

**WELD COUNTY
CODE ORDINANCE 2023-14**

IN THE MATTER OF REPEALING AND REENACTING, WITH AMENDMENTS, CHAPTER 3 HUMAN RESOURCES, OF THE WELD COUNTY CODE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WELD, STATE OF COLORADO:

WHEREAS, the Board of County Commissioners of the County of Weld, State of Colorado, pursuant to Colorado statute and the Weld County Home Rule Charter, is vested with the authority of administering the affairs of Weld County, Colorado, and

WHEREAS, the Board of County Commissioners, on December 28, 2000, adopted Weld County Code Ordinance 2000-1, enacting a comprehensive Code for the County of Weld, including the codification of all previously adopted ordinances of a general and permanent nature enacted on or before said date of adoption, and

WHEREAS, the Weld County Code is in need of revision and clarification with regard to procedures, terms, and requirements therein.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of the County of Weld, State of Colorado, that Chapter 3 Human Resources of the Weld County Code be, and hereby is, repealed and re-enacted, with amendments, to read as follows.


**CHAPTER 3
HUMAN RESOURCES**

Add Sec. 3-2-15. Harassment, to read as follows:

A. Sexual and Other Prohibited Harassment

1. The County is committed to providing a work environment that is free of prohibited harassment. As a result, the County maintains a strict policy prohibiting sexual harassment and harassment against applicants and employees based on any legally-recognized status, including, but not limited to: race, color, religion, sex, pregnancy (including lactation, childbirth or related medical conditions), sexual orientation, gender identity, age (40 and over), national origin or ancestry, physical or mental disability, genetic information (including testing and characteristics), veteran status, marital status, uniformed servicemember status or any other status protected by federal, state or local law.
2. The County's anti-harassment policy applies to all persons involved in its operations, regardless of their position, and prohibits harassing conduct by any employee of the County, including department heads and supervisors. This policy also protects employees from prohibited harassment by third parties, such as customers, vendors, clients, visitors, or temporary or seasonal workers. If such harassment occurs in the workplace by

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Carly Koppes, Clerk and Recorder, Weld County, CO


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someone not employed by the County, the procedures in this policy should be followed. The workplace includes: actual worksites, any setting in which work-related business is being conducted (whether during or after normal business hours), County-sponsored events, or County owned/controlled property.

3. The County prohibits unlawful harassment, including sexual harassment, as well as conduct that does not rise to the level of being unlawful. This policy is not designed or intended to limit the County's authority to discipline or take remedial action for workplace conduct that the County deems unacceptable, regardless of whether that conduct satisfies the definition of unlawful harassment or sexual harassment.

B. Sexual Harassment Defined

1. Sexual harassment includes unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made a term or condition of employment; or
 - b. Submission to, or rejection of, such conduct is used as a basis for employment decisions affecting the individual; or
 - c. Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment.
2. Sexual harassment includes various forms of offensive behavior based on sex. The following is a non-exhaustive list of the types of conduct prohibited by this policy:
 - a. Unwanted sexual advances or propositions (including repeated and unwelcome requests for dates);
 - b. Offers of employment benefits in exchange for sexual favors;
 - c. Making or threatening reprisals after a negative response to sexual advances;
 - d. Visual conduct: leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons, posters, websites, emails or text messages;
 - e. Verbal conduct: making or using sexually derogatory comments, innuendos, epithets, slurs, sexually explicit jokes, or comments about an individual's body or dress, whistling or making suggestive or insulting sounds;
 - f. Verbal and/or written abuse of a sexual nature, graphic verbal and/or written sexually degrading commentary about an individual's body or dress, sexually suggestive or obscene letters, notes, invitations, emails, text messages, tweets or other social media postings;

- g. Physical conduct: touching, assault or impeding or blocking normal movements;
- h. Retaliation for making reports or threatening to report sexual harassment.

C. Other Types of Harassment

1. Harassment on the basis of any legally protected status is prohibited, including harassment based on: race, color, religion, sex, pregnancy (including lactation, childbirth or related medical conditions), sexual orientation, gender identity, age (40 and over), national origin or ancestry, physical or mental disability, genetic information (including testing and characteristics), veteran status, marital status, uniformed servicemember status or any other status protected by federal, state or local law. Prohibited harassment may include behavior similar to the illustrations above pertaining to sexual harassment. It also includes, but is not limited to:
 - a. Verbal conduct including taunting, jokes, threats, epithets, derogatory comments or slurs based on an individual's protected status;
 - b. Visual and/or written conduct including derogatory posters, photographs, calendars, cartoons, drawings, websites, social media, emails, text messages or gestures based on an individual's protected status; and
 - c. Physical conduct including assault, unwanted touching or blocking normal movement because of an individual's protected status.
2. The Director of the Department of Human Resources will oversee the investigation in such incidents. Upon completion of the timely investigation, the Director of the Department of Human Resources shall report the findings to the appropriate department head or elected official for possible disciplinary action. All cases of harassment will be handled with strong disciplinary action, up to and including termination from employment.
3. All supervisors and managers are responsible for:
 - a. Implementing this policy, which includes, but is not limited to, taking steps to prevent harassment and retaliation;
 - b. Ensuring that all employees under their supervision have knowledge of and understand this policy;
 - c. Promptly reporting any complaints to the Director of Human Resources representative so they may be investigated and resolved in a timely manner;
 - d. Taking and/or assisting in prompt and appropriate corrective action when necessary to ensure compliance with this policy; and
 - e. Conducting themselves, at all times, in a manner consistent with this policy.

4. Failure to meet these responsibilities may lead to disciplinary action, up to and including termination.

Delete Sec. 3-3-50. Harassment.

ARTICLE VI – Leave Time Benefits

Repeal and Reenact Sec. 3-6-20. Sick leave, to read as follows:

The County provides eligible employees with paid sick and safe leave (“PSSL”) and public health emergency leave (“PHEL”) in accordance with the requirements of Colorado’s Healthy Families and Workplaces Act (“HFWA”).

A. Eligibility

1. All employees are eligible to accrue PSSL and may receive supplemental sick leave for use during a public health emergency (as defined further below). If any paid leave is available, the employee must use available balance before unpaid leave.

B. Paid Sick and Safe Leave (PSSL)

1. Sick leave (PSSL) can be used in the following circumstances:
 - a. When an employee is unable to perform job duties because of physical or mental illness, injury, or health condition, or any other medically disabling condition, or to care for a family member who has a mental or physical illness, injury, or health condition.
 - b. To obtain a medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition of the employee or employee’s family member, or to obtain preventative medical care for the employee or the employee’s family member.
 - i) When planning medical treatment or appointments an employee should consult with his or her supervisor and make a reasonable effort to schedule the treatment so as not to disrupt unduly the employer’s operations. The employee and supervisor will attempt to work out a schedule for such leave that meets the needs of both the employer and the employee. In cases where disruption may occur, the employee shall notify their supervisor as soon as they are aware of the treatment or appointment.
 - c. If the employee or a family member is the victim of domestic abuse, sexual assault or harassment and needs leave to:
 - i) Seek medical attention to recover from a mental or physical illness, injury, or health condition caused by the domestic abuse, sexual assault, or harassment;
 - ii) Obtain services from a victim service organization;

- iii) Obtain mental health or other counseling;
 - iv) Seek relocation due to the domestic abuse, sexual assault, or harassment; or
 - v) Seek legal services, including preparing for, or participating in, a civil or criminal proceeding relating to, or resulting from, the domestic abuse, sexual assault, or harassment.
2. When, due to a public health emergency (as defined below), a public official has ordered the closure of:
 - a. The employee's place of business; or
 - b. The school or place of care of the employee's child and the employee needs to be absent from work to care for their child.
 3. To grieve, attend funeral services or memorial or deal with financial and legal matters that arise after a family member's death.
 4. To care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected occurrence or event that results in the closure of the family member's school or place of care.
 5. To evacuate their place of residence due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected occurrence or event that results in the employee's need to evacuate their residence.
 6. For purposes of this policy, a "family member" means:
 - a. An employee's immediate family member (i.e., a person related by blood, marriage, civil union or adoption);
 - b. A child to whom the employee stands in loco parentis;
 - c. A person who stood in loco parentis to the employee when the employee was a minor; or
 - d. A person for whom the employee is responsible for providing or arranging health or safety-related care.
 7. PSSL can be used as it is accrued. However, the County may verify employee hours within the month after work is performed and adjust PSSL accrual amounts to correct any inaccuracy. The County will notify employees in writing of any such change in accrued PSSL amounts.



8. PSSL may be used in fifteen (15) minute increments or greater. Failure to use PSSL in good faith and for the reasons specified in this policy can result in discipline.
9. Accrual of Sick Leave (PSSL): The accrual rate is shown in Table 3.5:

**Table 3.5
Sick Leave (PSSL) Accrual Rates**

Type of Employee	Sick Accrual (PSSL)
Regular Employee Full-Time	8.00 hours per month
Part-Time 0.75	6.00 hours per month
Part-Time 0.50	4.00 hours per month

Each employee's accrual amount of paid sick leave will meet or exceed the HFWA requirement of at least one (1) hour of paid sick leave for every thirty hours worked by the employee.

10. For employees hired before January 1, 1985, accumulated sick leave is payable upon termination at one-half (½) the hours of accumulated unused sick leave, not to exceed one (1) month's salary. Employees hired after January 1, 1985, will not be paid for accumulated sick leave upon termination of employment.
11. The County will allow use of PSSL for a covered use upon request. Requests can be made orally or in writing (including electronically). When possible, employees should include the expected duration of the absence in their request for leave. An employee should report his or her absence daily directly to his or her supervisor within one (1) hour before the employee's regular starting time. Not contacting the supervisor and obtaining an approved absence for three (3) days may be considered abandonment of the job and may result in termination or disciplinary action.
12. Employees are not required to search for or find a replacement worker to cover the hours during which they are using PSSL. The County will not count employees' use of PSSL in compliance with this policy as an absence when evaluating absenteeism. Therefore, any such use of PSSL will not lead to, or result in, discipline, demotion, suspension, or termination.
13. An employee who is absent from work for medical reasons for more than four (4) consecutive work days, may be required to provide a doctor's certification and to complete all forms as directed under the Family Medical Leave Act (FMLA). The County will not require the disclosure of details regarding an employee's or employee's family member's health information or the domestic violence, sexual assault, or stalking that is the basis for the request for leave.
14. Advanced PSSL is not permitted. Employees may not carry negative sick hours. The County will not pay out earned PSSL in lieu of taking the time, except as provided in Section C above.

15. An employee who calls in sick when scheduled for any mandatory worktime must use available sick time.
16. An employee cannot accumulate more than four-hundred eighty (480) hours of sick leave (prorated for part-time employees). Employees carry over accrued but unused PSSL from one year to the next without forfeit.

C. Public Health Emergency Leave (PHEL)

In addition, and supplemental to, the PSSL described above, the County will provide employees with PHEL in accordance with the terms below.

1. For purposes of this policy, a "public health emergency" is:
 - a. An act of bioterrorism, a pandemic influenza or an epidemic caused by a novel and highly fatal infectious agent, for which:
 - i) An emergency is declared by a federal, state, or local public health emergency; or
 - ii) A disaster emergency is declared by the governor; or
 - b. A highly infectious illness or agent with epidemic or pandemic potential for which a disaster emergency is declared by the Governor.
2. On the day a public health emergency is declared, an employee will immediately be able to request a one-time supplement of PHEL in addition to whatever amount of PSSL that employee has available at the time of the request.
3. Employees who normally work forty or more hours in a week, and who do not have at least 80 hours of PSSL available, will have immediate access of 80 hours of total paid leave, which will include any amount of PSSL the employee has available at that time.
4. Employees who normally work fewer than 40 hours per week, and who do not have enough PSSL to satisfy the amounts described herein, will have immediate access to paid leave equaling the greater of: (1) the amount of hours the employee is scheduled for work in the 14-day period after the leave request; or (2) the amount of time the employee actually worked in the 14-day period prior to the declaration of the public health emergency or the leave request, whichever is later, inclusive of any PSSL the employee has available at that time.
5. From the declaration of a public health emergency until four weeks after the official termination or suspension of the emergency declaration, PHEL can be used for any of the following reasons:
 - a. To self-isolate and care for oneself or a family member who is self-isolating because the employee or family member is diagnosed with, or experiencing symptoms of, a communicable illness that is the cause of a public health emergency.

- b. To seek or obtain for oneself or care for family member who needs a medical diagnosis, care, or treatment if experiencing symptoms of a communicable illness that is the cause of a public health emergency.
 - c. To seek for oneself or a family member preventive care concerning a communicable illness that is the cause of a public health emergency.
 - d. An employee is unable to work because the employee has a health condition that may increase susceptibility to or risk of communicable illness that is the cause of the public health emergency.
 - e. Either the County or a public health authority with appropriate jurisdiction determines that an employee's presence on the job or in the community would jeopardize the health of others because of the individual's exposure to a communicable illness that is the cause of a public health emergency or because the individual is exhibiting symptoms of such a communicable illness, regardless of whether the individual has been diagnosed with the illness.
 - f. To care for a family member after either the family member's employer or a public health authority with appropriate authority determines that the family member's presence on the job or in the community would jeopardize the health of others because of the family member's exposure to a communicable illness that is the cause of a public health emergency or because the family member is exhibiting symptoms of such a communicable illness, regardless of whether the family member has been diagnosed with the illness.
 - g. To care for a child or other family member when their childcare provider is unavailable due to a public health emergency or their school or place of care has been closed due to a public health emergency (including when the school or place of care is physically closed but providing instruction remotely).
6. Employees are only eligible for these amounts of PHEL one time during the entirety of a public health emergency (even if the public health emergency is extended, amended, restated, or prolonged).
 7. During a public health emergency, employees will continue to accrue PSSL in accordance with this policy.
 8. When the need for PHEL is foreseeable and the workplace has not been closed, employees must notify the County of the need for PHEL as soon as practicable. To provide notice of the need to use PHEL, employees should contact Human Resources.

D. Rate of Pay

1. PSSL and PHEL are paid at the same hourly rate or salary (not including overtime, bonuses or holiday pay) and with the same benefits, including healthcare benefits, as the employee normally earns during hours worked. Leave will be paid on the same schedule as regular wages.
2. The pay rate for leave will be at least the applicable minimum wage. The pay rate will be calculated based upon the employee's pay over the 30 calendar days prior to taking leave. If an employee has not yet worked 30 calendar days, the longest available period will be used.

E. Employee Records Requests

Upon an employee's request, the County will provide (in writing or electronically) documentation indicating the current amount of PSSL and PHEL available for use and the amount of such leave already used during the current year. Employees will be allowed to make one such request per month, except they may make an additional request when any need for PSSL or PHEL arises.

F. Effect on Other Rights and Policies

The County may provide other forms of leave for employees to care for medical conditions or for issues related to public health emergencies or domestic abuse, sexual assault, or harassment under certain federal, state and local laws. In certain situations, leave under this policy may run at the same time as leave available under another federal, state, or local law, provided eligibility requirements for that law are met. The County is committed to complying with all applicable laws. Employees should contact Human Resources for information about other federal, state and local medical, victim, public health emergency, or family leave rights.

G. Confidentiality

The County will keep confidential the health or safety information of an employee or employee's family member. Such information will not be disclosed except to the affected employee, with the written permission of the affected employee or as otherwise required by law.

H. Separation from Employment

Compensation for accrued and unused PSSL or available PHEL is not provided upon separation from employment for any reason. If an employee is rehired by the County within six months of separation from employment, previously accrued but unused PSSL will be immediately reinstated.

I. Retaliation

Employees have the right to request and use PSSL and PHEL in a manner consistent with the HFWA. The County will not discriminate or retaliate, or tolerate discrimination or retaliation,

against any employee who: seeks or obtains leave in accordance with this policy; files a complaint regarding an alleged violation of the HFWA; participates in an investigation, hearing or proceeding or cooperates in or assists with an investigation related to an alleged violation of the HFWA; informs any person of their potential rights under the HFWA; or otherwise exercises their rights under the HFWA.

Amend Sec. 3-6-80. Bereavement leave.

Leave of absence with pay because of death in the immediate family may be granted to regular and part-time employees by the department head or elected official for a period not to exceed three (3) working days. Entitlement to leave of absence under this Section shall be in addition to any other leave. For purposes of this Section, immediate family means an employee's immediate family member (i.e., a person who is related by blood, marriage, civil union or adoption); a child to whom the employee stands in loco parentis or a person who stood in locos parentis to the employee when the employee was a minor; or a person for whom the employee is responsible for providing or arranging health or safety related care.

ARTICLE VII – Wages and Hours

Amend Sec. 3-7-70. Compensatory time off.

- A. Compensatory time off (comp time) in lieu of overtime may be given if there is an understanding between the department and the employee to provide time off as compensation for overtime. To maintain a record of this understanding, a comp time form is available from the Accounting Department.
- B. Employees can accrue up to 80 hours of comp time, however, any time above 80 hours will be paid out as overtime. Any comp time over 40 hours will be paid out on the second check in April annually bringing all balances to 40 hours. Employees can make a one-time request for payout or partial payout of comp time by contacting Payroll.
- C. If an employee is eligible for comp time and is promoted to a salaried position, the employee will be paid out all earned comp time at the rate of pay prior to their promotion and is no longer eligible for comp time.

BE IT FURTHER ORDAINED by the Board that the Clerk to the Board be, and hereby is, directed to arrange for Municode to supplement the Weld County Code with the amendments contained herein, to coincide with chapters, articles, divisions, sections, and subsections as they currently exist within said Code; and to resolve any inconsistencies regarding capitalization, grammar, and numbering or placement of chapters, articles, divisions, sections, and subsections in said Code.

BE IT FURTHER ORDAINED by the Board, if any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held or decided to be unconstitutional, such decision shall not affect the validity of the remaining portions hereof. The Board of County Commissioners hereby declares that it would have enacted this Ordinance in each and every section, subsection, paragraph, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases might be declared to be unconstitutional or invalid.

The above and foregoing Ordinance Number 2023-14 was, on motion duly made and seconded, adopted by the following vote on the 25th day of September, A.D., 2023.

BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO

ATTEST: Carly Koppes
Weld County Clerk to the Board

Mike Freeman
Mike Freeman, Chair

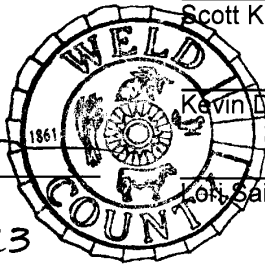
BY: Janet M. Warwick
Deputy Clerk to the Board

Perry L. Buck
Perry L. Buck, Pro-Tem

Scott K. James

APPROVED AS TO FORM:

[Signature]
County Attorney



Kevin D. Ross

Loft Saine

Date of signature: 09/28/23

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