

POLICY #1: PURPOSE AND USE

1.1 Purpose of Policies and Procedures

The policies and procedures for personnel administration are enacted by the County of Shannon in order to further the following goals:

- (1) To provide a uniform and sound personnel administrative system throughout the County of Shannon.
- (2) To inform employees of the general policies and procedures of the county and the benefits and obligations of employment with the county.
- (3) To ensure that all personnel actions are based upon employee qualifications (knowledge, skills and abilities) and job performance and are in compliance with Federal and State law.
- (4) To serve as written documentation of the county's commitment to fair employment practices and equal employment opportunity.
- (5) To assist managers in carrying out sound, equitable and consistent personnel administration and in making effective use of their human resources.
- (6) To promote and encourage communication between the employer or supervisor and the employee.
- (7) To protect the rights of the employee and employer throughout the employment relationship and to ensure that the responsibilities of both parties are carried out.

1.2 Applications

The personnel policies and procedures shall apply to all county employees and excluded classes as specified in the policy itself. In the event of a conflict between these policies and any collective bargaining agreement or State and Federal law, the terms and conditions of that agreement or law shall prevail.

1.3 Revision

The County of Shannon specifically reserves the right to repeal, modify or amend any of these policies at an aforementioned time upon a majority vote of the governing board.

1.4 Disclaimer

The County of Shannon recognizes that South Dakota is an employment at-will state, and the intent of this county is to maintain that employment at-will status of all employees. However, for county employees, due process procedure as specified in Policy #9 will be followed.

1.5 Repeal of Conflicting Regulations

All existing personnel regulations that conflict or are inconsistent with these Shannon County Personnel Practices and Procedures are hereby repealed to the extent necessary to give these Personnel Policies full force and effect.

This manual does not confer a contract of employment nor prohibits the county's right to require an employee to sign a yearly contract as a condition of employment. The policies, procedures, rules, and benefits contained herein are subject to change upon a majority vote by the Commission. These policies are provided as a reference of present policies and not a guarantee of employment or specific employment benefits.

POLICY #2: GENERAL POLICIES

2.1 Equal Employment Opportunity

It is the policy of the County of Shannon to recruit, hire, train, promote, discipline and discharge all applicants and employees equally and without regard to race, religion, creed, color, national origin, sex, age, disability, political affiliation, marital or veteran status, or any other basis prohibited by State or Federal law.

Violations of this policy by any county employee may be cause for immediate disciplinary action.

Any employee who feels they have been discriminated against according to this policy should bring this concern to his/her supervisor or higher authority according to the grievance procedure specified in Policy #9 of this manual.

2.2 Sexual Harassment

The County of Shannon is committed to providing a work environment that is free from discrimination and harassment. To maintain this commitment, the county will not tolerate any form of harassment, including sexual harassment.

Under this policy, sexual harassment is defined as behavior of a sexual nature that is unwelcome and personally offensive to its recipient. Harassment is a form of employee misconduct that is demeaning to another person and undermines the integrity of the employment relationship.

Any employee who feels he/she has been sexually harassed or that his/her personal rights have been violated should immediately report the matter to the immediate supervisor unless the supervisor is the offending party. If the supervisor is unavailable, or the employee believes that it would be inappropriate to contact his/her supervisor, the employee should immediately contact the Chairman of the Board.

Any supervisor or manager who becomes aware of any possible sexual harassment shall immediately advise the Chairman of the Board. The county will make a thorough, confidential, and impartial investigation of the complaint. All complaints and investigations will be held personal and confidential. All employees must cooperate with any such investigation. The county

will take prompt remedial measures to immediately end the offending action.

Sexual harassment of any kind in the work place is prohibited by Federal and State law. Retaliation or intimidation directed toward a complaining party is also prohibited by law and will not be tolerated by the county under any circumstances. A complaint of sexual harassment will not have any bearing on the terms and conditions of employment of the complaining party, including but not limited to wages, advancement, evaluations, assigned duties, shift assignments, career development, etc.

Violations of the above stated policy by any employer, supervisor, co-worker, or other employee may be cause for immediate disciplinary action.

2.3 Seat Belt Policy

The County of Shannon is committed to doing everything possible to prevent injury to employees, prevent damage to property and to protect the employees and the public from the results of accidents. The county realizes that safety belts are an important and efficient means to accomplish this goal. Thus, it is the policy that all county employees and their passengers shall be required to use seat belts when driving any county owned or leased vehicle (if equipped with seat belts) or while driving their personal vehicle on official county business. Failure to comply with this policy may result in disciplinary action.

2.4 Smoking

It is the policy of the County of Shannon that smoking shall not be permitted in county buildings and facilities.

2.5 Outside Employment

Although the county does not forbid off hours employment by employees (unless such employment interferes or negatively impacts the performance of their duties with the county or results in a conflict of interest), no appointive officer or employee, unless officially assigned to special duty, shall be granted sick leave for any injuries or illness resulting from any employment other than that required in the course of his/her assigned duties. Also, workers' compensation insurance coverage will not be extended to outside employment.

2.6 Performance Evaluations

Performance evaluations are designed to provide the employee with a record of his/her performance, to encourage professional growth and to promote communication between the supervisor and employee. The performance evaluations will be conducted by the employee's department head. Performance evaluations will be conducted a minimum of twice during the employee's training period (at the midpoint and at the conclusion of the training period) and annually thereafter to be completed by December 1st of each year.

Performance evaluations of appointed officials (department heads) will be conducted annually by the Shannon County Commission by December 1st of each year.

The performance evaluations are to be structured to each employee's position. The purpose of the evaluation is to commend strengths, address weaknesses, suggest ways to improve, and discuss employee goals and objectives. Evaluations will be conducted in a confidential meeting between the employee and his/her department head. Employees are required to sign their evaluations and will receive a copy. Signing does not imply agreement, but that the contents have been made known or discussed with the employee. A copy will be placed in a sealed envelope and placed in the employee's personnel file.

County approved performance evaluation forms can be found in appendix section.

2.7 Personnel Records

2.7.1. General

It is the policy of Shannon County to maintain accurate and updated information on each county employee in its personnel files.

2.7.2. Maintenance Responsibility and Accessibility

The County Auditor's Office shall be responsible for maintaining all personnel records.

All employee records are confidential. Such records shall be accessible only to the individual employee, and the decision-making authority affecting the individual employee's employment status. The employee or his/her representative shall have reasonable access to his/her personnel records upon request to the County Auditor. The employee will make the file available to the employee's representative only upon written authorization.

2.7.3. Contents

The general personnel file on each employee may include the following:

- Personal data sheet
- Letters of commendation
- Payroll deduction authorizations
- I-9 and W-4 form
- Performance appraisals
- Disciplinary actions
- Termination or discharge records
- County work history--positions held, rates of pay, etc.
- Time sheets--work hour records, leave and absence notices, etc.

No written incident report or records of disciplinary action shall be placed in an employee's personnel file unless the county first advises the employee of its intent to enter such document into the file and affords him/her an opportunity to read and sign such material. Signing does not imply agreement, only that the contents have been made known to or discussed with the employee. If the employee shall refuse to sign, such action must be documented by a third individual. The employee shall have the expressed right to submit a letter of rebuttal to his/her file

regarding any information contained in his/her file that is in dispute.

2.7.4. Benefits, Medical and Confidential File

Shannon County shall also maintain a complete confidential file on each employee. This file may include:

- Application and/or resume
- References and/or background checks

Exit Interviews

- Injury reports and workers' compensation information
- Necessary medical examinations and records, plus alcohol and drug testing information

Access to this file is limited to the County Auditor and on an absolute need to know basis only as deemed appropriate by the County Auditor, in consultation with the County Commission Chairperson and the State's Attorney, and in compliance with HIPAA.

2.7.5. Changes of Name, Address, Telephone, Withholding Status, Etc.

It is the employee's responsibility to inform the County Auditor of any changes in name, address, telephone number or withholding status. An employee must immediately report any of the above or other pertinent changes.

2.7.6. Personnel Record Retention

Personnel records are maintained in accordance with the records retention and destruction manual for counties published by the State Bureau of Administration. The county permanently keeps an employee's name, social security number, and dates of employment, positions held and salary history.

2.7.7. Employment References

In compliance with the Federal Privacy Act, the county is required to protect the privacy rights of all employees. In following this Act, it is the county's policy to provide only the following information on both present and past employees:

- If an individual has been or is currently employed with the county
- Dates of employment
- Current position or position at the date of separation from employment and other positions held; and
- Verification of salary information

All employment information is given solely at the discretion of the County Auditor and department heads on a need to know basis only. Additional information may be released, upon approval of the County Auditor, and upon a written and signed disclosure and release request from the employee or ex-employee. The county may request written verification for the need of

such employment information.

Due to the potential liability for the release of employment information, only the County Auditor or other individual authorized by the county commission shall give out such information. The county commission also reserves the right to instruct such authorized individuals that no additional information be released on certain employees. All requests for information on an individual's employment shall be immediately directed to the County Auditor.

Providing employment references, including off-the-record remarks, without county commission authorization is in violation of the above stated policy and may result in disciplinary action.

2.8. Executive Session – Personnel Discussion

It is the policy of the County Commission to recess into executive session to discuss personnel issues such as employee qualifications, competence, performance, and character or fitness. However, in accordance with South Dakota's Open Meeting Law, no official action will be taken except in an open official meeting. Such sessions are called to protect the employer/employee relationship.

2.9. Fair Labor Standards Act Covered and Non-Covered Employees

The following employees of the county are considered exempt from the Fair Labor Standards Act:

- Elected Officials;
- Highway Superintendent (Department Chief);
- Director of Equalization (Department Chief);
- Weed Department Supervisor (Department Chief);
- Emergency Management Director (Department Chief);
- Veterans Service Officer (Department Chief);
- Sheriff's Department Deputies (less than five employees in the department).

All other employees of the county are covered under FLSA regulations.

2.10. Family and Medical Leave Policy

Leave

Upon request, any employee will be granted up to twelve (12) weeks of unpaid family and medical leave during any twelve (12) month period. Such leave will be available as a result of the birth, adoption or placement of a child for foster care, to care for a spouse, child or parent with a serious health condition or due to the disabling illness of the employee. Where possible, employees are required to provide at least two (2) weeks notice before beginning to take leave. Leave is granted by the County Commissioners based on the recommendation of the department head.

Limitations and Conditions

It is the policy of Shannon County to require the employee to use up paid leave before taking

unpaid family and medical leave.

Serious Health Condition Defined

“Serious health condition” means an illness, injury, impairment or physical or mental condition involving inpatient care or continuing treatment or supervision by a health care provider.

Eligibility

An employee must have worked for Shannon County at least twelve (12) months and for a minimum of one thousand two hundred fifty (1,250) hours during the previous year. When a husband and wife work for Shannon County, the combined total number of weeks leave to which both are entitled will be limited to twelve (12) weeks during any twelve (12) month period. Where leave is requested as a result of a serious health condition, the employee will provide Shannon County a certification statement issued by a health care provider. Should there be a question of validity of the certification provided by the employee, Shannon County may, at its own expense, require an opinion from a second health care provider. Where there is a conflict between the two opinions, Shannon County may pay for the opinion of a third provider. The opinion of the third provider is binding on both the employee and the employer.

Notification

Employees are expected to provide at least thirty (30) days notice of the need for leave for birth, adoption, or planned medical treatment. No notice is required for unforeseen events such as premature birth or sudden changes in patient’s condition that requires a change in scheduled medical treatment. Shannon County also recognizes that parents who are waiting to adopt a child are often given short notice. Notice is waived for employees who face an emergency medical condition or unforeseen changes.

Restoration

An employee returning from family leave will be entitled to return to the same position or to a position with equivalent benefits, pay, and other terms and conditions of employment.

Key Employees

Under certain conditions, employees who are designated as “key” by the County Commissioners may be denied job restoration rights. These employees must be in the highest paid ten percent (10%) of the workforce, and their absence must mean a substantial economic loss to Shannon County. Supervisors are urged not to use a “key” person designation unless absolutely necessary. If a person designated as “key” still takes family leave, Shannon County will pay the health care premiums, but no guarantees are made about returning the key employee to the job he or she left. Shannon County will not attempt to recover health care premiums from such employees who do not return to work.

Vacation and Sick Leave

Employees on family leave will not accrue any seniority, vacation or sick leave benefits.

Health Insurance Coverage

Shannon County will continue to provide health care coverage under the same provisions as prior to the leave. Where the employee fails to return from leave, Shannon County can recover the premium(s) that have been paid on behalf of the employee to maintain health care coverage. If failure to return to work is due to the continuation, recurrence or the onset of a serious health condition beyond the employee's control, the employee will not be liable for health care premiums paid while on family leave. In such cases, a certification issued by a health care provider will be required.

Medical Certification Requirements

Certification

Employees must provide certification explaining their own serious health condition or that of a family member. It should detail the date on which the condition began, the probable duration of the condition, appropriate medical facts regarding the condition; a statement that the employee is needed to care for a spouse, parent or child; a statement that the employee's own health condition makes it impossible for him or her to work.

Certification for Return to Work

All employees returning from medical leave caused by their own illness will be required to obtain medical certification from the employee's health care provider that the employee is able to resume work.

Reporting Requirements

Employees on leave status will be required to report their status on a weekly basis. The employee's estimated date of return to work will be communicated to the Shannon County Commissioners or supervisor as far in advance as practical so that scheduling can be facilitated. Supervisors will communicate with employees during the leave to determine the employee's intention to return to work, and they should be informed immediately if the medical condition changes or the employee states that he or she will not be returning to work.

Reduced or Intermittent Leave

The employee and Shannon County Commissioners may work out an agreement by which leave may be taken intermittently or on a reduced leave schedule. While this would not reduce the employee's twelve (12) week entitlement for the full-year period, it would enable him or her to spread the leave over a longer period of time.

Employees who take intermittent leave may be transferred to another position that would better accommodate a part-time schedule. They would receive equivalent pay and benefits during the temporary transfer.

Reduction in Force

Employees who are on a family or medical leave during a layoff will be treated in exactly the same way as they would have been treated if they were not on leave. They will not be given preferential treatment because of the leave nor will it be held against them in the layoff selection. They will be recalled to work in the same order as they would have been under normal circumstances.

POLICY #3: RECRUITMENT AND HIRING

3.1. General Policy

It is the fundamental policy of Shannon County to provide equal opportunity to all of its employees and applicants for employment and to assure that there shall be no discrimination against any person on the basis of race, color, religion, creed, national origin, sex, age, physical or mental disability, marital status or political beliefs unless related to a bona fide occupational requirement. Shannon County will take steps to equalize opportunity for employment at all levels of operation for those classes of people who have traditionally been denied equal opportunity – minority group members, women and the handicapped; and Shannon County recognizes an obligation to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified applicant or employee unless the accommodation imposes an undue hardship.

All applicants for employment with Shannon County will be recruited from the available labor market evaluated on each person's individual qualifications and abilities. All employees shall be afforded equal employment opportunity during their term of employment, and are guaranteed protection against retaliation for exercising any legal or administrative procedures to secure right to equal employment or testifying on behalf of someone else doing so.

All administrators and supervisors are responsible for and shall be committed to achieving and promoting equal employment opportunity in Shannon County.

The Chairman of the Board of County Commissioners is the equal employment opportunity officer and shall be responsible for coordinating the equal employment opportunity program.

It is the policy of Shannon County to recruit and fill job vacancies with the most qualified individual for the position. The county has four methods of recruiting qualified applicants to fill job vacancies in county employment. These are: (1) promotion from within; (2) transfer from within the department; (3) transfer from another department; or (4) open announcement and advertisement.

If in the best interest of the county, promotions or transfers of individuals already employed with the county shall be given first consideration. This consideration, however, does not entitle the individual to an automatic promotion or transfer to a higher level of employment.

3.2. Responsibilities of County Commission

All appointed and elected department heads shall notify the County Commission once a candidate is selected for employment. The selection shall be reviewed by the Board of County Commissioners prior to the notification of the prospective employee. The purpose of the review

shall be to determine if county policies have been followed in selecting the employee.

3.3. Job Announcements

Announcements for all vacancies shall include the job title, a brief job summary, if the position is exempt or non-exempt from the Fair Labor Standards Act, the minimum qualifications, the deadline for filing an application, and location to send applications. All announcements and advertisements shall state that Shannon County is an "Equal Opportunity Employer."

Public announcements of employment opportunities will be advertised in the official newspaper, listed with the South Dakota One Stop Career Center, and posted in a visible location at the county courthouse for all employees to read.

3.4. Applications for Employment

Individuals interested in applying for a specific position with the county, including those already employed by the county, must fill out the county approved application for employment form (see appendices) and submit a resume detailing their employment history, education and other relevant experience or pertinent information. A separate application must be submitted for each position for which the individual wishes to be considered. An application and resume will be required for all county positions. Applications will not be maintained on file for the purpose of aiding applicants in applying for future job vacancies with the county.

3.5. Eligibility

To be eligible for employment with Shannon County an individual must:

- 1) Be legally eligible to be employed in the United States as proven on the required I-9 form.

3.6. Qualifications

Shannon County maintains a job description on each position (see appendices for listing). This description establishes the minimum required levels of education and experience necessary to qualify for employment. Each description may also detail desired skills or qualifications, which are preferred by the county and will be given foremost consideration.

3.7. Veteran's Preference

In accordance with SDCL 3-3-1, 3-3-7, and 3-3-8, preference in employment, appointment, and promotion shall be given to honorably discharged veterans, the unmarried spouse of a veteran, and the spouses of disabled veterans, provided they possess the qualifications and capacity to perform the duties of the position. A veteran disabled due to a service connected cause shall be given preference over a non-disabled veteran. To gain veteran preference rights, the applicant must make known at the time of application by submitting a copy of a DD2-14 form that he/she is an honorably discharged veteran. Veteran's preference is only afforded to those as defined in SDCL 33-17-1 and 33-17-2.

Preference in employment will be given to veterans who have served on active duty and have been

honorably discharged from the armed forces of the United States during the following periods:

- 1) July 28, 1914 to November 11, 1918
- 2) September 1, 1939 to December 31, 1946
- 3) June 25, 1950 to May 7, 1975
- 4) August 1990 through such time that the President of the United States declares the end of hostility.

3.8. Disqualification

An applicant is disqualified from employment by the county if he/she: (1) does not meet the minimum qualifications/eligibility for appointment; (2) knowingly has made a false statement on the application form or resume; or (3) has committed fraud during the selection process.

3.9. Selection and Employment of Relatives (Nepotism)

The county department head and/or applicable county advisory board shall take applications, conduct interviews, and make a recommendation for employment to the County Commission. When hiring a non-elected department head, the County Commission shall be responsible for the entire process. During the interview process the job description for the position must be reviewed with the applicant.

Selection to fill a job vacancy is to be made on the basis of knowledge, skills, education, experience, and ability to perform the duties of the specific position. Thus, to avoid circumstances of favoritism and discrimination, the employment of immediate family members within the same department or other areas where an immediate family member would hire, supervise, discipline or otherwise judge the performance of the above is prohibited. This selection and employment of relatives applies to regular full-time and permanent part-time employees.

Immediate family is defined as parents, stepparents, spouse, children, stepchildren, brothers, sisters, stepbrothers, stepsisters, brothers-in-law, sisters-in-law, grandparents, grandchildren or an individual who has acquired any of the above status through marriage.

3.10. Employment Offers

After an individual has been selected for employment, the individual will be notified of their selection in writing by the department head (county commission if hiring department head). The offer will be extended and, if appropriate with the job description, the offer may be contingent upon a post-offer, pre-employment physical at the county's expense. The county shall pay for only the minimal physical required by the county. The offer shall also include the beginning date of employment.

When selection has been made, the individual selected must be made fully aware that his/her employment relationship may be terminated with or without cause, with or without prior notice, by either the county or the employee during the training period except for reasons illegal under State or Federal law. The individual must also be notified that after the training period is completed employment is still at-will and the above will continue to apply. However, due process requirements (and grievance procedures) will be followed. In addition, a two-week notice will be

required prior to the employee voluntarily leaving their job. The county in extenuating circumstances may waive this two-week notice. The county may require the employee to sign an agreement of employment as a condition of employment.

3.11. Acceptance of Employment

After an individual has accepted employment with the county, the county auditor shall ensure that necessary and proper paperwork is filed within the employee's personnel file. This will include a signed statement from the employee that he/she has read the job description (see appendices) for which he/she has been hired and fully understands the conditions set forth. Further that he/she agrees to abide by the personnel policies of Shannon County. Failure to sign any such agreement constitutes refusal to serve and terminates any employment or offer with the county.

3.12. Residency Requirement

Employees of the Sheriff's Department shall be required to comply with the residency requirement of each respective department. Residency within the county for non-elected positions shall not be a condition of employment, provided, however, that such residency does not interfere or hamper the employee from fulfilling the duties of his/her position or cause the employee to miss work often.

3.13. Employment-In-Training Period

Every employee hired by Shannon County must complete a 6-month training period for the purposes of assessing the individual's ability to perform their assigned duties.

Such employment may be terminated if either the county or employee feels this is the appropriate action. There is no time related notice required of either party before such termination takes effect. The only right for an employee to appeal or grieve a discharge action during this time is on the basis of a prohibited form of discrimination.

During this training period, an employee who normally would be eligible for vacation, sick and holiday leave shall accrue both sick and vacation leave at the regularly scheduled rate. However, while the employee is not entitled to use their accrued vacation leave until after the probationary/training period has ended; sick leave may be used as necessary. Should the employee leave or be terminated during the probationary/training period of service, all vacation and sick otherwise earned will be forfeited. An employee-in-training who would be eligible for Holiday Pay is entitled to paid holidays as observed by the county.

Employees receiving transfers, promotions, etc., must complete a 90 working day training period for assessing his/her ability to perform the duties of the new position assigned. If the employee is not meeting the required standards of performance, he/she may be restored to his/her original position or to a comparable position, or may be dismissed if his/her position has been filled. All accrued benefits, including longevity pay, will transfer with the employee as long as there is continual service; thus, he/she shall continue to receive and utilize benefits as previously earned.

POLICY #4: HOURS OF WORK

4.1. General Policy

It is Shannon County's intent to create a standard workweek within which an employee is expected to perform county services. The County Commission also realizes that emergency and extenuating circumstances may arise in which an employee is required to work variable hours. Nothing within this policy is meant as a guarantee to the number of hours, either daily or weekly, that an employee may be required to work. However, it is Shannon County's policy that every employee be treated equally and fairly when expected to work odd or extended hours.

4.2. Standard Work Week

The standard 40-hour work week, unless otherwise stated, for the purpose of calculating pay and overtime shall begin at 12:01 a.m. Monday and end on 12:00 p.m. Sunday. When, and if applicable, the sheriff's department personnel shall follow the Fair Labor Standards Act work schedule for the purposes of calculating overtime/flex time based on a 14 consecutive day period of 80 hours.

4.3. Standard Work Day

Each department head will determine the schedule of hours for employees. The department head will inform employees of their daily schedule of hours of work. All county offices located in the Courthouse and the County Extension Office, however, should be open from 8:00 a.m. to 5:00 p.m., Monday thru Friday, whenever possible. Office schedules must be provided to the County Auditor. Exceptions can/may be granted by the County Commission.

During a standard eight-hour work day while working in Shannon County, the County shall provide for an unpaid one-hour break for noon lunch and a fifteen (15) minute break period in both the morning and afternoon. The fifteen-minute break periods may not be accumulated for time off. If required to serve the public during the time an employee would ordinarily take a scheduled break, the employee shall postpone his/her break and perform their duty in a cheerful and polite manner. For those working longer than eight hours, lunch and break periods will be scheduled appropriately. Over extending one's break period is cause for disciplinary action.

4.4. Call Back Pay

When an employee is called back in to work he/she shall receive a minimum of one hour of work time to be applied to his/her total hours worked for the workweek.

4.5. Flex Time

The department head reserves the right to authorize flexible work hours within the 40-hour work week in situations where it is appropriate or necessary. Employees must still adhere to the standard 40-hour workweek unless comp time or overtime has been approved by their supervisor. Work at home will not be considered for comp time unless approved by the Shannon County Commission.

4.6. Overtime

Eligible employees may be required to work overtime when determined necessary by their supervisor or the governing board. Overtime is defined as time that is worked in excess of 40 hours within the standard work week.

All overtime must be authorized by the employee's department head prior to the working of such hours except in emergency situations. Overtime is to be authorized only if the work cannot be otherwise done during normal work hours. Insofar as possible, the opportunity to work overtime shall be distributed as equally as practicable among the employees in each department. Accrual of overtime without prior authorization may result in disciplinary procedures.

Each county position is classified as either nonexempt (eligible for overtime pay and comp time) or exempt (not eligible for overtime pay and comp time) for pay purposes according to the Fair Labor Standards Act (FLSA). Work schedules that require FLSA nonexempt employees to work more than 40 hours in a week are entitled to be compensated with either 1) compensation at 1 1/2 times their regular rate of pay for each hour worked that is eligible for overtime pay or 2) comp time off at 1 1/2 times the hour for every hour worked that is eligible for overtime pay. All paid leave of absences shall be used in computing overtime/comp time but compensation shall not be paid twice for the same hours. At no time may an employee accumulate more than 42 hours of comp time off (28 hours of overtime worked at time and a half). At the end of each calendar year an employee with unused comp time off will be reimbursed for the time at overtime pay rates.

If an employee is required to work on a holiday, etc., the county will follow the holiday/emergency weather leave policy as found in the Benefits Section.

The County reserves the right to waive the requirements of this section in the event of an emergency.

4.7. Exemptions to Overtime

The following employees are exempt from the overtime standards as mentioned in the above sections:

- 1) Elected officials
- 2) Appointive officers and other employees (if determined to be FLSA exempt)
- 3) Sheriff's department personnel (if less than 5 within the department)

4.8. Attendance

All county employees are expected to be at work on time and during their regularly scheduled hours. Employees who are unable to report for work on time are required to notify their department head prior to their being absent, unless an emergency exists. If an emergency situation exists, the employee is expected to notify the proper authority as soon as reasonably possible.

Except in cases of an emergency, if an employee is absent three (3) or more consecutive days without giving proper notification, the employee will be considered to have voluntarily resigned their position and/or may be discharged from county service. For extenuating circumstances,

reinstatement is at the discretion of the department head with County Commission concurrence, or if a department head, at the discretion of the County Commission.

Failure to observe this policy may result in disciplinary action.

4.9. Time Sheets or Cards

Each employee's time sheet is a record of his/her regular hours worked, overtime worked, comp time used, vacation, sick leave, etc., used for the purpose of calculating and issuing pay checks. Every employee and their department head must sign their time sheet/time card to verify that all entries are accurate. Incomplete or falsification of time sheets/time cards may result in disciplinary action. The time sheets/time cards shall be turned into the County Auditor's office by the 25th of each month. County approved time sheets can be found in the appendices section.

Death of County Employee

Upon the death of a current county employee, all county offices will be closed during the hours of the funeral service out of respect for the employee. This will allow employees to attend the funeral. Up to two (2) hours of paid leave may be granted when attending the funeral. Those employees not attending the funeral will be required to stay at their job.

POLICY #5: COMPENSATION

5.1. General Policy

On an annual basis, the Shannon County Commissioners shall review the compensation plan under which the county pays its employees. New employees shall begin at the minimum rate of pay on the schedule for the job classification hired, unless approved by the County Commission. The County Commission shall approve all step and job classification changes for employees. Thus, salary increases are determined via the compensation plan.

5.2. Pay Period and Pay Day

Paychecks are issued monthly on the next-to-the-last working day of each month and are made by direct deposit. In the event payday falls on a holiday or a weekend, checks will be distributed on the nearest workday before payday. The county does not grant early paychecks to employees under any circumstances.

5.3. Time Sheets

Each employee is responsible to ensure that his/her time sheets are correct and submitted on time. All time sheets shall be provided monthly to the County Auditor's office by the 21st of each month. If time sheets for employee(s) are not in on time, it will result in non-payment to that employee(s) until the next pay period. Any misrepresentation of time worked or falsification of any time sheet may result in disciplinary action.

Payroll Deductions

The county is required to withhold Federal Income Tax, Medicare, and Social Security (FICA) from each employee's paycheck. Changes in withholding information must be provided by the employee to the County Auditor's office by the first working day of the month. Other deductions may include:

- 1) Employee contribution to the Retirement System;
- 2) Employee contribution to Health Insurance;
- 3) Employee contribution to Deferred Compensation Benefit Plan;
- 4) Employee contribution to Supplemental Insurance;

Court ordered payments;

Any other benefits approved by County Commissioners eligible for payroll deduction.

5.4. Changes of Employee Status & Address

It is the employee's responsibility to inform the County Auditor's office of any changes in name, address, and telephone number. An employee must immediately report any of the above changes. Failure to report or the intentional withholding of such information may result in disciplinary procedures.

5.5. Travel and Reimbursement of Expenses

It is the policy of the county that employees be reimbursed for necessary and reasonable job related travel expenses. County approved expense reimbursement forms can be found in appendices section.

5.6. Travel Approval Required

All travel outside the County must be approved by the County Commission and recorded in the official county commission minutes prior to the date of travel except in emergency instances where the department head and County Commission Chairperson may approve the travel.

Travel Expenses

Meals will only be paid for when traveling outside of Shannon County. Lodging will be paid on a case-by-case basis with approval of the County Commission.

Mileage Rate

Mileage shall be paid at the state mileage rate based on actual mileage. In order to control travel costs, all employees and elected officials are encouraged to share rides.

5.7. Other Travel Expenses

Registration fees and commercial air, train, or bus fares shall be reimbursed on actual costs (receipts required) when not billed or paid by the County directly. Car rentals shall be reimbursed on actual expenses (receipts required), and the County Commission, except in emergency situations, must approve such use in advance. Receipts are required for taxis. Intra-city bus or shuttle bus service shall be reimbursed at actual cost (receipt required when obtainable). Parking ramp/parking lot fees are reimbursable, and receipts are required.

Laundry, tipping, movies, parking meters, and personal telephone calls are not reimbursable travel expenses. Telephone calls conducted for county business purposes are reimbursable (receipts/statements required). Falsification of telephone calls is grounds for disciplinary action.

POLICY #6: BENEFITS

6.1. Definitions:

County Commissioner – An individual elected to serve a four-year term on the county's governing board.

Elected Official – An individual elected to serve a four-year term. Benefits: Health Insurance, Life Insurance, and Retirement.

Appointed Official – An individual who is appointed by the County Commissioners, holds a full-time and/or part-time supervisor's position and is salaried. Benefits: Health Insurance, Life Insurance, Retirement, and all leaves of absences described in Section VI.

Regular Full-Time – An individual who is employed by the county to work a predetermined schedule of at least 40 hours per week, year round. Benefits: Health Insurance, Life Insurance, Retirement, and all leaves of absences described in Section VI.

Permanent Part-Time – An individual who is employed by the county to work at least 20 hours, but less than 40 hours per week, year round. Benefits: Vacation prorated on a yearly basis, Life Insurance, Retirement, and all leaves of absences described in Section VI.

Seasonal/Temporary – An individual who is employed by the county on a salaried or hourly basis for a particular purpose or for a specific time period. Students who work during the summer or other persons employed for seasonal job functions such as flag persons, mower operators, weed sprayer, etc are examples. These employees work as needed to meet peak workload and/or seasonal needs but normally work less than 1,000 hrs in a given calendar year. Benefits: No benefits.

6.2. Leaves of Absence

6.2.1. General Policy

Leaves of absence are considered a benefit and privilege offered by Shannon County. Leaves are not granted automatically, and should be requested, when possible, two weeks in advance by the employee to their department head. Before any unpaid leave days are granted, all paid leave days available to the employee shall be utilized. Every effort will be made to ensure that all employees are treated equally and fairly. In some instances, it may not be possible to grant all leaves requested during busy times or emergency situations; however, every effort will be made to grant requests.

An employee anticipating a leave of absence is encouraged to apply for such leave as soon as possible.

6.2.2. Holiday Leave

Regular full-time appointed and regular full-time personnel are entitled to the following holidays with pay.

| | |
|----------------------------------|-----------------------------|
| New Years Day | January 1 |
| Martin Luther King, Jr. Day..... | Third Monday in January |
| Presidents' Day..... | Third Monday in February |
| Memorial Day..... | Last Monday in May |
| Independence Day..... | July 4 |
| Labor Day..... | First Monday in September |
| Native American Day..... | Second Monday in October |
| Veterans' Day..... | November 11 |
| Thanksgiving Day..... | Fourth Thursday in November |
| Christmas Day..... | December 25 |

Additionally, any days so designated by the Shannon County Commissioners or the Governor of South Dakota shall be observed as a legal holiday by the county.

When any of the above holidays fall on a Sunday, the following Monday shall be observed as the holiday. When any of the above holidays fall on a Saturday, the preceding Friday shall be observed as the holiday. Only one 8-hour day of holiday pay is received per holiday. Further, if working a 10-hour day schedule and the holiday occurs on a Friday, then the employee will receive 8 hours of holiday pay on Thursday. This paragraph is not effective for Emergency Personnel.

Time off for religious observances can be authorized by the department head and such time off is to be charged against vacation leave, comp time, or leave without pay. Such leave shall not jeopardize the effective operations of the department.

6.2.3. Vacation Leave

All regular full-time employees shall be allowed paid vacation. Vacation leave will accrue annually according to the following schedule.

| <u>Years of Service</u> | <u>Hours Earned/Year</u> |
|-------------------------------|--------------------------|
| After one (1) year..... | six (6) days |
| After two (2) years..... | twelve (12) days |
| After five (5) years..... | fifteen (15) days |
| After ten (10) years..... | eighteen (18) days |
| After fifteen (15) years..... | twenty (20) days |

No more than 40 hours of vacation may be carried over on a yearly basis. Vacation is disbursed on the employee’s anniversary date.

Permanent part-time employees will earn vacation time prorated on hours worked versus a 40-

hour workweek in accordance with the schedule and general rules of a regular full-time employee.

General Vacation Requirements

Vacation hours may be used in two-hour increments. Thus, the minimum amount that may be charged to an employee's vacation leave at any one time is two hours.

If an employee is on vacation and a holiday occurs, that day shall be considered a holiday and not vacation for salary purposes. In no event shall vacation pay exceed eight (8) hours per day.

Vacation leave will not accrue during any period of leave of absence without pay.

Upon separation from county service, personnel (except those completing their probationary period of service) will receive cash payment for unused vacation leave at their final rate of pay.

Regardless of length of employment, if an employee dies, pay for unused vacation leave will be paid, in a lump sum, to the employee's estate or designated beneficiary.

Department heads shall notify the County Commission Chairperson if they are going to be absent for three (3) or more consecutive days.

6.2.4. Sick Leave

Appointed and regular full-time employees shall earn and accumulate sick leave at the rate of 8 (eight) hours per month with a maximum of 520 hours accumulation.

Sick leave may be granted only for: (1) actual illness/injury of the employee, or (2) preventative health care involving the employee or immediate family such as checkups and dentist visits, (3) an adoption or birth, (4) illness in the immediate family, or (5) funeral leave. Immediate family for sick leave purposes shall mean one's spouse, children, stepchildren, parents, stepparents, father-in-law, mother-in-law, and grandchildren. No more than three (3) consecutive days may be utilized for items number 1 and 4 without a note from a doctor, and only with the approval of the department head. Also see pregnancy/maternity and new parent leave section and family and medical leave section.

An employee absent from work due to illness or for which they wish to utilize sick leave, shall notify his/her department head before scheduled work, or as soon as possible in an emergency situation, and indicate the nature of the illness or reason for sick leave and the expected length of absence. Failure to report such an absence in a timely manner may be cause to consider the absence as unauthorized and without pay.

The minimum time increment that may be used for sick leave is one hour. Five days of sick leave may be taken for a funeral of an immediate family member. When sick leave is used for a funeral other than an immediate family member, the amount of time shall be agreed upon between the department head and the employee. Any employee who abuses sick leave provisions shall be subject to disciplinary action.

An employee on a leave of absence without pay does not accrue sick leave benefits.

There shall be established a sick leave bank, which will be administered as follows:

- (1) Participation in the sick leave bank shall be voluntary.
- (2) Only those people who contribute to the bank may draw from the bank.
- (3) No employee may become a member of the bank until they have completed one (1) month of employment at which time they may draw a maximum of two (2) days from the bank. After one (1) year's employment, an employee may draw the maximum.
- (4) Each regular full-time employee will contribute one (1) day to the bank each year.
- (5) No one individual may receive more than 80 hours from the bank in any calendar year.
- (6) All time granted from the bank must be approved by a panel made up of two (2) regular full-time employees and two (2) County Commissioners or their designees.
- (7) Before any employee may draw from the bank, he must use up all of his sick leave.
- (8) Once an employee contributes a day to the bank, that day will be removed from his/her record and become the property of the sick leave bank.
- (9) Sick leave bank total shall accumulate to eight hundred (800) hours. No more hours shall be added until the bank is depleted to four hundred (400) hours except for new participants who shall contribute for four years regardless of the total number of hours in the bank.
- (10) Exceptions may be considered by the County Commissioners.

County approved sick leave bank withdrawal application forms can be found in the appendices.

6.2.5. Pregnancy/Maternity and New Parent Leave

Pregnancy and childbirth are herein viewed as illnesses. Sick leave may be used when it is medically necessary before delivery. A combination of sick leave, vacation leave, or leave without pay may be used for a period of four (4) weeks commencing upon delivery date. All forms of paid leave must be utilized, before unpaid leave is used. At the end of the four (4) week period, the individual must have a physician's statement of need for any additional leave. At which time, and if deemed necessary, the department head may seek County Commission approval for temporary fill-in employment. The paternal parent may use up to two (2) days of sick leave for the birth of a child unless a physician's statement of need for any additional sick leave to assist other family members is provided. Based on a physician's statement of need, three additional sick days may be utilized by the paternal parent with the approval of the department head. If sick leave is unavailable, the paternal parent may utilize annual or leave without pay when no paid leave is available. In all cases, leave without pay will also be used subject to the "Family Medical Leave Act" section of this policy.

For adoptions, the maternal parent may utilize a combination of sick leave, vacation leave or leave without pay when paid leave is not available for up to two consecutive weeks commencing upon receive date of adoptive child. Additional days may be granted based on a physician's statement of need for additional leave. The paternal parent may use up to two (2) consecutive days via a combination of sick, annual, or leave without pay when paid leave is not available. In all cases, leave without pay shall be used subject to the "Family Medical Leave Act" section of this policy.

6.2.6. Emergency or Severe Weather Leave

The Shannon County Commission chairperson at his/her discretion may close the county offices in case of emergency or severe weather and each such closing shall be for no more than one business

day (SDCL 7-7-2.1). Those individuals called to work to maintain essential services and who are regular full-time or permanent part time and who are paid on an hourly basis shall be paid at their regular pay rate. Administrative leave is granted with the Courthouse closure. Any individual who wishes to take time-off for inclement weather other than when the courthouse closes must request it of their department head and utilize vacation time.

6.2.7. Jury Duty/Fire Duty

Appointed, regular full-time and permanent part-time employees who serve on a jury/fire shall be granted their regular rate of pay, minus the per diem received for jury/fire duty. During jury/fire duty leave, vacation and sick leave benefits shall accrue at the normal rate, as will the county's share of other eligible benefits. Employees may choose to use annual leave and keep the compensation/per diem. Regardless, employees may keep the mileage reimbursement for jury duty.

County employees subpoenaed to testify or who must appear in court on county related business will receive their regular rate of pay and benefits as usual, minus any per diem or compensation received.

County employees involved in private litigation are required to use vacation leave.

All department heads and, in turn, the County Auditor's Office must be notified in advance of pending jury duty, court appearances, etc., or the employee may be subject to disciplinary procedures.

6.2.8. Voting Leave

County employees whose work schedule does not enable them time to vote during which time the polls are open shall be allowed up to two (2) consecutive hours to vote. Such time shall be treated as regular work time for the purpose of pay and accrual of leave(s). The department head must approve this leave in advance. (SDCL 12-3-5)

6.2.9. Military Leave

Any appointed, regular full-time and permanent part-time county employee called to extended active duty in the military service will be granted a leave of absence without pay and benefits by the county. An employee must submit his/her official orders or other records from the military service to his department head/County Auditor's office prior to the dates of attendance. In order to have re-employment rights, within ninety days of completing such service the employee shall apply for re-employment with the county. He/she will then be entitled to return to county service at his/her former position, or at a level equivalent to the position he/she held at the time of departure.

6.2.10. Military Reserve Training Leave

An employee who is a member of the military reserve or the National Guard shall be granted time off without pay for annual training provided a copy of his/her official orders or other records are provided to the department head in advance of anticipated military leave periods. Regular full-

time and permanent part-time employees may use accrued vacation leave to receive pay during periods of military leave training. An employee not reporting back to work as scheduled is subject to disciplinary action.

6.2.11. Leave without Pay

Any employees, including those in their first year of service, may request leave without pay in extenuating circumstances. Such leave for five days and less is at the sole discretion of the department head. Leave for longer time periods is at the discretion of the department head with the approval of the County Commissioners. In circumstances such as these, any paid leave available shall be used in full before such leave without pay is granted. No additional leave or other benefits shall accrue during such leave.

The employee may continue his/her group insurance coverage by pre-paying the entire premium during the affected period of the leave. Employees must arrange for such continuation of coverage with the county prior to the commencement of the extended leave without pay.

6.2.12. Family Medical Leave Policy

Employees are covered by the provisions of the Family and Medical Leave Act. However, employees shall have the discretion to use the leave provisions of this policy whenever the use of such leave provisions is applicable. Refer to Family Medical Leave Act attached.

6.3. Other Benefits

6.3.1. Worker's Compensation

All county employees and elected officials are covered by the County's Worker's Compensation policy. Volunteers for the various county departments will be covered only when requested to perform county work by a duly authorized county department head or elected official, prior notification is given to the County Auditor's office, and coverage has been approved in the official County Commission minutes.

Employees who are injured on the job must report their injuries to a supervisor or department head immediately (within 24 hours) who in turn shall, as with all accidents, report the incident to the department head/law enforcement agency for investigation. The initial written notice must be filed in accordance with SDCL 62-7-10, as failure to give notice as required prohibits a claim for compensation. A "First Report of Injury" form will be completed by assigned personnel and forwarded to the insurance company. The county reserves the right to require consulting opinions. For billing purposes, the service provider should be told by the employee that this is a work-related or worker's compensation injury. All bills should be submitted by the doctor to the worker's compensation insurance carrier. Claims for work-related injuries are usually not payable under the county's regular group health insurance plan. If an employee changes doctors without a referral from the doctor providing initial treatment, the insurance company may not be obliged to pay for the subsequent services.

The employee may be compensated by utilizing sick leave available, less the amount received from worker's compensation. In no case will the county and the worker's compensation insurance

company make duplicate payments for the same time. It is the employee's responsibility to inform the County Auditor's office of the date and amount received from worker's compensation.

All vacation leave, sick leave, holiday leave earned while on injury leave shall accrue at the employee's regular rate.

No compensation will be paid for willful misconduct, intentional self-inflicted injury, injury related to intoxication or illegal substances, or willful failure or refusal to use a safety appliance or procedure. Injuries received as a result of conduct outside the scope of assigned county duties are not covered by worker's compensation.

6.3.2. Health Insurance

Shannon County offers regular full-time, full-time appointed, and elected officials, participation in a major medical group insurance policy upon written application within (30) days from the date of employment. Upon acceptance by the insurance carrier, employee coverage becomes effective on the 1st of the month following date of employment. The county contributes the equivalency of the premium of a single person's health policy. All employee contributions to health insurance shall be deducted from the employee's paycheck.

Employees and/or dependents may choose to retain the health insurance at their own cost for the maximum time allowed by federal/state law following an individual's termination of employment with the county. COBRA application forms can be found in appendices section.

6.3.3. Life Insurance

Regular full-time, full-time appointed, elected, and permanent part-time employees are eligible to participate in a life insurance program. Premiums are paid by the county. Employees should become aware of the benefits available under this program.

6.3.4. Retirement System

Participating in the South Dakota Retirement System is mandatory for all eligible employees (those who work 20 or more hours per week for more than 6 months). A percentage deduction established by South Dakota Retirement System of the gross monthly salary is made in each payroll period of which is matched by the county toward the retirement of the employee. Other employee options are available under this system, and are the responsibility of the employee via payroll deduction.

All decisions relating to the retirement system shall be in full compliance with South Dakota Codified Law and the provisions of the South Dakota Retirement System.

6.3.5. Payroll Deductions

Dues for membership organizations will not be deducted.

6.3.6. Longevity Pay

Regular full-time employees who have worked for five (5) years with the County shall receive \$.05 additional compensation per hour for each hour paid. In addition, an employee shall receive for ten (10) years with the County an additional \$.10 for each hour paid, for fifteen (15) years with the County an additional \$.25 for each hour paid, and for twenty (20) years of service with the County an additional \$.40 for each hour paid; however, that no employee shall receive more than four increments of service longevity pay or a maximum of twenty (20) years of service during the term of this agreement. Permanent part-time employees shall receive longevity pay based on a prorated basis.

6.4. Employee Classification Changes/Benefit Status

If a permanent part-time or regular full-time employee changes position within the county system, all accrued benefits and longevity pay status transfers with the employee to the new department/program.

If a permanent part-time, regular full-time, or appointed employee becomes an elected official, then the employee is paid for unused vacation. Unused sick leave is forfeited.

If a permanent part-time, regular full-time or elected official becomes an appointed official, all accrued benefits transfer with the employee to the new department/position.

If an individual retires from county service and is rehired the same day by the county, then all accrued vacation leave shall be paid in a lump sum amount. The retired/rehired employee will begin accruing benefits the same as a new employee.

6.5: FAMILY AND MEDICAL LEAVE ACT OF 1993 (FMLA) (29 USC §2601 ET SEQ.; 29 CFR PART 825)

Who is covered

The Family and Medical Leave Act (FMLA) provide a means for employees to balance their work and family responsibilities by taking unpaid leave for certain reasons. The Act is intended to promote the stability and economic security of families as well as the nation's interest in preserving the integrity of families.

The FMLA applies to any employer in the private sector who engages in commerce, or in any industry or activity affecting commerce, and who has 50 or more employees each working day during at least 20 calendar weeks in the current or preceding calendar year.

The law covers all public agencies (state and local governments) and local education agencies (schools, whether public or private). These employers do not need to meet the "50 employee" test. Title II of FMLA covers most federal employees, who are subject to regulations issued by the Office of Personnel Management.

To be eligible for FMLA leave, an individual must (1) be employed by a covered employer and work at a worksite within 75 miles of which that employer employs at least 50 people; (2) have worked at least 12 months (which do not have to be consecutive) for the employer; and (3) have worked at least 1,250 hours during the 12 months immediately before the date FMLA leave

begins.

Basic Provisions/Requirements

The FMLA provides an entitlement of up to 12 weeks of job-protected, unpaid leave during any 12-month period for the following reasons:

- Birth and care of the employee's child, or placement for adoption or foster care of a child with the employee;
- Care of an immediate family member (spouse, child, parent) who has a serious health condition; or
- Care of the employee's own serious health condition.

If an employee was receiving group health benefits when leave began, an employer must maintain them at the same level and in the same manner during periods of FMLA leave as if the employee had continued to work. Usually, an employee may elect (or the employer may require) the use of any accrued paid leave (vacation, sick, personal, etc.) for periods of unpaid FMLA leave.

Employees may take FMLA leave in blocks of time less than the full 12 weeks on an intermittent or reduced leave basis when medically necessary. Taking intermittent leave for the placement, adoption, or foster care of a child is subject to the employer's approval. Intermittent leave taken for the birth and care of a child is also subject to the employer's approval except for pregnancy-related leave that would be leave for a serious health condition.

When the need for leave is foreseeable, an employee must give the employer at least 30 days notice, or as much notice as is practicable. When the leave is not foreseeable, the employee must provide such notice as soon as possible.

An employer may require medical certification of a serious health condition from the employee's health care provider. An employer may also require periodic reports during the period of leave of the employee's status and intent to return to work, as well as "fitness-for-duty" certification upon return to work in appropriate situations.

An employee who returns from FMLA leave is entitled to be restored to the same or an equivalent job (defined as one with equivalent pay, benefits, responsibilities, etc.). The employee is not entitled to accrue benefits during periods of unpaid FMLA leave, but the employer must return him or her to employment with the same benefits at the same levels as existed when leave began.

Employers are required to post a notice for employees outlining the basic provisions of FMLA and are subject to a \$100 civil money penalty per offense for willfully failing to post such notice. Employers are prohibited from discriminating against or interfering with employees who take FMLA leave.

Employee Rights

The FMLA provides that eligible employees of covered employers have a right to take up to 12 weeks of job-protected leave in any 12-month period for qualifying events without interference or

restraint from their employers. The FMLA also gives employees the right to file a complaint with the Wage and Hour Division of the Department of Labor's Employment Standards Administration, file a private lawsuit under the Act (or cause a complaint or lawsuit to be filed), and testify or cooperate in other ways with an investigation or lawsuit without being fired or discriminated against in any other manner.

Compliance Assistance Available

The Wage and Hour Division of the Employment Standards Administration administers FMLA. More detailed information, including copies of explanatory brochures, may be obtained by contacting your local Wage and Hour Division office. In addition, the Wage and Hour Division has developed the Family and Medical Leave Act Advisor, which is an online resource that answers a variety of commonly asked questions about FMLA, including employee eligibility, valid reasons for leave, notification responsibilities of employers and employees, and rights and benefits of employees. Compliance assistance information is also available from the Wage and Hour Division's Web site. For additional assistance, contact the Wage and Hour Division at 1-866-4USWAGE.

Penalties/Sanctions

Employees and other persons may file complaints with the Employment Standards Administration (usually through the nearest office of the Wage and Hour Division). The Department of Labor may file suit to ensure compliance and recover damages if a complaint cannot be resolved administratively. Employees also have private rights of action, without involvement of the Department of Labor, to correct violations and recover damages through the courts.

Relation to State, Local, and Other Federal Laws

A number of states have family leave statutes. Nothing in the FMLA supersedes a provision of state law that is more beneficial to the employee, and employers must comply with the more beneficial provision. Under some circumstances, an employee with a disability may have rights under the Americans with Disabilities Act.

POLICY #7: SEPARATION FROM COUNTY SERVICE

Termination of employment, other than due to retirement or death, may occur by an employee's resignation, extended absence without proper notification, or termination by the county. An employee may resign their employment at any time for any reason or for no reason. Further, the county reserves the same right to terminate the employment of any employee and under the same conditions. Separation from county service may be voluntary or involuntary.

7.1. Definitions

Voluntary Separation: Written resignation, extended absence without proper notification, or retirement. Voluntary separation is initiated by the employee.

Involuntary Separation: Lay-off or discharge. Involuntary separation is not initiated by the

employee.

7.2. Voluntary Separation

Resignation – An individual may resign from county service by giving his/her department head written notice of his/her resignation at least two weeks in advance. A department head may resign by giving his/her written resignation to the County Commission Chairperson one month in advance of their leaving county service. In extenuating circumstances, a resignation may be accepted as taking effect immediately.

Un-notified Absence – If an individual is absent from work for more than three (3) consecutive days without proper notification in accordance with the attendance policy, he/she shall be considered to have voluntarily resigned their position in county service. Re-instatement upon presentation of extenuating circumstances or reason for such absence shall be at the discretion of the department head or in the case of a department head at the discretion of the County Commission. Any un-notified absence of less than three days may result in disciplinary action. Department heads shall notify the chairperson of the County Commissioners if going to be absent more than three (3) consecutive days.

Retirement Age – There is no mandatory retirement age for county employees.

7.3. Involuntary Separation

Any employee may be laid off as a result of lack of work or lack of funds. No employee may be terminated or laid off while on paid leave.

Employees may be terminated for misconduct.

Unemployment Compensation: Shannon County follows the State of South Dakota unemployment laws found in SDCL Title 61.

7.4. Exit Interviews

It is the policy of Shannon County for the commissioners or department head to conduct an exit interview prior to an employee's separation from county employment. The exit interview is conducted for several purposes, including: (1) to resolve all outstanding matters between the county and the employee and (2) to advise the employee of the affect their separation will have upon all benefits and what benefits they have coming upon separation. With regard to involuntary separation, the department head should be included in the exit interview.

At the time of the exit interview, the employee is expected to return all county property: keys, tools, vehicles, etc. The county reserves the right to withhold from the employee's final paycheck the amount for any property that is not returned or for which there is no explanation for the absence of the property. The county may take further action, if necessary, to recover county property.

7.5. Misconduct Defined

The following is a partial listing of employee and department head misconduct that may result in disciplinary action up to and including immediate termination. This list is not intended to completely list all employee misconduct, but rather is provided as a guideline by which employees/department heads can judge actions that will not be tolerated by Shannon County.

1. Incompetent, inefficient, unreliable, unwilling, or incapable of fulfilling his/her job duties as assigned.
2. Inadequate performance of duties.
3. Neglect of duty.
4. Conviction of a felony or misdemeanor offense which might adversely reflect on or create doubt about the moral character, credibility or reliability of the employee.
5. Theft or misappropriation of county property.
6. Insubordination.
7. Failure to observe drug and alcohol policies of the county, including failure to submit to alcohol and drug testing as required and use of alcohol and illegal drugs on the job.
8. Failure to observe harassment policies of the county.
9. Knowingly or willfully violating county ordinances.
10. Unauthorized absences.
11. Habitual tardiness/leaving early.
12. Abuse of sick leave.
13. Sleeping/loafing during working hours.
14. Disclosure of confidential information.
15. Offensive or inconsiderate conduct while on duty, or use of abusive language in public, or toward the public, county officials, or fellow employees.
16. Personal acceptance or appropriation of any fee, gift, tip or other gratuity or remuneration received solely for the performance of official duties in connection with county employment.
17. Knowing, intentional or repeated, falsification of any application for employment or any county record, report or time sheet.
18. Willful alteration, destruction or waste of county property, facilities, equipment or records.
19. Serious or repeated disorderly conduct.
20. Threatening, intimidating, coercing or interfering with supervisors or other employees.
21. Deliberate attempts to injure another employee or fighting on county property while on the job.
22. Unauthorized possession of firearms, explosives or any dangerous weapons while performing county work.
23. Recklessness which results in a serious accident while on duty, whether on or off county property.
24. Violation of policies or procedures outlined in the employee handbook.

POLICY #8: DISCIPLINARY ACTION AND PROCEDURES

8.1. General Policy

Disciplinary actions shall be applied when the proper authority determines such actions are necessary. A disciplinary action may be in the form of oral reprimand, written reprimand, suspension, demotion, reassignment or termination as defined below. The county may, but is not

required to, apply these actions progressively. Disciplinary action may be instigated for items included, but not limited to, those defined in Separation from County Service, Misconduct Defined.

In all cases below, when the department head is the individual being disciplined, as appropriate, the words “county commission” shall be substituted for “department head”.

8.2. Oral Reprimand

The department head may orally reprimand an employee. This informal disciplinary consultation will be documented in an employee’s personnel file or referenced in further progressive disciplinary actions.

8.3. Written Reprimand

The department head may discipline an employee by written reprimand. A copy of such shall be placed in the employees personnel file in the County Auditor’s office.

8.4. Suspension without Pay

The department head, with approval of the County Commission, may temporarily suspend an employee without pay for disciplinary purposes. Suspension shall be for no more than three (3) working days. Notice of such action shall be in writing to the employee with a copy to the County Auditor for payroll and personnel file purposes. In certain instances, i.e., when legal cases are pending, the employee may be suspended with pay.

8.5. Demotion or Reassignment

The department head, with the approval of the County Commission, may reduce an employee’s pay, assign the employee to a lower position, or change the employee’s duties within his/her current position, or use any combination of the above for disciplinary purposes. A copy of such shall be given the County Auditor for payroll and personnel file purposes.

8.6. Termination

The department head, with the approval of the County Commission, may terminate an employee from county employment for disciplinary purposes.

8.7. Non-Grievable Actions

Oral and written reprimands and termination of an employee during his/her probationary period are not grievable except on the basis of a prohibited form of discrimination.

8.8. Disciplinary Interviews

Before the following disciplinary actions are taken—suspension without pay, demotion, or termination—the department head shall:

1. Notify the employee in writing of the proposed disciplinary action. The notice shall state the

reason(s) for the action, including any prior disciplinary actions and the facts of any other incidents upon which the present disciplinary action is based.

2. Hold a disciplinary interview to give the employee an opportunity to present reasons, orally or in writing, why the action should not be taken.
 3. Within five (5) working days of the disciplinary interview, inform the employee in writing of the final decision, effective date of the disciplinary action, and his/her right to appeal such a decision to the County Commission, as follows, by filing a written notice of disagreement with the Chairperson of the County Commissioners within 5 working days of receiving the notice. If the employee fails to appeal the decision within 5 working days, the action shall become final.
4. At the next meeting of the County Commission following the employee's notice of disagreement, the grievant employee shall appear before the County Commission to discuss his/her grievance. After the employee's appearance before the County Commission, the County Commission Chairperson shall, in writing and within (10) ten working days, furnish the decision of the County Commission to the employee. If the grievant employee fails to appear before the County Commission on his/her scheduled date of hearing, he/she shall be deemed to have waived any disagreement with the decision making authority's decision and shall waive all rights to grieve such decision.
5. If the grievant employee disagrees with the written decision of the County Commission, he/she may within thirty (30) calendar days after receipt of the decision, initiate an appeal to the State Department of Labor in accordance with the provision of SDCL 3-18-15.2.

8.9. Signing Requirements

In all cases of written disciplinary action, the employee shall be required to sign the written notice of discipline, and such notice shall be dated and placed in the employee's permanent personnel file. If the employee refuses to sign the notice, a notation to that effect shall be made by the department head with another county department head or county official as a witness. The employee may submit a written statement of response to the disciplinary action which shall be attached to and remain with the disciplinary action in his/her permanent personnel file. Documentation of such discipline shall be submitted to the County Commission for review. In all instances in this policy where an employee is required to sign, signing does not imply agreement with the action, only that the contents have been made known to or discussed with the employee.

POLICY #9: GRIEVANCE PROCEDURES

9.1. Employee Grievance Procedure

9.1.1. General Policy

The purpose of this grievance procedure is to provide a just and equitable method for the resolution of grievances without discrimination, coercion, restraint, or reprisal against any employee or group of employees who may submit or be involved in a grievance.

9.1.2. Definition

A grievance is a complaint by an employee or a group of employees concerning the interpretation

or application of the provisions of rules or regulations governing conditions of employment, personnel practices and procedures, or conditions which have not been resolved satisfactorily in an informal manner between the employee(s) and the department head or county commissioner when the grievance involves the department head.

NOTE: Employee grievances due to disciplinary action shall follow the Disciplinary Action and Procedures Section.

Employee grievances believed to be brought about due to the Americans with Disabilities Act (ADA) shall first follow Step 1 below. If a satisfactory resolution is not reached, then continue with the Grievance Procedure detailed under Americans with Disabilities Act Grievance Policy.

9.1.3. Grievance Procedure Steps

Note: When the grievant is a department head, "department head" shall be replaced by "county commission."

Steps 1 – The first step in the grievance procedure is an attempt by the employee to resolve the grievance by informal discussion with the employee's immediate supervisor or department head.

Step 2 – Failure to resolve the grievance through Step 1 shall cause the grievance to move to Step 2. If the employee disagrees with any action of the decision making authority, he/she may within 10 working days from the date on which the employee became aware of the action or should have reasonably been aware of the action, submit to the department head a written notice of disagreement stating the reasons for disagreement and the action that he/she desires. The department head shall respond to the grievance in writing within 5 working days.

Step 3 – If the employee disagrees with the response to the grievance or the decision making authority fails to respond to the grievance within 5 working days, the employee may file a written notice of disagreement with the County Commission Chairperson within 5 working days of receiving the response. If the employee fails to appeal the decision within 5 working days, the grievance shall be considered waived.

At the next meeting of the County Commission following the employee's notice of disagreement, the grievant may appear before the County Commission in open or executive session to discuss his/her grievance. After the employee's appearance before the County Commission, the County Commission Chairperson shall within 10 days provide in writing to the grievant the decision of the County Commission. If the grievant fails to appear before the County Commission on his/her scheduled date of hearing, he/she shall be deemed to have waived any disagreement with the decision making authority's decision and shall waive all rights to grieve such decision.

Step 4 – If the grievant disagrees with the written decision of the County Commission as provided by the Chairperson, he/she may within thirty (30) calendar days after receipt of the decision, initiate an appeal to the State Department of Labor in accordance with the provisions of SDCL 3-18-15.2.

9.2. Non-Employee Grievance Procedure

If a non-employee wishes to file a grievance or a complaint, please follow Steps 1 through 3 as described above in Section 9.1.3. Grievances believed to be brought about due to the ADA shall first follow Step 1, of Section 9.1.3. If a satisfactory resolution is not reached, then continue with the ADA procedures described below in Section 9.3.

9.3. Americans with Disabilities Act Grievance Procedure

The Americans with Disabilities Act (ADA) provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services and programs, and telecommunications. Title II of the ADA states, in part, that "no otherwise qualified disabled individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subject to discrimination" in programs or activities sponsored by a public entity.

Shannon County has adopted this grievance procedure to provide prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the ADA.

Any individual who believes that he/she or a specific class of individuals with disabilities has been subjected to unlawful discrimination on the basis of that disability by Shannon County may, by him or herself or by any authorized representative, file a complaint.

Complaints should be addressed to: Shannon County Auditor, 906 North River Street, Hot Springs, South Dakota, 57747, who has been designated to coordinate ADA compliance efforts.

Step 1 – A complaint must be filed in writing and contain: the name and address of the individual or representative filing the complaint, a description of the alleged discriminatory action in sufficient detail to inform the county of the nature and date of the alleged violation, and be signed by the complainant or authorized representative. Complaints filed on behalf of third parties must describe or identify the alleged victims of the discrimination.

Step 2 – The complaint must be filed within 180 days after the alleged violation occurs. This time may be extended for good cause shown.

Step 3 – The State's Attorney shall promptly conduct an informal, but thorough, investigation of the complaint. All interested parties shall be afforded an opportunity to submit evidence relevant to the complaint.

Step 4 – A written determination of the validity of the complaint and a description of the resolution shall be issued and a copy forwarded to the complainant no later than 30 working days after completion of this investigation. The finding shall include: findings of fact and conclusion of law, a description of a remedy for any violation found, and a notice of the rights available to both the entity and the complainant, including the complainant's right to file a private suit.

Step 5 – Files and records of all complaints filed shall be maintained.

Step 6 – The complainant may request a reconsideration of the complaint in cases where he/she is

dissatisfied with the resolution. The request for reconsideration must be made to the County Commission Chairperson within 10 working days of the original finding.

Step 7 – Nothing in this grievance procedure shall be construed as preventing an individual from pursuit of other remedies including filing the complaint with any federal agency he/she believes is appropriate or with the US Department of Justice. This procedure also does not preclude the individual's right to file a lawsuit in federal district court.

POLICY #10: DRUG AND ALCOHOL ABUSE POLICY

10.1 County's Commitment to Drug and Alcohol Free Workplace

The County of Shannon has a strong commitment to its employees to provide a safe, healthful, and productive work environment and to promote high standards of employee health. Consistent with the spirit and intent of this objective, the county will act to eliminate any substance abuse which could impair an employee's ability to safely and effectively perform a particular job and which increases the potential for accidents, absenteeism, substandard performance, and tends to undermine public confidence in the county's work force. The county's goals are to establish and maintain a work environment that is free from the effects of alcohol and drug abuse and to maintain the reputation and integrity of the County of Shannon by preventing unacceptable behavior by its employees that discredits the County of Shannon and its employees.

While the county has no intention of unreasonably intruding into the private lives of its employees, the county does expect employees to report for work in a condition to perform their duties, make the work environment safe for other employees, and represent a proper image to the citizens. It is clear that an employee's off-the-job, as well as on-the job, involvement with drugs and alcohol can have an impact on the county's goals.

10.2 Drug and Alcohol Abuse Policies

Following are the policies of the county regarding drug and alcohol abuse:

- (1) The unlawful manufacture, distribution, dispensing, possession or use of controlled drugs or substances, or the use of alcohol while on duty, on or off business property owned or leased by the county is proper cause for disciplinary action.
- (2) Any illegal controlled drug or substance possessed while on duty by employees will be turned over to the appropriate criminal justice agencies and may result in criminal prosecution. This does not apply to public safety officers who are in possession of an illegal controlled drug or substance while acting in the line of duty.
- (3) It is not permitted for an employee to be under the influence of controlled drugs or substances or alcohol on the job, except as provided for in item four (4).
- (4) The legal use of controlled drugs or substances prescribed by a licensed physician is not prohibited, but employees in positions where side effects of the prescribed medication could affect performance and safety on the job are required to make such use known to their supervisor.

- (5) The illegal use, sale, and possession of controlled drugs or substances while off duty and off county premises which results in a criminal conviction is unacceptable. Off-duty, alcohol-related convictions are also unacceptable. They may affect the job performance and the confidence of the public in the county's ability to meet its responsibilities. Such off-the-job conduct may be proper cause for disciplinary action.

10.3 Testing for Drugs or Alcohol

The county may request that the employee undergo drug and alcohol testing if there is a "reasonable suspicion" that the employee is under the influence of drugs or alcohol during work hours. "Reasonable suspicion" means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:

- (1) A pattern of abnormal or erratic behavior which is so unusual that it warrants summoning a supervisor, department head or other individual for assistance.
- (2) Information provided by a reliable and credible source with personal knowledge.
- (3) Direct observation of drug or alcohol use.
- (4) Presence of the physical symptoms of drug or alcohol use (i.e., glossy or blood-shot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes).
- (5) Possession of substances in violation of the county's drug and alcohol policy.

The employee, where "reasonable suspicion" exists, may be asked to submit to blood and/or urine testing by a qualified medical physician or hospital at the county's expense. Prior to testing, the proper authority shall secure a signed release statement from the employee to have the hospital/physician release medical information to the county. (See Appendix 5)

An employee who refuses to consent to a drug and alcohol test when reasonable suspicion exists may be subject to disciplinary action.

The proper authority is required to detail in writing the specific facts, symptoms, or observations which led to the reasonable suspicion. This documentation shall be given to the County Auditor and placed in the employee's personnel file only if confirmed by the drug and/or alcohol test. (See Appendix 5)

All information from an employee's drug and/or alcohol test is confidential, and only those with a need to know are to be informed of the results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee. The County may require a drug test as a condition of employment.

10.4. Drugs tested

The following drug groups were selected based on the ability of each drug to adversely affect physical/mental performance. All are controlled substances under State and Federal law:

- (1) Alcohol, ethyl;
- (2) Amphetamines / Methamphetamines, i.e., speed;
- (3) Barbiturates, i.e., to include but not limited to amobarbital, butabarbital, phenobarbital, cecobarbital;
- (4) Cocaine, Cocaine Metabolites;
- (5) Benzodiazepines;
- (6) Opiates, i.e., to include but not limited to codeine, heroin, morphine, hydromorphone, hydrodone;
- (7) Phencyclidine (PCP);
- (8) THC (Marijuana) Metabolite.

10.5 Employee Responsibilities

- (1) An employee must not report to work while his/her ability to perform his/her job duties is impaired due to on- or off-duty alcohol or drug use. Employees called in for emergency duty to work outside their regular work schedule must not report to work impaired by off-duty alcohol or drug use.
- (2) An employee must not possess or use alcohol or illegal drugs or prescription drugs without a prescription during working hours or while subject to duty, on breaks, or during meal periods.
- (3) An employee must notify his/her supervisor, before beginning work, when taking any medication or drugs, prescription or non-prescription that could affect their job/drug test.
- (4) An employee must notify his/her immediate supervisor of any drug or alcohol related criminal statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

Any violation of the above stated may result in immediate disciplinary action.

10.6 Management Responsibilities and Guidelines

- (1) Supervisors and department heads shall not physically search the persons of employees nor shall they search the personal possessions of employees without the freely given consent of, and in the presence of, the employee.
- (2) Supervisors and department heads shall notify the appropriate law enforcement agency when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area jointly or fully controlled by the county.
- (3) Any supervisor or department head encountering an employee who refuses to consent to a drug and/or alcohol analysis when "reasonable suspicion" has been identified, shall remind the employee of the requirements of the policy and that he or she may be subject to disciplinary action. The reason(s) for the refusal shall be considered in determining the

appropriate disciplinary action. Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should direct the employee to remain at work for a reasonable time until the employee can be safely transported home.

- (4) Nothing in this policy shall be interpreted as constituting any waiver of or limitation on the county's responsibility to maintain discipline, or the right to invoke disciplinary measures, nor the employee's right to due process and the processing of grievances concerning such disciplinary measures in accordance with the grievance procedure set forth in Policy #9.
- (5) Whenever disciplinary action is used in this policy, it shall include but not be limited to: oral reprimand, written reprimand, suspension, demotion or discharge.
- (6) Each employee will be given a copy of the county's policy on drug and alcohol substance abuse and will be expected to acknowledge that he/she has received and understands the Drug and Alcohol Abuse Policy by signing appropriate documentation. (See Appendix 9)

POLICY #11: APPOINTIVE OFFICIALS

11.1. Definition

An appointed official is an individual who holds a position in a county as specified in SDCL 31-11-1; 10-3-3; 33-16-24; 33-15-27.

11.2. Appointive Officials to be appointed

- (1) Highway Superintendent
- (2) Director of Equalization
- (3) Veterans Service Officer
- (4) Emergency Management Director/Coordinator

11.3. Appointment of Appointive Officials

- (1) SDCL 31-11-1
- (2) SDCL 10-3-3
- (3) SDCL 33-16-24
- (4) SDCL 33-15-27

11.4. Applicable Policies to Appointive Officials

| | |
|------------|-----------------|
| Policy #1: | All subsections |
| Policy #2: | All subsections |
| Policy #3: | Not applicable |
| Policy #4: | All subsections |
| Policy #5: | All subsections |
| Policy #6: | All subsections |
| Policy #7: | All subsections |
| Policy #8: | All subsections |
| Policy #9: | All subsections |

Policy #10: All subsections
Policy #11: All subsections