

**ORDINANCE**

**SUBJECT:** PERSONNEL ADMINISTRATIVE CODE/HUMAN RESOURCES

**COMMITTEE:** EXECUTIVE COMMITTEE

**FIRST CONSIDERATION:** July 18, 2019

**FINAL CONSIDERATION:** August 15, 2019

**ORDINANCE #** 177 - 8/19 **PUBLICATION DATE** August 22, 2019

The County Board of Supervisors of La Crosse County does ordain as follows:

**AN ORDINANCE TO REPEAL CHAPTER 3 "PERSONNEL ADMINISTRATIVE RULES" AND  
CHAPTER 14 "AFFIRMATIVE ACTION" AND RECREATE CHAPTER 3 "HUMAN RESOURCES" OF  
THE GENERAL CODE OF LA CROSSE COUNTY, WISCONSIN**

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**ANALYSIS**

The changes to Chs. 3 AND 14 reflect a general reorganization and clarification of the Personnel code for the County. There are not any significant or substantial changes, rather the changes reflect a reorganization of content and a focus on the Ordinance addressing broader policy issues with specific details being addressed in the Employment Handbook or administrative policies.

A summary of changes includes:

- Clear outlines of governance by updating roles of county board of supervisors, administrator, human resources director, department heads and supervisors
- Changes in language from 'Personnel' to 'Human Resources'
- Update to the grievance process
- Initiating alignment of definitions of ordinances, policies and procedures
- Removes of detailed employee procedures and definitions of employee benefits from the ordinance and places them in the Employment Handbook
- Repeals Chapter 14 – Affirmative Action and Equal Employment Opportunity - and places it in Chapter 3

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**INFORMATION:**

County Board Rules: Governing Body s. 2.02(8) states, in part: Ordinances are drafted by the Corporation Counsel. After the ordinance has been reviewed by a standing committee, each Supervisor will be given a copy of the ordinance showing the deleted language (grayed) and the new language (underlined) and an analysis of the intent of the ordinance. After introduction to the County Board, the ordinance shall be referred to the next monthly meeting unless waived by a 2/3 vote of the Supervisors present and a public hearing may be held if requested by a Supervisor. An amendment may be introduced and debated at either the original or the referred meeting. Copies of the ordinances of the County of La Crosse in their entirety are available with Corporation Counsel, County Clerk, or [www.co.la-crosse.wi.us/code/](http://www.co.la-crosse.wi.us/code/).

(rev. 3/03)

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AND CHAPTER 14 "AFFIRMATIVE ACTION" AND RECREATE CHAPTER 3 "HUMAN  
RESOURCES" OF THE GENERAL CODE OF LA CROSSE COUNTY, WISCONSIN**

County Board of supervisors of the County of La Crosse does hereby ordain as follows:

**Section 1.** Chapter 14 "Affirmative Action" is repealed.

**Section 2.** Chapter 3 entitled "Personnel Administrative Code" is repealed and recreated to read:

**CHAPTER 3  
HUMAN RESOURCES**

**Subchapter 1 GENERAL PROVISIONS**

- 3.01 Purpose
- 3.02 Scope
- 3.03 Definitions
- 3.04 Responsibility and Authority
- 3.05 Intellectual Property Policy

**Subchapter 2 AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY**

- 3.06 Affirmative Action and Equal Employment Opportunity

**Subchapter 3 POSITION ADMINISTRATION**

- 3.07 Purpose
- 3.08 Administration
- 3.09 Position Vacancies
- 3.10 Recruitment
- 3.11 Probationary Period
- 3.12 Compensation Plan

**Subchapter 4 EMPLOYEE CODE OF CONDUCT**

- 3.13 Standards of Conduct
- 3.14 Prohibition on Open or Concealed Carry of Weapons or Firearms by Employees
- 3.15 Prohibition of Smoking and the Use of Tobacco Products by Employees
- 3.16 Nepotism
- 3.17 Political Activity
- 3.18 Incompatible Employment
- 3.19 Gifts and Gratuities

- 3.20 Harassment, Discrimination and Retaliation
- 3.21 Incorporation of State Statutes
- 3.22 Code of Ethics Incorporated

#### Subchapter 5 GRIEVANCE PROCESS

- 3.23 Policy
- 3.24 Definitions
- 3.25 Administration
- 3.26 Filing a Grievance
- 3.27 Discussion of Problem with Immediate Supervisor
- 3.28 Grievance Procedure
- 3.29 Grievance of Termination
- 3.30 Failure to Follow Grievance Procedure

#### Subchapter 1 GENERAL PROVISIONS

##### 3.01 PURPOSE.

This general purpose of the human resources code is to provide a framework for the consistent and fair administration of County personnel policy and to establish a clear understanding of responsibility and authority.

##### 3.02 SCOPE

This code shall apply to personnel administration for all employees and departments of the county except as otherwise provided.

For employees under individual employment agreements and for employees covered by collective bargaining agreement, this code applies unless the specific contract provides to the contrary.

In instances where these provisions are in conflict with sec. 59.26, Wis. Stat., regarding the Sheriff, Undersheriff and Deputies, the statutory sections shall prevail.

##### 3.03 DEFINITIONS

In the interpretation and application of this chapter the following definitions shall apply:

- (1) "Board" means La Crosse County Board of Supervisors.
- (2) "Committee" means the Executive Committee.
- (3) "Director" mean Human Resources Director.
- (4) "Employment Handbook" means employee policies and procedures as they apply to personnel of the county, including any addendums specific to a particular group of employees. Policies may be drafted, modified or cancelled by the Human Resources Director as needed or as directed, subject to review and approval by the County Administrator prior to release or revision. The Employment Handbook shall be in accord with County ordinance and annual resolutions. Changes to the Employment Handbook

shall be communicated to the Executive Committee when released. Changes to the Employment Handbook that would have a fiscal impact must be reviewed by the Executive Committee and full Board prior to implementation. This Ordinance shall take precedence over the Employment Handbook.

(5) "Administrative Policies and Procedures". Under the direction of the County Administrator, each Department, including the Human Resources Department, may establish policies and procedures to ensure efficient and consistent application and implementation of policies and procedures that affect the County and County employees as a whole.

(6) "Departmental Employee Work Rules" means work rules established by the Department Head or, if delegated by the Department Head, a supervisor in that Department related to rules and procedures specific to that Department. Examples of Departmental work rules include uniform policy, scheduling, holiday or vacation or shift sign up and safety requirements. Departmental work rules and procedures shall be subject to review and approval by the Human Resources Director prior to release or revision. Work rules and procedures shall be in accord with County ordinance, annual resolutions, and County policies. This Ordinance, the Employment Handbook (and addendums) and County Administrative Policies and Procedures take precedence over Departmental Work Rules.

(7) Types of Employees:

- a. REGULAR FULL-TIME EMPLOYEE. An employee who works 37.5 hours per week (1950 hours per year) or 40 hours or more per week, (2080 hours or more per year).
- b. REGULAR PART-TIME EMPLOYEE. An employee who works half time or more but less than full time. Regular part-time employees will have entitled benefits pro-rated.
- c. LIMITED TERM EMPLOYEE. An employee hired full or part time for a limited funding position or for a special project where the need for regular employee or the existence of on-going funding has not been determined, usually not exceeding 2 calendar years. Limited Term Employees are not eligible for benefits unless approved by the County Administrator or required by State or Federal law. Time worked as a limited term employee may be credited toward the probationary period if such employee is hired as a regular employee.
- d. PROBATIONARY EMPLOYEE. A newly hired County employee shall be required to serve a 12-month probationary period, during which time the employee shall demonstrate qualifications for the job. Unless otherwise authorized by the Human Resources Director, employees that transfer to a different position within the County are also required to serve a 12-month probationary period in their new position. A probationary employee may be discharged for any reason without recourse and without cause. Except for work safety issues, probationary employees do not have access to the County's grievance procedure. Probationary periods may be extended for a period not to exceed an additional 3 months, subject to prior approval by the Human Resources Director, or designee, and the Department Head. Satisfactory completion of a probationary period is not a guarantee of continued employment.

- e. TEMPORARY EMPLOYEE. An employee hired to fill in during the absence of a regular employee for a short period of time, usually not exceeding 6 calendar months. Time worked as a temporary employee shall not be credited toward the probationary period if such employee is hired as a regular employee.
- f. SEASONAL EMPLOYEE. An employee hired for a seasonal period of time whose employment terminates at the end of a given season and usually does not exceed 6 months.
- g. ON-CALL EMPLOYEE. An employee who is called only when needed and available.
- h. IRREGULAR PART-TIME EMPLOYEE. A part-time employee who works less hours than a regular part-time employee.

### 3.04 RESPONSIBILITY AND AUTHORITY

- (1) With respect to the Human Resources Department and personnel matters, the County Board shall:
  - a. Approve the Human Resources Department's annual budget, including requests for personnel adjustments subject to the provision in Subch. 3 [Position Administration].
  - b. Review and approve the County Human Resources Ordinance and amendments.
  - c. Confirm Department Head appointments made by the County Administrator.
  - d. Review and approve unbudgeted personnel positions as set forth in Subch. 3 [Position Administration].
  - e. Delegate such duties to the County Board Executive Committee or County Administrator as necessary.
  - f. Hear grievance appeals as outlined in Subch. 5.
- (2) The Executive Committee shall:
  - a. Review and recommend actions to the full Board as are deemed necessary to implement, amend or add to the employee classification and compensation plan.
  - b. Review and approve positions as set forth in Subch. 3 [Position Administration].
  - c. Be made aware of any changes to the County Employment Handbook.
  - d. Review any changes to the County Employment Handbook that would result in a fiscal impact and recommend action to the full board.
- (3) The County Administrator shall:
  - a. Promulgate such administrative procedures as may be necessary to carry out the provisions of this chapter.
  - b. Appoint and remove all department heads, subject to the provisions of chapter 1 of this code.
  - c. Approve new positions, reallocations, and upgrades of existing positions subject to the provision of subch 3 [Position Administration].
  - d. Develop a procedure to review and respond to complaints lodged about county departments or employees.

(4) The Human Resources Director, under the authority of the County Administrator, shall:

- a. Administer the Human Resources Ordinance adopted by the County Board.
- b. Establish, maintain and coordinate personnel transactions and records management for all County employees and positions.
- c. Establish and maintain a central personnel file for each County employee showing name, title, salary, change in status, annual performance ratings and such pertinent information as may be necessary for effective personnel administration and for compliance with Federal and State laws.
- d. Maintain complete employment and performance records of all County employees.
- e. Act as custodian of each employee's official personnel file. Each employee's full and complete personnel file is to be kept in the Human Resources Department. Individual Departments must provide all relevant information to the Human Resources Director in order to ensure that the Human Resources Department's file is complete.
- f. Develop, operate and coordinate programs to improve employee effectiveness, training and career counseling.
- g. Establish an Affirmative Action Program designed to increase the participation at all levels of the County workforce persons of disadvantaged groups, including, but not limited to women, minorities and the physically and mentally disabled.
- h. Ensure the County's compliance with State and Federal Family and Medical Leave Act (FMLA).
- i. Establish standards and procedures to ensure uniformity in the application of employee discipline and the processing of employee grievances.
- j. Investigate unemployment compensation claims and represent the County at unemployment compensation hearings.
- k. Administer comprehensive worker's compensation program, including the authority to settle litigated worker's compensation claims up to \$20,000 per claim.
- l. Establish a safety program to reduce the incidence of work related injuries and promote safety awareness.
- m. Develop and maintain the County wide training program within budgetary limitations.
- n. Insure that Department Work Rules are fairly designed and administered.

(5) Department Heads shall:

- a. Enforce, both individually and by delegating appropriate authority to subordinate supervisory personnel, the Human Resources Code, the Employment Handbook, and all Human Resources policies and procedures as it pertains to their respective departments.
- b. Adopt such additional Department Work Rules as required by law and/or necessary for the operations of the Department subject to approval of the Human Resources Director.
- c. Immediately notify the director of any known changes in personnel and participate in the selection of replacement employees.

- d. Provide all relevant personnel information to the Human Resources Director in order to ensure that the Human Resources Department's personnel file is complete. The Human Resources Department is the custodian of each employee's official personnel record, not the individual Department.
  - e. Keep employees informed of Human Resources Code, the Employment Handbook, and all Human Resources policies and procedures.
  - f. Conduct second step grievance procedures hearings as may be necessary under Subch. 5 and adjust such grievances as may be appropriate.
  - g. In collaboration with the Human Resources Director, develop employee orientation and in service training programs.
  - h. Conduct performance reviews of all immediate subordinate employees on no less frequent than an annual basis.
- (6) Supervisory Personnel. To the extent Department Heads delegate authority to them, supervisors shall:
- a. Interview and recommend applicants for appointments to and removal from subordinate positions.
  - b. Implement the Human Resources Code, the Employment Handbook, Human Resources policies and procedures and Department Work Rules in their unit.
  - c. Conduct performance reviews of all immediate subordinate employees on no less frequent than an annual basis.
  - d. Administer discipline to employees as necessary.
  - e. Conduct first step grievance hearings as may be necessary under Subch. 5 and adjust such grievances as may be appropriate.

### 3.05 INTELLECTUAL PROPERTY POLICY.

Any intellectual property conceived, made or created by a County employee within the employee's scope of employment by the County or under circumstances in which working time, funds, facilities and/or other resources of the County are utilized shall be the legal property of La Crosse County, and County employees shall have no rights thereto. Covered intellectual property rights embrace any and all forms of intellectual property rights which are created by an employee as well as any invention, whether patentable or not, conceived or made by an employee within the scope of employment or through the use of working time, funds, facilities, and/or other resources of the County. An employee shall discuss any proposed task involving intellectual property with their Department Head. Tasks undertaken by an employee in the creation and/or making of intellectual property rights involving any working time, funds, facilities and/or resources shall proceed only with the Department Head's approval and in accordance with the ownership and use of this policy. Employees shall not utilize funds, facilities, employment hours or any other resources of the County to promote, create and/or make intellectual property for private and/or personal gain.

Subchapter 2  
AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY

3.06 AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY.

- (1) EQUAL EMPLOYMENT AND AFFIRMATIVE ACTION POLICY. La Crosse County is an Equal Opportunity Employer and prohibits discrimination and harassment of any kind, without regard to race, religion or belief, national, social or ethnic origin, sex (including pregnancy), age, physical, mental or sensory disability, HIV Status, sexual orientation, gender identity and/or expression, marital, civil union or domestic partnership status, past or present military service, family medical history or genetic information, family or parental status, or any other status protected under state or federal law. La Crosse County will not tolerate discrimination or harassment based on any of these characteristics.
- (2) La Crosse County does not and will not discriminate against any applicant or employee because they are a covered veteran or because of a physical or mental disability in regard to any position for which the applicant or employee is qualified. La Crosse County will make reasonable accommodation to the known physical or mental limitations of employees with a disability, as requested or as necessary, unless that accommodation would cause an undue hardship on the operation of County business, in accordance with law.
  - (1) *Program.* The County's established affirmative action program is designed to maximize compliance with the equal employment opportunity policy. The County shall make every effort to recruit from protected classes and shall maintain any records necessary to evaluate the recruitment efforts in accordance with the intent of the Affirmative Action program. The program shall seek to identify employment practices and policies that may act as barriers to the utilization of protected class members in the County's work force.
  - (2) *Affirmative Action Officer.*
    - a. Designated. The Affirmative Action Officer shall be the County Human Resources Director.
    - b. Duties. The Affirmative Action Officer shall be responsible for the development and implementation of the affirmative action program and its maintenance.
    - c. Powers. The Affirmative Action Officer may review all departmental policies and procedures, rules and regulations and shall have access to all personnel files, documents, investigative reports and any documents or information pertinent to the maintenance of the Affirmative Action program. Such Officer may participate in any programs or policies relative to the training, promotion, transfer or discipline of any person in the employ of the County.
- (3) The La Crosse County Affirmative Action and Equal Employment Opportunity plans are adopted by reference and shall be maintained and open for inspection in the Human Resources Department.



Subchapter 3  
POSITION ADMINISTRATION

3.07 PURPOSE

The purpose of position administration is to provide an efficient organization of work which provides maximum economy and efficiency in providing public services.

3.08 ADMINISTRATION

The Human Resources Director shall be responsible for the administration of all positions authorized by the board or committee, ensuring that employees receive the proper pay and benefits as determined by the status of the position occupied.

3.09 POSITION VACANCIES

(1) Filling Existing Vacancy in Budgeted Positions.

The County Administrator may approve filling of vacancies in budgeted positions upon the recommendation of the Human Resources Director. No Committee or County Board approval is required.

(2) Filling New Position Vacancy in Existing Job Classification and Title.

- a. The Human Resources Director and County Administrator may recommend hiring additional staff where there is an existing County job classification and title, if the position is:
  - i. Fully funded by outside sources, and
  - ii. Sunsets at the end of funding.
- b. Executive Committee approval is required.
- c. If the position is not fully funded by outside sources, County Board approval is required.

(3) Creating New Position Outside of Annual Budget Process.

- a. The County Administrator and Human Resources Director may recommend approval of new positions when necessary outside of the annual budget process.
- b. Executive Committee and County Board approval is required for the creation of additional staff or new positions outside of the annual budget process. Addition of unbudgeted position require a 2/3 vote of the Board.

(4) Temporary Services – Replacement for Absent Staff.

- a. The Department Head must provide the Human Resources Director with written justification for the need to replace absent staff with temporary services.
- b. The Human Resources Director may approve the use of temporary staff if justified by the Department Head.
- c. After approval, the Human Resources Department will assist departments in securing temporary services.

### 3.10 RECRUITMENT

(1) Notice of Vacant Position.

When recruitment is necessary, means shall be used which provide public notification, such as newspaper advertisement, job web sites or such other means calculated to reach qualified applicants. All public notices shall indicate the job title, necessary qualifications, closing date for applying, notification of equal employment opportunity and may include other appropriate information, including residency, if required.

(2) Residency Requirements for Applicants.

There shall be no residency requirements except where required by state statute such as for Deputy Sheriffs and other sworn law enforcement officers. Employees must, however, be available in reasonable amounts of time for call in or call back, in jobs which require such for public safety or client care and protection.

(3) Qualifications.

Qualifications sought for any particular classification shall be established by the hiring authority and the Human Resources Director prior to initiating recruitment. The guidelines for such qualifications shall be established by the creation of a formal job description. All applicants for employment must complete a County application in order to be considered.

(4) Reasonable Accommodation.

La Crosse County will make reasonable efforts to accommodate and assist all persons wishing to participate in the recruitment process. Those persons needing accommodation and assistance should contact the Human Resources Department.

### 3.11 PROBATIONARY PERIOD

A newly hired County employee shall be required to serve a 12 month probationary period, during which time the employee shall demonstrate qualifications for the job. Unless otherwise authorized by the Human Resources Director, employees that transfer to a different position within the County are also required to serve a 12 month probationary period in their new position. A probationary employee may be discharged for any reason without recourse and without cause. Except for work safety issues, probationary employees do not have access to the County's grievance procedure. Probationary periods may be extended for a period not to exceed an additional 3 months, subject to prior approval by the Human Resources Director, or designee, and the Department Head. Satisfactory completion of a probationary period is not a guarantee of continued employment.

### 3.12 COMPENSATION PLAN

(1) Pay Grades and Steps. Each position shall have an established pay grade designation and pay range. Each pay grade shall be divided into one or more steps.

(2) Compensation Plan Administration. The following shall apply in the application and interpretation of the compensation plan:

- a. Initial Employment Rate. The lowest step in the pay grade shall be the entrance rate payable to an employee on first appointment to the job. Under extenuating circumstances, the County Administrator or Human Resources Director may approve starting an employee at a higher step in the pay grade.
- b. Promotional Increase. An employee who has been promoted to another classification in a higher pay grade shall be placed in a step that affords an appropriate increase in pay above the employee's existing classification, but not into a step that requires meritorious performance, without documentation of such. The employee shall progress normally into subsequent steps from the date of promotion.
- c. Reclassification.
  - i. *Generally.* Any change in non-union employee position classifications shall be governed by policies established by the Executive Committee. The criteria for requesting a reclassification include: assigned duties and responsibilities substantially exceed the job classification, increased or new responsibility assigned by management, and additional training or skills required by the job and obtained by the employee. A higher volume of duties without a substantial change is not a valid criterion for reclassification. All requests for reclassification shall be reviewed by the Human Resources Director and a Review Committee appointed by the County Administrator. The County Administrator shall be the determining authority for approval of re-classes, who shall notify the County Board annually of those approved within the budgeted amount.
  - ii. *Interim Appointments.* Interim appointments may be made to fill vacant positions until a successor is able to assume the duties of the position, but not to exceed 6 months, per approval by the County Administrator. Such appointments may be made from within the County service. If so, all benefits and privileges shall continue to accrue. Such employee shall start at the minimum of the new position and pay grade, or receive a pay step that provides an increase over existing pay. If the interim employee is named the successor, such time may be credited toward the probationary period at the discretion of the County Administrator.
- d. Demotion. An employee demoted to a lower pay grade shall be placed in the same step as held in the previous pay grade, or a step which provides appropriate pay depending on the reason for the demotion. The demoted employee shall progress through steps, if any, in the demoted grade, from the date of demotion. Demotions shall be reviewed by the County Human Resources Director and approved by the County Administrator.
- e. Transfer. The lateral movement of an employee from one position to another in the same pay grade is a 'transfer.' Transfer shall be to the same step as currently occupied, but the employee shall progress to the next higher step from the date of transfer.
- f. Reinstated Employees. A previous employee, who is rehired within 12 months after leaving County service, shall be considered 'reinstated.' Such employee may receive a salary equal to the same step in the classification and pay grade held at the time of termination, if hired back to the same position. Special consideration may be given to reinstated employees who terminated County service and obtained additional education or experience to enhance their job performance. Reinstatement shall not entitle an employee to claim past service credits for vacation and sick leave and the

reinstated employee may be required to serve a probationary period. This section does not apply to seasonal or temporary employees. Those rehired after more than 12 months separation shall not be considered 'reinstated'.

- g. Annual Salary Adjustments. The pay grades and steps for each classification shall be reviewed annually and the Human Resources Director shall recommend changes to the County Administrator. Annual salary adjustments shall be considered by the Executive Committee which shall make a recommendation to the County Board. Any adjustments shall become effective at such time indicated in a County Board resolution.
- h. Pay Plan Policy and Procedure. The Human Resources Director shall recommend and the County Administrator shall consider approval of, subject to review by the Executive Committee and County Board, policy and procedure for the employee pay plan, including part time and special rates, merit step considerations, shift differential and other appropriate rules for administering the pay plan.

## Subchapter 4

### EMPLOYEE CODE OF CONDUCT

#### 3.13 STANDARDS OF CONDUCT.

- (1) La Crosse County promotes and maintains a high standard of professional and personal conduct among its employees in order to create an environment that encourages the success of the organization and demonstrates the core values of honesty, dedication, integrity, excellence, equality, respect, innovation, diversity, courtesy and compassion.
- (2) Generally, county employees are expected to follow these standards of conduct:
  - (a) Treating all individuals with courtesy and respect.
  - (b) Treating all individuals as valuable team members.
  - (c) Taking ownership in decision making and embracing change as to continuously improve public service and organizational efficiency.
  - (d) Communicating with others in a clear respectful manner.
  - (e) Being inclusive.
  - (f) Portraying a positive attitude while anticipating needs and initiating action to meet those needs.
  - (g) Acting as an ambassador of La Crosse County at all times.
  - (h) Demonstrating the highest level of integrity, service, confidentiality and professionalism.
- (3) Violations of standards of conduct will subject an employee to personal responsibility and disciplinary action, up to and including discharge from employment. Breaches of the following standards of conduct are examples of the most severe violations for public employees and may subject the employee to immediate termination (these are guidelines and not an all-inclusive list):
  - (a) Unauthorized use or abuse of County equipment or property.
  - (b) Theft or destruction of County equipment or property.
  - (c) Fraudulent claims for hours worked or reimbursement of expense.
  - (d) Dishonesty or falsification of records.
  - (e) Being disrespectful or bullying in dealing with fellow employees or the general public.
  - (f) Use of loud, profane or offensive language.
  - (g) Unlawful conduct defined as a violation of or refusal to comply with pertinent laws, ordinances and regulations.
  - (h) Use, possession, distribution, selling, or being under the influence of alcohol or illegal drugs while on County premises or while conducting business related activities off County premises. The legal use of prescribed drugs when taken in standard dosage and/or according to a physician's prescription is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.
  - (i) Habitual tardiness, unauthorized or excessive absence or abuse of sick leave, or repeated attempts to use unpaid leave when the employee does not have benefit time available.
  - (j) Failure to call in or report to work.
  - (k) Sleeping, gambling or conducting other business (either for another employer or for oneself if self-employed) while on duty.

- (l) Violation of rules against prohibited discrimination, harassment or sexual harassment.
- (m) Misuse of position, department or business knowledge for personal or political profit or advantage.
- (n) Intentional breach of privacy, or release of confidential client information.
- (o) Insubordination or refusal to comply with the proper order of an authorized supervisor.

3.14 PROHIBITION ON OPEN OR CONCEALED CARRY OF WEAPONS OR FIREARMS BY EMPLOYEES.

- (1) County employees are prohibited from the open carry or concealed carry, on their person, or in County vehicles, of weapons or firearms while performing duties for La Crosse County.
- (2) This prohibition does not apply to the following:
  - (a) An authorized law enforcement officer acting in the discharge of official duties.
  - (b) An employee who carries a weapon in the employee's own motor vehicle, which motor vehicle is used in the course of employment or driven or parked on property used by the County.

3.15 PROHIBITION OF SMOKING AND THE USE OF TOBACCO PRODUCTS BY EMPLOYEES.

- (1) County employees are prohibited from smoking and the use of tobacco products in all County buildings, vehicles, park shelters and in personal vehicles while transporting persons on County business.
- (2) Except for designated smoking areas, all County campuses are smoke and tobacco free.
- (3) The following definitions apply to this prohibition:
  - (a) "Smoking" shall mean inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" shall include the use of an electronic delivery device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.
  - (b) "Electronic Delivery Device" shall mean any product containing or delivering nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. "Electronic Delivery Device" shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

3.16 NEPOTISM.

- (1) Nepotism, the practice of hiring, promoting or otherwise favoring a family member by blood or marriage, is prohibited in La Crosse County employment. No family member shall participate in the hiring process, or any process which would provide

a financial or other material benefit, or status, to a person of said person's family by blood or marriage.

- (2) For purposes of this section, "family member" includes: spouse, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepchild, stepparent, grandchild, grandparent or any member of an employee's immediate household.
- (3) No family member shall supervise another family member directly or indirectly, nor shall any employee be promoted into a position which would result in the prohibited supervision. In order to allow equal opportunity, family members may apply for positions or promotions which would result in nepotism, however, if a transfer, hiring or marriage occurs between employees, which would create a violation of the prohibition against nepotism, then both employees shall be given the opportunity for one of them to resign. In the event neither one volunteers, then the least senior employee or the employee at the lowest pay level shall be terminated, at the discretion of the County.

### 3.17 POLITICAL ACTIVITY.

Employees are precluded from engaging in political activity that interferes with their normal work performance or is conducted during hours for which the employee is being paid by the County. Employees may not use County equipment or property for political purposes. Employees are specifically prohibited from using their County position or their official authority with the County for the purpose of directly or indirectly coercing any person to hold or contribute monetary or other types of assistance to any political candidate, party or purpose. Employee's whose principal employment is in a federally grant-aided program are also subject to prohibitions in the Federal Hatch Political Activities Act as amended. 5 USC sec. sec. 1501-1508.

### 3.18 INCOMPATIBLE EMPLOYMENT.

- (1) *Outside employment.* No employee may engage in outside employment if that employment conflicts with or affects the performance of the employee's county duties.
- (2) *Other County Employment.* No employee shall hold more than one full or part-time County position at the same time without written consent of the Human Resources Director or County Administrator.

### 3.19 GIFTS AND GRATUITIES

- (1) An official or employee shall not use their position to solicit nor accept on behalf of themselves or any other person any gift, campaign contribution, gratuity, favor, services, promise of future employment, entertainment, loan or any other thing of monetary value.
- (2) All fees, gratuities, honorarium or any other form of compensation for outside services performed during normal County work hours shall be turned over to the County and any such activities for which said compensation is paid shall be reported to the Human Resources Director.

(3) This does NOT include things such as:

- (a) acceptance of unsolicited advertising or promotional material, such as pens, pencils, notepads, calendars;
- (b) acceptance of a non-monetary award such as a plaque for meritorious public or personal contributions or achievements;
- (c) other items of insignificant value unlikely to influence the judgment of individuals covered by this code.

### 3.20 HARASSMENT, DISCRIMINATION AND RETALIATION PROHIBITED

It is the policy of La Crosse County that all employees should be able to enjoy a work environment free from all forms of unlawful harassment and discrimination. La Crosse County will not condone or tolerate any conduct in the workplace on the part of its employees (whatever their positions), elected officials, vendors, or members of the public, if that conduct violates the right of someone else to be free from harassment, discrimination or retaliation. County employees who violate this policy will be subject to appropriate discipline, up to and including termination. (See Employment Handbook for a detailed description of the procedures employees should follow in regard to this policy.)

### 3.21 INCORPORATION OF STATE STATUTES.

- (1) The following provisions of Wisconsin Statute are incorporated by reference and made a part of this chapter:
  - (a) Section 19.01, Oaths and bonds;
  - (b) Section 19.21, Custody and delivery of official property records;
  - (c) Section 19.81-19.89, Open meetings with governmental bodies
  - (d) Section 19.59, Code of ethics for local government officials, employees and candidates
  - (e) Section 946.13, prohibition against private interest in public contracts.

### 3.22 CODE OF ETHICS INCORPORATED.

All employees of La Crosse County are expected to comply with the County Code of Ethics.



## Subchapter 5 GRIEVANCE PROCESS

### 3.23 POLICY

This grievance procedure is intended to meet all of the requirements set out in Wisconsin Statute Section 66.0509 (1m). It is the policy of the County to treat all employees equitably and fairly in matters affecting their employment. Each employee of the County shall be provided ample opportunity to understand and resolve matters affecting employment, which the employee believes to be unjust. The presentation of a formal grievance shall be considered to be the right of each regular County employee without fear of reprisal.

The County Administrator shall not have access to the grievance procedure.

Department Heads shall not have access to the grievance process based on Wisconsin Statutes Section 59.18 (2)(b).

### 3.24 DEFINITIONS

- (1) "Grievance" means a formal complaint by an employee concerning: employee discipline, employee termination, or workplace safety.
- (2) "Employee discipline" includes unpaid suspensions, disciplinary demotions and disciplinary terminations. It does not include, without limitation, performance evaluations, work plan, verbal counseling, written or verbal warnings, placing an employee on paid administrative leave pending an internal investigation, change of pay or benefits due to economic reasons, reassignment or change of duties, or refusal to promote or reclassify.
- (3) "Preponderance of the evidence" means the greater weight of the evidence - superior evidentiary weight that, though not sufficient to free the mind wholly from doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.
- (4) "Regular County employee" means
  - (a) for discipline or termination matters: except for the limitations listed above, employee means regular, full or part-time employees; but does not include temporary, irregular part-time or seasonal employees, elected officials, probationary employees or employees covered by a collective bargaining agreement.
  - (b) For workplace safety complaints, employee includes any employee of La Crosse County.
- (5) "Termination" means involuntary end of employment due to disciplinary reasons; but does not include layoff, resignation, end of position funding, and reduction of hours or pay for economic reasons. The exclusions given are illustrative only and not limiting or exclusive.
- (6) "Workplace safety" means a condition of employment directly affecting the complaining employee's health or personal safety. A violation of any applicable

state or federal occupational safety or health standard, rule or regulation implicates workplace safety.

### 3.25 ADMINISTRATION

The Human Resources Director shall supervise and administer the grievance process. Supervisors and Department Heads shall keep the Human Resources Director informed of all grievances in process.

### 3.26 FILING A GRIEVANCE

- (1) This grievance procedure is available to all regular full-time and part-time County employees.
- (2) Limitations:
  - (a) A grievance that may be brought by or on behalf of a law enforcement officer using the procedure specific in Wis. Stat. Section 59.26(8) may not be brought under this section.
  - (b) A grievance that may be brought by or on behalf of an employee under a grievance procedure that is contained in a collective bargaining agreement may not be brought under this section.
  - (c) Individuals not covered under this policy include: limited term employees; seasonal employees; statutorily appointed individuals identified specifically in statute as serving at the pleasure of an appointing authority; elected officials; and independent contractors.
  - (d) A grievance filed outside of the specified time lines in Section 3.28 will be denied. An employee failing to comply with the time lines will forfeit all rights to participate in the grievance procedure as spelled out in Section 3.28.

### 3.27 DISCUSSION OF PROBLEM WITH IMMEDIATE SUPERVISOR

Any employee having a problem regarding their employment shall first discuss the problem with their immediate supervisor. If the problem is not settled to the employee's satisfaction and is a grievance according to Section 3.24, the employee may present their grievance according to Section 3.28.

### 3.28 GRIEVANCE PROCEDURE

A formal grievance of an employee shall be handled in accordance with the following procedure.

#### STEP 1. Supervisor.

The employee shall, within 14 calendar days of the of the event giving rise to the grievance or the date they could reasonably be expected to have knowledge of the grievance, file the written County Grievance Form with the employee's immediate supervisor and provide a copy to the Human Resources Director. Verbal notice is not acceptable. If the immediate supervisor is the subject matter of the grievance, in

which case, the employee may immediately proceed to Step 2. If the Department Head is the subject matter of the grievance, the employee may immediately proceed to Step 3. The supervisor shall within 5 calendar days meet and discuss the grievance with the employee and then reply in writing within 5 calendar days.

STEP 2. Department Head.

In the event that the immediate supervisor's decision is not satisfactory to the employee or the immediate supervisor is the subject matter of the grievance, the employee may within 7 calendar days, present the grievance in writing to their Department Head. The Department Head, or their designee, shall, within 5 calendar days, meet and discuss the grievance with the employee and then reply in writing within 5 calendar days.

STEP 3. Human Resources Director.

In the event that the Department Head's decision does not satisfy the employee's grievance or if the Department Head is the subject matter of the grievance, the employee may, within 7 calendar days, present the grievance in writing to the Human Resources Director. The Human Resources Director shall arrange to meet within 10 calendar days of receipt of the grievance with the employee, their representative, if any, and any other person the Human Resources Director deems necessary. If, in the judgment of the Human Resources Director, a hearing is necessary to ascertain the facts surrounding the dispute, one shall be scheduled as soon as practicable. After the hearing, the Human Resources Director shall respond to the grievance in writing to the employee within 10 calendar days.

By mutual agreement between the Employer and the Employee the timelines in Steps 1, 2 and 3 may be extended.

STEP 4. Impartial Hearing Officer (IHO).

In the event the decision of the Human Resources Director does not resolve the grievance, the employee may, within 7 calendar days, request a hearing before an Impartial Hearing Officer by filing a request with the County Clerk and pay the filing fee (if one is established ) by the County Board. The cost of the impartial hearing officer shall be equally shared by the parties.

1. The Office of Corporation Counsel shall upon receipt of a written hearing request, provide the employee with the name of an Impartial Hearing Officer. The Impartial Hearing Officer must not be an employee of the County. The Impartial Hearing Officer may be a lawyer, a professional mediator/arbitrator or other qualified individual as determined by the County Administrator.
2. The Impartial Hearing Officer shall be impartial and may not have any prior knowledge of the grievance.
3. The Office of Corporation Counsel will contact the hearing officer and schedule a meeting with the employee and the IHO to discuss the hearing. This meeting shall occur within two weeks of the date the Human Resource Director receives the request for the hearing. If the employee does not respond to the attempt to schedule the meeting or does not attend a scheduled meeting, the request for a hearing shall be considered withdrawn and the decision of the Human Resources Director shall stand.

4. The Impartial Hearing Officer may decide the case on the existing record or may conduct a hearing. A hearing will be scheduled within 30 calendar days of receipt of the hearing request and filing fee. The Impartial Hearing Officer may reschedule the hearing with permission of both parties.
5. The Impartial Hearing Officer, with the consent of both parties, may use their best efforts to mediate the grievance.
6. The employee has a right to be represented at the hearing (at the employee's expense) by a person of the employee's choosing.
7. Burden of Proof
  - (a) The burden of proof in a suspension or termination grievance is on the County to show just cause for the action.
  - (b) In workplace safety complaints, the employee has the burden of proof to show a violation of an applicable state or federal occupational safety and health standard, rule or regulation.
  - (c) The standard required of the party with the burden of proof in all cases is a preponderance of the evidence.
8. The hearing shall be recorded by a court reporter, who will make a record of the proceedings, and the costs will be shared equally by the parties.
9. Formal rules of civil procedure will not be followed. Strict adherence to legal rules of evidence is not required. Evidence must be relevant, reliable and probative. The IHO will determine admissibility, credibility, and weight of evidence.
10. Both parties may introduce exhibits and present witnesses. Witnesses shall be sworn to tell the truth.
11. The Impartial Hearing Officer shall provide a written decision within 30 calendar days following the close of the record. The written decision should include a case caption; the parties and appearances; a statement of the issues, findings of fact; any necessary conclusions of law; the final decision and order; and any other information the hearing officer deems appropriate.
12. The Impartial Hearing Officer shall have the power to sustain or deny the grievance. The IHO may not change or modify any discipline imposed, unless sustaining the grievance means that the discipline must be modified. In workplace safety cases, the IHO can recommend a corrective remedy.

STEP 5. County Board.

1. If either the grievant or the County desires to appeal the decision of the IHO, the appealing party shall filing a written notice of appeal with the County Clerk within 10 calendar days of receipt of the hearing officer's decision or be barred from appeal. The appeal shall be to the La Crosse County Board.
  - a. The written notice of appeal must contain: (1) a statement explaining the reason for the appeal, (2) a copy of the written grievance filed with the County, (3) the County's response to the grievance, and (4) a copy of the

Impartial Hearing Officer decision. The notice of appeal may not contain any information that was not admitted into evidence at the hearing.

- b. The appeal will be placed on the agenda for a County Board meeting that is held at no longer than 60 calendar days after the County Clerk receives a written notice of appeal. The appeal will be noticed for consideration in closed session pursuant to Wis. Stat. Section 19.85(1)(b) pertaining to dismissal, licensing, or suspension of a public employee. The County Clerk will provide a copy of the meeting notice to the employee, and the employee may request that an open session be held.
2. *Burden of proof and scope of review.* The appeal shall be a review of the record only and not a de novo hearing of the case. The appellant at all times bears the burden of proof. The decision of the IHO enjoys a presumption of validity.
  3. *Review Procedure.*
    - a. The Executive Committee of the County Board shall review the appeal record and make a recommendation to the County Board. Only the compiled record of the IHO hearing and exhibits admitted at the hearing shall be reviewed on appeal and no additional evidence shall be considered. The Executive Committee's and County Board's review is limited to:
      - i. whether the IHO kept within the IHO's jurisdiction;
      - ii. whether the IHO proceeded on a correct theory of law;
      - iii. whether the IHO's action was arbitrary or capricious; and,
      - iv. whether the IHO's decision was supported by the preponderance of the evidence.
    - b. The County Board on recommendation of the Executive Committee, may affirm, reverse, or modify the IHO's decision.
    - c. The County Board shall decide the matter by a majority vote. This decision is final and non-appealable.
    - d. In the event the County Board does not sustain the Impartial Hearing Officer's decision, then the Board may render a new decision and remedy, or take other action as appropriate.
    - e. The County Board Chair shall prepare and sign a written determination reflecting the County Board decision. The County Board Chair may enlist the assistance of the Corporation Counsel in preparing the determination. A copy of the determination will be provided to the employee within 10 calendar days following the County Board's decision.
    - f. The County Board's decision is final and may not be appealed.

### 3.29 GRIEVANCE OF TERMINATION

All grievances regarding termination shall be initiated at the third step of the grievance procedure.

### 3.30 FAILURE TO FOLLOW GRIEVANCE PROCEDURE

If at any time during the grievance process, the employee fails to follow any proscribed timeline, procedure or requirement, as outlined in this chapter, the Human Resources Director, or the County Board Chair if at Step 5 may dismiss the grievance.

**Section 3.** This Ordinance shall take effect the day after passage and publication as required by law.

LA CROSSE COUNTY

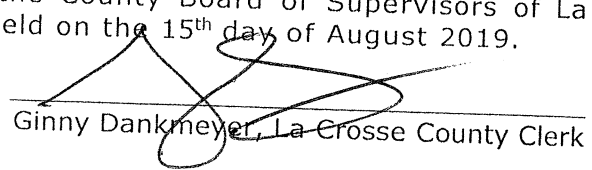
By:   
Monica Kruse, County Board First Vice Chair

By:   
Ginny Dankmeyer, County Clerk

PASSED: August 15, 2019  
PUBLISHED: August 22, 2019

STATE OF WISCONSIN  
COUNTY OF LA CROSSE

I, Ginny Dankmeyer, County Clerk of La Crosse County do hereby certify that this document is a true and correct copy of the original ordinance required by law to be in my custody and which the County Board of Supervisors of La Crosse County adopted at a meeting held on the 15<sup>th</sup> day of August 2019.

  
Ginny Dankmeyer, La Crosse County Clerk