

THE COLORADO OFFICE OF PUBLIC GUARDIANSHIP

Personnel Rules for the Director

Approved by the Office of Public Guardianship Commission
Effective January 22, 2020



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FOR OPG COM'N REVIEW AT 1-22-2020 MEETING

ACKNOWLEDGEMENT

By my signature below, I acknowledge that I have received a copy of the Colorado Office of Public Guardianship Pilot Program Employee Handbook (“Handbook”) which outlines some of the policies, procedures, practices, and benefits of the agency, and which supersedes and replaces any and all prior handbooks, manuals, policies, procedures, practices or benefits. I have read and understand the information in it and agree to abide by the Handbook during my employment. By signing my name below, I represent that I have asked any questions and received clarification on any issues of concern to me under the Handbook or the Office’s policies, procedures, practices or other benefits.

I understand the Handbook, as well as any other policy, procedure, practice or benefit may be subject to change or may be deleted at the discretion of the Office of Public Guardianship Commission (“Commission”). I understand that my job description was outlined in the job posting announcing this position, but that such job description may be amended by the Commission, or as set forth in the provisions herein. I understand fully my responsibilities and what is expected of my performance and me, and if I do not, I will obtain direction and guidance from the Commission.

I UNDERSTAND THAT THIS HANDBOOK, AND ANY OTHER POLICY, PROCEDURE, PRACTICE OR BENEFIT DOES NOT CONSTITUTE AN EXPRESS OR IMPLIED CONTRACT, GUARANTEE, PROMISE, OR COVENANT OF ANY TYPE. I ACKNOWLEDGE THAT THAT MY EMPLOYMENT WITH THE COLORADO OFFICE OF PUBLIC GUARDIANSHIP MAY BE TERMINATED FOR CAUSE BY TWO THIRDS MAJORITY OF THE BOARD.

Employee Signature

Date

Commission Chair Signature

Date

INTRODUCTION

Pursuant to HB 17-1087, the pilot program for the Office of Public Guardianship (“Office”) was established, as amended by HB 19-1045.

It is imperative that the Director for the Office meet the highest standards of workplace conduct. This Handbook outlines the basic operating principles and provides a foundation on how to conduct business as it relates to the Director. This Handbook is provided as a guide and is not a contract.

FOR OPG COM'N REVIEW AT 1-22-2020 MEETING

PART I: GENERAL PROVISIONS

1.1. AUTHORITY AND TERM

The Office of Public Guardianship Commission (“Commission”) was established pursuant to HB 17-1087.

The Commission appoints the Director. The Director is governed by personnel rules as written by the Commission. The Director serves at the pleasure of the Commission. The Director reports directly to the Commission. §§ 13-94-104(3) and 13-94-105(2), C.R.S.

Recognizing that state and federal laws change, in the event of a conflict between a guideline in this Handbook and existing state or federal law, state and federal law governs the employment relationship between the Director and the Commission.

These rules and policies shall be updated as needed to reflect changes within the Office or the Commission.

These policies shall be known and may be cited as the Colorado Office of Public Guardianship Pilot Program Director Personnel Policies.

These policies are promulgated by the Commission pursuant to statutes enacted by the Colorado General Assembly and in fulfillment of the requirements of § 13-94-204, C.R.S.

1.2. APPLICABILITY

This Handbook applies solely to the Director of the Office. The Staff of the Office are governed by a separate employee handbook.

PART II: STRUCTURE OF DIRECTOR POSITION

2.1. COMMISSION RESPONSIBILITIES

The Commission has the duty and responsibility to appoint and terminate the Director. §§ 13-94-104(3) and 13-94-105(2), C.R.S. According to the Commission's By-Laws (Nov. 21, 2019), the Commission may terminate the Director by two-thirds majority vote.

According to the Commission's By-Laws (Nov. 21, 2019), the Commission also has the duty and responsibility to evaluate the Director's performance. The Director is governed by the personnel rules adopted by the Commission. The Director reports directly to the Commission, and as delegated by a full vote of the Commission, to the Chair or Vice-Chair.

The Director works outside the classification and compensation plan established by the Colorado Judicial Department pursuant to § 13-3-105, C.R.S., and the classification and compensation plan for state employees pursuant to Colo. Const., art. VI, § 5(3). The Director is not covered by the Colorado Personnel System or any other tenure system.

As a condition of employment, the Director consented to a background check conducted by the State Judicial Departments' Human Resources Division, and provided the most recent version of a credit bureau report for Commission review. The Commission may, in its discretion, request updated credit information if circumstances arise that warrant more recent data.

2.2. JOB DESCRIPTION

The Director and Commission shall work cooperatively to establish and determine an appropriate job description for the Director, including setting forth duties and responsibilities consistent with those outlined in the Pilot Program organic statute. Any such job description shall be kept on file by the Director.

2.3. OUTSIDE EMPLOYMENT

The Director shall be solely employed by the Office, and shall not be permitted any outside employment.

2.4. VOLUNTEER ACTIVITY

If the Director desires to engage in volunteer activities, the Director shall provide notice to the Chair of the Commission who, upon consultation with the Commission, may grant approval if their discretion the following conditions have been satisfied:

1. The outside volunteer activity does not interfere with job performance;
2. The outside volunteer activity does not conflict with the interest of the Office or the State of Colorado; and
3. The outside volunteer activity is not the type which could reasonably give rise to criticism or suspicion of conflicting interest or duties.

If the volunteer activity is approved by the Commission, but substantive changes occur during the volunteer activity, the Director shall promptly notify the Chair, who will obtain approval from the Commission.

2.5. POLITICAL ACTIVITIES UNRELATED TO DUTIES OF OFFICE

While the Director may participate in political activities subject to state and federal laws, no Office resources can be used for this purpose. The Director may not campaign actively for any candidate on Office time or in any manner calculated to exert the influence of the Office.

Leave Without Pay to engage in partisan political activity or to serve in an elected office shall not be granted.

The Director may participate in legislative activities as necessary to conduct ~~implement~~ the Office pilot program.

2.6. PERFORMANCE EVALUATION

The Commission shall undertake to establish a performance evaluation process for the Director. The Commission must notify the Director of the evaluation process and the criteria to be measured in light of the Director's job duties under statute and consistent with the Office's mission, operating policies, and goals.

The evaluation is an opportunity for the Commission to communicate with the Director, in measureable terms, job expectations and for the Commission to review how successful the Director has been in meeting performance goals. The evaluation

process also serves as the basis for decision-making regarding possible eligibility for for annual compensation adjustments, subject to availability of funding.

The Commission intends on providing an interim evaluation of the Director and then an annual evaluation thereafter that encompasses review of activities on the fiscal year cycle of July 1 to June 30.

2.7. PROFESSIONAL DEVELOPMENT

Professional development is imperative to the professional management of the Office. To the extent the Director determines that professional development and training is necessary to implement his/her job duties, such requests shall be made to the Chair of the Commission subject to full Commission approval and availability of funding.

FOR OPG COM'N REVIEW AT 1-22-2020 MEETING

PART III: GENERAL OFFICE POLICIES

The following general policies are established to ensure the Office maintains a safe, productive, and efficient working environment. These policies apply to the Director.

Should the Director believe he/she has been subject to any behavior prohibited by these policies, has observed, or has knowledge of a violation of these policies, the Director should immediately report to the Chair of the Commission. In the event of the complaint at issue involves the Chair, the Director may report the incident may to the Vice-Chair of the Commission.

The Commission may consult with the State Judicial Department's Human Resources Division to address the complaint and determining reasonable resolution.

3.1. CONFIDENTIALITY

The Director has the responsibility to protect all Office related information and shall have access to information, records, and files as necessary in connection with his/her assigned duties.

The Director shall keep such information, records and files confidential to the extent shall such laws and regulations apply to the Office or its employees.

The Director has the duty to protect client confidentiality. Disclosing information about a client, whether business or personal, is a serious breach of professional ethics. The Director shall implement such policies as necessary to ensure that he/she has executed appropriate internal controls to monitor and oversee employee compliance with protection of confidential information.

If the Director fails to abide by this policy, the Commission may consult with the State Judicial Department's Human Resources Division to resolve the issue in accordance with best practices and pursuant to Colorado state law.

3.2. PROFESSIONAL AND ETHICAL STANDARDS

The Director is expected to act in compliance with the National Guardianship Association Standards of Practice and Ethics Principles, as well as any other Office policies promulgated by the Director for his/her employees on this subject matter.

3.3. WORKPLACE BEHAVIOR AND CONDUCT

As the leader of the Office, the Director must maintain the public's confidence in the integrity of state government.

The Director is expected to treat co-workers, public officials, members of the public, clients, and vendors with courtesy and respect. The Director is expected to behave professionally in every task performed on behalf of the Office.

The Director should conserve state property and use taxpayer dollars, donations, and grant monies prudently. Failure to meet any performance expectations can result in performance management, up to and including termination.

With respect to Sections 3.5 and 3.6 below, the Director shall use best efforts to ensure that the Director and his/her staff obtain training to ensure compliance with those policies.

3.4. CLIENT AND DIRECTOR INTERACTION POLICY

To maintain the credibility and professionalism of the Office, interaction between clients, the Director, and the Director's employees shall be maintained on a strictly professional basis.

The Director shall not maintain a personal relationship with a client and shall not receive gifts from any client.

3.5. PROHIBITED DISCRIMINATION AND HARASSMENT POLICY

The Office is committed to maintaining a work environment where all persons are treated with dignity and respect. Each individual should be provided with the opportunity to work in a professional atmosphere that promotes equal opportunities and prohibits discrimination practices, including harassment based on a person's race, ethnicity, national origin, gender, age, sexual orientation, religion, socioeconomic status, or disability. Harassment, whether verbal, physical, environmental including social media, will not be tolerated in the workplace itself or in other work-related settings such as business trips, conferences and work-related social events.

This policy applies to the Director and his/her employees, interns and volunteers. The Office will not tolerate, condone, or allow harassment whether engaged in by fellow employees, supervisors, judicial officers, or nonemployees who conduct business with the Office. The Director is required to implement a policy that

informs employees that they are strongly encouraged to promptly report all incidents of harassment, and if such reports involve the Director, such those incidents shall made known to the Chair of the Commission. To the extent the Director has been subject to a complaint of workplace discrimination or harassment, the Director shall comply with the Procedures in Section 3.7.

3.6. WORKPLACE VIOLENCE

The Office strives to maintain a work environment that is free from intimidation, threats or acts of violence. Violent behavior or threats of violent behavior directed at clients, co-workers, staff, contractors, supervisors, management, or any person at the work site, in any state owned/rented conveyance, or off-site when acting as an employee of the Office will not be tolerated. Neither will such behavior be tolerated against the work site nor any state owned/rented property.

The use of office property, such as telephone, fax machines, or email in threatening or inappropriate ways is also prohibited.

Violent behavior is defined as the infliction of threat of any bodily injury, harmful psychological contact or the destruction or abuse of property. This includes, but is not limited to, intimidating, threatening or hostile behaviors, offensive comments which are veiled, conditional, direct, written, or verbal, physical abuse, vandalism, arson or sabotage.

The Director is required to implement a policy that informs employees if they feel that they have been subject to any behavior prohibited by this policy that involves the Director, an immediate threat should be reported to local law enforcement and/or the Chair of the Commission, as appropriate. All complaints will be taken seriously, investigated, and appropriate action taken. To the extent the Director has been subject to an incident involving workplace violence, the Director shall comply with the Procedures of Section 3.7.

3.7. COMPLAINT PROCEDURE FOR WORKPLACE HARRASSMENT AND WORKPLACE VIOLANCE

Procedure:

- A. If the Director has been aggrieved, he/she should promptly report violations of these policies to the Commission.

- B. The initial report may be written or oral. Any Commission member who receives an oral report of harassment or violence should put the information received in writing and have it signed by the complaining party.
- C. In all cases, the recipient of the complaint must provide copies of the complaint documents to the Commission and mark it confidential.
- D. All reports of harassment and workplace violence shall be kept in confidence, except as it is necessary to investigate the complaint and to respond to any legal/administrative proceedings arising out of the report.
- E. The Commission will work cooperatively with the State Judicial Department's Human Resources Division to appropriately respond and resolve the complaint. The final outcome of a complaint will be dependent on the facts involved in each instance.
- F. Retaliation for making a complaint or participating in the investigation of a complaint will not be tolerated. If the Director has been retaliated against or there is a complaint that the Director has retaliated against someone, the Commission will consult with the State Judicial Department's Human Resources Division to resolve the issue in accordance with best practices and pursuant to Colorado law.

3.8. WORKPLACE SAFETY / SECURITY / VISITORS

As long as the Office is located in the City and County Building at 1437 Bannock Street in Denver, Colorado, the Director shall implement policies and procedures for workplace safety, security, and visitors in accordance with any policies and procedures required of that Building. The Director shall be subject the policy promulgated.

To the extent the Office is located in the Ralph L. Carr Judicial Building Complex in the future, the Director shall implement policies and procedures for workplace safety, security, and visitors in accordance with any polices and procedure required of that complex. The Director shall be subject to the policy promulgated.

3.9. OFFICE HOURS AND ATTIRE POLICY

Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except for state holidays. The Director shall ensure that work coverage policies are implemented to ensure that service to clients continue to be provided uninterrupted and as necessary even when the Office is closed, including during state holidays, inclement weather, or other circumstances in which Office staff may be limited or not present on-site.

The Director shall work appropriate hours that allow for a full completion of his/her daily and long-term responsibilities and goals.

The Director shall dress appropriately to comport with the professional image of the Office's status as a state agency.

The image presented to the public should always reflect professionalism, both within the Office and outside of the Office while carrying out his/her duties. The Director shall comply with the following dress code, which is not meant to be exhaustive but to provide guidance:

- Wear neat clothing that are in good repair;
- Wear clean clothing;
- Wear clothing that covers the body appropriately; and
- Unacceptable attire includes: miniskirts, overalls, tops that expose excessive cleavage, see-through shirts/tops, ripped or torn jeans.

The Office implements "business casual Fridays" designated as dress down day. This day allows for casual yet appropriate attire. The exception to this designation is in the case of meetings or court appearances. Neat, well maintained jeans may be worn to work. Collarless shorts without slogans or writing on them may be worn.

If the Director fails to abide by this policy, the Commission shall consult with the State Judicial Department's Human Resources Division to resolve the issue in accordance with best practices and pursuant to Colorado law.

3.10. INCLEMENT WEATHER

Denver/2nd Judicial District Office: If the 2nd Judicial District courts and State Court Administrator's Offices (SCAO) are closed due to inclement weather, or on a weather-related delay, that will include the Office. Such closures are broadcast on local television and radio stations. The Director or Staff Assistant will contact staff to alert them of the closure/delay as well. If the 2nd Judicial courts and Office of the State Court Administrator are not closed or are on a delayed schedule, the Director may make the decision to close the Office or allow staff to work from home. The Director will distribute this information to staff.

3.11. DRUG AND ALCOHOL POLICY

To ensure a safe, effective, productive, and efficient working environment, as well as to comply with federal and state law, the Director is prohibited from having in his/her system alcohol, illegal drugs, including state-authorized marijuana, or any medically unauthorized prescription drugs while at any work site, state owned parking lot, at any off-site location during work related activities or other state business or in any state owned/leased vehicle also is prohibited. The use of illegal drugs off-duty is strictly prohibited as is the off-duty abuse of prescription drugs, state authorized marijuana, or alcohol where such use adversely affects job performance.

If the Commission has reasonable suspicion that the Director is in violation of this policy, or following any job-related accident, regardless of injury or damage, the Commission may require the Director to submit to an appropriate test for substance use. Refusal to submit to testing may result in disciplinary action, up to and including termination.

3.12: EMPLOYEE COMMUNICATIONS POLICY

All communications systems are to be used primarily for business purposes. Only limited or occasional use of the systems for personal purposes is acceptable, if done in a professional manner that does not interfere with business use.

Email and voicemail should be composed in a professional manner. Emails are subject to discovery and to CJD 15-01, Public Access to Administrative Records of the Judicial Branch. The email server will automatically permanently delete all deleted messages every 30 days. Deleting unnecessary messages helps to keep the IT systems functioning optimally.

In addition to the system hardware and software, all electronic files and messages are Office property and business records, whether composed, received or sent by the employee.

The Director is required to change his/her passwords to the email and other Office systems regularly.

The Director serves as the custodian of record for Office documents, except for personnel records that include appointment, evaluation, and termination records of the Director, which are records of the Commission.

3.13. MEDIA CONTACT POLICY

The Director shall have the sole discretion to handle any and all media inquiries directed to the Office, and as may be appropriate, the Commission.

3.14. SOCIAL MEDIA POLICY

Online communications may be perceived by the Office's clients, vendors, and the public generally as a representation of the communicator's character, judgment and values and could have an adverse effect on the confidence of the public in the integrity, professionalism and impartiality of the Office regardless of intent. Therefore, the Director should exercise caution when conducting activities on the internet and when using social media both at work and off duty in order to preserve public confidence in the integrity, propriety and impartiality of the Office.

The Director is prohibited from engaging in the following social media activities:

1. Disclosure of sensitive, confidential or non-public agency related information for any purpose not connected with official duties.
2. Posting personal opinions or making personal statements which give the appearance of a conflict of interest.
3. Use of Social Media at work must not take time or focus away from work assignments, customer service or professional interactions with clients, coworkers, the public or create the perception thereof.

3.15. CONFLICT OF INTEREST POLICY

The Office must strive to avoid any conflicts of interest in connection to past, present, and future cases. The Director shall promptly notify the Chair of the Commission of any conflicts of interest, whether actual or perceived, in which the Director must recuse or assign such duties to another member of his/her staff. Depending on the nature of the conflict of interest, the Chair may bring the matter to the full Commission for appropriate action or discussion.

The Director shall implement necessary and appropriate ethical walls to minimize the receipt of any information about the matter in which the Director delegated action to another staff member. The Director shall not make any decision relating to the matter, and the Director and staff, as necessary, shall consult with the Commission to ensure that the job duty is discharged without involvement of the Director.

Examples of possible conflicts of interest include, but are not limited to:

- Personal or family relationships with clients who receive services from the Office or the client's immediate family members or friends that have a role in caretaking or finances of the client;
- A substantial financial or personal stake in a client's business, property, or other personal matters;
- A matter involving the Office in which the Director or his/her immediate family may, directly or indirectly, benefit.

The Office maintains a list of clients, donors and grantors to ensure that there are no conflicts of interest, actual or perceived.

3.16. AMERICANS WITH DISABILITIES ACT

Should the Director request an accommodation for an impairment, the Director will provide the Commission with medical certification of any physical or mental impairment and the nature of any limitations the Director may have in performing his/her job duties and responsibilities. If the Director requests an accommodation on the basis of an impairment, the Commission will work with the State Judicial Department's ADA Coordinator to assess the following:

1. Analyze and define the essential duties and responsibilities of the Director;

2. Obtain information from the Director's medical treatment provider or from an independent medical examiner in order to determine the extent of the impairment;
3. Consider any reasonable accommodation(s) that would enable the Director to continue to perform the essential functions of the job without presenting any undue hardship to the Office; and
4. Determine which accommodation(s) can and will be approved, if any.

If the Director cannot return to work with or without reasonable accommodation and all protected leave has been exhausted, termination may be appropriate.

3.17. THE DIRECTOR CHARGED WITH A CRIME

If the Director is arrested or charged with any felony, any misdemeanor, or any traffic or petty offense involving drugs or alcohol, he/she shall notify the Chair of the Commission within three calendar days of being arrested or charged. The Director must notify the Chair of the Commission upon final resolution of any filed charges. The full Commission may take action as appropriate. A decision regarding employment status will be made in consultation with the State Judicial Department's Human Resources Division.

PART IV: COMPENSATION AND LEAVE

4.1. COMPENSATION

The Commission sets the salary for the Director. The Commission may use Colorado Judicial Salary Surveys, other national data, and resources as the Commission may determine as appropriate, the rate of compensation, subject to funding availability.

4.2. PAYROLL

The Director shall be paid through the system and procedures established by the State Judicial Department's payroll system pursuant to the most recent version of the Memorandum of Understanding executed between the Office and that Department.

4.3. DIRECTOR BENEFITS

The State Judicial Department's Human Resources Division may assist the Director with information about and procedures to sign up for benefits available to the Director as part of his/her employment.

The Director is responsible for knowing, understanding, and adhering to these rules, plan documents for the terms and conditions of coverage, and eligibility and enrollment requirements in order to make timely and informed choices and will be responsible for the impact of those choices once made. Plan documents can be found on the State benefits website.

Coverage of Benefits

Coverage in group benefit plans is effective on the first day of the month following the date of hire or initial eligibility unless otherwise specified by the benefit contracts, law, or regulations. All coverage is prospective from the date of entry into the official benefit administration system or date of the qualifying event, whichever is later, except for initial coverage for new employees and newborn children. Elections made during open enrollment are effective the first day of the new plan year. Termination of coverage is subject to applicable law and regulation, plan documents, and contracts consistent with the below provisions.

If at any time during the plan year, any dependent ceases to meet the eligibility criteria, coverage ends on the last day of the month in which that dependent becomes ineligible.

Coverage in state group benefit plans is terminated on the last day of the month that employment ends.

Payment of Contributions

The Director must make an irrevocable election for the plan year to have contributions deducted on a pre-tax or after-tax basis as defined by the State of Colorado Salary Reduction Plan, law and regulations, rule, and written directives. After an election has been made, the Director can only change his/her contribution tax status during the open enrollment period. The Director's contribution is deducted from the Director's pay or, under certain circumstances, paid by personal payment for the selected state group benefit plan. The Director is responsible for benefit premiums from the effective date of the coverage. If it is discovered that benefit premiums in whole or in part were not withheld from the Director's paycheck, a deduction for the amount will be taken from subsequent paycheck(s) or paid by the Director through personal payment.

An enrolled employee who works or is on qualified leave of one or more regularly scheduled full workdays in a month is eligible for the full state benefit contribution.

During certain periods of unpaid leave, the Director may be required to pay the total premium (employee and employer contributions) within the month of coverage.

4.4. OVERTIME

The Director is not eligible for overtime compensation, as he/she is classified as a non-exempt employee under the Fair Labor Standards Act.

4.5. TIME OFF REQUESTS

Any time off request for leave under the leave rules shall be provided by the Director to the Chair of the Commission. Leave requests for three days or less shall not require prior approval. Leave requests for more than three days shall require prior approval by the Chair.

4.6. LEAVE – PAID TIME OFF (PTO) AND EXTENDED SICK LEAVE (ESL)

The Director shall accrue Paid Time Off (PTO) and Extended Sick Leave (ESL) from the date of initial employment with the state as follows. Note that ESL can only be used in conjunction with a qualifying Family Medical Leave Act (FMLA) event. Any unused ESL in excess of the maximum remaining at the end of each calendar year shall be forfeited.

PAID TIME OFF

Years of Service	Monthly Accrual in Hours	Maximum Accrual in Hours
First Year	14	168
2 nd – 4 th	16	330
5 th – 10 th	17	350
11 th – 15 th	20	378
16 th and over	22	426

EXTENDED SICK LEAVE – for any length of service

All Years of Service	Monthly Accrual in Hours	Maximum Accrual in Hours
	4	360

The Director accrues PTO and ESL subject to the following terms:

- A. A year of service for purposes of this policy shall be 12 months of continuous employment with the State of Colorado, which includes continuous employment in any State of Colorado position, and shall be deemed completed on the first calendar day of the month following one year from the date of initial employment, except that if the year is completed on the first working day of the calendar month, that day shall be the completion day. Period of interruption in leave accrual shall result in adjustment of the service and anniversary date provided in these rules.
- B. To the extent applicable, the Director who works less than 1.00 FTE will accrue PTO and ESL on a prorated basis.
- C. The Director shall not earn PTO or ESL during a period of disciplinary suspension or during any period of leave without pay except otherwise approved by the Commission.
- D. The Commission may approve the transfer of ESL to the Director from another Office employee subject to the employee's consent under extenuating circumstances. The Director receiving the ESL must already have an existing and qualifying FMLA event. Leave sharing is not an entitlement even if the Director is subject to an existing and qualifying FMLA event. Donated leave is not part of the leave payout upon separation, termination, or death.
- E. The Director who is appointed to the Office from a position at another state agency shall receive a transfer of their current leave balances from that agency to the Colorado Office. The Director's annual leave will be converted to PTO subject to the maximums permitted under this rule. One third of the Director's sick leave shall be converted to PTO and two thirds shall be converted to ESL.
- F. Upon separation/termination of employment, the Director shall be compensated for all unused and accrued PTO subject to the maximums permitted under this rule. ESL is not paid out to the Director.
- G. Upon the death of an employee, compensation for unused and accrued PTO shall be submitted to the surviving spouse, domestic partner, or if none, the estate of the deceased.

4.7. HOLIDAY LEAVE

State holidays are designated by § 24-11-101, C.R.S., and the Director is entitled to holiday leave for each designated holiday.

4.8. FUNERAL LEAVE

The Director may be granted funeral leave with pay to attend the funeral or memorial service of a: spouse, domestic partner, child, parent, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, grandchild, brother, sister, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin. The Director may request from the Chair of the Commission funeral leave for other persons not listed, subject to the approval of the Chair.

Domestic partner is defined as an individual with whom the employee is in a domestic partnership registered with a city of domicile or the state.

Normally, funeral leave may be granted only to arrange for, travel to, attend, and return from the funeral or memorial. However, the Director may request and be granted up to a maximum of 40 hours, prorated if on part-time status, depending upon the relationship or the employee to the deceased, even though these activities do not require the full amount of time. Funeral leave may not be granted for the settlement of estates.

4.9. JURY DUTY LEAVE

Upon presenting a summons for jury duty, or subpoena to appear as a witness in a case arising in the court of employment and within the scope of the Director's job duties, the Director shall be granted leave with pay for the duration of such compulsory service. Upon conclusion of jury service, the Director is required to provide a jury certificate to the Chair of the Commission.

Jury and/or witness leave available under this rule shall be paid for the actual hours served. The Director who takes jury leave shall remit to the Office all compensation for service, except travel reimbursement.

4.10. MILITARY TRAINING AND MILITARY LEAVE

Upon presenting proper military orders, a member of the National Guard or military reserve is granted up to 15 working days of military training leave in any

calendar year for the annual encampment or equivalent reserve training. The Director who enters active military service is granted military leave.

Any remaining portion of military training leave is granted before being placed on unpaid military paid leave. The Director must return to work upon release from active duty in serving in the National Guard for a state emergency. The Director called to active military service must apply to return to work no later than 90 days after release from active duty. Prior to returning to work, the Director on military leave shall submit an application for reinstatement and provide a copy of the honorary discharge or other form of military release indicating the military service was satisfactory. Failure to return within these stated times are deemed a resignation from state employment.

4.11. VICTIM PROTECTION LEAVE

Victim protection unpaid leave shall be granted for up to 24 hours per calendar year for victims of stalking, sexual assault, domestic abuse or any other crime in which the underlying basis of which has been found by a court of record to include an act of domestic violence. The Director must have one year of continuous state service to be eligible and shall substitute paid time off to cover the absence, if available.

Victim Protection Leave is available for the following purposes: to seek a civil protection order; to obtain medical or mental health treatment for the employee and/or the employee's children; to secure safe housing; or to obtain legal assistance. All information related to a request for victim protection leave shall be held confidential by the Commission.

4.12. LEAVE WITHOUT PAY

The Director may apply for Leave Without Pay (LWOP), which may be granted at the discretion of the Chair of the Commission.

LWOP results in an adjustment to service dates forward one month for each 173 hours accumulated in a 12-month period and affects the amount of paid leave earned. LWOP may run concurrently with family medical leave.

4.13. ADMINISTRATIVE LEAVE

The Director may apply for Administrative Leave, which is paid time off that is granted by the Chair of the Commission for purposes that the Chair, upon

consultation or guidance from the full Commission, determines are for the good of Office.

The Director with fewer than three hours of non-work time scheduled between 7:00 a.m. and 7:00 p.m. on General Election Day (even numbered years) are granted two hours of administrative leave to vote.

Upon the Director's discretion, Administrative/Holiday Leave provided by the Judicial Branch may be granted to Director.

4.14. UNAUTHORIZED LEAVE

The Commission shall have discretion to determine the disciplinary action, up to and including termination, for any unauthorized absences from work. The Commission, in its discretion, may convert such absence to Leave Without Pay where substantial extenuating circumstances are found to exist.

4.14. SHORT-TERM DISABILITY LEAVE

The Director may apply, as needed and subject to approval, for Short-Term Disability (STD) benefits for up to 180 days. The 180 days includes any waiting period imposed by the insurance carrier. The Director must notify the Chair of the Commission at the time that a benefit application is submitted. The Office utilizes the Colorado Judicial Department's Human Resources Division for administration of the state's Short-Term Disability Program.

The Director is eligible for up to 180 days of STD leave when applying for or receiving short-term disability benefits. To be eligible for the leave, the application for the benefit must be submitted to the insurance carrier within the later (1) 30 days from when the absence begins; or (2) 30 days prior to exhaustion of all extended sick leave. There is a 30-day waiting period before the STD benefits begin during which you must use any injury leave or accrued extended sick leave, and leave without pay, if necessary. STD payments will not commence until all extended sick leave has been exhausted. Family medical leave may run concurrently with leave related to the short-term disability. At the discretion of Chair of the Commission, Colorado OPG Pilot Program employees may be granted leave without pay.

4.15. FAMILY MEDICAL LEAVE

The Office utilizes the Colorado Judicial Department's Human Resources Division for administration of Family and Medical Leave. Family Medical Leave (FML) is a period of unpaid leave of absence granted to an eligible employee. To be eligible, Director must have one year of total state service as of the date leave will begin and must have worked at least 1,250 hours in the preceding 12 months. Such service is time on the payroll, regardless of employee type, and need not be consecutive.

FML provides time off work but does not provide for pay continuation. Any continuation of pay during a period of FML will occur only if a pay continuation provision also applies during that time. With the exception of leave taken to care for an injured military service member, the maximum combined total time allowed for FML is 12 work-weeks in an event year basis, except in certain circumstances where both spouses work for the Office. A total of 26 work-weeks of leave (including any other approved FML in a single 12-month period) are available to care for an injured or ill family member serving in the Armed Forces, as provided under this rule.

The Director who works a 1.0 FTE is eligible for up to 480 hours of family/medical or active duty family leave per fiscal year. Military caregiver leave is a one-time-period of up to 1040 hours in a single 12-month block, counted from the date the leave begins. The Director who works less than a 1.0 FTE is eligible for a prorated amount of leave based on the regular appointment or the number of work hours in the preceding 12 months. Any extension of leave beyond the amount entitled to is not FML and is treated as any other type of paid or unpaid leave.

FML is granted to an eligible Director for:

- Inability of the Director to perform the functions of his/her position due to a serious health condition;
- Attendance at the birth of the Director's own child;
- Bonding time with the Director's child, if within 12 months after birth;
- Placement of a child with the Director for adoption or foster care, if within 12 months after date of placement;
- Serious health condition of the Director's child, including adult children not living in the employee's home, spouse, domestic partner, parent, including

parents not living in the employee's home, OR the serious health condition of a person living in the Director's household for whom the Director is the primary caregiver, if such leave is medically necessary for the care of that person, child, spouse or parent or to assist in their recovery;

- Qualifying exigency due to a spouse, child, or parent being on or being called to active duty in the Armed Forces, including the National Guard and Reserves for deployment to a foreign county in support of a contingency operation.
- Care of Director's spouse, domestic partner, child, parent or next of kin who is a member of the Armed Service, including the National Guard and Reserves or covered veteran within five years of service, with a serious injury or illness incurred in the line of duty while on active duty or which existed before the beginning of the service member's active duty and was aggravated by service in the line of duty while on active duty. A covered veteran is one who has been discharged or released under conditions other than "dishonorable" within five years of the day the employee first takes leave for the individuals care.

Miscellaneous FML Provisions. Paid time off and extended sick leave will accrue during periods of unpaid family or medical leave. Holidays are granted during unpaid family or medical leave.

Request for Leave. The Director shall inform the Chair of the Commission of the need for leave, and such leave, unlike other leave must be approved by the full Commission. If the necessity for the leave is foreseeable, the Director must notify the Commission of the request for leave 30 days in advance, or as soon as practicable before the leave is to commence. If the leave is unforeseeable, the Director should give notice to the Commission of the need for leave as soon as practicable under the circumstances, normally within one or two working days.

Intermittent Leave/Reduced Work Schedule. In limited circumstances as described below, the Director who is eligible for family or medical leave may be permitted to work a reduced schedule per workweek or hours per day or may take intermittent leave of separate blocks of time rather than one continuous period of time.

In cases of a serious health condition of the Director or a family member, such leave will be permitted only in circumstances when it is medically necessary. Appropriate medical certification will be required.

Where a reduced work schedule or intermittent leave is foreseeable based on planned medical treatment, the Commission reserves the right to transfer the Director temporarily to another position with equivalent pay and benefits that better accommodates the Director's recurring periods of leave.

In other cases in which Director is eligible for family and medical leave, such as the disability period following the birth of a child, and child care, adoption or placement of a child, the Director may take intermittent leave or reduced work schedule only if Commission agrees. The Commission may review the individual circumstances involved in considering such requests and may take into account the Director's length of service, number of requests, duties, workload and employee's job performance in making such decisions.

Any leave granted, based on a reduced work schedule or intermittent leave, will be treated in the same manner as other absences under the family or medical leave.

Return from Family or Medical Leave. The Director returning from leave will be reinstated to the same or an equivalent position. An equivalent position is one having virtually identical pay, benefits and working conditions and involving the same or substantially similar duties and responsibilities.

A completed and signed Fitness to Return to Work form is required to verify an Director's ability to return to work following any hospitalization, or absence of more than three days due to the employee's serious health condition as defined by this section.

The Director shall provide proper medical certification, including additional medical certificates and fitness-to-return certificates. If the Director does not provide the required medical certificates, the Family or Medical Leave request may be denied.

4.16. WORKERS' COMPENSATION

It is the responsibility of every employee to observe safe practices at all times. The Office employees must bring unsafe working conditions, practices or procedures to the attention of the Director, who shall correct safety hazards in a timely fashion. Violation of state, Office, or other official safety standards is cause for disciplinary action.

The Director is automatically covered under the Colorado Workers' Compensation Act for injuries sustained in the course of their employment. If one is injured seriously enough to cause an individual to miss work because of the injury, a

portion of the Director's lost time, medical, and rehabilitation expenses may be paid for by this insurance. The Office utilizes the Colorado Judicial Department's Human Resources Division for administration of the state's Workers' Compensation program.

It is extremely important that the Director or the Office employee report all incidents in a timely manner. In all cases of on-the-job injury, the individual must notify the Commission (and the State Judicial Department's Human Resources Division) in writing of the job injury within four days of the injury. Also, if the Director contributes to the cause of the injury or illness, or if it determined that the injury was due to willful misconduct or negligence on the part of the individual, the benefits may be reduced or denied. All medical treatment shall be authorized and provided by a designated medical provider in order to be covered by the workers' compensation third party administrator except in the case of an emergency, where life or limb is threatened, the injured worker may seek medical attentions from the nearest medical facility. Further follow up care must be coordinated through one of the designated medical providers. With a few exceptions, visits to non-designated health provider will not be paid by workers' compensation.

Family and Medical Leave (FML) shall be initiated for the Director, if eligible, as of the first absence following the date of injury. Leave taken due to an on-the-job injury will be applied to the maximum time allowed for FML. FML shall run concurrently with any workers' compensation absence as of the first absence following the date of injury.

Workers' Compensation Leave and the First Three Days (24 cumulative hours or three consecutive shifts) of Missed Time – The first three days (24 cumulative hours of three consecutive shifts) of lost time due to an on-the-job injury, not including the date of injury, the Director shall be allowed to use extended sick leave or compensatory time, if available. The first three days (24 cumulative hours of three consecutive shifts), not including the date of injury, are not subject to wage replacement until fourteen calendar days (80 cumulative hours), or a prorated equivalent amount of time for a part-time employee, are missed from work.

Workers' Compensation Leave; Wage Replacement Provisions and Supplemental Income – When the Director has missed three days (24 cumulative hours of three consecutive shifts) and receives workers' compensation wage replacement benefits, the Director shall have the option of supplementing the workers' compensation wage and replacement by charging one fourth of the total missed time due to an on-the-job injury to extended sick leave, if available. The remaining missed time will be leave without pay.

The Director may only use accrued extended sick leave to supplement workers' compensation wage replacement. A Director is not eligible to use compensatory time off or paid time off to supplement workers' compensation wage replacement.

Continuation of Benefits – The Director on unpaid family or medical leave due to an on-the-job injury will be retained on the Colorado state's group insurance plans so long as the employee pays the employee's portion of the insurance premiums. The Office shall continue to pay the employer's share of the premiums throughout the unpaid family or medical leave when an employee pays the employee's portion of benefits.

Leave Benefits – The Director shall continue to accrue paid time off and extended sick leave while on workers' compensation leave and/or unpaid family or medical leave for an on-the-job injury. No adjustment in computing service dates, seniority, earning of paid time off, extended sick leave, annual performance increases, or leave accrual rates shall be made as a result of any such leave taken.

Workers' Compensation and "Make Whole" Provision – The Director who is injured on the job and receiving workers' compensation payments shall have the option of using accrued paid time off, or extended sick leave, if leave exceeds 80 cumulative hours in the event year, on a "make whole" basis, meaning accrued leave may be used to make up the difference between the workers' compensation wage loss benefit payments and the employee's gross base pay. The Director who choose to be "made whole" shall first use their accrued paid time off, extended sick leave conditions permitting, and then any other accrued leave available to make up the difference between the workers' compensation wage loss benefit and the employee's gross base pay. Family or medical leave provisions in these rules shall not apply to the Director who chooses to be "made whole" through the use of accrued paid leave until all accrued leave has been exhausted.

Workers' Compensation and Family or Medical Leave – If the Director does not choose to be "made whole" as described above, or has exhausted accrued paid leave, the leave shall be reported as "injury leave" and "leave without pay" concurrently on the monthly leave record. Family or medical leave shall be initiated for the Director, if eligible. Where paid leave is not being used, all injury leave will apply to the maximum length of family or medical leave in an event year. At no time can the Director be on paid time off (including extended sick leave), injury leave, and family or medical leave concurrently. The Director may only be on two of the three leave types at any one time.

4.17. MEDICAL CERTIFICATION

The Chair of the Commission, or as required the full Commission, may at any time request or require medical certification and fitness-to-return certificates as set forth in this section before approval of paid time off or extended sick leave and may investigate an alleged illness or injury any time the improper use or abuse of paid time off or extended sick leave is suspected.

The Chair of the Commission, or as required the full Commission, may deny the use of paid time off or extended sick leave if the Director fails to provide such medical evidence, or if the investigation supports a reasonable belief that the employee is improperly using or abusing paid time off.

The Director must complete forms and provide appropriate documentation, as may be requested, to verify reasons for the leave. Any request for leave based on a serious health condition, whether it involves the employee or a family member, must be supported by appropriate medical certification.

Failure of the Director to provide notification and appropriate medical certification within 15 days may result in delayed approval. The Chair, or as required the full Commission, reserves the right to request a second medical opinion at the Office's expense, and may request additional certifications at 30-day intervals, if appropriate.