



VALENCIA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 2019-29

AMENDING THE VALENCIA COUNTY PERSONNEL POLICY, RESOLUTION 2006-17, TO CLARIFY THAT
FLSA EXEMPT SALARIED EMPLOYEES ARE NOT ENTITLED TO HOURLY ANNUAL & SICK LEAVE
ACCRUAL

WHEREAS, the Valencia County Commission met upon notice of meeting duly published on May 22, 2019 at 5:00 P.M. in the Valencia County Administration Building, 444 Luna Avenue, Los Lunas, New Mexico 87031; and,

WHEREAS, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

WHEREAS, NMSA 1978, Section 3-13-4 allows municipalities and counties to establish a personnel merit system for the hiring, promotion, discharge and general regulation of municipal and county employees; and,

WHEREAS, the Board of County Commissioners has adopted Ordinance 2006-05 allowing for established Personnel Rules and Regulations duly adopted by Resolution which further the intent of the Ordinance; and,

WHEREAS, a salaried employee is a position that is FLSA exempt from overtime and works to complete his/her assigned tasks until the job is completed, not for a specific number of hours, nevertheless those employees are paid set amount no matter how many hours a week they work; and,

WHEREAS, although a salaried employee may be required to account for their hours their salary is not dependent on number of hours worked; and,

WHEREAS, a FLSA exempt salaried employee is trusted to take time off for vacation or illness, but since they are not required to work a set amount of time the practice leads to salaried employees banking sick and annual leave instead of using it since sick and annual leave is designed for FLSA Non-Exempt employees; and,

WHEREAS, while most health magazines and journals report that research has proven repeatedly that vacations are good for our physical and mental health and make better employees this Board finds that too often salaried employees do not take any vacation leave from their work as they are dedicated to their jobs and the County; and,

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of the County of Valencia that Resolution 2006-017 is amended as follows:

The definition for exempt employees on page 2 of Resolution 2006-017 is hereby deleted in its entirety and replaced with the following definition:

EXEMPT EMPLOYEES. All executive, administrative and professional employees as those terms are defined in the federal Department of Labor regulations relating to the Fair Labor Standards Act, and whose compensation is based on a fixed salary, these employees are also referred to as salaried employees. Exempt employees do not receive overtime and work to complete their assigned tasks until the job is completed, not for a specific number of hours. Exempt employees do not accrue sick or annual leave and are not eligible for holiday pay.

The following section 10.4.1 shall be added to section 10 of Resolution 2006-017:

10.4.1 EXEMPT EMPLOYEE VACATION

- A. Salaried FLSA Exempt employees are guaranteed two weeks (80 hours) of vacation time annually, each calendar year, which shall be scheduled with the employee's supervisor. It is the employee's responsibility to schedule and use the guaranteed vacation time. The two-week vacation time guarantee does not prohibit the use of additional time however it does not roll-over to the next calendar year.
- B. While utilizing vacation time the employee shall utilize the County's Emergency Operation Plan chain of command for day to day operations and shall not continue to work remotely with the exception of actual emergencies.
- C. There is no requirement that the two-week annual vacation time be taken consecutively. This policy in no way requires salaried employees to account for time in a manner similar to hourly employees in contravention of the FLSA.
- D. This section does not apply to elected officials or the positions of chief deputy assessor, chief deputy clerk, chief deputy treasurer, undersheriff or sheriff's administrative assistant.

The following section 10.8.1 shall be added to section 10 of Resolution 2006-017:

10.8.1 EXEMPT EMPLOYEE SICK LEAVE

Exempt employees shall be all allowed to take up to 4 weeks of sick leave annually and continue to receive their salary.

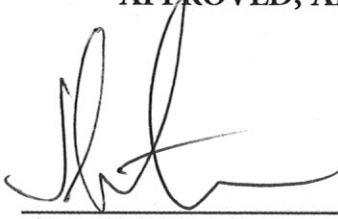
Section 10.5 of Resolution 2006-017 is hereby deleted in its entirety and replaced with the following definition:

10.5 Separation from Service or Change in Service Pay. Employees shall be paid for all accrued annual leave upon separation from county service. Upon change from FLSA non-exempt to

FLSA exempt status, (or for those salaried employees who have accrued sick and annual leave prior to the adoption of this resolution) shall either be paid a lump sum for the unused portion of their accrued annual & sick leave at their non-exempt rate of pay or if the budget does not allow for lump sum payments the employee shall enter into a written contract to provide for payments in increments and times that will not negatively affect the budget. Sick and Annual leave shall be paid at the rates set forth in the applicable provision of this policy (Resolution 2006-17).

APPROVED, ADOPTED, AND PASSED on this 22nd day of May, 2019

BOARD OF COUNTY COMMISSIONERS



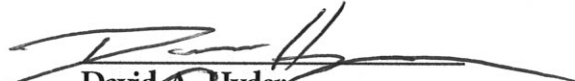
Jhonathan Aragon
Chair, District V



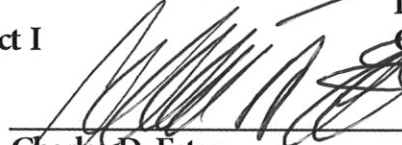
David Carlberg
Vice-Chair, District II



Gerard Saiz
Commissioner, District I




David A. Hyder
Commissioner, District III



Charles D. Eaton
Commissioner, District IV

Attest:


Peggy Carabajal
Valencia County Clerk