider designated by the county, if it reasonably questions the medical certification provided by the employee. If the medical certification provided by the health care provider hired by the county conflicts with the medical certification submitted by the employee, the county, at its sole expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a medical certification, which will be final and binding on both the county and the employee.

The county may require subsequent medical recertification related to an employee's ongoing FMLA leave. An employee's failure to provide requested certification within 15 days after the employee receives the county's request, except in extraordinary circumstances, may result in the delay of further leave until certification is provided.

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

#### **ENFORCEMENT:**

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer for unlawful discrimination under the FMLA. The FMLA does not affect any federal or state law prohibiting discrimination or supersede any federal or state law that provides greater family of medical leave rights.

## **2B-14 LEAVE OF ABSENCE - OTHER**

Employees who have exhausted all of their accrued compensatory, vacation and sick leave time may request a personal leave of absence to a maximum of 30 calendar days. Personal leaves of absence may include reasons such as family emergencies, extended bereavement, or other personal matters. Personal leaves of absence are granted solely at the discretion of the elected official, appointed official or department head. Employees on personal leaves of absence are converted to an inactive status and do not earn any compensation or accrue any benefits. ***The elected/appointed official or department head shall provide the Treasurer's Office with written documentation of leave of absence as soon as it is approved.***

An employee on authorized leave for a medical reason (not meeting the definition of FMLA leave) will continue to be eligible for medical plan benefits and basic life insurance for the first 30 calendar days. After 30 calendar days the employee will be offered COBRA.