



# **ERIE COUNTY EMPLOYEE HANDBOOK**

2016 EDITION (Revised 10/2016)

Dear County Employee:

Your appointment to your position as an Erie County employee carries with it certain duties, responsibilities, rights and privileges. This **Employee Handbook** is designed to inform you in detail of many of the personnel policies and procedures that apply to all County employees. I urge you to read this Handbook thoroughly. It is designed to help you to be more successful in your job.

We are pleased you have joined our team and wish you a rewarding and fulfilling public service career.

Sincerely

A handwritten signature in black ink that reads "Mark Poloncarz". The signature is written in a cursive style with a large, sweeping flourish at the end.

**MARK POLONCARZ**

County Executive

**EDWARD A. RATH COUNTY OFFICE BUILDING  
95 FRANKLIN STREET, BUFFALO, NEW YORK  
14202**

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## **INTRODUCTION**

This 2010 edition of the Erie County Employee Handbook supersedes any previous handbooks. The policies, procedures, and rules described in this Handbook are subject to change, modification, or suspension at the County's discretion and with the approval of the Erie County Legislature and/or the agreement of Erie County labor bargaining units, as required. New policies, procedures, and rules will be disseminated to the holders of this Handbook, as applicable.

This Handbook is not intended to be comprehensive or to address all County policies or all the possible applications of, or exceptions to, the policies, procedures, and rules described herein. If, after reviewing this Handbook, employees have any further questions concerning eligibility for a particular benefit, or the applicability of a policy, procedure, or rule, they should first consult the Erie County Personnel Policies and Procedures Manual (available on Sharepoint) and their collective bargaining agreement, if applicable. Remaining questions and/or issues requiring further clarification should be addressed with the Erie County Personnel Department.

The Erie County Handbook does not provide employees with additional rights not provided by any applicable collective bargaining agreement or law.

8/2010; Rev. 9/2015, 10/2016

# FOREWORD

To those of you first entering public service with Erie County, *Welcome!*

To our present employees, many thanks for your hard work and dedication in helping to provide the varied and necessary services to the citizens of Erie County.

We sincerely hope that each of you finds with Erie County the opportunities and challenges that will provide for your personal and professional growth.

# PURPOSE

This handbook is furnished to provide an introduction to County employment, to summarize briefly what you may expect from employment with Erie County and some of the things your department will expect of you. It is also meant to answer some of the more common questions asked by both newer and more established employees in County service. Hopefully this book will direct you to the offices and sources most likely to provide answers to other questions that may arise during the course of your employment.

**This book is also available on the Erie County SharePoint intranet site.**

**NOTE: PLEASE SAVE THIS HANDBOOK FOR READY REFERENCE ON QUESTIONS THAT MAY ARISE CONCERNING COVERED ASPECTS OF YOUR EMPLOYMENT.**

# ERIE COUNTY AND ITS GOVERNMENT

Erie County, New York, came into being on April 21, 1821, with the division of the then Niagara County into two parts: the present Erie and Niagara Counties.\* Legally, Erie County is a municipal corporation. It was one of the first in the State to adopt a Home Rule Charter with a strong elective form of government. The offices of Comptroller, District Attorney, Sheriff and County Clerk are elective, as is that of the County Executive. In March, 1967, the voters approved an amendment to the Charter which divided the County into twenty equally-populated districts, and created a County Legislature composed of a Legislator from each of the districts. Since 2012, the number of legislators has been reduced to 11. The Legislators are elected for two-year terms in odd-numbered years. The duties of the Legislature include making appropriations, levying taxes and incurring indebtedness, confirming certain appointments made by the County Executive, as well as other various duties and responsibilities. The County Executive is elected from the County at large for a four-year term, and is the Chief Executive officer and Administrative Head of the County Government.

The County Executive appoints to serve at his pleasure heads of every department, administrative unit and agency, as well as the officers and employees in his own office.

Erie County is a charter form of government. The present Erie County Charter was first adopted in 1959. It defines the general functions and organization of the County, and provides for an elected County Executive, Comptroller, Board of Supervisors, and the District Attorney, Sheriff and County Clerk. The stated purposes of the Charter are to maximize Home Rule and the efficiency of the government, and to separate clearly the administrative and legislative functions of government.

In 1960, the Board of Supervisors adopted an Administrative Code which sets forth the details of administration in the County. This code provides rules governing the duties of the offices, institutions and departments of the County and ways in which these duties shall be carried out. It prescribes, for example, the manner in which the County Executive appoints department heads.

*\*Some of this material is taken from ERIE COUNTY, a study by the League of Women Voters.*

## BACKGROUND

Unlike businesses in the private sector, government has no owner or owners. Government is owned by and represents all people. Therefore, in government, every person is an employee who is elected, appointed or hired to perform a specific job or function.

Many of the conditions and procedures that cover our employment are specifically authorized or required by Law, statute or collective bargaining agreement. Examples include, but are not limited to, the New York State Civil Service Law; New York State Public Officers Law; New York State General Municipal Law; County Law; “The Rules for the Classified Service of Erie County.....,” which has the force and effect of law; the Erie County Charter; the Erie County Administrative Code; and other state and federal laws that apply to all employment, both public and private.

Laws, statutes and work rules change over a period of time. For these reasons this handbook is specifically meant only to supplement these other sources. Anything contained herein that might inadvertently be in conflict with any law, statute, or labor agreement will be void. In case of a conflict, the applicable legal source will take precedence. By the same token, this handbook does not grant any employee, whether “at will” or union, with any rights other than those provided by New York State or Federal laws.

## MEETING THE PUBLIC

The public views the quality of County services by the courtesy and efficiency shown to them by the County employees with whom they come in direct contact. The public supports our services with their taxes, and our job is to provide them with the services they need. The public has every right to be treated with courtesy and respect, and to expect appropriateness in dress and manner from each of us.

In performing your job, you may come in contact with a person who is discourteous for a variety of reasons. Most often he or she may not understand why something cannot be done, or in other cases why something must be done. A most important aspect of your job is to be as polite and helpful as possible in spite of any such occasional difficulty.

# RESIDENCY

An applicant for original appointment to County service must be a legal resident of Erie County for at least one month immediately preceding the date of examination and must be legal residents of Erie County at the time of appointment. The Commissioner of Personnel may make exception to this requirement for situations where qualified applicants cannot be found within the County. Erie County residence is not required for promotional appointment or for competitive class promotional exams.

# CODE OF ETHICS

In 1989, the County Legislature passed an updated Code of Ethics by passing Local Law 10-1989. The Law was amended in 1994 by Local Law 4-1994.

The following individuals must file: All elected officials, department heads, heads of administrative boards including members of: Sewer District Board of Managers, ECMC Board Members, Community College Board Members, Library Board Members, Chairman of County committees of political parties, Candidates for elective County office and all employees in a policy-making position in County government.

Policymaking employees include all deputies to the County Executive or a department or division (but not a deputy sheriff), the assistant to a head of a department or administrative unit, and other employees who through their regular duties are able to make County policy.

Examples of employees in policy-making positions are those who are authorized to commit the County to a binding agreement, such as a contract, or hold regulatory authority over private interests. It is the responsibility for each department head to determine which employees in his/her unit are required to file the ethics disclosure form.

All persons subject to file disclosure forms must do so by May 15th.

**PROHIBITED ACTIVITIES:** Under Local Law 10-1989 as amended by Local Law 4-1994, no elected official, County officer or employee shall:

directly or indirectly solicit any gift, or accept or receive any gift having a value of seventy-five dollars or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form under circumstances in which it could reasonably be

inferred that the gift was intended to influence him, or could reasonably be expected to influence him in the performance of his official duties, or was intended as a reward for any official action on his part;

Other prohibited activities are listed under the local law.

## IDENTIFICATION CARDS

An identification card has been issued to all County employees. Employees are expected to wear their identification card at or above the waist, and present it upon legitimate request. Identification cards will be used for swiping in and out of work at the time clocks and for designated door access. If the identification card is lost, it is the responsibility of the employee to obtain a replacement. Identification cards must be returned when an employee leaves County service.

## EMPLOYEE ASSISTANCE PROGRAM

Erie County has contracted with a private firm to provide assistance to employees who are experiencing personal problems.

The Employee Assistance Program (EAP) provides comprehensive counseling and referral to County employees who seek assistance for a variety of personal reasons. All employee requests for assistance are handled in a sensitive and confidential manner.

If you are experiencing personal problems related to drug or alcohol abuse or other personal or financial problems that are affecting your work or personal relationships with family, friends and/or co-workers, you are encouraged to contact the EAP. Contact information can be found on the Erie County Sharepoint Intranet site or in the Personnel Department. Your participation in this program will be kept strictly confidential.

## DIRECT DEPOSIT

The County offers a direct deposit program for all employees. The program allows employees to directly deposit their paycheck into any ABA participating bank or credit union in the United States (maximum of five banks). Check with your department payroll division for more information.

## FLEXIBLE BENEFITS

Employees may participate in a Flexible Benefits Program approved under Sections 125 and 132 of the Internal Revenue Code. This program allows employees to reduce their Federal, State and Social Security tax bases for miscellaneous qualified medical, dependent care, adoption, health/disability premium, and parking expenses, by using pretax dollars to cover these expenses. There are limits on the amounts that employees can reduce their tax base and employees should contact the Personnel Department for further information. Employees can make pre-tax deductions for qualified medical, dependent care expenses and up. Health insurance premiums paid by employees may also qualify under the plan. Enrollment forms are distributed to all employees in November of each year.

## TELEPHONES

Business phones are absolutely necessary for the conduct of public business. They are to be used with discretion, not abused. Employees should limit their calls to the conduct of County business. Personal calls into, or out of the County or between County departments are prohibited.

Emergencies such as illness or death of a family member, etc., may require your receiving immediate telephone notification. Such obvious emergency situations are not considered personal calls under this rule.

## CELLULAR PHONES

Cellular phones that are issued by the County are to be used for County business. Usage of County provided cellular telephones should follow the same guidelines as stated in the policy for landline desk phones issued by the County.

Personal cellular phones should be kept out of sight, and used only for emergencies or on breaks or lunches. Personal cellular phones should not be used on County time; this includes both talking and text messaging. Ringtones should be kept on silent in order to avoid disruptions.

## POLITICAL ACTIVITY

There is often confusion about the political restrictions on public employees. The laws which limit political activity are a Federal Law known as the Hatch Act as well as certain provisions of the New York Labor Law. The Hatch Act applies to local government employees whose activities are largely funded by the Federal government or to employees who work in connection with a federally funded activity. For example, the Hatch Act applies to all employees of the Department of Social Services, and anyone whose salary is paid through a grant provided by the Federal government. Many of the earlier restrictions provided by the Hatch Act have been removed. The following remain: Covered employees may not be candidates for any elective office in a partisan election, and they also may not use official authority for the purpose of interfering with or affecting the result of an election.

Employees whose employment is covered by the Hatch Act must resign their positions if they decide to become a candidate for elective office. Further information regarding the Hatch Act can be found at [www.osc.gov/hatchact.htm](http://www.osc.gov/hatchact.htm).

## AGENCY SHOP

The Public Employees Fair Employment Act (the Taylor Law) specifically prohibits any requirement that an employee must become a member of any labor organization. However, provisions of a state law passed in 1978 permits Agency Shop provisions to be written into labor contracts.

The contents of an employees personnel file are governed by New York State and Federal Laws, as well as any collective bargaining agreement if the employee is a member of a union.

Agency Shop provisions are included in all Erie County bargaining agreements.

## PERSONNEL FILES

Individual personnel files are maintained for each County employee. Contained in these files are copies of the necessary data, forms, evaluations, records, etc., relating to their employment.

The contents of an employee's personnel file are governed by New York State and Federal Laws, as well as any collective bargaining agreement if the employee is a member of a union.

## ERIE COUNTY EQUAL EMPLOYMENT OPPORTUNITY OFFICE

It is Erie County's policy to provide Equal Employment Opportunity in every aspect of employment to all applicants and employees including Vietnam era and disabled veterans, without regard to age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim's status, and any other basis protected by New York State or Federal Laws. In an attempt to reaffirm, strengthen and reinforce its commitment to this policy, the County has developed a positive, continuing program known as the Affirmative Action Plan for Equal Employment Opportunity.

The County Equal Employment Opportunity Office (EEO) was established in 1974 in accordance with Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972. One of the office's primary purposes is to assure that all persons in County government are treated equally in employment matters such as hiring, transfer, layoff, termination, promotion or recall.

Any person who believes that his or her rights have been wrongfully denied for any of the reasons listed above, should contact the EEO Office for counseling at 858-7542 or at [www.erie.gov/depts/eoo](http://www.erie.gov/depts/eoo). Should you wish to file a complaint of discrimination, you should contact the EEO office at 858-7542 or at [www.erie.gov/depts/eoo](http://www.erie.gov/depts/eoo). The office will fully investigate your complaint, a determination will be made, and corrective action initiated where warranted.

## HARASSMENT POLICY OF ERIE COUNTY

### **I. Statement of Philosophy**

The County of Erie is committed to maintaining a work environment free of unlawful discrimination and harassment, and will not tolerate harassment of its employees by any supervisor, coworker, patient, vendor, client, or any other person.

In accordance with applicable law, the County of Erie prohibits all forms of harassment which includes any unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's gender, race, color, national origin, ancestry, religion, creed, physical or mental disability, marital status, age, sexual orientation, genetic predisposition, military status, domestic violence victim status or any other basis protected by federal, state or local law. Such conduct is unlawful and prohibited whenever it affects tangible job benefits, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive working environment.

## **II. Forms of Harassment**

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, and physical conduct of a sexual nature whenever:

1. Submission to the conduct is made either an explicit or implicit condition of employment;
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the harassed employee; or
3. The harassing conduct unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive working environment.

Sexual harassment can involve an almost infinite variety of conduct and can occur between individuals of the same sex. Some examples include:

1. Unwelcome physical contact with sexual overtones, such as touching, patting, pinching, repeatedly "brushing" against someone, or impeding the movement of another person
2. Sexually offensive comments such as slurs, jokes, epithets, and innuendos
3. Sexually oriented "kidding" or "teasing," or sexually oriented "practical jokes"
4. Suggestive or obscene written comments in notes, letters, invitations, or e-mail
5. Inappropriate, repeated, or unwelcome sexual flirtations, advances, or propositions
6. Offensive visual contact such as staring, leering, gestures, or displaying obscene objects, pictures, or cartoons

7. Inappropriate or suggestive comments about another person's physical appearance or dress
8. Exchanging or offering to exchange any kind of employment benefit for a sexual concession, e.g., promising a promotion or raise in exchange for sexual favors
9. Withdrawing or threatening the withdrawal of any kind of employment benefit for refusing to grant a sexual favor, e.g., suggesting that an individual will receive a poor performance review or be denied a raise unless she [he] goes out on a date with a supervisor
10. Any action taken because of individual's gender that alters the terms, conditions or privileges of employment.

Some other examples of prohibited harassment include:

1. Offensive comments such as racial or ethnic slurs, jokes, epithets, and innuendos.
2. Conduct oriented "kidding" or "teasing," or "practical jokes" based on a person's race, color, national origin, ancestry, religion, creed, physical or mental disability, marital status, age, sexual orientation, genetic predisposition, military status, domestic violence victim status or any other basis protected by federal, state or local law.
3. Harassing conduct based on gender, race, color, national origin, ancestry, religion, creed, physical or mental disability, marital status, age, sexual orientation, genetic predisposition, or military status, domestic violence victim status or any other basis protected by federal, state or local law that unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive working environment.
4. Any action taken because of individual's gender, race, color, national origin, ancestry, religion, creed, physical or mental disability, marital status, age, sexual orientation, genetic predisposition, or any other basis protected by federal, state or local law that alters the terms, conditions or privileges of employment.

### **III. Applicability of Policy**

The prohibition against harassment applies to everyone -- managers, supervisors, salaried and hourly workers, temporary employees, contractors, customers, patients, suppliers, visitors, guests, elected officials and appointed administrative officials. The County of Erie will not tolerate harassment of any kind by anyone.

## **IV. Reporting Illegal Harassment**

While the County encourages individuals who believe they are being harassed to firmly and promptly notify the offender that his or her behavior is unwelcome, the County also recognizes that such a confrontation may be uncomfortable or even impossible. In the event that such informal, direct communication between individuals cannot be accomplished for any reason, or is ineffective or inappropriate given the circumstances or severity of the situation, the following steps should be taken to file a formal harassment complaint:

### **1. Notify Appropriate Staff**

Individuals who believe they have been sexually harassed or subject to harassment because of race, color, national origin, ancestry, religion, creed, physical or mental disability, marital status, age, sexual orientation, genetic predisposition, military status, domestic violence victim status, or any other basis protected by federal, state or local law, should immediately report the incident to his or her direct supervisor. If the supervisor is the alleged harasser or the employee is uncomfortable reporting the alleged harassment to his or her supervisor, the incident should be reported directly to his or her Department Head. In the event that the circumstances of the situation make it inappropriate to report the incident should the individual's supervisor or to his or her Department Head, the incident should be reported to another Department Head or to the County's Equal Employment Opportunity Director at 858-7542. Employees may also file a complaint on line at [www.erie.gov/depts/eeo](http://www.erie.gov/depts/eeo). Employees, supervisors, and managers must report any incident of sexual harassment or harassment because of race, color, national origin, ancestry, religion, creed, physical or mental disability, marital status, age, sexual orientation, genetic predisposition, military status, domestic violence victim status, or any other basis protected by federal, state or local law they may observe or become aware of, even if they are not the target or victim of such harassment.

### **2. Prepare Written Report of Misconduct**

An accurate record of objectionable behavior or misconduct is needed to resolve a formal complaint of harassment. Even reports of harassment must be submitted to the Equal Employment Opportunity Officer for investigation. Individuals who believe they have been or currently are being harassed should maintain a record of objectionable conduct in order to prepare effectively and to substantiate their allegations.

### **3. Promptly Report the Complaint**

The County of Erie encourages a prompt reporting of complaints so that a rapid response and appropriate action may be taken. A prompt report not only aids the complainant, but also helps to maintain an environment free from discrimination for all employees. Such reports will be handled according to the policy for reporting such incidents as directed by the County Executive.

### **V. Investigating the Complaint**

#### **1. Confidentiality**

Any allegation of harassment will be promptly investigated. Confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.

#### **2. Investigation Process**

The County of Erie will thoroughly and quickly investigate any incident of sexual harassment or harassment because of race, color, national origin, ancestry, religion, creed, physical or mental disability, marital status, age, sexual orientation, genetic predisposition, military status, domestic violence victim status, or any other basis protected by federal, state or local law and will try to take the wishes of the complainant under consideration, keeping the complainant informed as to the status of the investigation.

### **VI. Discipline for Engaging in Harassment**

Depending on the nature and seriousness of the offense, the County will impose all appropriate discipline, up to and including termination, against any manager, supervisor, or employee found to have engaged in sexual harassment or other forms of harassment.

When a customer, guest, patient or other person not employed by the County is found to have engaged in harassment against a County of Erie employee, the County will advise the person and his or her employer if applicable of the County's policy against such harassment, and will take such other action as is appropriate under the circumstances.

### **VII. Protection Against Retaliation**

The County of Erie will not in any way retaliate against an individual who makes a complaint of harassment or against any participant in the investigation, nor will it permit any supervisor/manager or employee to do so. Retaliation is defined as treating any employee or applicant differently because he or she opposed an unlawful employment practice or made a charge, testified, assisted,

or participated in any manner in an investigation, proceeding, or hearing. Retaliation is a serious violation of this harassment policy and should be reported immediately. Any person found to have retaliated against another individual for reporting any harassment will be subject to the same disciplinary action described above (see §VI).

Examples of retaliation are:

Treating someone who has reported an incident of harassment or participated in an investigation differently than other employees (i.e. "cold shoulder") and/or differently than you treated the individual in the past.

Disciplining an individual without justification, making negative comments, reducing individual's responsibility, denying a transfer, requiring a transfer, giving unfavorable evaluations or work schedules, scrutinizing an individual's work, etc. (without justification) after that person reported an incident of harassment or participated in an investigation.

1. Encouraging or ordering other staff to retaliate on your behalf against an individual who has reported an incident of harassment or participated in an investigation.
2. Subjecting an individual to any adverse employment action for reporting an incident of harassment or participating in an investigation.
3. Failing to respond to a co-worker's call for help or assistance.
4. Starting to discipline a complainant or witness for conduct that was not previously subject to discipline.
5. Engaging in other behavior that can reasonably be construed to be retaliatory.

### **VIII. Legal Remedies for Harassment**

Employees or job applicants who believe they have been harassed or retaliated against in violation of this policy should first file an internal complaint with their supervisor, department head and/or the Director of the Equal Employment Opportunity office at 858-7542. If an employee or job applicant is dissatisfied with the response he or she may file a complaint with the Equal Employment Opportunity Commission at (716)551-4441 and/or the New York State Division of Human Rights (716)847-7632, which are authorized to investigate the allegations in the complaint. Employees or applicants may also contact a private attorney or union representative should they believe they have been subjected to any form of harassment or retaliation.

# WORKPLACE VIOLENCE POLICY

In 2006, New York State enacted legislation requiring public employers to perform a workplace/risk evaluation and develop programs to prevent and minimize workplace violence.

Erie County is committed to providing a safe and secure environment for its employees and the customers whom it serves.

Violence prevention is an on-going process. Erie County has taken and continues to take measures to identify and remediate areas of risk in its physical sites and other factors that could place its workers and customers at increased risk of violence. As additional resources become available, the County will continue to address areas of concern.

The complete Workplace Violence Policy and Incident Report Form can be found on the Erie County Intranet (Sharepoint) or in the County Personnel Department. Should any employee wish to file a complaint under the Workplace Violence Policy, please consult Sharepoint for a Workplace Violence Incident Report Form or speak with your supervisor.

## FAMILY AND MEDICAL LEAVE ACT OF 1993

The Family and Medical Leave Act of 1993 (FMLA) was enacted on February 5, 1993. Amendments subsequently have been made to the original FMLA language.

The U.S. Department of Labor's wage and hour division administers and enforces FMLA for all private, State and local government employees, and some Federal employees.

FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave each year for specified family and medical reasons, or up to 26 weeks of unpaid leave for certain military caregiver responsibilities.

The law contains provisions relating to employer coverage; employee eligibility for the benefits of the law; entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; notice and certification of the need for FMLA leave; and protections for employees who request or take FMLA leave. In addition, the law includes certain employer record keeping provisions.

## **I. Employee Eligibility**

To be eligible for FMLA benefits, an employee must:

- have worked for the County for at least 12 months; and
- have worked at least 1,250 hour over the previous 12 months.

## **II. Reasons for taking Leave under the FMLA**

If an employee is eligible, unpaid leave must be granted for *any* of the following reasons:

- 1) For the birth and care of a newborn child of the employee; or
- 2) For placement with the employee of a son or daughter for adoption or foster care; or
- 3) To care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- 4) To take medical leave when the employee is unable to work because of a serious health condition; or
- 5) For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard Reserves in support of a contingency operation. A covered employee also must grant an eligible employee who is a spouse, son, daughter, parent or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious illness or injury up to a total of 26 workweeks of unpaid leave during a "single 12-month period" to care for the service member.

At the County of Erie's or employee's option, certain kinds of *paid* leave may be substituted for unpaid leave. In other words, the County of Erie may require an employee taking FMLA leave to exhaust any accrued time during the leave.

## **III. Advance Notice and Medical Certification:**

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- 1) The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable", and such notice is practicable.
- 2) The County of Erie may require medical certification to support a request for leave because of a serious health condition, and may require

second or third opinions (at the County of Erie's expense) and a fitness for duty report to return to work.

#### **IV. Job Benefits and Protection**

- 1) For the duration of FMLA leave, the County of Erie must maintain the employee's health coverage in accordance with the existing pre-leave arrangement under any "group health plan."
- 2) Upon return from FMLA leave, most employees must be restored to their original job or an equivalent job with equivalent pay, benefits and other employment terms.
- 3) The use of FMLA leave cannot result in the loss of any employment benefits that accrued prior to the employee's leave.

#### **V. Harassment Because of Use of FMLA Leave**

FMLA makes it unlawful for any employer to:

- 1) Interfere with, restrain or deny the exercise of any right provided under FMLA
- 2) Discharge or discriminate against any person for opposing any practice unlawful by the FMLA or because of involvement in any proceeding relating to FMLA.

#### **VI. Remedies for Harassment under the FMLA**

Employees who believe they have been harassed or retaliated against as a result of taking time under the FMLA or for engaging in other activity protected by the FMLA should first file an internal complaint with their supervisor, department head or Director of Equal Employment Opportunity office at 858-7542. Alternatively, the employee may file a complaint online at [www.erie.gov](http://www.erie.gov). The Supervisory Commissioner and/or Department Head shall then notify the County Equal Employment Opportunity Office. Employees or job applicants who believe they have been harassed or retaliated against in violation of this policy may also file a complaint with the United States Department of Labor, at the nearest office of the Wage and Hour division, listed in most telephone directories under U.S. Government, Department of Labor. An employee may also contact a private attorney or union representative should he/she believe they have been subjected to any form of harassment or retaliation in violation of this policy.

## **VII. Enforcement**

The United States Department of Labor is authorized to investigate and resolve complaints of violations. An eligible employee may bring a civil action against the County of Erie for violations.

FMLA does not affect any federal or state law prohibiting discrimination or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

For further information on the Family Medical Leave Act, contact your department's personnel/human resources office.

## **AMERICANS WITH DISABILITIES ACT AND NEW YORK EXECUTIVE LAW**

The federal Americans with Disabilities Act (ADA) and New York State Executive Law, Article 15 (the NYS Human Rights Law) are anti-discrimination statutes designed to remove barriers which prevent qualified individuals with disabilities from enjoying the same employment opportunities that are available to persons without disabilities. The ADA was subsequently revised as the ADA Amendment Act, effective January 1, 2009.

Pursuant to the ADA and NYS Human Rights Law, the County of Erie will not discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

A qualified individual with a disability means an individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without a reasonable accommodation, can perform the essential functions of such position.

Under the ADA, disability is defined as 1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; 2) a record of such an impairment; or 3) being regarded as having such an impairment.

Furthermore, the County of Erie will not retaliate or take any adverse employment action against any applicant, employee or former employee who

complains of an act of discrimination, seeks a reasonable accommodation or participates in any investigation concerning a complaint of discrimination.

Any employee who believes he needs a reasonable accommodation in order to perform the essential functions of his job should contact the Executive Director of the Office for the Disabled at 858-6233. If any applicant, employee or former employee believes he has been discriminated against based on a disability or retaliated against for filing a complaint or participating in an investigation relating to disability, he should immediately report such incident to his immediate supervisor or to the Equal Employment Opportunity Office at 858-7542.

## PHYSICAL EXAMINATIONS

Employees should consult the Personnel Policies and Procedures Manual, their respective collective bargaining agreement, NYS Civil Service Law, and/or any applicable department – specific rules regarding physical examinations or medical evaluations.

## SALARY PLAN

Erie County has formal plans for class titles and salary/wage ranges (job groups) which are administered according to Salary and Increment Rules incorporated into existing bargaining agreements. Nearly every County title has been formally assigned to a job group or has been assigned an hourly rate. The Commissioner of Personnel determines where each title is allocated in relation to other titles, so that salaries can be administered effectively and equitably.

Employees who receive flat salaries and employees in seasonal or non-regular employment are excluded from the regular salary rules.

The salary ranges and the overall plan are administered by the County Personnel Department, but modifications to the plan, as applied to employees covered by union contracts, are negotiated with the collective bargaining agents. Any modifications must then be approved by the County Legislature before formal adoption.

## MERIT INCREMENTS

Normally new employees are hired at the lowest step of the job group to which their titles have been assigned. When recruiting is difficult for a specific title, the Commissioner of Personnel, with other necessary approval, may authorize a variable minimum. This means that a new employee may be hired at a step higher than step 1 for the job group.

Regular increment dates are January 1 and July 1 of each year. Newly appointed employees are eligible for the first increment (salary increase) on the first increment date after completion of six months of actual service in their positions. Bargaining unit employees' eligibility for consideration for subsequent increments is determined by their bargaining unit language.

Granting of increments is not automatic. Erie County requires that the actual on-the-job performance of each employee must be formally evaluated by the immediate supervisor at least once during the anniversary year, and that each formal evaluation must be reviewed by one level of supervision or administration. Unless otherwise provided by labor contract, increments will be granted only to employees receiving overall performance evaluations of standard (i.e. meets expectations) or better. Increments must be requested by the appropriate level of supervision, based on job performance, and must then be approved by the Department Head and by the County Personnel Department, unless other specific provision is made by labor contract. For specifics concerning the granting of increments for your own bargaining unit refer to the applicable labor agreement.

A leave(s) without pay totaling three months or more during a single increment year constitutes an interruption of actual service for computing increment eligibility.

An employee who has served for five (5) years at the highest step of his job group, and who has completed a minimum of nine (9) years of continuous County service is automatically eligible for the first longevity increment. There are provisions for additional automatic longevity increments, to be granted at intervals specified in the labor agreements for service in the same job group, under either the same or a different title. Some bargaining units may have different longevity increment rules and employees should consult their collective bargaining agreement for further information.

## PAY DAYS

The County pays its employees bi-weekly. Pay days are on Friday. If that day is a holiday, the pay day is the preceding work day. Erie County makes every reasonable effort to pay those persons working second and third shifts on the day prior to the day that first shift employees are paid.

## EMERGENCY & TEMPORARY ASSIGNMENTS

An employee who is temporarily assigned to a higher level encumbered position during temporary emergencies is not eligible for a salary increase immediately. After he has performed the duties of the higher position for a specified period, he will be paid for temporary promotion according to the normal promotion rules. (See PROMOTIONS, below, and the collective bargaining agreement for your unit.)

## PROMOTIONS

Upon promotion to a position in a higher job group bargaining unit, members receive a salary at the increment step in the higher job group provided by promotion schedules incorporated into the respective bargaining agreements.

The White Collar promotion schedule is employed for Managerial/Confidential promotions for positions not specifically covered by an authorized variable minimum.

Hourly rated employees whose job titles are not assigned to a specific job group will receive promotions as outlined in the bargaining agreement with Local 1095 and Council 66, AFL-CIO.

## REASSIGNMENT WITHIN TITLE AND GRADE

Applicants are normally interviewed and hired to fill a specific position in a specific work unit, under a specific title.

There is a popular misconception that this hiring process confers upon an incumbent a permanent claim to that particular position in that particular work unit. This is not the case. While efforts are made to provide continuity of operations and personnel in each work unit, the needs of the hiring department and the circumstances of the individual may change over a period of time. This

sometimes requires that an employee be reassigned to another operation or work unit, or even to a different department.

## PROBATIONARY TERMS

Every original appointment to a permanent position in the Competitive Class and every original and permanent appointment to a position in the Non-Competitive and Labor Classes are subject to satisfactory completion of a probationary period of not less than eight nor more than twenty-six weeks, unless a longer probationary period is specifically provided in the Appendices to the Classified Rules. All promotional Competitive Class titles require probationary periods.

The minimum probationary period of 8 weeks will automatically extend to 26 weeks, unless the appointing authority gives earlier written notice to the employee that probation has been successfully completed, or that service is unsatisfactory and that the probationer's services are to be terminated. A probationer's services may be terminated anytime between the 8th and 26th week after one week written notice to the probationer. Alternatively, the appointing officer may notify the probationer in writing anytime between the 8th and 26th week that the probationary period has been satisfactorily completed.

Upon request, a probationer being terminated shall be granted an interview with the Department Head or a designee.

Time served under provisional or temporary appointment *does not count* toward completion of probation under that specific title.

Competitive Class probationary employees who are not retained in their positions upon completion of their probationary periods may petition the Commissioner of Personnel to reinstate their names to the eligible lists for their titles. Such requests must be in writing, and will be considered upon their individual merits.

Please refer to the appropriate collective bargaining agreement for units encompassing positions in the Unclassified Service, such as the Faculty Federation of Erie Community College and the Administrators' Association of Erie Community College.

# ATTENDANCE & RECORDING ATTENDANCE

Because Erie County employees render a wide variety of services in many locations under many conditions, scheduled work hours may vary. Each employee will be personally advised of your own shift times by your department. A normal shift is eight consecutive hours for full-time employees.

Full-time employees are scheduled by their supervisors for a lunch period during each full work day and are entitled to a paid break period for each half-day worked. Scheduled lunch and break periods cannot be changed without the specific permission of the supervisor.

Every employee is expected to record his/her hours actually worked. This can be done either on a time clock/swipe card reader where provided, or on official sign-in/sign-out time sheets provided by the department. These time sheets/cards are monitored closely. Abuses of Time and Attendance rules are grounds for disciplinary action, and any falsification of time records, including the recording of time or punching/swiping a card for someone other than yourself, will be considered a serious offense and grounds for immediate termination.

Collective Bargaining Agreements explain hours of work in greater detail.

## COMPENSATORY TIME POLICY

Compensatory time is time granted to an employee in lieu of pay for time worked in excess of the normal work week or normal work day. It is also granted for working a holiday, according to the provisions of the Federal Fair Labor Standards Act and the Collective Bargaining Agreements.

Overtime or holiday work for which compensatory time is granted must be approved in advance by the Department Head or designee. Compensatory time records are maintained by Employee Self Service (ESS) system.

Efforts will be made to grant compensatory time off at times mutually agreeable to the employee and the supervisor. However, such time off must be approved by the supervisor before it can be taken, and departmental staffing needs must take precedence.

# TARDINESS POLICY

Employees must be at their work sites at designated starting times unless otherwise excused. Failure to be there is considered tardiness. Tardiness also includes early leave or late return from lunch or break periods, and departure from the work station prior to the designated quitting time.

Employees are not permitted to work through part of a lunch hour or work through “coffee breaks” in order to make-up for tardiness at the beginning of a work day or after a break or lunch period.

In exceptional situations and only after supervisory approval, employees may work up to 30 minutes past the end of their normally scheduled work shift to “make-up for” tardiness. Please refer to County Policy and Procedures Manual, Chapter VI, Section 6, for more information.

## FLEXIBLE TIME AT START OF SHIFT

Employees are expected to be at their work stations at their designated start time and they are expected to remain at their work station until their scheduled end time. Employees are not permitted to swipe in more than seven (7) minutes prior to their scheduled start time. If an employee swipes in up to seven minutes early, these minutes will be unpaid, non-work time, and the employee’s shift will begin at their normal start time. However, five minutes of flexibility has been built into the timekeeping system. If an employee arrives to work within five (5) minutes after the normal start time for their scheduled shift, they can swipe in, begin work immediately, and then at the end of their shift they stay and work the same number of minutes past their normal quitting time to make for a full shift. (For example, an employee whose shift starts at 8:00 a.m. and ends at 4:00 p.m. swipes in at 8:03 a.m., begins work immediately, then swipes for shift end at 4:03 p.m.).

## EMERGENCY CLOSINGS

In the event that the County Executive declares the closing of certain County facilities, operations and/or services due to flood, fire, power failure, uncontrollable weather conditions or other emergency, you may be required to charge the resulting time off from work against your accumulated accruals (i.e., sick leave, personal leave, vacation, etc.). Please consult your Collective Bargaining Agreement for detailed information.

# REMOVAL AND OTHER DISCIPLINARY ACTION

The orderly and efficient operation of County business and services requires that all employees observe certain minimum standards of behavior and performance. The rules listed below are to ensure proper conduct by all employees so that employees' health, safety and property are protected and the delivery of necessary services is not interrupted.

We believe you will find the rules reasonable and easy to follow. However, some will fail to follow the rules. Therefore, unsatisfactory work performance or violation of the rules will result in disciplinary action.

For union employees, Erie County endorses the policy of Progressive Discipline. Normal steps in this process are oral warning, written warning, suspension from duty, and finally discharge. The policy of Progressive Discipline does not necessarily apply for more serious violations or offenses, where immediate discharge, or suspension, in line with due process, may be required.

General work rules that apply in all County units are listed below and are arranged in three groups, by type or seriousness of violation. The list is not all-inclusive. Every possible situation for which discipline may result cannot be set forth in a list. Other work rules may be required for individual locations, work units, or types of activities. For example, a particular work rule that may be necessary and appropriate in a medical setting might not be appropriate for the Correctional Facility or the County Highways Division.

## **RULES**

The following acts are prohibited:

### **GROUP A**

(Violations may result in immediate discharge)

1. Fighting, provoking a fight or disorderly conduct of any kind, specifically including, but not limited to, striking a patient, client, member of the public, or co-worker.
2. Drinking, possessing alcoholic beverages or narcotic substances (other than medical prescriptions) on County premises, or reporting to work under the influence of alcohol or drugs.
3. Immoral conduct or indecency of any kind.

4. Violation of any criminal law or the commission of an offense which involves moral turpitude.
5. Threatening, intimidating or coercing any fellow employee or member of the public in any manner, including violations of the County's workplace violence policy.
6. Willful or deliberate violation of safety rules and practices which could endanger you, a co-worker, or any member of the public.
7. Insubordination or failure to follow the reasonable direction or order of a supervisor.

NOTE: Even if you have reservations concerning a specific order or direction, carry it out as directed, unless doing so would create a definite health hazard to another, or would result in an illegal action. If, after having carried out the order/direction, you still seriously question its appropriateness, file a grievance concerning the action and have the matter settled through appropriate channels.

8. Deliberately restricting or interfering with the work performed by your department or work unit, or that performed by another person.
9. Destruction or theft of property, tools or equipment belonging either to the County or to any other employee or person.
10. Falsification of or making any material change to any County record, letter or document submitted to the County.
11. Falsification of any time record, including swiping an identification card, punching time card or signing or making an entry on any sign in/sign out time sheet for anyone other than yourself.
12. Failure to report to work without authorization for extension after expiration of an approved sick leave or other leave of absence.
13. Unauthorized use and/or removal of County property, records, or any other materials from County premises.
14. Unauthorized possession of firearms, explosives, or other weapons, either on employee's person while performing County duties, or on County property.
15. Sale of drugs or intoxicants on County property.
16. Soliciting or accepting any financial or non-financial reward in return for special consideration in the purchase or providing of goods or services, or the awarding of any contract.

17. Gambling on County property.
18. Leaving an essential work post (e.g. a guard at the Holding Center) premises during working hours without notifying supervisor and receiving specific authorization to do so.
19. Engaging in acts of discrimination or retaliation in violation of the County's Harassment policy, or otherwise engaging in acts that violate the County's Harassment Policy.
20. Failure to report to work for a period of time without following procedures for reporting sick, requesting leave, etc.
21. Misrepresentation or false information reported on a job application or application for benefits, including, but not limited to, health insurance.

### **GROUP B**

(Violations that may result in suspension. Gravity of a single violation, or repeated violations of either a single rule or combination of rules may also result in discharge.)

1. Horseplay of any kind. This action can result in serious injury.
2. Abuse of tools or equipment belonging either to the County or another employee.
3. Leaving the *work premises* during working hours without permission of the supervisor.
4. Leaving the *work area* during working hours without permission of the supervisor.
5. The circulation of malicious or slanderous rumors, documents, or remarks concerning any employee, County government, its services, or the County's bargaining agents.
6. Gambling of any nature on County premises, including the unauthorized sale of lottery or raffle tickets, betting slips, etc.

NOTE: Sale of New York State Lottery tickets by licensed vendors such as candy and sundries stands operated by the blind are exempt from this rule.

7. Posting of any material on County bulletin boards without County permission. Additionally, altering, defacing or removing authorized notices appearing on County bulletin boards.

8. Personal use of County materials, tools or equipment without proper permission.
9. Performing personal business during County working hours.
10. Unreasonable number of absences, or repeated failure to report absences, or any unauthorized absence.
11. Sleeping during working hours.
12. Repeated unauthorized extension of rest breaks or lunch periods.
13. Repeated and excessive tardiness.
14. Neglect of job duties or responsibilities.
15. Transporting, picking up or delivering unauthorized passengers, or any other unauthorized use of County vehicles for personal business.
16. Negligence, carelessness or willful acts which result in damage to County property, or to the property of another employee or public citizen.
17. Incompetence or inability to perform assigned work.
18. Discourteous treatment of the public or co-workers, or any other conduct that does not warrant public trust.
19. Failure to follow job instructions, directions, or departmental policies and procedures.
20. Using abusive, profane, or threatening language to a supervisor or a fellow employee, or otherwise threatening, intimidating or coercing any other employee or member of the public.
21. The unauthorized use of any login, password or access code to gain access to a computer, voice mail or other County information system.
22. Using the County's E-mail system or accessing the internet during working hours for non-County business, other than incidental use.
23. Excessive personal phone calls or texting on County provided cell phones or personal cell phones during working hours.

### **GROUP C**

(Violation may result in written reprimand or repeated violations may result in other disciplinary action, such as suspension or even discharge.)

1. Leaving work area early, prior to wash-up or quitting time.

2. Failure to use safety equipment which is provided.
3. Failure to report any personal injury to the supervisor.
4. Repeated failure to punch own time card, or to sign in or out on sign in/sign out sheets, or swipe identification card in swipe card reader.
5. Failure to maintain reasonable productivity and workmanship.
6. Misuse of County time such as loitering in halls, rest rooms or cafeterias, interfering with other employees' work routines, engaging in prolonged conversations which are not work related, etc.

NOTE: Refer to your collective bargaining agreement for more specific guidelines regarding discipline, as your collective bargaining agreement supersedes the Employee Handbook.

## EMPLOYEE BENEFITS

In addition to the actual wages or salary earned, there are other substantial benefits that may be provided to you or for you, or for which you become eligible when you become an employee of Erie County.

These important benefits include: Hospitalization and Health Insurance, membership in the New York State Retirement System, paid Sick Leave, Holidays, Vacations, Bereavement Pay, Personal Leave Days, time off to take Civil Service exams, leaves of absence without pay for certain specified reasons, along with Unemployment Insurance and Social Security payments which are made on your behalf by the County.

For employees who are covered by a bargaining agreement, the way in which other than legally required benefits are provided is governed by that bargaining agreement. Therefore, refer to the labor agreement for your own bargaining unit on questions concerning entitlement to any specific benefits.

## HEALTH, HOSPITALIZATION AND DENTAL INSURANCE

Erie County offers eligible employees the choice of several levels of health insurance coverage through a single healthcare provider. Complete

information for each of the plans is available from the County Personnel Department.

Once each year, during open enrollment any employee enrolled in any Erie County Employee Health Benefit Group may choose to transfer to one of the other optional standard plans. During this selection period, ability to transfer between plans is guaranteed, free of waiting periods or pre-existing condition clauses. Applications for option transfer may be made only during the designated open enrollment period.

Any change in the type of coverage you elect will become effective on the first day of the month immediately following the close of the open enrollment period.

Because insurance provisions are necessarily quite detailed, please refer to the actual copies of insurance documents that are provided to you in order to determine the specifics of the coverage provided. Some employees may be required to contribute toward their health insurance premium, depending on their status (e.g. full-time vs. regular part-time), the type and level of coverage they've selected, and whether they are covered by a collective bargaining agreement. Employees belonging to a bargaining unit should consult their union contract for further information. Those not covered by a collective bargaining agreement should contact their personnel representative.

Health insurance plans may be modified from time to time to meet prevailing needs and conditions.

A word of caution: Health Insurance coverage is NOT automatic upon your starting employment with Erie County, nor does coverage EVER resume automatically when previously covered employees have allowed their coverage to lapse either on lay-off status, or while on unpaid leave of absence. It is necessary for the employee to complete a new application for coverage in each of these instances in order to establish any coverage at all. Prompt completion of the application forms at the time of employment or when you return to active service is YOUR responsibility, and is for YOUR protection.

Further, all changes affecting employee coverage including marital status (marriage, divorce, or separation), birth or adoption of a child, change of address, death of a spouse or family member, employee or spouse attaining age 65 and becoming eligible for enrollment in the Federal Medicare/Medicaid programs, or a dependent reaching an insurer's cut-off age, must be reported by the covered employee to his department. This information must then be transmitted by the department to the Erie County Personnel Department within five days of occurrence.

Change of employment status from part-time to full-time or vice versa may also affect eligibility for Health Insurance Coverage.

All of these changes may affect either eligibility for coverage or the type of coverage you and your family need. Failure to make inquiry and/or to record changes in status promptly CAN RESULT IN LACK OF ADEQUATE COVERAGE FOR YOU AND YOUR FAMILY. Of course, any falsification of insurance records is cause for disciplinary action up to and including termination. Your employer wants every eligible employee who needs coverage to have it. However, Health Insurance is costly, and the County cannot continue to pay premiums for needless or unauthorized coverage.

For continuation of coverage during disability due to accident or illness, see the Health Insurance Section of your Collective Bargaining Agreement or contact the Personnel Department.

Health Insurance coverage terminates for any laid-off employee on the last day of the calendar month in which lay-off becomes effective. Eligible employees will be offered continued coverage through the Consolidated Omnibus Reconciliation Act (COBRA). See the COBRA section of this Handbook.

## NOTIFICATION PROCEDURE

When County Personnel approves an application for Leave of Absence without pay the employee is advised of the duration of the approved leave. If the total leave of absence extends beyond the period of County paid coverage a letter is sent to the employee, advising them of the need to begin making premium payments in order to continue their health insurance coverage, and the amount of premium charged.

Should a permanent County employee die, for whom the County was providing family health insurance coverage, the employee's health insurance shall be continued for the employee's survivors during the month the death occurs and for two calendar months thereafter.

Questions concerning types of coverage or correct monthly premiums should be directed to the Employee Benefits Section, Erie County Personnel Office, telephone number 858-7911.

The Health Insurance Program is administered through departmental representatives. Any questions regarding claims or whether specific services are covered must be addressed directly to your own health care insurance company.

## DENTAL INSURANCE

A dental insurance plan is available to Erie County employees under the same conditions as the various health care insurance plans. Employees can get full details from the Personnel Department.

The current plan provides a list of covered dental procedures and the amount of payment that is provided by the insurer for each. Payment is provided **ONLY FOR THE PROCEDURES LISTED**, not for any others.

A list of participating dentists is also provided. If a subscriber or dependent receives a covered dental treatment from a **PARTICIPATING** dentist, that dentist will accept the amount listed on the insurer's payment schedule as payment in full.

However, if a subscriber/dependent receives covered dental care from a **NON-PARTICIPATING** dentist the subscriber is personally responsible for payment of the dentist's total billing. Upon receiving a fully completed dental claims form, the insurer will forward a check for the amount listed on the payment schedule directly to the subscriber. Claim forms may be obtained from the Personnel Department.

## WAIVERS OF BENEFITS

County employees eligible for paid medical and dental insurance may waive coverage and receive a cash payment in-lieu-of these benefits.

To waive coverage an employee must complete, sign and date appropriate waiver forms, which can be secured from any departmental health insurance representative. A waiver may be completed and submitted to a departmental representative any work day of the year.

Any person whose waiver of benefits is received by Personnel on or before the 15th day of any month will start eligibility for cash payment the first day of the following month. If received after the 15th of any month, eligibility for cash payment will start the first day of the second month after the waiver is received.

Once approved, a waiver remains in effect indefinitely until it is withdrawn in writing, or until the employee leaves County service.

A waiver of benefits can be withdrawn at any time during a calendar year with appropriate written notice. Completion of a new application for group health insurance is required.

Eligible employees may now elect to subscribe for or to continue dental insurance by having the total dental premium deducted from their paychecks, and still collect the monthly cash allowance under the waiver.

These payments are treated as ordinary income and subject to withholdings for FICA, federal and state income tax. Such payments are not considered part of your salary or wages by the New York State Retirement System. Therefore, no contributions are made to the Retirement System for these payments, either by the employer or by the individual employee.

## FEDERAL COBRA MEDICAL/DENTAL INSURANCE LAW

The federal COBRA insurance law is now in effect for all insured Erie County employees and their dependents.

Briefly, COBRA provides that employees who are currently covered under any Erie County group medical/dental insurance plan, and who leave Erie County service for any reason other than death or gross misconduct, or who become ineligible for group insurance coverage through reduction in hours, must be offered the opportunity to continue the same health/dental coverage for eighteen (18) months, or until one of the following occurs:

- a) they become covered under another group medical/dental insurance plan;
- b) they become eligible for Medicare;
- c) their coverage is canceled for non-payment of any premium.

Further, COBRA provides that any person who is enrolled as a dependent of an employee subscriber under any Erie County group health or dental plan on the day before the date of any qualifying event, which would otherwise result in the dependent losing coverage, must be offered continuation coverage under the employer's group plan(s) for up to thirty-six (36) months, or until one of the circumstances listed above occurs.

Qualifying events include:

- a. death of the employee subscriber
- b. divorce or legal separation

- c. dependent reaching the insurer's cut-off age
- d. dependent ceasing to be a legal dependent
- e. any other event that would otherwise result in loss of coverage, other than non-payment of premium by the subscriber

A subscriber or a family member must notify the County Personnel Department of any of the above within 60 days of the date of the qualifying event or eligibility coverage for COBRA will be lost.

Within fourteen (14) days after the end of the month in which an employee leaves County employment or within fourteen (14) days after County Personnel is notified of any other qualifying event by a family member, County Personnel will mail full particulars and forms for electing continuation coverage to COBRA eligibles.

Any COBRA eligible has 60 days from the date of the qualifying event or 60 days from the date of receipt of full particulars and necessary COBRA forms (whichever is later) during which to formally elect continuation coverage and to forward the first full monthly premium payment.

A COBRA subscriber must pay the entire premium cost for the coverage selected directly to the insurance carrier.

This only "highlights" COBRA procedures. For full details contact COBRA, County Department of Personnel, Room 604, 95 Franklin Street, Buffalo, New York 14202.

## VACATIONS

Vacations are earned and may be taken by employees according to the schedules and rules negotiated with each of the several bargaining agents (see the bargaining agreement for your unit), or according to policies established for Management/Confidential employees.

A few general rules apply to the use of vacation time for all County employees:

Vacation can be taken only in the minimum units provided in the labor agreements, or in policies for Management/Confidential employees. Vacation Accruals are normally credited bi-weekly, as they are earned. They must be earned before they can be taken. The scheduling of vacations must be approved by the department head or designee in advance, and such approval is subject to

the work requirements of the department or work unit. While sincere efforts are made to try to schedule vacation times desired by the employee, staffing requirements of the work unit must take precedence.

## PERSONAL LEAVE

Most full-time and regular part-time employees are credited with personal leave (in accordance with the provisions of labor agreements) or policy for Managerial/Confidential employees on their first anniversary date. Thereafter, they receive the same number of personal leave days for each succeeding year of employment. (Personal leave is granted only if the employee is on active pay status for at least six (6) months of service in an anniversary year). There is no pro-rated personal leave. Either it is granted in full or not granted at all.

Personal leave is not cumulative from year to year. It must be used within the anniversary year following the year in which it is earned, or the unused day or days will be added to the employee's sick leave bank. (This does not increase the maximum number of days permitted in the employee's bank as specified in Labor Agreements and Managerial/Confidential policies).

Application for 3 days or less of personal leave should be made to the department head three working days in advance and five days in advance for more than three days of leave.

Personal leave must be used prior to separation from County service. (Provisions covering personal leave are contained in the respective collective bargaining agreements and Managerial/Confidential policies).

## SICK LEAVE

Sick leave is a negotiable item and the procedures for accrual and use is included in each of the collective bargaining agreements. Sick leave is strictly for the following reasons:

- a) sickness or injury
- b) serious illness in the employee's immediate family or household
- c) quarantine regulations
- d) emergency Medical or dental visits that must be made during work hours

e) maternity disability or

f) any other reason authorized by Erie County Policy or applicable collective bargaining agreement.

In most instances sick leave is credited bi-weekly, as earned, for each pay period in which an employee is on full pay status for 50% or more of the pay period.

Employees may accrue unused sick leave up to the maximum allowed in the labor agreements or in policies designated for Managerial/Confidential employees. Accrued unused sick leave provides very valuable “insurance” against unexpected loss of earnings during illness or injury.

In cases of absence due to illness or injury for periods longer than those stated in the labor contracts, employees must provide a statement from their attending physicians showing incapacity and inability to perform their duties. Every use of sick leave requires a written application for approval of use of leave (PO-19), which must be approved by the immediate supervisor and the department head or designee.

## CALL-IN PROCEDURES TO REPORT NECESSARY ABSENCE FROM WORK

- (1) Each day that absence is necessary under the Sick Leave Provisions and established practices, employees shall report same to their department heads (or the specific designee of the department head) within ½ hour before the start of the employees’ shift. In institutions and positions requiring a replacement, the time for reporting absence is one hour before the start of the employees’ assigned shift. The daily call-in report shall include, insofar as possible, the apparent nature of the illness or injury (or in the case of illness in immediate family, the relationship and nature of illness) and anticipated return date.

*Daily call-in is required each and every day, except:*

- (a) When illness is of anticipated short duration not exceeding five days, employees must state, at time of initial call-in, the anticipated duration of absence and nature of illness or injury. If they fail to do so, they are expected either to report to work the following workday or call-in on a daily basis. Further, employees shall call in the day before their previously reported anticipated return date and report their present status.

- (b) When absence is the result of accident or serious illness and at the time of call-in (which in such cases is often made by a member of the employee's family) there is no indication of duration of absence, it is expected that the employee or member of family will report more definite information secured from the attending physician regarding the apparent nature of illness or injury and anticipated return date within three days after the initial call-in.
- (c) When absence is the result of accident or serious illness and the attending physician indicates that an employee cannot return to work until a specified time, the requirement of daily call-in is suspended and the employee is expected to return to duty on the date indicated. Employees shall promptly submit to their department head a certificate from their attending physician indicating the nature of illness and anticipated return date. In the event of any change in condition or change in anticipated return date from that previously reported, a new certificate from the attending physician shall be submitted.
- (d) When employees call in and report that their attending physician has informed them that they will be unable to work indefinitely due to extended illness, the daily call-in is suspended, but the employees shall promptly submit to their department head a certificate from the attending physician indicating the nature of illness and anticipated return date. In the event of any change in condition or a change in the anticipated return date from that previously reported, a new certificate from the attending physician shall be submitted.

It is essential that the call-in be made directly to the department head, or the specific designee(s) and that no other person(s) be authorized to accept call-in reports of absence. Information regarding employee illnesses and injuries is confidential and will only be shared with others who have a legitimate business need to know.

Employees shall be required to submit such physician certification forms, other documentation and any other reasonably requested information relating to, or supporting the use of, sick leave as may be requested by their department head or the specific designee(s).

## ABUSE OF SICK LEAVE

A doctor's certificate or affidavit ordinarily will not be required for employees' absence due to illness for less than five consecutive work days

(unless a different number of days is set forth in the applicable Collective Bargaining Agreement), unless the absence is a qualified absence under the Family and Medical Leave Act (“FMLA”). In such a case, additional paperwork may be required from the employee and/or the physician as authorized by the FMLA. However, general County policy is that where employee absences are such that the County has reasonable grounds to believe that an abuse of sick leave may exist, employees will be notified in writing of the suspected abuse, and thereafter may be required, regardless of duration of absence due to illness, to submit a doctor’s certificate or affidavit indicating the specific nature of the disability and its duration (see the provisions of the respective collective bargaining agreements). It should be noted that abuse of sick leave is grounds for disciplinary action, including possible suspension and/or discharge from employment.

## MATERNITY LEAVE

Employees who are unable to perform the duties of their positions due to pregnancy will be granted Maternity Leave for the period of pregnancy disability. Maternity Leave is treated exactly the same as any other Medical Disability Leave.

The period of pregnancy disability begins the date the employee’s personal physician indicates that the employee may no longer work, and for a normal delivery ends 6 weeks (42 calendar days) after the actual date of delivery, or in case of Caesarean Section, Leave for Disability ends 8 weeks (56 calendar days) after actual delivery date.

An employee may also be entitled to take additional time off after the pregnancy disability period for Maternity Leave or to otherwise care for his or her newborn child under the Family Medical Leave Act of 1993 or as provided in his or her Collective Bargaining Agreement. An employee wishing to take off additional time under the Family and Medical Leave Act of 1993 should see her department head or designee(s) to determine eligibility.

Accumulated Sick Leave credits may be used during the period of pregnancy disability and during the use of any time taken under the Family and Medical Leave Act of 1993 if the time taken is due to illness of the employee or immediate family member, in accordance with the procedures for use of sick leave in Erie County. In addition, an employee may be forced to use accumulated vacation time or compensatory time during the period he or she has taken off pursuant to the Family and Medical Leave Act. If Sick Leave and other benefits are exhausted before expiration of the Maternity Leave or time

taken under the Family and Medical Leave Act, employees will be granted Leave Without Pay for the remainder of the disability period, or time taken under the FMLA.

When an employee is ready to go out on a Maternity Leave, she will complete a request for Leave of Absence form PO18 and form B-4290 Physician's Certificate should be completed by her physician, When the employee applies for leave under the FMLA, she may be given additional forms to be completed by the physician and/or employee.

## EXTENDED SICK LEAVE

Certain bargaining unit employees who have completed fifteen (15) years of continuous service may receive such Extended Sick Leave with pay as may be recommended by the employees' department heads and approved by the Commissioner of Personnel. No such additional sick leave shall be approved by the Commissioner of Personnel in excess of a period of 5 months (in addition to sick leave already accumulated by such employees).

Some labor agreements provide that employees with ten (10) or more years, but less than fifteen (15) years, of continuous service may be eligible for up to a cumulative total of three (3) months of Extended Sick Leave With Pay.

When this ten year provision applies, it cannot, under any circumstances, extend the cumulative maximum allowance of five months of Extended Sick Leave With Pay for which employees may become eligible during their entire working career with Erie County. In every case, refer to the labor agreement for your bargaining unit for specifics concerning eligibility.

No credits for sick leave, personal leave or vacation shall be earned during periods of Extended Sick Leave with pay.

Approval for such leave must be applied for separately for each month or portion of a month of continuous absence. Each application for the original 30 days benefit, and for each subsequent extension of an initial leave, must be separately approved by the Department Head and by the Commissioner of Personnel. Form PO-302 Request for Extended Sick Leave must be submitted with a medical stating diagnosis and estimated date of return to work.

All accrued time, i.e., vacation, sick time, personal leave, compensatory time, etc., must be exhausted before approval of any such Extended Leave.

This benefit is intended solely for the protection of long service career employees when illness or recuperation from injury extends for a long period, but who are fully expected to be able to return to their career employment and to function effectively. It is NOT INTENDED as a prelude to retirement. Abuse may result in discharge.

The County retains the right to confer with the attending physician during such extended leave, and/or to request that any employee granted such leave be examined by a County physician.

## CANCER SCREENING

All employees will receive excused paid leave time to allow for breast and prostate cancer screening. Such excused leave shall not exceed four (4) hours for breast cancer screening and four (4) hours for prostate cancer screening on an annual, calendar year basis. A Cancer Screening Request Form can be found on Sharepoint and should be submitted with appointment letter.

## SAFETY AND HEALTH

Erie County is very concerned about the safety and health of its employees. Each department will provide a place to work that is as free from hazards as possible. The employee safety slogan for our County, “Safety Today for a Healthy Tomorrow”, illustrates our commitment to a sound safety and health program.

Occupational accidents and illnesses can cause suffering and financial loss to both the employee and employer alike. Therefore, it is important for each employee to conduct himself in a safe manner, to abide by the established work rules and standard practices and to call to the attention of supervision either unsafe conditions or unsafe behavior by individuals. If you do not understand procedures, instructions, or the rules, you should seek clarification from your supervisor. Efficiency of County operations can be directly influenced by our ability to minimize accidental injuries and property losses. Remember, most accidents are avoidable!

The New York State Public Employee Safety and Health Act of 1980 (PESH) provides job safety and health standards for workers. This law embraces the Federal Occupational Safety and Health Act of 1970, known as OSHA. A complimentary State statute, applicable to both public and private employees, is the New York State Toxic Substance Law, which is frequently

referred to as the “Right to Know Law.” Under “Right to Know” employers in New York State must inform their employees about the health effects of toxic substances found at their work sites. An appropriate notice advising employees of their right to information about these toxic substances and the name of a County contact person must be conspicuously posted. Toxic materials information is available through the County contact person.

## **SAFETY RULES - SAFETY COMMITTEES**

In addition to the laws, regulations, and general safety rules applicable to all County operations, specific complementary rules have also been adopted by some departments. All employees should be familiar with the rules that apply specifically to their own operations and department.

Safety committees composed of employees and management representatives meet regularly to discuss safety and health issues. All employees have the opportunity to make recommendations and seek information from the committee having oversight responsibility for their departments.

## **EMPLOYEE RESPONSIBILITIES**

Accident prevention requires teamwork, cooperation and commitment from everyone. This includes employees, supervisors and department heads equally. The County is committed to the use of proper protective clothing and equipment. Required protective clothing and equipment shall be properly used and cared for by all employees. Failure to properly care for and use these items will result in disciplinary action. Safety and health practices must and will take precedence over expediency or short cuts.

It is management’s responsibility to properly instruct employees and to ensure that they know how to perform their duties in an acceptable manner. Employees are encouraged to request instruction in those tasks or in the operation of equipment with which they are not familiar. Employees should inform their supervisor immediately if they detect or even suspect an imminent danger. This term is defined by Federal regulations “as a condition where there is reasonable certainty that a danger exists that can be expected to cause death or serious physical harm immediately, or before the danger can be eliminated through normal enforcement or corrective measures.” Of course, less critical conditions should also be routinely reported.

All employees should know their exact duties in case of an accident, fire or other catastrophe. Awareness of emergency phone numbers, evacuation procedures, and knowing how to seek emergency help is the responsibility of

every employee. Housekeeping plays an important role in accident prevention. It is the employees' responsibility to keep their own work areas clean and free of known hazards.

## **ON-THE-JOB ACCIDENTS**

Each employee is responsible for reporting all accidents immediately. Complete records of employee accidents and injuries are maintained by each department. Procedures for reporting on-the-job accidents and the Workers' Compensation reporting requirements can be found in this handbook under the title "On the Job Injury" and also in detail in the Erie County Personnel Policy/Procedure Manual, Chapter IX, Section 5.

It is the policy of Erie County that each department will make a reasonable effort to facilitate the return-to-work of injured employees. Erie County has an ongoing employee assistance program (see the Employee Assistance Program section of this Handbook) to help employees with their health problems relating to stress and chemical dependence.

## **ON THE JOB INJURY**

Accidents do occasionally happen. While most work related injuries are infrequent and minor, the potential for more serious injury certainly exists. The proper course of action for an injury during working hours necessarily depends on its type and severity. For any serious injury, the first step is always to get medical attention/treatment as quickly as possible. For a minor injury or accident, the supervisor should be contacted (circumstances permitting), then first aid or medical treatment (as appropriate) should be secured, preferably through First aid or the Employee Health Offices.

Every job related injury must be reported in writing to the department head or designee at the earliest possible time that circumstances permit. Prompt reporting protects you!

When a job-related accident or illness causes an employee to miss work time and/or results in a bill for medical services, the department is required by law to immediately complete and forward a Workers' Compensation Board standard C-2 form (EMPLOYER'S REPORT OF INJURY). The form includes the necessary personal and earnings data for the employee, the nature of the injury as well as the time, date and pertinent details of its occurrence.

Completion of the C-2 establishes that an injury has been reported/treated, and if time away from the job becomes necessary, it enables the claims agent to promptly start payment to the employee.

Under present regulations, no Workers' Compensation benefits are paid for the first five normally scheduled working days after an injury is sustained. After the eleventh lost time day, payment becomes retroactive to the first day of lost work time.

If injury results in loss of time from work and/or possible residual impairment, the Workers' Compensation Board makes a determination as to eligibility for and the amount of benefits to cover medical expenses, loss of wages, etc.

## LEAVES OF ABSENCE WITHOUT PAY (GENERAL)

An application for leave of absence without pay must be made to the Department Head on the prescribed form PO18. With the exception of maternity and military leave, leave without pay is granted only to permanent employees. You should check with your department regarding the exact procedures to be followed.

## MILITARY LEAVE OF ABSENCE

Employees entering active military duty are entitled to leaves of absence from their positions, while engaged in, going to and returning from military duty. The right to this leave is provided for in the Military Law and is not at the discretion of the appointing officer. This provision also applies to reservists, draftees and volunteers equally.

Employees who are ordered to active duty in the National Guard or any reserve force are entitled to remain on active pay status for a total of thirty calendar days or twenty-two work days (whichever is greater) in any calendar year. Form PO18 and a copy of the Military Orders must be submitted with the leave request.

## VETERANS EDUCATIONAL LEAVE

Veterans who are qualified to receive education, training or vocational rehabilitation under the law shall be granted leave without pay for this purpose,

provided that school attendance precludes employment in their County positions. Such leave will be granted for a maximum of four years and will terminate before that time if employees stop attending school or exhaust their veterans' benefits. Form PO18 should be submitted for this request.

## LEAVES WITHOUT PAY FOR OTHER REASONS

Request for leave without pay for reasons other than those discussed above shall be approved by a Department Head only under exceptional circumstances. Such requests must then be submitted along with Form PO18 to the Commissioner of Personnel, with the recommendation of the Department Head for final approval. Check with the applicable sections of the labor agreement for your bargaining unit.

## RETIREMENT BENEFITS

All County employees have the right to join the New York State Employees Retirement System. Permanent full time employees are required to join. The system provides for service retirement and also for benefits in the event of death or disability. Membership applications may be obtained from your own department's personnel or payroll section.

There are five separate classes of Employees' Retirement System membership, depending on system enrollment date. Tier 1 members are those persons who last became members on or before June 30, 1973. Generally, Tier 2 members are those who last became members on or after July 26, 1973. Tier 3 members are those persons who last became members on or after July 27, 1976 and Tier 4 covers all members who last entered the system on or after September 1, 1983, and Tier 5 covers members entering the system on or after January 1, 2010.

Tier 3, Tier 4, and Tier 5 members must contribute 3% of their gross pay to the retirement system. Tier 3 and Tier 4 employees contributions cease after 10 years. Tier 3 and 4 members may withdraw their own contributions to the system if they separate from service prior to serving 10 years. The individual or one acting for a deceased member's estate, must specifically apply for withdrawal of these contributions. There are variations in the retirement plan for each tier with respect to employee contributions, benefits, minimum retirement age and so forth.

Membership in the Retirement System is not automatic upon being employed. Application must be made by the individual employee on the forms available in each County Department.

Erie Community College Faculty may choose the Employee's Retirement Plan, the TIAA-CREF Retirement Plan or the New York State Teachers Retirement Plan.

An employee must be in the Retirement System for five years to become vested or for 10 years if a member of Tier 5. Being vested means you are entitled to receive benefits at retirement age even though you may have left government employment covered by the New York State Employees' Retirement System. The system is complicated, and employees should consult with the New York State and local retirement system and/or the Erie County Personnel Department for information pertaining to benefit payment options.

Some Sheriff's Deputies engaged directly in criminal law enforcement activities are covered by special plans of the Retirement System. Sheriff's Deputies now entering County employment are covered under the standard current plan.

The State Retirement System views all matters concerning an individual's retirement status as personal matters between the employee and the Retirement System. They will not release any retirement information to anyone other than the employee or persons legally authorized to act for the employee. Therefore, employees who have questions about their retirement status should address their questions in writing to the New York State Employees' Retirement System, Governor Smith State Office Building, Albany, NY 12244.

A field representative of the State Retirement System is located at the State Office Building, 65 Court Street, from 9 to noon and 1 to 4 on the first, second, third and fourth Monday, Tuesday, Wednesday and Thursday of each month. Visitors who wish to meet with a representative must schedule an appointment. The toll free number is 1-866-805-0990.

#### NOTES:

- 1) All permanently appointed new employees other than regular part-time and part-time workers must become members of the Retirement System at the time of appointment (mandatory).
- 2) Foreign nationals holding certain visas, who are by law exempt from paying into Social Security, may also be excluded from the Retirement System. All visa information must be furnished by the employee at the

time of appointment and this information must be forwarded to the Erie County Personnel Department.

- 3) Regular part-time, part-time, temporary and provisional employees MAY JOIN the Retirement System but are not required to do so. However, once employees join the system, they CANNOT withdraw from membership, so long as they are employed in any capacity by New York State government or any of its municipalities.

## BEREAVEMENT LEAVE

An employee on active pay status who have a death in his immediate family or another relative who is an actual member of the employee's household, will receive bereavement leave, without loss of pay, up to the maximum number of consecutive calendar days provided by the applicable collective bargaining agreement. However, pay will not be granted for any consecutive calendar days that are the employee's regularly scheduled days off. (See the collective bargaining agreement for your unit for specifics.)

## LEAVE FOR JURY DUTY

Leave of absence will be granted to employees who are called for jury duty or must attend court for other than personal reasons. County pay during jury duty is provided to the extent set forth in the respective collective bargaining agreements. Employees must present proof of the need for jury service or court attendance, and that they were actually in attendance on the days claimed. (For details please refer to the collective bargaining agreement for your unit.)

## UNEMPLOYMENT INSURANCE

The primary purpose of Unemployment Insurance is to provide temporary financial assistance to workers who may become unemployed through no fault of their own, until they can locate other suitable employment.

Persons who are laid off must serve an unpaid waiting period equivalent to one full week of employment benefits.

The conditions under which persons may be eligible for Unemployment Insurance payments, the amount of individual payments, and the maximum

period of payments are all determined by the New York State Department of Labor, and are subject to amendment or change. Therefore, questions concerning Unemployment Benefits must be directed to the New York State Unemployment Insurance office.

If you are laid off from County employment, you will be given a partially completed Record of Employment form at the time of termination. You should present this form at the time you file a claim for Unemployment Insurance Benefits.

All County Unemployment Insurance matters are administered directly through the Erie County Personnel Office on the sixth floor of the Rath Building.

## TRAVEL EXPENSES

County employees who are required to use their private vehicles during the course of their employment must have prior approval from their department head. All mileage requests must be made on the proper form.

Each department has copies of the forms for use. The policies and procedures covering expenses for employees conducting official County business are reflected in the rules and regulations issued by and amended by the County Comptroller.

## COMPUTER INFORMATION SECURITY

Information critical to the operation of the County, regardless of its format is an asset of the County and measures shall be taken to protect this asset from unauthorized modification, destruction, or disclosure, whether accidental or intentional.

All County employees, users, contractors, or other personnel are responsible for complying with County security policies, standards, processes, and procedures. This includes building, configuring, operating, and maintaining networks and systems in accordance with these policies, standards, processes, and procedures. Anyone becoming aware of violations of this policy should immediately bring this to the attention of his or her immediate supervisor and the appropriate department and agency authority.

For more information see the “County of Erie Enterprise Information Technology Security Policy” at <http://sharepoint.erie.gov/policies/Technology>.

## INTERNET ACCESS POLICY

Erie County's Internet connection is an Erie County Network service provided by the Division of Information and Support Services that enables participating County departments, agencies and personnel to access Internet resources.

Use of the Erie County Internet connection will be for the sole purpose of conducting County business. It is to be used with discretion. To establish Internet access for any County employee, department head approval is required.

Erie County reserves the right to monitor Internet access and usage for the same reasons and purposes any County computer device or electronic information is subject to review. These reasons include, but are not limited to, maintenance, repair, and “help” functions, troubleshooting and suspected abuses of Internet access privileges. Any employee who is using the internet for non-County business or personal use during work hours may be subject to discipline.

All files and communication created by County employees by using the County Internet connection will remain the property of Erie County.

Any problems, difficulties or unauthorized use should be immediately reported to the Help Desk.

## E-MAIL POLICY

Erie County's electronic mail (e-mail) is a County Network software service provided by the County that enables participating departments, agencies, personnel and other authorized users to send and receive messages and utilize related utilities. It is for County business use only. It is to be used with discretion. E-mail is an electronic replacement for paper memoranda and as such, is similar in purpose, use and security. Erie County reserves the right to monitor the system for the same reasons and purposes any County computer device or electronic information is subject to review. These reasons can include maintenance, repair, “help” functions, troubleshooting and suspected abuses of email privileges. Any employee who uses the County email system for non-County businesses or personal use may be subject to discipline.

Any problems, difficulties or unauthorized use should be immediately reported to the Help Desk. For further information, employees should refer to the Erie County Internet Access/Electronic Mail policy.

## BLOOD DONATION POLICY

In keeping with Erie County Policy and New York State law, employees are given time to donate blood.

Each year Erie County government participates in the blood collection programs which are conducted by the Local agencies such as the Buffalo Chapter of the American Red Cross. In order to support this program employees will be given time to make a donation. Time off to donate blood must be cleared through your supervisor.

## SMOKING POLICY

All smoking by employees of Erie County is prohibited in any and all offices, buildings, vehicles and/or facilities owned, rented or leased by the County of Erie. There are no exceptions. (Employees found violating this policy are subject to disciplinary action.)

Persons who smoke outside of affected buildings may do so only during their normal break or lunch periods. Employees who wish to smoke outside during their authorized break or lunch periods should check the Smoking Law policy in the Personnel Policies and Procedures manual and/or consult their supervisor for further information regarding permissible smoking areas at their work site.

## DRUG FREE WORKPLACE

Erie County is committed to providing a drug free workplace. The unlawful manufacture, distribution, disposition, possession or use of controlled substances during working hours and at any County workplace is prohibited, and any employee engaging in such conduct shall be discharged in accordance with applicable employee bargaining unit contracts and County policies.

Counseling for employees with substance abuse problems is available through the Employee Assistance Program.

## DUAL EMPLOYMENT

Two concurrent full-time appointments are not permitted for any individual in County service either in a single department, or in any combination of departments.

While Erie County does not encourage dual employments, a full or part-time employee may, under certain circumstances, concurrently hold another different part-time or seasonal position under another title, SO LONG AS THERE IS NEITHER A CONFLICT IN HOURS FOR THE SEPARATE EMPLOYMENTS, NOR ANY CONFLICT WITH THE OVERTIME PROVISIONS OF THE FAIR LABOR STANDARDS ACT. Under no circumstances will dual compensation be paid to any employee for the same hours.

## CLASSIFIED RULES

Civil Service Law (Section 20) requires that “each municipal Civil Service Commission shall prescribe, amend and enforce suitable rules for carrying into effect” the provisions of the State Civil Service Law.

Said rules must be approved by the State, and after such approval they have the force and effect of law.

These rules are published periodically by the County Personnel Department as “Rules for the Classified Civil Service of the County of Erie.....”

Copies of the rules are available for review at either the Erie County Personnel Department, or at the departmental Personnel Office of each County department. They also can be found on the Erie County Intranet site (Sharepoint).

## COMPETITIVE CLASS TRANSFER

Employees with permanent status in Competitive Class positions can transfer to positions under the same titles in another County department. Such transfers require the permission of the head of the department to which transfer is sought, the Commissioner of Personnel and the employee being transferred.

Transfer under the same title between departments does not affect the Civil Service status of transferees in any way. They may be permitted to transfer accrued benefits with them to the new department. Such use or transfer of benefits should be worked out with the respective departments prior to the actual transfer, so as to avoid possible misunderstandings or confusion.

Transfers may be made either intra-departmentally (within the same department), or inter-departmentally (between two separate departments), as indicated in the first paragraph of this section. There are provisions to cover each type of transfer in the several collective bargaining agreements. Please refer to the appropriate agreement(s) if you contemplate requesting either type of transfer.

Transfer *cannot be made* to a competitive class position for which a preferred list exists.

Civil Service transfers are sometimes possible even between jurisdictions, such as from County service to the service of one of the towns or villages, etc. Such inter-jurisdictional transfers are complex, and should be undertaken *only after direct consultation* with the County Personnel Department.

## LAY-OFF/RETRENCHMENT FOR COMPETITIVE CLASS POSITIONS

The County will continue to make any necessary reductions in workforce or programs through attrition (resignations, retirement, etc.). If this is not possible, lay-offs may be necessary in accord with Section 80 of the Civil Service Law and with the provisions of applicable collective bargaining agreements. A Competitive Class employee's retention rights are based on seniority, which dates from the first date of permanent appointment in the classified service. Those with temporary or provisional appointments, who have not previously had permanent status and continuous service since, are not entitled to re-call or to re-instatement under Civil Service Law.

Section 80 governs lay-off of permanent employees in the Competitive Class. For these employees, the lay-off unit is the County department or other designated unit. If they cannot "bump" within the department from which they are laid-off, their names are then put on preferred lists according to seniority, for recall as positions become available (See Competitive Class PREFERRED LISTS RESULTING FROM LAY-OFF).

## **FOR NON-COMPETITIVE AND LABOR CLASS POSITIONS:**

The collective bargaining agreements prescribe the method for lay-off of Non-Competitive and Labor Class employees. The agreements describe the “bumping” procedures in detail, along with the methods for determining retention rights for other than Competitive Class employees. (In all cases refer to the Collective Bargaining Agreement for your particular bargaining unit.)

**NOTE:** Some labor agreements provide that a person whose job is affected and who has enough seniority to “bump” another can elect to take lay-off rather than exercise bumping privileges. Persons laid-off through no fault of their own are usually entitled to Unemployment Compensation benefits. Eligibility for Unemployment Insurance may be affected if a person voluntarily elects this lay-off rather than “bump”. Check carefully with your personnel department and the New York State Department of Labor if at any time you consider this option.

Section 85 of the Civil Service Law provides that war time veterans serving in permanent competitive class positions shall be granted additional retention rights in the event of retrenchment or lay-offs: (1) Blind Veterans are granted absolute rights to retention; (2) Otherwise, disabled veterans shall have sixty (60) months added to their actual seniority dates; (3) Non-disabled veterans shall have thirty (30) months added to their actual seniority dates.

Persons with prior military service who believe they are or may be eligible for veteran’s status should request forms from the County Personnel Department to ensure that their veteran’s status is properly recorded. Such status must be verified by copies of Military Discharge papers.

## **COMPETITIVE CLASS PREFERRED LISTS RESULTING FROM LAY-OFF**

Persons serving under permanent Competitive Class appointment, who are laid-off as a result of retrenchment, will have their names placed on preferred lists for their respective titles in inverse order of their lay-off dates.

As positions become available, re-call to these or comparable titles will be offered in the same order that the names of the laid-off employees appear on

the preferred lists; i.e., the person with the greatest seniority first, the person with the second greatest seniority second, etc.

A preferred list takes precedence over any other eligible list for any Competitive Class appointment, unless a permanently encumbered position has been re-classified to a higher title. In that situation, the permanent incumbent under the lower title is entitled to participate in a promotion examination for the higher, re-classified title.

Persons on preferred lists will have their names certified for appointment to the same or to comparable titles, either in their original departments or in other County departments. Only the Commissioner of Personnel may determine when job duties under different titles are equivalent or similar enough to warrant certification from a preferred list.

Preferred list applicants may decline appointment to a position in a department other than their original lay-off department. However, they will not thereafter be canvassed for any future vacancies except those occurring in their original lay-off department.

Preferred list applicants who decline appointment to the same or comparable titles in their original lay-off department will have their names stricken from that preferred list.

Only under extremely unusual circumstances (other than the foregoing) may appointment from a preferred list be declined without the decliner's name being automatically removed from the preferred list. Reasons for such declinations must be submitted in writing and must be approved or disapproved on their individual merits by the Commissioner of Personnel.

A preferred list remains in effect for four years (or longer if approved by legislative action) from the date it is established. If a preferred list appointment has not been offered to laid-off employees within this period, their preferred list rights cease.

#### **FOR RETRENCHMENT IN OTHER THAN COMPETITIVE CLASS POSITIONS:**

Preferred lists are established only for Competitive Class titles under the provisions of Civil Service Law. They *should not be confused with Recall Lists*, which are based on seniority, and are established in accordance with the provisions of collective bargaining agreements. (See the LAY-OFF and RECALL sections of your particular bargaining agreement).

## RESIGNATIONS

Rule XIX of the “Rules for the Classified Civil Service ----” provides:

(1) Resignation in Writing:

Except as otherwise provided herein, every resignation shall be in writing.

(2) Effective Date:

If no effective date is specified in a resignation, it shall take effect upon delivery to or filing in the office of the appointing authority. If an effective date is specified in a resignation, it shall take effect on the date specified. However, if a resignation is submitted while the employee is on leave of absence without pay, the resignation, for the purpose of determining eligibility for reinstatement, shall be deemed to be effective as of the date of the commencement of such absence. Notwithstanding the provisions of this section, when charges of incompetency or misconduct have been or are about to be filed against an employee, the appointing authority may elect to disregard a resignation filed by the employee and to prosecute those charges; and, in the event that the employee is found guilty of those charges and dismissed from the service, the termination will be recorded as a dismissal rather than a resignation.

(3) Withdrawal or Amendment:

A resignation may not be withdrawn, canceled or amended after it is delivered to the appointing authority, without the consent of the appointing authority.

## REINSTATEMENT

### TO COMPETITIVE CLASS POSITIONS:

Permanent Competitive Class employees who have resigned from their positions may be reinstated by the appointing authority without further Civil Service examination.

Any request for reinstatement must be initiated by the applicant, and must be submitted in writing directly to the appointing authority (Department Head). Reinstatement may be granted to the position(s) from which employee

resigned, if vacant, or to different position(s), for which the employee was eligible for transfer or reassignment at the time of resignation. Reinstatement after absence of more than one year requires the approval of the Commissioner of Personnel.

**TO OTHER THAN COMPETITIVE CLASS POSITIONS:**

For resignation and re-instatement to other than Competitive Class positions and/or titles, refer to the labor agreement for your bargaining unit.

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