

**MALHEUR COUNTY**

**POLICY AND INFORMATION**  
**MANUAL**

**FOR EMPLOYEES**

Last Revised 06/2021

## **INTRODUCTION**

Welcome to Malheur County.

Malheur County was established on February 17, 1887. It is the second-largest county in Oregon. Malheur County's governing body is the Malheur County Court comprised of one county judge and two county commissioners. Other elected officials for Malheur County are the Sheriff, District Attorney, Justice of the Peace, Treasurer, Clerk and Assessor. Several departments report directly to the Malheur County Court which includes the Building Department, Health Department, Juvenile Department, Administration, Planning and Zoning, Environmental Health, County Counsel, Road Department, Surveyor/Engineer, Economic Development, Information Services, Veteran's Service, and Weed Control.

## ABOUT THIS MANUAL

To help acquaint you with Malheur County's organization, this Employee Policy and Information Manual (Manual) has been prepared as a guide to policies, procedures, benefits and practices of Malheur County. Please familiarize yourself with its contents and keep it handy as a periodic reference. You may want to share it with your family members so that they will understand your work environment and particular benefits.

By its nature, this Manual contains only general information and guidelines. This Manual cannot and does not address every possible situation or question about employment related matters with Malheur County. For this reason, if you have any questions, need more detail or have suggestions for this Manual, please speak with your supervisor or the Malheur County Personnel Officer.

This Manual is effective January 1, 2003. Please be aware that any oral statements or representations cannot change or alter the provisions of this Manual.

This Manual and the personnel policies contained within it can be modified, revoked or added to at any time at the sole discretion of the Malheur County Court through the Administration/Personnel office.

We recognize that employees differ in their skills, goals, perceptions and values and that conditions may arise because of their diversity which may not be sufficiently addressed within this Handbook or which may result in conflict. When that occurs, Malheur County will endeavor to make decisions that are fair and equitable, while at all times ensuring that the best interests of Malheur County are served.

Many provisions in this Manual do not apply to elected officials, part-time or grant funded employees. Some subjects described in this Manual such as benefit plan information are covered in detail in official policy documents. You should refer to these documents for specific information since this Manual only briefly summarizes those benefits. Please note that the terms of the written insurance policies are controlling. Should you have any questions or need further detail, please speak with your supervisor or Personnel Officer.

**This Manual does not confer any contractual right, express or implied, to remain an employee of Malheur County. This Manual does not guarantee any fixed terms and conditions of employment. For union and contract employees, in the event of a direct conflict between this Manual and a collective bargaining agreement or individual contract, the collective bargaining agreement or individual contract will control. All other employees are "employees at- will", which means that employment is not for any specific time and you may be terminated by Malheur County, or you may resign, with or without reason or notice at any time.**

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## **100 – EQUAL OPPORTUNITY**

### **Policy Statement**

It is the policy of Malheur County to provide equal opportunity to all persons in matters affecting, but not limited to recruitment, employment, compensation, benefits, promotions, training, discipline, transfer and layoff practices as well as benefits, activities, facilities, and services operated, sponsored, or participated in by the County without unlawful regard to a person's race, color, religion, national origin, mental or physical disability, sex, sexual orientation, age, gender identity, pregnancy (including childbirth and related medical conditions), genetic information, veterans status, domestic violence, victim status or any other status protected by applicable federal, Oregon or local law.

Individuals who believe they have been subjected to discrimination shall be entitled, as a matter of right, to use any and all complaint procedures (i.e. oral, written, grievance, BOLI etc.) without fear of coercion or reprisal.

### **Intent**

Malheur County's Equal Employment Opportunity (EEO) Policy, and Policy 101-Prohibition of Harassment, Sexual Assault, Discrimination and Bullying etc. are positive policies intended to provide equal opportunity and treatment to all individuals.

### **Policy Dissemination**

In order to properly install provisions of this Equal Employment Opportunity (EEO) policy, and Policy 101 - Prohibition of Harassment, Sexual Assault, Discrimination and Bullying etc., it is necessary that all employees, prospective employees, the community at large and all contractors and subcontractors be informed of the County's policies. Therefore, the following internal and external dissemination shall occur:

#### **Internal Dissemination**

1. The County Policy and Informational Manual For Employees (Manual) will be posted on-line and in print, upon request, for employees of the County. Supervisors and elected officials will request new employees to review the Manual.
2. The EEO statement will be included in all applicable County policy manuals, grants and reports.

## **100 – EQUAL OPPORTUNITY continued**

3. A non-discrimination clause will be included in all union agreements and all contract provisions of collective bargaining unit agreements will be reviewed to insure they are non-discriminatory (See contract with AFSCME at paragraph 17.1 and contract with Sheriff's Association paragraph 16.9).
4. All new employees will be informed of the EEO Policy 100 and Policy 101 - Prohibition of Harassment, Sexual Assault, Discrimination and Bullying etc. in employee orientation.
5. Sessions on discrimination will be incorporated into supervisory and management training courses.

### External Dissemination:

1. The statement "Equal Opportunity Employer" will be incorporated in all advertising and recruitment literature and all other County communications.
2. Recruitment sources will be informed verbally and in writing of the County's EEO Policy and no-discrimination policies.
3. All contractors and subcontractors maintaining personal service contracts with Malheur County will be advised in writing of the County's EEO Policy 100 and Policy 101- Prohibition of Harassment, Sexual Assault, Discrimination and Bullying Policy etc.. A no-discrimination and EEO statement may be incorporated in purchase orders, leases and contracts.
4. The EEO and no-discrimination policies are available on the county's website for public access.

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**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS**

**POLICY STATEMENTS**

It is the policy of Malheur County to recruit, hire, train and promote all persons in all job titles and to provide County services to all individuals without unlawful regard to race, color, religion, national origin, mental or physical disability, sex, sexual orientation, age, gender identity, pregnancy (including childbirth and related medical conditions), genetic information, veterans status, domestic violence, victim status, marital status, expunged juvenile record, uniformed service or any other status protected by applicable federal, Oregon or local law.

Malheur County employees must be able to work in a setting/workplace free from all forms of unlawful discrimination, harassment, sexual assault and bullying: (a) in the workplace, (b) at a work-related event that is off the employment premises and coordinated by or through Malheur County, or (c) outside of the workplace when an employee's right to work in a discrimination or harassment-free workplace is compromised or violated.

Harassment, sexual assault, discrimination and bullying are unacceptable in the workplace, in any work-related setting outside of the workplace and when using County owned equipment including vehicles and electronic devices such as computers, phones, photocopiers and faxes.

Employees who violate this policy are subject to disciplinary action, up to and including termination.

Every employee and elected official shares the responsibility to create a work atmosphere free from harassment, discrimination, sexual assault, or bullying. Every employee and elected official shares the responsibility for promptly bringing to the County's attention conduct that interferes with providing a work environment free of unlawful discrimination, harassment, sexual assault or bullying.

Malheur County supports Oregon's Pay Equity Law. *See Pay Equity Policy 208.*

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

**DEFINITIONS**

**BULLYING:** Bullying refers to repeated, unreasonable actions of individuals (or a group) directed towards an individual or a group of employees, which is intended to intimidate and that creates a risk to the health and safety of the employee(s). Examples of bullying include:

1. Verbal Bullying: Slandering, ridiculing or maligning a person or his/her family; persistent name calling which is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks.
2. Physical Bullying: Pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; damage to a person's work area or property.
3. Gesture Bullying: Non-verbal threatening gestures, glances that can convey threatening messages.
4. Exclusion Bullying: Socially or physically excluding or disregarding a person in work-related activities. In some cases, failing to be cooperative and working well with co-workers may be viewed as bullying.
5. Cyber Bullying: Bullying that takes place using electronic technology, which includes devices and equipment such as cell phones, computers, and tablets as well as communication tools including social media sites, text messages, chat and websites. Examples of cyber bullying include transmitting or showing mean-spirited text messages, emails, embarrassing pictures, videos or graphics, rumors sent by email or posted on social networking sites, or creating fake profiles on websites for co-workers, managers or supervisors or elected officials.

**DISCRIMINATION:** Unequal or different treatment of an individual on the basis of race, color, sex, religion, sexual orientation, national origin, age, disability, political affiliation, marital status or familial status or other protected status in accordance with applicable state and federal law.

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

**HARASSMENT:** Harassment is verbal or physical conduct that demeans or shows hostility toward an individual because of his/her race, color, religion, sexual orientation, sex, political affiliation, marital status, familial status, national origin, age or disability or that of his/her relatives, friends or associates that: (1) has the purpose or effect of creating an intimidating, hostile or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or (3) otherwise adversely affects an individual's employment opportunities.

**SEXUAL ASSAULT:** Unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation (defined in Oregon Workplace Fairness Act (SB 726 (2019))).

**SEXUAL HARASSMENT:** The Equal Employment Opportunity Commission defines sexual harassment as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

**PROHIBITED  
CONDUCT:**

This is not a complete list:

**(A) Verbal or Physical Conduct**

- (1) Use of epithets or slurs because of race, color, sex, age, sexual orientation, religion, national origin, political affiliation, familial status, marital status, physical or mental disability or other protected status in accordance with applicable law, such as racial slurs or derogatory remarks based on national origin or ethnicity.
- (2) Jokes, pranks or other banter that are derogatory or show hostility because of race, color, sex, age, sexual orientation, political affiliation, religion, national origin, familial status, marital status, physical or mental disability or other protected status in accordance with applicable law, such as making fun or telling jokes about physical or mental disabilities or sexual orientation; or negative stereotyping.
- (3) Unwelcome physical touching or contact, such as pinching, grabbing, patting, touching, hugging; threatening, intimidating or hostile acts. Unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; sexual jokes; flirtations; advances or propositions; verbal abuse of a sexual nature; comments about an individual's body, sexual prowess, or deficiency; talking about your sex life or asking others questions about theirs; leering or whistling; unwelcome touching or assault; sexually suggestive, insulting, or obscene comments or gestures; displays of sexually suggestive objects or pictures; making derogatory remarks about individuals who are gay, lesbian, bisexual or transgender; or discriminatory treatment based on sex.

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(B) Written or Graphic Material

Material that is disparaging of or displays hostility on the basis of race, color, sex, age, religion, national origin, sexual orientation, political affiliation, familial status, marital status or physical or mental disability or other protected status in accordance with applicable law and is placed on walls or elsewhere on County premises or circulated in the workplace. This includes sending inappropriate jokes, cartoons, magazines, or other written or graphic materials via e-mail, the internet, facsimile, or downloading from the internet.

(C) Bullying: As set out in the Definitions paragraph above.

**RETALIATION**

Malheur County will not tolerate retaliation against any individual who reports discrimination, harassment, sexual assault or bullying, testifies, assists or participates in any manner in such an investigation, proceeding or hearing, regardless of the outcome of the harassment, sexual assault, discrimination or bullying complaint. Examples of retaliation toward an individual include, but are not limited to: demotion, suspension, failing to hire or consider hiring, failing to treat impartially when making employment decisions, assigning the individual the least desirable jobs etc.

Employees who believe they have been retaliated against in violation of this policy should immediately report it to:

- (a) A supervisor;
- (b) Department Head/Elected Official;
- (c) Malheur County Court Judge (541) 473-5124;
- (d) Malheur County Personnel Officer (541) 473-5167;
- (e) Malheur County Administrative Officer (541) 473-5187; or
- (f) County Counsel (541) 473-5501.

*See County's Open Door Policy – 113.*

Any individual who receives a report or complaint of retaliation must provide a copy of this policy to the individual making the report or complaint at the time such complaint, disclosure or report is made.

Any employee who is found to have retaliated against another employee in violation of this policy will be subject to disciplinary action up to and including termination of employment.

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

**COMPLAINT PROCEDURE**

1. Employees are expected to promptly report violations of this policy. Employees are advised to document conduct that is unlawful under this policy.
2. Any employee who believes he or she has been the subject of harassment, sexual assault, discrimination or bullying should report the circumstance immediately to one or more persons identified in 4 immediately below.
3. Complaints may be submitted orally or in writing. A complaint may also include a suggested method of resolution. An employee does not have to file a formal written complaint in order to discuss a concern about a situation he/she believes may involve discrimination, harassment, sexual assault, bullying or retaliation.
4. A violation of this policy may be reported to one or more of the following persons:
  - (a) A supervisor;
  - (b) Department Head/Elected Official;
  - (c) Malheur County Court Judge (541) 473-5124;
  - (d) Malheur County Personnel Officer (541) 473-5167;
  - (e) Malheur County Administrative Officer (541) 473-5187; or
  - (f) County Counsel (541) 473-5501.

*See County's Open Door Policy-113.*

Any individual who receives a report or complaint of retaliation must provide a copy of this policy to the individual marking the report or complaint at the time such complaint, disclosure or report is made.

5. A particular form for a written complaint is not necessary. However, sample forms are attached to this policy for convenience and may be used. If a written complaint is made, it will be filed with the Personnel Officer after delivery to any person identified in 4 above. Complaints should be filed as soon as possible.
6. All complaints will be promptly investigated. The individual who receives the complaint may discuss options for informally resolving the complaint with the complainant.
7. Confidentiality will be maintained to the extent possible, consistent with Malheur County's need to conduct an adequate investigation and to take prompt corrective action to rectify any harassment, sexual assault, discrimination or bullying in violation of this policy, which is found to have taken place.

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8. No employee will suffer any adverse consequences or retaliation as a result of acting in good faith to bring harassment, sexual assault, discrimination or bullying complaint or participate in an investigation.
9. Any employee found in violation of this policy will be subject to discipline, up to and including termination. Malheur County may also subject managers and supervisors who fail to report known harassment – or fail to take prompt, appropriate corrective action – to disciplinary action, including potential dismissal.
10. The foregoing procedure is separate from the grievance procedure under the respective collective bargaining agreements with Malheur County Sheriff's Association and the Malheur County Employee's Association under AFSCME.
11. Malheur County encourages individuals to use the internal complaint procedure for resolution of discrimination, harassment, sexual assault, bullying concerns and retaliation concerns. Individuals also have the right to file civil rights complaints with the Oregon Bureau of Labor and Industries (BOLI), United States federal Equal Employment Opportunity Commission (EEOC) and/or U.S. Department of Labor Civil Rights Center (CRC). Individuals can also consult an attorney for other ways to file a discrimination complaint.
12. Although Malheur County cannot provide employees with legal advice, employees should be aware of the statute of limitations applicable to harassment or discrimination claims under ORS 659A.030, ORS 659A.082, ORS 659A.112 or section 2 of Oregon's Workplace Fairness Act - which is 5 (five) years.

Other civil claims (other than those under ORS 659A.030, ORS 659A. 082, ORS 659A.112 or section 2 of Oregon's Workplace Fairness Act) must be commenced within one (1) year after the occurrence of the unlawful employment practice unless a complaint has been filed under ORS 659A.820. Further, before an employee can take any legal action against Malheur County, the employee must provide written notice of the claim within 180 days of the act or omission the employee claims has caused him/her harm (Oregon Tort Claims Act). When an employee can prove harm as a result of unlawful harassment or discrimination in an administrative proceeding or in a court, remedies available to the employee may include enforcement of a right, imposition of a penalty, money damages or issuance of an order to the employee's employer (in limited circumstances).



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**OTHER RESOURCES AVAILABLE TO EMPLOYEES**

Malheur County provides an Employee Assistance Program (EAP) through Cascade Centers to employees and dependents who are enrolled in Malheur County's medical coverage. For access to confidential help 24 hours a day, seven days a week, call toll-free: 1-800-433-2320, or go online [www.cascadecenters.com](http://www.cascadecenters.com). The EAP program provides confidential counseling services and educational tools such as resources relating to eldercare, childcare, legal consultation, financial coaching, identity theft, and others.

Malheur County cannot provide legal resources to its employees or referrals to specific attorneys. Employees may contact the Oregon State Bar for more information: <https://www.osbar.org/public/>.

**OTHER EMPLOYEE RIGHTS (voluntary agreement)**

Nothing in this policy is intended to diminish or discourage an employee who has experienced workplace harassment, discrimination, or sexual assault, from talking about or disclosing his/her experience.

Malheur County is committed to creating and maintaining a workplace free of sexual assault, harassment, discrimination, bullying, and retaliation and it has confidence in the process it has developed for addressing good-faith complaints. However, Oregon law requires Malheur County to inform employees that if they have been aggrieved by workplace harassment, discrimination or sexual assault and want to enter into an agreement with Malheur County regarding his/her experience and/or employment status (i.e. settlement, separation or severance), the employee should contact County Counsel (541) 473-5501, or County Administrative Officer (541) 473-5187, or County Personnel Officer (541) 473- 5167. The employee's request to enter into such an agreement must be in writing (email is acceptable). Requests of this nature will be considered on a case-by-case basis; such agreements are not appropriate for every situation. If Malheur County and employee do reach an agreement, Malheur County will *not* require or coerce an employee to enter into a *nondisclosure agreement* (which would prohibit the employee from discussing or communicating about his/her experiences in the workplace or the terms of the agreement) or a *non-disparagement agreement* (which would prohibit the employee from speaking slightly about Malheur County or making comments that would lower Malheur County in rank or reputation); or a *no-rehire* provision that prohibits an employee from seeking re-employment with Malheur County and allows Malheur County to not hire the employee in the future. If, however, the employee makes a request for an agreement under this paragraph, nondisclosure, non-disparagement and no re-hire are terms that Malheur County and the employee may agree to. The employee will have seven days to revoke the agreement containing these terms after signing it.



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**DISABILITY ACCOMMODATION AND REQUESTS FOR REASONABLE ACCOMMODATIONS**

Malheur County complies with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) and other applicable federal and state regulations that prohibit discrimination on the basis of disability. These acts mandate that no qualified person shall, solely by reason of disability, be denied access to, participation in, or the benefits of programs, facilities, places of public accommodation, or employment opportunities of Malheur County. Each qualified person will receive reasonable accommodation to ensure equal access to employment, programs, services and activities of Malheur County in the most integrated setting.

1. Requests for reasonable accommodations must be submitted in writing to the Malheur County Personnel Officer at Malheur County Courthouse, 251 B. Street West #1 or room 104, Vale, Oregon 97918; 541-473-5167; [Duane.Cowperthwait@malheurco.org](mailto:Duane.Cowperthwait@malheurco.org).
2. Malheur County will give serious consideration to an employee or applicant requesting reasonable accommodation. Each request will be considered on its own merits, in light of the particular job, of other related jobs, of the capabilities of a particular employee and the specific accommodation requested.
3. A reasonable accommodation is any change or adjustment to a job or work environment that does not cause an undue hardship on the department or Malheur County and that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, a reasonable accommodation may include providing or modifying equipment or devices, job restructuring, allowing part-time or modified work schedules, reassigning an individual, adjusting or modifying examinations or training materials provided by Malheur County, providing readers and interpreters, or making the workplace readily accessible to and usable by people with disabilities.
4. Employees should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to perform the essential duties of a position. All requests for accommodation should be made with the Personnel Officer and should specify which essential functions of the employee's job cannot be performed without a reasonable accommodation. In most cases, an employee will need to secure medical verification of his/her need for a reasonable accommodation. Both Malheur County and employee must monitor the employee's accommodation situation and make adjustments as needed.

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**PREGNANCY RELATED ACCOMMODATION AND REQUESTS FOR ACCOMODATION**

Employees who are concerned that their pregnancy, childbirth, or a related medical condition (including lactation) will impact their ability to work should contact their supervisor and the Personnel Officer to discuss their options for continuing to work and, if necessary, leave of absence options. Malheur County will provide one or more reasonable accommodations pursuant to this policy for employees with known limitations unless such accommodations impose an undue hardship on the department, office or Malheur County operations.

Although this policy refers to “employees,” Malheur County will apply this policy equally to an applicant with known limitations caused by pregnancy, childbirth or a related medical condition.

**Requesting a Pregnancy-Related Accommodation**

Employees who are concerned that their pregnancy, childbirth or a related medical condition will limit their ability to perform their duties should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to work. All requests for accommodation should be made with the Personnel Officer (Malheur County Courthouse, 251 B. Street West #1 or room 104, Vale, Oregon 97918; 541-473-5167; [Duane.Cowperthwait@malheurco.org](mailto:Duane.Cowperthwait@malheurco.org). and should specify which essential functions of the employee’s job cannot be performed without a reasonable accommodation. In most cases, information from the employee’s doctor may be needed to assist Malheur County and the employee to find an effective accommodation, or to verify the employee’s need for an accommodation. Both Malheur County and employee must monitor the employee’s accommodation situation and make adjustments as needed.

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**No Discrimination, No Retaliation For Pregnancy-Related Accommodations**

Malheur County prohibits retaliation or discrimination against any employee who, under this policy: (1) asked for information about or requested accommodations; (2) used accommodations provided by Malheur County; or (3) needed an accommodation.

Employees who ask about, request or use accommodations under this policy and applicable Oregon law have the right to refuse an accommodation that is unnecessary for the employee to perform the essential functions of the job or when the employee doesn't have a known limitation. Under Oregon law, an employer can't require an employee to use OFLA or FMLA if a reasonable accommodation can be made that doesn't impose an undue hardship on the operations of Malheur County. Also, no employee will be denied employment opportunities if the denial is based on the need of the Malheur County to make reasonable accommodations under this policy.

**Leave of Absence Options for Pregnant Employees**

Employees who are pregnant or experiencing pregnancy-related medical conditions should also be aware of their leave of absence options under OFLA and FMLA. *See Policy 304.*

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

**REPORTING CONCERNS OR OTHER VIOLATIONS OF LAW – NO RETALIATION**

Employees may report reasonable concerns about Malheur County's compliance with any law, regulation or policy, using any method identified in this policy (written, oral, email, completing complaint form). Malheur County will not retaliate against employees who disclose information that the employee reasonably believes is evidence of:

- A violation of any federal, Oregon, or local law, rules or regulations by Malheur County;
- Mismanagement, gross waste of funds, abuse of authority;
- A substantial and specific danger to public health and safety resulting from actions of the Malheur County; or
- The fact that a recipient of government services is subject to a felony or misdemeanor arrest warrant.

Further, in accordance with Oregon law, Malheur County will not prohibit an employee from discussing the activities of a public body or a person authorized to act on behalf of a public body with a member of the Legislative Assembly, legislative committee staff acting under the direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision, or an elected auditor of a city, county or metropolitan service district.

**Employee Reporting Options**

In addition to Malheur County's Open Door Policy – 113 employees who wish to report improper or unlawful conduct should first talk to his/her supervisor. If you are not comfortable speaking with your supervisor, or you are not satisfied with your supervisor's response, you are encouraged to speak with a County Commissioner, County Judge, County Counsel or County Administrative Officer. Supervisors and managers are required to inform County Counsel or the County Judge about reports of improper or unlawful conduct they receive from employees.

Reports of unlawful or improper conduct will be kept confidential to the extent allowed by law and consistent with the need to conduct an impartial and efficient investigation.

If Malheur County were to prohibit, discipline, or threaten to discipline an employee for engaging in an activity described above, the employee may file a complaint with the Oregon Bureau of Labor and Industries or bring a civil action in court to secure all remedies provided for under Oregon law.

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

**Additional Protection for Reporting Employees**

Oregon law provides that, in some circumstances, an employee who discloses a good faith and objectively reasonable belief of Malheur County's violation of law will have an "affirmative defense" to any civil or criminal charges related to the disclosure. For this defense to apply, the employee's disclosure must relate to the conduct of his/her coworker or supervisor acting within the course and scope of his/her employment. The disclosure must have been made to: (1) a state or federal regulatory agency; (2) a law enforcement agency; (3) a manager with Malheur County; or (4) an Oregon-licensed attorney who represents the employee making the report/disclosure. The defense also only applies in situations where the information disclosed was lawfully accessed by the reporting employee.

**Policy Against Retaliation**

Malheur County will not retaliate against employees who make reports or disclosures of information of the type described above when the employee reasonably believes he/she is disclosing information about conduct that is improper or unlawful, and who lawfully accessed information related to the violation (including information that is exempt from disclosure as provided in Oregon law or by Malheur County policy).

In addition, Malheur County prohibits retaliation against an employee for participating in good faith in any investigation or proceeding resulting from a report made pursuant to this policy. Further, no Malheur County employee will be adversely affected because he/she refused to carry out a directive that constitutes fraud or is a violation of local, Oregon, federal or other applicable laws and regulations. Malheur County may take disciplinary action (up to and including termination of employment) against an employee who has engaged in retaliatory conduct in violation of this policy.

This policy is not intended to protect an employee from the consequences of his/her own misconduct or inadequate performance simply by reporting the misconduct or inadequate performance. Furthermore, an employee is not entitled to protections under this policy if Malheur County determines that the report was known to be false, or information was disclosed with reckless disregard for its truth or falsity. If such a determination is made, an employee may be subject to discipline up to and including termination of employment.

Revised: August 17, 1993; April 28, 1999; January 2, 2008;  
November 2, 2011; September 7, 2016, April 10, 2019  
December 30, 2019, November 4, 2020

Recorded as Instrument # 2020-4202

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

**Form: 501**

## **Malheur County Sample Complaint Form**

1. Name: \_\_\_\_\_
2. Supervisor's name: \_\_\_\_\_
3. Name of individual engaging in prohibited conduct: \_\_\_\_\_  
\_\_\_\_\_
4. Position and title of individual named in #3: \_\_\_\_\_  
\_\_\_\_\_
5. Complaint's relationship to individual engaging in alleged prohibited conduct:  
Supervisor ☐      Co-Worker ☐      Other (specify): ☐  
(ie. Volunteer)
6. Please described the specific act(s) alleged:
  
  
  
  
  
  
  
  
  
7. Location(s) of alleged incident:
  
  
  
  
  
  
  
  
  
8. Date(s) and approximate time(s) of incidents:

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

9. Are there others who witnessed this behavior or others who experienced similar behavior by the individual named above? If so, please provide their names(s), indicate if witness or individual with similar experience.
10. Did you tell anyone about your experience after the alleged incident(s)? If so, please provide name(s) and phone number(s).
11. Actions taken, if any, to attempt to stop the prohibited conduct.
12. Have you reported this incident to anyone else?
- Yes ☐ No ☐
- If yes, with whom? Union ☐ Attorney ☐ Supervisor ☐ Other ☐
13. What resolution or proposed action would you like to occur to resolve or address the conduct?
14. Additional information and comments, if any:

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Your signature certifies that the information on this form is true and accurate.

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

**Form: 502**

**Malheur County Internal Sample Complaint Form**

**Instructions**

Use this form to file a complaint.

**Definitions**

*Discrimination Complaint:* Alleges an action was motivated by discrimination.

*Discrimination:* Unequal or different treatment on the basis of a protected category established by policy or law.

*Harassment:* Verbal or physical conduct that is derogatory or shows hostility based on a protected category.

*Sexual Assault:* Unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation (defined in Oregon Workplace Fairness Act (SB 726 (2019))).

*Sexual Harassment:* Any unwelcome conduct including but not limited to sexual advances, request for sexual favors and other verbal or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an employee's work, is the basis for an employment decision or creates an intimidating, hostile or offensive work environment.

*Bullying:* Refers to repeated, unreasonable actions of individuals (or a group) directed towards an individual or a group of employees, which is intended to intimidate and that creates a risk to the health and safety of the employee(s).

**Confidentiality Notice**

The authority for collecting this information comes from Malheur County's commitment to provide its employees with a workplace this is free of illegal bias, prejudice, harassment, and bullying. The information obtained by this form is used to process complaints and conduct investigations of alleged violations of the County's policies. The information collected may be verified with others who may have knowledge relevant to the complaint. Failure to provide complete information may impede the investigation process and the action that can be taken on your behalf to resolve the issues associated with the complaint. Alternatives to filing an internal complaint may also be available under applicable collective bargaining agreements. External resources for filing complaints include the State of Oregon Bureau of Labor and Industries Civil Rights Division (BOLI) and the United States Equal Employment Opportunity Commission (EEOC).



**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

**No-Retaliation**

Malheur County policies require its managers and supervisors to take all necessary steps to assure that there is no retaliation against any person who files a complaint or assists in its investigation. This includes any intimidation, threat, or coercion. Any employee involved in retaliatory conduct will be subject to disciplinary action in accordance with personnel policy or appropriate collective bargaining agreement.

**Filing**

In order to investigate complaints in a timely manner, Malheur County suggests that complaints be filed as soon as possible, but no later than 30 days of the event that gave rise to the complaint.

**Complainant Information:**

1. Today's Date: \_\_\_\_\_

2. Your Name: \_\_\_\_\_

3. Persons involved :

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. List of Witnesses. Next to each name briefly describe type of information witness can provide:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

5. List date(s) and describe of each alleged act(s):

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6. Check the category or categories you believe to be the basis of the sexual assault, discrimination/harassment/bullying against you. If you believe that there is more than one basis, more than one category may be checked:

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> Color              | <input type="checkbox"/> Race                  | <input type="checkbox"/> Religion                       | <input type="checkbox"/> Disability           |
| <input type="checkbox"/> Sex                | <input type="checkbox"/> Political Affiliation | <input type="checkbox"/> Age                            | <input type="checkbox"/> National Origin      |
| <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Sexual Harassment     | <input type="checkbox"/> Marital Status                 | <input type="checkbox"/> Familial Status      |
| <input type="checkbox"/> Veteran            | <input type="checkbox"/> Domestic Violence     | <input type="checkbox"/> Sexual Assault                 | <input type="checkbox"/> Victim Status        |
| <input type="checkbox"/> Pregnancy          | <input type="checkbox"/> Marital Status        | <input type="checkbox"/> Expunged<br>Juvenile<br>Record | <input type="checkbox"/> Uniformed<br>Service |

Other (please specify): \_\_\_\_\_  
(such as retaliation, association with protected class, taking leave)

7. Check the category or categories below that best represent the area of your concern:

- |  |  |   |                                    |                                    |
|--|--|---|------------------------------------|------------------------------------|
| <input type="checkbox"/> Accommodation         | <input type="checkbox"/> Layoff          | <input type="checkbox"/> Termination      | <input type="checkbox"/> Demotion  | <input type="checkbox"/> Seniority |
| <input type="checkbox"/> Opportunity           | <input type="checkbox"/> Facility Access | <input type="checkbox"/> Pregnancy Leave  | <input type="checkbox"/> Training  | <input type="checkbox"/> Hiring    |
| <input type="checkbox"/> Job Benefits          | <input type="checkbox"/> Job Assignment  | <input type="checkbox"/> Work Environment | <input type="checkbox"/> Treatment | <input type="checkbox"/> Wages     |
| <input type="checkbox"/> Religious Observation |  |   |                                    |                                    |

Other (please specify): \_\_\_\_\_

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

8. Do you know of any other employee, applicant or individual who was treated in the same way as you allege you were treated?

Yes ☐ If yes, include names: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

No ☐

Don't Know ☐

**Statement of Complaint**

For each issue above, explain in your statement of complaint how you were treated and provide details of the alleged acts, omission or conduct. Please include the following points:

- Why you believe the act(s) was based on a reason protected by policy or law.
- Dates, places, names and titles of persons involved and witnesses, if any.
- What act(s) took place.
- Describe any explanations, if any, that was offered for the acts that occurred.
- Any and all information you can provide that supports your allegations.
- If this is a complaint based on disability, describe your request for reasonable accommodation and the explanations given regarding your request.

(ADDITIONAL SHEETS MAY BE ADDED TO PROVIDE FURTHER INFORMATION)

**101 - PROHIBITION OF HARASSMENT, SEXUAL ASSAULT, DISCRIMINATION AND BULLYING; NO-RETALIATION; COMPLAINT PROCEDURE; REQUEST FOR ACCOMMODATION (DISABILITY AND PREGNANCY RELATED); REPORTING CONCERNS OR VIOLATIONS OF OTHER LAWS continued**

9. How would you like the matter resolved?

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**Signature and Verification**

I have reviewed and read this document and to the best of my knowledge all information it contains is true and correct.

---

Signature

Date

## **102- AMERICANS WITH DISABILITIES ACT**

Malheur County takes its obligations under the Americans with Disabilities Act and applicable state disability and handicap discrimination statutes seriously. Malheur County shall comply with Section 504 of the Rehabilitation Act of 1973, the American Disabilities Act of 1991 (ADA) and other applicable federal and state regulations that prohibit discrimination on the basis of disability. These acts mandate that no qualified person shall, solely by reason of disability, be denied access to, participate in, or the benefits of any program or employment opportunity operated by Malheur County.

Employees must, however, be able to perform the essential functions of their jobs. It is not illegal discrimination to require that all employees, including those with disabilities, be able to perform the essential functions of their jobs or jobs for which they apply.

It is Malheur County's prerogative and responsibility to define job functions.

Each qualified person shall receive reasonable accommodation to ensure equal access to employment, programs, and activities in the most appropriate integrated setting. When an employee or applicant requests reasonable accommodation, Malheur County gives serious consideration to the possibility of special arrangements such as allowing the employee to use special equipment. Each request for reasonable accommodation will be considered on its own merits, in light of the particular job, of other related jobs, of the capabilities of a particular employee and the specific accommodation requested. If Malheur County makes accommodation to the needs of a particular employee, Malheur County does not make any commitment that these special arrangements are permanent or they automatically will be extended to any other employee. Rather, Malheur County must maintain flexibility to reorganize work and to redefine job requirements in light of overall needs of its business.

Violations of this policy and requests for reasonable accommodations should be made in writing to the Personnel Officer at 251 B Street West, Vale, Oregon 97918.

Approved: August 17, 1993

Revised: April 28, 1999

## **103 – PERSONNEL FILES**

Malheur County shall maintain personnel files for each employee in the Administration Office. These files shall be the official repositories of all materials relevant to the employee's employment with Malheur County, including, but not limited to, payroll changes and authorizations, benefit memberships, evaluations, employment application and written discipline. Medical records are maintained in a separate file from the employee's personnel file.

Personnel files shall be open for inspection by the employee, such other persons officially designated in writing by the employee, the employee's supervisor, County Administrator, Personnel Officer, County Counsel, attorneys hired by Malheur County, the Malheur County Court, other supervisors or administrators of the County who are assigned to review or place materials therein, and such other clerical personnel whose duty it is to maintain personnel files provided such access does not conflict with ORS 192.500. Inspections will be made in the Administrative Office. Certified copies of personnel records can also be made at \$0.25 a page. Requests for inspection or photocopying will be made within 45 days from the date of the request.

Nothing herein shall be construed to prevent or restrict administrators, supervisors and the Personnel Officer from maintaining working files which shall be deemed personal to the administrator, supervisor or Personnel Officer as part of their work product.

Approved: January 1, 2003

Revised: January 2, 2008

Recorded as Instrument #2008-17

## **104 - INTERNET, ELECTRONIC MAIL, TEXT MESSAGING AND SOCIAL MEDIA ACCEPTABLE USE AND RETENTION POLICY**

### **PURPOSE**

Malheur County recognizes the use of the Internet, electronic mail (e-mail), text messaging and social media to support the mission and business of the County. These forms of County technology will be used in accordance with all applicable Federal, State and local laws. This policy addresses the use, retention and management of this technology on County equipment and devices and when utilized by County employees during the performance of their official duties. This policy does not apply to private use of employee-owned equipment and devices or employee's private use of his/her own Internet, cell phone or e-mail services.

### **DEFINITIONS**

**Electronic mail (e-mail)** refers to messages and files that are created and sent or received electronically.

**Instant Messaging** refers to real-time text communications between or among computers or mobile devices over the Internet or functionally similar communications network (i.e. Spark, the internal instant messaging program used by county).

**Public Record** has the meaning established in ORS 192.005. In general it refers to information that is prepared, owned, used or retained by Malheur County, its offices and departments; relates to any activity, transaction or function of a county office or department; and is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the county office or department.

**Social Media** refers to web-based and mobile communication technologies that allow the creation or exchange of user-generated content such as comments or responsive postings. Examples of social media as of the time this policy is adopted include but are not limited to Twitter, Flickr, blogging sites, Facebook, YouTube and Instagram.

**Text Messaging** refers to messages exchanged between fixed-line phones or mobile phones and fixed or portable devices over a network. Excluded from the definition of "text message" is e-mail communications, whether such messages are exchanged among or between county e-mail accounts or e-mail accounts maintained by private entities.

## **104- INTERNET, ELECTRONIC MAIL, TEXT MESSAGING AND SOCIAL MEDIA ACCEPTABLE USE AND RETENTION POLICY continued**

### **BUSINESS PURPOSE ONLY**

County Internet, e-mail, and social media may be used for County business on County-owned equipment and devices by employees with approval from their supervisor, elected official or department head. Use of County Internet, email and social media is permitted in cases where such use is both suitable for business purposes and support the goals and objectives of the County. Use of County technology and County property/devices is a privilege and not a right. Inappropriate use will result in a cancellation of those privileges and possible disciplinary or legal proceedings. Examples of inappropriate employee use of County technology and devices include, but are not limited to, the following:

- a. Conducting illegal activities
- b. Accessing, disseminating or downloading sexually explicit material
- c. Gambling
- d. Soliciting for personal gain or profit
- e. Revealing or publicizing proprietary or confidential information
- f. Representing personal opinions as those of the County
- g. Using or posting profanity, obscenity, or language which is patently offensive
- h. Uploading or downloading commercial software in violation of its copyright
- i. Downloading software or electronic files without reasonable virus protection measures
- j. Intentionally interfering with the normal operations of the County computer systems
- k. Electioneering

### **ZERO TOLERANCE/CONSEQUENCES**

Employees are strictly prohibited from using County cell phones, Internet or e-mail accounts or County property and devices for conducting illegal activities; accessing, disseminating or downloading sexually explicit material; gambling; soliciting for personal gain or profit; using or posting profanity, obscenity or language which is patently offensive and intentionally interfering with the normal operations of the County computer systems. Violations of this zero tolerance statement will result in termination from employment with the County. All other violations that are not specifically listed above may result in discipline up to and including termination.



## **104 - INTERNET, ELECTRONIC MAIL, TEXT MESSAGING AND SOCIAL MEDIA ACCEPTABLE USE AND RETENTION POLICY continued**

### **HARASSMENT**

To maintain a professional working environment consistent with the County's non-harassment policy, users of County technology and County property/devices/equipment are prohibited from sending or displaying messages or images that are reasonably vulgar, libelous, patently offensive, sexually explicit, or that intimidate, threaten, demean or harass individuals or groups, or that would otherwise bring discredit to the County. Should employees receive material, such as a message, picture or suggestion that is offensive, tell the originator that the material is unwelcome and offensive. Ask that no more material be sent. If the originator continues please submit your complaint in writing to the County Administrative Office. Malheur County's anti-harassment policy fully applies to employees in their use of the County's technology or County equipment and devices.

### **ELECTRONIC MASS MAILINGS/PUBLISHED INFORMATION**

Mass electronic mailings to the entire County staff for non-County purposes must have the approval of the County Administrative Officer. Other than routine maintenance of calendars, minutes, etc., any information that pertains to County business to be published on the Internet must be approved by the employee's supervisor. This includes but is not limited to web pages, forms, and applications.

### **E-MAIL**

Official County-issued e-mail accounts shall be primarily used for communications regarding official county business and virtually all e-mail messages composed or sent using employee's County-issued equipment and/or email addresses are assumed to be public records. Personal use of County e-mail accounts shall be limited, and must not: (1) interfere with normal business activities; (2) be associated with any outside for-profit business activity; or (3) otherwise contain any content that would cause embarrassment to the County.

Personal email accounts should not be used for county business. County e-mail accounts are available through the County Information Services (IS) department and can be accessed over the Internet. If personal e-mail accounts must be used, employees must copy their official e-mail accounts on all such outgoing communications, and forward any received messages on which their official accounts are not copied. Personal e-mail accounts (addresses) used for communications related to county business may be subject to search and production.

## **104- INTERNET, ELECTRONIC MAIL, TEXT MESSAGING AND SOCIAL MEDIA ACCEPTABLE USE AND RETENTION POLICY continued**

### **PUBLIC RECORDS AND RETENTION OF EMAIL**

Electronic mail messages on County equipment or technology are public records. As such, they are subject to the same rules for public inspection and retention that apply to all other County records.

#### **Responsibilities as a Public Employee to Retain Email**

County employees have an obligation to apply the appropriate retention rules to electronic mail sent and/or received by the employee. Electronic mail records and documents attached to email have the same retention rules as other written records consistent with Oregon Secretary of State Record Retention Schedules (i.e. OAR Chapter 166, Division 150), County policy (i.e. Malheur County Sheriff Policy 2.12) or otherwise directed by the employee's department or office. The County IS department backs up and stores County email accounts/messages for a limited time based on the capacity of the email server. The County's email backup system is primarily designed for disaster recovery and not for archiving. The County IS department does not archive email accounts or messages. Retaining email messages when necessary (save to disk, print and file etc.) is the responsibility of each County employee.

### **INSTANT MESSAGING AND TEXT MESSAGING**

Employees should not use text messages or instant messaging (i.e. Spark) for official primary or substantive County business other than for: routine communications that do not meet the definition of a "public record"; factual communications where the content is already documented in a separate public record; or communications that will be documented in a separate public record. For instance, if text messaging and instant messaging are used for discussion regarding the primary business of county or employee's work, the text and instant message must be documented and retained as a separate public record according to records retention schedules of the employee's department or office. The text message or instant message should be immediately converted and saved in a separate public record format (e.g. by forwarding the relevant text or instant message to an employee's official e-mail account). Since Malheur County requires that no text or instant message-based public records be created - or if they are created, that they be converted and saved in an alternate format, which would serve as the official copy of the record, Malheur County IS department does not retain text or instant messages.

## **104- INTERNET, ELECTRONIC MAIL, TEXT MESSAGING AND SOCIAL MEDIA ACCEPTABLE USE AND RETENTION POLICY continued**

### **Examples of Acceptable Uses For Text and Instant Messaging**

- Scheduling
- Requesting a call or email on a matter, without substantive discussion.
- Requesting or offering logistical assistance ("Can you help me get these boxes to the courthouse basement?").
- Forwarding any person's contact information ("I'm at 503-378-6002.").
- Explaining your current whereabouts, or inquiring about someone else's ("We're in the meeting at city hall. Are you in town?").
- Describing facts or events that do not relate to the substance of the office's work ("spilled coffee all over myself"), or that have been or necessarily will be separately recorded ("Mr. Jones just paid his taxes").
- Inquiring about events like those in the previous bullet ("Has Mr. Jones arrived to pay his taxes?").

### **SOCIAL MEDIA RETENTION**

Any County business placed on any Social Media platform shall be an accurate copy of an official record that is retained elsewhere by a County department or office. Any County department or office with an official social media site must ensure that public records from the site are accurately captured and retained.

The following content restrictions and disclaimers should be either displayed on all County social media sites or made available by hyperlink. The restrictions and disclaimers shall apply to County social media sites. Alternatively, social media sites can be posted without the ability to receive comments or responsive postings.

#### **Restrictions and disclaimers applicable to County social media sites:**

- The site is maintained by Malheur County and is in compliance with the Malheur County social media policy.
- The site is a Malheur County government page, and all content is a public record and may be subject to public disclosure.
- Malheur County does not endorse any hyperlink or advertisement placed on County's social media sites by the social media site's owner(s), vendor(s), or affiliates. Malheur County does not endorse any content posted by the general public onto Malheur County's social media sites.

## **104-INTERNET, ELECTRONIC MAIL, TEXT MESSAGING AND SOCIAL MEDIA ACCEPTABLE USE AND RETENTION POLICY continued**

- Postings to County social media sites shall not contain any of the following:
  - Comments that are not topically related to the particular posting being commented upon;
  - Comments in support of, or opposition to, political campaigns, candidates, or ballot measures;
  - Profane language or content;
  - Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, or status with regard to public assistance, national origin, physical or mental disability or sexual orientation, as well as any other category protected by federal, state, or local laws;
  - Sexual content or links to sexual content;
  - Solicitations of commerce;
  - Conduct or encouragement of illegal activity;
  - Information that may tend to compromise the safety or security of the public or public systems; or
  - Content that violates a legal ownership interest of any other party.

### **VOICE MAIL**

Messages on County voicemail are not retained by County's land-line phone system. Employees should contact the County Administrative Offices if they wish to retain voice messages. Email transcriptions of voicemails that are determined to be public records will be retained in accordance with records retention schedules and may be subject to public disclosure upon request.

### **NO EXPECTATION OF PRIVACY/SUPERVISORY ACCESS**

County employees have no right to expect that use of the County Internet, electronic mail or county-issued equipment is private. The County has the right to access, monitor and record all such usage at any time and without notice. The County may use this information in disciplinary or other legal proceedings. The County will randomly audit computers and other County devices assigned to employees. Employees are not allowed to gain access to another employee's e-mail files or computer without permission from that employee or a supervisor.

## **104-INTERNET, ELECTRONIC MAIL, TEXT MESSAGING AND SOCIAL MEDIA ACCEPTABLE USE AND RETENTION POLICY continued**

### **REQUEST FOR PUBLIC DISCLOSURE**

Upon receipt of a proper request, the County is responsible for making electronic mail and other message records available for inspection by the public. If a department or office receives a request for release of electronic mail or message records contact County Counsel before choosing to release or withhold these records. Employees should also review the Malheur County Public Records Policy.

It is not the intent of this policy to define public records, retention schedules or to identify records which are exempt from disclosure under the Public Records Law. Questions concerning the definition of public records or which records are exempt from disclosure should be directed to County Counsel. Questions about the responsibility for record retention or record retention schedules should be directed to a supervisor.

### **CONSENT FORM REQUIRED**

As a condition of continued employment with the County, employees having access to County equipment, devices, systems and technology services will be required to sign the acknowledgment form that is attached to this policy. Applicants will be required to sign this form upon acceptance of an employment offer by the County.

**104-INTERNET, ELECTRONIC MAIL, TEXT MESSAGING AND SOCIAL MEDIA  
ACCEPTABLE USE AND RETENTION POLICY continued**

**Form 503**

**MALHEUR COUNTY EMPLOYEE CONSENT FORM**

I have reviewed Malheur County's Internet and Electronic Mail Acceptable Use Policy. I understand that all computer equipment, as well as all information transmitted, received, or stored in these systems, is the property of the County.

I understand that such systems are to be used solely for job-related purposes, not for personal purposes, and that I have no expectation of privacy in connection with the use of this equipment or the transmission, receipt, or information stored in such equipment.

I understand and agree not to use a code, access a file, or retrieve any stored communication unless authorized; and I also acknowledge and consent to the County's monitoring my use of this equipment.

I understand that violation of this policy could result in disciplinary action, up to and including termination. I agree to abide by the policy as a condition of continued employment with the County.

\_\_\_\_\_  
Print Employee Name

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

\_\_\_\_\_  
Date

Approved: December 15, 1998

Revised: April 11, 2002; March 1, 2004; November 30, 2016; July 29, 2020

Recorded as Instrument #2020-2662

## **105 – COMPUTER POLICY AND INFORMATION TECHNOLOGY SECURITY**

### **COMPUTER POLICY**

This policy is to inform County employees on the appropriate use of the County's computer system, networks and devices. It sets out procedures and guidelines required to maintain a secure environment for the storage and dissemination of County information. This policy applies to all departments and offices and is inclusive of their hardware facilities, software installations, communication networks as well as information. This policy represents minimum security levels required. Compliance with Policy 104, common sense and high ethical standards are required to complement this policy.

1. In an effort to avoid violation of computer software copyright law and possible lawsuits a separate software license shall be purchased for each computer or user as required, unless a blanket licensing agreement is purchased.
2. All computer equipment or software purchases shall be reviewed by the Director of Information Services department. Any computer software to be installed on County equipment shall be reviewed by the department or office supervisor and the Information Services department.
3. Users must avoid spreading computer viruses. Always virus check software/files to be installed, read, uploaded or downloaded. If your computer does not have virus protection software see the Information Services department about obtaining some.
4. The Information Services department will back up files on any server(s) that are located in the server farm in the Administrative Office. If a server is located in another department it shall be the responsibility of that department to be sure that the files are adequately backed up. Backing up the files on the local hard drive(s) of a computer is the responsibility of the employee/department that uses it. If instructions are needed on how to accomplish these tasks please see the Information Services department. A copy of the files should be turned in on a weekly basis to be held off-site in case of a disaster.
5. Security on a computer system is high priority. Users identifying a security problem are to notify their supervisor and the Information Services department without demonstrating the problem to other users. Any deliberate attempt to degrade or disrupt system or network performance, to bypass security measures, or to access files that are not the users may result in disciplinary or legal proceedings.

## **105 – COMPUTER POLICY AND INFORMATION TECHNOLOGY SECURITY**

### **continued**

6. The person in whose name a sign-on name and password is issued is responsible for its proper use. Do not use another individual's sign-on without written permission from the individual. If a user knowingly or carelessly makes their password available to others, they may still be accountable for any actions that may arise from the use of their password by another individual. However, passwords are the property of the County and must be made available to either the employee's supervisor or the Information Services department.

7. The computer equipment and software being used in the workplace are County property. No hardware, software or files are to be taken from department or office premises other than as approved by a supervisor for County purposes. Any employee terminating employment with a County department is prohibited from taking or copying any electronic data, hard copies, or other information stored on the County's equipment.

8. The County reserves the right to monitor or access all computer/network activities at any time. Employees should not have any expectation of privacy when using County equipment. Deleting or purging data from the computer does not necessarily mean that it has been permanently destroyed and/or cannot be retrieved. The Information Services department will monitor network traffic as necessary and appropriate, to determine network utilization and availability and for the detection of unauthorized activity and intrusion attempts.

### **INFORMATION TECHNOLOGY SECURITY**

The following apply for information technology security:

1.Password management. Passwords are an important aspect of computer security. They are the front line protection for user accounts and provide a means of validating a user's identity. The Information Services department may at any time require password changes for any or all users. Password requirements will be set by the Information Services department. Employees are advised to keep passwords confidential, select quality passwords and avoid reusing or recycling passwords.

2. Personally-owned devices may not be connected to any County computer or to the County's internal network and information systems. This includes, but is not limited to, cell phones, iPads, thumb-drives, disks or any removable storage device.

3. Personally-owned mobile communication devices may be connected wirelessly to the County public WiFi network only.



## **105 – COMPUTER POLICY AND INFORMATION TECHNOLOGY SECURITY**

**continued**

4. Remote access to the County internal network and information system shall only be permissible and supported through remote access software approved by the Information Services department. Remote access can be provided after a department head/elected official determines that remote access is required to perform assigned duties. Software costs are the responsibility of the department or office.

5. Wireless access to the County's internal network may require access by device MAC address. Devices being added to the internal network by MAC address must be brought to the Information Services department for registration.

6. The installation of unauthorized internal network infrastructure equipment is strictly prohibited. This includes, but is not limited to:

- Hubs and switches;
- Routers;
- Modems;
- Wireless access points;
- Voice controlled assistants of any kind; or
- Any other device that allows access to the County internal network.

Because of the immediate risk involved with these network devices, the Information Services department has the authority to immediately remove such device.

7. The Information Services department may block access for any and all users to or from any Website, IP address, email or network data if it poses a threat to security. Supervisors will be notified when a particular user is blocked. *See also* Enforcement section below.

8. The Information Services department may perform security scans including but not limited to antivirus scans on any County device at any time.

9. Removable storage devices used for work purposes must be scanned on insertion. Removable storage devices used for work shall not be used for personal use.

## **105 – COMPUTER POLICY AND INFORMATION TECHNOLOGY SECURITY**

**continued**

10. The basic security requirements for any device connected to the County internal network and information systems are as follows:

- County approved antivirus installed with current definitions. Approved antivirus software is to be determined by the Information Services department depending on industry standards at the time. In the case of servers, the Information Services department may require the installation of the antivirus used by the County. In this case the owner of the server will be required to pay for licensing of the software. This includes but is not limited to PC and Mac.
- The device must have the latest acceptable operating system with all patches installed and current. Acceptable operating system is to be determined by the Information Services department depending on industry standards at the time.
- All software shall be legally licensed and fully patched.

Any device not meeting basic security requirements may be denied access to the network.

11. Security Awareness Training. Security awareness training is designed to educate users of their responsibilities to protect County resources and data, and to provide employees with the knowledge necessary to fulfill the information technology security requirements of this policy. Security awareness training may address topics including: general security, responsibilities to report and/or respond to security incidents, expectations of privacy, right to monitor, personally owned devices and virus and malicious code protection. The Information Services department will create user security training and request that it be mandated to all staff or a particular user in order to maintain an active account. Records of mandatory user security awareness training will be documented and maintained by the Personnel Officer.

12. Security problems or risks include but are not limited to, devices or connections to the County internal or public network systems that:

- Impose an exceptional load on the County network or County services.
- Exhibit a pattern to the network that disrupts County services.
- Exhibit a pattern of malicious network traffic associated with unauthorized scanning or attack behaviors.

## **105 – COMPUTER POLICY AND INFORMATION TECHNOLOGY SECURITY**

**continued**

13. Enforcement. When a security problem, or potential security problem is identified, the Information Services department will seek the cooperation of the appropriate contacts (user, supervisor, department head or elected official) in order to resolve such problem. A supervisor/department head or elected official is fully responsible to take action to remediate a security problem. At times (i.e. emergency, security risk is heightened by a delay, in the absence or unavailability of a supervisor/department head or elected official), the Information Services department may immediately act unilaterally to contain and remediate the problem. Resolution/remediation may include: temporary isolation/removal of the device from the network for inspection and cleaning; temporarily disable all user accounts used by the employee that are posing an immediate threat; or temporarily seek removal of the employee from computer/device and information access in lieu of disabling device or accounts – this is the best practice for on-duty public safety staff. When the Information Services department acts unilaterally to remediate a security risk it will inform the affected supervisor, department head or elected official as soon as possible. Personally-owned devices will be removed immediately from the County network and computer system. The Information Services department may seek permission from the owners or user of the personal device to inspect it for security risks. In the case of intentional repeat security violations, in addition to the remediation options listed above, an incident report from Information Services will be forwarded to the County Judge and County Court.

14. Notwithstanding any other provision of this policy, the County, through the Malheur County Court, reserves the right to remove or restrict employee access to the County's computers, computer system, or other electronic device(s) at any time for any reason at its sole discretion, including removal of access to the email system or the Internet/Intranet. The County can also mandate training and require computer and security guidelines that are department/office-specific.

15. Pursuant to Oregon law, any unauthorized access, attempted access, or unauthorized or illegal use of any computing and/or network system may be a violation of Oregon law and/or other applicable local, state, or federal laws, and may be subject to prosecution.

16. As a condition of continued employment with the County, employees having access to County computer equipment and County networks will be required to sign the acknowledgment form that is attached to this policy.

**105 – COMPUTER POLICY AND INFORMATION TECHNOLOGY SECURITY**  
**continued**

**Form 504**

**COMPUTER POLICY AND INFORMATION TECHNOLOGY SECURITY**  
**MALHEUR COUNTY EMPLOYEE CONSENT FORM**

I have reviewed Malheur County's Computer and Information Technology Security Policy. I understand that all computer equipment, as well as all information transmitted, received, or stored in these systems, are the property of the County.

I understand that such systems are to be used solely for job-related purposes, not for personal purposes, and that I have no expectation of privacy in connection with the use of this equipment or the transmission, receipt, or information stored in such equipment.

I understand and agree not to use a code, access a file, or retrieve any stored communication unless authorized; and I also acknowledge and consent to the County's monitoring my use of this equipment.

I understand that violation of this policy could result in disciplinary action, up to and including termination. I agree to abide by the Computer and Information Technology Security Policy as a condition of continued employment with the County.

\_\_\_\_\_  
Print Employee Name

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

\_\_\_\_\_  
Date

Approved: December 15, 1998

Revised: January 1, 2003; June 10, 2020

Recorded as Instrument #2020-2023

## 106 – TRAVEL AND EMPLOYEE INCURRED EXPENSES

### TRAVEL

It is the policy of Malheur County that all travel shall be allowed only when the travel is essential to the normal discharge of the employee's responsibilities. All travel shall be conducted in the most efficient and cost effective manner resulting in the best value to Malheur County. The travel must comply with all requirements set forth in this section and must be for official County business only.

### TRAVEL EXPENSES

The current approved rates for reimbursement of travel expenses are as set forth below. The employee's supervisor may approve travel expenses at a higher rate for special conferences or meetings.

Mileage. Mileage for travel in a private automobile, while the employee is acting within the scope and course of his/her duties and driving over the most direct and usually traveled route, will be reimbursed at the current IRS rate. To qualify for mileage reimbursement when using your private vehicle, the employee must be required to use his/her own vehicle to travel to a place other than to his/her normal place of work because a county vehicle is not available, the employee must hold a valid, current driver's license for the class of vehicle to be driven and the employee must carry personal automobile liability insurance in amounts not less than those required by the Oregon Financial Responsibility Law (ORS 806.060). No mileage reimbursement will be paid for the use of motorcycles or mopeds. Whenever an employee chooses to use his/her own vehicle even though a County vehicle is available, the employee will be reimbursed the current motor pool rate set by the Malheur County Court.

Per Diem. Per diem expense for a twenty-four (24) hour period, during necessary overnight travel while the employee is acting within the scope and course of his/her duties will be paid at the rate of \$40.00 per day. Current individual rates for meals and lodging are as follows:

Breakfast:	\$8.00
Lunch:	\$12.00
Dinner:	\$20.00
Lodging:	Employees will be reimbursed the actual cost of lodging when approved by their supervisor in advance. Place of conference, event, meeting, or other comparable cost for lodging.

## 106 – TRAVEL AND EMPLOYEE INCURRED EXPENSES continued

Additional cost above the per diem limit may be appealed to the County for reimbursement and is subject to the County's approval. Appeals must be accompanied by receipts.

Breakfast and dinner expenses shall be paid only if the employee, while acting within the scope and course of his/her duties, is required to travel before 7:00 a.m. or after 7:00 p.m. Lunch expense will be paid only if the employee, while acting within the course and scope of his/her duties, is required to travel one hour before or one hour after the employee's normal lunch hour. Irrespective of the above policy, meals will be paid if they are included in the cost of an employee's training, seminar, conference etc.

Employees must pay the difference between single and multiple occupancy lodging rates when accompanied by a spouse, family member or companion.

Air Travel and Rental Vehicles. In addition to meals and lodging, travel expenses will be reimbursed for airfare, parking, rental vehicles or other transportation means, only if the employee is acting within the scope and course of his/her employment and approved in advance by the employee's supervisor. Receipts are required. Employees are limited to mid-size rental vehicles.

Travel Rewards. Employees traveling on official County business may not earn travel rewards for personal use when travel is paid for or reimbursed by the County. Travel rewards mean any object of value awarded by a business providing commercial transportation or lodging which can be used to reduce travel costs. Travel rewards include, but are not limited to airline frequent flyer miles and hotel or car rental customer award bonuses, points, free rental days or hotel stays. Travel rewards also include airline flight segment certificates or dollar bonuses that are offered to a traveler who is voluntarily or involuntarily bumped from an oversold flight. If employees do earn travel rewards while traveling for County business, the rewards must be applied to County travel in the future. Similar inconvenienced customer rewards offered by hotel or car rental agencies shall also become the property of the County. Employees shall account and disclose information about reward activity resulting from County travel. The personal use of travel rewards earned while conducting County business constitutes a personal gain from County employment and violates ORS 244.040.

Time Period for Reimbursement. Requests for reimbursement must be accompanied by receipts and turned into the Administrative Office within 30 days from the date of the expense incurred for reimbursement. If a request for reimbursement is not made within 30 days, it will be denied.

Approved/Revised: January 1, 2003; November 1, 2004; September 29, 2010;  
September 28, 2011; August 10, 2016, June 26 2019

Recorded as Instrument #2019-2355

## 107 – USE OF COUNTY VEHICLES

Employees may use County owned vehicles for County business pursuant to the following:

1. Employee must have a valid driver's license and be at least 18 years of age.
2. License must be in good standing. Permits or restricted licenses are not acceptable. Employee is required to provide a photocopy of his/her current driver's license to the Personnel Officer to be placed in the employee's personnel file. Employee authorizes Malheur County to obtain employee's driving record. Driving records will be checked upon employment and at the time of a county vehicle incident or accident. Employee will sign a release of information, if necessary, for the release of employee's driving record from state or county agencies. Employee is responsible for notifying the Personnel Officer of any subsequent restrictions, limitations or other change in his/her driving status as soon as possible. Employees must have a driving record acceptable to the County's insurance carrier for the types of driving duties employee will perform. The following chart is guideline for evaluating an employee's Motor Vehicle Record (MVR). An employee with a MVR grade of "poor" will possibly not be insurable. Any "major" violation is a poor score.

### Motor Vehicle Record (MVR) Grading Criteria (Last 3 Years)

Minor Violation	Number of At-Fault Accidents			
	0	1	2	3
0	Clear	Acceptable	Borderline	Poor
1	Acceptable	Acceptable	Borderline	Poor
2	Acceptable	Borderline	Poor	Poor
3	Borderline	Poor	Poor	Poor
4	Poor	Poor	Poor	Poor
Any Major violation	Poor	Poor	Poor	Poor

Minor Violation	Major Violations
All moving violations not listed as a major violation.	<ul style="list-style-type: none"><li>• Driving under influence of alcohol/drugs</li><li>• Failure to stop/report an accident</li><li>• Reckless driving/speeding contest</li><li>• Driving while impaired</li><li>• Making a false accident report</li><li>• Homicide, manslaughter or assault arising out of the use of a vehicle</li><li>• Driving while license is suspended/revoked</li><li>• Careless driving</li><li>• Attempting to elude a police officer</li></ul>

## **107 – USE OF COUNTY VEHICLES continued**

3. Vehicles must be reserved in advance. An employee shall sign out the vehicle he/she will be driving. Employees shall put their name, department, and the date in the appropriate spot on the mileage sheet and the green card. Employees shall leave the green card in the appropriate slot so the Administrative Office will know who has the vehicle.
4. Fuel cards will be issued upon request in the Administrative Office. If an employee uses his/her own money, receipts, travel voucher and requisition are required for reimbursement. Fuel cards shall be kept in a safe place by employees to prevent loss or theft. Driver is responsible for the return of fuel cards.
5. Clipboard mileage logs must be maintained within the vehicle while in use. Mileage logs include beginning and ending mileage on each day the vehicle is driven, the number of miles, gas and oil purchased and any repairs done while using the vehicle.
6. Vehicles must be kept clean at all times. Trash and debris must be picked up before the vehicle is returned.
7. Vehicles must be fueled before returning the vehicle. Fuel level must register at least full or ½ full on the fuel indicator.
8. Smoking and vaping is prohibited.
9. Employees are expected to abide by all state and local driving laws. Employee must obey all traffic laws, posted signs, signals and requirements applicable to the vehicle being operated. Citations issued to an employee when operating a county vehicle must be reported immediately to the Personnel Officer. Citations issued due to the manner in which the vehicle was operated or for other violations that are solely within the control of the employee, such as failure to wear seatbelt, are the personal responsibility of employee.
10. Malfunctions, repair or maintenance of vehicle must be immediately reported to the Personnel Officer.
11. Vehicles may not be taken home under any circumstances. Vehicles must be returned to or picked up at the Malheur County Courthouse, Community Corrections or Ontario City Hall.
12. Seat belts are to be used in all vehicles.
13. Every reasonable effort shall be made to operate the vehicle safely, with due regard for potential hazards, weather and road conditions. Drivers are to ensure that the use of prescribed or over the counter drugs do not interfere with their ability to drive and the consumption of alcohol and controlled substances prior to or during the operation of vehicles is prohibited.



## 107 – USE OF COUNTY VEHICLES continued

14. Passengers may travel with an employee if the employee receives permission from the employee's supervisor and the Administrative Office. Passengers may only accompany employees to destinations, meals, events or activities that are within the scope and course of employee's duties. Using a County vehicle for activities and destinations outside the scope and course of employment (for example, driving further west to another resort to sightsee) may not be covered under the County's insurance policies and violates the Oregon Government Standards and Practices. For these reasons, employees who wish to combine personal and business travel should take their own vehicles.
15. Only County employees may drive County vehicles.
16. Oil, water and tire pressure are to be checked by driver every 500 miles. The County Shop will service vehicles approximately every 3000 miles.
17. Local fueling of County vehicles shall be done at the place and in the manner instructed by the County Administrative Office.
18. Each County department using a vehicle from the County's car pool will be billed based on the mileage driven.
19. Use of a County vehicle is a privilege, which may be lost at the sole discretion of the County.
20. Only experienced drivers may operate 15 passenger vans. Operators of 15 passenger vans must be familiar with the handling characteristics of the van, especially when fully loaded.
21. **Cell Phone and Other Device Use While Driving.** The "hands-on" use of a cell phone or other electronic device (i.e. tablet, GPS or laptop) while driving presents a hazard to the driver, other employees and the general public. Subject to a few narrow exceptions for emergency or public safety purposes, Oregon law prohibits the use of hand-held cell phones and other electronic devices while driving, even if the driving is for work-related reasons. Therefore, this policy is meant to ensure the safe operation of County vehicles and it applies equally to the usage of employee-owned cell phones and phones provided by County.

## 107 – USE OF COUNTY VEHICLES continued

Employees are prohibited from holding a cell phone or any other electronic device while driving/operating a County vehicle. Should an employee need to make or answer a business call while driving, the employee must locate a lawfully designated area to park and make/answer the call. Employees may use hands-free cell phones or single-ear devices (headphones, earbuds or Bluetooth devices for both ears are prohibited), to make/answer business calls. Such calls should be kept short and should the circumstances warrant (for example, heavy traffic, bad weather), the employee should locate a lawfully designated area to park to continue or make the call, even if the employee is using a hands-free device. Being stopped at an intersection or light is not an exception to this policy. Also, note this policy is more restrictive than Oregon state law. **A single swipe or tap to activate or deactivate a cell phone or other electronic device while driving is PROHIBITED under this policy. Employees must locate to a lawfully designated area to park in order to activate or deactivate a cell phone or other electronic device. In other words, once an employee starts to drive a County vehicle a cell phone or other electronic device may not be held or touched regardless of whether the device is mounted to the dashboard, window, vent or placed in the console, cup holder or seat.**

When using a GPS or other navigation application, enter a destination address before you begin to drive. If you need to enter an address after you begin driving, pull over and legally park before keying in an address.

Employees may listen to music, podcasts, audiobooks and streaming applications on devices in a County vehicle as long as listening is “hands-free”.

Employees may use built-in speakers of County vehicles and may hook up/pair cell phones or other devices to a built- in hands-free device within the County vehicle (ie. Bluetooth).

22. When operating your own vehicle for County of Malheur business:
  - Your Personal Auto Liability insurance is the primary payer. County’s insurance is in excess of your coverage.
  - You should carry at least \$50,000 per occurrence liability coverage.
  - County is not responsible for any physical damage to your vehicle. You must carry your own collision and comprehensive coverage.
  - Report your mileage for expense reimbursement.

## **107 – USE OF COUNTY VEHICLES continued**

23. In the event of an accident:

- Take necessary steps to protect the lives of yourself and others.
- Comply with law enforcement instructions.
- Do not assume or admit fault. Others will determine liability and negligence after a thorough investigation.
- Report the accident to County as soon as possible.

Approved: January 1, 2003

Revised: January 13, 2010, June 1, 2016, December 20, 2017

Recorded as Instrument #2017-4735

## **108 – PROHIBITED POLITICAL ACTIVITY**

Oregon law, at ORS 260.432, provides that “No public employee shall solicit money, influence, service or anything of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on a initiative, referendum or recall petition, the adopting of a measure or the recall of a public officer holder while on the job or during working hours. However, this section does not restrict the right of a public employee to express personal political viewpoints.”

It is the policy of Malheur County that employees may engage in political activity except to the extent prohibited by State law or this policy when on the job during working hours.

Employees who have in-person, regular, frequent or significant contacts with the public may not wear campaign buttons, t-shirts, stickers or other apparel or accessories that advocate for a political position or candidate, while on the job during work hours.

The Malheur County Courthouse located at 251 B Street West, Vale, Oregon is a polling place. Restrictions from electioneering within the Courthouse and within 100 feet from any entrance to the Courthouse shall be followed as set forth in ORS 260.695.

Approved: January 1, 2003  
Revised: April 7, 2004

## 109 – ETHICS

Most Malheur County employees fall within the definition of “public official” and are therefore subject to Oregon’s “Government Standards and Practices” statutes regulating the conduct of public officials. All Malheur County employees should become familiar with these statutes and use them as a guide especially in areas of conflict of interest and accepting gifts or gratuities. They are found in ORS 244.010 through 244.440. Employees are encouraged to seek assistance from their supervisor or County Counsel with any legal or ethical concerns.

Employees are expected to use good judgment, adhere to high ethical standards and avoid situations that create an actual or perceived conflict between their personal interests and those of Malheur County. Malheur County requires that the transactions employees participate in are ethical and within the law, both in letter and in spirit.

Conflicts of interests or unethical behavior may take many forms including, but not limited to, the acceptance of gifts from competitors, vendors, potential vendors or customers of Malheur County. Gifts may only be accepted if they have a nominal value and are given for appropriate occasions (for example, holiday gift). Employees are prohibited from engaging in financial participation or other business undertaking that is competitive with, or prejudicial to, the best interests of Malheur County. Employees may not use proprietary and/or confidential information for personal gain or to Malheur County’s detriment.

Approved:            January 1, 2003  
Revised:

## 110 – “EMPLOYMENT AT-WILL”

Probationary employees and employees who are not covered under a collective bargaining agreement are employees “at will”. “Employment at will” means that employment with the County is not for any specific time and either the County or employee may terminate the employment relationship at any time, for any reason or no reason at all. A non-exhaustive list and some examples of employees who serve “at will” include:

- Seasonal employees
- Temporary employees
- County Counsel
- County Administrative Officer
- Personnel Officer
- Confidential employees
- Executive Assistant
- Department heads
- Assistant directors or department heads
- Chief Appraiser
- County Surveyor/Engineer
- Manager of Information Systems/GIS Coordinator
- Supervisors and managers
- Management Assistant

Approved:     January 1, 2003  
Revised:

## 111 – TELEPHONES

Policy. County cellular (cell) telephones (phones) may be assigned and purchased at the discretion of the department head or elected official. Typically, cell phones should only be used when: (a) the employee has a duty away from the office and needs to remain in contact with voicemail, other employees or the public to conduct county business; or (b) the employee is required to respond to after-hour duties and emergencies or be on call; or (c) carrying a cell phone is a safety issue for the employee (for example, employee is traveling to a distant area of Malheur County to conduct county business and use of a landline telephone or public pay phone would be difficult). County cellular phones are for business purposes only. They are not to be used for non-work related communications. Employees should be mindful that conversations over a cellular phone are not confidential and can be monitored by outsiders.

Cellular Telephones and Driving. Unless an emergency exists, using a cellular phone for voice communication or texting while operating a county vehicle is prohibited, even if the cellular phone is equipped with a hands-free device. Operation of cellular phones shall not compromise driving safety. Employees should plan calls or texts either prior to traveling or while on rest breaks. Cellular phone calls and texts must be made from a car that is completely stopped and parked in a safe location.

Personal Use of County Cellular Telephones. Personal use of a county cell phone is not permitted. If an emergency or unforeseen circumstance develops, an employee may use the county cellular telephone to make a personal call (for example, to let a family member know the employee will be arriving home late).

Personal Cellular Telephones. Using personal cellular phones for county business should be kept to a minimum. Costs of such usage for calls, long distance fees and roaming charges may be reimbursed if the employee provides a copy of the phone bill with county calls marked. If a personal phone plan has monthly “free” minutes, county business may be claimed first for any charges above the monthly limit. Monthly charges shall not be pro-rated for county business.

The County may conduct periodic and random audits of county cell phones and long distance billings to insure full compliance with this policy.

Land-Line Telephones. Personal use of land-line phones should be kept to a minimum. Other than if an emergency or unforeseen circumstance develops, personal long distance phone calls shall be reimbursed to the County. Employees using the visual/picture contact identification screen on the Allworx phone system must leave it blank, display a professional photograph of employee or display a professional work/county-related symbol, logo or insignia approved by the employee’s department head or elected official.

Approved: November 13, 2002

Revised: January 13, 2010; February 3, 2021

Recorded as Instrument #2021-0489

## **113 – OPEN-DOOR POLICY**

Malheur County's Open-Door Policy is based on the belief that open, honest communication between department heads/elected officials, managers, supervisors, and employees should be a common business practice. Malheur County's department heads/elected officials, including the Malheur County Court, managers, and supervisors are responsible for creating a work environment where an employee's input is welcomed, and where issues are identified early and shared without the fear of retaliation (when the employee provides input in good faith). If an employee has a complaint, suggestion, or question about their job, working conditions, or the treatment they are receiving from anyone in Malheur County, the employee should raise it first with their immediate supervisor. If the employee is not satisfied with the response from their immediate supervisor, or if the issue involves their immediate supervisor, the employee can discuss the facts/situation with their department head/elected official or the County Judge.

Approved: April 10, 2019

Revised:

Recorded as Instrument # 2019-1345



## **114 – CLASSIFICATIONS OF POSITIONS**

### **Classification System**

The Personnel Officer shall prepare and maintain a classification system based on an analysis of organization of departments and the duties and responsibilities of each position in the County. A classification is a group of positions sufficiently similar in skills, education/experience, duties, authority, and responsibility to permit grouping under a common level and which would call for similar qualifications and same schedule of pay. The purpose of classification is to identify and group similar types and levels of work into classes, to describe those classes accurately, to ensure the classes are differentiated so that each position can be allocated appropriately, to provide a framework for conducting recruitment and selection activities, and to provide a foundation to identify relationships between and among classifications for fair and equitable salary administration.

The classification title shall be the official title of every position allocated to the classification for the purpose of personnel actions and shall be used on all payrolls, budget estimates and official records and reports relating to the position. Any other working title desired to be used by a department head or elected official may be used for internal administration or for contacts with the public.

### **Classification Review to Higher Classification**

The Personnel Officer shall review positions to ensure their appropriate classification. Positions are classified and not individual employees. Classification reviews may include but are not limited to: reviews of new positions, reviews resulting from re-organization changes, reviews initiated by the County Court or Personnel Officer, and reviews initiated by employees if the review is approved by the employee's supervisor and department head or elected official. Employees may not request a classification review unless they have been in the position twelve (12) months or more. Employees who request a classification review must make a written request approved by his/her immediate supervisor and department head/elected official to the Personnel Officer. If the supervisor or department head/elected official does not approve of the reclassification request the employee will be directed to perform the duties listed within the scope of the employee's current position. This directive would then void the reclassification process for the position and the process would end. If approved by the department head or elected official, the request must:

1. Describe the duties currently being performed.
2. An explanation of how the duties or job have significantly changed.
3. Why the duties/job being performed are inconsistent with the current classification.
4. An organizational chart of the department or office, approved by the department head or elected official, showing how the reclassified position will fit within the office or department structure.
5. The employees may be asked to complete a written or oral data collection questionnaire by the Personnel Officer.
6. The Personnel Officer will observe the employee while working ("desk audit").

## **114 – CLASSIFICATION OF POSITIONS continued**

In order for an employee to be reclassified upward, the following criteria should be met:

- The employee must meet the qualifications of the reclassified position.
- The employee has a permanent change in duties – not a special project or short-term assignment.
- The addition, deletion, or change affects a duty or duties that constitute(s) a significant portion of the job. The Fair Labor Standards Act provides that the most appropriate classification for a position is when an incumbent performs 75% to 80% of duties and responsibilities for that position.
- The duty or duties which is/are added, deleted or changed is/are substantially different in level and type of pay from the balance of the job duties so that it seems reasonable that the change in that one duty or duties affect the evaluation of the job.
- The classification is approved by County Administrative Officer based on a favorable quantitative evaluation of the job by the Personnel Officer and within budget constraints of the department or office.
- The request complies with this policy.
- The effective date for the reclassification is July 1, which is the beginning of a new fiscal year. To be considered during a new fiscal year, a completed request for reclassification must be received by the Personnel Officer no later than March 1. An earlier effective date may be approved by the Administrative Officer and the County Court.
- Reclassifications to a higher classification may only be re-submitted after one year or more from a previous reclassification request that was denied.

### **Classification Review to Lower Classification**

A change in classification of the position accompanied by assignment to a lower salary is reclassification to a lower classification. An employee whose position has been downgraded shall be placed in the position without competing for the position. The County Court may authorize continuation of the same salary rate as an employee received prior to downgrading of the position by placing the employee on a “red circle” step. The employee shall receive no future salary increases until the salary range of the position exceeds the “red circle” rate.

### **Classification Review of New Positions**

When a new, regular position is approved by the Malheur County Court through the budget process, the Personnel Officer shall review the proposed duties and responsibilities to be assigned to the position and place it within the classification system. (Normally, new positions are only processed during the budget process each fiscal year).

## **114 – CLASSIFICATION OF POSITIONS continued**

### **Classification Review Resulting From a Reorganization of a Department or Office**

Whenever a department or office is reorganized, the Personnel Officer, upon consulting the department head or elected official, shall make a determination as to the need for a classification review.

A position may be upgraded as a result of a department or office reorganization. When this occurs, the Personnel Officer in conjunction with the department head or elected official shall determine the appropriate selection procedure. In determining if recruitment shall be promotional only or open-competitive the following shall be considered: analysis of job duties, availability of internal applications both within the department or office and within all other departments and offices and occupational standards.

### **Temporarily Working Out of Classification**

Unless otherwise specified by a collective bargaining agreement, employees may be assigned higher or lower classification duties without change in pay, where periodic or regular variations in assignments occur because of needs or because of the nature of the duties or work schedule. Such variations shall be considered as incidental to the position.

The County Court and Administrative Officer may temporarily approve out-of-classification pay for extenuating circumstances, provided such assignment clearly encompasses the full scope of duties and responsibilities normally associated with a higher level classification as confirmed by the Personnel Officer. Approval of temporary out of classification pay shall not be retroactive.

Approved: January 2, 2008

Revised:

Recorded as Instrument #2008-18

## **115 – PERSONAL PROPERTY IN THE WORKPLACE**

115.1 Purpose

115.2 Private Property at Work

115.3 Shipping/Delivery of Private Property on County Premises

### **115.1 Purpose**

The purpose of this policy is to inform employees that the protection of personal property brought into the workplace is not the responsibility of the County. The policy is meant to clearly delineate the employee's rights and obligations when bringing personal property into the workplace so that loss or damage of personal property in the workplace can be avoided. This policy does not replace the provision in the Malheur County Sheriff's Association Collective Bargaining Agreement entitled "Replacement of Personal Property".

### **115.2 Private Property at Work**

The County does not assume responsibility for any theft or damage to the personal belongings of County employees. The County carries no insurance to cover any of these losses. Therefore, the County encourages its employees to avoid bringing private articles of property to work. The County reserves the right to restrict or limit private property in County facilities. Those who choose to bring personal property onto County premises or County-leased premises should contact their insurance agent to be certain their property is properly insured. It may be desirable for personal property brought onto County property to be clearly labeled with the owner's name.

### **115.3 Shipping/Delivery of Private Property on County Premises**

Limited shipping or delivery of personal items to or from County facilities will be allowed to the extent that such activities are not part of a commercial enterprise and do not waste or disrupt work time. Employees who have packages or parcels shipped or otherwise delivered to County facilities do so at their own risk. Employees who are not willing to accept this risk should make other arrangements with respect to such parcels or packages. The County does not assume responsibility for private property in the form of packages or parcels that are being shipped or delivered to County property. As a courtesy to employees, available County employees may sign acceptance of such packages or parcels, but the County accepts no liability or ownership responsibility for the package or parcel.

Approved: April 23, 2008

Revised:

Recorded as Instrument #2008-2662

## 116 – DATA TECHNOLOGY PURCHASING POLICY

The purpose of this policy is to reduce the overall costs of technology equipment purchases by coordinating and streamlining procurement; to ensure accurate inventory records of technology related purchases and/or disposal of obsolete equipment; and to ensure the integrity and security of Malheur County's network.

In order to ensure that all technology related equipment meets the I.S. Department support criteria, when purchasing technology related items staff or elected officials should consult with Information Services unless otherwise directed by Information Services or Malheur County Administration. Failure to adhere to this policy may result in equipment receiving no or partial network connectivity if deemed to be a threat to county networks or data after consultation with the purchasing department head or elected official, nor will non-compliant equipment be required to be supported or maintained by the I.S. Department. In the case of an immediate threat to the county network or data Information Services may immediately remove a device pending consultation with department head or elected official.

This policy applies to all Malheur County employees and elected officials and applies to all technology equipment regardless of the source of funding. Technology devices include but are not limited to:

### ***Computing Devices:***

A computing device is any device that can directly access any Malheur County data or network.

### ***Software:***

All software requires a license. Included is any software not delivered to you with your computer, paid or free. Any software not in Malheur County's software database found on a computer will be purchased and billed to the department or uninstalled upon discovery.

### **The Information Services (I.S.) Department is responsible for:**

- Coordinating the County's capital equipment purchases to fully leverage its purchasing power to achieve the best pricing possible.
- Assess and distribute useable equipment already owned by the County.
- Determining the ability of the device to meet the needs of the user.
- Annual evaluation of all departments for new purchases, equipment rotation and replacement.
- Recommending overall budget for the purchasing of technology for all County Departments/Offices regardless of the source of funding.
- Plan yearly budget, purchase, and maintain proper service rotation for the following devices:

Desktop Computer Systems

Laptop Computers

Windows OS Tablets

## **116 – DATA TECHNOLOGY PURCHASING POLICY continued**

### **Third Party Vendors:**

All departments/offices must consult with Information Services before entering into an agreement/contract with a third party vendor that will require access or changes to the County's network of computers.

Approved: March 5, 2014

Revised:

Recorded as Instrument #2014-0680

## **117 – SEPERATION FROM EMPLOYMENT**

### **POLICY STATEMENT**

A separation occurs when an employee resigns from County employment, retires, is involuntarily separated or dies. This policy applies to employees who voluntarily leave (resign or retire) their employment with Malheur County. It also serves as a resource in the case of the death of an employee.

### **RESIGNATION AND RETIREMENT**

Employees may resign their employment at any time by providing written notification to their supervisor. Employees apply for retirement through PERS. It is recommended by PERS that employees submit applications to retire at least 120 days prior to their planned retirement date.

**Notice to supervisor.** Employees are generally expected to provide at least a two-week notice prior to their last day of work when resigning and a one-month (30 days) notice prior to their last day of work when retiring. Longer notice periods may be appropriate for key positions. Notice periods may also be negotiated with the employee and his/her supervisor.

**Last day of work/separation date.** When an employee resigns or retires, the separation date from employment is the last day the employee actually works. Employees must also work through their notice period. Employees may not use vacation, compensatory time or other accrued paid leave to extend the notice period or last day of work. In other words, the last day of work/separation date may not be a sick, vacation or other paid leave day.

If an employee gives notice of resignation or retirement then becomes ill, management has the discretion to allow an employee to exhaust sick leave to the resignation/retirement date originally indicated. The separation date of employment will be the resignation/retirement date. Management also has the discretion to allow an employee to use vacation or other paid leave prior to the set separation date only if the employee returns to work status on or before the set separation date. If an employee is exhausting approved paid leave for medical reasons and then resigns or dies before returning to work, the separation date is the date the employee resigns or dies.

## 117 – SEPERATION FROM EMPLOYMENT continued

**Notice to Personnel Officer.** Once a written notice is provided and discussed with the employee's supervisor, separations must be processed through the Personnel Officer. A copy of the employee's written letter of resignation or retirement as well as the supervisor's acceptance of resignation must be given to the Personnel Officer to be placed in the employee's official personnel file. This is also important to meet payroll deadlines and to ensure proper and complete approval.

**Ability to rescind a resignation.** A request to rescind a resignation must be in writing. Acceptance of the withdrawal of resignation is at the discretion of the employee's supervisor. Supervisors should consult with the Personnel Officer upon receiving a request to rescind a resignation.

**Returning County property.** Employees must return all County property on or before the last day of work. This includes, but not limited to: phones, equipment, supplies, computer, computer files, computer hardware and all computer software on the computer assigned to employee. Computers may not be "reset" to factory settings or reformed in anyway by employee before departing employment. Failing to return County property or knowingly deleting files or software may result in civil or criminal liability. In addition, accessing your County account (email or otherwise) after separation from employment may also result in civil or criminal liability. See ORS 164.377

### DEATH

The Personnel Officer can provide assistance in securing County benefits, entitlements and final compensation when an employee dies. Upon notified of the death of an employee, final payout is made to the employee's estate. Payment is released to the administrator or executor.

### FINAL PAYOUT PROVISIONS

The final payout provisions below are just an overview and apply only to employees separating from employment for reasons of retirement, resignation or death. Details about final payout should be discussed with the Personnel Officer. Final payout is charged to the budget(s) from which the employee's salary is paid. The County may deduct from final payout any debts owed to the County (for example, overdrawn leave at the time of separation).

*Vacation leave.* Employees receive a lump sum final payout for accumulated but unused vacation leave, not to exceed 25 workdays.

*Compensatory/Overtime.* Employees receive a lump sum final payout for accumulated but unused compensatory/overtime, not to exceed 80 hours.



## **117 – SEPERATION FROM EMPLOYMENT continued**

*Sick leave.* Sick leave is not paid out. Except for PERS retirees, accrued and unused sick leave will be reinstated if an employee is rehired within 180 days. Accumulated sick leave may be used in computing retirement benefits as determined by PERS.

*Personal leave.* Personal leave is not paid out.

Approved: May 11, 2016

Revised: September 2020

Recorded as Instrument #2020-3460

**118 – WHISTLEBLOWER PROTECTION POLICY**  
**ORS 659A.199 TO 659A.224; and House Bill 4067 (2016)**

**1. Policy Statement**

Malheur County seeks to conduct all of its activities in a responsible, legal and ethical manner. All board members, elected officials, employees and volunteers must practice integrity and honesty in fulfilling their responsibilities and must comply with all applicable laws and regulations. The purpose of this policy is to provide a mechanism for employees to report a violation of federal, state or local law, rule or regulation by Malheur County or an official of Malheur County (employer) and to delineate rights and remedies provided to employees under this policy and Oregon law.

**2. Complaints and Investigations**

A whistleblower as used in this policy is an employee, elected official, board member or volunteer of Malheur County who reports an activity that he/she considers to be illegal. The employee is not responsible for investigating the activity or for determining fault or corrective measures. Appropriate supervisors are charged with these responsibilities. Employees, elected officials, volunteers, and board members should exercise sound judgment and make allegations of a violation only when based on good faith and an objectively reasonable belief.

If an employee, elected official, board member or volunteer should discover information leading him or her to believe that a violation of law has occurred; he or she shall report this information to a supervisor, County Judge or County Counsel. An investigation will be conducted. Reports of violations and the identity of the reporting employee will be kept confidential to the extent possible, unless otherwise required by law or written consent of the reporting employee is obtained. Appropriate action will be taken if warranted by the investigation.

**3. No Retaliation**

County officials and employees are prohibited from retaliating, including the imposition of disciplinary action, against an employee because he or she has, in good faith, reported an alleged violation of law. However, employees may be subject to discipline if the information disclosed by the employee is known by the employee to be false, or if the information disclosed related to the employee's own violations.

**118 – WHISTLEBLOWER PROTECTION POLICY**  
**ORS 659A.199 TO 659A.224; and House Bill 4067 (2016) continued**

An employee who believes he or she has been retaliated against for reporting illegal activity should advise their supervisor or Personnel Officer. The County official receiving a report of retaliation shall take appropriate action to investigate and address complaints of retaliation. A County employee who has been found to have retaliated against an employee for reporting, in good faith, illegal conduct shall be subject to discipline up to and including termination. Notwithstanding the above, any employee who believes he/she has been retaliated against for the reporting of improper government conduct may bring a civil action as provided in ORS 659A.215 or ORS 659A.199. These remedies are in addition to any other law or remedy available to an employee. A violation of ORS 659A.203 by an official of Malheur County is a Class A misdemeanor.

**4. Other Employee Protections**

- 4.1 No employee of Malheur County shall be prohibited from discussing, in response to an official request, either specifically or generally with any member of the Legislative Assembly, legislative committee staff acting under direction of a member of the Legislative Assembly, any member of the governing elected body of a political subdivision in the state or any elected auditor of a city, county or metropolitan service district, the activities of:
  - 4.1.1 The state or any agency or political subdivision of the state; or
  - 4.1.2 Any person authorized to act on behalf of the state or any agency or political subdivision in the state.
- 4.2 No employee of Malheur County shall be disciplined or threatened with discipline for disclosing any information that the employee reasonably believes is evidence of:
  - 4.2.1 A violation of any federal or state law, rule or regulation by the state, agency or political subdivision;
  - 4.2.2 Mismanagement, gross waste of funds or abuse of authority or substantial and specific danger to public health and safety resulting from action of the state, agency or political subdivision; or
  - 4.2.3 Subject to ORS 659A.212(2), the fact that person receiving services, benefits or assistance from the State or agency or subdivision, is subject to a felony or misdemeanor warrant for arrest issued by the State of Oregon, any other state, the federal government, or any territory, commonwealth governmental instrumentality of the United States.
- 4.3 No employee of Malheur County shall be required to give notice prior to making any disclosure under Sections 4.1 and 4.2.
- 4.4 No employee of Malheur County shall be discouraged, restrained, dissuaded, coerced, prevented or otherwise interfered with when making disclosures or engaging discussions of matters protected under Sections 4.1 and 4.2.

**118 – WHISTLEBLOWER PROTECTION POLICY**  
**ORS 659A.199 TO 659A.224; and House Bill 4067 (2016) continued**

- 4.5 Affirmative defense. Any employee's good faith and objectively reasonable belief of a violation of federal, state or local law, rule or regulation by Malheur County shall be an affirmative defense to a civil or criminal charge related to the disclosure by the employee of lawfully accessed information related to the violation, including information that is exempt from disclosure as provided in ORS 192.501 to ORS 192.505 or by Malheur County policy, if the information is provided to:
- 4.5.1 A state or federal regulatory agency;
  - 4.5.2 A law enforcement agency;
  - 4.5.3 A manager employed by the County;
  - 4.5.4 An attorney licensed to practice law in the state of Oregon if a confidential communication is made in connection with the alleged violation described in Section 4.5 and in furtherance of the rendition of legal services to the employee that are subject to ORS 40.225.
- 4.6 An employee may not assert and is not entitled to the affirmative defense described in Section 4.5 if:
- 4.6.1 The employee does not have a good faith and objectively reasonable belief that a violation occurred,
  - 4.6.2 The employee discloses or re-discloses, or directs someone to disclose or re-disclose the information to a party other than the parties listed in Section 4.5,
  - 4.6.3 The information disclosed is stated in a commercial exclusive negotiating agreement that is not related to the employee's employment with Malheur County,
  - 4.6.4 The information is stated in a commercial nondisclosure agreement that is not related to the employee's employment with Malheur County,
  - 4.6.5 The disclosure relates to some activity by the employee's coworker or supervisor that is not related to the course and scope of the coworker's or supervisor's employment,
  - 4.6.6 The employee is an attorney for Malheur County or is an employee who is not an attorney but who is employed, retained, supervised or directed by an attorney and the disclosed information is related to the representation of Malheur County.
- 4.7 Disclosure made under Section 4.2, 4.3, and 4.5 herein are subject to the rules of professional conduct established pursuant to ORS 9.490.
- 4.8 Subject to the rules of professional conduct established pursuant to ORS 9.490, a public employee who is an attorney may report to the Attorney General the employee's knowledge of a violation of federal, state or local law, rule or regulation by Malheur County.
- 4.9 Disclosure of information pursuant to Section 4.5 does not waive the attorney-client privilege or affect the applicability of any exemption from disclosure of a public record under ORS 192.501 to ORS 192.505.

**118 – WHISTLEBLOWER PROTECTION POLICY**  
**ORS 659A.199 TO 659A.224; and House Bill 4067 (2016) continued**

- 4.10 Notwithstanding Section 4.5, information protected from disclosure under federal law, including but not limited to the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-91), may be disclosed in accordance with federal law.

**5. Other Opportunities for Reporting**

This policy is not intended to replace other opportunities for employees to bring complaints or grievances pertaining to their employment under personnel rules, a collective bargaining agreement or pursuing any rights they may have in federal and state law to present a civil complaint, ethic complaint pursuant to ORS chapter 244, or to contact the Oregon government fraud, waste or abuse hotline/website maintained by the Oregon Secretary of State.

Approved: December 7, 2016  
Revised:

Recorded as Instrument #2016-4360

## **119 – VETERANS’ PREFERENCE**

### **PURPOSE**

To inform County departments and applicants, in writing, of Veterans’ Preference requirements set forth by state law.

### **SCOPE**

This policy applies to all County Departments, Offices, employees, and applicants. Veterans’ Preference applies to any hiring or promotion decision that is made based on the results of a merit based, competitive process that includes, but is not limited to, consideration of an applicant’s or employee’s relative ability, knowledge, experience and other skills. Veterans’ Preference is to be applied at each of the hiring or promotion process (i.e. evaluation of application, interview, written test).

### **POLICY STATEMENT**

Malheur County applies Veterans’ Preference Points in accordance with ORS 408.230 and 408.235.

### **DEFINITION OF “VETERAN”**

Oregon Revised Statute 408.225 defines “Veteran” for eligibility to receive employment preference. A veteran means a person who has served on active duty with the Armed Forces of the United States:

- For a period of more than 178 consecutive days and was discharged or released from active duty under honorable conditions;
- For 178 days or less and was discharged or released from active duty under honorable conditions because of a service-connected disability; or
- Served at least one day in a combat zone and was discharged or released under honorable conditions; or
- Received a combat or campaign ribbon for service in the Armed Services of the United States.

Active duty does not include attendance at a school under military orders, except schooling incident to an active enlistment or a regular tour of duty. Active duty also does not include normal military training as a reserve officer or member of the National Guard unit.

## **119 – VETERANS’ PREFERENCE continued**

### **PROCESS**

Attached to this memo is an outline of the criteria used to determine if Veterans’ Preference will be granted. Applicants for employment who want to use Veterans’ Preference are required to designate their eligibility through standard questions asked on the County’s on-line employment application for jobs posted in this system and complete the Veterans’ Preference Form (ORS 408.230). Applicants must also fax, mail or deliver a copy of their DD214 and/or USVA proof of disability by the application close date. The County reviews the documents against the criteria for a determination of eligibility and points.

### **VETERANS’S PREFERENCE**

ORS 408.230 outline the manner in which public employers must grant preference to eligible veterans. At each stage of the application process, preference must be granted to veterans who successfully complete the initial application screening or an application examination or test that is administered to establish eligibility.

**Application Screening:** At time of initial application screening, points are to be added to a scored review to determine a list of persons for interviews. Five (5) points are to be added to a veteran’s score and 10 preference points to a disabled veteran’s score.

**Scored Examination/Interview:** An application examination or interview, given after initial application screening that results in a score, shall have preference points added to the total combined examination score without allocating the points to any single feature or part. Five (5) points are to be added to a veteran’s score and 10 points to a disabled veteran’s score.

**Non-Scored Application Processes:** For application examinations or processes that do not result in a score, preference shall be given to the veteran or disabled veteran by applying methods that give special consideration in the hiring decision to veterans and disabled veterans.

### **ELIGIBILITY FOR PREFERENCE**

A veteran is eligible to use the preference provided under ORS for a position for which application is made at any time after discharge or release from service in the Armed Forces.

**Preference for Current County Employees:** A regular or probationary status employee who seeks promotion or transfer to another County position may receive veteran’s preference if the employee qualifies as a veteran or disabled veteran. Employees who take a military leave of absence also qualify if their service qualifies them for veteran status by reason of their service during military leave.

## **119 – VETERANS' PREFERENCE continued**

### **APPOINTMENT TO A POSITION**

ORS states that Veterans Preference is not a requirement that the County appoint a veteran or disabled veteran to a position. However, ORS does state that if the veteran's application examination(s), when combined with their veteran's preference, are equal to or higher than the results of a non-veteran, the public employer shall appoint an otherwise qualified veteran or disabled veteran.

A decision to not appoint a veteran may be based solely on the veteran's merits or qualifications with respect to the vacant position. ORS provides that a veteran may request a written explanation of the reasons why he/she was not appointed to the position. Upon such written request, the County will provide the reasons for the decision not to appoint the veteran to the position.

### **ENFORCEMENT**

A veteran or disabled veteran claiming a violation of the ORS may file a written complaint with the Civil Rights Division of the Bureau of Labor and Industries.

Questions about Veterans' Preference Points may be directed to the Personnel Officer.

Approved: September 13, 2017

Revised:

Recorded as Instrument #2017-3620



## 119 – VETERANS’ PREFERENCE continued

### CRITERIA FOR VETERANS’ PREFERENCE POINTS

An applicant or employee seeking a Malheur County employment opportunity must meet the following eligibility requirements to be awarded Veterans’ Preference Points as provided in ORS 408.230 and 408.235. The criteria must be identifiable in a copy of DD Form 214 or DD Form 215 (Correction Form to DD Form 214) and VA Form 802 (if disabled). These forms must be submitted by the closing date for applications. If the information on the applicant’s DD Form 214 and/or VA form does not support the criteria outlined on this form, preference points will be denied.

**Veteran Status** Must meet the following criteria. 5 points total for veteran; 10 points total if disabled veteran.

#### A. Time in Service:

- \_\_\_\_\_ Service in Armed Forces (Army, Navy, Air Force, Marines or Coast Guard) was more than 90 consecutive days beginning on or before January 31, 1955, and was discharged under honorable conditions; **or**
- \_\_\_\_\_ Service was more than 178 consecutive days beginning after January 31, 1955, and discharge was under honorable conditions; **or**
- \_\_\_\_\_ Service was for 178 days or less and discharge was under honorable conditions because of a service-connected disability; **or**
- \_\_\_\_\_ Service was for 178 days or less and discharge was under honorable conditions and have a disability rating from the United States Department of Veterans Affairs (USVA); **or**
- \_\_\_\_\_ Served at least one day in a combat zone and discharge was under honorable conditions; **or**
- \_\_\_\_\_ Received a combat or campaign ribbon for service in the Armed Services of the US and discharge was under honorable conditions; **or**
- \_\_\_\_\_ Receiving nonservice-connected pension from the USVA.

#### B. Dates of Service:

- \_\_\_\_\_ Applicant is eligible to use the preference provided in ORS 408.230 for a position for which application is made at any time after discharge or release from the service in the Armed Forces. Date of discharge on Form DD 214 is: \_\_\_\_\_

If meets A and B then 5 points total.

#### C. Disabled Veteran (Proof of disability must be submitted).

- \_\_\_\_\_ Applicant is entitled to disability compensation from USVA, **or** was discharged or released from active duty for a disability incurred or aggravated in the line of duty **or** was awarded the Purple Heart for wounds received in combat.

If meets A, B and C then 10 points total.

**Promotional Veteran Points:** Veteran’s points are provided to employees seeking other county positions based on the criteria set forth above for veteran or disabled veteran.

**Use of Veteran Points:** There are currently no restrictions on amounts of times Veteran Preference may be used by an applicant or employee.

Policy 119 – Veterans’ Preference (9/2017)

## 120 - CHILDREN IN THE WORKPLACE

### PURPOSE

This policy and procedure governs minor children (e.g. employee's children, nieces, nephews, foster children, grandchild, children of friends and neighbors etc.) in the workplace. This policy is necessary to avoid disruptions of employees in the performance of their job duties, to reduce personal and property liability to Malheur County, to protect the welfare and safety of children, and maintain a professional work environment.

### POLICY

1. The presence of children in the workplace with an employee during the employee's workday will generally fall into the following acceptable categories:
  - a. **Brief visits** (e.g. child stops by office to get money, child waits a few minutes in office for a ride home).
  - b. **Specific county events** for which attendance by children is encouraged. (e.g. take your child to work day; Christmas potluck).
  - c. **In the event of an emergency.**
2. Children should not be brought to workplace on a regular basis or in lieu of childcare.
3. Ill children are not to accompany an employee to work.

### PROCEDURE

1. If bringing a child to work is unavoidable for a limited time period, the employee must contact his/her supervisor in advance or as soon as possible to discuss and obtain permission to have the child at work. Factors the supervisor will consider are the age of the child, how long the child needs to be present, the work environment in the employee's area or other area for children to wait, any possible disruption to the employee's and co-workers' work and whether employee has accrued leave (vacation, personal) or ability of employee to make other arrangements.

Supervisors have the authority to deny the presence of children in the workplace. Supervisors may also revoke previously granted permission for the employee to bring the child to the workplace (e.g. the child's presence is later determined to be disruptive to the workplace).

## **120 - CHILDREN IN THE WORKPLACE continued**

### **EMPLOYEE'S RESPONSIBILITIES**

An employee's responsibility under this policy includes:

- a. Secure permission from supervisor before bringing children into the workplace.
- b. Ensure children behave appropriately while in the workplace.
- c. Be responsible for any damage or vandalism caused by children.
- d. Directly supervise children.
- e. Take responsibility for the safety of child/children at all times.
- f. Be sensitive and respect the needs of other employees and customers.
- g. Be responsible for any injury to the child.
- h. Prevent breach of confidential information.

Approved: April 10, 2019

Revised:

Recorded as Instrument # 2019-1346

## **121 - EMPLOYMENT PROCESS**

### **Job Descriptions**

It is the policy of Malheur County to maintain a uniform system for establishment, review and maintenance of job descriptions. Job descriptions must be signed by the department head/elected official and include, but not limited to: salary classification by range, exempt or non-exempt status, union designation, minimum qualifications, special or preferred qualifications and essential job duties. Job descriptions form the basis for recruiting and hiring qualified individuals, training new employees, and conducting annual performance evaluations. The Personnel Officer maintains all official job descriptions.

### **Standardized Hiring Procedures**

Elected officials and department heads are responsible for complying with the standardized hiring procedures established by the County. The Personnel Officer maintains the standardized hiring procedures, which are in writing. The procedures include, but are not limited to: screening and scoring based on content of application for minimum and special/preferred qualifications, veteran points, response to interview questions, and testing (if applicable).

The Personnel Officer generally oversees the following aspects of the hiring process:

1. Job description is up to date, approved by hiring department/office and uniform with County job classification system.
2. Solicitation of candidates (where to post job announcement) as appropriate. At minimum job vacancy announcements are posted on the County web-site using NEOGOV; and posted on the bulletin board located in the Administrative Office.
3. Screening and scoring is done in accordance with County standardized procedures and complies with statutory veteran and disabled veteran preference and promotional preference pursuant to Oregon law and County Policy 119.
4. Non-discriminatory interviewing techniques and questions are used.
5. Reference checks, verification of credentials/licenses/certifications/specific or preferred requirements of position, criminal history checks and pre-employment fitness or drug testing are conducted as required.
6. Conditional offers of employment are in writing.
7. Selection of final candidate is valid, impartial and free from personal and political considerations.
8. Equal employment opportunities.
9. ADA accommodations.
10. Pay equity. Starting salary is comparable to current employees and relates to education, training, and experience, and not based on candidate's current salary or history. See County Policy 208.

## **121 - EMPLOYMENT PROCESS continued**

### **Types of Recruitment**

The use of an external or internal recruitment process will be used to fill vacant County positions as follows:

- A. External Recruitment: A recruitment in which any interested person may submit an application for employment.

All department head/director positions will be filled using the External Recruitment process.

At the discretion of the County Court, elected positions and department heads/directors may be appointed on an interim or temporary basis using the Internal Recruitment process.

- B. Internal Recruitment: A recruitment in which only current employees of the County may submit an application. The Internal Recruitment process may be used at the request of a department head or elected official and should be justified by the presence of a sufficient number of qualified County employees.

If one or more applications are received from internal candidates, the hiring official/department head may, in his/her/their sole discretion, continue with the County's hiring procedures; or immediately proceed with the External Recruitment process and follow the County's hiring procedures for both internal and external candidates at the same time (when External Recruitment process closes). If the External Recruitment process will be used following the Internal Recruitment period, all internal candidates will be notified in writing before the External Recruitment process begins. If an internal candidate does not meet the minimum qualifications for the position, the candidate will be notified.

- C. Nothing herein shall be construed to mean that a current County employee will be hired for a position when the Internal Recruitment process is used; or that a candidate must be hired following any recruitment or hiring procedures.

## **121 - EMPLOYMENT PROCESS continued**

### **Employment Application**

In order to collect pertinent information regarding candidates for county positions, all persons seeking employment with the County, and all employees applying for a different position within the County, shall complete the County's official employment application. The Personnel Officer shall be responsible for collecting, distributing and retaining all employment applications.

### **Interviewers**

Interviewers may be appointed to assist in the selection process. Interviewers may be representatives of departments/offices, the public, interested organizations, or other public jurisdictions.

### **Criminal History Check (does not apply to positions within Sheriff's Office)**

Criminal history checks will be conducted following a conditional job offer. When determining whether a conviction warrants a bar from employment the following factors shall be considered:

- a. the nature and gravity of the offense or offenses;
- b. the time that has passed since the conviction or completion of the sentence;
- c. the nature of the job sought; and
- d. County office or department where employment sought.

Arrest records, in the absence of a subsequent conviction, shall not be a bar to employment. Information regarding a conviction or an arrest record that is discovered during a criminal history check shall be kept confidential.

Approved: September 18, 2019

Revised:

Recorded as Instrument # 2019-3499

## **122 - NEPOTISM**

It is the policy of Malheur County to prevent favoritism or unequal treatment based on an employee's familial relationships. Employees who are relatives shall not supervise or hold direct or indirect decision-making authority over the other, and shall not have direct or indirect authority to hire, fire, promote, appoint, discharge, layoff, discipline, or change working conditions of the other.

If a violation occurs due to marriage, or the creation of a domestic partnership, steps shall be taken as soon as practical to correct the situation, such as reallocation of duties or other means.

This policy shall comply with ORS 244.175 – 244.179 and ORS 659A.309, as amended.

Approved:     September 18, 2019

Revised:

Recorded as Instrument #2019-3500

**SECTION 200**  
**COMPENSATION**  
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## **200 – PAYROLL DEDUCTIONS**

Payroll deductions, required by law for Oregon Public Employee's Retirement System, Social Security, Medicare, Worker's Compensation and State and Federal income tax and all other deductions by law (i.e. garnishment) are made automatically by the Administration Office.

Employees may request other deductions as permitted by law and Malheur County's cafeteria plan. The employee shall make such request in writing to the Personnel Officer.

Approved: January 1, 2003

Revised:

## **201 – PAYDAYS**

You will be paid monthly. Paychecks are generally the last day of each month. If the payday falls on either a Saturday or Sunday, paychecks will be distributed on the Friday prior to the payday. If a holiday falls on payday, you will receive your check on the last workday prior to the holiday.

Approved: January 1, 2003

Revised:

## **202 – SALARY ADVANCEMENT**

Advance payments of salary are to be granted in emergency situations only and must be approved by the County Administrator. Emergency draws will be made not to exceed the amount equal to the hours accumulated at the time of the request less any funds required for voluntary and involuntary deductions. A salary advance shall not exceed the employee's net salary for the pay period. The amount of any pay advance will be withheld from employee paychecks covering the pay period the wages were drawn against. All requests for emergency draws will be reviewed on an individual basis. You are expected to conduct your personal financial affairs in a responsible manner and advances will normally only be approved in cases of emergencies beyond your control.

Approved:     January 1, 2003  
Revised:

## **203 – EMPLOYEE WITHHOLDING CERTIFICATES W-4 FORMS**

You are required under Federal law to furnish the organization with an Employee Withholding Exemption Certificate (W-4) at the date of hire. You must file a new W-4 form at any time the number of entitled exemptions decreases to less than the number being claimed. New W-4 forms may be filed when the number of entitled exemptions increases, if desired, but it is not required. You may increase withholding by claiming fewer exemptions than entitled or by requesting additional withholding to be made if you find that insufficient tax has been withheld to meet your year end tax liability.

Approved:     January 1, 2003  
Revised:

## **204 – TIME AND ATTENDANCE**

### **ATTENDANCE**

Employees shall be subject to the following policies except when in conflict with a collective bargaining agreement.

Reliable attendance and punctuality are essential for effective operations within Malheur County. Customers, supervisors and coworkers have an expectation that employees will regularly be at work during their assigned work schedule. Malheur County recognizes that absences will occur consistent with County policies, state and federal laws and collective bargaining agreements for holidays, vacations, personal leave, jury service, bereavement, medical leave, sick leave, military leave etc.

The following, however, are illustrative of unacceptable attendance. This list is not intended to cover every possible type of unacceptable attendance and does not preclude supervisor action for other attendance matters that may be detrimental to efficient operations of a county department or office.

- (a) Leaving work during assigned work hours without reasonable excuse and proper permission or approval. Such absence is viewed as job abandonment.
- (b) Unexcused or unauthorized absences. An absence can be unexcused or unauthorized when an employee fails to call in, give advance notice, exceeds the length of absence as defined by policy, exceeds the length of absence authorized in advance by employee's supervisor or exceeds accrued leave. Each department or office may have specific procedures for employees to follow when requesting time off or notifying his/her supervisor of the employee's absence. The supervisor should provide those specific procedures, in writing, to all employees within that supervisors' department so the employee may be aware.
- (c) Pattern absences. Pattern absences may include repeated unscheduled absences the day before or after a scheduled holiday, vacation, weekend or personal day; an absence on a desirable day off or a specific day of the week; or exhausting available leave every month as it is accrued without reasonable excuse.
- (d) Unexcused or unauthorized tardiness. Failure to report to employee's assigned work area and fully prepared to perform duties at the scheduled starting time, including returning from breaks and meal period without reasonable excuse.
- (e) Abuse of sick leave. Abuse of sick leave can occur when an employee uses sick leave for any reason other than those specified in the county's sick leave policy or state or federal law or collective bargaining agreement.
- (f) Excessive absenteeism or tardiness.

## **204 – TIME AND ATTENDANCE continued**

### **TIME**

The time sheet is a record of time worked and any leave time used by employees. It should be filled out daily. It provides an accounting to the public and a record of the time spent on and away from the job. Time sheets should be reviewed for completeness and accuracy. Supervisors will review time sheets each pay period and sign them. Time sheets must be legible. If an error is to be corrected or time clarified, all entries and corrections should be initialed. Time sheets should be reviewed, signed and turned in to the Administrative Office on the date requested by the Personnel Officer. Your signature on the time sheet verifies that the times and dates are true and accurate and that no time is being claimed for your personal business unless sick, vacation or personal leave is indicated.

Time sheets ensure compliance with federal and state laws, regulations, payroll obligations and collective bargaining agreements.

Approved: January 1, 2003  
Revised: September 7, 20016

Recorded as Instrument #2016-3050

## **205 – FINAL PAYCHECK**

When resigning from Malheur County, if you provide us with at least 48 hours notice (excluding holidays and weekends) you will receive your final paycheck on the last day worked. If less notice is given, the final paycheck will be provided within five (5) working days or on the next regularly scheduled payday, whichever occurs first. Final paychecks will include all wages earned through the last day worked plus payment for any accrued vacation benefits that are due and payable at separation.

Approved:     January 1, 2003

Revised:

## **206 – OVERTIME AND COMPENSATORY TIME**

Occasionally, you may be required to work overtime. Malheur County complies with the provisions for overtime as outlined in the Fair Labor Standards Act (FLSA) and State wage and hour laws. Overtime hours will be paid to nonexempt employees at one and one-half times the basic straight time hourly rate for all hours worked in excess of 40 in a regular workweek. Prior approval must be obtained from your supervisor before working overtime. These provisions do not apply to FLSA exempt employees, such as department heads.

Overtime is calculated for nonexempt employees on the basis of hours actually worked over 40 in a week. Sick leave, personal leave and vacation are not counted as hours worked. Overtime will be paid in cash at the rate of 1.5 times the hourly rate of pay if budgeted funds are available. Overtime will be allowed in compensatory time off at 1.5 times the overtime hours with prior agreement of the employee. Compensatory time can be accrued up to 80 hours by nonexempt employees.

Overtime does not earn additional benefits, and compensatory time off instead of regular work is counted as regular time in computing wages and benefits.

Approved: January 1, 2003  
Revised:



## **207 – DIRECT DEPOSIT**

For the sake of convenience and efficiency for both the employee and Malheur County, employees may have their payroll checks processed through direct deposit. Employees must provide bank and account information to the Personnel Officer in order to set up direct deposit.

Approved:     January 1, 2003  
Revised

## **208 – STATEMENT REGARDING PAY EQUITY AND PAY PRACTICES**

### **A. Statement Regarding Pay Equity**

Malheur County supports Oregon's Pay Equity Law and federal and Oregon laws prohibiting discrimination between employees on the basis of a protected class (as defined by Oregon law) in the payment of wages or other compensation for work of comparable character. Employees who believe they are receiving wages or other compensation at a rate less than that at which Malheur County pays wages or other compensation to other employees for work of comparable character are encouraged to discuss the issue with their supervisor, Department Head/Elected Official, County Court, Personnel Officer, Administrative Officer or County Counsel.

In an effort to uphold pay equity among County employees, Malheur County has adopted job classifications with a correlating pay scale/schedule, which are attached to the collective bargaining agreements for union employees. Job classifications with correlating pay scales/schedules for non-union employee are maintained in the Administrative Office.

### **B. Statement Regarding Pay Practices**

Malheur County makes all efforts to comply with applicable Oregon and federal wage and hour laws. In the event you believe that Malheur County has made any improper deductions, has failed to pay you for all hours worked or for overtime, has failed to pay you in accordance with the law, or has failed to properly calculate your wages in any way, you must immediately report the error to the Personnel Officer or Administrative Officer. Malheur County will investigate all reports of improper pay practices and will reimburse employees for any improper deductions or omissions. No employee will suffer retaliation or discrimination because he or she has reported any errors or complains regarding Malheur County's pay practices.

Approved: April 10, 2019

Revised:

Recorded as Instrument # 2019-1347

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**BENEFITS, LEAVES AND INSURANCE**  
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### **301 – JURY DUTY AND COURT WITNESS LEAVE**

An employee subpoenaed for jury duty or as a court witness may be granted leave with pay. An employee will notify his/her immediate supervisor and will pay Malheur County the amount of compensation or per diem (excluding mileage and meals reimbursement) paid to the employee for such duty. A copy of the subpoena will be filed with the leave request/time sheet. Upon being excused from jury service or as a witness before the end of the normal workday, the employee shall immediately notify his/her supervisor for assignment for the remainder of the regular workday.

Leave will be granted for appearances before a court, judicial or quasi-judicial body as a witness in response to a subpoena or other direction by proper authority when such appearance is the result of the employee's official duties for Malheur County, the employee will be given leave without pay loss. The compensation paid to an employee as a witness fee or other per diem when a County-owned vehicle is used shall be paid to Malheur County.

This policy does not apply to employees who are involved in personal, legal actions. Vacation, personal leave or compensatory time must be used in personal, legal actions.

Approved:     January 1, 2003  
Revised:

### **301 – MILITARY SERVICE LEAVE**

Employees will be granted leave without pay for the duration of their military duty pursuant to law. Employees who are members of one of the reserved components of the armed forces of the United States or the Oregon National Guard shall be entitled to leave without loss of pay for military duty for a period or periods not to exceed a total of 15 calendar days for each calendar year. Requests for military leave shall be submitted through regular supervisory channels to the Personnel Officer and shall be accompanied by official orders specifying the dates and location of such military duty.

Approved:     January 1, 2003

Revised:

### 302 – PAID PERSONAL LEAVE BENEFIT

General Policy Statement. Each full-time employee is entitled to two (2) days of paid personal leave each calendar year commencing in January following the employee's first annual anniversary date. Personal leave does not accrue from year to year. If personal leave is not used by December 23 every year, it will be lost. Unused personal leave will not be paid to the employee. Employees must provide continuous service in the previous calendar year to be eligible for two personal leave days. For an employee that does not provide continuous service in the previous calendar year, personal leave will be pro-rated on a monthly basis.

New Employees. For new employees, personal leave is pro-rated starting the first month following the employee's first year anniversary date through December 31. For example, after being employed for one year and the employee's anniversary date is July 1, the employee will be granted one (1) personal leave day on January 1. July 1 through December 31 is  $\frac{1}{2}$  of a calendar year and therefore  $\frac{1}{2}$  of two personal leave days or 1 personal leave day will be granted.

Employees under a collective bargaining agreement must refer to their agreement for personal leave benefits.

Approved: January 1, 2003  
Revised: June 4, 2014, June 26, 2019

Recorded as Instrument #2019-2356

### **303 – SICK LEAVE**

#### **Purpose**

This policy on paid sick leave is established to comply with Oregon Laws Chapter 537 (2015) and rules adopted by the Oregon Bureau of Labor and Industries (BOLI) in OAR Chapter 839 Division 007.

#### **Accrual of Paid Sick Leave Hours**

All employees of Malheur County will earn sick leave at a rate of not less than one (1) hour for every 30 actual hours worked. Sick leave benefits may be accumulated for an unlimited amount of hours (no cap). Full time employees accrue sick leave based on either a 37.5 or 40 hour workweek as follows:

37.5 hour workweek	7.5 hours of sick leave a month
40 hour workweek	8 hours of sick leave a month

Employees regularly working less than 40 hours a week shall accrue sick leave on a pro-rated basis. Such pro-ration shall be in direct proportion to the percentage of actual hours worked less than 40 hours in a workweek.

Sick leave will accrue immediately upon hire. All employees, including new employees, may use sick leave as it is accrued. There is no waiting period before new employees may use their accrued sick leave hours.

Sick leave will not accrue during any period under which the employee is not actively employed. “Actively employed” means the employee has worked or is on paid leave status fourteen days or more during the calendar month.



**Permissible Use of Accumulated Sick Leave Hours**

- A. Definitions. This policy incorporates, by reference, the definitions set out in OAR 839-007-0000 and Oregon’s Family Leave Act (OFLA), as amended from time to time, which at the time of adoption of this policy includes but not limited to:
- (1) “Family member” means an employee’s spouse, domestic partner, custodial parent, non-custodial parent, adoptive parent, foster parent, biological parent, stepparent, parent-in-law, a parent of an employee’s domestic partner, an employee’s grandparent or grandchild, or a person with whom the employee is or was in a relationship of in loco parentis. “Family member” also includes the biological, adopted, foster child or stepchild of an employee or the child of any employee’s domestic partner. An employee’s child in any of these categories may be either a minor or an adult at the time qualifying leave. Family member under this policy also includes brother and sister but does not include cousins, aunts and uncles, unless in loco parentis relationships.
  - (2) “Serious health condition” is defined in OAR 839-009-0210(20).
  - (3) “Spouse” includes:
    - (a) Individuals in a marriage recognized under state law in the state in which the marriage was entered into;
    - (b) Individuals in a marriage validly performed in a foreign jurisdiction;
    - (c) Individuals in a common law marriage that was entered into in a state that recognizes such marriages; and
    - (d) Individuals who have lawfully established a civil union, domestic partnership or similar relationship under the laws of any state. Individuals described in this subsection are not required to obtain a marriage license, establish a record of marriage or solemnize their relationship.

### 303 – SICK LEAVE continued

B. Employees may use accumulated sick leave for the following reasons:

- (1) For an employee's mental or physical illness, injury or health condition; need for medical diagnosis, care or treatment of mental or physical illness, injury or health condition; or need for preventive medical care.
- (2) For care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or care of a family member who needs preventative medical care.
- (3) For the following purposes specified in ORS 659A.159 (OFLA):
  - (a) To care for an infant or newly adopted child under 18 years of age, or for a newly placed foster child under 18 years of age, or for an adopted or foster child older than 18 years of age if the child is incapable of self-care because of a mental or physical disability. Leave under this subsection must be completed within 12 months after birth or placement of the child, and an eligible employee is not entitled to any period of leave under this subsection after the expiration of 12 months after birth or placement of the child.
  - (b) To care for a family member with a serious health condition.
  - (c) To recover from or seek treatment for a serious health condition of the employee that renders the employee unable to perform at least one of the essential functions of the employee's regular position.
  - (d) To care for a child of the employee who is suffering from illness, injury or condition that is a **not** a serious health condition, but that requires home care.
  - (e) To deal with the death of a family member within 60 days of the date on which the eligible employee receives notice of the death of a family member by:
    - (A) Attending the funeral or alternative to a funeral of the family member;
    - (B) Making arrangements necessitated by the death of the family member; or
    - (C) Grieving the death of the family member.
  - (D) Use of sick leave under this subsection is subject to the limits in Malheur County Policy 307 Bereavement Leave.

### 303 – SICK LEAVE continued

- (4) For the following purposes specified in ORS 659A.272 and consistent with Malheur County Policy 322 Domestic Violence Leave:
  - (a) To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or employee's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault or stalking.
  - (b) To seek medical treatment for or to recover from injuries caused by domestic violence or sexual assault to or harassment or stalking of the employee or the employee's minor child or dependent.
  - (c) To obtain, or to assist a minor child or dependent in obtaining counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault or stalking.
  - (d) To obtain services from a victim services provider for the employee or the employee's minor child or dependent.
  - (e) To relocate or take steps to secure an existing home to ensure the health and safety of the eligible employee or the employee's minor child or dependent.
- (5) In the event of a public health emergency, including but not limited to:
  - (a) Closure of the employee's place of business, or the school or place of care of the employee's child, by order of a public official due to a public health emergency (does not include closures for teacher planning days or snow days);
  - (b) A determination by a lawful public health authority or by a health care provider that the presence of the employee or the family member of the employee in the community would jeopardize the health of others, such that the employee must provide self care or care for the family member; or
  - (c) The exclusion of the employee from the workplace under any law or rule that requires Malheur County to exclude the employee from the workplace for health reasons.
- C. Sick leave is not to be used as a supplement to vacation.
- D. Accrued sick leave may not be donated to another employee.
- E. Employees shall use accrued sick leave in ¼ hourly increments, .25, .50, .75 or 1.
- F. Employees on paid sick leave are paid his/her regular rate of pay.

### **303 – SICK LEAVE continued**

#### **Employee's Notice to Supervisor of Sick Leave**

Prior to a work shift (advance notice when leave is foreseeable) and as soon as practicable (when leave is unforeseeable), the employee shall notify his/her supervisor of the nature of sick leave absence and the expected length of absence. When an employee uses sick leave for a foreseeable absence, the employee shall make a reasonable effort to schedule the leave in a manner that does not unduly disrupt the operations of Malheur County and his/her office. Particular sick leave requests forms may be utilized by supervisors and completed by employees to schedule or track leave of absences, including sick leave absences. The employee shall inform his/her supervisor of any change in the duration of the sick leave time as soon as practicable. A supervisor may deny sick leave if the employee fails to provide notice as required or if the employee fails to make a reasonable effort to scheduled leave in a manner that does not unduly disrupt the operations of Malheur County. In all cases, whether and when an employee can practicably provide notice depends upon the individual facts and circumstances of the situation.

#### **Employer Request for Medical Verification; Domestic Violence Certification**

In some circumstances if an employee uses sick leave for more than three (3) consecutive scheduled workdays or the need for sick leave is foreseeable and projected to last more than 3 consecutive workdays, Malheur County may require the employee to provide verification from a health care provider (i.e. physician, dentist, psychologist, optometrist, naturopath, registered nurse, nurse practitioner, midwife, social worker, chiropractic physician) of the need for the sick time, or certification (from attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of clergy, victim services provider) of the need for leave relating to domestic violence, sexual assault, harassment or stalking. Medical verification shall be provided within 15 calendar days after Malheur County requests the verification. Certifications shall be provided to Malheur County within a reasonable time after employee receives the request for certification.

Malheur County will pay any reasonable costs for providing any medical verification or certification required, including lost wages, that are not paid under a health benefit plan in which employee is enrolled.

If verification or certification is not provided sick leave may not commence or employee will not be paid for the use of sick time.

If Malheur County suspects that employee is abusing sick leave, including engaging in a pattern of abuse, Malheur County may require verification from a health care provider of the need of the employee to use sick leave, regardless of whether the employee has used sick leave for more than three consecutive days. Pattern of abuse includes, but is not limited to, repeated use of unscheduled sick time on or adjacent to weekends, holidays, vacation days or paydays.

### **303 – SICK LEAVE continued**

#### **Notice of County's Paid Sick Leave Policy**

An employee's amount of accrued, used and unused sick leave will be included with the employee's monthly paycheck (paystub). Notice of Oregon Laws Chapter 537, (2015, BOLI rules in OAR 839-007-0000 through 839-007-0120) and this policy will be incorporated in the Malheur County employee handbook and made available to all employees. Notice/posters provided by BOLI will be posted in conspicuous and accessible locations in each workplace (i.e. breakrooms).

#### **Accrued Unused Sick Leave**

Accrued unused sick leave is not payable on termination of employment with Malheur County for any reason. However, depending on what retirement option an employee selects, upon retirement accumulated but unused sick leave may be used in computing retirement benefits as determined under the Public Employees Retirement System (PERS). Except for PERS retirees, accrued unused sick leave will be restored to employees who are rehired within 180 days.

Approved: January 1, 2003

Revised: December 6, 2015

Recorded as Instrument #2015-4390

**FEDERAL FAMILY AND MEDICAL LEAVE/  
STATE FAMILY MEDICAL LEAVE**

**I. EFFECTIVE DATE AND PURPOSE**

The Family and Medical Leave Act (FMLA) generally took effect as federal law August 5, 1993. The Oregon Family Leave Act (OFLA) became effective as state law September 9, 1995. Under these laws, Malheur County provides leave for family and medical reasons. In addition, pregnancy and parental leave are provided in conformance with Oregon law ORS 659.029, the Federal Pregnancy Discrimination Act (PDA) and Amendment to Title VII of the Civil Rights Act of 1964. The purpose of these laws is to secure the rights of employees to respond to their own health needs and those of their family members without being penalized for taking such leave and to guarantee reinstatement to the employee's former or equivalent position.

**II. COVERAGE**

Federal law covers public agencies, including counties. In order for county employees to be eligible, however, they must be employed at a work site with 50 or more employees within 75 miles of the employee's work site for each working day during each of the 20 or more calendar work weeks in the year in which the leave is taken or in the preceding calendar year. State law covers counties that employ 25 or more part-time or full-time employees for each working day during 20 or more calendar work weeks in the year in which the leave is to be taken or in the preceding calendar year.

**III. ELIGIBILITY**

Federal law applies to employees who have worked for Malheur County for at least 12 months and for at least 1250 hours during the year preceding the start of the leave. State law generally applies to employees who work an average of 25 hours or more per week for the County during the 180 days or more immediately prior to the first day of the start of the requested leave. For parental leave purposes, an employee becomes eligible upon completing at least 180 days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

#### **IV. DEFINITIONS**

Child - under federal and state law, means a biological, adopted or foster child, a stepchild or a child of a person standing "in loco parentis" or in place of the parent, financially supporting and having day-to-day responsibility for the care of the child. The child must be under 18 years of age or may be 18 years of age or older if incapable of self-care due to a mental or physical disability.

Family Member – under state law family member includes a same sex domestic partner, parent of a same sex domestic partner, child of same sex domestic partner, parent-in-law, grandparents and grandchildren.

Parent - under federal and state law means, a biological parent or a person who stands or stood "in loco parentis" to the employee when the employee was a child.

Spouse - Federal law allows the term "spouse" to be defined in accordance with each state's law. Oregon law does not currently define the term.

Serious Health Condition – Examples of serious health condition include but are not limited to: heart attacks and conditions requiring surgery (e.g. bypass or valve operations); back conditions requiring extensive therapy or surgery; strokes; severe nervous disorders (mental/emotional/stress); severe respiratory conditions; pregnancy, severe morning sickness, prenatal care, childbirth and recovery from childbirth; appendicitis; pneumonia; severe arthritis; treatment for substance abuse (not absence because of use of substance).

Health conditions not considered serious (unless complications arise) include, but are not limited to: short term illnesses (common cold, flu, ear aches, upset stomach, ulcers, headaches other than migraines), routine dental or orthodontia problems, cosmetic treatment or routine physical exams.

### 304 – FAMILY MEDICAL LEAVE continued

The following table lists definitions of serious health condition under the Family and Medical Leave Act and the Oregon Family Medical Leave Act:

<b>Oregon Family Leave (OFLA)</b>	<b>Family and Medical Leave Act (FMLA)</b>
<ul style="list-style-type: none"> <li>• Illness, injury, impairment, or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical care facility; or</li> <li>• Illness, disease, or condition that in the medical judgment of the treating health care provider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death in the near future; or</li> <li>• requires constant care or continuing care such as home care administered by a health care professional; or</li> <li>• A period of incapacity where the employee is unable to perform an essential job function and any subsequent treatment or recovery period. The incapacity must involve (1) two or more treatments by a health care provider or (2) one treatment plus a regimen of continuing care; or</li> <li>• A period of incapacity or treatment for a chronic serious health condition that requires periodic visits for treatment from a health provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity; or</li> <li>• Involves permanent or long term incapacity due to a condition for which treatment may not be effective; or</li> <li>• Involves multiple treatments for restorative surgery or for a condition such as chemotherapy for cancer, physical therapy for arthritis, or dialysis for kidney disease that if not treated would likely result in incapacity or more than three days; or</li> <li>• Any period of disability due to pregnancy or childbirth or period of absence for prenatal care.</li> </ul>	<ul style="list-style-type: none"> <li>• Illness, injury, impairment, or physical or mental condition involving incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical care facility; or</li> <li>• Continuing treatment by a health care provider involving a period of incapacity:               <ul style="list-style-type: none"> <li>(1) requiring absence of more than three (3) consecutive calendar days from work which involves (a) treatment two or more times from a health care provider, a nurse or physician under the supervision of a health care provider, or under orders of or referral by health care provider or (b) treatment by a health care provider on a least one occasion which results in a regimen of treatment under the supervision of the health care provider; or</li> <li>(2) due to a chronic serious health condition; or</li> <li>(3) requiring absences to receive multiple treatments (including recovery periods) for restorative surgery or a condition that if left untreated would likely result in incapacity for more than three (3) days; or</li> <li>(4) due to pregnancy or for prenatal care; or</li> <li>(5) which is permanent or long-term due to a condition for which treatment may not be effective.</li> </ul> </li> </ul>



## **V. PURPOSE OF LEAVE**

Federal and state laws allow employees to take leave for the following purposes:

1. Birth of the employee's child (eligibility expires 12 months after the birth);
2. Placement of a child in the employee's home for adoption or foster care when the child is under age 18 or older than age 18 if incapable of self-care (eligibility expires 12 months after placement);
3. Care of a spouse, child or parents with a serious health condition. For the serious health condition of a child, federal law restricts the leave for children under the age of 18 years of age or children of any age who are disabled. State law does not have this restriction for a child with a serious health condition, but it does apply for "sick child leave".
4. Employee's own serious health condition.

In addition, state law allows employees to take leave to care for a parent-in-law, same sex domestic partner, grandparent or grandchild with a serious health condition and for the care of a sick or injured child who requires home care but is not suffering from a serious health condition ("sick-child leave").

## **VI. FMLA EXPANDED FOR MILITARY FAMILIES**

In 2009 leave under the FMLA was expanded in two areas for employees who have a family member in the Armed Forces.

### **1. Caregiver Leave for an Injured Service Member**

An eligible employee who is the spouse, son, daughter, parent, or next of kin (defined as the closest blood relative) of a covered service member shall be entitled to a total of twenty-six (26) workweeks of leave during a 12-month period to care for the service member. A covered service member is a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability list, for a serious injury or illness that occurred while on active duty.

## **304 – FAMILY MEDICAL LEAVE continued**

### **2. Family Leave to Call to Active Duty**

An eligible employee may use up to twelve (12) weeks of FMLA leave any qualifying exigency (pressing or urgent matter) as defined by the Department of Labor arising from a spouse, son, daughter, or parent who is either on active duty in the Armed Forces, or who has been notified of an impending call or order to active duty in the Armed Forces. FMLA leave for a qualifying exigency is not in addition to the standard FMLA 12-week entitlement.

## **VII. LENGTH OF LEAVE**

### **Duration of Leave for FMLA and OFLA:**

- Employees are permitted to take a total of twelve (12) weeks of leave in a 12-month period for any qualifying event. In most cases, FMLA leave and OFLA leave will run concurrently. Employees using qualified OFLA leave for circumstances not covered by FMLA may take additional protected leave from FMLA-qualifying conditions.
- Leave for the birth of the employee's child, or the placement of a child for adoption or foster care with the employee (parental leave) must be taken within 12 months of the birth or adoption. Parental leave must be taken in one continuous block and may not be taken intermittently.
- Two family members that are both employees of Malheur County may take FMLA concurrently only under the following circumstances:
  - a. under FMLA for parental leave or leave to care for an employee's parent with a serious health condition, but not limited to a combined total of 12 weeks between the eligible employees in either circumstance, or
  - b. under OFLA where one employee needs to care for the other employee who is suffering from a serious health condition; or
  - c. under OFLA where both employees are suffering from a serious health condition, or
  - d. under OFLA where one employee needs to care for a child who has a serious health condition while the other employee is also suffering a serious health condition, or
  - e. under certain circumstances, subject to business needs, and subject to review and approval by each employee's supervisor and in coordination with the Personnel Officer and Malheur County Court.

## 304 – FAMILY MEDICAL LEAVE continued

### Additional Leave Under OFLA:

In addition to the 12 work weeks of leave authorized above, under state law a female employee may take an additional 12 work weeks of leave within any one-year period for an illness, injury or condition related to pregnancy or childbirth that disables the employee from performing her work duties. This means a female employee may take up to 24 weeks for pregnancy disability (but she does not then get an additional 12 weeks for parental or sick child leave). This period of pregnancy related disability includes any period of time prior to childbirth in which the employee's health care provider certifies the employee can not work and continue after childbirth until the health care provider certified the employee is no longer disabled. However, a woman may choose to designate the leave following childbirth as parental leave instead of pregnancy disability.

An employee who takes 12 weeks of parental leave may also take up to an additional 12 weeks of sick child leave in the same leave year. A parent is allowed 12 weeks of "sick-child leave" only if the full 12 weeks of parental leave are exhausted. If the employee takes less than 12 work weeks of parental leave, the employee is entitled to the balance of the 12 weeks for any other family leave purpose except that the leave taken for parental leave shall not reduce the leave available for sick child leave. Sick child leave need not be provided if another family member is available to care for the child.

### Additional Information Regarding Pregnancy and Childbirth

Federal and State laws provide the following rights:

- Prohibitions against terminating or refusing to hire or promote a woman solely because she is pregnant.
- Bars mandatory leave for pregnant women arbitrarily set at a certain time in their pregnancy and not related to their ability to work. A female employee must be permitted to work during pregnancy so long as she is able to perform available job duties.
- Requires employers to grant leaves to employees for disability related to pregnancy, childbirth and related complications as well as non-medical "parental leaves" under the same policies as for other related leaves.
- Requires that an employer make reasonable accommodations to allow a pregnant employee to transfer to a less or strenuous or hazardous position for the duration of her pregnancy or grant leave of absence while the employee is disabled from performing any available job duties offered by the employer.
- Requires employers to reinstate an employee returning from pregnancy related disability leave on the same basis as other employees returning from sick or disability leave.

### **VIII. CALCULATING THE 12 MONTH PERIOD FOR LEAVE**

The County will use the same method for calculating the 12-month period in which the 12 work week FMLA and OFLA leave entitlement occurs for all employees. The County will use the 12-month period measure forward from the date the employee's leave begins.

### **IX. PAID AND UNPAID LEAVE**

Family leave under federal and state law is generally unpaid. The County requires the employee to use any accrued sick leave, vacation, personal or comp time before taking FMLA and/or OFLA leave without pay for the leave period. The employee may select the order in which the paid leave is used.

The County will notify the employee that the requested leave has been designated as FMLA and/or OFLA and, if required by the County, accrued leave shall be used during the leave period. Such notification will be given to the employee prior to the commencement of the leave or within two working days of the employee's notice of an unanticipated or emergency leave.

When the County does not have sufficient information to make a determination of whether the leave qualifies as FMLA or OFLA leave, the County will provide the required notice when the information is available but not later than two working days after the County has received the information. Oral notices will be confirmed in writing no later than the following payday. If the payday is less than one week after the oral notice is given, written notice will be provided no later than the subsequent payday.

### **X. CONTINUATION OF HEALTH INSURANCE BENEFITS**

Under federal law, group health insurance benefits and premium payments must be continued on the same basis as coverage would have been provided and premiums paid if the employee had been continuously employed during the leave period. The County will continue to pay the County's contribution toward the employee's premiums. The employee will continue to pay the employee's share of premiums. A 30-day grace period will be allowed for receipt of the employee's share of premiums. The County's obligation to maintain the employee's benefits will cease if the employee's contribution is more than 30 days late. The County will provide written notice that the premium is more than 30 calendar days late. Such notice will be provided within 15 calendar days before coverage is to cease.

Under state law, County paid benefits are not required to continue and must be paid by the employee if the employee is on unpaid status.

## **304 – FAMILY MEDICAL LEAVE continued**

The Oregon Public Employee's Retirement System (PERS) requires employees to be in a paid status for fifty (50) hours per month to receive creditable service for that month. Service credit is not granted for months in which an employee is on a leave without pay. Time spent on leave without pay also is not included in the service time used to determine eligibility for unreduced early retirement benefits. (Refer to PERS handbook or contact PERS for more information).

In the event the County is required to pay or elects to pay any part of the costs of providing health or other insurance coverage for an employee during the period of FMLA or OFLA leave that should have been paid by the employee, the County may deduct, on the employee's return to work such amounts from the employee's pay as have been advanced. In no event may the total amount deducted exceed ten percent of the employee's gross pay each pay period.

An employee is not entitled to the accrual of any seniority or employment benefits that would have accrued if not for the taking of the leave. An employee who takes family or medical leave will not lose any seniority or employment benefits that accrued before the date the leave began.

### **XI. RESTORATION TO EMPLOYMENT**

After leave, granted under federal and state law, an employee is generally entitled to be returned to the same position that the employee held when leave commenced or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment unless otherwise excepted by law. The Malheur County Administrator will make a determination as to whether a position is an "equivalent position".

If the leave was required for the employee's own serious health condition, the County may require the employee to obtain and present certification from the health care provider that the employee is able to resume work.

### **XII. APPLICATION**

Under federal law, an employee requesting FMLA and/or OFLA leave shall provide at least 30 days notice prior to the leave date if the leave is foreseeable. The notice shall be written and include the anticipated start, duration and reasons for the requested leave. The employee must make a reasonable effort to schedule treatment, including intermittent leave and reduced leave, so as not to unduly disrupt the operations of the County. An application form can be obtained in the County Administrative Office.

## **304 – FAMILY MEDICAL LEAVE continued**

If advance notice is not possible, for example due to change in circumstances or medical emergency, an employee eligible for FMLA leave must provide notice as soon as practicable. "As soon as practicable" under federal law means at least oral notification within one or two business days of when the need for leave becomes known to the employee.

An employee eligible for OFLA leave is required, under state law, to provide oral or written notice within 24 hours in unanticipated or emergency leave situations. The employee may designate a family member or friend to notify the County during that period of time.

In either case, proper documentation must be submitted no later than three working days following the employee's return to work.

Failure of an employee to provide the required notice for FMLA leave may result in the County delaying the employee's leave for up to 30 days after the notice is ultimately given.

Failure of an employee to provide the required notice for OFLA leave under state law may result in the County deducting up to three weeks from the employee's leave period.

### **XIII. MEDICAL CERTIFICATION**

If the employee provides 30 or more days notice when applying for FMLA and/or OFLA leave, employees may be required to provide medical documentation when appropriate to support the request for leave. The County will provide written notification to employees of this requirement within three working days of employee's request for leave. If the employee provides less than 30 days notice, the employee is required to submit such medical certification no later than 15 calendar days after receipt of the County's notification that medical certification is required.

Under federal law, a second medical opinion may be required whenever the County has reason to doubt the validity of the initial medical opinion. The County may select the health care provider. The provider shall not be employed by the County on a regular basis. Should the first and second medical certification differ, a third opinion may be required. The County and the employee will mutually agree on the selection of the health care provider for a third medical certification. The third opinion will be final. Second and third opinions and the actual travel expenses for an employee to obtain such opinions will be paid for by the County.

Under state law, the County may require a second opinion and designate the health care provider. The County may not employ the provider. Should the two opinions conflict, the County may require a third opinion and that the two providers designate the third health care provider. The third opinion will be final. Second and third opinions and the actual travel expenses for the employee to obtain such opinions will be paid for by the County.

## **304 – FAMILY MEDICAL LEAVE continued**

If the leave is for the purpose of an employee's own serious health condition, he/she must also provide a fitness for duty medical release from the health care provider before returning to work.

The County may require an employee who is using OFLA leave to care for a sick child to provide medical certification after the use of more than three days of such leave in a one-year period. The County will pay the cost of the medical certification not covered by insurance or other benefit plan.

### **XIV. NOTIFICATION**

Any notice required by federal and state law explaining employee rights and responsibilities will be posted in the break room of the Malheur County Courthouse. Additional information may be obtained by contacting the County Administrative Office.

### **XV. RETURN FROM LEAVE**

An employee must indicate on his/her application when the employee will return to work. If the employee wishes to return to work prior to the expiration of a family or medical leave absence, notification must be given to the employee's supervisor and Personnel Officer or County Administrator at least two (2) working days prior to employee's planned return.

### **XVI. FAILURE TO RETURN FROM LEAVE**

The failure of an employee to return to work upon the expiration of a family or medical leave of absence will subject the employee to immediate termination unless an extension is granted. An employee who requests an extension of family or medical leave must submit a request for extension in writing to the Personnel Officer or County Administrator. This written request should be made as soon as the employee realizes that he or she will not be able to return at the expiration of the leave period.

### **XVII. RECORDKEEPING/POSTED NOTICE**

The County will maintain all records as required by federal and state laws including dates leave is taken by employees; identified separately from other leave; hours/days of leave; copies of general and specific notices to employees; premium payments of employee health benefits while on leave and records of any disputes with employees regarding granting of leave.

Medical documentation will be maintained separately from personnel files as confidential medical records.

**XVIII. FEDERAL VS. STATE LAW**

Both federal and state laws contain provisions regarding leave for family illness. Federal regulations state an employer must comply with both laws; that the federal law does not supersede any provision of state law that provides greater family leave rights than those established pursuant to federal law and state and federal leave entitlement run concurrently. State law requires that federal and state leave run concurrently when possible. For example, due to differences in regulations, an employee who takes leave after 180 days of employment but before one year, is still eligible to take a full 12 work weeks of federal leave after meeting the one year work requirement. After the first work year, leave will run concurrently. Generally, employees will be deemed to be using leave pursuant to state law except in such cases where federal law provides greater benefits.

Approved: January 1995

Revised: March 1, 2007; January 2, 2008; February 25, 2009

Recorded as Instrument #2009-1164



## **305 – UNPAID SICK LEAVE/NON-FMLA/OFLA MEDICAL LEAVE**

### **UNPAID SICK LEAVE**

#### **A. General.**

Upon application by an employee, the County may grant sick leave without pay for a remaining period of temporary short-term disability after accrued sick leave has been exhausted. The County will require that the employee submit a certificate from a physician periodically during the period of such disability. Unless approved by the County, an employee shall not accept employment outside the service of the County while on sick leave, whether paid or unpaid.

#### **B. Policy.**

1. Employees who do not meet the eligibility of family and medical leave or have exhausted their family and medical leave may request non-FMLA/OFLA medical leave. This leave is available when the employee or employee's family member has a serious health condition. Such leave may only be granted once in a 12 month period. In some circumstances, non-FMLA/OFLA medical leave may be available to employees as a reasonable accommodation under the American with Disabilities Act.
2. To request leave, the employee must submit a statement from a health care provider explaining the reason and duration of the requested leave. The statement must be submitted to employee's supervisor within five (5) working days of employee needing non-FMLA/OFLA leave. If the leave is granted, periodic updates from the health care provider as well as the status of employee's intent to return to work will be required.
3. Accrued sick, vacation and personal leave must be used. Once paid leave is exhausted, the remainder of the leave is unpaid.
4. Employee must have at least 14 paid work days in a calendar month in order for the County to pay its portion of the monthly premiums. Once an employee commences unpaid leave, he/she is no longer eligible for county health insurance and their coverage will terminate at the end of that month. He/she will have the option of COBRA coverage. CIS will send COBRA information directly to the employee. If elected, COBRA application and payment must be made per instructions provided in the COBRA packet. When the employee returns to work within or at the end of 90 days, coverage will be reinstated the first of the month following 30 days of the employee's return to work. All Life Insurance coverage will terminate at the end of the month following 90 days leave, paid or unpaid. Life insurance will be reinstated the first of the month following 30 days of the employee's return to work.

### **305 – UNPAID SICK LEAVE/NON-FMLA/OFLA MEDICAL LEAVE continued**

5. If leave is granted at the discretion of the employee's supervisor, the amount of leave cannot exceed 90 days. Typically, leave under this policy is not a job protected absence. Leave does not guarantee employee's return to the same position or reinstatement to any position. The employee's supervisor may, however, agree in writing to hold employee's position for a specified time determined by the supervisor.
6. If leave is denied and the employee decides not to report to work, employment ends as a voluntary termination effective the last day worked by the employee.
7. In order to return to work following leave, the employee must be cleared to work by County and submit documentation from his/her health care provider. The decision to clear an employee to return to work rests with the employee's supervisor and is based on the essential functions of employee's job, the nature of the medical condition or procedure involved and any other reliable and objective information received by employee's supervisor. Documentation to return to work from the health care provider must be detailed and not simply a statement that the employee may return to work. There must be sufficient information in the documentation for the supervisor to make a determination that the employee can perform the essential functions of his/her job, and do so without posing a significant risk of substantial harm to oneself or others. The documentation must also note whether there are any medical restrictions or limitations on the employee's ability to perform his/her job, and any symptoms that could create a job hazard for the employee or other employees.
8. If it is unclear to County whether an employee can return to work and perform the essential functions of his/her job, or whether he/she poses a direct threat to the health or safety of himself/herself to others, the supervisor may require the employee to undergo a fitness-for-duty-examination paid for by the County.

Approved: January 1, 2003

Revised: September 2, 2015; September 18, 2019

Recorded as Instrument #2019-3501

### **306 – UNPAID LEAVE OF ABSENCE**

Leaves of absence without pay not to exceed 90 calendar days may be granted at the discretion of the Department Head or County Court. Normally, such leave will not be approved for an employee for the purpose of accepting employment outside the service of the County. Such leaves may be renewed or extended upon request and at the discretion of the County.

Approved:     January 1, 2003  
Revised:

### **307 – BEREAVEMENT LEAVE**

Employees working a forty (40) hour workweek shall be eligible for twenty-four (24) hours of paid bereavement leave and employees working a thirty-seven and one-half (37.5) hour workweek shall be eligible for twenty-two and a one-half (22.5) hours of paid bereavement leave per calendar year, prorated for part-time employees, to discharge the customary obligations arising from the death of the employee's family member. The County may request documentation. For purposes of this paid bereavement leave, "family member" shall be defined the same as in Malheur County Policy 303 Sick Leave and also include the employee's aunt, uncle, niece and nephew. *(Family member is defined as an employee's spouse, domestic partner, custodial parent, non-custodial parent, adoptive parent, foster parent, biological parent, stepparent, parent-in-law, a parent of an employee's domestic partner, an employee's grandparent or grandchild, or a person for whom the employee is or was in a relationship of in loco parentis. "Family member" also includes the biological, adopted, foster child or stepchild of an employee or the child of an employee's domestic partner. An employee's child in any of these categories may be either a minor or an adult at the time of bereavement leave. "Family member" also includes brother, sister, aunt, uncle, niece or nephew but does not include cousins unless in loco parentis relationships).* Paid bereavement leave under this policy shall run concurrently with OFLA when applicable. The County shall notify the employee when OFLA is running concurrently with bereavement leave.

If additional leave is needed an employee may, with prior authorization, request the use of accrued sick leave, vacation leave, compensatory time off or leave without pay. Use of accrued sick leave is subject to the definition of family member and the requirements of Malheur County Policy 303 Sick Leave.

#### **BEREAVEMENT LEAVE UNDER OREGON FAMILY LEAVE ACT (OFLA)**

OFLA provides up to two weeks of leave to attend the funeral or alternative to a funeral of a family member, to make arrangements necessitated by the death of a family member, or to grieve the death of a family member.

To be eligible for bereavement leave protected under OFLA, an employee must meet the following four requirements:

1. Be employed by Malheur County for a minimum of 180 days immediately prior to the onset of the leave; and
2. Have worked a minimum of 25 hours per week for the 180 days immediately prior to the onset of the leave. These are actual hours, and do not include sick leave, vacation, etc.; and
3. Have not exhausted all 12 weeks of OFLA protected leave within the 12 months immediately prior to the onset of the leave; and
4. Need time off due to the death of "family member" as defined in OFLA. *"Family member" means the spouse, same-gender domestic partner, custodial parent,*

### 307 – BEREAVEMENT LEAVE continued

*non-custodial parent, adoptive parent, foster parent, biological parent, parent-in-law, parent of same-gender domestic partner, grandparent or grandchild of the employee, or a person with whom the employee is or was in relationship of in loco parentis. It also includes the biological, adopted, foster or stepchild of an employee or the child of an employee's same-gender domestic partner.*

OFLA bereavement leave can be taken for the death of each family member of the employee. Malheur County will not require an eligible employee to take multiple leave periods concurrently if more than one family member of the employee dies and will allow any employees with the same family member to take concurrent leave.

This leave shall be counted towards the total period of OFLA leave allowed (generally 12 weeks), within a 12 month period. All leave taken for the death of a family member must be complete within 60 days of the date on which the employee receives notice of the death of the family member.

If possible employees should provide their supervisors with as much advanced notice as possible. When advanced notice is not possible, employees must give verbal or written notice within 24 hours after commencement of the leave. This notice may be given by any other person on behalf of employee taking unforeseeable OFLA bereavement leave. A supervisor may require written notice by the employee within three days of the employee's return to work.

OFLA provides job protections but does not provide benefit protections. Therefore, an employee will need to speak with the Personnel Officer to determine if the County will pay its portion of the health insurance premium. Employees may use leave accruals (sick leave etc.) during OFLA bereavement leave. If leave accruals are not available, leave may be taken without pay.

To request OFLA bereavement leave, an employee should complete the form attached and submit it to his or her supervisor. Once the Personnel Officer receives the request, a notice of eligibility determination will be mailed to the employee's home address.

Approved: January 1, 2003; June 6, 2014

Revised: May 24, 2017, June 26, 2019

Recorded as Instrument #2019-2357

### 307 – BEREAVEMENT LEAVE continued

#### FORM 505

#### OFLA BEREAVEMENT LEAVE REQUEST FORM

Employees should use this form to request time off for funeral/bereavement leave under OFLA. This leave can be for up to two weeks of leave. An employee may use leave accruals such as vacation, sick, and personal during this period.

Employee Name: \_\_\_\_\_

Relationship of Family Member (Choose One):

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> spouse                       | <input type="checkbox"/> foster parent              | <input type="checkbox"/> loco parentis relationship            |
| <input type="checkbox"/> same-gender domestic partner | <input type="checkbox"/> biological parent          | <input type="checkbox"/> child of employee                     |
| <input type="checkbox"/> custodial parent             | <input type="checkbox"/> parent-in-law              | <input type="checkbox"/> child of same-gender domestic partner |
| <input type="checkbox"/> non-custodial parent         | <input type="checkbox"/> parent of domestic partner | <input type="checkbox"/> other: _____                          |
| <input type="checkbox"/> adoptive parent              | <input type="checkbox"/> grandparent                |  |
|   | <input type="checkbox"/> grandchild                 |  |

Date of Knowledge of Death: \_\_\_\_\_.

Beginning Date of Leave: \_\_\_\_\_.

Date Returning to Work: \_\_\_\_\_.

If leave will be taken on an intermittent basis, please provide schedule here:

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\_\_\_\_\_  
Employee's signature                      date

☐ Approved leave under OFLA.

☐ Not approved for leave under OFLA for the following reason:

\_\_\_\_\_

Signed by Personnel Officer: \_\_\_\_\_

### 308 – PAID VACATION BENEFITS

Full-time employees, who have worked for Malheur County for at least six (6) consecutive calendar months, are entitled to vacation benefits. Vacation must be approved in advance through the employee's supervisor. Supervisors schedule vacations paying attention to coverage of necessary work. The number of hours of vacation earned per month varies by the number of years of employment as follows:

Zero to six months	1 day per month (only available for use after 6 months)
Six months to one year	1 day per month available for use upon accrual
Years 1 – 5	1 day per month = 12 days per year
Years 6 – 10	1¼ days per month = 15 days per year
Years 11 – 14	1½ days per month = 18 days per year
Years 15 and over	2 days per month = 24 days per year

Employees, who work at half-time, but less than full-time, earn vacation on a pro-rated basis. Employees who work less than half-time are not entitled to vacation benefits.

Upon the employee's death, accrued and unused vacation leave will be paid to the employee's estate.

The maximum accumulation of vacation leave of any employee is 25 workdays.

Vacation leave shall not accrue during an absence without pay.

Approved: January 1, 2003  
Revised: June 26, 2019

Recorded as Instrument #2019-2358

### **309 – DONATION OF VACATION BENEFITS**

In the event an employee exhausts all their vacation, sick and other paid leaves of absence and the employee has a long term health condition, injury or illness, employees from within the same department or office may donate hours of their own accumulated vacation leave to the employee, as long as the donated hours are below the maximum number of hours the employee is allowed to accumulate under these policies or collective bargaining agreement. Such donations must be made in writing by the donor and submitted to the Personnel Officer. Donations must be approved by the Malheur County Court.

Nothing in this policy precludes Malheur County from counting the donated vacation leave as leave against the donee's annual FMLA or OFLA leave.

Donated leave will be paid at the donee's rate of pay and not the donor's rate of pay.

A maximum of 40 hours of vacation leave per long term condition, injury or illness of the employee may be donated.

Approved:     January 1, 2003

Revised:



### **310 – PAID HOLIDAY BENEFIT**

The following days shall be paid holidays for all employees whose normal work schedule requires the employee to be on duty the day before or the day after such holiday, excluding weekends:

- A. New Year's Day, January 1
- B. Martin Luther King Jr.'s Birthday, third Monday in January
- C. President's Day, third Monday in February
- D. Memorial Day, last Monday in May
- E. Independence Day, 4<sup>th</sup> of July
- F. Labor Day, first Monday in September
- G. Veteran's Day, November 11
- H. Thanksgiving Day, fourth Thursday in November
- I. Day after Thanksgiving
- J. Christmas Day, December 25

The Malheur County Court may grant additional days. If the holiday is on a Sunday, the paid holiday is on the following Monday. If the holiday is on a Saturday, the paid holiday is the proceeding Friday.

Approved: January 1, 2003  
Revised:

## 311 – RETIREMENT/EMPLOYMENT OF PERS RETIREES

A. **Oregon Public Employee Retirement System (PERS)**. All qualified employees are required by Oregon law to belong to PERS, and the Federal Social Security Old Age, Survivors and Disability Insurance. The State and Federal Governments determine rates.

B. **Employment of Retirees**. A PERS retiree who is receiving service retirement allowance under Tier One/Tier Two or the Oregon Public Service Retirement Plan (OPSRP), or has elected to retire without a PERS retirement service allowance may be employed by Malheur County subject to certain employment restrictions.

### A. Employment Restrictions

1. An exemplary employee who is otherwise qualified to retire under PERS (PERS retiree) may be re-employed by the County up to 37.5 or 40 hours a week (full-time status) at the sole discretion of the Malheur County Court. Malheur County is not responsible for any impact upon the retirement benefits of a PERS retiree resulting from his/her re-employment with the County.
2. Employment of any PERS retiree must be approved by the Malheur County Court prior to the employment of the PERS retiree. The PERS retiree will sign an employment contract with Malheur County. Employment contracts shall not be longer than a calendar year and will end on December 31. Employment contracts may be renewed on a calendar basis at the discretion of the County.
3. No regular employee shall be displaced by the employment of a PERS retiree.
4. Working after retirement for Malheur County constitutes a new employment relationship. The PERS retiree shall not be entitled to any previously held seniority or rights under any collective bargaining agreement. Employment is “at will”. As such, there is not need to establish cause for discipline or removal from employment.
5. When a Malheur County employee retires, the employee’s vacation accruals and compensatory time are paid. Sick leave balance is zeroed. A PERS retiree re-employed by Malheur County shall not be eligible for paid personal leave or holiday pay. Vacation leave may be front-loaded and pro-rated per calendar year up to 10 paid vacation days per calendar year. There is no accrual of vacation leave. Vacation leave must be used or lost at the end of each calendar year. Sick leave will re-accrue at 1 hour per 30 hours worked. Upon separation from re-employment unused sick leave and unused vacation leave will not be paid out to retiree/employee.

### **311- RETIREMENT/EMPLOYMENT OF PERS RETIREES continued**

6. PERS retirees may be eligible for County health benefits as determined by the County and subject to the eligibility requirements, limitations and provisions of the health benefits plan/provider. Currently, premiums for a full time employee are paid 85% by County and 15% by employee. This insurance benefit is subject to procedures specified by the carrier and Malheur County and may be modified, eliminated or suspended by Malheur County. Any such action will automatically bind retired employees. The PERS retiree may have to continue to exercise COBRA rights as a retiree. Insurance may also be available through PERS. Retirees should contact PERS in order to make fully informed decisions about their re-employment and health insurance benefit choices.
7. PERS retirees are eligible to participate in the County's Flexible Spending Accounts only until the end of the plan year in which they retire from regular employment.
8. PERS retirees are eligible for County paid basic life insurance and AD&D.
9. PERS retirees are eligible to participate in deferred compensation programs upon their re-employment subject to the limitations and eligibility requirements of the providers. PERS retirees are generally not eligible for distributions from a deferred compensation program. PERS retirees should consider this and consult professional advice when seeking employment with the County.
10. When a PERS retiree is re-hired into the same classification as held prior to retirement, their salary shall be at the same step or position in the salary range and not higher than previously held. Cost of living adjustments are not granted.
11. Malheur County must continue to pay the employer PERS contribution on the retiree rehire's salary. In contrast, retiree/employee will no longer pay into PERS.
12. This policy may sunset contemporaneously with SB 1049 (2019), which is the year 2024.

Approved: January 1, 2003

Revised: October 20, 2010, June 26, 2019

Recorded as Instrument #2019-2359

### **312 – DEFERRED COMPENSATION PLAN**

Deferred compensation plans are available to all employees at their option. Plan information may be obtained from the Personnel Officer.

Approved: January 1, 2003

Revised:

### **313 – WORKERS’ COMPENSATION INSURANCE**

All employees of Malheur County are covered by workers’ compensation insurance.

#### **Benefit**

When an employee is injured while performing his/her duties and qualifies for workers’ compensation, the employee may:

Elect to receive only workers’ compensation benefits and not use any of his/her accumulated sick leave; or

Elect to receive workers’ compensation benefits and use his/her accumulated sick leave to make up the difference between the amount of the workers’ compensation benefits received and his/her normal salary or hourly wage. Accumulated sick leave may be used in this manner until depleted, at which time the employee will be eligible to receive only workers’ compensation benefits, if any remain available. For example, if an employee normally earns \$70 per day, and he/she receives \$50 per day in workers’ compensation benefits, he/she may elect to receive \$20 per day from accumulated sick leave until accumulated sick leave is depleted or workers’ compensation benefits terminate.

#### **Volunteers**

Employees shall request volunteers working within their offices and departments to complete a volunteer form with the Personnel Officer so that they are subject to Malheur County’s workers’ compensation insurance.

#### **Claim/Report**

Employees must file a workers’ compensation claim with the Personnel Officer within 90 days of a work-related injury or one year of learning that the employee has an occupational disease. Failure to comply with these time frames may result in the denial of the employee’s claim. Work related fatalities must be reported to the Personnel Officer within four (4) hours of the occurrence. Accidents resulting in hospitalization overnight with medical treatment must be reported to the Personnel Officer within twelve (12) hours of the accidents. The Personnel Officer has forms for reporting injuries. Other than the types of injuries specified above, it is mandatory that every injury incurred on the job be reported to the Personnel Officer within twenty-four (24) hours.

### **313 – WORKERS’ COMPENSATION INSURANCE continued**

#### Return to Work

If you require workers’ compensation leave, you will – under most circumstances – be reinstated to the same position that you held at the time your leave began, or to an equivalent position, if available. However, you must first submit an approved medical certificate demonstrating your ability to return to work.

When returning from a workers’ compensation leave you have no greater right to reinstatement than if you had been continuously employed rather than on leave. For example, if you would have been laid off had you not been on leave, or if your position is eliminated, and no equivalent or comparable positions are available, then you may not be entitled to reinstatement. These are only examples and all reinstatement/reemployment decisions are subject to the terms of any applicable collective bargaining agreement. Malheur County does not discriminate against employees who suffer a workplace injury or illness.

#### Early Return-to-Work Program

Our Return-to-Work program provides guidelines for returning you to work at the earliest possible time after you have suffered an on-the-job injury or illness that results in time loss. This program is not intended as a substitute for reasonable accommodation when an injured employee also qualifies as an individual with a disability. The Return-to-Work Program is intended to be transitional work, to enable you to return to your regular job in a reasonable period of time.

The Return-to-Work program for job-related injuries consists of a team effort by Malheur County, injured employees and their treating physicians, and our workers’ compensation insurance carrier claims staff. The goal is to return our employees to full employment at the earliest possible date that is consistent with their medical condition and the advice of the treating physician.

If your doctor determines that you are able to perform modified work, County will attempt to provide you with a temporary job assignment for a reasonable period of time until you can resume your regular duties (except where provided as an accommodation for a disability). If, due to a work related injury, you are offered a modified position that has been medically approved, failure to phone in or report at the designated time and place may affect your compensation and employment with County. While you are on modified or transitional work, you are still subject to all other County rules and procedures.

### **313 – WORKERS’ COMPENSATION INSURANCE continued**

#### Overlap with Other Laws

County will account for other leave and disability laws that might also apply to your situation, such as the ADA and FMLA or OFLA. If, after returning from a workers’ compensation leave, it is determined that you are unable to perform the essential functions of your position because of a qualifying disability, you may be entitled to a reasonable accommodation, as governed by the Americans with Disabilities Act and/or applicable Oregon laws covering disabilities in the workplace.

Approved: January 1, 2003

Revised: May 11, 2016

Recorded as Instrument #2016-1596

### **314 – MEDICAL, DENTAL, AND VISION INSURANCE**

Employees, and their dependents, who work for Malheur County at least one-half time are eligible for the County's health insurance program. Malheur County provides group health, dental and vision care insurance programs for employees and their eligible dependents subject to enrollment periods and procedures specified by the carrier and Malheur County. Malheur County has the sole discretion to choose the insurance carrier or carriers.

Premiums are subject to rate changes. Caps may be placed on the amount of premium Malheur County will pay and the remainder will be paid by the employee.

Waiting periods must be followed.

Premium payments are made through payroll deductions and, at the employee's request, can be made with pre-tax salary or wages.

For more information on Malheur County's group insurance plans, employees may contact the Personnel Officer.

Approved: January 1, 2003

Revised:



### **315 – HEALTH INSURANCE CONTINUATION (COBRA)**

The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health insurance coverage under their employer's health plan when a "qualifying event" would normally result in the loss of eligibility (i.e. work separation, death of an employee, a reduction in employee's hours, leave of absence, an employee's divorce or legal separation, or a dependent child who is no longer meeting the requirements).

Under COBRA, the employee or beneficiary pays the full cost of coverage at the group rates. The County will provide each employee with a written summary designating rights and obligations granted under COBRA when the employee becomes eligible for coverage under the County's insurance plan.

Additional information on COBRA benefits is contained in the employee's health benefit booklet.

Approved: January 1, 2003

Revised:

### **316 – LIFE INSURANCE**

An employee that works at least half time (18.75 hrs/wk) will automatically be enrolled for employer paid \$20,000 Group Basic Life/AD&D. Upon the death of the employee, \$20,000 will be paid to the employee's designated beneficiary. Supplemental life insurance can be purchased covering the employee, employee's spouse and/or employee's dependent children. Election for Supplemental life can be made during open enrollment or following a qualifying life event. Supplemental life insurance is subject to medical underwriting. For more information contact the Personnel Officer. The full policy can be found on the Malheur County website under Employee Services.

Life insurance is not a pre-tax, payroll deduction.

Approved: January 1, 2003  
Revised: October 21, 2015

Recorded as Instrument #2015-3799

### **317 – DISABILITY, CANCER, ACCIDENTAL, INTENSIVE CARE INSURANCE**

In an effort to provide customized benefits to our employees, the County makes available American Life Assurance Company of Columbus (AFLAC)'s personal Short-Term Disability, Cancer, Accident and Intensive Care Insurance Policies. The employee is responsible for the total costs of these benefits. However, the County makes them available to employees through payroll deductions so the employee can receive these benefits at payroll rates and with pre-tax savings, if elected by the employee. Plans available now include:

#### **Personal Short Term Disability**

3-month, 6-month or 12-month disability plans that covers sickness and injury.

#### **Cancer**

Benefits for treatment of cancer including first occurrence, radiation and chemotherapy, hospital confinement, surgery, cancer screening, bone marrow transplant, stem cell transplant, transportation, hospice, wellness screening and more.

#### **Accident/Disability**

Benefits available for accident emergency treatment, accident hospital income, accidental death and wellness benefits with options for accident/sickness disability.

#### **Intensive Care**

Benefits for covered confinement in hospital intensive care units, coronary intensive care units or neonatal intensive care units.

These policies pay regardless of any other health coverage. Benefits are paid directly to the employee unless the employee assigns the benefits, to assist with loss of income, non-medical costs and other personal expenses.

For more information about these benefits and costs, please contact the Personnel Officer.

Approved: January 1, 2003

Revised:

### **318 – UNEMPLOYMENT INSURANCE**

Malheur County provides unemployment compensation through the State of Oregon Unemployment Insurance Fund as provided for under State law (ORS 657).

Approved: January 1, 2003

Revised:

### **319 – EMPLOYEE ASSISTANCE PROGRAM (EAP)**

A confidential service is provided to all employees covered by our health insurance benefits (those who work in regular, full-time positions) and their covered dependents who may be experiencing life problems (coping with emotional stress, dealing with psychological problems, marital or family difficulties, depression, eating disorders, alcohol or other drug-related problems, communication problems stemming from work situation, financial problems etc.). Sick leave may be used for EAP appointments and all sessions are confidential.

Approved:     January 1, 2003

Revised:

### **320 – CAFETERIA OR FLEXIBLE PLAN**

Malheur County sponsors an employee benefit program known as a “Flexible Benefits Plan”. Under federal tax laws, it is also known as a “cafeteria plan”. It is so-called because it lets the employee choose from several different insurance and fringe benefit programs according to individual needs. Malheur County provides the employee with the opportunity to use pre-tax dollars to pay for them by entering into a salary redirection agreement instead of corresponding amounts of regular pay. This arrangement helps the employee because the benefits are non-taxable; the employee saves social security and income taxes on the amount of the salary redirection. Alternatively, the employee may choose to pay for any of the available benefits with after-tax contributions on a salary deduction basis. Currently, the premium payments on the following policies are available for election by eligible employees to be paid with pre-tax dollars as a payroll deduction:

- group medical insurance
- vision care insurance
- cancer insurance
- group dental coverage
- intensive care insurance
- accident insurance
- hospital indemnity insurance

Approved:     January 1, 2003

Revised:

## **321 – LACTATION BREAKS**

### **General**

- a.** In compliance with Oregon law, Malheur County will take measures to ensure that all women employees of Malheur County are provided with an adequate location for the expression of milk. Specifically, Malheur County will make reasonable efforts to provide a private room or other location in close proximity to the employee's work area, other than a restroom or toilet stall, where the employee can express her milk in privacy.
- b.** Information about this policy will be provided to new employees and supervisors to pregnant employees upon notification of their pregnancy.

### **Accessible Private Room**

- a.** An accessible private room with a lock shall be provided where a nursing woman can extract milk to be stored for later use. The room will have accessible electrical outlets, be a comfortable temperature and contain a chair. The room may include the employee's work area, lounge or nearby child care facility. The room will be posted when use by the employee.

### **Storage**

- a.** The employee is responsible for the proper storage of all equipment, milk and supplies. For areas without a refrigerator, employees will be provided with a secure area to store a personal ice chest or thermos.

### **Work Schedule**

- a.** Employees will be allowed breaks to express milk. Employees are allowed one 30-minutes rest period to express milk during each 4-hour work period, to be taken "approximately in the middle of the work period." An employee taking a rest period to express milk should take it, if feasible, at the same time as the rest or meal periods otherwise provided to the employee. If the time or time periods exceed normal lunch and other breaks, the rest periods for expressing milk are unpaid. However, an employee is entitled to use any paid accrued sick leave, paid accrued vacation leave or other paid leave that Malheur County offers in lieu of vacation leave during the rest periods used by the employee to express milk. If the employee does not have any accrued paid leave and the employee's health insurance plan is based on the number of hours worked, the rest periods will be considered paid work hours.

### **321 – LACTATION BREAKS continued**

- b.** Rest periods to express milk may not cause an undue hardship on the operations of Malheur County or the employee's office or department.
- c.** Rest periods must be approved by the employee's supervisor.

Approved: January 2, 2008  
Revised:

Recorded as Instrument #2008-20



## **322 – DOMESTIC VIOLENCE LEAVE**

### **Purpose**

Malheur County realizes that employees or their minor dependents who are victims of domestic violence, sexual assault or stalking may have needs which require time away from work. Malheur County will work with employees to assess how existing paid and unpaid leave options may be used to help meet these needs.

### **Eligibility for Leave**

An employee may take leave to seek legal or law enforcement assistance or remedies, to seek medical treatment for or recover from injuries, to seek counseling from a licensed mental health professional, to obtain services from a victim services provider, to relocate or secure an existing home or to use other resources required to increase the employee's and the employee's minor dependent's immediate safety.

### **Unpaid Leave**

The employee may use accrued sick, vacation, personal or compensatory paid time off while on domestic violence leave. Malheur County will also provide reasonable unpaid leave to an employee to address domestic violence, sexual assault or stalking of the employee or his or her minor dependents. Depending on the circumstances, leave under this policy may overlay with other types of unpaid leave, including crime-victim leave, FMLA/OFLA leave and reasonable accommodations under state and federal disability laws.

### **Certification of Need for Leave**

Malheur County may require certification of the need for leave, such as a police report, protective order or other evidence of a court proceeding, or documentation from a law enforcement officer, attorney, health care professional, member of the clergy, or victim services provider. Any information obtained about an employee's circumstances relating to domestic violence leave will be kept confidential in a secure file separate from the employee's personnel file.

## **322 – DOMESTIC VIOLENCE LEAVE continued**

### **Safety and Security of Employee**

Employees with protective or restraining orders that reference the employee's worksite must provide their supervisor with a copy of the order. Employees who are concerned about their safety in the workplace due to domestic violence should also notify their supervisor. In response to these notifications, Malheur County will explore security options to be implemented to minimize the risk of threats or acts of domestic violence to the employee. Malheur County's response will take into consideration the needs and rights of the employee and others in the workplace while maintaining confidentiality when to do so does not interfere with safety needs. Malheur County reserves the right to make limited disclosure of employee's circumstance and take action when it is clearly necessary to protect the safety of other employees.

Approved: January 2, 2008

Revised: December 9, 2015

Recorded as Instrument #2015-4328

### **323 – VETERANS DAY**

Malheur County will provide eligible employees with time off time on Veterans Day if the employee would otherwise be required to work on that day. Employees are eligible if they served on active duty in the Armed Forces for at least six months and received a discharge under honorable conditions.

Military service in a reserve or National Guard unit does not qualify an employee as a veteran for the purpose of this time off, unless the employee was deployed or served on active duty for at least six months. Malheur County may require the employee to provide documents establishing his or her status as an eligible veteran.

Employees seeking Veterans Day off should make the request with at least 21 days' advanced notice. Malheur County will notify the employee, at least 14 days before Veterans Day, whether he or she will receive time off for Veterans Day and whether the time will be paid or unpaid. If Malheur County determines that providing time off on this holiday will cause significant economic or operational disruption or undue hardship Malheur County will deny the request. In this circumstance Malheur County will allow the employee a single day off before the following Veterans Day in order to honor the employee's military service. This day off will be in addition to any other time off to which the employee would otherwise be entitled.

If Malheur County cannot provide time off to all the veterans who request it, Malheur County will deny the day off either to all veterans or to the minimum number of employees needed to avoid significant economic or operational disruption or undue hardship.

Approved: June 4, 2014  
Revised:

Recorded as Instrument #2014-1836

### **324 – PAID LEAVE TO ATTEND HEALTH AND WELFARE SEMINARS, MEETINGS OR LECTURES**

Full-time employees shall be granted up to one (1) hour each calendar year with pay, inclusive of travel time, to pursue benefit meetings, seminars or programs offered by County health and welfare providers, which are currently limited to AFLAC, CIS Benefits, PERS, Nationwide, and Oregon Savings Growth Plan. Full-time employees who are within three (3) years of eligibility to retire shall be granted leave with pay to attend one (1) PERS seminar, meeting or lecture not to exceed four (4) hours, inclusive of travel time, each calendar year. Nothing herein prevents an employee from requesting vacation or personal time to pursue additional hours or additional seminars, meetings or lectures for bona fide pre-retirement planning. Employees must obtain approval from their supervisor prior to taking such leave.

Approved: June 26, 2019

Revised:

Recorded as Instrument # 2019-2360

**SECTION 400**  
**HEALTH AND SAFETY**  
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## **400 – SMOKING AND VAPING**

Smoking, vaping and the use of any inhalant delivery system (e-cigarettes, vape pen, e-hookah) is not permitted in any County facility or in County owned vehicles at any time. Malheur County complies with State law prohibiting smoking and the use of e-cigarettes and other inhalant delivery systems in public buildings.

Approved: January 1, 2003  
Revised: February 24, 2016

Recorded as Instrument #2016-0629

## **401 – DRUG AND ALCOHOL FREE WORKPLACE**

Malheur County is committed to provide a safe work environment and to foster the well-being and health of its employees. That commitment is jeopardized when employees misuse controlled substances, prescription or illegal drugs or alcoholic beverages. Therefore, Malheur County has established this policy. This policy is intended to comply with and supplement the Drug Free Workplace Act of 1988.

### **I. POLICY STATEMENT:**

Malheur County prohibits the manufacture, distribution, dispensing, possession, transfer, sale or use of any alcoholic liquor, intoxicant, narcotic, hallucinogen, stimulant, sedative drug, marijuana, or controlled substance (collectively “substances” or “drugs and alcohol”) and having to a detectable degree<sup>1</sup>, controlled substances present in the employee’s body, while performing duties for Malheur County, inclusive of breaks or during lunch. If use of such substances adversely affects an employee’s physical or mental facilities at work to a reasonable suspicion and the employee tests “positive” for such substances by screening and confirmation tests, the employee will be deemed in violation of this policy. As used in this policy, “controlled substance” includes, but is not limited to, any controlled substance listed in Schedules I through V of the Federal Controlled Substance Act, including marijuana that is otherwise lawful to use under Oregon, Washington or any other state’s law.

### **II. PRESCRIPTION DRUGS AND MEDICAL MARIJUANA:**

With the exception of medical marijuana, nothing in this rule is intended to prohibit the use of a drug taken under supervision by a licensed health care professional, where its use does not present a safety hazard or otherwise adversely impact an employee’s performance or County operations. Any employee who is required to take any medication (prescribed or over-the-counter) with side effects which impair his/her ability to fully and safely perform all requirements of his/her position, shall report the need for such medication to his/her immediate supervisor prior to commencing work. No employee shall be permitted to work or drive a County vehicle while taking such potentially impairing medication without a written release from the employee’s physician. County may reassign the employee using medication to other work or take other appropriate action to accommodate the effects of the medication. Failure to report use of prescription drugs covered by this rule will subject an employee to disciplinary action, up to and including termination.

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<sup>1</sup> Detectable degree is above, confirmed or “positive” for the most current cutoff concentrations for initial tests and confirming tests expressed in nanogram per milliliter used by laboratories for DOT drug testing when testing for the following controlled substances: marijuana (THC) , cocaine, opiates, phencyclidine (PCP) and amphetamines (AMP/MAMP).

## **401 – DRUG AND ALCOHOL FREE WORKPLACE continued**

The use of medical marijuana, which is a Schedule I controlled substance under federal law, is expressively prohibited under this policy, even if its medical use is authorized under any state's law. Malheur County will not agree to allow an employee to use medical marijuana as an accommodation under the County's disability accommodation policy.

### **III. VIOLATIONS:**

Violations of this policy include, but are not limited to the following:

1. For any employee to manufacture, distribute, sell, buy, provide, trade, transfer, offer for sale or possess for the purpose of buying, selling or providing an alcoholic liquor/ intoxicant or controlled substance, including marijuana, while on County property or in County vehicles or equipment, or during work hours, including paid rest and meal periods.
2. Being at work with a blood alcohol content that reaches or exceeds .02% by volume/weight of alcohol in the blood or consuming alcoholic intoxicants while in County vehicles or equipment at any time, or on County property, including rest and meal periods.
3. Possession of drugs and alcohol, including marijuana, while on County property or in County vehicles or equipment at any time. With the exception of marijuana, this excludes substances that have been medically prescribed for an employee's own use.
4. For any employee to use lawfully prescribed drugs at work in a manner other than directed by the employee's health professional (such as, taking it in excessive quantities or by unlawfully obtaining it for purpose of abuse) or in a way that presents a safety hazard or otherwise adversely impacts an employee's performance or County operations.
5. For an employee to have a detectable amount of a controlled substance, including marijuana, present in the body while on County property, on County time or in County vehicles or equipment at any time. An employee has controlled substance present in the body when the employee test positive in blood or urine tests administered by the County for drug testing. This excludes substances that have been prescribed for an employee's own use unless it is medical marijuana or paragraph 4 above applies.
6. To bring marijuana, in any form or in any food (i.e. marijuana brownies) or other item prepared with marijuana into the work place or on work premises.



#### **401 – DRUG AND ALCOHOL FREE WORKPLACE continued**

7. To bring marijuana-related equipment or any devices marketed for use or designed specifically for use in ingesting, inhaling or otherwise introducing marijuana or other drugs such as pipes, bongs, “vape” pens, smoking masks, roach clips and/or other drug paraphernalia into the work place or on work premises.
8. To bring marijuana or drug paraphernalia to the work place or on work premises, including any equipment, products or materials of any kind which are marketed for use or designed for use in planting, propagating, cultivating, growing or manufacturing marijuana or other drugs, including live or dried marijuana plants.
9. Failure of employee to notify County of a charge, arrest or conviction under any criminal drug or alcohol statute pursuant to section VI below.
10. Failure of employee to report the use of medication (prescribed or over-the-counter) to employee’s supervisor if required to do so under section II above.

#### **IV. REASONABLE SUSPICION FOR TESTING/SEARCH:**

1. Before a supervisor, acting on behalf of the County under this policy, may require an employee to consent and submit to test(s) specified in this policy, the supervisor must first obtain concurrence from the department head, elected official, County Judge or Personnel Officer that the information available to the County about the subject employee is sufficient to determine reasonable suspicion that prohibited conduct will be established as a result of such test(s).
2. Reasonable suspicion as used in this policy means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is more likely than not used drugs or alcohol in violation of this policy. Circumstances which can constitute a basis for determining “reasonable suspicion” may include, but are not limited to:
  - a. a pattern of abnormal or erratic behavior;
  - b. information provided by reliable and credible source;
  - c. a work related accident;
  - d. direct observation of drug or alcohol use;
  - e. presence of physical symptoms of drug or alcohol use (i.e. glassy or bloodshot eyes, odor, slurred speech, poor coordination and/or reflexes);
  - f. employee admissions regarding alcohol or drug use;
  - g. unexplained absences from normal work areas where there is reason to suspect drug or alcohol related activity;
  - h. unexplained significant deterioration in individual job performance; and
  - i. unexplained or suspicious absenteeism or tardiness.

## **401 – DRUG AND ALCOHOL FREE WORKPLACE continued**

3. Supervisors are to detail in writing specific facts, symptoms or observations which form the basis for reasonable suspicion to warrant testing or a search. The Personnel Officer or another witness should assist supervisory personnel to corroborate findings. A reasonable suspicion observation form is attached to this policy. All facts and circumstances, upon which the reasonable suspicion testing is based, shall be given to the employee when he or she is notified for the test results.
4. Supervisors will be trained on reasonable suspicion in accordance with paragraph XIV below.

### **V. TESTING:**

1. When the County has a reasonable suspicion that an employee has a controlled substance, including marijuana, present in the body, the County may require that the employee immediately consent and submit to tests and sampling (blood, urine or breathalyzer test) at an approved laboratory or hospital. The County shall pay for costs of the tests. A refusal to consent and submit to any of these tests shall be deemed the same as a positive test result. At the time of adopting this policy, the approved laboratory is Bio-Med Testing Services, Inc.
2. When an employee is notified he or she is required to consent and submit to such test or to a search as described in section VII of this policy, he or she may request the presence of a witness (i.e. union representative, another employee) to the test or search. The test or search may not be unduly delayed to wait for a witness. The absence of a witness shall not be grounds for the employee to refuse to consent and submit to such test or search; however the County shall make every reasonable effort to provide a witness. The presence of a witness shall not disrupt or interfere with a test or search.
3. The employee shall give consent to a blood, urine or breathalyzer test by signing a consent form. This policy and the consent form will be discussed with employee at the employee's orientation, during an employee's evaluation or updated annually and disseminated to employees via email or through the employee's supervisor. A consent form is attached to this policy. The consent form is in addition to any authorization form required by the approved laboratory.
4. Over-the-counter medications which may be in the employee's body may be submitted by employee in a sealed envelope to be opened by the Medical Review Officer if the test result is positive. The Medical Review Officer may be assigned by the approved laboratory (i.e. Bio-Med) or, at the discretion of County, be a physician assigned by the County.

#### **401 – DRUG AND ALCOHOL FREE WORKPLACE continued**

5. The drug testing process shall be one that is scientifically proven to be at least as accurate and valid as urinalysis using an immunoassay screening test, with all positive results being confirmed utilizing gas chromatography/mass spectrometry before a sample is considered positive. The alcohol testing process shall be one that is scientifically proven to be at least as accurate and valid as (1) urinalysis using an enzymatic assay screening test, with the positive screening results being confirmed using gas chromatography before a sample is considered positive, or (2) breath sample testing using breath analyzing instruments which meet NIDA/SAMSAH testing standards.
6. An employee whose initial laboratory screening test yields a positive result shall be given a second test. The second test shall use a portion of the same test sample withdrawn from the employee for use in the initial screening test. If the second test confirms the initial positive test result, the employee shall be notified of the results in writing. The letter of notification shall state the particular substance identified by the laboratory tests. The employee may request a test of the sample within 24 hours of receiving the letter of notification, but such testing shall be paid for by the employee. If the second test is negative County will reimburse Employee for cost of second test when done by County's approved laboratory. Employee may choose an independent laboratory approved by the State of Oregon for this test, if appropriate arrangements and costs can be made by employee. Reimbursement of costs by the County if a second test is negative is not available to Employee when Employee uses an independent laboratory.
7. The procedure to obtain, handle and store blood and urine samples and to conduct laboratory tests shall be documented to establish procedural integrity and chain of evidence. Such procedures shall be administered with due regard for the employee's privacy and the need to maintain confidentiality of test results to an extent which is not inconsistent with the needs of this policy.
8. The employee shall have the right to explain a confirmed positive test result for a controlled substance or for alcohol to the Medical Review Officer.

## **401 – DRUG AND ALCOHOL FREE WORKPLACE continued**

### **VI. REPORTING BY EMPLOYEE TO COUNTY OF CRIMES INVOLVING DRUGS AND ALCOHOL**

1. Any employee charged with a criminal drug or alcohol statutory violation, which has occurred in the workplace or while performing duties for Malheur County, shall immediately (within 5 calendar days) provide his/her supervisor notification of such charge. Failure of the employee to report as required will result in disciplinary action up to and including termination. Each supervisor having knowledge of or upon receiving notification as described above shall notify the Personnel Officer.
2. Employees shall immediately (within 2 calendar days) report to his/her supervisor any criminal conviction or entry into a diversion program, for drug or alcohol related activity. Failure of the employee to report as required will result in disciplinary action up to and including termination. Each supervisor having knowledge of or upon receiving notification as described above shall notify the Personnel Officer.

### **VII. SEARCH**

When reasonable suspicion exists to believe an employee possesses alcohol or controlled substances at work or on County property, the County will conduct a search of County equipment or facilities and may also search the employee's possessions located on County property, including but not limited to, outer garment clothing, lunchbox, desk or personal property. Employees have no expectation of privacy in any items they bring to County property, or in property, equipment or supplies provided by County. Strip and frisk searches may only be undertaken in the event of criminal investigation and only for probable cause as determined by the investigating law enforcement agency. Employee will be asked to sign a consent form prior to any search. The form is attached to this policy.

### **VIII. POST ACCIDENT TESTING**

Employees are subject to testing when they cause or contribute to accidents that seriously damage a County vehicle, machinery, equipment or property or result in an injury to themselves or another employee requiring offsite medical attention.

## 401 – DRUG AND ALCOHOL FREE WORKPLACE continued

### IX. EMPLOYEE REFUSAL TO TEST OR SEARCH

An employee who refuses to consent to a test or a search where there is reasonable suspicion to suspect that the employee has violated this policy is subject to disciplinary action up to and including termination. The reasons for refusal shall be considered in determining appropriate disciplinary action.

An employee who refuses to cooperate with any and all tests required by this policy is also subject to discipline, up to and including termination. This includes, but is not limited to, tampering with, or attempting to tamper with, a specimen sample, using chemicals or other ingredients to mask or otherwise cover up the presence of metabolites, drugs or alcohol in a specimen, or providing a blood or urine specimen that was produced by anyone or anything other than the employee being tested.

### X. VOLUNTARY DRUG AND ALCOHOL TREATMENT

Malheur County recognizes that alcohol and drug use may be a sign of chemical dependency and that employees with alcohol and drug problems can be successfully treated. County is willing to help such employees obtain appropriate treatment.

An employee who believes that he or she has a problem involving the use of alcohol or drugs should ask his or her supervisor, department head or elected official for assistance.

County will work with an employee to identify all benefits and benefit programs that may be available to help deal with the problem.

Although Malheur County recognizes that alcohol and drug abuse can be successfully treated and is willing to work with employees who suffer from such problems, it is the employee's responsibility to seek assistance **BEFORE** drug and alcohol problems lead to disciplinary action. Once violation of this policy occurs, the employee's willingness to seek assistance will not excuse the violation and generally will have no bearing on the determination of appropriate disciplinary action.

Therefore, **if prior to a drug or alcohol test or search** the employee notifies his or her supervisor, department head or elected official that the he or she may have a drug or alcohol problem that requires treatment, then in that event the employee shall immediately submit to a medical evaluation by a doctor selected and paid for by County and employee shall enroll in a treatment program recommended by the doctor. An employee may seek such evaluation and treatment from the employee's own doctor at the employee's expense. The employee shall notify Malheur County of the name of the doctor. The cost of such treatment shall be at the employee's expense.

## **401 – DRUG AND ALCOHOL FREE WORKPLACE continued**

The employee may take paid leave (sick, vacation or personal leave) or leave without pay for the period of treatment. The leave may or may not qualify for FMLA/OFLA leave depending on the type of treatment and FMLA/OFAL guidelines. If the employee fails to complete the treatment program successfully, he or she may be subject to discipline up to and including termination. An employee who enters treatment/rehabilitation and successfully completes treatment/rehabilitation under the terms of this paragraph or last chance agreement shall not be subject to discipline.

### **XI. DISCIPLINE AND CONSEQUENCES FOR VIOLATIONS OF THIS POLICY**

An employee who tests positive for drugs or alcohol in accordance with this policy will be subject to either termination or a last chance agreement.

A search which reveals the presence of alcohol or drugs, including marijuana (but excluding any substance prescribed for the employee's use which has not been obtained for the purpose of abuse) will subject the employee to either termination or a last chance agreement.

Test results which do not positively establish that the employee has engaged in prohibited conduct as described in this policy shall result in no further action against the employee. The employee shall be informed of all test results in writing. Employees who do not test positive shall not have any record of the test placed in his or her personnel file. Working files may contain records of the observations which led to the reasonable suspicion testing but no records of the test itself. If the employee subsequently demonstrates similar behaviors, these records may be relied upon by the employer in disciplinary proceedings.

### **XII. LAST CHANCE AGREEMENT**

At the sole discretion of Malheur County, after considering the individual circumstances of each case, a "last chance" agreement may be offered to an employee who is in violation of this policy. A last chance agreement is an agreement whereby an employee who would otherwise be terminated is provided an opportunity to address his/her drug or alcohol abuse and/or performance or safety issues. Each agreement is in writing and prepared considering the individual circumstances of each case. Agreements may cover, but are not limited to, subjects such as assignment changes and work restrictions, verification of attendance at a treatment or rehabilitation program, testing and participation in an after-care program and unannounced drug and/or alcohol screenings. The agreement shall specify the consequences for violation of its provisions, including immediate termination of the employee, notwithstanding the provisions of any other personnel rule.

## **401 – DRUG AND ALCOHOL FREE WORKPLACE continued**

### **XIII. CONFIDENTIALITY**

All information related to drug/or alcohol tests, searches, evaluation, treatment will be kept confidential. The information will be kept in the employee's medical file, which will be maintained separately from the employee's personnel file. Only County staff with a need to know will be informed of test or search results, evaluations or treatment. Disclosure of such information to any other person, agency or organization is prohibited unless written authorization is obtained from employee.

### **XIV. TRAINING**

The County recognizes that, in order to administer the standards, reasonable suspicion and procedures set forth in this policy and fairly and to minimize the possibility of unwarranted testing and searches, supervisory personnel shall receive training in how to recognize and deal effectively with alcohol and drug issues in the work place. Accordingly, the County will provide such training to supervisors and designated AFSCME representatives before the requirements of this policy are implemented and enforced.

### **XV. ROAD DEPARTMENT AND PRE-EMPLOYMENT TESTING**

This policy will be administered in addition to County's Alcohol and Drug Testing policy for employees subject to Department of Transportation Regulations and pre-employment drug testing.

### **XVI. EMERGENCIES**

In the event the County wishes to call out an employee to perform additional duties outside of the employee's normal work hours (e.g. an emergency, not on call) and the employee has consumed alcohol or drugs, the employee will notify his or her supervisor that he or she has consumed alcohol or drugs and is impaired and therefore is unable to report for duty. Employee will not be subject to discipline if unable to report for duty under these circumstances.

Approved: November 17, 1999

Revised: November 2006; December 2014; July 2015

Recorded as Instrument #2015-2685

**401 – DRUG AND ALCOHOL FREE WORKPLACE continued**

**Form 506**

**Drug Free Workplace**

Malheur County, Oregon

**Reasonable Suspicion Observation Form  
(Strictly Confidential)**

\_\_\_\_\_  
Date/Time of Incident

\_\_\_\_\_  
Print Employee Name

\_\_\_\_\_  
Print Name of Supervisor

\_\_\_\_\_  
Print Name of Witness  
Corroborating Observations

This checklist is to be completed when documenting an incident which provides reasonable suspicion that an employee has drugs or alcohol present in his or her body or possess drugs and alcohol while at work, on county property or operating county vehicles or equipment.

**Mark each applicable item on this form and any additional facts or circumstances**

**Nature of Incident/Cause for Suspicion**

1. ☐ Observed/reported/admission possession or use of alcohol or drugs.
2. ☐ Apparent drug or alcohol intoxication.
3. ☐ Observed abnormal or erratic behavior.
4. ☐ Arrest or conviction of drug-related offense.
5. ☐ Other (e.g., flagrant violation of safety regulations, serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, insubordination or unauthorized absence on the job.)  
Please specify: \_\_\_\_\_



## Reasonable Suspicion Observation Form *continued*

### Unusual Behavior

1. ☐ Verbal abusiveness.
  2. ☐ Physical abusiveness.
  3. ☐ Extreme aggressiveness or agitation.
  4. ☐ Withdrawal, depression, mood changes or unresponsiveness.
  5. ☐ Inappropriate verbal response to questioning or instructions.
  6. ☐ Unexplained absences from normal work area and reason to suspect drug or alcohol related activity.
  7. ☐ Unexplained deterioration in individual job performance.
  8. ☐ Unexplained or suspicious absenteeism or tardiness.
  9. ☐ Other erratic or inappropriate behavior (e.g., hallucinations, disorientation, excessive euphoria or confusion. Please specify: \_\_\_\_\_)
- 

### Physical Signs or Symptoms

1. ☐ Possessing, dispensing, or using controlled substance.
2. ☐ Slurred, incoherent or confused speech.
3. ☐ Unsteady or other loss of physical control; poor coordination or reflexes; swaying; staggering; falling; stumbling; arms raised for balance.
4. ☐ Dilated or constricted pupils or unusual eye movement.
5. ☐ Bloodshot or watery eyes.
6. ☐ Extreme fatigue; sleeping on the job; stupor.
7. ☐ Excessive sweating or clamminess to the skin.
8. ☐ Flushed or very pale face.
9. ☐ Highly excited or nervous.
10. ☐ Nausea or vomiting.
11. ☐ Odor of alcohol.
12. ☐ Odor of marijuana.
13. ☐ Dry mouth (frequent swallowing/lip wetting).
14. ☐ Dizziness or fainting.
15. ☐ Shaking hands or body tremors/twitching.
16. ☐ Irregular or difficult breathing.
17. ☐ Runny nose or sores around nostril.
18. ☐ Consistently wearing sunglasses indoors.
19. ☐ Confused, paranoid.
20. ☐ Puncture marks or "tracks".
21. ☐ Other. Please specify: \_\_\_\_\_

## Reasonable Suspicion Observation Form *continued*

### Written Summary

Please summarize the facts and circumstances of the incident, employee response, supervisor actions and any other pertinent information not previously noted. Attach additional sheets or continue on back if needed.

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Signature supervisor

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date/time

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Signature witness

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date/time

**401 – DRUG AND ALCOHOL FREE WORKPLACE continued**

**Form 507**

**CONSENT TO TEST OR SEARCH FOR DRUGS OR ALCOHOL**

Name of Employee: \_\_\_\_\_

Date: \_\_\_\_\_

**TEST:**

I consent to submit to a urinalysis, blood or breathe test as determined by Malheur County for the purpose of determining if any drugs and/or alcohol are present in my body.

I agree that BioMed or \_\_\_\_\_ (name of hospital) may collect specimens from me for these tests and may test them or forward them for analysis to a certified testing laboratory designated by BioMed.

I agree to and hereby authorize the release of the results of said test to a Medical Review Officer and to duly-authorized representatives of Malheur County, who will protect and maintain the confidentiality of such information to the greatest extent possible; and who will share such information only to the extent necessary to make employment decisions.

I agree that a copy of this consent shall have the same force and affect as the original.

I received and read Malheur County's Drug and Alcohol Free Workplace Policy. I understand that failure to consent or cooperate to a drug or alcohol test or confirmed positive result for drugs and alcohol may lead to discipline up to and including termination.

**SEARCH:**

In accordance with Malheur County's Drug and Alcohol Free Workplace Policy, which I received and read, I consent to a search of my desk, outer-garment clothing, lunchbox and personal possessions located on County property. I understand that my refusal or failure to cooperate in a search will result in discipline up to and including termination.

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

\_\_\_\_\_  
date

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Supervisor

## **402 – OCCUPATIONAL SAFETY AND HEALTH MANUAL**

OSHA, short for the “Occupational Safety and Health Act,” requires employers to provide a safe workplace, accident prevention program, safety training and scheduled safety inspections. Malheur County holds in high regard the safety, welfare and health of its employees. In April 2002, the Malheur County Court established an Occupational Safety and Health Manual. This manual is available for your review within your individual department. If you cannot locate the manual, please request it from your supervisor, Malheur County’s Emergency Services Lieutenant/County Safety Officer or Personnel Officer.

The safety manual is used as a tool for more effective safety and claims management. A safety committee has been established to coordinate the safety programs and to assist county employees in promoting safe working conditions.

Approved:     January 1, 2003  
Revised:

## 403 – IDENTIFICATION BADGES

As part of the County's commitment to improve safety to employees and service to customers, effective July 2021, all employees will be issued a photo identification (ID) Badge.

- Identification is mandatory for employees who have assigned work areas (office, desk, space) located in the Malheur County Courthouse and Juvenile Department and must be worn during hours the Courthouse is open to the public (i.e. 8:00 a.m. – 5:00 p.m.). Identification is mandatory in other County buildings or facilities as determined by the Department Head or Elected Official.
- Employees need to display their ID Badge on the outer top of all clothing.
- The ID Badge is to be fastened by either pin, magnet or lanyard (a lanyard will be supplied by the County). The badge needs to be displayed at all times below the neck in the upper torso area, on the outside of all clothing.
- If an employee leaves employment with Malheur County, the employee must submit their ID Badge to their immediate supervisor. The supervisor will be responsible for notifying security and/or the County Personnel Officer of the employees' exit from employment. The ID Badge will be destroyed or placed in the employee's official personnel file and retained by the County for the specified period for employee files required by law.
- If an ID Badge is lost or stolen, it should be reported immediately to the Personnel Officer. In some circumstances, the cost of replacement may be the employee's responsibility.
- Employees may have their ID Badge updated (i.e. current photograph) at reasonable intervals.
- For easy identification employees will need to display their ID Badge if entering the front doors of the Malheur County Courthouse or before entering metal detector stations when security is present.

Approved: January 1, 2003

Revised: June 23, 2021

Recorded as Instrument # 2021-3140

## **404 – PRE-EMPLOYMENT DRUG TESTING POLICY STATEMENT**

### **POLICY STATEMENT**

An applicant for employment with Malheur County may be required to undergo pre-employment drug testing. Applicants for positions designated as safety-sensitive are required to undergo pre-employment drug testing for alcohol and drugs, after a conditional offer of employment has been extended, and prior to applicant's performance of a safety-sensitive function. Guidelines for determining if a position is safety-sensitive, testing procedures and pre-employment drug testing forms will be kept by the Personnel Officer.

Approved: July 22, 2015  
Revised: March 9, 2016

Recorded as Instrument #2016-0805

## 405 – INCLEMENT WEATHER AND CLOSURE POLICY

### I. POLICY

The philosophy of Malheur County is that offices and departments will be open except under extreme adverse conditions. At times road conditions will make travel in some parts of Malheur County inadvisable. Individual employees need to make whatever decisions are necessary for their own safety. If it is unsafe for you to travel to work, do not.

If conditions are extreme, the County Judge will attempt to make a decision by 5:30 a.m. as to whether or not County offices and departments will be open. Announcements will be made through local media outlets such as Malheur Enterprise, Argus Observer, KTVB Channel 7, KBOI Channel 2, KIVI Channel 6, KSRV (1380 am) and the Malheur County Sheriff's Office Dispatch Center. Messages may also be sent through the County employee e-mail system, notice on the County website, and contact through the County emergency phone chain, text from supervisor or alerts (ALERTSENSE).

### II. PROVISIONS

1. CLOSURE. When County offices and departments are closed due to inclement weather, as determined by the County Judge, full-time employees will be paid for such time off. Part-time employees will only be paid if normally scheduled to work that day and only for those hours which the employee would normally work. Time absent from work due to closure shall not count as hours worked when computing overtime.
2. When County offices and departments are open during inclement weather and the County Judge has not issued an announcement of closure, County employees will be expected to make reasonable efforts to get to work. Employees unable to arrive for work on any such day shall take vacation leave, personal leave or comp. time, if the employee has such leave available. Unpaid leave may be taken only if vacation, comp. time and personal leave is not available. In some circumstances, supervisors may allow employees to make up missed hours of work during the same work week. Employees who are unable to report to work must call their supervisor and report his/her absence as soon as reasonably possible. If employees do not call their supervisor, the absence may be considered unexcused.
3. CLOSE EARLY. On days when weather conditions worsen as the day progresses, the County Judge may decide to close County offices and departments early. In such cases, a decision and announcement will be made to County employees. Employees will be expected to remain at work until the appointed closing time, unless they receive permission from supervisor to leave early and use vacation, personal, comp. time or unpaid leave. When County offices and departments are closed early, employees who worked the day will be paid through their regular day work ending time.

#### 405 – INCLEMENT WEATHER AND CLOSURE POLICY continued

4. DELAY START. Prior to normal starting workday time, the County Judge may announce a delayed scheduled or starting time for County offices and departments. Employees will be expected to make reasonable efforts to get to work at the announced delayed starting time. Employees unable to arrive for work at the delayed time shall use vacation, comp. time or personal leave, if available. Unpaid leave may also be taken if leave is not available. Employees who arrive at the delayed start time will be paid from their normal workday starting time.
5. Department heads and elected officials should not make a separate decision concerning closure of their County office or department. The County Judge will be the County closure authority due to inclement weather, working closely with County Commissioners, Road Supervisor and Sheriff's Office/Emergency Services.
6. County elected officials and department heads outside of the Malheur County Courthouse may temporarily close their offices to the public but remain open for staff when conditions make office buildings or parking lots difficult to access (i.e. snow not removed).
7. In order to avoid confusion with closure of state offices located in the Malheur County Courthouse, the County Judge will make announcements as follows: "Malheur County Government Offices are closed today"; or "Malheur County Government Offices are delayed until \_\_\_ am" or "Malheur County Government Offices will close at \_\_\_ a.m./p.m today". This means all offices and facilities located in Vale and Ontario.
8. If the County Judge is not available, this policy may be implemented by a County Commissioner.

Approved: January 11, 2017

Recorded as Instrument #2017-0108



**SECTION 500**  
**FORMS**  
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## Malheur County Sample Complaint Form

1. Name: \_\_\_\_\_
2. Supervisor's name: \_\_\_\_\_
3. Name of individual engaging in prohibited conduct: \_\_\_\_\_  
\_\_\_\_\_
4. Position and title of individual named in #3: \_\_\_\_\_  
\_\_\_\_\_
5. Complaint's relationship to individual engaging in alleged prohibited conduct:  
Supervisor ☐      Co-Worker ☐      Other (specify): ☐  
(i.e. Volunteer)
6. Please described the specific act(s) alleged:
7. Location(s) of alleged incident:
8. Date(s) and approximate time(s) of incidents:

**Malheur County Sample Complaint Form *continued***

9. Are there others who have witnessed this behavior or others who experienced similar behavior by the individual named above? If so, please provide their names(s), indicate if witness or individual with similar experience.
10. Did you tell anyone about your experience after the alleged incident(s)? If so, please provide name(s) and phone number(s).
11. Actions taken, if any, to attempt to stop the prohibited conduct.
12. Have you reported this incident to anyone else?
- Yes ☐ No ☐
- If yes, with whom? Union ☐ Attorney ☐ Supervisor ☐ Other ☐
13. What resolution or proposed action would you like to occur to resolve or address the conduct?
14. Additional information and comments, if any:

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Your signature certifies that the information on this form is true and accurate.

**Form: 502**

## **Malheur County Internal Sample Complaint Form**

### **Instructions**

Use this form to file a complaint.

### **Definitions**

*Discrimination Complaint:* Alleges an action was motivated by discrimination.

*Discrimination:* Unequal or different treatment on the basis of a protected category established by policy or law.

*Harassment:* Verbal or physical conduct that is derogatory or shows hostility based on a protected category.

*Sexual Assault:* Unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation (defined in Oregon Workplace Fairness Act (SB 726 (2019))).

*Sexual Harassment:* Any unwelcome conduct including but not limited to sexual advances, request for sexual favors and other verbal or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an employee's work, is the basis for an employment decision or creates an intimidating, hostile or offensive work environment.

*Bullying:* Refers to repeated, unreasonable actions of individuals (or a group) directed towards an individual or a group of employees, which is intended to intimidate and that creates a risk to the health and safety of the employee(s).

### **Confidentiality Notice**

The authority for collecting this information comes from Malheur County's commitment to provide its employees with a workplace this is free of illegal bias, prejudice, harassment, and bullying. The information obtained by this form is used to process complaints and conduct investigations of alleged violations of the County's policies. The information collected may be verified with others who may have knowledge relevant to the complaint. Failure to provide complete information may impede the investigation process and the action that can be taken on your behalf to resolve the issues associated with the complaint. Alternatives to filing an internal complaint may also be available under applicable collective bargaining agreements. External resources for filing complaints include the State of Oregon Bureau of Labor and Industries Civil Rights Division (BOLI) and the United States Equal Employment Opportunity Commission (EEOC).

## **Malheur County Internal Sample Complaint Form *continued***

### **No-Retaliation**

Malheur County policies require its managers and supervisors to take all necessary steps to assure that there is no retaliation against any person who files a complaint or assists in its investigation. This includes any intimidation, threat, or coercion. Any employee involved in retaliatory conduct will be subject to disciplinary action in accordance with personnel policy or appropriate collective bargaining agreement.

### **Filing**

In order to investigate complaints in a timely manner, Malheur County suggests that complaints be filed as soon as possible, but no later than 30 days of the event that gave rise to the complaint.

### **Complainant Information:**

1. Today's Date: \_\_\_\_\_

2. Your Name: \_\_\_\_\_

3. Persons involved :

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4. List of Witnesses. Next to each name briefly describe type of information witness can provide:

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**Malheur County Internal Sample Complaint Form *continued***

5. List date(s) and describe of each alleged act(s):

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6. Check the category or categories you believe to be the basis of the discrimination/harassment/bullying against you. If you believe that there is more than one basis, more than one category may be checked:

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> Color              | <input type="checkbox"/> Race                  | <input type="checkbox"/> Religion                       | <input type="checkbox"/> Disability           |
| <input type="checkbox"/> Sex                | <input type="checkbox"/> Political Affiliation | <input type="checkbox"/> Age                            | <input type="checkbox"/> National Origin      |
| <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Sexual Harassment     | <input type="checkbox"/> Marital Status                 | <input type="checkbox"/> Familial Status      |
| <input type="checkbox"/> Veteran            | <input type="checkbox"/> Domestic Violence     | <input type="checkbox"/> Sexual Assault                 | <input type="checkbox"/> Victim Status        |
| <input type="checkbox"/> Pregnancy          | <input type="checkbox"/> Marital Status        | <input type="checkbox"/> Expunged<br>Juvenile<br>Record | <input type="checkbox"/> Uniformed<br>Service |

Other (please specify): \_\_\_\_\_  
(such as retaliation, association with protected class, taking leave)

7. Check the category or categories below that best represent the area of your concern:

- |  |  |   |                                    |                                    |
|--|--|---|------------------------------------|------------------------------------|
| <input type="checkbox"/> Accommodation         | <input type="checkbox"/> Layoff          | <input type="checkbox"/> Termination      | <input type="checkbox"/> Demotion  | <input type="checkbox"/> Seniority |
| <input type="checkbox"/> Opportunity           | <input type="checkbox"/> Facility Access | <input type="checkbox"/> Pregnancy Leave  | <input type="checkbox"/> Training  | <input type="checkbox"/> Hiring    |
| <input type="checkbox"/> Job Benefits          | <input type="checkbox"/> Job Assignment  | <input type="checkbox"/> Work Environment | <input type="checkbox"/> Treatment | <input type="checkbox"/> Wages     |
| <input type="checkbox"/> Religious Observation |  |   |                                    |                                    |

Other (please specify): \_\_\_\_\_

**Malheur County Internal Sample Complaint Form *continued***

8. Do you know of any other employee, applicant or individual who was treated in the same way as you allege you were treated?

Yes ☐ If yes, include names: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

No ☐

Don't Know ☐

**Statement of Complaint**

For each issue above, explain in your statement of complaint how you were treated and provide details of the alleged acts, omission or conduct. Please include the following points:

- Why you believe the act(s) was based on a reason protected by policy or law.
- Dates, places, names and titles of persons involved and witnesses, if any.
- What act(s) took place.
- Describe any explanations, if any, that was offered for the acts that occurred.
- Any and all information you can provide that supports your allegations.
- If this is a complaint based on disability, describe your request for reasonable accommodation and the explanations given regarding your request.

(AN ADDITIONAL SHEET MAY BE ADDED TO PROVIDE FURTHER INFORMATION)

**Malheur County Internal Sample Complaint Form *continued***

9. How would you like the matter resolved?

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**Signature and Verification**

I have reviewed and read this document and to the best of my knowledge all information it contains is true and correct.

---

Signature

Date



**INTERNET AND ELECTRONIC MAIL USE POLICY  
MALHEUR COUNTY EMPLOYEE CONSENT FORM**

I have reviewed Malheur County's Internet and Electronic Mail Acceptable Use Policy. I understand that all computer equipment, as well as all information transmitted, received, or stored in these systems, is the property of the County.

I understand that such systems are to be used solely for job-related purposes, not for personal purposes, and that I have no expectation of privacy in connection with the use of this equipment or the transmission, receipt, or information stored in such equipment.

I understand and agree not to use a code, access a file, or retrieve any stored communication unless authorized; and I also acknowledge and consent to the County's monitoring my use of this equipment.

I understand that violation of this policy could result in disciplinary action, up to and including termination. I agree to abide by the policy as a condition of continued employment with the County.

---

Print Employee Name

---

Signature of Employee

---

Date

**COMPUTER POLICY AND INFORMATION TECHNOLOGY SECURITY  
MALHEUR COUNTY EMPLOYEE CONSENT FORM**

I have reviewed Malheur County's Computer and Information Technology Security Policy. I understand that all computer equipment, as well as all information transmitted, received, or stored in these systems, are the property of the County.

I understand that such systems are to be used solely for job-related purposes, not for personal purposes, and that I have no expectation of privacy in connection with the use of this equipment or the transmission, receipt, or information stored in such equipment.

I understand and agree not to use a code, access a file, or retrieve any stored communication unless authorized; and I also acknowledge and consent to the County's monitoring my use of this equipment.

I understand that violation of this policy could result in disciplinary action, up to and including termination. I agree to abide by the Computer and Information Technology Security Policy as a condition of continued employment with the County.

---

Print Employee Name

---

Signature of Employee

---

Date

**FORM 505**

**OFLA BEREAVEMENT LEAVE REQUEST FORM**

Employees should use this form to request time off for funeral/bereavement leave under OFLA. This leave can be for up to two weeks of leave. An employee may use leave accruals such as vacation, sick, and personal during this period.

Employee Name: \_\_\_\_\_

Relationship of Family Member (Choose One):

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> spouse                       | <input type="checkbox"/> foster parent              | <input type="checkbox"/> loco parentis relationship            |
| <input type="checkbox"/> same-gender domestic partner | <input type="checkbox"/> biological parent          | <input type="checkbox"/> child of employee                     |
| <input type="checkbox"/> custodial parent             | <input type="checkbox"/> parent-in-law              | <input type="checkbox"/> child of same-gender domestic partner |
| <input type="checkbox"/> non-custodial parent         | <input type="checkbox"/> parent of domestic partner | <input type="checkbox"/> other: _____                          |
| <input type="checkbox"/> adoptive parent              | <input type="checkbox"/> grandparent                |  |
|   | <input type="checkbox"/> grandchild                 |  |

Date of Knowledge of Death: \_\_\_\_\_.

Beginning Date of Leave: \_\_\_\_\_.

Date Returning to Work: \_\_\_\_\_.

If leave will be taken on an intermittent basis, please provide schedule here:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Employee's signature                      date

☐ Approved leave under OFLA.

☐ Not approved for leave under OFLA for the following reason:

\_\_\_\_\_

Signed by Personnel Officer: \_\_\_\_\_

**Drug Free Workplace**

Malheur County, Oregon

**Reasonable Suspicion Observation Form  
(Strictly Confidential)**

\_\_\_\_\_  
Date/Time of Incident

\_\_\_\_\_  
Print Employee Name

\_\_\_\_\_  
Print Name of Supervisor

\_\_\_\_\_  
Print Name of Witness  
Corroborating Observations

This checklist is to be completed when documenting an incident which provides reasonable suspicion that an employee has drugs or alcohol present in his or her body or possess drugs and alcohol while at work, on county property or operating county vehicles or equipment.

**Mark each applicable item on this form and any additional facts or circumstances**

**Nature of Incident/Cause for Suspicion**

1. ☐ Observed/reported/admission possession or use of alcohol or drugs.
2. ☐ Apparent drug or alcohol intoxication.
3. ☐ Observed abnormal or erratic behavior.
4. ☐ Arrest or conviction of drug-related offense.
5. ☐ Other (e.g., flagrant violation of safety regulations, serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, insubordination or unauthorized absence on the job.)  
Please specify: \_\_\_\_\_

## Reasonable Suspicion Observation Form *continued*

### Unusual Behavior

1. ☐ Verbal abusiveness.
  2. ☐ Physical abusiveness.
  3. ☐ Extreme aggressiveness or agitation.
  4. ☐ Withdrawal, depression, mood changes or unresponsiveness.
  5. ☐ Inappropriate verbal response to questioning or instructions.
  6. ☐ Unexplained absences from normal work area and reason to suspect drug or alcohol related activity.
  7. ☐ Unexplained deterioration in individual job performance.
  8. ☐ Unexplained or suspicious absenteeism or tardiness.
  9. ☐ Other erratic or inappropriate behavior (e.g., hallucinations, disorientation, excessive euphoria or confusion. Please specify: \_\_\_\_\_)
- 

### Physical Signs or Symptoms

1. ☐ Possessing, dispensing, or using controlled substance.
2. ☐ Slurred, incoherent or confused speech.
3. ☐ Unsteady or other loss of physical control; poor coordination or reflexes; swaying; staggering; falling; stumbling; arms raised for balance.
4. ☐ Dilated or constricted pupils or unusual eye movement.
5. ☐ Bloodshot or watery eyes.
6. ☐ Extreme fatigue; sleeping on the job; stupor.
7. ☐ Excessive sweating or clamminess to the skin.
8. ☐ Flushed or very pale face.
9. ☐ Highly excited or nervous.
10. ☐ Nausea or vomiting.
11. ☐ Odor of alcohol.
12. ☐ Odor of marijuana.
13. ☐ Dry mouth (frequent swallowing/lip wetting).
14. ☐ Dizziness or fainting.
15. ☐ Shaking hands or body tremors/twitching.
16. ☐ Irregular or difficult breathing.
17. ☐ Runny nose or sores around nostril.
18. ☐ Consistently wearing sunglasses indoors.
19. ☐ Confused, paranoid.
20. ☐ Puncture marks or "tracks".
21. ☐ Other. Please specify: \_\_\_\_\_

## Reasonable Suspicion Observation Form *continued*

### Written Summary

Please summarize the facts and circumstances of the incident, employee response, supervisor actions and any other pertinent information not previously noted. Attach additional sheets or continue on back if needed.

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Signature supervisor

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date/time

---

Signature witness

---

date/time

**CONSENT TO TEST OR SEARCH FOR DRUGS OR ALCOHOL**

Name of Employee: \_\_\_\_\_

Date: \_\_\_\_\_

**TEST:**

I consent to submit to a urinalysis, blood or breathe test as determined by Malheur County for the purpose of determining if any drugs and/or alcohol are present in my body.

I agree that BioMed or \_\_\_\_\_ (name of hospital) may collect specimens from me for these tests and may test them or forward them for analysis to a certified testing laboratory designated by BioMed.

I agree to and hereby authorize the release of the results of said test to a Medical Review Officer and to duly-authorized representatives of Malheur County, who will protect and maintain the confidentiality of such information to the greatest extent possible; and who will share such information only to the extent necessary to make employment decisions.

I agree that a copy of this consent shall have the same force and affect as the original.

I received and read Malheur County's Drug and Alcohol Free Workplace Policy. I understand that failure to consent or cooperate to a drug or alcohol test or confirmed positive result for drugs and alcohol may lead to discipline up to and including termination.

**SEARCH:**

In accordance with Malheur County's Drug and Alcohol Free Workplace Policy, which I received and read, I consent to a search of my desk, outer-garment clothing, lunchbox and personal possessions located on County property. I understand that my refusal or failure to cooperate in a search will result in discipline up to and including termination.

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

\_\_\_\_\_  
date

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Supervisor

## **MANUAL ACKNOWLEDGEMENT**

I have read a copy of the Malheur County Employee Manual.

I understand as follows:

- This Manual represents a brief summary of some of the more important Malheur County policies. Consequently, the Manual is not all inclusive.
- Malheur County retains the sole right in its business judgment to modify, suspend, interpret, or cancel in whole or in part, at any time, and with or without notice, any of the published or unpublished policies or practices.
- The contents of this Manual do not constitute an express or implied contract of employment.

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Employee Name (print)

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Employee Signature

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Date