



## County of Frederick

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Director of Human Resources

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TO: Human Resources Committee and Board of Supervisors  
FROM: Michael J. Marciano  
DATE: November 5, 2019  
SUBJECT: HR Committee Agenda

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The HR Committee will meet in the First Floor Executive Conference Room at 107 North Kent Street on **Friday, November 8, 2019** at 9:00 a.m.

The agenda for the meeting is as follows:

### **1. Employee of the Year Recognition**

- a. The Human Resources Committee will enter a closed session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia (1950, as amended) for discussion of personnel matters, specifically, consideration of nominees for Employee of the Year.

### **2. Human Resource Policy Recommended Revisions**

- a. Non-Discrimination/Non-Harassment
- b. Workers' Compensation (Time permitting, this policy will be discussed.)

# EXISTING POLICY

## XX. HARASSMENT/SEXUAL HARASSMENT POLICY

Frederick County is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment.

### Purpose:

To define Frederick County's position regarding harassment and/or sexual harassment, to maintain a working environment that is free of discriminatory harassment and/or sexual harassment in accordance with Title VII of the Civil Rights Act of 1964 and all other applicable laws, and to communicate Frederick County's actions to any such conduct.

### Policy:

It is the policy of Frederick County that discriminatory harassment and/or sexual harassment of applicants and employees on the basis of race, religion, gender, national origin age, marital status, veteran status and mental and physical handicap is unacceptable and will not be tolerated.

This policy exists to protect all County employees, applicants, customers, vendors, or other third parties with whom Frederick County has business dealings.

Harassment can occur as the result of a single incident or a pattern of behavior, including whenever:

1. Submission to the harassing conduct is either an explicit or implicit term or condition of employment;
2. An employee's reaction to the harassing conduct is used as a basis for employment decisions affecting that employee; or
3. The harassing conduct has the purpose or effect of interfering with the employee's work performance or creating an intimidation, hostile or offensive working environment.

Harassment encompasses a broad range of physical or verbal behavior which can include, but is not limited to the following:

1. physical or mental abuse;
2. racial insults;
3. derogatory jokes;
4. religious slurs;
5. unwelcome sexual advances.

Sexual harassment is defined generally as including unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature.

No employee or applicant should be subjected to unsolicited and unwelcome sexual overtures. Nor should any employee or applicant be led to believe that an employment opportunity or benefit will in any way depend upon "cooperation" of a sexual nature.

Sexual harassment includes behavior which is not welcome and which is personally intimidating, hostile or offensive including but not limited to physical acts, written acts, and electronic transmissions. It also may include such actions as:

1. sexually-oriented verbal teasing or jokes;
2. repeated offensive sexual flirtations, advances, or propositions;
3. continued or repeated verbal abuse of a sexual nature;
4. graphic or degrading comments about an individual or his or her appearance;
5. the display of sexually suggestive objects or pictures;
6. subtle pressure for sexual activity; and
7. physical contact or blocking movement.

Procedure:

Any employee who feels that he or she has been the subject of any form of harassment or who has reason to believe that someone else has been the subject of any form of harassment has the obligation to notify the HR Director, his or her supervisor, and Department Head. The employee is expected to provide information the County requests, including a detailed account of the incident(s) complained of, related facts, witnesses (if any), dates, etc. The Director of Human Resources will make a prompt investigation of the matter, and will document, as appropriate, the contents of meetings, interviews, and related matters. The employee will be entitled to learn the conclusions and recommendations of the investigation, upon its conclusion.

Any employee found to have violated the County's policy against sexual harassment will be immediately subject to appropriate disciplinary action, including possible termination, depending upon the severity of the offense.

It is the County's policy that no one will be retaliated against for making a complaint of harassment based upon an honest perception of the events or for participating in the investigation of a complaint. No one will be presumed to be in violation because an investigation is being conducted.

False and malicious complaints of harassment, discrimination or retaliation as opposed to complaints which, even if erroneous, are made in good faith, may be the subject of appropriate disciplinary action.

*Updated/Approved: 05/22/2013*

# STAFF PROPOSED POLICY

## XX. NON-DISCRIMINATION/NON-HARASSMENT

Frederick County is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. In keeping with this commitment, discrimination or harassment on the basis of race, color, religion, sex, national origin, pregnancy, childbirth, medical conditions related to pregnancy or childbirth, age, marital status, disability, military service, veteran status, genetic information (such as information that could be used to determine an employee's risk for disease), or any other protected class under applicable law is prohibited. Any employee found to have engaged in prohibited discrimination or harassment will be subject to discipline, up to and including termination.

### Harassment

For purposes of this policy, harassment includes verbal or physical conduct that denigrates or shows hostility toward an individual or conduct that creates an intimidating, hostile, or offensive working environment for an individual because of the individual's protected class. Such conduct may include, but is not necessarily limited to, slurs, epithets, threats, derogatory comments or visual depictions, unwelcome jokes and teasing, stereotyping, insulting or obscene comments or gestures, display or circulation in the workplace of written or graphic material that denigrates or shows hostility toward the individual or group, or other verbal or physical actions relating to an individual's protected class.

Because there is often confusion related to the meaning of sexual harassment, it deserves additional clarification. Sexual harassment includes any unwelcome sexual conduct (including sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature) when (1) submission to the conduct is an explicit or implicit term or condition of employment, (2) submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual, or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile, or offensive working environment.

Sexual harassment can take many forms. The following is a partial list of the types of behavior that could constitute sexual harassment:

- Unwanted or unwelcome physical contact or conduct of any kind, including, patting, pinching, brushing up against, hugging, cornering, kissing, fondling, or any other similar physical contact;
- Verbal abuse of a sexual nature, including sexual flirtations, advances, propositions, sexual innuendoes, sexually suggestive, insulting or graphic comments, noises, or sounds;
- Sexually explicit, suggestive, or offensive jokes;
- Demeaning, insulting, intimidating, or sexually suggestive comments about an individual's dress, body, appearance, or personal life;

- The display or distribution in the workplace of demeaning, insulting, intimidating, or sexually suggestive objects or pictures, including nude photographs, drawings, or magazine pictures; and
- Demeaning, insulting, intimidating, or sexually suggestive written, recorded or electronically transmitted messages.

To violate the law, harassment must reach a certain level of seriousness in terms of its nature, repetition, and/or impact on employment. This policy, however, not only prohibits unlawful harassment, but also offensive conduct that is contrary to Frederick County's core values. Thus, Frederick County may take action to address offensive behavior or statements based on a person's protected class even if such action(s) standing alone would not rise to the level of unlawful harassment.

### **Reporting Obligations**

Any employee who feels he or she has been subjected to, or has witnessed, any kind of harassing behavior, as described in this policy, should immediately notify his or her supervisor, Department Head, or the Director of Human Resources. A supervisor who becomes aware of any harassment, or who receives allegations of harassment from any employee, must immediately advise the Director of Human Resources.

### **Investigation**

All complaints will be investigated in a timely manner and confidentiality will be maintained to the extent permitted by the circumstances consistent with the need to investigate and address the issue. Employees must cooperate fully and truthfully in any investigation relating to this policy. Depending on the results of the investigation, Frederick County may take corrective action, including such discipline as is appropriate, up to and including immediate termination of the employee.

### **Retaliation Prohibited**

Frederick County forbids retaliation against any employee for making a good faith complaint or cooperating fully and truthfully in an investigation under this policy. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including termination. If an employee believes he or she has been retaliated against in violation of this policy, the employee must report such violation in the same way other violations of this policy are reported.

### **Individuals and Conduct Covered**

This policy prohibits harassment, discrimination and retaliation whether engaged in by, or directed at, employees, contractors, clients, vendors, or others an employee may come into contact with while working or representing the County. Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.

# STAFF PROPOSED POLICY - ANNOTATED FIRST PARAGRAPH

Frederick County is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. In keeping with this commitment, discrimination or harassment on the basis of race, color, religion, sex, national origin, pregnancy, childbirth, medical conditions related to pregnancy or childbirth, age, marital status, disability, military service, veteran status, genetic information (such as information that could be used to determine an employee's risk for disease), or any other protected class under applicable law is prohibited. Any employee found to have engaged in prohibited discrimination or harassment will be subject to discipline, up to and including termination.

**Commented [RW1]:** First five items are from federal Title VII and Virginia Human Rights Act.

**Commented [RW2]:** These three items are from Virginia Human Rights Act.

**Commented [RW3]:** Age is from federal Age Discrimination in Employment Act and Virginia Human Rights Act.

**Commented [RW4]:** Marital status is from Virginia Human Rights Act.

**Commented [RW5]:** Disability is from federal Americans With Disabilities Act and Virginia Human Rights Act.

**Commented [RW6]:** Military service and veteran status are from federal Uniformed Services Employment and Reemployment Rights Act (USERRA).

**Commented [RW7]:** Genetic information is from federal Genetic Information Nondiscrimination Act of 2008. The parenthetical, derived from the Act's definition, provides guidance on the meaning of this term with which people may not otherwise be readily familiar.

# ALTERNATIVE PROPOSED POLICY

## XX. NON-DISCRIMINATION/NON-HARASSMENT

Frederick County is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. In keeping with this commitment, the Frederick County policy shall be consistent with Title VII of the Civil Rights Act of 1964, the Virginia Human Rights Act, and all other applicable federal and state law. Any employee found to have engaged in prohibited discrimination or harassment will be subject to discipline, up to and including termination.

### Harassment

For purposes of this policy, harassment includes verbal or physical conduct that denigrates or shows hostility toward an individual or conduct that creates an intimidating, hostile, or offensive working environment. Such conduct may include, but is not necessarily limited to, slurs, epithets, threats, derogatory comments or visual depictions, unwelcome jokes and teasing, stereotyping, insulting or obscene comments or gestures, display or circulation in the workplace of written or graphic material that denigrates or shows hostility toward the individual or group, or other verbal or physical actions.

Because there is often confusion related to the meaning of sexual harassment, it deserves additional clarification. Sexual harassment includes any unwelcome sexual conduct (including sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature) when (1) submission to the conduct is an explicit or implicit term or condition of employment, (2) submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual, or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile, or offensive working environment.

Sexual harassment can take many forms. The following is a partial list of the types of behavior that could constitute sexual harassment:

- Unwanted or unwelcome physical contact or conduct of any kind, including, patting, pinching, brushing up against, hugging, cornering, kissing, fondling, or any other similar physical contact;
- Verbal abuse of a sexual nature, including sexual flirtations, advances, propositions, sexual innuendoes, sexually suggestive, insulting or graphic comments, noises, or sounds;
- Sexually explicit, suggestive, or offensive jokes;
- Demeaning, insulting, intimidating, or sexually suggestive comments about an individual's dress, body, appearance, or personal life;
- The display or distribution in the workplace of demeaning, insulting, intimidating, or sexually suggestive objects or pictures, including nude photographs, drawings, or magazine pictures; and

- Demeaning, insulting, intimidating, or sexually suggestive written, recorded or electronically transmitted messages.

To violate the law, harassment must reach a certain level of seriousness in terms of its nature, repetition, and/or impact on employment. This policy, however, not only prohibits unlawful harassment, but also offensive conduct that is contrary to Frederick County's core values. Thus, Frederick County may take action to address offensive behavior or statements even if such action(s) standing alone would not rise to the level of unlawful harassment.

### **Reporting Obligations**

Any employee who feels he or she has been subjected to, or has witnessed, any kind of harassing behavior, as described in this policy, should immediately notify his or her supervisor, Department Head, or the Director of Human Resources. A supervisor who becomes aware of any harassment, or who receives allegations of harassment from any employee, must immediately advise the Director of Human Resources.

### **Investigation**

All complaints will be investigated in a timely manner and confidentiality will be maintained to the extent permitted by the circumstances consistent with the need to investigate and address the issue. Employees must cooperate fully and truthfully in any investigation relating to this policy. Depending on the results of the investigation, Frederick County may take corrective action, including such discipline as is appropriate, up to and including immediate termination of the employee.

### **Retaliation Prohibited**

Frederick County forbids retaliation against any employee for making a good faith complaint or cooperating fully and truthfully in an investigation under this policy. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including termination. If an employee believes he or she has been retaliated against in violation of this policy, the employee must report such violation in the same way other violations of this policy are reported.

### **Individuals and Conduct Covered**

This policy prohibits harassment, discrimination and retaliation whether engaged in by, or directed at, employees, contractors, clients, vendors, or others an employee may come into contact with while working or representing the County. Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.



## WORKER'S COMPENSATION COMPARISON SUMMARY

All counties listed below: The 90 consecutive calendar days start on the date of injury or accident. It starts on the original date of the employee's injury. If the employee is intermittently working and then is out, the date starts at the original date of the injury.

There are 16 total jurisdictions and 5 counties offering 90-day policies which is 31%.

\*Excluded from the survey statistics are jurisdictions with six months or greater coverage (i.e., Loudoun, Prince William and James City) and those that don't allow leave to be used (City of Winchester and Town of Berryville).

Locality	County Paid <sup>1</sup>	Employee Leave <sup>2</sup>	Not paid	Description
<b>Loudoun County – Injury Leave</b>	✓			All employees granted 26 weeks of 'Injury Leave' to make up the 1/3 (compensation cannot exceed 100% of EEs pre-injury earnings). After 26 weeks, a 12-week extension can be granted, but EE must use accrued leave balances. While on Injury Leave, paid leave will <u>not</u> accrue.
<b>Prince William – Injury Leave</b>	✓			<b>Injury Leave</b> allows for 100% of pay from day one up to 260 days as long as the leave is used within the first 12 months of the Injury. An extension may be granted within 24 months from the date of injury, as long as the total days used from the date of injury has not exceeded 260, and with additional approval. After Injury Leave is exhausted, employee is paid 66 2/3rd under workers' compensation up to the max rate. Employees can use their own sick or annual leave to make up the 1/3rd difference. Any benefit deductions would be taken from the 1/3rd pay. Employees do continue to accrue leave while out on workers' comp.
<b>Rockingham County – regular pay</b>	✓			The employee receives 100% pay for time off work up to a maximum of 90 days. Leave accrues while on workers' compensation. The employee only uses accrued leave after 90 days to make up the 1/3 difference.
<b>Augusta County – regular pay</b>	✓			Makes the employee whole with regular pay whether they are on light duty or totally off from work on worker's comp. The employee is paid regular pay to make up the 1/3 salary up to 90 days and does not use leave time. The employee does earn leave time while they are off. Their benefits remain the same as if they were working.
<b>Orange</b>	✓			Will make up the 1/3 for a period not to exceed 90 days. The employee must reassign all work comp payments to the County..
<b>James City</b>	✓			Provides a supplement for the 1/3 for a maximum of 6 months. Sick & vacation do not accrue while employee is missing work due to a Work Comp injury.

Locality	County Paid <sup>1</sup>	Employee Leave <sup>2</sup>	Not paid	Description
Roanoke	✓	✓		Employee may use available sick or flex leave for days 1-7. (Frozen sick bank must be used first.) Starting on day 8, the County of Roanoke pays you at 100% of the employee's salary for the first 90 days you are out of work. After that 90 days, VACORP pays you at 66 2/3% of your average weekly wage based on the 12 months prior to the injury.
Hanover	✓	✓		100% of salary paid for 90 days, and work comp payments to County. After 90 days, work comp payments directly to employee. However, an employee may use PTO, FLSB or Compensatory Leave during that seven (7) calendar day period. Approved work-related absences greater than ninety (90) days are compensated at 66 2/3%.
Chesterfield	✓	✓		County will supplement work comp payments for 42 days. For days 42 – 84, employee can use comp time, sick leave, and annual leave (in that order). After 84 days, no supplement (except for sworn Sheriff EEs). 84 days = 12 weeks FMLA)
Fauquier County		✓		The employee may use their leave to make up the 1/3 pay. If they do not have leave, then a donor employee can donate leave to the employee. The donor employee can donate either vacation time or sick time. The employee cannot use sick leave for the worker's compensation case.
Warren County		✓		Employee can take leave to make up the 1/3 remaining pay. Leave is taken from Annual, sick, comp time, holiday bank. The employee chooses the order. First 7 days are waiting period as per worker's compensation.
Albemarle		✓		Employee may use sick, annual, or comp to make up 1/3 pay. Sick must be used first.
Spotsylvania County		✓		Employee may elect to use sick, annual, or comp time to make up the 1/3 pay.
Stafford County		✓		Employee may use sick leave, comp leave, annual leave, floating holidays to make up the 1/3 pay.
Bedford		✓		Election form allows the employee to either receive compensatory pay which is paid by the workers compensation carrier only or subsidize what the carrier pays with accumulated sick leave, so that in total the employee continues to receive his or her regular rate of pay.
Montgomery (no leave used except Sheriff Deputies)		✓		There is legislation (found at bottom of this chart) requiring that we allow sworn officers of the Sheriff's department to use leave to make up the 1/3, however we do not allow other County/agency employees to use leave to make up for the loss. All employees would earn leave and have protected benefits while on workers comp leave. Employees are required to make payment to the HR department for their portion of benefits if unable to take those through payroll deduction.
Frederick County Public Schools		✓		Employees not covered by Short-Term Disability Plan can use sick, annual, or personal to cover the 1st 7 days.
South Hampton		✓		Employee would utilize leave time to make up the 1/3 pay. Leave continues to accrue.
York (no leave used except Sheriff Deputies)		✓	✓	Employee required to use leave for the first 7 (waiting period) days and then on the 8th day, they come off our payroll. We do not allow employees to use leave to make up the extra 1/3 of the salary.

Locality	County Paid <sup>1</sup>	Employee Leave <sup>2</sup>	Not paid	Description
City of Winchester			✓	Employees are not allowed to use any paid leave to supplement the difference. City employees out of work due to a compensable on-the-job injury or illness will be allowed to use leave of absence without pay or sick or annual leave for the first seven days of lost time. If lost time extends beyond twenty-one (21) days, the employee will be compensated for the first seven days. The City will not reinstate any leave used during the first seven (7) days.
Town of Berryville			✓	Employees are not allowed to use any paid leave to supplement the difference.

## Code of Virginia

There is legislation requiring that we allow sworn officers of the Sheriff's department to use leave to make up the 1/3 pay.

Code of Virginia Title 15.2. Counties, Cities and Towns Chapter 15. Local Government Personnel, Qualification for Office, Bonds, Dual Office Holding and Certain Local Government Officers § 15.2-1511.01. Allowances to injured deputy sheriffs A. In addition to the allowances provided in § 15.2-1511, any deputy sheriff who suffers injury as defined in Title 65.2 and whose allowance as provided in § 15.2-1511 is less than 100 percent of his regular compensation shall be entitled to use any accrued vacation, compensatory, or sick leave to supplement the allowance so as to receive 100 percent of his regular compensation. In no case shall a deputy sheriff use such accrued leave so as to receive more than 100 percent of his regular compensation.

<sup>1</sup> County Paid: (Paid in the form of regular pay as usual or Injury Leave)

<sup>2</sup> Leave: Sick, Annual, Compensatory Leave, Holiday Bank, Employee Leave Donation

Highlights of Workers' Compensation Policy Edits  
(September 2019)

**Purpose of Proposed Change:** This proposed policy provides compensation protection for 90 consecutive calendar days beginning with the day of injury that was incurred while implementing the essential duties of his or her job at Frederick County. Such a modification will provide a level of financial assurance that leave without pay will not have to be endured during this initial period of time.

Highlighted Color <sup>1</sup>	Current Policy	Proposed Policy	Comments
<b>Aqua</b>	Paid leave benefits will not continue to accrue while the employee is out on workers' compensation.	Employees on Workers' Compensation leave continue to accrue PTO leave.	Allowing leave accrual to continue, especially for new hires with limited PTO, while recovering will minimize the number of LWOP hours that need to be taken.
<b>Yellow</b>	During the first seven calendar days that an employee is absent from work because of job-related illness or injury, the employee must use accrued paid leave hours to receive full pay. After the first seven days, employees receive a percentage of their salary as set by state law. In order for the employee to receive full salary, the remaining percentage will be covered by use of the employee's paid leave. Should the employee not have enough paid leave to cover the difference between the wage replacement benefit and full salary amount, leave without pay will be used.	If an employee is absent due to a Workers' Compensation approved work-related injury due to physician requirements, the employee receives 100% regular pay (i.e., 2/3 of the employee's salary will be provided by the Workers' Compensation payment and 1/3 of the salary will be paid for by the County) for time off work up to a maximum of 90 consecutive calendar days beginning with the day of injury.	This change will allow an injured employee to not have to use any PTO leave during the 90 consecutive days after the date of the injury.

<sup>1</sup> The thematic changes were highlighted on the current and proposed policies (see separate document). Each specific theme was given a unique color.

## 8.6 Workers' Compensation

The County provides a comprehensive Workers' Compensation insurance program at no cost to employees. Workers' Compensation coverage is provided for full-time, part-time and temporary employees. The program covers any injury, illness or accident sustained in the course of employment that requires medical, surgical, or hospital treatment. The insurance also provides a death benefit if an employee dies as a result of performing job-related responsibilities. Subject to applicable legal requirements, in addition to covering medical expenses, Workers' Compensation insurance may provide employees wage benefits equal to two-thirds (2/3) of an employee's pre-injury average weekly wage. Insurance wage replacement begins after the injured employee has been off work for seven calendar days. In addition, the employee will be entitled to certain compensation to help offset the loss of wages while unable to work.

The County may pay related medical expenses—at no cost to the employee—for an accident or qualifying illness that occurs as a result of work. Workers' compensation coverage is provided for full-time, part-time and temporary employees. In addition the employee may be entitled to compensation to help offset the loss of wages while unable to work. Employees do not share in the cost of workers' compensation; the County pays the entire cost.

### **Reporting a Workplace Injury and Insurance Provider Network Requirement**

Employees who are injured on the job, or who become ill as a result of their job performance, must report their condition to their supervisor immediately. Employees may not be covered by Workers' Compensation insurance if the injury, illness or accident is not properly reported.

In order to be considered for Workers' Compensation benefits, the employee shall seek medical attention from a provider within the Panel of Physicians – i.e., a group of medical providers authorized by the insurer of the County's Workers' Compensation policy. This group of providers is listed on the Frederick County Employee Intranet. In most cases, except emergency cases or where otherwise approved, the employee may be responsible for the entire cost of the medical care if the employee receives treatment from a doctor outside the Panel of Physicians. For more information on the Panel of Physicians and how to find a participating medical professional or facility, employees should contact the Human Resources Department. In life-threatening situations, the employee or co-worker should call 911 and be transported to the nearest hospital. When the situation is not life threatening, supervisors are responsible for ensuring that the employee is transported to medical care when appropriate.

The report of accident or injury must be made to the designated hotline established by the County – who assesses the injury and determines if treatment/evaluation is necessary. The hotline nurse will recommend self-care and/or will refer to a Panel Physician/treatment facility when further evaluation/care is necessary. The Company Nurse files the First Report of Injury with the Workers' Compensation carrier and with Frederick County Human Resources. This should be done within 48 hours to avoid any question as to if the injury/illness is work related. The County's Workers' Compensation carrier will investigate and review all claims submitted for eligibility and compensability. State law allows the County to designate physicians that the employees must choose from for an examination verifying the extent of the injury or illness.

### **Additional guidelines related to Workers' Compensation and job-related injuries are:**

- If eligible for Family Medical Leave Act (FMLA), the FMLA will run concurrent with leave for a Workers' Compensation injury. If the Workers' Compensation carrier notifies the County and states that the claim has been denied and is not Workers' Compensation compensable, the claim will be converted from Workers' Compensation to Paid Time Off (PTO), Individual Disability Account (IDA) leave, Leave Without Pay (LWOP), and/or short-term disability as applicable.
- While on Workers' Compensation leave, injured or ill employees are required to keep all medical appointments and therapy appointments ordered by their physician and to provide supervisors all

update reports by physicians regarding duration of leave or return to work in a light duty or unrestricted capacity.

- All physician and medical treatment facility notes must be forwarded to the Department of Human Resources. This information will be sent to the Workers' Compensation claims adjuster and included in the employee's Workers' Compensation injury file.
- Employees on Workers' Compensation leave will continue to accrue PTO leave.
- The County shall continue the employer's share of Virginia Retirement System (VRS) Retirement/Life Insurance and health and dental premiums while the employee is receiving Workers' Compensation benefits provided the employee is still receiving pay (in the form of supplemental pay or personal leave) from the County. If the employee is receiving statutory Workers' Compensation benefits only, the employee will be reported to VRS as being on LWOP. While on LWOP, the County continues to pay for life insurance coverage, and the County shall continue the employer's share of health and dental coverage if the employee compensates the County for his/her premium costs.
- Employees who are off work due to on-the-job illness or injury (covered under the Workers' Compensation program), who falsify the extent or severity of injuries will be subjected to disciplinary action, to loss of benefits and to possible termination and prosecution.
- A drug and alcohol screen will be required within 24 hours of injury for employees involved in a motor vehicle accident.
- The County believes that it is in the best interest of the County and the injured employee to return to work as early as possible. When possible, the County will provide light-duty assignments for a temporary and reasonable period of time. The County will pay regular wages for hours worked for light-duty temporary assignments and overtime will not be allowed. The employee will be paid for the hours that coincide with regular work hours by using a Workers' Compensation pay code on their timesheet.
- In most circumstances, employees released to return to work will return to their former position. In circumstances where business necessity does not permit a vacancy for a period of time required by an employee to recuperate from a job-related illness or injury, the position will be filled. When the injured employee is released to return to work, he/she will be welcome to apply for any position that is open and comparable with his/her skills and qualifications.

#### **Compensation While on Workers' Compensation Leave**

If an employee is absent due to a Workers' Compensation approved work-related injury due to physician requirements, the employee receives 100% regular pay (i.e., 2/3 of the employee's salary will be provided by the Workers' Compensation payment and 1/3 of the salary will be paid for by the County) for time off work up to a maximum of 90 consecutive calendar days beginning with the day of injury. After 90 calendar days, employees receive a percentage of their salary as set by state law. For the employee to receive full salary, the remaining percentage will be covered by use of the employee's paid leave. Should the employee not have enough paid leave to cover the difference between the wage replacement benefit and full salary amount, LWOP will be used.

When an employee receives wage replacement benefit payments from the Workers' Compensation carrier, the County is notified of the employee's payment. This benefit payment amount is then deducted from upcoming paychecks for the employee. These reductions to the paychecks continue until all benefit payments are recovered.

Questions regarding Workers' Compensation may be directed to the Department of Human Resources at 540-665-5668.

~~Any work-related injury or illness must be immediately reported in to the employee's supervisor. The Report of Accident or Injury and the Panel of Physicians must be completed by the supervisor and employee and forwarded to Risk Management within two days of the accident. These forms are to be completed even if the employee does not receive medical treatment (record only). The County's Workers' Compensation carrier will investigate and review all claims submitted for eligibility and compensability.~~

~~State law allows the County to designate physicians that the employees must choose from for an examination verifying the extent of the injury or illness. If an employee chooses to be treated by a physician other than one on the County's panel of physicians, the employee may be responsible for medical expenses related to that treatment.~~

~~During the first seven calendar days that an employee is absent from work because of job-related illness or injury, the employee must use accrued paid leave hours to receive full pay. After the first seven days, employees receive a percentage of their salary as set by state law. In order for the employee to receive full salary, the remaining percentage will be covered by use of the employee's paid leave. Should the employee not have enough paid leave to cover the difference between the wage replacement benefit and full salary amount, leave without pay will be used. Additionally, further paid leave benefits will not continue to accrue while the employee is out on workers' compensation. If the employee is absent more than 21 calendar days because of an approved job-related illness or injury, the County will reinstate the leave that was used.~~

~~When an employee receives wage replacement benefit payments from the workers' compensation carrier, the County is notified of the employee's payment. This benefit payment amount is then deducted from upcoming paychecks for the employee. These reductions to the paychecks continue until all benefit payments are recovered.~~

~~Questions regarding workers' compensation may be directed to Risk Management.~~

## 8.6 Workers' Compensation

The County provides a comprehensive Workers' Compensation insurance program at no cost to employees. Workers' Compensation coverage is provided for full-time, part-time and temporary employees. The program covers any injury, illness or accident sustained in the course of employment that requires medical, surgical, or hospital treatment. The insurance also provides a death benefit if an employee dies as a result of performing job-related responsibilities. Subject to applicable legal requirements, in addition to covering medical expenses, Workers' Compensation insurance may provide employees wage benefits equal to two-thirds (2/3) of an employee's pre-injury average weekly wage. Insurance wage replacement begins after the injured employee has been off work for seven calendar days. In addition, the employee will be entitled to certain compensation to help offset the loss of wages while unable to work.

### **Reporting a Workplace Injury and Insurance Provider Network Requirement**

Employees who are injured on the job, or who become ill as a result of their job performance, must report their condition to their supervisor immediately. Employees may not be covered by Workers' Compensation insurance if the injury, illness or accident is not properly reported.

In order to be considered for Workers' Compensation benefits, the employee shall seek medical attention from a provider within the Panel of Physicians – i.e., a group of medical providers authorized by the insurer of the County's Workers' Compensation policy. This group of providers is listed on the Frederick County Employee Intranet. In most cases, except emergency cases or where otherwise approved, the employee may be responsible for the entire cost of the medical care if the employee receives treatment from a doctor outside the Panel of Physicians. For more information on the Panel of Physicians and how to find a participating medical professional or facility, employees should contact the Human Resources Department. In life-threatening situations, the employee or co-worker should call 911 and be transported to the nearest hospital. When the situation is not life threatening, supervisors are responsible for ensuring that the employee is transported to medical care when appropriate.

The report of accident or injury must be made to the designated hotline established by the County – who assesses the injury and determines if treatment/evaluation is necessary. The hotline nurse will recommend self-care and/or will refer to a Panel Physician/treatment facility when further evaluation/care is necessary. The Company Nurse files the First Report of Injury with the Workers' Compensation carrier and with Frederick County Human Resources. This should be done within 48 hours to avoid any question as to if the injury/illness is work related. The County's Workers' Compensation carrier will investigate and review all claims submitted for eligibility and compensability. State law allows the County to designate physicians that the employees must choose from for an examination verifying the extent of the injury or illness.

### **Additional guidelines related to Workers' Compensation and job-related injuries are:**

- If eligible for Family Medical Leave Act (FMLA), the FMLA will run concurrent with leave for a Workers' Compensation injury. If the Workers' Compensation carrier notifies the County and states that the claim has been denied and is not Workers' Compensation compensable, the claim will be converted from Workers' Compensation to Paid Time Off (PTO), Individual Disability Account (IDA) leave, Leave Without Pay (LWOP), and/or short-term disability as applicable.
- While on Workers' Compensation leave, injured or ill employees are required to keep all medical appointments and therapy appointments ordered by their physician and to provide supervisors all update reports by physicians regarding duration of leave or return to work in a light duty or unrestricted capacity.
- All physician and medical treatment facility notes must be forwarded to the Department of Human Resources. This information will be sent to the Workers' Compensation claims adjuster and included in the employee's Workers' Compensation injury file.
- Employees on Workers' Compensation leave will continue to accrue PTO leave.



- The County shall continue the employer's share of Virginia Retirement System (VRS) Retirement/Life Insurance and health and dental premiums while the employee is receiving Workers' Compensation benefits provided the employee is still receiving pay (in the form of supplemental pay or personal leave) from the County. If the employee is receiving statutory Workers' Compensation benefits only, the employee will be reported to VRS as being on LWOP. While on LWOP, the County continues to pay for life insurance coverage, and the County shall continue the employer's share of health and dental coverage if the employee compensates the County for his/her premium costs.
- Employees who are off work due to on-the-job illness or injury (covered under the Workers' Compensation program), who falsify the extent or severity of injuries will be subjected to disciplinary action, to loss of benefits and to possible termination and prosecution.
- A drug and alcohol screen will be required within 24 hours of injury for employees involved in a motor vehicle accident.
- The County believes that it is in the best interest of the County and the injured employee to return to work as early as possible. When possible, the County will provide light-duty assignments for a temporary and reasonable period of time. The County will pay regular wages for hours worked for light-duty temporary assignments and overtime will not be allowed. The employee will be paid for the hours that coincide with regular work hours by using a Workers' Compensation pay code on their timesheet.
- In most circumstances, employees released to return to work will return to their former position. In circumstances where business necessity does not permit a vacancy for a period of time required by an employee to recuperate from a job-related illness or injury, the position will be filled. When the injured employee is released to return to work, he/she will be welcome to apply for any position that is open and comparable with his/her skills and qualifications.

#### **Compensation While on Workers' Compensation Leave**

If an employee is absent due to a Workers' Compensation approved work-related injury due to physician requirements, the employee receives 100% regular pay (i.e., 2/3 of the employee's salary will be provided by the Workers' Compensation payment and 1/3 of the salary will be paid for by the County) for time off work up to a maximum of 90 consecutive calendar days beginning with the day of injury. After 90 calendar days, employees receive a percentage of their salary as set by state law. For the employee to receive full salary, the remaining percentage will be covered by use of the employee's paid leave. Should the employee not have enough paid leave to cover the difference between the wage replacement benefit and full salary amount, LWOP will be used.

When an employee receives wage replacement benefit payments from the Workers' Compensation carrier, the County is notified of the employee's payment. This benefit payment amount is then deducted from upcoming paychecks for the employee. These reductions to the paychecks continue until all benefit payments are recovered.

Questions regarding Workers' Compensation may be directed to the Department of Human Resources at 540-665-5668.

Claim Number	EE ID#	Event Date	1st day off	Return to work	Total Days off during 90 period	Leave Hours Used During 90 Days	Hourly Rate	Work days missed	Potential Cost	1st day off	Return to work	1st day off	Return to work	Comments
WC034214995	710	8/27/2018	2/22/2019	6/10/2019	0									Surgery 5 months after injury
WC034235079	6305	12/14/2018	12/18/2018		90	165	20.75	45	\$3,423.75					
WC034235656	6439	12/21/2018	12/22/2019	2/19/2019	59	109.5	24.98	30	\$2,735.31	4/1/2019	5/17/2019	7/29/2019	8/26/2019	Surgery 4 months after injury. 2nd surgery required.
WC034236223	4557	1/2/2019	1/3/2019	5/17/2019	90	181	20.75	62	\$3,755.75					
WC034237298	5764	1/17/2019	4/8/2019		0									Surgery 4 months after injury. 2nd surgery required.
WC034D212136	6640	7/8/2018	7/11/2019	8/23/2019	44	89	23.8	23	\$2,118.20					
<b>Totals</b>					283				<b>\$9,914.81</b>					

**Total of 85 Claims Submitted in FY 2018-2019**

**\*\*6 claims above 21 calendar days**

**\*\*48 incurred sum of \$75 for initial consult**

**\*\*48 had \$0 in medical expenses**

**\*\*79 had \$0 in WC Comp wages**