

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married)
couple and L.W.C.H., by his parent and next)
friend Ruby Henderson, *et al.*,)

Plaintiffs,)

vs.)

No. 1:15-cv-220-TWP-MJD

DR. JEROME M. ADAMS, in his official capacity)
as Indiana State Health Commissioner, *et al.*,)

Defendants.)

NOELL and CRYSTAL ALLEN, a married couple;)
et al.,)

Plaintiffs,)

vs.)

DR. JEROME M. ADAMS, in his official capacity)
as Indiana State Health Commissioner, *et al.*,)

Defendants.)

**PLAINTIFFS' RESPONSE TO DEFENDANTS' CROSS-MOTION FOR
SUMMARY JUDGMENT AND REPLY IN SUPPORT OF THEIR
MOTION FOR SUMMARY JUDGMENT**

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A birth certificate is "a small paper but it actually establishes who you are and gives access to the rights and the privileges, and the obligations, of citizenship." -- *Archbishop Desmond, speaking on Universal Birth Registration campaign*

Come now the plaintiffs, Ashlee and Ruby Henderson, a married couple, and L.W.C.H., by his parent and next friend Ruby Henderson; Nicole and Jennifer Singley, a married couple, and H.S. by his parent and next friend, Jennifer Singley; Elizabeth and Tonya Bush-Sawyer, a married couple, and I.J.B-S by his mother and next friend Elizabeth Bush-Sawyer; Lyndsey and Cathy Bannick, a married couple, and H.B. by his parent and next friend, Lyndsey Bannick; Calle and Sarah Janson, a married couple, and Unborn Baby Doe by his/her next friend and mother-to-be Calle Janson; Nikkole McKinley-Barrett and Donnica Barrett, a married couple, and G.R.M.B., by his mother and next friend, Nikkole McKinley-Barrett; Noel and Crystal Allen, a married couple; and Jackie and Lisa Phillips-Stackman, a married couple and L.J.P-S, by her mother and next friend, Lisa-Phillips-Stackman, by counsel and in response to the Defendants' Cross-Motion for Summary Judgment¹ and

¹ The Tippecanoe County defendants filed their own Cross-Motion for Summary Judgment that raises additional arguments along with incorporating the arguments raised by the remaining defendants in the instant Cross-Motion for Summary Judgment. Plaintiffs are filing a separate response brief addressing the cross-motion for summary judgment filed by the Tippecanoe defendants. "Defendants" as referenced herein refers to all Defendants who have raised the arguments

reply in support of Plaintiffs' Motion for Summary Judgment, State as follows:

STATEMENT OF UNDISPUTED MATERIAL FACTS

On February 8, 2016, *Noell and Crystal Allen, et al. v. Dr. Jerome M. Adams, et al.*, U.S. District Court, Cause No. 1:15-cv-01929, was consolidated for all purposes with the instant case. Order Consolidating, [Filing No. 96](#). Pursuant to an Agreed Stipulation entered by the parties ([Filing No. 90](#)), the following facts are offered regarding the plaintiffs who were added to this action by the consolidation of the cases.

On November 21, 2015, Ashton David Allen and Alivea Deon Allen were born to Noell and Crystal Allen. (Ex. O, Allen Aff., ¶ 6). The children were conceived with the assistance of artificial insemination and a third-party sperm donor. (Ex. O, Allen Aff., ¶ 5). Sadly, the twins died on the same day they were born. (Ex. O, Allen Aff., ¶ 6). On November 22, 2015, hospital personnel informed the grieving couple that Noell, an administrative law judge with the Indiana Civil Rights Commission, would not be listed on the birth certificate as a parent to the twins. (Ex. O, Allen Aff., ¶ 7). Because the twins are dead, Noell cannot adopt the children. While Noell is not listed on the birth certificate, she is listed on the death certificate. (Ex. O, Allen Aff., ¶ 9, Attach. 1). "My children were taken from me twice - once when they passed and the second time

contained within the Motion for Summary Judgment filed by the State and the Bartholomew, Marion and Vigo Counties.

when the State of Indiana said I could not be recognized as mother to my babies," said Noell. (Ex. O, Allen Aff., ¶ 11). "I will continue to feel that pain every day until I am recognized on their birth certificates." *Id.*

On October 21, 2015, L.J.P-S was born to Jackie and Lisa Phillips-Stackman. (Ex. P, Phillips-Stackman Aff., ¶ 5). Due to health problems, Jackie had to undergo a hysterectomy so she had her eggs frozen. (Ex. P, Phillips-Stackman Aff., ¶ 4). With the assistance of in vitro fertilization, Jackie's egg was fertilized by the sperm of a third party sperm donor and then placed in Lisa. (Ex. P, Phillips-Stackman Aff., ¶ 5). Even though Jackie is biologically related to L.J.P-S and was married to Lisa at the time she gave birth to L.J.P-S, defendants refused to name Jackie on the birth certificate as a parent to L.J.P-S.

L.J.P-S was born with a genetic defect and hydrocephaly. (Ex. P, Phillips-Stackman Aff., ¶ 7). She was hospitalized for nearly a month after her birth due to her condition. *Id.* She is being seen and followed by various specialists who at this time do not yet know how seriously L.J.P-S will be affected by the genetic defect. *Id.* Currently, Lisa is a stay at home mom, caring for L.J.P-S full-time. Jackie is a detective with the Violent Crimes Unit of the Indianapolis Metropolitan Police Department. (Ex. P, Phillips-Stackman Aff., ¶ 3). L.J.P-S is carried on Jackie's insurance. (Ex. P, Phillips-Stackman Aff., ¶12). Because Jackie is not legally recognized as a parent to L.J.P-S on the child's birth certificate, if Jackie dies while on active duty or is killed in the line of duty, then L.J.P-

S would not receive the monthly benefit paid through the pension fund to children of police officers. See, <http://www.in.gov/inprs/77fundmbrhandbooksurvivorbenefits.htm> (Last visited Dec. 10, 2015). Not only would L.J.P-S not receive the monthly benefit but she would also not receive college tuition and fee assistance if Jackie were to be killed in the line of duty. [I.C. 21-14-6](#) *et seq.* If Lisa were to die, then her relationship with Jackie would terminate and as Jackie's relationship with L.J.P-S is that of stepparent/stepchild, Jackie is concerned as to whether the expensive medical care required by L.J.P-S would continue to be paid by her health insurance. (Ex. P, Phillips-Stackman Aff., ¶12). See also, Ex. Q, p.p. 45-46).

ARGUMENT

I DEFENDANTS' "STATEMENT OF MATERIAL FACTS NOT IN DISPUTE" CONTAINS STATEMENTS OF LAW AND NOT FACT AND THEREFORE SHOULD BE STRICKEN

The State's brief contains a section entitled "Statement of Material Facts Not In Dispute" which cites only to the Indiana Code, the Administrative Code and case law. The State cites no facts in support of its Motion for Summary Judgment in its statement.

Further, the Defendants' reliance upon the law they quote is misplaced. Defendants cite the definition of "parent" as meaning "a biological or an adoptive parent." Defendants' Memorandum, [Filing No. 85 at ECF p. 6](#) (citing [I.C. § 31-9-2-88\(a\)](#)). First, the Defendants fail to provide the complete definition which states: "'Parent', **for purposes of**

the juvenile law, means a biological or an adoptive parent." [I.C. § 31-9-2-88\(a\)](#) (emphasis added). Within Title 31, there are Articles relating to laws governing juveniles, e.g., I.C. § 31-37-1, *et seq.* (juvenile law juvenile court administration) or [I.C. § 31-37-3](#), *et seq.* (juvenile law reporting and investigation of child abuse and neglect). It then goes onto state: "(b) 'Parent', for purposes of IC 31-34-1, IC 31-34-8, IC 31-34-16, IC 31-34-19, IC 31-34-20 and IC 31-35-2, includes an alleged father." [I.C. § 31-9-2-88\(b\)](#)).²

Regardless, the "facts" that Defendants claim support their arguments are in actuality the legal issues presented. The Defendants claim that "when a child is born in Indiana, that child has two legal parents: a biological mother and a biological father." This is not true. The only reason a child born to heterosexual parents has two parents is because the birthmother is allowed to name the male as the father of the child, regardless of whether or not he is biologically related to the child. When the husband's name is listed on the birth certificate, he is then considered to be the "biological" parent of the child even though he may not be biologically related to the child at all.

As the State failed to provide actual facts, its "Statement of Material Facts Not In Dispute" should be regarded as an incomplete and incorrect statement of the law.

² Articles 34 relates to children in need of services while Article 35 relates to juvenile law termination of parent-child relationship.

II DEFENDANTS' STATEMENT OF MATERIAL FACTS IN DISPUTE

Defendants take issue with Plaintiffs' statement that "Because of [I.C. § 31-14-7-1\(1\)](#), Defendants refuse to list the Spouses of Plaintiff birth mothers on the birth certificates of the Plaintiff Children." Defendants' Memorandum, [Filing No. 85 at ECF p. 18](#)). Instead, Defendants state that "If the birth mother answers 'no' to Worksheet Question 37 ('ARE YOU MARRIED TO THE FATHER OF YOUR CHILD?'), her husband is not listed as the child's father on the child's birth certificate." (Defendants' Memorandum, [Filing No. 85 at ECF p. 18](#)) (citation omitted). Under [I.C. § 31-14-7-1\(1\)](#), the Defendants have empowered the birth mother to rebut the rebuttable presumption created by the statute. If the birth mother died before completing the Worksheet, the State would hardly refuse to name her husband as the father of the child because it would then be creating a parentless child. Regardless, the issue remains that the State has granted the married birth mother the authority to name her male spouse on the birth certificate who is not biologically related to the child but only if that parent is male and not female.

III DEFENDANTS ARE DENYING PLAINTIFFS EQUAL PROTECTION

A. HEIGHTENED SCRUTINY IS THE STANDARD OF REVIEW

Heightened scrutiny is appropriate because Plaintiffs are being discriminated against on the basis of sexual orientation and gender. Defendants claim that rational basis is the appropriate standard of review "[b]ecause Indiana's parentage statutes are facially neutral."

(Defendants' Memorandum, [Filing No. 85, at ECF p. 25](#)) (citing [Washington v. Davis, 426 U.S. 229, 242 \(1976\)](#) (the Defendants claim that Washington "hold[s] that disparate impact on a suspect class is insufficient to justify strict scrutiny absent evidence of discriminatory purpose"). Defendants' Memorandum, [Filing No. 85 at ECF p. 25](#). However, as the U.S. Supreme court observed in [M.L.B. v. S.L.J., 519 U.S. 102, 126 \(1996\)](#), "*Washington v. Davis*, . . . does not have the sweeping effect respondents attribute to it."

Washington challenged a requirement that government employees take a verbal skill test in which four times as many blacks than whites failed the test. In upholding the test requirement as constitutional, the *Washington* court observed that "Disproportionate impact . . . [s]tanding alone . . . does not trigger the rule that racial classifications are to be subjected to the strictest scrutiny". [Davis, 426 U.S. at 242](#) (citations omitted). As the *M.L.B.* court observed, this was unlike [Williams v. Illinois, 399 U.S. 235 \(1970\)](#), where the law being challenged was one "under which an indigent offender . . . continued in confinement beyond the maximum prison term specified by statute if his indigency prevented him from satisfying the monetary portion of the sentence." [M.L.B., 519 U.S. at 126](#). Because the law in *Williams* "expose[d] *only indigents* to the risk of imprisonment beyond the statutory maximum" and therefore, was "not merely *disproportionate* in impact [but r]ather, they are wholly contingent on one's ability to pay, and thus 'visit[ing] different

consequences on two categories of persons" the *Washington* analysis did not apply. [M.L.B., 519 U.S. at 127](#) (internal citations omitted) (emphasis in original).

In the present case, as in *Williams*, the laws at issue "visit different consequences" on two classifications. There is no disproportionate impact because at the time of birth, husbands of birth mothers who conceive with the aid of a third-party sperm donor and female spouses of lesbian birth mothers who conceive in the same manner are treated completely different from each other as are the children resulting from the union. As was the case with the indigent in *Williams*, the only birth mothers who are not allowed to name their spouse on the birth certificate are birth mothers who are married to women; thus, this case does not merely involve disproportionate impact.

The reasons the Defendants give for excluding Plaintiffs from the application of the laws governing the presumption of parenthood and legitimacy are not substantially related to the achievement of the objectives for which those laws were enacted. Rather, the gender classification of Indiana's presumption of parenthood and legitimacy statutes are part of the "baggage of sexual stereotypes," [Orr v. Orr, 440 U.S. 268, 283 \(1979\)](#), that presume that only males can marry females and that the father has the "primary responsibility to provide a home and its essentials." [Stanton v. Stanton, 421 U.S. 7, 10 \(1975\)](#).

For this reason, the State's argument fails and heightened scrutiny

is to be applied.

B. THE CLASSIFICATIONS AT ISSUE ARE BASED UPON GENDER AND SEXUAL ORIENTATION AND THOSE CLASSIFICATIONS REQUIRE HEIGHTENED SCRUTINY

[Indiana Code § 31-14-7-1\(1\)](#) creates a rebuttable presumption that a man married to the birth mother is biologically related to the children born during the course of the marriage. The State admits that it allows the wife/birth mother to rebut the presumption by granting her the authority to name or not name her spouse on the birth certificate. (Defendants' Memorandum, [Filing No. 85](#), at [ECF p. 23](#)). The Certificate of Live Birth Worksheet ("Worksheet) asks the mother to identify her marital status and whether she is married to the father of her child. (Plaintiff's Exhibit: Certificate of Live Birth Worksheet, [Filing No. 78-4](#), at [ECF p. 4](#)). If the birth mother answers yes and provides her husband's name, he is listed on the birth certificate, entirely irrespective of whether or not the child has a biological connection to the father. However, if the birth mother answers that she is not married to the father of her child because her spouse is a female, no name other than the birth mother's name is listed as a parent on the birth certificate. (Defendants' Memorandum, [Filing No. 85](#), at [ECF p. 15](#)).

The State disingenuously argues that the classification consists of parents who are and are not biologically related to the children. This is not true. [Indiana Code §§ 31-14-7-1\(1\), 31-9-2-15, and 31-9-2-16](#) have

led to the State's creation of two unequally-treated classes of individuals defined not by biological relationship but by gender and sexual orientation. The privileged class consists of heterosexual married couples and their children who were conceived, by agreement of the couple, with the use of third-party sperm and the husband is accorded all the rights and obligations of parenthood, including being listed on the child's birth certificate, even though the husband has no biological connection to the child while the child is granted the status of being a natural born child with the right of support, inheritance and the like. The Plaintiffs and their children belong to the disadvantaged class which consists of married lesbians whose wife, by mutual consent of both spouses, bears a child conceived with sperm from a third-party but who by operation of Indiana statutes and policies are refused the rights and obligations of parenthood without going through the expensive and cumbersome adoption procedures. Furthermore, their children are not accorded the legal rights and benefits of having two parents and are instead considered illegitimate, with only one parent and no right to inheritance, support and the like from the other parent. The bottom line: The State allows the man and woman to engage in a legal fiction that the man is the biological parent of the child but will not allow the female same-sex couple to engage in the same fiction. The difference is that the advantaged class of married couples utilizing a third-party sperm donor are heterosexual couples with a male spouse while the disadvantaged

class of married couples utilizing a third-party sperm donor are lesbian couples with two female spouses.

The State also attempts to lead the Court down the proverbial slippery slope by arguing, "Were a male same-sex married couple to conceive a child using one spouse's sperm and a surrogate's egg, the resulting child would seemingly have *three* legal parents: (1) the birth mother, who cannot disestablish her own presumed maternity without establishing it in another woman, (2) the biological father, who could assert rights through paternity affidavit or paternity action, and (3) the biological father's spouse who under Plaintiffs' logic would be the 'presumed second father.'" (Defendants' Memorandum, [Filing No. 85 at ECF p. 36](#)). Again, the Defendants ignore the classifications being argued by the present case. The issues in this case arise when the birth mother is married, inseminated by a third party donor and a child is born to the marriage. When the situation involves a surrogate and two men, that is a class that falls completely outside the class of persons of which Plaintiffs are members. As neither of the gay men are married to the birth mother, the presumption of parenthood does not arise under I.C. [§ 31-14-7-1\(1\)](#).

C. BIOLOGY IS NOT THE CONTROLLING FACTOR

The State claims - without citing any support - that "Like every State -- if not the entire world -- Indiana holds that, in the main, it is best for children to be raised by their biological parents." (Defendants'

Memorandum, [Filing No. 85 at ECF p. 33](#))³ In other words, in the eyes of the Defendants, a gay couple consisting of one parent who is not biologically related to the child will never be equal to a man and a woman who are biologically related to the child. This flies in the face of many, many years of adoption law and is offensive and untrue. See, <http://childandfamilyblog.com/same-sex-couples-give-more-focused-time/> ("Our findings show that parental investment in children is at least as high – and possibly higher – among same-sex couples as among different-sex couples") (Last visited Feb. 8, 2017). See also, Ex. R, "A Research Note on Time with Children in Different- and Same-Sex Two-Parent Families," *Demography*, June 2015, Vol. 52, p.p. 905-918. After *Baskin v. Bogan*, 766 F.3d 648 (7th Cir. 2014), cert. denied 135 S. Ct. 316 (2014) and *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015), Indiana families no longer consist of only a man, a woman and a child. I.C. § 31-14-7-1(1) and I.C. § 31-10-2-1(1)-(4) were enacted before *Baskin* and *Obergefell* and in a day where parentage was discussed only in terms of paternal/paternity and maternal/maternity. *Baskin* and *Obergefell* permanently changed the definition of family in Indiana to include same-sex couples and their children.

The governmental interest in biology asserted by the Defendants is

³ Defendants cite *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) for this proposition. However, nowhere in *Stanley* does the court state that biological parents are superior to non-biological parents. *Stanley* involved the right of a putative father to have custody of his children following the death of their birth mother.

not genuine according to the Defendants' own discovery responses. When asked in discovery about its governmental interest, the State objected "on the ground that it seeks information that is not relevant to a claim or defense or any party and is not reasonably calculated to lead to the discovery of admissible evidence." (Ex. N, State's Answers to Interrogatories, Nos. 2, 3, 4 and 8). The Counties responded that their interest was in complying with the statute. (See, Ex. B, Tippecanoe County Defendants' Responses to Interrogatory Nos. 2-4 and 9; Ex. C, Marion County Defendants' Responses to Interrogatory Nos. 2-4 and 9; Ex. K, Vigo County Defendants' Responses to Interrogatory Nos. 2-4 and 9; Ex. L, Bartholomew County Defendants' Responses to Interrogatory Nos. 2-4 and 9). The Defendants' claim of interest in biology should be disregarded for if it were a genuine governmental interest, it would have been offered in response to discovery.

The State argues that allowing same-sex spouses to be listed on the birth certificate will somehow disadvantage the biological father from being able to assert his rights of parenthood. (Defendants' Memorandum, [Filing No. 85](#) p. 33). The State ignores the fact that I.C. § [31-14-7-1\(1\)](#) creates a *rebuttable* presumption that can be overcome by evidence to the contrary. Thus, a biologically-related father can file suit to be recognized as a child's father even when the husband of the birth mother is named on the birth certificate and he can overcome the presumption of parenthood granted to the husband by clear and

convincing evidence. [*Fairrow v. Fairrow*, 559 N.E.2d 597, 600 \(Ind. 1990\)](#). The State ignores Indiana case law when it claims that a presumption of parenthood for a same-sex spouse would effectively create an irrebuttable presumption. The non-biological same-sex parent on the birth certificate could always be challenged by a man with a biological claim to the child, just as is done when the non-biological parent is a husband. No one has asked for an irrebuttable presumption of parenthood. Allowing a same-sex spouse to be named on the birth certificate in no way terminates or impacts the right of the sperm donor to come forward and file suit to be legally recognized as the father of the child.

The State argues that "biology is paramount" in defining whether a child is born in or out of wedlock. (Defendants' Memorandum, [Filing No. 85](#), at [ECF p. 13](#)). If this were true, then the State would not allow a wife to identify her husband as the biological father of her child when in actuality the husband has no biological relationship with the child. When the wife makes this claim, the doctors, nurses, hospital and the State of Indiana all know that the husband is not biologically related to the child. The Worksheet contains the information the State requires be gathered by local officials and provided to the State for use in its database. The Worksheet specifically inquires about whether the baby was conceived with the aid of artificial insemination, intrauterine insemination and/or assisted reproduction technology such as in vitro fertilization as these

procedures are considered additional risk factors in the pregnancy. (Plaintiff's Exhibit: Certificate of Live Birth Worksheet, [Filing No. 78-4, at ECF p. 7-8](#)).

While there is a certain simplicity in the State's argument that parental rights should be conferred only where there is a biological relationship between a parent and child, courts, including those in Indiana, have routinely adapted and fashioned family law doctrines without regard to traditional biological connections out of fidelity to the strong policies favoring the preservation and protection of the family unit and the children in that family unit. For example, a divorcing husband who "knowingly and voluntarily consent[ed]" to artificial insemination is obligated to support the children of his former marriage, even though there is no biological relationship between the father and the children. [Engelking v. Engelking, 982 N.E.2d 326, 328-29 \(Ind. Ct. App. 2013\)](#). Inferring a parent-child relationship where a child has been conceived by artificial insemination with the consent of both marital partners has been the law in Indiana for over two decades. [Levin v. Levin, 645 N.E.2d 601 \(Ind. 1994\)](#).

Bringing children into the world and protecting them from harm has long been a key benefit of state sanctioned marriage. The State's grant of a fictional biological relationship to men married to the birth mother who conceived with the aid of a third-party sperm donor shows the State's interest in doing what is best for the child. Thus, contrary to

the State's claims, biological relationship is not paramount.

D. BIRTH CERTIFICATES ARE NECESSARY TO EXERCISE PARENTAL RIGHTS

The State downplays the significance of a two-parent birth certificate by arguing that "[b]irth certificates are not a source of parental rights; rather, birth certificates are designed to be a reflection of those rights." (Defendants' Memorandum, [Filing No. 85](#), at [ECF p. 37](#)). At the very minimum, being listed on the birth certificate raises a strong presumption of parenthood which can only be rebutted by "direct, clear and convincing evidence." *Fairrow*, 559 N.E.2d at 600; See, *Myers v Myers*, 13 N.E.3d 478, 483 (Ind. Ct. App. 2014) (mother estopped from challenging father's parenthood even though father was not child's biological parent as father was identified in and had signed child's birth certificate); *Ohning v. Driskill*, 739 N.E.2d 161 (Ind. Ct. App. 2000) (as mother listed child's father on birth certificate, mother estopped from disputing child's paternity). Without the government issued document reflecting status as parent, it is impossible to exercise parental rights.

The birth certificate is the first, and often only, reflection of parenthood. The Worksheet itself states, "The birth certificate is a document that will be used for legal purposes to prove your child's...parentage." (Plaintiff's Exhibit: Certificate of Live Birth Worksheet, [Filing No. 78-4](#), at [ECF p. 1](#)). The birth certificate's reflection of parenthood makes it the document most often utilized by parents seeking to exercise and meet the rights and responsibilities associated

with parenthood. For example, a parent wanting to travel outside of the U.S. with a minor child must secure a passport for the child and this requires the parent to provide "evidence of Parental Relationship." [22 C.F.R. 51.28](#); <https://travel.state.gov/content/passports/en/passports/under-16.html> (Last visited Jan. 18, 2016). School districts require a parent to present the child's birth certificate when enrolling the child. See, [I.C. § 20-33-2-10](#) (if parent lacks birth certificate or other reliable proof, school must notify Indiana clearinghouse on missing children); and, <http://www.myips.org/ENROLL> (Last visited Jan. 18, 2016). Enrolling a child in organized sports also requires presenting a birth certificate. See, e.g., http://www.littleleague.org/assets/forms_pubs/tournaments/proof-of-age-requirement.pdf?pip=false (Last visited Jan. 18, 2016). A parent must also provide a birth certificate to enroll a child in daycare. [470 IAC 3-4.7-36](#). The state utilizes birth certificates to process numerous government benefits, particularly when citizenship must be proven. See, e.g., http://www.in.gov/fssa/files/BCC_CCDF_State_Plan_2014-2015.pdf (childcare assistance) (Last visited Jan. 18, 2016); <http://www.in.gov/fssa/ompp/3002.htm> (Hoosier Healthwise) (Last visited Jan. 18, 2016). Thus, the birth certificate provides the legal documentation necessary to act as a parent. Birth certificates affect the rights of inheritance of children see [I.C. 29-1-2-7\(b\)\(5\)](#).

E. THE STATE DOES NOT DISPUTE THAT IT CONSIDERS THE CHILDREN BORN TO PLAINTIFFS' MARRIAGES AS ILLEGITIMATE

The State admits that Indiana law classifies the Plaintiffs' children as children born out-of-wedlock. (Defendants' Memorandum, [Filing No. 85 at ECF p. 23](#)) ("The State considers the Children to be born out of wedlock because their biological mothers are not married to their biological fathers"). A more plain statement of refusing to accord same-sex lesbian couples the same rights as married heterosexual couples could not be made. In the eyes of the State of Indiana, a married lesbian couple can never produce a legitimate child and their children are forced to face the social stigma of bastardy and illegitimacy.⁴

The State also asserts that a child born to a married man and woman who conceive using sperm from an anonymous donor is a "child born out of wedlock" within the meaning of [I.C. § 31-9-2-16\(2\)](#). (Defendants' Memorandum, [Filing No. 85, at ECF p. 23](#)). The State's contention ignores the plain wording of the statute. Under the statute if you are a man married to a woman who has a child during the marriage, then you are the biological father based upon the statutory presumption. Their position is further belied by [Levin, 645 N.E.2d at 605](#) which held that "a child conceived through artificial insemination, with the consent

⁴ While a legal classification of "illegitimate" does not impact the legal rights of Plaintiffs' children, as was argued in Plaintiffs opening brief, it does impose stigma by implying that the Plaintiffs' marriage are not sufficiently enough a "marriage" to make the resulting children "legitimate."

of both parties, is correctly classified as a child of the marriage” despite the lack of any biological connection between the child and the husband.

The State claims that "a child born to a married couple—whether opposite-sex or same-sex—but conceived using sperm from an anonymous donor is plainly a 'child born out of wedlock.'" (Defendants' Memorandum, [Filing No. 85, at ECF p. 13](#)). In support of this argument, the State ignores *Levin* and *Engleking* and instead relies upon [K.S. v. R.S., 669 N.E.2d 399 \(Ind. 1996\)](#). But the State's reliance is misplaced. Contrary to the State's claim, the child in *K.S.* was not a result of a sperm donor but was a result of sexual intercourse with someone not the husband and without benefit of a sperm donor agreement. The child was presumed legitimate until the biological father was able to rebut with clear and convincing evidence the presumption that the child was born to the birth mother's marriage to another man.⁵ [K.S., 669 N.E.2d at 405](#).

Under current law and practice, the State allows the birth mother who conceives by artificial insemination using donor sperm to identify her husband as the biological father of her child even though everyone

⁵ Further, in *K.S.*, the child was conceived via sexual intercourse and not with the aid of artificial insemination. "[T]here is no such thing as 'artificial insemination by intercourse.'" [Straub v. B.M.T. by Todd, 645 N.E.2d 597, 601 \(Ind. 1994\)](#) (court found biological father remained obligated to support child born as result of sexual intercourse despite contract with mother absolving father of parental obligations). In fact, in all the cases cited by Defendants on page eight of its brief, including *K.S.*, a party sought to rebut the presumption of legitimacy of a child conceived through sexual intercourse and that, of course, is not the issue in this case. The issue is the State's refusal to grant the presumption of legitimacy to the Children of the Plaintiffs.

involved knows there is no biological relationship between the husband and child.⁶ By naming her husband as the father, the wife also secures for her child the rebuttable presumption that her child is legitimate and born in wedlock. In contrast, lesbian couples are not allowed to engage in the same legal fiction so their children will always be illegitimate and will only have one legally obligated parent. On this basis, the laws are unconstitutional.⁷

F. THE STATE'S INTEREST IS IN THE PRESERVATION AND PROMOTION OF THE PLAINTIFF FAMILIES

In their opening brief, the Plaintiffs noted that the State's interest is in doing what is in the best interests of the child, an interest that has been legislatively expressed in [I.C. § 31-10-2-1\(1\)-\(4\)](#). (Plaintiffs' Memorandum in Support, [Filing No. 80](#), p. 29). The State cannot identify

⁶ Despite the State's insinuation, no Indiana court has held that a child born to a married couple as a result of artificial insemination is a "child born out of wedlock" within the meaning of [I.C. § 31-9-2-16](#). While Justice Dickson in his dissent in [A.B. v. S.B., 837 N.E.2d 965, 968 \(Ind. 2005\)](#), opined that a child conceived by artificial insemination and born to a woman during a two year domestic partnership with another woman, would be considered a "child born out of wedlock," no other justice joined him in that opinion and, at the time, same-sex marriage was not recognized in Indiana.

⁷ There is no substantive difference between a "child of the marriage" and a "child born in wedlock" as both are identical and the benefits and obligations of parenthood flow from either. *See, e.g., Estate of Lamey v. Lamey, 689 N.E.2d 1265 (Ind. Ct. App. 1997)*. In *Estate of Lamey*, the court rejected an attempt by a father to claim that under *K.S. v. R.S.* a "child of the marriage" is not necessarily a child "born in wedlock." The appellate court distinguished *K.S.* by stating that it believed that Indiana's supreme court "did not intend the potential harmful effect that such an extension of [that decision] would have on a child's ability to inherit via intestate succession." [Estate of Lamey at 1269-1270](#).

any governmental interest served by different treatment of plaintiffs on the basis of gender and sexual orientation. Indeed, the classification according to gender and sexual identity flies in the face of Indiana's explicitly child- and family-centered policies.

The State's actual governmental interest is in legally recognizing as parents two women who are married and who, with the aid of artificial insemination, have a child. In this manner, the State ensures that the child has two parents who are legally obligated to care for the child; otherwise, the child is left with one parent such as, in the case of the Phillips-Stackmans, where the sperm donor has been released from any responsibility to support the child. See, [In re Paternity of MF, 938 N.E.2d 1256 \(Ind. 2010\)](#) (donor found not legally responsible to support child to whom sperm donor agreement applied).

IV ALTERNATIVELY, THE STATUTES DENY PLAINTIFFS DUE PROCESS

Alternatively, Plaintiffs contend that I.C. §§ [31-14-7-1\(1\)](#), [31-9-2-15](#), and [31-9-2-16](#) denies them due process by infringing upon their right to parenthood and family. The State claims that "legal parental status is a necessary prerequisite to the exercise of those rights and such status is conferred by state law." (Defendants' Memorandum, [Filing No. 85, at ECF p. 20](#)). In other words, the Plaintiffs are denied legal parental status because the State of Indiana has refused to confer such status upon them and their children and without the proper legal status, the Plaintiffs and the Children are unable to exercise their fundamental

rights.

The State posits, but without citation to authority, that parental rights in Indiana flow from only two sources: a biological parental relationship or a legal adoption proceeding. (Defendants' Memorandum, [Filing No. 85, at ECF p. 6](#)). That assertion ignores the fact that Indiana case law, *see, Levin and Engelking*, recognizes that a male marriage partner has both parental obligations and rights when he consents to his wife's conceiving a child with the aid of a third party sperm donor.

On the basis of all of the foregoing, the challenged statutes infringe upon Plaintiffs' right to Due Process.

V THE RELIEF REQUESTED BY PLAINTIFFS IS WITHIN THE LAW

Excluding Plaintiff married couples and their children from those rights, protections, benefits and responsibilities which derive from the status of parenthood serves no important governmental objective; accordingly, Plaintiffs have proved equal protection violations. The question thus becomes one of fashioning an appropriate remedy for this constitutional violation.

It is well-established that a court may remedy “the injuries caused by a constitutionally underinclusive scheme...[either by] ‘declaring the [statute] a nullity and ordering that its benefits not extend to the class that the legislature intended to benefit, or...[by] extending the coverage of the statute to include those who are aggrieved by the exclusion.’” *Heckler v. Mathews*, 465 U.S. 728, 738 (1984) (quoting *Welsh v. United States*,

398 U.S. 333, 361 (1970) (Harlan, J., concurring)). When the right invoked is that to equal treatment and the discrimination perpetuates “archaic and stereotypic notions” or stigmatizes members of the disfavored group as “innately inferior,” the appropriate remedy is a mandate of equal treatment by “extension of benefits to the excluded class.” *Id.* at 740 (quoting *Iowa-Des Moines National Bank v. Bennett*, 284 U.S. 239, 247 (1931) (Brandeis, J., writing for the Court)). Thus, where a statute has been found to violate the Equal Protection Clause, courts will traditionally read into it the improperly excluded class. *See, e.g., Califano v. Westcott*, 443 U.S. 76, 89-90 (1979) (aid to dependent children); *Califano v. Goldfarb*, 430 U.S. 199 (1977) (Social Security Act survivorship benefits); *Gartner v. Iowa Dep’t of Public Health*, 830 N.W.2d 335, 350-54 (Iowa 2013) (holding that the refusal to list the non-birthing lesbian spouse on the child’s birth certificate differentiates implicitly on the basis of sexual orientation, and ordering the state defendants to apply Iowa’s presumption of marriage statute to married lesbian couples).

Defendants concede: “At most, *Obergefell* stands for the proposition that any benefit of marriage must now be extended to same-sex married couples just as it would be to opposite-sex married couples.” [Filing No. 85 at ECF p. 27](#). The State then goes onto claim that since the Plaintiff birth mothers all indicated they were not married to the “father” of their children, to include the same-sex spouse on the birth certificate

would treat the Plaintiffs "differently from similarly situated opposite-sex married couples." [Filing No. 85 at ECF p. 28](#).

Title 31 does not define "father." "Father" is defined as "A male parent." BLACK'S LAW DICTIONARY 662 (9th Ed. 2009). In other words, the Defendants are telling the Plaintiffs that if the lesbian birth mother denies her spouse and instead claims to be married to a "male parent" then the same-sex spouse of the birth mother will be recognized as the parent of the baby. Such a position adds further insult to injury. In those instances where the plaintiff birth mothers were allowed to complete the Certificate of Live Birth on their own, two couples crossed-out "father" and wrote-in parent and then identified their same-sex spouse. (Henderson Aff., [Filing No. 78-5 at ECF 3-4](#), ¶ 9, Attach. 2; Bannick Aff., [Filing No. 79-9 at ECF 1](#), ¶ 2, Attach. 1). But the County and State Health Departments refused to issue a birth certificate identifying both same-sex spouses as the parents of the baby.

By refusing to accord the presumptions of parenthood and legitimacy, and the consequent rights to be included on their child's birth certificate, solely because the birth mother cannot truthfully answer in the affirmative that she is married to the "father", i.e., male parent, of her child, Defendants are treating Plaintiff couples and children differently than opposite-sex married couples who bear a child as a result of artificial insemination who are able to truthfully answer that question in the affirmative and who are thus, along with their children, accorded the

presumptions of parenthood and legitimacy.⁸ As Plaintiffs have explained, Defendants' policy of denying married same-sex couples access to accurate birth certificates for a child born during their marriage is not substantially related to the important governmental interests of family stability and, by denying them the support and stability of having two parents, is in fact contrary to Indiana's express public policy of acting in the best interests of the Plaintiff Children.

VI PARAGRAPHS 9 AND 12 OF DEFENDANTS' EXHIBIT 1 AND ITS ATTACHMENT 2 SHOULD BE STRICKEN OR GIVEN NO WEIGHT

In support of their arguments (but not discussed within their Statement of Undisputed Material Facts), the Defendants include Exhibit 1, the affidavit of Brian Carnes ("Carnes Affidavit") and as Attachment 2 to the affidavit, an article authored by L. F. Ross ("Author") entitled *Good Ethics Requires Good Science: Why Transplant Programs Should NOT Disclose Misattributed Parentage*, American Journal of Transplantation 2010, 10: 742-746 ("Article"). The Court should strike or alternatively give no weight to paragraphs 9 and 12 of the Affidavit and the Article

⁸ The presumption of legitimacy has frequently been described as "one of the strongest known to the law." See, e.g., *In re K.H.*, 677 N.W.2d 800, 806 (Mich. 2004). Whether or not he is genetically related, the presumption makes the mother's husband automatically and immediately a full-fledged legal parent without the need for any additional state intervention, *Michael H. v. Gerald D.*, 491 U.S. 110, 118-19 (1989), and typically determines the names appearing on the child's birth certificate. However, the presumption operates in a gendered way, even though it is recognized that fathers and mothers alike are involved parents and suitable caregivers for their children. *Nevada Dept. of Human Res. v. Hibbs*, 538 U.S. 721 (2003).

because they are inadmissible under the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

Evidence must be relevant to be admissible. [Fed. R. Evid. 402](#). Relevant evidence is that which has the "tendency to make a fact more or less probable" and that fact must be of consequence. [Fed. R. Evid. 401](#). In the present case, the Article is irrelevant because it does not matter how many children are actually biologically related to the husband of the birth mother. This case focuses upon the advantage given the class of birth mothers who are allowed to identify their husbands as parent of the child born to the marriage even when the child was conceived with the sperm of a third party and has no biological relationship to husband. The fact that even a small percentage of heterosexual couples are granted parenthood under such circumstances is sufficient to establish that the advantaged class is being treated differently from the disadvantaged class of plaintiffs.

Further, the narrow scope of the article makes it irrelevant. The Article is an *opinion* article relating to the ethical question of whether women who undergo testing to determine compatibility for purposes of living donor-recipient compatibility should be informed of misattributed paternity and whether the woman's partner should also be so informed. [Filing No. 85-1 at ECF p. 20](#). The Author argues "that the tests used by transplant programs for living donor-recipient compatibility are inadequate to accurately determine misattributed paternity." [Id.](#) The

Author of the Article did not conduct the testing. The referenced testing involved an examination of genetic indicators in organ donors and references not the population in general but a limited number of people who are a subset of the population based upon their HLA test results. The study clearly requires scientific and specialized knowledge to understand and none is offered by Mr. Carnes. Nowhere within the article is it claimed that there is only a 1% misattribution of paternity in the general population in Indiana or nationwide.

An affidavit supporting or opposing a motion for summary judgment "must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated." [Fed. R. Civ. P. 56\(c\)\(4\)](#). See, [Pfeil v. Rogers, 757 F.2d 850, 860-863 \(7th Cir. 1985\)](#) ("the policy of Rule [56(c)] is to allow the affidavit to contain all evidentiary matter, which, if the affiant were in court and testifying on the witness stand, would be admissible as part of his testimony"). See also, [Fed. R. Evid. 701](#) (lay witness testimony must be "(a) rationally based on the witness's perception; (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702"). In contrast, an expert witness must be "qualified by knowledge, skill, experience, training, or education." [Fed. R. Evid. 702](#).

Mr. Carnes is the Indiana State Registrar and Director of Vital

Records at the Indiana State Department of Health, a position he has held less than one year. ([Filing No. 85-1 at ECF p. 2](#), ¶ 3). The Defendants make no attempt to qualify Mr. Carnes as an expert in statistics or genetic testing, particularly the HLA testing referenced in the Article. Nowhere in his affidavit does Mr. Carnes attest that he has any training in the science regarding the determination of paternity nor does he affirm that his position even requires knowledge in such an area. Thus as Mr. Carnes is not qualified as an expert witness, he is a lay witness.

In the Affidavit, Mr. Carnes states:

9. Presuming paternity in a birth mother's male spouse is a highly accurate way to identify biological fathers. I am aware of at least one study saying that the incidence of misattributed paternity in the United States is less than 1%. L.F. Ross, Good Ethics Requires Good Science: Why Transplant Programs Should NOT Disclose Misattributed Parentage, 10 Am. J. of Transplantation 742, 744 (2010) (attached hereunto as Attachment 2).

([Filing No. 85-1 at ECF p. 4](#), ¶ 9). In paragraph 12 of his affidavit, Mr. Carnes references the "high rate of accuracy in presuming biological fatherhood of the birth mother's male spouse." ([Filing No. 85-1 at ECF p. 4](#), ¶ 12).

As a lay witness, Mr. Carnes is required to have personal knowledge regarding the accuracy of presuming parentage. *See also, Gorby v. Schneider Tank Lines, Inc.*, 741 F.2d 1015, 1021 (7th Cir. 1984) (trial court can exclude opinions not "based upon first-hand knowledge or observation"). Mr. Carnes merely claims that he has "heard" about a

study regarding misattribution of paternity. This statement does not reflect Mr. Carnes' perceptions. Mr. Carnes does not even attest that he read the study or that he holds the knowledge to understand the study.

On the basis of the foregoing, paragraphs 9 and 12 of the Affidavit and the Article should be stricken should be stricken or alternatively, given no weight.

CONCLUSION

WHEREFORE, Plaintiffs respectfully request that this Court grant Plaintiffs' motion for summary judgment, deny Defendants' cross-motion for summary judgment, and order Defendants to extend the benefits of Indiana's presumption of parenthood and legitimacy statutes to all Plaintiffs and to all similarly situated married lesbian couples into whose marriage a child is born.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Plaintiffs' Response to Defendants' Cross-Motion for Summary Judgment and Reply in Support of Plaintiffs' Motion for Summary Judgment* was filed electronically on February 9, 2016. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

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5. Noell and Crystal decided they wanted to expand their family and Crystal wanted to experience the joy of giving birth so the couple agreed that Crystal would become pregnant with their next child. With Intrauterine Insemination performed by a licensed physician and a third party sperm donor, Crystal was able to conceive. The couple was joyous to learn that Crystal was carrying twins.

6. Crystal began to develop an infection which threatened both her life and the lives of the twins. Doctors advised her to induce labor or risk three fatalities. As a result, the twins, Ashton David Allen and Alivea Deon Allen, were born on November 21, 2015,, five weeks too early for them to have a chance. Because the babies were born prematurely, they passed away just moments after their birth .

7. On November 22, 2015, the day of their wedding anniversary, as the couple sat grieving together in Community Hospital North, a staff member came in and told Crystal that she needed information for the Indiana Birth Certificate Worksheet which Community would be completing on behalf of Crystal and the twins. When the staff member finished and started to leave, Crystal asked, "Don't you want to talk to my spouse, Noell?" Crystal and Noell were told that because Indiana does not recognize Noell as the parent of the twins, she would not be included on the birth certificate.

8. "The fact that we have to go through this process in the

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midst of such circumstances is extremely painful," said Crystal. "I could not help but think about the fact that Crystal could have died during those 10 days in the hospital and I would have been denied the right to memorialize OUR babies - a situation we cannot fathom." said Noell.

9. While the State of Indiana would not let Noell be joined with the twins in life, the Marion County Coroner's Office did allow Noell to be joined with the twins in death. A true and accurate copy of the death certificates is attached hereto as Attach. A. Both Noell and Crystal are listed on the death certificate. "It is clear to us that there is inconsistency in the procedural guidance throughout the state of Indiana and concise and objective guidance is needed," said Noell.

10. As public servants and taxpaying citizens, we are extremely disappointed in the state of Indiana. As we assess all the problems across our communities, we cannot help but think of the resources being used to address this through the courts. We have a duty to be good stewards of the state's resources, and we are currently failing.

11. As if the indescribable pain that accompanies the loss of children that were perfectly made in the image of God was not enough, this undue burden has made it even more difficult to move forward. The agony of this hurt is amplified by an obligation to fight this battle, to right this wrong for our family and families to come. This issue has interrupted time that should be for grieving and healing and has indeed

Affidavit of Noell and Crystal Allen
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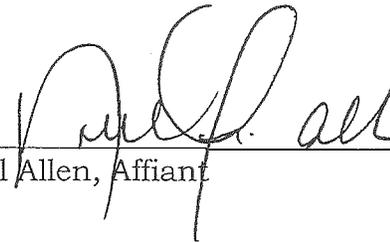
imposed a great deal of emotional distress on our entire family. It is clear that our marriage is still not recognized in the same manner as others. "My children were taken from me twice - once when they passed and the second time when the State of Indiana said I could not be recognized as mother to my babies," said Noell. "I will continue to feel that pain every day until I am recognized on their birth certificates."

(Continued on Next Page)

Affidavit of Noell and Crystal Allen
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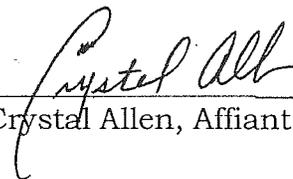
I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 9, 2015.



Noell Allen, Affiant

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 9, 2015.



Crystal Allen, Affiant



INDIANA STATE - CERTIFICATE OF FETAL DEATH

State Form : 1141D(R5/01-08)

Local No: 256902

THE RECORDS IN THIS SERIES ARE CONFIDENTIAL PER IC 16-37-1-10

1. NAME OF FETUS (optional if the destination of the parents) A [REDACTED] D [REDACTED] A [REDACTED]		2. TIME OF DELIVERY 16:00 PM (24hr)	3. SEX (M/F/Unk) FEMALE	4. DATE OF DELIVERY (Mo/Day/Yr) [REDACTED]	
5a. CITY, TOWN, OR LOCATION OF DELIVERY INDIANAPOLIS	7. PLACE WHERE DELIVERY OCCURRED (Check One) <input checked="" type="checkbox"/> Hospital <input type="checkbox"/> Home Delivery, Planned to deliver at home? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Clinic/Doctor's Office <input type="checkbox"/> Other (Specify):		8. FACILITY NAME (If not institution, give street and number) COMMUNITY HOSPITAL NORTH		
5b. ZIP CODE OF DELIVERY	6. COUNTY OF DELIVERY MARION		9. FACILITY I.D. (NPI)		
10a. MOTHER'S CURRENT LEGAL NAME (First, Middle, Last, Suffix) CRYSTAL D. ALLEN			10b. DATE OF BIRTH (Mo/Day/Yr) [REDACTED]		
10c. MOTHER'S NAME PRIOR TO FIRST MARRIAGE (First, Middle, Last, Suffix) Crystal D. Allen			10d. BIRTH PLACE (State, Territory, or Foreign Country) [REDACTED]		
11a. RESIDENCE OF MOTHER - STATE INDIANA		11b. COUNTY [REDACTED]		11c. CITY, TOWN, OR LOCATION [REDACTED]	
11d. STREET AND NUMBER [REDACTED]		11e. APT#		11f. ZIP CODE [REDACTED]	
11g. INSIDE CITY LIMITS? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		12a. FATHER'S CURRENT LEGAL NAME NOELL F. ALLEN			
12b. DATE OF BIRTH (Mo/Day/Yr) [REDACTED]		12c. BIRTH PLACE (State, Territory, or Foreign Country) PENNSYLVANIA			
13. METHOD OF DISPOSITION: <input type="checkbox"/> Donation <input type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Hospital Disposition <input type="checkbox"/> Removal From State <input type="checkbox"/> Other (Specify):		14. ATTENDENT'S NAME AND NPI SARAH KERLIN		14s. TITLE: <input checked="" type="checkbox"/> MD <input type="checkbox"/> DO <input type="checkbox"/> CNM/OM <input type="checkbox"/> OTHER MIDWIFE <input type="checkbox"/> OTHER (Specify):	
15. NAME OF FUNERAL HOME FEENEY-HORNAK KEYSTONE MORTUARIES			15a. PLACE OF DISPOSITION THE COLUMBUS CREMATORY, COLUMBUS, INDIANA		
15b. SIGNATURE OF INDIANA FUNERAL SERVICE LICENSEE WILLIAM C MINGES by electronic signature			15c. LICENSE NUMBER (OF LICENSEE) FO20200013		
16. SIGNATURE OF LOCAL HEALTH OFFICER VIRGINIA A. CAINE via electronic signature			16a. FILE DATE 12/04/2015		
17. CAUSE/CONDITIONS CONTRIBUTING TO FETAL DEATH					
17a. INITIATING CAUSE/CONDITION Among the choices below, please select the <u>one</u> that most likely began the sequence of events resulting in the death of the fetus, and check the box for the Manner of Death in item 17c. Maternal Condition/Disease (Specify): Complications of Placenta, Cord, or Membranes <input type="checkbox"/> Rupture of membranes prior to onset of labor <input checked="" type="checkbox"/> Chorioamnionitis <input type="checkbox"/> Abruptio Placenta <input type="checkbox"/> Placental Insufficiency <input type="checkbox"/> Prolapsed Cord <input type="checkbox"/> Other (Specify): Other Obstetrical or Pregnancy Complications (Specify): Fetal Anomaly (Specify): Fetal Injury (Specify): Fetal Infection (Specify): Other Fetal Conditions/Disorders (Specify): <input type="checkbox"/> Unknown		17b. OTHER SIGNIFICANT CAUSES OR CONDITIONS Select Or Specify All other Conditions Contributing To Death Item 17a. Maternal Condition/Disease (Specify): Complications of Placenta, Cord, or Membranes <input type="checkbox"/> Rupture of membranes prior to onset of labor <input checked="" type="checkbox"/> Chorioamnionitis <input type="checkbox"/> Abruptio Placenta <input type="checkbox"/> Placental Insufficiency <input type="checkbox"/> Prolapsed Cord <input type="checkbox"/> Other (Specify): Other Obstetrical or Pregnancy Complications (Specify): Fetal Anomaly (Specify): Fetal Injury (Specify): Fetal Infection (Specify): Other Fetal Conditions/Disorders (Specify): <input type="checkbox"/> Unknown			
17c. MANNER OF DEATH <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Homicide <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined check <u>one</u> box		17d. DATE OF INJURY (Mo/Day/Yr)	17e. TIME OF INJURY	17f. DESCRIBE HOW INJURY OCCURRED	
17g. PLACE OF INJURY -at home, farm, street, factory, etc. Specify:		17h. LOCATION (Street & Number or Rural Route Number, City or Town, State)			
17i. DATE PRONOUNCED DEAD (Mo/Day/Yr) 11/21/2015		17j. MOTOR VEHICLE ACCIDENT? <input type="checkbox"/> Yes <input type="checkbox"/> No		17k. IF YES, SPECIFY DRIVER, PASSENGER, PEDESTRIAN, ETC.	
17l. WEIGHT OF FETUS (grams preferred, specify unit) 249 <input checked="" type="checkbox"/> grams <input type="checkbox"/> lb/oz		17m. ESTIMATED TIME OF FETAL DEATH <input type="checkbox"/> Died at time of first assessment, no labor ongoing <input type="checkbox"/> Died at time of first assessment, labor ongoing <input type="checkbox"/> Died during labor, after assessment <input checked="" type="checkbox"/> Unknown time of fetal death		17n. WAS AN AUTOPSY PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Planned	
17o. OBSTETRIC ESTIMATE OF GESTATION AT DELIVERY 19 (completed weeks)		17p. WAS A HISTOLOGICAL PLACENTAL EXAMINATION PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Planned		17q. WERE AUTOPSY OR HISTOLOGICAL PLACENTAL EXAMINATION RESULTS USED IN DETERMINING THE CAUSE OF FETAL DEATH? <input type="checkbox"/> Yes <input type="checkbox"/> No	
18. SIGNATURE OF PERSON CERTIFYING CAUSE OF DEATH SARAH F. KERLIN by electronic signature			18a. LICENSE NUMBER 01068600A		
18b. NAME, ADDRESS AND ZIP CODE OF PERSON CERTIFYING CAUSE OF DEATH SARAH F. KERLIN, 7150 CLEARVISTA PARKWAY, INDIANAPOLIS, INDIANA, 46256			18c. DATE CERTIFIED (Mo/Day/Yr) 12/04/2015		

FOR CREMATION PURPOSES ONLY



INDIANA STATE - CERTIFICATE OF FETAL DEATH
State Form #: 11410(R5/01-08)

FOR CREMATION PURPOSES ONLY

Local No: 257047

THE RECORDS IN THIS SERIES ARE CONFIDENTIAL PER IC 16-37-1-10

1 NAME OF FETUS (optional at the discretion of the parents) A [REDACTED] D [REDACTED] A [REDACTED]		2 TIME OF DELIVERY 15:22 PM (24hr)	3 SEX (M/F/Unk) MALE	4 DATE OF DELIVERY (Mo/Day/Yr) [REDACTED]
5a CITY/TOWN, OR LOCATION OF DELIVERY INDIANAPOLIS		7 PLACE WHERE DELIVERY OCCURRED (Check One) <input checked="" type="checkbox"/> Hospital <input type="checkbox"/> Home Delivery, Planned to deliver at home? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Clinic/Doctor's Office <input type="checkbox"/> Other (Specify)		8 FACILITY NAME (If not institution, give street and number) COMMUNITY HOSPITAL NORTH
5b ZIP CODE OF DELIVERY		9 FACILITY I.D. (NPI)		
8 COUNTY OF DELIVERY MARION		10a MOTHER'S CURRENT LEGAL NAME (First, Middle, Last, Suffix) CRYSTAL O. ALLEN		10b DATE OF BIRTH (Mo/Day/Yr) [REDACTED]
10c MOTHER'S NAME PRIOR TO FIRST MARRIAGE (First, Middle, Last, Suffix) Crystal O. Allen		10d BIRTH PLACE (State, Territory, or Foreign Country) [REDACTED]		
11a RESIDENCE OF MOTHER - STATE INDIANA		11b COUNTY [REDACTED]		11c CITY, TOWN, OR LOCATION [REDACTED]
11d STREET AND NUMBER [REDACTED]		11e APT# [REDACTED]		11f ZIP CODE [REDACTED]
11g INSIDE CITY LIMITS? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		12a FATHER'S CURRENT LEGAL NAME NCELL ALLEN		12b DATE OF BIRTH (Mo/Day/Yr) [REDACTED]
12c BIRTH PLACE (State, Territory, or Foreign Country) PENNSYLVANIA		13 METHOD OF DISPOSITION: <input type="checkbox"/> Donation <input type="checkbox"/> Burial <input checked="" type="checkbox"/> Cremation <input type="checkbox"/> Hospital Disposition <input type="checkbox"/> Removal From State <input type="checkbox"/> Other (Specify)		14 ATTENDENT'S NAME AND NPI SARAH KERLIN
15 NAME OF FUNERAL HOME FEENEY-HORNAX KEYSTONE MORTUARIES		15a PLACE OF DISPOSITION THE COLUMBUS CREMATORY, COLUMBUS, INDIANA		
15b SIGNATURE OF INDIANA FUNERAL SERVICE LICENSEE WILLIAM C MINGES by electronic signature		15c LICENSE NUMBER (OF LICENSES) FD20200015		
16 SIGNATURE OF LOCAL HEALTH OFFICER VIRGINIA A. CAINE via electronic signature		16a TITLE: <input checked="" type="checkbox"/> MD <input type="checkbox"/> DO <input type="checkbox"/> CNM/CNM <input type="checkbox"/> OTHER MIDWIFE <input type="checkbox"/> OTHER (Specify)		16b FILE DATE 12/04/2015
17. CAUSE/CONDITIONS CONTRIBUTING TO FETAL DEATH				
17a INITIATING CAUSE/CONDITION Among the possibilities, please select the one that most likely began the sequence of events resulting in the death of the fetus, and check one box for the Manner of Death in item 17c. Maternal Condition/Disease (Specify): Complications of Placenta, Cord, or Membranes: <input checked="" type="checkbox"/> Rupture of membranes prior to onset of labor <input type="checkbox"/> Chorioamnionitis <input type="checkbox"/> Abruptio Placenta <input type="checkbox"/> Placental Insufficiency <input type="checkbox"/> Prolapsed Cord <input type="checkbox"/> Other (Specify): Other Obstetrical or Pregnancy Complications (Specify): Fetal Anomaly (Specify): Fetal Injury (Specify): Fetal Infection (Specify): Other Fetal Condition/Disorders (Specify): <input type="checkbox"/> Unknown		17b OTHER SIGNIFICANT CAUSES OR CONDITIONS Select Or Specify All other Conditions Contributing To Death from 17a. Maternal Condition/Disease (Specify): Complications of Placenta, Cord, or Membranes: <input type="checkbox"/> Rupture of membranes prior to onset of labor <input checked="" type="checkbox"/> Chorioamnionitis <input type="checkbox"/> Abruptio Placenta <input type="checkbox"/> Placental Insufficiency <input type="checkbox"/> Prolapsed Cord <input type="checkbox"/> Other (Specify): Other Obstetrical or Pregnancy Complications (Specify): Fetal Anomaly (Specify): Fetal Injury (Specify): Fetal Infection (Specify): Other Fetal Condition/Disorders (Specify): <input type="checkbox"/> Unknown		
17c MANNER OF DEATH: <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Homicide check one box <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined		17d DATE OF INJURY (Mo/Day/Yr)	17e TIME OF INJURY	17f DESCRIBE HOW INJURY OCCURRED
17g PLACE OF INJURY - not home, farm, street, factory, etc. Specify		17h LOCATION (Street & Number or Rural Route Number, City or Town, State)		
17i DATE PRONOUNCED DEAD (Mo/Day/Yr) 11/21/2015		17j MOTOR VEHICLE ACCIDENT? <input type="checkbox"/> Yes <input type="checkbox"/> No		17k IF YES, SPECIFY DRIVER, PASSENGER, PEDESTRIAN ETC
17l WEIGHT OF FETUS (grams preferred, specify unit) 251 <input checked="" type="checkbox"/> grams <input type="checkbox"/> lb/oz		17m ESTIMATED TIME OF FETAL DEATH <input type="checkbox"/> Dead at time of first assessment, no labor ongoing <input type="checkbox"/> Dead at time of first assessment, labor ongoing <input type="checkbox"/> Died during labor, after assessment <input checked="" type="checkbox"/> Unknown time of fetal death		17n WAS AN AUTOPSY PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Planned
17o OBSTETRIC ESTIMATE OF GESTATION AT DELIVERY 16 (completed weeks)		17p WAS A HISTOLOGICAL PLACENTAL EXAMINATION PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Planned		17q WERE AUTOPSY OR HISTOLOGICAL PLACENTAL EXAMINATION RESULTS USED IN DETERMINING THE CAUSE OF FETAL DEATH? <input type="checkbox"/> Yes <input type="checkbox"/> No
18 SIGNATURE OF PERSON CERTIFYING CAUSE OF DEATH SARAH F. KERLIN by electronic signature		18a LICENSE NUMBER 01050600A		18b DATE CERTIFIED (Mo/Day/Yr)
18c NAME, ADDRESS AND ZIP CODE OF PERSON CERTIFYING CAUSE OF DEATH SARAH F. KERLIN 7150 CLEARVISTA PARKWAY INDIANAPOLIS, INDIANA 46256				

FOR CREMATION PURPOSES ONLY

Affidavit of Jackie & Lisa Phillips-Stackman

signed away his paternal rights, created two viable embryos. Until Jackie met Lisa she had planned to hire a gestational carrier to birth her biological child.

5. Jackie met Lisa at a fundraiser event in February of 2014 and about a year into their relationship the couple decided to have a child which Lisa would carry, using Jackie's egg. October 4th, 2015 Jackie and Lisa were married and on October 21st, 2015 their child was born.

6. The process to just harvest the eggs cost upwards of \$20,000. The medical process for Lisa to conceive L.J.P-S cost the couple an additional \$15,000. The process in its entirety was not easy for either Jackie or Lisa and was very expensive. They pooled together all financial resources to build an addition onto to their home and pay the costs associated with conception. Their baby was born on October 21st, 2015.

7. While in utero it was discovered that the baby was suffering from hydrocephaly and had a rare chromosome deletion known as 6q terminal deletion syndrome. Within 24 hours of life, L.J.P-S had to have a shunt placed to relieve the pressure building on her brain. She was hospitalized for nearly a month following her birth. While L.J.P-Sis doing well it is unknown what developmental delays if any L.J.P-Swill have to battle in the future. Medical costs for the baby continue to grow.

8. While at the hospital, the birth certificate representative completed the Electronic Birth Certificate Worksheet and listed Lisa as the parent. The

hospital representative very apologetically explained that her hands were tied and that she could not put Jackie on the birth certificate without a court order.

9. Jackie will not be listed on the birth certificate. A true and accurate copy of the birth confirmation letter is attached hereto as Attach. 1.

10. Jackie and Lisa love each other immensely and wanted to bring a child into the world together so they could complete their family. "While our family may not have been made 'traditionally', the advancements of science did in fact allow us as two women to bring life into this world together. [L.J.P-S] was in fact born into an awesome village of love and we are so grateful to be her mothers. We simply want to protect our daughter in every way possible and part of doing that is by ensuring that we are both named as her legal mothers."

11. The couple knew they would be married when the baby was born, and had hoped that both of them would be able to be listed as parents on the birth certificate. Sadly, Jackie was not included on the birth certificate but Jackie and Lisa are determined to fight for their family and see that the state of Indiana makes this right.

12. Their daughter is currently covered by Jackie's health insurance. Typically, the insurer does not continue to cover stepchildren if the insured's relationship with the mother of the children terminates due to death or divorce. This means that if Lisa was to die unexpectedly, it is uncertain whether her insurer would continue to insure her "stepchild", particularly if the child is receiving expensive medical care.

Affidavit of Jackie & Lisa Phillips-Stackman

12. "Fighting to be legally recognized as a couple was frustrating enough, fighting to be recognized as a mother to my biological child is infuriating and senseless," said Jackie. The reason why they are fighting is for the future of their child and if something happens to Lisa, they want to make certain that their child will go with Jackie and no one else.

13. "Lisa and I both went through so much physically, emotionally, and financially to have our baby," said Jackie, who added, "The day we were told legally I was merely a stepparent to my biological child and that we would have to go through a stepparent adoption process was absolutely heart wrenching and its just plain wrong."

14. Jackie and Lisa received a birth confirmation letter which simply listed Lisa as the sole parent to their baby. See, Attach. 1. Accompanying the birth confirmation letter was also a notice was a letter that allowed Lisa to correct information except she could not add the name of the father to the birth certificate. A true and accurate copy of the letter is attached hereto as Attach. 2. Instead, the letter referenced a notice which advised Lisa that to add a second parent onto the birth certificate would require a court order among other things for children born out-of-wedlock. A true and accurate copy of the notice is attached hereto as Attach. 3. Lisa, who was married to Jackie at the time the child was born is upset that government officials consider her child to be a child born out-of-wedlock.

15. "We followed all the rules Indiana said we must follow to conceive a child as a married couple," said Lisa. "We were legally married and I delivered a child who is biologically related to Jackie yet the state refuses to name Jackie as a legal parent on our child's birth certificate, a right that is extended to heterosexual married couples. Not only are we suffering and having to fight for legal rights to our daughter but our daughter is having to suffer as well and this is unacceptable, " continued Lisa.

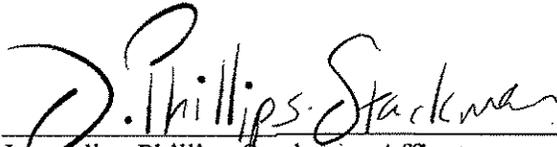
16. After birth Jackie and Lisa's child was in the neonatal intensive care unit for over 28 days. Prior to their child being born Lisa was admitted to the hospital due to preclampsia related health problems and had to undergo not only a c-section but an emergency hysterectomy as well. Lisa was in the hospital another two weeks after L.J.P-S was born. As Jackie observes:

Experiencing my wife and my daughter fighting for their lives at the same time is something I wouldn't wish on my worst enemy. Frightening doesn't even begin to describe the string of events I witnessed on October 21st, 2015. I don't know what I would have done if I would have lost both Lisa and [L.J.P-S]. Having no legal right to my daughter if something should have happened to my wife was absolutely horrifying. It is a fear I continue to live with every day. Every day I am also being denied legally recognized parental rights and relationship with my child. We are simply requesting the state of Indiana grant us the same rights to our family that are afforded to families headed by a man and a woman."

(Continued on Next Page)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

December 9, 2015.

A handwritten signature in black ink, appearing to read "J. Phillips-Stackman", written over a horizontal line.

Jacqueline Phillips-Stackman, Affiant

I declare under penalty of perjury that the foregoing is true and correct. Executed on
December 9, 2015.

A handwritten signature in black ink, appearing to read "Lisa Phillips-Stackman", written over a horizontal line.

Lisa Phillips-Stackman, Affiant



8111 Township Line Road
Indianapolis, IN 46260
stvincent.org/womens

Date 10/22/2015

TO WHOM IT MAY CONCERN:

BIRTH CONFIRMATION LETTER

This is to confirm that the following child was born at the ST. VINCENT WOMEN'S HOSPITAL in INDIANAPOLIS, Indiana.

You have given permission for a Social Security Number to be applied for through the Social Security Administration.

Infant's Gender: [REDACTED]

Infant's Name: [REDACTED]

Date of Birth: 10/21/2015

Time of Birth: 06:51 PM

Mother's Name: LISA MURRAY PHILLIPS-STACKMAN

Father's Name: _____

Signature: Spuchardson

Title: Birth Registrar

Date: 10-22-15

MARION COUNTY HEALTH DEPARTMENT
VITAL RECORDS
3838 NORTH RURAL ST
INDIANAPOLIS, IN 46205



10/28/2015

LISA MURRAY PHILLIPS-STACKMAN

Dear Ms. PHILLIPS-STACKMAN

This is the birth information as reported by the hospital. If there are errors, print the correct information on the lines provided.

- Last names cannot be changed.
- Mother must sign the form.
- The father's name CANNOT be added on this form, please see pink insert.
- Corrections received more than 20 days after the date above require a \$15.00 correction fee. No correction fee is charged if it is received within 20 days.
- There is a \$15.00 fee for each certified copy of the birth.

Do not return this form if all items are correct.

CERTIFICATE NUMBER: [REDACTED] DATE OF BIRTH: 10/21/2015 FILE DATE: 10/28/2015

CHILD'S NAME: [REDACTED] CHILD'S GENDER: [REDACTED]

CORRECTION: _____

MOTHER'S NAME: LISA MURRAY PHILLIPS-STACKMAN MAIDEN NAME: PHILLIPS

CORRECTION: _____ CORRECTION: _____

MOTHER'S STATE OF BIRTH: NEW YORK MOTHER'S DATE OF BIRTH: [REDACTED]

CORRECTION: _____ CORRECTION: _____

MOTHER'S SIGNATURE: _____



**MARION COUNTY
PUBLIC
HEALTH
DEPARTMENT**

Prevent. Promote. Protect.

INDIANA LAW REQUIRES THAT A CHILD BORN OUT-OF-WEDLOCK BE RECORDED UNDER THE NAME OF THE MOTHER (IC 16-37-2-13).

THE FATHER'S NAME MAY BE ADDED TO THE RECORD IN ONE OF THREE WAYS:

- 1) **THROUGH AN ORDER OF THE COURT.** *Contact the child support office and request an appointment to establish paternity. Call 317-327-4709 or 317-327-4010.*
- 2) **BY MARRIAGE TO THE NATURAL FATHER.** *Contact Vital Records at the Marion County Public Health Department and request an appointment for a legitimation. Call 317-221-2397.*
- 3) **BY VOLUNTARY PATERNITY.** *Established at the Marion County Public Health Department. Call 317-221-2397 for an appointment.*

AFFIDAVIT OF RECORDS CUSTODIAN

1. I, Nathan Maners, am the Acting Director for the Human Resources Division and the custodian of records of the Human Resources Division, Office of Finance & Management, City of Indianapolis and Marion County. I supervise record keeping at the Human Resources Division and am familiar with its record keeping practices.

2. Attached to this Affidavit in 74 pages, which are Bate stamped "Maners Affidavit Page 1" through "Maners Affidavit Page 74," is a true and accurate copy of the City of Indianapolis and Marion County Employee Manual (Revised: October 2015).

3. The attached City of Indianapolis and Marion County Employee Manual (Revised: October 2015) is, as of February 9, 2016, the current employee manual.

4. The attached City of Indianapolis and Marion County Employee Manual (Revised: October 2015) was promulgated by a committee of human resources professionals, including the City of Indianapolis's Director of Human Resources, in the routine course of their work and job responsibilities and, after review by counsel, was published to employees of the City of Indianapolis and Marion County. The document is kept and maintained by Human Resources Division in the routine course of business.

5. This certification is given pursuant to the Indiana Rules of Evidence by the custodian of the records in lieu of the custodian's personal appearance at trial or deposition.

FURTHER AFFIANT SAITH NOT.

I AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE AND ACCURATE.

Date:

2/9/18



Nathan Maners



City of Indianapolis and Marion County

EMPLOYEE MANUAL

Revised: October 2015

Welcome to the City of Indianapolis – Marion County!

You are now a part of the team that is helping to build the City of Indianapolis and Marion County (City-County) into a world-class city and county, neighborhood by neighborhood. Together as public servants, we can make the City-County the best place to live, work, and raise our families.

As City-County government employees, our basic goal is to respond to the needs of our fellow citizens in the most skilled, courteous, and sensible manner possible. Our ability to meet the daily challenge of providing our citizens with cost-effective, quality service requires the hard work and dedication of every employee.

You will find that the City-County provides their employees with an excellent benefit package and employee-friendly policies like the paid leave/flextime benefit that enables employees to support local schools. Congratulations on your new position. We wish you the best as you begin your employment with the City-County.

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A. Employee Manual Acknowledgement Form69

USE OF THIS MANUAL

Excellence in service to the community is the primary mission of the City of Indianapolis - Marion County. To assist employees in achieving this mission, the City-County is committed to establishing sound personnel practices. As a result, this Employee Manual has been developed to explain, in general, employee responsibilities, employee benefits, and policies and procedures for the City-County.

All City-County employees are employees at will and subject to termination without cause at any time, unless otherwise provided by a City-County ordinance or bargaining unit agreement. This manual is not an employment agreement or contract and does not grant an entitlement or expectation of continued employment. Its provisions may be modified, canceled, or suspended by the City-County at any time. No City-County representative or employee has the authority to enter into any agreement or make any representations contrary to the employment-at-will statement.

The contents of this Employee Manual summarize current City-County policies and programs and are intended as guidelines only. The City-County retains the right to change, modify, suspend, interpret, or cancel in whole or in part any of the published or unpublished personnel policies or practices of the City-County, without advance notice, in their sole discretion, without having to give cause or justification to any employee.

Individual departments and agencies may adopt additional policies as needed to ensure the achievement of the City-County's commitment to service. These policies may not conflict with the provisions of this manual and should be developed with the guidance of the Human Resources Division and the Office of Corporation Counsel.

The most current version of the City-County Employee Manual can be found on the Human Resources Division's Intranet site.

This manual is provided as a resource and applies to all City-County employees [except sworn Indianapolis Metropolitan Police Department (IMPD) officers and Indianapolis Fire Department (IFD) firefighters, IMPD civilian employees, Marion County Sheriff's Department, Marion Superior Courts, Marion Circuit Court, and the Marion County Prosecutor's Office] as defined below:

1. Full-time employees – City departments and some County agencies follow a 40-hour work week. Employees who are employed in one of these departments or agencies on a year-round basis and who work at least 40 hours in a seven-day work week are considered full time. Some County agencies follow a 37.5-hour work week. Employees who are employed in one of these County agencies on a year-round basis and who work at least 37.5 hours in a seven-day work week are considered full-time employees.
2. Part-time employees:
 - Employees are considered part-time if they are employed on a year-round basis, but work less than 40 hours in a seven-day work week in a City department or County agency that follows a 40-hour work week.
 - Employees are considered part-time if they are employed on a year-round basis, but work less than 37.5 hours in a seven-day work week in a County agency that follows a 37.5-hour work week.
3. Temporary employees – Employees who are employed on less than a year-round basis or for a limited period of time are considered temporary employees. Paid interns and seasonal employees are a part of this group.

Eligibility for benefits varies and is discussed in subsequent sections of this manual.

This manual is not intended to be, nor should it be construed as, a guarantee of benefits. The City-County reserves the right to make changes, including, but not limited to, healthcare and other benefit providers and rates, and to modify or discontinue any benefits with or without notice at any time it deems necessary. The City-County will make every reasonable effort to keep employees informed of any such changes.

This manual governs City-County civilian employees who are in bargaining unit positions. However, the terms of any contract between the City-County and a labor organization takes precedence over the provisions of this manual if there is a conflict between the two.

Employees with questions are encouraged to ask their supervisor or manager.

PRINCIPLES OF EMPLOYMENT

The job performance and personal conduct of each employee directly impacts the public's trust and the City-County's ability to achieve their missions of service to the community. Therefore, the following guidelines and principles have been adopted on a City-County-wide basis:

1. Employees are expected to **report for work** on time, with all necessary equipment and properly attired to conduct their business. Employees are also expected to devote full attention to their duties for the entire work period.
2. Employees are expected to **notify their supervisors** of conditions that would affect the performance of their duties. Employees who are unable to report to work as scheduled should contact their supervisor before the start of their work period. If employees must leave the work area during working hours, prior authorization should be obtained from their supervisors. In a similar manner, employees must receive **permission** from their supervisors **before working overtime**.
3. Employees are expected to be **productive** in the performance of their duties. They must demonstrate the ability and willingness to perform those duties in a satisfactory manner that conforms to established work unit standards, City-County policies, and reasonable supervisory orders.
4. **Integrity** is a requirement for continued employment. Theft, making a false report or statement with intent to defraud, and falsely reporting to be ill or injured are examples of unacceptable conduct.
5. Employees are expected to show **courtesy** and **respect** in their interactions with the public, fellow employees, subordinates, and supervisors. Disruptive, threatening, abusive or obscene language or gestures; harassment or discrimination; and physical altercations are a few examples of unacceptable conduct.
6. **Excessive or unauthorized use of leave** time that inhibits the satisfactory performance of essential job functions is disruptive to the operation of the work unit and is unacceptable. Each work unit shall develop their policy that defines "excessive or unauthorized use of leave."

7. While on the job or at the work site, employees may **not drink alcohol**; possess an open alcohol container; be under the influence of alcohol; use, possess or test positive for a non-prescribed **controlled substance**; or **use a prescribed medication in a non-prescribed manner**. Using any other substance that inhibits the satisfactory performance of essential job functions should be brought to the supervisor's attention immediately.
8. Employees are expected to safeguard City-County **equipment, facilities, supplies, records, and funds** against abuse, misuse, loss, damage, destruction, or unauthorized use. Incurring a liability or expense in the name of the City-County without proper authorization is unacceptable.
9. The City-County's physical properties, information, influence, and position are not to be used for the **private advantage** or **personal gain** of any employee per applicable laws.
10. To ensure safe and efficient operations, employees are expected to comply with **established health and safety regulations**. They should report injuries, accidents, and unsafe conditions immediately to their supervisor. Also, in the interest of safety, employees are not allowed to carry a weapon while at work, in a city or county vehicle, or on city or county premises, unless specifically authorized by a city department director or county agency head, or by law.
11. Employees must protect the security of **confidential City-County information** while conforming to **public record laws**. When questions arise, employees should ask their supervisor for assistance in determining if information should be released.
12. Public service and community expectations require **compliance with federal, state, and local laws and regulations** during both working and non-working hours. Non-compliance can damage the reputation of the City-County and have other serious consequences and is, therefore, unacceptable.
13. City-County employees provide vital governmental services to the citizens of Indianapolis and Marion County. Because it is important that these **services remain uninterrupted**, City-County employees may not engage in any strike, slowdown, work stoppage, or cease continuous performance of their duties.
14. Each employee's conduct has the potential to directly impact the City-County's reputation and the public's trust. Therefore, as representatives of City-County government, employees are expected to refrain from **unbecoming conduct**, both at work, and during off-duty hours.
15. **Supervisors** are expected to provide a positive work environment for employees, including positive recognition. Supervisors should guide and direct employees in a manner that complies with established work standards, City-County policies, and applicable union agreements. Further, they are expected to take prompt corrective action when they observe improper performance or conduct.

CODE OF ETHICS

The Mayor and the City-County Council have established ethical standards of conduct for all elected officials, appointees, and employees of the City-County and persons who have a business relationship with City-County government. These standards are outlined in Chapter 293 of the Revised Code of the Consolidated City-County. **The full text of this code can be found at www.indy.gov/ethics.**

Public confidence in the integrity of government is essential to the exercise of good government. Accordingly, those persons under the jurisdiction of the ethics commission should be committed to the following goals:

1. Duties should be carried out impartially;
2. Decisions and policy should not be made outside of proper channels of City and County government;
3. Public office is not to be used for private gain; and
4. Actions, transactions, or involvements that have the potential to become a conflict of interest should not be performed or engaged in.

City-County employees are expected to comply with the provisions of the Code. While the Ethics Code does not have jurisdiction over the office of the county prosecutor or the circuit and superior courts, all excluded individuals are invited to comply with this code. In summary, the Code provides the following Standards of Ethical Conduct for employees of the City-County.

Gifts valued over \$25 are prohibited:

An employee, or a member of their immediate family shall not knowingly solicit, accept, or receive a gift, favor, service, entertainment, food drink, travel expense, or registration fee valued over \$25 from a person who has a business relationship with the employee's agency or who is seeking to influence an action by the employee in his or her official capacity. No employee should accept gifts totaling over \$100 in any one calendar year from a person who has a business relationship with the employee's agency or who is seeking to influence an action by the employee in his or her official capacity.

Additional exceptions to the gift rule may apply. Please contact the Office of Corporation Counsel (317) 327-4055 or ethics@indy.gov for further guidance before accepting any gift valued over \$25.

Honoraria are prohibited:

An employee shall not personally accept an honorarium for any activity that may be considered part of his or her official duties.

Political activity and patronage are prohibited:

An employee shall not engage in political activity while on City or County time, or with City or County resources. No employee may request or compel political activity by a person under threat or promise of official action or inaction. It is not a violation of the Ethics Code to encourage an employee to work the polls in an official position on Election Day.

Employment restrictions:

An employee shall not knowingly accept other employment involving compensation of substantial value if the responsibilities of that employment are inherently incompatible with the responsibilities of his or her position. Also, he or she shall not accept employment or engage in business or professional activity that would require the individual to disclose confidential information.

Post-employment restrictions:

A former employee may not represent or assist a person in a particular matter involving the City or County if the former employee personally and substantially participated in the matter as an employee, even if the former employee receives no compensation for the representation or assistance.

Nepotism:

A relative of an employee shall not be hired by, supervised by, or directly supervise the employee.

Additional or excess compensation:

An employee may not solicit or receive compensation for the performance of official duties other than as provided by law.

Conflicts of interest, discussions, decisions, and voting:

An employee shall not participate in any discussion, decision, or vote, if he or she has knowledge that any of the following has a financial interest in the outcome of the decision or vote:

- The employee;
- A member of the immediate family of the employee;
- A business organization in which the employee is serving as an officer, a director, a trustee, a partner, employee, or subcontractor; or
- Any person with whom the employee is negotiating or has an arrangement concerning prospective employment.

An employee who identifies a potential conflict of interest under this article shall recuse himself or herself from further action on the matter, and seek guidance from the Office of Corporation Counsel (317) 327-4055 or ethics@indy.gov) immediately.

Conflicts of interest and contracts:

An employee or a member of an employee's immediate family, may not knowingly have a financial interest in a contract made by that employee's agency.

Benefiting from or divulging confidential information:

An employee or former employee shall not materially benefit from information of a confidential nature except where permitted by law, and they shall not divulge information of a confidential nature except as permitted by law.

Use of City or County property:

An employee shall not use City or County property or personnel for any purpose other than for official City or County business.

Complicity with another’s violation:

It is a violation of the Ethics Code to knowingly induce, encourage, or aid, either directly or indirectly, anyone to violate any provision of the Ethics Code.

Ethics Training:

All employees subject to the Ethics Code shall be trained on the Ethics Code within six (6) weeks of the employee starting employment with their agency/department, and they must participate in ethics training at least every two (2) years during their tenure with the agency/department. **(See the Ethics Policy Acknowledgement form in the Appendix of this manual).**

Economic Statements of Interest:

Certain employees are required to file an Economic Statement of interest annually between April 1st and May 1st. Employees required to file are:

- 1) Chief Administrative Officer of an Agency (Agency Directors),
- 2) Any employee who reports directly to the Chief Administrative Officer of an Agency,
- 3) Employees whose employment is subject to the approval of the City County Council; and
- 4) Any employee with final purchasing authority and all employees of the Purchasing Division of the Office of Finance and Management.

It is the employee’s responsibility to comply with this requirement. You may request an Economic Statement of Interest form from the Office of Corporation Counsel (317) 327-4055 or ethics@indy.gov.

Don’t know what to do or need guidance on an ethics issue? Contact the Office of Corporation Counsel at (317) 327-4055 or ethics@indy.gov.

What do you do if you see someone violate the Ethics Code?

File a complaint with the Ethics Commission Secretary:

Any individual may file a complaint. The complaint must be in writing and signed by the complainant. The complaint shall state the nature of the alleged violation, the date, time, and place of each occurrence, and name of the individual charged with the violation. Complaints should be filed with the secretary of the Ethics Commission in the Office of Corporation Counsel, **City-County Building Room 1601**, who shall promptly provide a copy to any persons against whom a violation is alleged.

Complaints filed in bad faith:

It is a violation of the Ethics Code to file in bad faith a complaint (i.e., file a false complaint) against another person with the Ethics Commission/Office of Corporation Counsel.

Whistleblower protection:

If you file a complaint or cooperate with an investigation, your job is protected! It is a violation of the Ethics Code to retaliate or threaten to retaliate against an employee for filing a good faith complaint or cooperating with an investigation.

Questions relating to the Code of Ethics should be addressed to the Office of Corporation Counsel at (317) 327-4055 or ethics@indy.gov.

I. Non-Discrimination Policies

A. AFFIRMATIVE ACTION/EQUAL EMPLOYMENT OPPORTUNITY POLICY

The City-County is committed to equal employment opportunity and affirmative action in all aspects of employment. The City-County administers all terms and conditions of employment without regard to race, color, disability, religion, sex, age, national origin, veteran status, sexual orientation, gender identity, or genetic information except when such constitutes a bona fide occupational qualification.

This practice applies to all terms, conditions, and privileges of employment including, but not limited to, recruitment, selection, promotion, demotion, transfer, layoff, recall, rehire, termination, development, and training, compensation, benefits, and retirement.

The City-County is meeting its legal affirmative action and equal opportunity mandates through the continuing implementation and monitoring of its affirmative action plan. The City-County recognizes its obligation to applicants and employees through each stage of recruiting, selection, promotion, compensation, benefits, transfer, termination, layoff, recall, rehire, development and training, and other conditions of employment. The City-County has a goal to make affirmative efforts to eliminate the existence of all artificial barriers and ensure all qualified individuals receive equal consideration in all aspects of employment within the City-County.

The City-County continues to administer, implement, and maintain affirmative action programs in a non-discriminatory manner. The Human Resources Division maintains and administers this program with support from the Office of the Mayor. While the overall authority for carrying out this policy is assigned to the Human Resources Director, an effective Equal Employment Opportunity program cannot be achieved without the support of supervisory personnel and employees at all levels.

An employee who feels that he or she has been subjected to discrimination has a responsibility to report it to the Human Resources Division.

B. WORKPLACE HARASSMENT POLICY

The City-County is committed to providing a work environment that is pleasant, healthy, comfortable, and free from intimidation, hostility, or harassment of any kind. Sexual harassment, along with other types of harassment based on an employee's race, color, disability, religion, sex, age, national origin, veteran status, sexual orientation, gender identity, or genetic information is prohibited by the City-County and applicable law.

Definitions: Harassment is unwelcome and objectionable conduct that prevents an individual from effectively performing the duties of his/her position or creates an intimidating, hostile, or offensive working environment. Harassment can result from a broad range of actions, which might include, but are not limited to, the following:

1. Unwelcome sexual advances or any verbal or physical conduct of a sexual nature toward customers/visitors, supervisors, or employees;
2. Ethnic jokes;
3. Religious slurs;
4. Degrading or slang terms;

5. Insulting or degrading jokes, comments, or references to a person's mental or physical capabilities whether work-related or personal;
6. Insulting or degrading jokes, comments, or references about a person's race, color, disability, religion, sex, age, national origin, veteran status, sexual orientation, gender identity, or genetic information.

Sexual harassment is defined for purposes of this manual as unwelcome sexual advances, requests for sexual favors, other verbal or physical conduct, or other forms of communication (e.g., e-mail, Internet, etc.) of a sexual nature when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting such individual; or
3. Such conduct has the effect of creating an intimidating, hostile, or offensive work environment.

An intimidating, hostile, or offensive work environment may include, but is not limited to, such conduct as:

1. The display or communication (e.g., print media, e-mail, Internet, mobile phone, or any other electronic device) of sexually oriented photographs, pictures, drawings, cartoons, etc.;
2. Sexually degrading or suggestive words, jokes, messages, or insults verbally, in print, or any electronic format;
3. Comments regarding an individual's private life or sexual preference;
4. Graphic commentary about an individual's body;
5. Implicit or explicit propositions or requests for sexual favors;
6. Physical contact or gestures of an inappropriate or sexual nature.

Procedures for Handling Occurrences of Harassment

Any employee who becomes aware of an incident of harassment, whether by experiencing the incident, witnessing the incident or being told of it, should report the incident to his/her immediate supervisor or any representative of management, including a department director, county agency head, or Human Resources representative, with whom he or she feels comfortable.

The City-County is responsible for promptly and thoroughly investigating all allegations of harassment, including sexual harassment. Any employee found to have harassed another employee will be subject to corrective action up to and including discharge. The City-County will also take any additional action necessary to appropriately remedy the situation. All supervisors and managers are responsible for knowing and complying with this policy. Any manager or supervisor who is aware of possible harassment or sexually offensive conduct or who has received a complaint of harassment should contact the Human Resources Division. An investigation will be initiated. Once the investigation is complete, the supervisor or manager, in

conjunction with Human Resources, is responsible for discussing the findings with the complaining party and alleged harasser and for taking appropriate corrective action. Corrective action may be taken against the supervisor or manager for failure to comply with this policy.

The City-County does not condone false accusations of harassment. If the allegations are found to be made in bad faith, appropriate corrective action will be taken.

Confidentiality: All attempts are made to protect the privacy of the parties involved. The City-County treats allegations of harassment seriously and with confidentiality. All employees are expected to do the same. To avoid embarrassment in discussing sensitive matters, complaints are treated in strict confidence, and only those people with a “need to know” will be involved in the investigation. It may be necessary in the course of the investigation to disclose the name of the person making the complaint so a fair investigation can take place. However, under no circumstances will the City-County permit retaliation in any fashion against the complaining employee or others for raising or confirming the accusation of harassment. Records of an employee’s complaint relating to harassment are not kept in that employee’s personnel file.

Employees who fail to conduct themselves appropriately will be subject to corrective action, up to and including discharge.

Retaliation against any employee who makes a complaint or participates in an investigation pursuant to this policy is prohibited.

In conclusion, all employees are responsible for conducting themselves in a manner that ensures others are able to work in an atmosphere free from harassment.

C. AMERICANS WITH DISABILITIES ACT POLICY

It is the policy and practice of the City-County to fully comply with the Americans with Disabilities Act, as amended, (ADA) and to provide equal employment opportunities to persons with disabilities. The ADA prohibits discrimination against individuals with disabilities in the terms, conditions and privileges of employment with the City-County and protects individuals with disabilities who can perform the essential functions of a job with or without reasonable accommodations.

ADA Reasonable Accommodation Process

The ADA defines an individual with a disability as one who:

1. Has a physical or mental impairment that substantially limits one or more major life activities;
2. Has a record of such an impairment; or
3. Is regarded as having such an impairment.

An employee with a disability who is unable to perform the essential functions of his or her position may request a reasonable accommodation. Requests for reasonable accommodations may be made to the employee’s supervisor or human resources consultant, or to the director of the Office of Disability Affairs. If a reasonable accommodation request is made to a supervisor, the supervisor shall advise the department human resources consultant or the director of the Office of Disability Affairs that a request has been made. Requests for reasonable

accommodation are not required to be made in writing. When medical documentation of a disability is deemed necessary or is otherwise provided by an employee, it shall be maintained in a confidential file separate from general personnel files. All documents related to the reasonable accommodation request shall also be kept in that confidential file.

Reasonable accommodations are available to all employees and applicants with disabilities.

In considering a need for a reasonable accommodation, the following factors should be considered:

1. Whether the employee is an individual with a disability covered by the ADA;
2. The essential functions of the employee's job;
3. Medical documentation and the employee's current limitations;
4. Possible accommodations suggested by the employee;
5. Other possible accommodations; and
6. Whether the disability can be reasonably accommodated without undue hardship on the City-County or whether there is a direct threat to the health or safety of the employee or other individuals.

Once a reasonable accommodation has been requested by a qualified individual with a disability, the parties shall engage in an interactive process to identify appropriate reasonable accommodation options. If the parties cannot agree on an appropriate reasonable accommodation, the director of the Office of Disability Affairs shall make a recommendation to the employee's department director or agency head, who shall then make the final determination regarding the reasonable accommodation request.

II. Requirements of Employment

A. HIRING PROCESS

The City-County is committed to hiring only qualified applicants. Qualifications considered include education, training, experience, ability, and skills. All hiring is conducted in accordance with the City-County's commitment to equal employment opportunity, compliance with the Americans with Disabilities Act, and affirmative action goals.

To be considered for employment with the City-County, all applicants must:

1. Complete a City-County online application for employment in the Human Resources Division, or through the Internet;
2. Provide proof of U.S. citizenship or the right to work.
3. Complete other screening procedures relevant to the position. These procedures may include fingerprinting, skills testing, driver's record check, background investigation (upon conditional offer of employment), physical examination (upon conditional offer of employment), and/or drug/alcohol screening (upon conditional offer of employment); and
4. Complete any other required documents or provide any other required information.

The City-County may hire ex-offenders whose criminal past does not present a potential risk to City-County property, employees, or the public.

Nepotism: A relative of an official or employee shall not be employed in the same agency as the official or employee, if the relative would be hired by, supervised by, or directly supervise or be in the direct line of supervision of, the official or employee. For purposes of this section, relative means any person related as grandfather, grandmother, father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, uncle, aunt, spouse, son, daughter, stepchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandchild, step grandchild, niece, or nephew. This policy is aligned with and intended to be in compliance with, the State Nepotism statute (IC 36-1-20.2).

Current family relationships that fall within the definition of "direct line of supervision" and that existed before 7-1-12 are exempt from this policy.

This statute (IC 36-1-20.2) defines numerous portions of the State statute, including "direct line of supervision" and the definition provides clear guidance as to the reasons for this policy:

"Section 4. (a) For the purposes of this chapter, a person is in the "direct line of supervision" of an elected officer or employee if the elected officer or employee is in a position to affect the terms and conditions of the individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation." (underlining added)

Although the State statute seems to provide certain "grandfather" rights to any employee who was employed by the City-County, prior to 7-1-12, this policy clarifies the intent of the State statute. Notwithstanding the employment date of the family members involved in the employment, transfer, placement or promotional action, the intent of the State statute is to prevent favoritism and the possible abuse of power that can occur when family members work under or over another family member. This policy prohibits this working relationship except where the reporting relationship existed before 7-1-12.

If a dispute should arise, it shall be submitted, in writing, to the Human Resources department (HR) and the Office of Corporation Counsel (OCC) for an interpretation and such interpretation shall be final. Any agency head, department director, elected officer or his/her delegate who knowingly violates this policy or who disregards this policy shall be subject to the sanctions outlined in the State statute (IC 36-1-20.2). In addition, City employees, appointed or otherwise, may also be subject to discipline, up to and including termination for purposeful violation of the City of Indianapolis - Marion County nepotism policy.

Rehires: Former employees who seek re-employment with the City-County must apply and be processed like any other applicant. Applicants who are re-employed within thirty (30) days of separation retain their original date of employment and are credited with previously unpaid accrued benefit and unused short term disability leave. The City-County reserves the right to refuse to rehire former employees. However, applicants who were previously discharged from City-County employment **will not** be considered for re-employment for one year from the date of the termination. Please see the City-County Reemployment and the City-County New Employee Orientation policies below.

When former employees are rehired after 30 days of separation, their benefit leave accrual level will revert to the maximum of 22 days per year (i.e., 13.75 hours per month for 37.5-hour work weeks and 14.66 hours per month for 40-hour work weeks).

Transfers: Employees may transfer from one position within the City-County to another when the transfer is in the best interest of the City-County or is necessary to meet the City-County's public service commitments. Transfers may be **voluntary** (at the request of the employee) or **involuntary** (initiated by management). Employees moving from City to County or from County to City are considered transfers and must not be separated from employment.

Employees who wish to transfer from one position to another may apply for the position through the Human Resources Division. The employee's request is reviewed in a manner consistent with the hiring process outlined in this manual. When testing or other screening phases are part of the criteria for selection, the employee being considered for transfer is subject to the same requirements as a new applicant. The Human Resources Division coordinates the processing of the transfer, identifies the effective date, and advises the employee of the approved transfer.

Employees must complete the first 180 days of employment in their current position before applying for a transfer. No employee may transfer while actively on a performance improvement plan (PIP).

City-County Reemployment Policy

The following is a broad policy affecting all City-County employees covered by the Public Employees' Retirement Fund (PERF). No former employee of the City-County who has retired and is receiving PERF benefits or who is eligible to receive PERF benefits shall be reemployed by any department or agency of the City-County if the employee would be reemployed in a position covered by PERF.

Former employees applying for positions with the City-County must disclose their retirement status during the application process to the Human Resources Division, Employment Section. Failure to disclose retirement status may be grounds for immediate rejection. No member of management shall attempt or enter into any informal and formal agreements with a current or former employee of the City-County who has retired or who is anticipating retirement for the purposes of rehire or reemployment on behalf of the City-County without approval from the Office of Finance and Management and the Human Resources Division.

The Controller and the Human Resources Director may approve the rehire or reemployment of a former employee, if the employee is returning to a plan different than the employee's original pension (PERF) plan. This approval must be in compliance with all other legislative rules, ordinances, and restrictions. In any event, the City-County shall not incur any financial liability as a result of an approval or waiver of this restriction.

B. RESIDENCY REQUIREMENT

In accordance with the Revised Code of the Consolidated City-County, a person accepting full-time or part time employment with the City-County must have his/her principal place of residence in Marion County or become a resident of Marion County within six months of employment. A person who accepts seasonal or temporary employment with the City of Indianapolis or Marion County must have his/her principal place of residence in Marion County on the first day of employment. Failure to comply with these requirements or moving out of Marion County during employment may result in discharge (**see Residency Ordinance Acknowledgement Form at the back of this manual**). Please read the City-County Residency ordinance excerpt below.

Sec. 291-112. Employee residence requirement.

- a. After August 15, 1977, any person who accepts full time or part-time employment with the City of Indianapolis, or any special service or special taxing district thereof, or Marion County, must have his principal place of residence within the limits of Marion County or become a resident of the county within six months of the date when he accepts such employment; and his position as an employee of such a unit of government shall terminate six months from the date that he moves his principal place of residence from the county.
- b. After July 1, 2009, any person who accepts seasonal or temporary employment with the City of Indianapolis, or any special service or special taxing district thereof, or Marion County, must have his principal place of residence within the limits of Marion County on the first day of employment.
- c. This section shall not apply to persons who have specialized skills or training if there is no suitable applicant for the position residing within the limits of Marion County, and the appropriate elected official or his designee approves.
- d. This section shall not apply to members of the fire forces of the City, who are governed by the provisions of IC 36-8-4-2, or to members of the metropolitan law enforcement agency, who are governed by section 279-227 and 279-241 of the code.
- e. This section shall not apply to those persons who were nonresident employees of the county, the city, or any special service or special taxing district thereof, prior to August 15, 1977.
- f. This section shall not apply to any person who was a nonresident employee of an entity other than the City of Indianapolis, or any special service or special taxing district thereof, or Marion County and who became an employee of one (1) of those entities as a result of a transfer of the duties of his/her employer to the City of Indianapolis, or any special service or special taxing district thereof, or Marion County. However, if at any time during his/her employment with one (1) of those entities, such employee does become a resident, that employee shall thereafter be covered by this section.

C. POLITICAL ACTIVITIES

The City-County recognizes the right of employees to engage in political activities and participate in community, state, and national programs, provided that such participation does not prevent the full discharge of the employee's job responsibilities. In any such activities the employee must make clear that he/she is acting as a private citizen and is in no way representing the City-County.

Principles and procedures for political activity:

1. An employee shall not engage in political activity at the workplace or on city or county time, and shall not use any city or county equipment or materials to further political activity; and
2. Any employee who proposes to engage in political activity which may affect the fulfillment of job duties shall inform his/her supervisor, who in turn, must notify his/her city department director or county agency head.

If participation in political activity would prevent full discharge of responsibilities, the employee will be required to request a leave of absence for the period of such activity.

D. ATTENDANCE

To maintain a safe and productive work environment, employees are expected to be reliable and punctual in reporting to work. Absenteeism and tardiness place a burden on other employees and the City-County.

Notice of Absence: An employee should provide his/her supervisor with two weeks advance notice when requesting more than one day of benefit leave, except in unforeseen situations. However, a supervisor may approve use of benefit leave upon a shorter period of advance notice, consistent with operational requirements.

An employee should provide his/her supervisor with 24 hours notice when requesting one day or less of benefit leave, except in unforeseen situations. In the event of an unforeseen situation, the employee must provide his/her supervisor with as much notice as possible.

In the event of an unforeseen situation, which requires an absence of more than three days, the supervisor may request documentation, including doctor's statements. In the event an employee shows a pattern of unforeseen situations, the supervisor may request documentation, including a doctor's statement, for any absence of less than three days.

Abandonment of Position: An employee who is absent for three consecutive days without proper notification to his/her supervisor will be considered to have voluntarily resigned without giving notice.

Tardiness: An employee is expected to be in his/her work area and be ready to work at his/her designated time. Chronic lateness will not be tolerated and will result in corrective action, up to and including discharge. An employee who is going to be unavoidably detained is expected to call his/her supervisor or designee; however, calling ahead does not excuse the tardiness. Punctuality is a critical part of performance and an employee who is late may be subject to corrective action.

Attendance Records: An employee must complete his/her own attendance records/time sheets or punch his/her own time cards when work starts and ends. Anyone attempting to sign or punch any sheet or card other than his/her own may be subject to corrective action, up to and including discharge. If an employee forgets to sign in or out or complete the attendance record/time sheet or neglects to punch a card, the employee must notify his/her supervisor immediately.

Unauthorized Leave Without Pay: Leave without pay is not an option for employees to increase their amount of time off, but it will be the consequence of excessive or unauthorized use of leave time. Excessive or unauthorized use of leave time (shall be determined by each City department or County agency) that inhibits the satisfactory performance of essential job functions is disruptive to the operation of the work unit and may subject the employee to corrective action, up to and including discharge.

An employee is responsible for both informing his/her supervisor before being absent from his/her work duties and knowing the amount of benefit leave accrued before an absence is to take place. Therefore, **leave without pay** will occur if an employee is absent without the approval of his/her supervisor and/or does not have the appropriate leave time available to cover an absence.

E. OUTSIDE EMPLOYMENT

Circumstances may arise wherein a City-County employee desires employment in addition to City-County employment. The City-County allows employees outside employment as long as the employee adheres to the following guidelines:

1. The hours of outside employment shall not coincide or conflict with hours of scheduled work for the City-County in any normal work week;
2. The outside employment shall not conflict with the City-County job responsibilities and/or affect ability to satisfactorily perform the City-County job in any normal work week;
3. The outside employment shall not cause an employee to arrive late for, or leave early from, a scheduled shift or work hours of the City-County job;
4. The outside employment shall not constitute a conflict with City-County interests; and
5. Should an unanticipated conflict of interest result from the outside employment, management in conjunction with the supervisor shall, upon learning of such conflict, instruct the employee to terminate the outside employment. Failure to cease the outside employment as directed may be grounds for corrective action, up to and including discharge.

All elected or appointed City-County officials and certain other employees directly responsible for the effective management of City-County government and implementation of public policy, before obtaining outside employment, shall first secure the written approval of the elected official, department director, or appointee as established by Executive Order.

F. USE OF EQUIPMENT and CAMERA CELLULAR PHONE POLICY

USE OF EQUIPMENT

As a general rule, it is expected that all employees use common sense and sound judgment (and for all computer users – comply with the “Acceptable Use Policies” and the Password Policy) when utilizing City-County owned equipment. Equipment includes, but is not limited to, office and cellular telephones, computers, pagers, TDD units, facsimiles, printers, and copy machines.

Users should respect the rights and sensitivities of others and should ensure that all communications reflect and maintain a professional environment. Employees who violate this policy may be subject to corrective action, up to and including discharge.

CAMERA CELLULAR PHONES

While the City-County recognizes that cellular phones are a useful communications tool for its employees, cellular phones with camera capability raise concerns relating to potential breaches of City-County security and legal liability if they are used in an inappropriate or impermissible manner. To safeguard the City-County's confidential information, employees may be prohibited from using the camera and recording features of their cell phones during work hours. All decisions regarding the use of cell phones will be made by members of management with input from the Human Resources Division. In addition, employees are banned from using the camera and recording features of their cell phones or any camera in City-County restrooms and locker rooms or in a manner that could be considered harassing or an invasion of personal privacy.

Employees should take special note of the following:

1. The use of any and all City-County equipment should be consistent with necessary business operations. Any personal use must be incidental and not interfere with the employee's job performance or result in any cost to the City-County;
2. Employees are expressly prohibited from sending any messages or materials that contain obscene, profane, lewd, derogatory, or otherwise offensive language, or images. This prohibition includes material containing racial, sexual, or similar comments or jokes;
3. Employees are prohibited from using City-County equipment for political activity (see the Political Activities policy in the Requirements of Employment section of this manual); and
4. Employees who use the City-County's information systems are responsible for maintaining the integrity of their accounts and must protect the confidentiality of their passwords.

All records, including those generated electronically or telephonically, may be subject to disclosure under Indiana Public Records Laws or other applicable laws and may be disclosed pursuant to court order.

G. PASSWORD POLICY

Employee responsibilities related to passwords are contained in the Acceptable Use Policy. In order to protect Employees and the City-County from threats, strong passwords are needed.

Password Security Standards

1. Passwords must be 8 or more characters long.
2. Passwords must contain at least 1 character from at least 3 of the following 4 categories:
 - a. At least one lower case letter (a, b, c... z)
 - b. At least one upper case letter (A, B, C... Z)
 - c. A number (0, 1, 2 ... 9)
 - d. A special character (!, @, #, \$, %, ^, &, *)
3. Employees may not use their username as part of their password

To create a good password, it is recommended that employees pick a short phrase that is easy to remember, and then substitute uppercase letters, numbers and special characters to make a stronger password. For example

"ice skaters"	becomes	"EyeSk8rs"
"my dog fido"	becomes	"MyD0gF!do"

If employees have any questions or need help resetting their password, they should use the MyReset tool located on their computer desktop screen or contact the Helpdesk via email (helpdesk@indy.gov) or by phone 327-3075.

In order for the MyReset tool to work, employees must first register their account by opening the web browser and typing **password.indy.gov** into the address bar, then click on "Instructions." All employees with an Indy.gov email account must register their account on the MyReset tool.

For the full text of this policy, see the Information Services Agency (ISA) Intranet site.

H. INTERNET AND EMAIL USE POLICY

The City-County's email system and Internet access may not be used for any non-business related purpose without prior authorization. In no event will an employee be allowed to transmit, retrieve or store any information which may violate applicable copyright laws or which may be considered defamatory, discriminatory or harassing in nature. Accordingly, employees are strictly prohibited from using the City-County's email system or Internet access in a manner inconsistent with the Information Services Agency (ISA) Acceptable Use Policy.

For the full text of the Internet/Email Use Policy, see the ISA Intranet site.

I. SPAM PREVENTION POLICY

SPAM is the use of electronic messaging systems to send unsolicited bulk messages, especially advertising, indiscriminately. The Information Services Agency (ISA) implemented an email SPAM filter for the entire City/County Enterprise. The SPAM filtering appliance is called ProofPoint. ProofPoint collects SPAM messages, not allowing SPAM to be sent to your email Inbox. On a daily basis, the collection of SPAM messages will be provided to you in an email message for your review and disposition.

ProofPoint intercepts approximately 95% of all SPAM and puts it in quarantine. The record of SPAM sent to employee email addresses is sent to employees daily in ProofPoint email messages. Employees can review the ProofPoint quarantined email list to release legitimate email messages that were mistakenly caught. SPAM that is not kept is automatically deleted after 28 days.

Below are some examples of how employees can potentially influence the amount of SPAM they receive.

1. When signing up for a service on the web to receive information about a product or service, choose the 'opt out' option regarding receiving email from their "partners." Employees may have to un-check a pre-selected box if they want to opt out.
2. Chat and User Group sites are scanned by programs for legitimate email addresses. Employees should be careful when giving out their email address on the Internet. To avoid this concern, don't give out a business email address. Instead, give a secondary or personal email address from an account such as Hotmail or Yahoo.
3. Do not reply to be removed from a SPAM message - This gives the Spammer information that an email address is active and valuable.
4. Do not open SPAM - Merely opening a SPAM email message with an embedded graphic of a 'rich text' or HTML e-mail graphic can take an employee to the hosted Spammer's web site, which will let them know an email address is active. Employees should not open email messages if they don't recognize whom the message is from.
5. Privacy Policy – Employees should always check the privacy policy of the organization's website before submitting an email address to that site. Employees should be cautious if

it allows the company/organization to sell or share their email address to its business partners.

For the full text of the SPAM Prevention Policy, see the ISA Intranet site.

J. TECHNOLOGY ASSET MANAGEMENT POLICY

The Information Services Agency (“ISA”) is responsible for the inventory of all technology assets in the City-County enterprise. The scope of this policy encompasses all City-County technology assets.

- It is the responsibility of all City-County agencies to formally notify the Information Services Agency and get prior approval to any technology asset that the department/agency would like to trade, exchange, cascade, or use as a hot-swap device.
- It is the responsibility of all City-County department and agency supervisors and managers to ensure that all unwanted, unneeded, or unused technology assets are returned to ISA. These technology assets will then be re-distributed into the City-County environment where they are needed. It is the sole responsibility of ISA to determine where the technology assets are installed.
- All ISA technology assets must be assigned to individuals within a specific City-County department or agency, these users will be labeled as “Primary User” within the ISA Asset Management System.
- It is the responsibility of the “Primary User” to ensure that the technology assets that they are using are connected to the City-County network once a month in order to receive relevant and critical security patches and anti-virus definitions.

Missing/Stolen Assets

The Information Services Agency is responsible for the documentation and implementation of all technology asset related policies and procedures.

Technology assets are considered missing or stolen when an asset review is done and the device(s) have not “checked in” with the Altiris Software Client within a period of 90 days. ISA does allow departments to have pre-approved “hot-swap” devices that are stored by the departments and agencies; however, they are to be “checked-in” to the network once a month. It is the responsibility of the department to place the “hot-swap” device on the city/county network.

Once a technology asset is considered to be a missing or stolen device, an email will be sent to the department head in an attempt to locate the device. If the device is not located within 10 business days, the device will be considered missing/stolen. If the device is found, the technology asset information will be updated and the device will either be disposed of or returned to ISA for reissuance into the city/county environment, unless a business justification is provided by the department and that justification is approved by ISA. If the technology asset is not located, a police report will be filled out by the “Primary User” or department and sent to ISA. Once the report is received, it will be documented in Altiris. After the police report is filed, the asset will be removed from the ISA Asset Management System, and will no longer be a supported device and will be blocked from connecting to the city/county network. If the device was leased the department will be responsible for buying out the lease of that device. If the device was not previously leased, the department will be responsible for the cost of replacing the device with a like device, if one is needed.

If any City-County employee discovers a theft of a technology asset has occurred they must report the theft to their supervisor immediately, but no later than 24 hours from the day of the discovery. The supervisor is then to notify the Indianapolis Metropolitan Police Department and ISA immediately.

Policy Exemptions

The Service Delivery Manager with oversight of Distributed Computing may be contacted regarding exceptions to this policy.

Roles and Responsibilities

It is the responsibility of all employees to be good stewards of the technology assets that are used. The following defines the roles and responsibilities of being a good technology asset steward:

- End Users
 - Responsible for using the technology assets with care and consideration.
 - Responsible for following the acceptable use policy.
 - Responsible for reporting lost, stolen or missing assets immediately upon discovery.
 - Receiving appropriate approvals before moving, removing, trading, or exchanging technology assets.
 - Receiving appropriate approvals prior to installing any software on the computer.
 - Notifying ISA of any technology asset that is no longer in use, but is being stored by the department.
 - Notifying ISA of any device that is not working properly.
 - Are not allowed to store “hot-swap” devices without prior consent from ISA.
- End User Supervisors & Managers
 - Responsible for using the technology assets with care and consideration.
 - Responsible for following and ensuring their staff follows the acceptable use policy.
 - Responsible for reporting lost, stolen or missing assets immediately upon discovery.
 - Receiving appropriate approvals before moving, removing, trading, or exchanging technology assets.
 - Receiving appropriate approvals prior to installing any software on the computer.
 - Notifying ISA of any technology asset that is no longer in use, but is being stored by the department.
 - Responsible for communicating the importance of proper technology asset stewardship.

If a “hot-swap” device is issued to a department it is the Supervisor/Managers responsibility to ensure that the device “checks-in” to the City-County network once a month.

For the full text of the Technology Asset Management Policy, see the ISA Intranet site.

K. ACCEPTABLE USE POLICY

The Information Services Agency (ISA) and Agency/Departments/Courts management are responsible for the administration of the Acceptable Use Policy.

The policies and directives in this section have been established in order to:

- Protect the investment the City-County has made in computer systems.
- Safeguard the information contained within these systems.
- Reduce business and legal risk.
- Protect the good name of the City-County.

Statement of Responsibility

Managers and supervisors must:

1. Ensure that all employees are aware of and comply with this policy.
2. Create appropriate performance standards, control practices, and procedures designed to provide reasonable assurance that all employees observe this policy.

Employees are responsible for ensuring that the Internet is used in an effective, ethical, and lawful manner. Examples of acceptable use are:

- Using Web browsers to obtain business information for legitimate purposes.
- Accessing databases for information as needed.
- Using e-mail for business contacts.

Employees must not use the Internet for purposes that are illegal, unethical, and harmful to the City-County or nonproductive. Examples of unacceptable use are:

- Sending or forwarding chain e-mail (i.e., messages containing instructions to forward the messages to others).
- Broadcasting non-business related e-mail (i.e., sending a non-business related message to more than 10 recipients or more than one distribution list).
- Conducting personal business using City-County resources.
- Transmitting any content that is offensive, harassing, fraudulent, or confidential.
- "Chatting" for non-business purposes.

Downloads

Sending or receiving email attachments of greater than 20 MB is not permitted. Alternate methods exist for transmission of large business related files. Contact the Helpdesk for assistance. Downloading non-business related software, such as music, games, movies, picture files, radio programs, streaming audio or video, or destructive programs, is also not permitted.

Employees using the Internet or email:

1. Should use the standard, ISA-provided Microsoft Internet Explorer as the web browser.
2. Shall ensure that all communications are for professional reasons and that they do not interfere with productivity.
3. Shall not install, download, or run unapproved software applications from the desktop or the network.
4. Shall be responsible for the content of all text, audio, or images placed or sent over the Internet. All communications should have the employee's name attached.
5. Shall not transmit copyrighted materials without permission.
6. Shall know and abide by all applicable City-County policies dealing with security and confidentiality of City-County records.
7. Shall run a virus scan on any external file brought into the City-County computer network, whether received by email, download, or portable memory device.
8. Shall not send or receive emails greater than 20 MB.

9. Shall not transmit nonpublic customer information without taking all necessary steps to ensure the information is delivered to the proper person who is authorized to receive such information for legitimate use.

Copyrights

Employees using the Internet are not permitted to copy, transfer, rename, add, or delete information or programs belonging to others unless given the express permission to do so by the owner. Failure to observe copyright or license agreements may result in disciplinary action by the City-County and/or legal action by the copyright owner.

Monitoring

All messages created, sent or retrieved over the Internet are the property of the City-County and may be regarded as public information. ISA reserves the right to access the contents of any messages sent over its facilities if it believes, in its sole judgment, that it has a business need to do so.

All communications, including text and images, can be disclosed to law enforcement or other third parties without prior consent of the sender or the receiver. This means employees should not put anything into their email messages that they would not want to see on the front page of the newspaper or be required to explain in a court of law.

Computer Viruses

Employees shall:

1. Not knowingly introduce a computer virus, or other malicious or destructive program, into City-County computers.
2. Not open email attachments or load portable memory devices of unknown origin.
3. Scan all diskettes and other portable digital storage devices for viruses before they are read by a City-County computer.
4. IMMEDIATELY POWER OFF the workstation and call the ISA Helpdesk at 327-3075, if they suspect that their workstation has been infected by a virus.

Access Codes and Passwords

Employees shall:

1. Be responsible for all computer transactions that are made with their User ID and password.
2. Set a password protected screensaver to safeguard the computer while away from their work station.
3. Not disclose passwords to others. Passwords must be changed immediately if it is suspected that others may know them. Passwords should not be recorded where they may be easily obtained.
4. Log out or lock the computer when leaving a workstation for an extended period.

Managers shall:

1. Notify the Helpdesk promptly whenever an employee leaves employment with the City-County or transfers to another department or agency so access can be revoked.
2. Report involuntary terminations concurrent with termination.

Physical Security

Employees shall follow the directives below:

1. Sensitive or mission critical data should be stored on network servers for regular back up – never on a local drive (i.e., computer desktop or laptop).

2. Diskettes and other portable digital storage should be stored out of sight when not in use. If they contain highly sensitive or confidential data, they must be secured in a locked cabinet.
3. Diskettes and other portable digital storage should be kept away from environmental hazards such as heat, direct sunlight, and magnetic fields.
4. Computer equipment, scanners, and printers should be protected by a surge protector.
5. Environmental hazards to hardware such as food, smoke, liquids, high or low humidity, and extreme heat or cold should be avoided.
6. Since ISA is responsible for all computer and telephonic equipment installations, disconnections, modifications, and relocations, employees are not to perform these activities. Hard drives should not be moved between PCs without prior authorization. This does not apply to temporary moves of portable computers for which an initial connection has been set up by ISA.
7. Employees shall not take shared portable equipment such as laptop computers out of the work area without the informed consent of their manager. "Informed consent" means that the manager knows what equipment is leaving, what data is on it, and for what purpose it will be used.
8. Employees should exercise care to safeguard the valuable electronic equipment assigned to them. Employees who neglect this duty may be accountable for any loss or damage that may result.

Violations

Violations of the Acceptable Use Policy may result in disciplinary action in accordance with City-County policy. Failure to observe these guidelines may result in disciplinary action by the City-County depending upon the type and severity of the violation, whether it causes any liability or loss to the City-County, and/or the presence of any repeated violation(s).

For the full text of the Acceptable Use Policy, see the ISA Intranet site.

L. SOCIAL NETWORKING

SOCIAL NETWORKING POLICY

While the City-County recognizes that social networking sites are useful communication tools, their use raises concerns relating to potential breaches of City-County safety, security, and legal liability if they are used in an inappropriate or unauthorized manner. The absence of, or lack of explicit reference to a specific site does not limit the extent of the application of this policy.

Employees are prohibited from using social networking sites using City-County resources or during work hours unless it is part of a job requirement.

1. When or if referring to the City-County, personal blogs such as Facebook, MySpace, etc., should have clear disclaimers that the views expressed by the author in the blog is the author's alone and does not represent the views of the organization. Be clear and write in first person. Make your writing clear that you are speaking for yourself and not on behalf of the City-County.
2. Information published on your blog(s) should comply with the City-County's confidentiality and disclosure of data policies. This also applies to comments posted on other blogs, forums, and social networking sites.
3. Be respectful to the City-County, other employees, customers, partners, vendors, and contractors.

4. Social media activities should not interfere with work commitments. Refer to Information Services Agency (ISA) Acceptable Use Policy.
5. Your online presence reflects the City-County. Be aware that your actions captured via images, posts, or comments can reflect that of the City-County.
6. Do not reference or cite City-County clients, partners, or customers without their express consent. In all cases, do not publish any information regarding a client during networking activity.
7. Respect copyright laws, and reference or cite sources appropriately. Plagiarism, whether in writing or online, is illegal.

M. PERSONAL APPEARANCE AND DEMEANOR

Discretion in style of dress and behavior is essential to the efficient operation of City-County government. Employees should use good judgment in their choice of work clothes and remember to conduct themselves at all times in a way that best represents them and the City-County.

Employees are also required to keep their work environment clean and orderly. Employees should keep materials of a sensitive or confidential nature secure.

Specific dress codes may be adopted by City departments or divisions and in County agencies.

Employees failing to adhere to these standards are subject to corrective action, up to and including discharge.

N. EMPLOYEE RECORDS

Personnel files contain information needed to conduct City-County business, adhere to governmental regulations, and comply with legal requirements. Each City employee has a personnel file in Human Resources. County employee personnel files are maintained in the following manner.

- County employees hired after January 1, 2006:
Personnel files are maintained in Human Resources
- County employees hired prior to January 1, 2006:
Some agencies' personnel files have been transferred to Human Resources, but most records remain in the business office of the respective employee's County agency. Records collected after January 1, 2006, are maintained in personnel files in Human Resources.

An employee must report any changes in the following items to his/her immediate supervisor and to Human Resources: name, address, telephone number, and emergency contact information. In addition, employees are encouraged to submit copies of degrees or educational certificates, licenses, and other evidence (e.g., diplomas, and/or transcripts) of job-related education and training to Human Resources.

Each City department and County agency will forward required or pertinent material regarding employees (e.g., performance appraisals, corrective actions, or commendations) to Human Resources. Individual City departments and County agencies may maintain working files relating to employees.

Employees may view their personnel files in the Human Resources' office or if appropriate, their County agency's office. An employee also may give written authorization for a representative to view his/her file. Other access to personnel files is allowed in accordance with applicable laws. Copies of file materials are made at the requester's expense.

Employment verifications and reference checks shall be directed to Human Resources.

Further information relating to employment records and their retention may be obtained from Human Resources.

O. CRIMINALLY CHARGED EMPLOYEES

An employee who is charged with a criminal offense or who is under criminal investigation is required to immediately report the matter to his/her supervisor. The existence of a criminal charge or investigation involving an employee will not in and of itself result in a corrective measure against the employee. However, the City-County must be informed so that it may independently address the allegations and determine the appropriate response, including but not limited to suspension or discharge. The employee shall notify his/her supervisor about any changes in the criminal charges and about the resolution of any charges.

P. SEPARATION

Separation from employment with the City-County may be in one of several forms. Upon separation, the employee must return all City-County property, including but not limited to all keys, pagers, cellular telephones, laptop computers, electronic equipment, bus passes, parking passes, and security badges/identification cards. Failure to return all City-County property may result in civil or criminal action against the employee. Access to any and all City-County automated systems ceases upon separation. The employee should provide the City-County with his/her current address so year-end tax forms and other information can be delivered.

Voluntary Separation (Resignation or Retirement):

Removal from the City-County's payroll at the request of the employee is a voluntary separation. In such instance, the employee should provide written notice of intent to end employment along with the effective date to his/her supervisor. Voluntary separation by an employee who is eligible for retirement benefits under Social Security or any other retirement plan in effect with the City-County is considered to be a retirement. All other voluntary separations are resignations.

To receive payment of accrued leave benefits, the employee must provide at least 10-working days notice of intent to end his/her employment. Employees are not paid for short term disability, education leave, or accumulated sick leave except as provided in the Benefit Leave section of this manual.

Discharge:

Discharge is the involuntary separation of an employee, which may be due to the employee's failure to meet the City-County's Standards of Conduct, job requirements, responsibilities, or any policy/provision of the Employee Manual.

Q. ENVIRONMENTAL POLICIES

The City-County is committed to a vision of a sustainable Indianapolis that contributes to climate protection, promotes energy efficiency and conservation, and improves the health and quality of life of its citizens. An essential part of that commitment is to institute operational policies for its employees that actively promote clean air, conserve our natural resources, and reduce our country's dependence on foreign oil. Natural resource conservation and reduction of waste alleviate stress on our power grids, reduce greenhouse gases, and minimize the risk of power, water, or gasoline shortages.

To view any of the following environmental policies, log on to the Office of Sustainability's Intranet page. If you do not have access to the Intranet, ask your supervisor for assistance in viewing these policies.

The Employee Energy Conservation Policy

The Employee Energy Conservation Policy applies to all City-County employees. The policy requires the implementation by all employees of energy conservation measures relating to computers and electronics, heating and cooling, vehicle usage, recycling, and lighting.

The Recycling and Source Separation Policy

The Recycling and Source Separation Policy applies to all City-County employees. The policy requires the recycling of office paper, newspaper, plastics, tin, aluminum, steel, and other site specific waste produced.

The Vehicle and Equipment Idling Reduction Policy

The Vehicle and Equipment Idling Reduction Policy applies to all City-County owned or leased motor vehicles and equipment and will result in health benefits from cleaner air, conservation of natural resources from less fuel usage, cost savings from reduced fuel costs, and less wear and tear on publicly owned vehicles and equipment.

The Energy Conservation Policy for Facility Managers

This Energy Conservation Policy applies to identified facility managers within the City-County. It requires that those managers operate their City-County facilities in a way that is consistent with the City's goal of sustainability, conservation, reduced pollution and an enhanced quality of life for our community.

The measures required by all of these policies will result in energy and cost savings as well as environmental benefits for all the citizens of Marion County. Although they only apply to City-County vehicles, facilities or operations, employees are encouraged to follow these conservation, recycling, and idle reduction recommendations in their personal lives as well.

III. Health and Safety

A. SAFETY HANDBOOK

The City-County is committed to providing a healthy and risk-free working environment through compliance with all applicable health and safety laws and regulations. The City-County has prepared an **Employee Safety Handbook**. The **Employee Safety Handbook** includes sections relating to:

1. The General Safety/Loss Control Program;
2. The City-County Vehicle Safety Program;
3. Required Physical Examinations;
4. Worker's Compensation; and
5. Commercial Driver's License (CDL).

To ensure safe and efficient operations, employees are expected to comply with the regulations in the **Employee Safety Handbook**. To review a copy, contact your supervisor. If supervisors need a copy, they should contact the Safety Manager in the Office of Finance and Management.

B. DRUG AND ALCOHOL FREE WORKPLACE POLICY

The City-County has an interest in and is committed to maintaining a drug and alcohol free workplace. To further this commitment and in accordance with the Drug-Free Workplace Act of 1988, the unlawful manufacture, distribution, disposition, possession, or use of a controlled substance during work hours, while in a City-County vehicle, or on City-County property is absolutely prohibited. The use or possession of alcohol during work hours, in a City-County vehicle, or on City-County property is also strictly prohibited. Violation of this policy may result in corrective action, up to and including discharge, and have legal consequences as well. Employees must, as a condition of employment, abide by the terms of the above policy and report any conviction under a criminal drug statute for a violation occurring on or off City-County property while conducting City-County business. A report of a conviction must be made within five days after the conviction.

In order to assist employees in maintaining a safe, healthful, and drug-free workplace; an Employee Assistance Program (EAP) is offered for eligible employees. To find out if you are eligible, contact Human Resources. The EAP provides confidential assessment, short term counseling, referral, and follow-up to employees for personal or health problems including alcoholism, drug dependency, and many others. Eligible employees may contact the EAP directly to schedule an appointment without notifying management. An employee's communication with the EAP is confidential.

Employee Testing: The City or County may require a current City-County employee to undergo drug testing and/or alcohol testing under circumstances giving rise to a reasonable suspicion that the employee is under the influence of drugs or alcohol during work time, on City-County property, or while in a City-County vehicle. In addition, employees who hold commercial drivers' licenses are subject to drug and/or alcohol tests pursuant to federal law.

Reasonable Suspicion: Reasonable suspicion is a belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs and/or

alcohol. Circumstances that constitute a basis for determining “reasonable suspicion” may include, but are not limited to, the presence of physical symptoms of drug or alcohol use (e.g., glassy or blood-shot eyes, alcohol or marijuana odor on breath, slurred speech, poor coordination, and/or reflexes) as well as abnormal or erratic behavior. The City-County will use any method allowable by law to determine reasonable suspicion.

At the time that a reasonable suspicion that an employee is under the influence of drugs and/or alcohol arises, a supervisor must complete and sign the substance abuse form, and provide it to the employee prior to testing. The form is available from the Human Resources Division.

Refusing an Examination: A supervisor must advise the employee prior to requiring an examination that refusal, at any time, to submit to an examination will result in immediate discharge.

If a supervisor suspects the employee is using or is under the influence of **alcohol**, he/she should:

1. Call the City-County’s nearest authorized testing facility;
2. Transport the employee, or have the employee transported to the nearest center. The transporters shall remain with the employee during the test. The transporters shall provide the center with a duplicate of the supervisor’s form, and the employee being tested will be required to sign a release; and
3. The transporters shall receive the written results of the test for alcohol use and forward them to the City department director or County agency head or designee and the Human Resources Division.
4. If the test results are positive, the supervisor should transport the employee, or have the employee transported home.

If the supervisors suspect the employee is using or is under the influence of **a controlled substance or illegal drug**, they should:

1. Call the City-County’s nearest authorized testing facility;
2. Transport the employee, or have the employee transported to the nearest center. The transporters shall provide the center with a duplicate of the supervisor’s form, and the employee being tested will be required to sign a release;
3. The transporters shall remain with the employee during testing;
4. Test results relating to drugs are mailed to the Human Resources Division by the center;
5. Test results shall be used only to determine if corrective action is needed; and
6. After the testing, the supervisor should transport the employee, or have the employee transported home.

Situations covered by Federal Motor Carrier Safety Regulations will follow the City-County’s Commercial Driver’s License procedures. (See the ***Employee Safety Handbook***.)

C. SMOKE FREE WORK ENVIRONMENT

In compliance with the Revised Code of the Consolidated City-County, and to provide a healthier environment for City-County employees and customers, the City-County maintains a smoke free workplace. No person may use, hold, or carry lighted tobacco in any form (including cigarettes, pipes, or cigars) while in any vehicle owned, leased, or operated by the City-County or in any enclosed area of the City-County Building (including the parking garage) or any other buildings, structures, or rooms owned, leased, or controlled by the City-County (except public housing units leased as private dwellings or buildings occupied entirely by private businesses) in violation of the Revised Code. This includes buildings, structures, or rooms enclosed by walls and a ceiling, regardless of the number of doors or windows which may be opened.

D. PREVENTION OF VIOLENCE IN THE WORKPLACE POLICY

Because the safety and security of all employees are of great importance to the City-County, all types of workplace violence are **prohibited**. The appropriate authority will investigate any and all allegations or occurrences. Additionally, procedures have been established to respond to the results of any investigation.

Definitions:

Workplace Violence:

Threatening, intimidating, malicious, or violent behavior during work time or on City-County property whether it is leased or owned.

Violent Behavior:

Verbal threats, acts of intimidation, possessing or displaying a weapon(s) (unless issued by the department for the purpose of performing one's job), exhibiting anger or physical aggression, unauthorized destruction of property, or forms of domestic abuse, such as harassment, stalking, or physical harm. This behavior can occur at any time and may be exhibited by anyone including a customer, coworker, supervisor, or visiting friend/relative. These behaviors will **NOT** be tolerated during work time or on City-County property.

Reactions to Workplace Violence:

Should a violent situation present itself, all employees should take immediate actions to protect themselves. Employees should seek a protected place and if possible, call Building Security (City-County Building Security: 327-4347) or dial 911. Employees should remain calm and not panic. Employees should not risk personal safety for any amount of money or property.

If there is an incident of workplace violence in which a City-County employee is alleged to be a perpetrator, the appropriate authority will initiate an investigation and take appropriate action. Employees who perpetrate violence will be subject to discipline, up to and including discharge.

Proactive Measures:

The City-County recognize that in order to maintain a safe, secure workplace, we must have open communication among all employees. Therefore, the City-County promotes training, development of security measures, and evaluations of access within the workplace by non-employees, including recently terminated employees or persons with whom an employee is having a dispute. An employee who is involved in a personal abusive or threatening situation is encouraged to inform his/her supervisor, manager, Human Resources representative, or City department director or County agency head when there is a potential that the situation could affect the workplace or other employees. Additionally, if there is any form of protective order issued by a court in which the employee is named as a protected party, the employee must immediately notify his/her supervisor, manager, Human Resources representative, or City department director or County agency head.

Any employee who feels he or she is a victim of or witness to workplace violence should immediately inform his/her supervisor, City department director or County agency head, or Human Resources representative. All complaints will be investigated with no reprisals taken against any employee who reports or experiences workplace violence. Employees or supervisors who make false accusations or fail to report any complaints, allegations, or occurrences of workplace violence to the proper authority may be subject to corrective action, up to and including discharge.

IV. Standards of Conduct

A. STANDARDS OF CONDUCT

All City-County employees are expected to follow the Principles of Employment, the Ethics Code of the Consolidated City and County, and the Standards of Conduct set forth in this manual. These rules are designed to protect your rights and the rights of other City-County employees.

Violations of the Principles of Employment, the Ethics Code of the Consolidated City and County, and these Standards of Conduct, or any other policy or procedure of the City-County will result in corrective action, up to and including discharge. Although not required, the City-County may use progressive discipline to correct employee performance or conduct-related problems. In doing so, the City-County may use oral warnings, written warnings, suspensions, demotions, and discharge as a means of correcting the problem. All completed "Notice of Unacceptable Performance or Conduct Forms" must be forwarded to the Human Resources Division, and a copy should be kept in the manager's secure files.

This policy does not contain a comprehensive list of unacceptable conduct or alter the at-will nature of City-County employment. Employees are expected to use good judgment in maintaining a pleasant and productive work environment at all times. The following list illustrates examples of some of the types of conduct that may result in corrective action, up to and including discharge:

1. Poor work performance;
2. Insubordination or failure to follow instructions;
3. Theft, or unauthorized use of City-County property and resources (including but not limited to cell phones, the Internet, and copiers), or misappropriation of funds;
4. Fighting;
5. Being under the influence of any substance that inhibits satisfactory performance;
6. Violating the City-County Drug and Alcohol Free Workplace policy;
7. Gambling;
8. Causing or failing to report unsanitary, hazardous or unsafe working conditions, or failing to use or comply with safety precautions;
9. Possession of weapons, firearms, or explosives not related to the job, unless specifically authorized by City department director or County agency head, or by law;
10. Making false statements or reports, or engaging in other dishonest conduct;
11. Horseplay, scuffling, or wasting time;
12. Absence without proper notice;
13. Neglect or failure to perform assigned duties;
14. Walking off the job without authorization from management;
15. Excessive absenteeism or tardiness, or excessive delays in returning from lunch periods or breaks;
16. Threatening, coercing, intimidating, or interfering with employees, customers, vendors, or visitors;
17. Smoking in unauthorized areas or in City-County vehicles; or otherwise violating the City-County's no smoking ordinance
18. Excessive use of City-County property, including, but not limited to, telephone (landline and cell/mobile) and e-mail for personal reasons;
19. Failure to return to work after a leave of absence on the scheduled return date;
20. Use of loud, vulgar, profane, abusive, and/or obscene language;
21. Discourtesy or dishonesty;
22. Engaging in unbecoming conduct or committing any act while on or off duty that would tend to discredit the City-County;
23. Immoral, unprofessional, or disruptive behavior while on duty;

24. Working unauthorized overtime;
25. Failure to wear prescribed uniform or apparel;
26. Attending to personal matters on City-County time;
27. Engaging in activities other than City-County assignments during work hours or using your City-County position for personal gain;
28. Engaging in illegal activities;
29. Unsafe operation of a City-County vehicle or other equipment;
30. Failing to maintain confidential information or to release public information as required by law;
31. Engaging in a strike, slowdown, job action, or work stoppage;
32. Conduct endangering the safety of self or others;
33. Damaging property through willful negligence.

Questions about this policy or what is considered appropriate conduct should be directed to your supervisor.

B. EMPLOYEE SUGGESTION/CONCERN PROCESS

In any organization, there may be honest differences of opinion about working conditions, discipline, rules, and other employee concerns. The City-County is committed to open communication and continually seeks ways to improve efficiency and effectiveness. An open channel of communication is essential to a positive and productive work environment.

Employees with complaints relating to allegations of discrimination or harassment should follow the complaint procedure set forth in the Harassment Policy of this manual.

If employees have other suggestions or concerns, the City-County encourages them to do the following:

1. Discuss them with their supervisor or manager who, in most cases, will be able to resolve the situation. If the supervisor is not able to resolve the situation, bring the concern to the attention of higher management.
2. If these steps do not result in a satisfactory solution, bring the concern to the attention of Human Resources for a review of the matter.

The City-County, its employees, and all of the citizens of Indianapolis will benefit from open communication.

C. NON-FRATERNIZATION POLICY

While the City-County does not wish to unjustly interfere with the off-duty and personal conduct of its employees, certain types of off-duty conduct may interfere with the City-County's operations.

The City-County strongly believes that an environment where employees maintain clear boundaries between employee personal and business interactions is most effective for conducting business. Although this policy does not prevent the development of friendships or romantic relationships between coworkers, it does establish clear boundaries regarding relationships during working hours and within the working environment. Individuals in supervisory relationships or other influential roles, such as employees who have access to confidential information, are subject to more stringent requirements under this policy due to their status,

access to sensitive information, and ability to influence the business operations of the City-County.

To prevent unwarranted sexual harassment claims, uncomfortable working environment or relationships, morale problems among other employees, and even the appearance of impropriety, employees with access to confidential information, managers, and supervisors of the City-County are strictly prohibited from engaging in consensual romantic or sexual relationships with any employee under their management or supervision. Managers and supervisors are strictly prohibited from engaging in consensual romantic or sexual relationships with other managers or supervisors within the same department, agency, or division.

This policy is intended to supplement the Workplace Harassment Policy, which is reinforced in the Standards of Conduct.

Procedure:

Employees are strictly prohibited from engaging in physical contact that would in any way be deemed inappropriate by a reasonable person, while anywhere on City-County premises, whether during working hours or not.

Employee off-duty conduct is generally regarded as private, as long as such conduct does not create problems within the workplace, or violate local, state or federal law. An exception to this principle, however, is romantic or sexual relationships between supervisors, managers, and subordinates.

Supervisors and managers, or anyone else in sensitive or influential positions must disclose the existence of any relationship with another coworker that has progressed beyond a platonic friendship. Disclosure may be made to their **immediate supervisor or the Director of Human Resources**. This disclosure will enable the City-County to determine whether any conflict of interest exists because of the relative positions of the individuals involved, and what, if any, action will be taken.

Where issues or potential risks are identified the City-County will work with the parties involved to consider options for resolving the issues. Reallocation of duties, transfers, and separation from employment are among the options that may be considered and taken by the City-County.

All supervisors and managers are responsible for knowing and complying with this policy. Any manager or supervisor who is aware of a possible violation of this policy, or who has received a complaint of a violation should contact the Director of Human Resources.

Any employee who becomes aware of an incident in violation of this policy, whether by experiencing the incident, witnessing the incident, or being told of it, should report the incident to his/her immediate supervisor or any representative of management, including a City department director, County agency head, or Human Resources representative, with whom he or she feels comfortable.

V. Compensation

A. COMPENSATION AND JOB CLASSIFICATION

Compensation Philosophy:

The City-County compensation philosophy is to pay salaries that attract, motivate, and retain qualified employees and recognize performance.

Total compensation at the City-County consists not only of salary, but also the various benefits offered, such as group health, dental, life insurance, disability insurance, etc.

Pay Grades and Salary Ranges:

All non-bargaining unit positions are assigned a pay grade using the City-County's job classification system. The level of the pay grade is based on the responsibilities and requirements of the position that are described in the job description. Each pay grade has a salary range with a minimum and maximum salary.

Salary Range Minimum:

Starting salaries above the minimum will be determined based on the applicant's qualifications. Generally, newly hired or transferred employees with little or no background experience are assigned the minimum salary of the grade.

Salary Range Maximum:

Generally, no employee will be assigned a salary above the maximum of the salary range for his/her position.

Pay for Performance:

Salary increases for non-bargaining unit employees may be made based on the individual's performance and job duties, as well as the approved budget. Accomplishment of objectives and the appropriate competencies will also be used in rewarding individuals for meeting or exceeding their performance expectations.

Bargaining Unit (Labor Union) Employees:

Bargaining unit positions and pay rates are set by their respective union contract.

Payroll Procedures and Deductions:

Compensation for documented hours worked and authorized leave time is paid pursuant to applicable collective bargaining agreements for bargaining unit personnel and as required by law for all other City-County employees. Payroll deductions required by law or court order (income taxes, social security tax, wage garnishments, etc.), as well as voluntary deductions (insurance, charitable contributions, etc.), are withheld from the employee's check. Employees with questions regarding their paychecks or deductions should contact their timekeeper.

B. HOURS OF WORK AND OVERTIME

The City-County is committed to providing consistent policies and procedures regarding time keeping and overtime that are in compliance with all State and Federal Laws. All employees are accountable to the public and must keep accurate records of their attendance.

Hours of Work:

The work week for full-time employees is any 37.5-hour or 40-hour work period occurring within a regular recurring period of seven consecutive 24-hour periods. To determine which work period (37.5-hour or 40-hour) your department or agency follows, ask your supervisor. It may begin on any day of the week and at any hour of the day and need not be the same for all departments and employees. To ensure all full-time employees are compensated at an appropriate rate, it is the responsibility of management to establish specific work schedules and hours related to duty assignments.

Statements regarding work days and hours are intended to describe normal conditions only. They are not a guarantee of hours to be worked. For business reasons, management may change an employee's regularly scheduled work hours or week. When possible, the employee will be given at least five working days written notice of the schedule change.

Recordkeeping:

Each City department and County agency is responsible for maintaining accurate records relating to employee attendance and hours worked. Paychecks cannot be issued without complete and timely attendance documentation. It is the responsibility of each department and agency to ensure that properly completed time records are submitted in sufficient time to meet the payroll deadline. The Auditor's Office - Payroll Division is the official keeper of such records for the City and County.

Once a time keeping record is entered by the employee and is approved by his/her supervisor, it is the official documentation of time worked, subject to correction. If the employee is not available to enter or to complete the time record, the immediate supervisor shall do so for the employee. Intentional falsification of time keeping records, or recording time worked for another employee without authorization from a supervisor, may subject the involved employee(s) to corrective action, up to and including discharge.

Classifications under the Fair Labor Standards Act (FLSA):

In accordance with the FLSA, all positions of employment within the City-County have been classified as one of the following:

Non-Exempt:

An employee who is eligible for premium overtime.

Exempt:

An employee who is paid on a salary basis and is not eligible for premium overtime.

Not Covered:

Certain appointed positions are not covered by the FLSA.

Timekeeping for Non-Exempt Employees:

Hours paid are based on actual hours worked, and calculated on a quarter-hour basis using either a time clock or hand-written entries. If an employee arrives at or returns to work late, hours worked are computed on the next quarter hour. Quarter hours are broken down as follows:

- 1-7 minutes late = grace
 - 8-22 minutes late = 15 minutes
 - 23-37 minutes late = 30 minutes
 - 38-52 minutes late = 45 minutes
 - 53 minutes, up to 7 minutes past the next hour late = one hour
- This quarter-hour schedule repeats cumulatively with each hour.

Similar computations are made if the employee leaves or is required to arrive early. It should be noted this policy is for pay purposes only and is not an authorization for tardiness or absence from scheduled work. Specifically, tardiness or unauthorized absence from work during the grace period may be the basis for corrective action, up to and including discharge.

Timekeeping for Exempt Employees

In accordance with principles of public accountability, exempt employees are required to record their presence at and absence from work on an approved time record. All leaves shall be documented on the time record. Exempt employees who take time off during the regularly scheduled work week after having exhausted their leave benefits or who cannot use their leave benefits pursuant to office policies will be docked for time not worked during that work week.

Overtime Policy:

Management has the right to require overtime work when the needs of the City-County require it; however, **overtime work for non-exempt employees is allowed only when approved in advance by management.** Violations of these policies may subject an employee to corrective action, up to and including discharge.

Overtime Pay and Compensatory Time Off for Non-Exempt Employees:

A Compensatory Time Off and Gap-Time Agreement form must be signed by all non-exempt employees. This form sets forth the policy on compensatory time, overtime and gap time.

Employees working for agencies that follow a 37.5 hour work week:

Gap time is defined as the time worked between thirty-seven and one-half (37.5) hours and forty (40) hours for those employees who work a thirty-seven and one-half (37.5) hours work week. If employees' regular hours of work are thirty-seven and one-half (37.5) hours each work week, they will receive straight time pay for hours worked over thirty-seven and one-half (37.5) and up to forty (40) hours in a given week.

For each hour worked over forty (40) in their established workweek (37.5 or 40 hour workweek), they will be paid at the rate of one and one-half times their regular pay rate or granted compensatory time off at one and one-half times.

For the purposes of calculating premium overtime, all paid leaves except sick leave, short term disability, and compensatory time off are added to the total hours worked. Benefit leave hours used are added to the total hours worked.

The method for compensating overtime, whether through pay or compensatory time off, is determined by the respective City departments or County agencies, and is based on budgetary constraints and staffing levels. An employee may only accrue a maximum of 240 hours of compensatory time and must receive monetary compensation for subsequent overtime hours worked. To maintain the efficiency of its operation, management reserves the right to approve compensatory time off at its discretion. City departments and County agencies may establish lower limits for the accrual of compensatory time.

Overtime pay is reflected on the paycheck following the end of the pay period in which the overtime was worked, provided the time is properly documented and approved. Compensatory time may not be used before it is accrued.

Upon separation of employment or transfer to an exempt position, non-exempt employees are compensated for all compensatory time accrued.

Compensatory Time for Exempt Employees:

Because exempt employees are salaried and responsible for "getting the job done," they may be required to work beyond the regularly scheduled work week. Compensatory time is available to exempt employees only in those exceptional circumstances when, in the opinion of the department director/agency head or his/her designee, the job requires the employee to work a longer amount of time than the regular course of the job demands. All such compensatory time must be documented on an approved form and is compensated at straight time. Upon separation, exempt employees will not be paid for unused compensatory time.

C. PERFORMANCE MANAGEMENT

To assist each employee in achievement of maximum job performance and job satisfaction, it is the policy of all City-County agencies to review each employee's performance at least once a year. It is intended that this process be a collaborative effort with full involvement of both the employee and the employee's supervisor or manager.

The objective of the Performance Management Program is to develop, motivate, and improve the employee's performance by:

1. Providing a basis for measuring and evaluating the employee's performance against job requirements;
2. Identifying areas in which improvement is necessary to enhance performance and focusing on strengths on which to build;
3. Implementing specific development plans to improve job performance and/or advancement potential;
4. Providing an objective basis for compensating an employee according to the results he/she has achieved on the job; and
5. Identifying potential candidates for positions of increased responsibility.

The annual performance appraisal form is available on the HR Intranet site, from your supervisor, or the Human Resources Division. Management may review performance evaluations with other criteria as a basis for personnel actions such as transfer and promotion.

Annual Performance Appraisal:

Supervisors or managers will review and appraise the work performance of each employee who reports directly to them annually on a calendar year basis. The appraisal will then be discussed with the employee. Additionally, each supervisor will be responsible for working with the employee to form specific development plans to improve job performance and/or prepare the employee for future assignments. After the discussion, the employee should sign the form. The completed Year-End Appraisal form must be forwarded to the Human Resources Division for placement in the employee's personnel file. Managers shall keep a copy and provide a copy to the employee.

D. TRAINING AND CONFERENCES

The City-County encourages the development of employees through education and training. Programs are designed to enhance an employee's ability to perform present duties and increase the employee's potential for future service.

Internal Training Programs:

The City-County offers regular training courses in a variety of subjects for employees to enhance their career growth. Course descriptions and registration are available on the Human Resources Intranet site.

External Training and Education:

Many training programs are offered by entities outside of City-County government. City department directors and County agency heads may authorize attendance, with or without pay, at job-related conventions, training sessions, and other functions. The City-County may reimburse allowable expenses for approved training when the employee submits original receipts.

E. INCENTIVE PAY PROGRAMS

Members of management may create and implement incentive pay programs for the employees of their department, division or agency. There are some important elements that should be considered within the framework of any incentive pay program. Incentive pay programs should incorporate the following:

1. Management Commitment
2. Supports Organizational Goals and Values
3. Linked to Bottom-Line Results
4. Recognized Value of Awards to Employees
5. Fairness/Equity in Distribution of Awards
6. Simplicity of Program
7. Timeliness
8. Ensures Continuous Evaluation/Improvement

It is important to explain the link between motivation of employees and results that benefit the organization. All members of management must submit program material to human resources for review and approval. If assistance is needed with the development or implementation of a program, contact human resources.

VI. Benefits

A. INTRODUCTION TO BENEFITS

The City-County provides an excellent consolidated benefit program with a goal of meeting a variety of needs for employees and their families. Additional voluntary programs provide options to meet additional needs and are also available through convenient payroll deduction.

For more information about benefits, please see the Human Resources Division Intranet site.

B. BASIC INFORMATION FOR CORE BENEFITS

1. Eligibility and Open Enrollment

Full-time employees and part-time employees scheduled to work 1,320 hours or more in a calendar year are eligible to enroll in the group plans. Seasonal and temporary employees are not eligible. **Enrollment must be completed within 30 calendar days from the date of hire.** Employees who do not enroll within their first 30 days of employment may only enroll during a subsequent annual open enrollment period or upon the occurrence of a Qualifying Event (Qualified Change in Family Status).

For information for eligible dependents, go to the following Intranet page:
<http://ebc.ubabenefits.com/city/Employee-Benefits/Employee-amp-Dependent-Eligibility.aspx>

An annual Benefits Open Enrollment is generally held during the last quarter of the calendar year. During open enrollment, employees have the opportunity to change their benefit elections. Employees may change beneficiaries at any time during the year, and may also make changes to many of the voluntary benefits at any time during the year.

2. Eligible Dependents

Eligible dependents include spouses, same or opposite gender domestic partners, and dependent children. Dependent children may include natural children, step-children (if the employee is legally married to the natural parent), or a grandchild for whom the employee has a court-ordered guardianship.

Employees may not cover parents, grandchildren (except as noted above), for any other person regardless if they are dependent upon the employee for support or not. For health, dental, and vision insurance, children may be covered until the end of the calendar month of the 26th birthday. Children removed for a qualifying event are removed at the end of the month in which the event occurs.

A. Declaration of Domestic Partnership

Eligibility for benefits for domestic partners requires the employee to sign an affidavit of Declaration of Domestic Partnership. The employee will also be required to pay taxes on benefits provided to the domestic partner. For more detailed information, contact your benefits representative.

B. Spousal/Domestic Partner Exclusion

Spousal/Domestic Partner exclusion is defined as:

A spouse/domestic partner who has group medical coverage available through his/her employer, where at least 50% of the monthly premium is paid by his/her employer, is not eligible to enroll in the City-County medical plans. For those employees whose spouse/domestic partner is still eligible, an electronic affidavit will be completed during the online enrollment process. The spousal/domestic partner exclusion only applies to the medical plans.

3. Qualified Change in Family Status

Changes to benefits such as adding or dropping dependents, adding or dropping coverage, etc., may be made during the year (outside of open enrollment if one of the following IRS qualified events occur):

- A. Marriage;
- B. Birth of a child or legal adoption of a child/dependent;
- C. Divorce;
- D. Death of dependent;
- E. Change in eligibility coverage for a dependent;
- F. Loss of coverage due to a change in spouse or domestic partner employment status or insurance coverage;
- G. Change in residence that affects eligibility for coverage;
- H. Medicare/Medicaid eligibility; or
- I. Special enrollment rights under the Health Insurance Portability and Accountability Act (HIPPA).

Any changes made to coverage as a result of a Qualifying Event must be consistent with the Qualifying Event change. **An employee who has a Qualifying Event must make changes within 30 calendar days of the event;** otherwise, the change cannot be made until the next annual benefits open enrollment period.

4. Paying for Insurance Premiums

Insurance premiums are paid through convenient payroll deductions. Employees on unpaid leave should make arrangements with Payroll to continue payment of premiums. Otherwise, their coverage is subject to termination.

C. EXPLANATION OF CORE BENEFITS

The City-County offers several different core benefits. These benefits include:

- A. Medical
- B. Dental
- C. Vision
- D. Group Life and Accidental Death and Dismemberment coverage
- E. Voluntary and Dependent Life Insurance

- F. Short Term Disability
- G. Group Long Term Disability
- H. Worker's Compensation
- I. Flexible Spending Accounts for unreimbursed health care expenses and for dependent care expenses
- J. Health Savings Accounts for unreimbursed health care expenses and for dependent care expenses
- K. Retirement Savings Plans
- L. Wellness Program
- M. Employee Assistance Program (EAP)
- N. Various voluntary programs such as additional life insurance coverage, additional disability coverage, legal services, etc.

In general, benefits that require enrollment must be selected within the first 30 calendar days of employment and enrollment must occur using the online enrollment system. Employees may enroll in voluntary benefits (except voluntary life insurance connected with the basic life) at any time during the year.

1. Group Health Insurance: Medical, Dental, Vision, Life, Flexible Spending Accounts

There are several choices available for employees and their family's health care and income protection needs.

For medical, dental, and vision, employees may choose to cover themselves. If employees choose to cover eligible dependents, they must also be covered. There are multiple tier options available depending on the department or agency in which the employee works. For more details, employees should see the most current benefits rate sheets for their department or agency. Employees are not required to have the same coverage for all options – employees may have family dental and single medical, for example. Employees may make the choice. Employees pay a portion of the premium and may have some out-of-pocket expenses for the coverage they use.

Flexible Spending or Health Savings Accounts provide tax-free benefits for eligible out-of-pocket expenses for employees or their dependents. Dependent Care Flexible Spending Accounts may also provide tax-free benefits for the care of a dependent child at a licensed day care provider.

2. Retirement Plans: Indiana Public Retirement System (INPRS) - Public Employees' Retirement Fund (PERF)

Since July 1, 1978, the City-County have been participants in the Public Employees' Retirement Fund (PERF). This fund pays benefits to cover workers or their dependents upon retirement, death, and in some instances, serious illness or injury. The City-County contributes to your PERF Annuity Savings Account and your PERF Pension Account on a quarterly basis. You may also elect to make a voluntary contribution (up to 10% of your income) to PERF to add to your retirement savings on a voluntary basis.

Employees are fully vested in their Annuity Savings Account from the first day of employment. Employees are fully vested in their PERF Pension Account after completing 10 years of credited service. This includes other PERF credited years of service. PERF benefits are comprised of two parts:

Pension – which is based on the employee’s length of employment, average salary, and age (paid by the City-County); and

Annuity – which is based on a three percent (3%) contribution (paid by the City-County), interest earned, and the employee’s age. An employee may also contribute up to an additional ten percent (10%) of his/her compensation per pay period on a post-tax basis to increase his/her annuity savings account.

Eligibility for Retirement

All full-time employees and part-time employees scheduled to work more than 1,320 (City) hours or 1,550 (County) hours in a calendar year are enrolled when they are hired. An employee is eligible for full retirement benefits if he/she meets one of the following definitions:

1. at the age of 65 with ten or more years of creditable service, or
2. at age 60 with at least 15 or more years of creditable service, or
3. if the member’s age in years plus the years of creditable service equals at least 85 and the member is at least 55 years of age.

With 15 or more years of creditable service, the employee may retire as early as age 50 with a reduced pension. Employees who separate from the City-County within their first ten years of employment need to contact PERF regarding their PERF annuity.

If you are thinking about retirement, be sure to submit your retirement application no later than 90 days BEFORE your retirement date. For questions relating to PERF, contact:

PERF

**One North Capitol, Suite 001
Indianapolis, IN 46204**

www.in.gov/inprs/

PERF may be contacted via phone at (888) 526-1687 or TDD at (317) 233-4160.

3. Voluntary Retirement Savings Option – 457 Deferred Compensation Plan

Besides voluntary contributions to PERF, you may elect to contribute to an individual retirement savings program through a 457 Deferred Compensation Plan. Employees are encouraged to consider setting aside money on a pre-tax basis to prepare for their future retirement. You may enroll in the 457 Plan or change the amount you contribute at any time during the year. If employees have questions, they should contact AUL - A One America Company at: (800) 249-6269

4. Wellness Program

The City-County offers a voluntary and free wellness program to all employees who have enrolled in a Consumer Driven Health Plan (CHDP). The wellness program’s focus is to provide assessment and information to help in areas of physical health, nutrition, fitness, and stress management for CDHP enrollees and their dependents.

All interactions with the wellness staff are held in confidence by health care professionals providing the services relating to the program. The City-County is advised only of participation and composite data not specific to any identifiable individual.

Time spent participating in the annual assessment process (Health Risk Assessment and annual physical) is considered hours worked. Engaging in any other wellness activities, such as the fitness centers, is done on the employee's time.

The wellness clinics are located conveniently throughout the Indianapolis area. Employees who are enrolled in a Consumer Driven Health Plan (CDHP) are encouraged to visit one of the clinics nearest to them to receive primary care at a reduced cost.

The following are some guidelines related to using the clinics:

- Employees must provide their own transportation to go to the clinics.
- Employees who visit one of the clinics for their annual wellness screening may do so on work time with supervisor's approval.
- Employees who visit one of the clinics for any reason other than their annual wellness screening must do so on their own time (i.e., benefit leave, personal time, comp time, flex time, or leave without pay) and always and only with their supervisor's prior approval if leaving from work.
- If an employee is going from home to visit a Clinic or during after-work hours, the employee may visit any Clinic of their choice. If an employee is going from work to visit a Clinic, they must go to the Clinic that is nearest their place of work.
- The City-County sponsored Clinics cannot treat or coach employees with any type of work-related injury or illness. Work-related illness or injuries should be treated at a facility authorized by the City-County Worker's Compensation program.

The City-County sponsored health clinics are there for your families overall long-term health and wellness benefit. The City-County health care partners have one mission and that is to help you and your family stay healthy.

5. Group Term Basic Life, Accidental Death & Dismemberment (AD&D), Voluntary and Dependent Life

Group Term Basic Life and AD&D in the amount of \$50,000 (with reductions after age 65) are provided to the employee at no cost. Employees should designate beneficiaries using the online enrollment system as soon as possible and keep them updated as necessary. In the event of your death, your beneficiary may claim the eligible benefit by contacting the Human Resources office at: 327-5211. If a beneficiary has not been designated, it may delay payment to an estate or other payee.

Voluntary life provides additional coverage for the employee above the basic life program. An employee may choose to apply for various levels of voluntary life coverage subject to proof of good health (also called Evidence of Insurability or EOI). All applications for increasing coverage after the first 30 days of employment require proof of good health and may be declined by the carrier.

Enrollment in voluntary life also provides a \$2,500 spouse rider and \$1,000 child rider at no additional cost.

6. Employee Assistance Program (EAP)

Eligible City-County employees and their families are encouraged to use the Employee Assistance Program (EAP) which provides free professional and confidential counseling for a wide range of personal problems. Other benefits are also available through the EAP. An employee's first EAP visit is on work time. Subsequent visits are on the employee's time, unless mandated by City-County management. Evening hours are available upon request.

7. Tuition Reimbursement

Full-time employees who have been employed by the City-County for at least 12 months may be eligible for reimbursement for approved educational expenditures for voluntary job-related education or training at accredited institutions that pertains to an employee's present or future position.

An employee may receive 75% of course tuition and 100% of the cost of required textbooks (not suggested readings) up to a maximum amount per calendar year. Approval is dependent on available budgetary funding by the employee's department or agency, applicability to the employee's position, and time limitations. An employee should contact Human Resources for the current maximum amount and other details.

Courses that are covered can be either degree-seeking college programs or non-degree classes. Courses must be considered job-related (current or future). Courses that are not job-related (current or future) must be part of a degree program that is job related (current or future). Items that are not eligible for payment include: college level exams and certification preparation classes, life experience classes, optional, social and recreational fees, and other incidental non-required fees.

Course work may not interfere with normally scheduled work although reasonable adjustments in the work schedule may be authorized. To qualify for reimbursement, an employee must:

- A. Complete and submit a **"Course Pre-approval Form, Required for Tuition Reimbursement,"** with the required approval signatures. An employee must submit the form (prior to taking the course) to his/her supervisor with the documentation listed on the form;
- B. Successfully complete the approved course with a grade of "C" or better, or if on a pass-fail system, pass the course; and
- C. Within 30 days of completing the course, submit to his/her supervisor evidence of completion, including a transcript and receipts of payment for tuition and required textbooks.

An employee must notify his/her supervisor if a pre-approved course is not taken.

D. Direct Deposit & Electronic Payment Card

1. Direct Deposit

Employees are required to receive their pay through direct deposit. Most local banks and credit unions participate in this program. Direct-deposits may be made into more than one account.

Employees can enroll in Direct Deposit through the PeopleSoft Employee Self-Service computer system. If an employee is unable to use PeopleSoft Self-Service, they will need to provide a voided check or a bank ID to establish direct deposit, and complete a direct deposit application form available from the Human Resources Division.

Employees who are unable to participate in direct deposit will receive payment through an Electronic Payment Card.

If an employee does not sign up for direct deposit within the first two weeks of their hire date, they will be automatically set up to receive payment through the Electronic Payment Card.

2. Electronic Payment Card

Employees who receive payment through the Electronic Payment Card will have their entire check deposited onto their card. All funds will be deposited onto this card and cannot be divided into multiple accounts (e.g., checking and savings).

The card works as a debit card and can be used anywhere major debit cards are accepted. To withdraw cash from the card, the card holder can go to a bank teller or ATM that accepts MasterCard. The cardholder can withdraw up to \$3,000 at a time or \$5,000 from a bank teller.

E. Nursing Mothers Policy

The City-County will provide reasonable paid break time each day to an employee who needs to express breast milk for the employee's child. The City-County will provide a place, other than a bathroom, that is shielded from view and free from intrusion from others, which may be used by the employee to express breast milk. To the extent possible, lactation breaks will be taken at the same time as any breaks already offered to the employee.

The City-County will make reasonable efforts to provide a refrigerator or other cold storage space for keeping milk that has been expressed.

F. HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT (HIPAA) POLICY

The City-County understands health information about an employee is personal and is committed to protecting that information. The City-County will provide each employee with a notice about their privacy practices regarding protected health information. A copy of the notice may be obtained from Human Resources. Any complaints about the City-County's privacy practices should be directed to the Director of Human Resources.

G. BENEFITS UPON SEPARATION: CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT of 1985 (COBRA)

COBRA Coverage

Employer sponsored group health plans may be continued (at the expense of the insured) for qualified persons under certain circumstances as provided by COBRA or applicable state laws when coverage might otherwise be terminated.

COBRA Qualifying Events The qualifying events under COBRA are as follows:

1. Termination of employment (except for gross misconduct) or reduction in the covered employee's scheduled work hours if it results in loss of coverage;
2. Death of a covered employee;
3. Divorce or legal separation of the covered employee from the employee's spouse;
4. The employee's eligibility for Medicare benefits (the employee's qualified beneficiaries are then entitled to continuation coverage, not the employee); or
5. Bankruptcy of the employer on or after July 1, 1986, with respect to a covered employee who had retired at any time. Loss of coverage includes a substantial elimination of coverage within one year before or after the date of commencement of bankruptcy proceedings.

Supervisors must immediately notify Human Resources when an employee (who is or was covered by a group health plan by virtue of his/her employment with the City-County) dies, separates his/her employment, is terminated, is given a reduction in hours. This notification is provided on the Personnel Action Request Form (PAR).

An employee (who is or was covered under a group health plan by virtue of his/her employment or previous employment with the City-County) or his/her family members must notify the appropriate benefit carrier within 60 days following the qualifying event if they choose to elect COBRA.

H. BENEFITS UPON RETIREMENT: For State Continues Only

Eligibility Requirements

For employees covered under the group health plan who reach age 55 on or before their retirement date but are not yet eligible for Medicare, the City-County offers medical coverage for those retirees and their dependents. As defined by state statute, eligible early retirees can continue insurance coverage under the City-County plans until age 65 if they meet the following eligibility requirements:

1. Completion of 20 years creditable employment with a public employer on or before the employee's retirement date, 10 years of which must have been completed immediately preceding the retirement date; and
2. Completion of at least 15 years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date.
3. Eligibility ceases upon eligibility for Medicare or when the employer terminates the health insurance program.

Insurance Coverage

An eligible retiree must file a written request with the benefits representative for insurance coverage within 90 days after the employee's retirement date. Eligible retirees pay 100% of their insurance premium.

Coverage for Surviving Spouse

A retiree who is eligible for insurance coverage as defined above may elect to have the employee's spouse covered under the health insurance program at the time the employee retires. If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired employee.

The surviving spouse eligibility ends on the earliest of the following:

1. When the spouse is eligible for Medicare;
2. When the employer terminates the health insurance program;
3. Two years after the date of the employee's death; or
4. Date of spouse's remarriage.

VII. Holidays and Leaves

A. CITY-COUNTY HOLIDAYS

Eligibility

Eligibility for holidays is determined as follows:

1. **Full-Time Employees** – must work or be on paid leave the full scheduled workday before and the full scheduled workday after the holiday.
2. **Part-Time Employees** – are compensated only for those hours of the holiday they normally would be scheduled to work. They must work or be on paid leave their full scheduled workday before and their full scheduled workday after the holiday.
3. **Temporary/Seasonal Employees** – are not eligible for holiday pay.

With the exception of those who are required to work on a holiday, employees who meet the eligibility requirements are excused from work and receive regular straight-time pay for holidays. Non-exempt employees who are required to work are paid for a holiday at their regular rate of pay for the hours worked, plus either one and one half (1 ½) times the employee's regular pay rate or compensatory time off for one and one half (1 ½) times the hours worked.

In areas that operate seven days per week, employees observe the actual holiday. In Monday through Friday operations, when the holiday occurs on Sunday, the following Monday is observed as the holiday. When the holiday occurs on Saturday, the preceding Friday is observed as the holiday. There is no duplication of holiday pay for holidays falling on Saturday or Sunday which are observed on other days.

An employee scheduled to work on a holiday who fails to report for work is not eligible for holiday pay or compensatory time off.

Holiday Pay

Holiday pay for an employee working an alternative work schedule is as follows:

1. If a holiday is observed on a day of the week when an employee is not normally scheduled to work due to his/her participation in a voluntary flextime plan, the employee shall receive a maximum of an eight-hour (seven and one-half hours where applicable) compensatory day off which shall be scheduled with the approval of his/her supervisor.
2. If a holiday is observed on a day of the week when an employee is not normally scheduled to work due to a work schedule implemented by the City-County, the employee shall observe his/her next regularly scheduled work day as a holiday and shall receive holiday pay for the number of hours he/she would have been regularly scheduled to work on that day.

The City-County holiday schedule is distributed annually.

B. BASIC INFORMATION ON LEAVE POLICIES

The City-County offers paid benefit leave to employees to use for illness, vacation, and other absences. Other paid leaves offered are:

1. School Volunteer Leave (volunteer opportunities benefiting a public school or school corporation);
2. Judicial Leave;

- 3. Military Leave; and
- 4. Family Bereavement.

Additionally, education flextime is offered to parents and primary caregivers of school-aged children (preschool through 12th grade) to attend parent conferences and school-related activities.

The following guidelines apply to leave benefits:

- 1. All leave time must be noted on the employee’s time record and documented on an approved leave form;
- 2. Management may set rules relating to the request and approval of leave time; and
- 3. Paid leave is compensated at the employee’s regular rate of pay unless otherwise noted.

C. BENEFIT LEAVE

The purpose of benefit leave is to provide eligible employees time off for vacation, sick time, and other personal reasons without loss of pay.

Both part-time and full-time employees must be in a paid status (or on Worker’s Compensation leave) for more than one half of a month to accrue benefit leave for that month.

An employee must use a minimum of one hour of benefit leave. After the first hour, benefit leave may be used in 15-minute increments.

How Benefit Leave is Accrued for Full-time Employees:

Benefit leave accrues on a monthly basis for full-time employees based on length of continuous employment with the City-County as indicated in the schedules below.

Based on a 40-hour work week

Length of Continuous Employment	Maximum Benefit Leave Days (Hours) Accrued Each Year	Maximum Benefit Leave Hours Accrued Each Month
Less than 5 years	22 days (176 hours)	14.66
5 years to 10 years	27 days (216 hours)	18.00
10 years to 15 years	32 days (256 hours)	21.33
15 years +	37 days (296 hours)	24.66

Based on a 37.5-hour work week

Length of Continuous Employment	Maximum Benefit Leave Days (Hours) Accrued Each Year	Maximum Benefit Leave Hours Accrued Each Month
Less than 5 years	22 days (165 hours)	13.75
5 years to 10 years	27 days (202.50 hours)	16.875
10 years to 15 years	32 days (240 hours)	20
15 years +	37 days (277.50 hours)	23.125

How Benefit Leave is Accrued for Part-Time Employees:

Part-time employees accrue benefit leave on a pro-rated basis, based on the number of hours scheduled.

Temporary/Seasonal employees do not accrue benefit leave.

How Benefit Leave is Accrued for New Employees:

New employees with hire dates on or before the 15th day of the month will be credited with the appropriate amount of benefit leave on the first day of the month following the month in which they are hired. New employees with hire dates after the 15th day of the month will be credited with the appropriate amount of benefit leave on the first day of the second month following the month in which they were hired.

For example:

1. Joe's hire date is March 13th; he will accrue 14.66 hours of benefit leave on April 1st.
2. Amy's hire date is March 27th; she will accrue 14.66 hours of benefit leave on May 1st.

Requesting Benefit Leave

Except in unforeseen situations, an employee must provide his/her supervisor with a two-week notice when requesting more than one day of benefit leave. However, a supervisor may approve use of benefit leave upon a shorter period of advance notice, consistent with operational requirements. An employee must provide his/her supervisor with at least a 24-hour notice when requesting one day or less of benefit leave, except in unforeseen situations.

In the event of an unforeseen situation, the employee must provide his/her supervisor with as much notice as possible. In the event of an unforeseen situation that requires an absence of more than three days, the supervisor may request documentation, including a doctor's statement. In the event an employee shows a pattern of unforeseen absences, the supervisor may request documentation, including a doctor's statement, for absences of less than three days.

Advance Use of Benefit Leave

Benefit leave may not be taken in advance of it being earned. However, an employee with less than six months of employment with the City-County may take up to 37.5 hours/40 hours of benefit leave in advance with approval of his/her City department director or County agency head and upon completion of required forms.

Transfers between City departments and County agencies

Generally, employees transferring between City departments and County agencies retain their benefit service date for purposes of benefit leave accrual and their accrued benefit leave balances transfer with them. However, while most County agencies accept the transfer of accrued benefit leave balances, some do not. Employees transferring to or from a County agency should verify the acceptance of leave balances with that County's management or timekeeper prior to transfer.

Separation of Employment

An employee must give his/her supervisor two weeks notice to receive payment for accumulated benefit leave upon voluntary separation. Employees who are discharged or separate employment prior to the completion of six months of employment will not be paid for accumulated, unused benefit leave.

Any employee with an advanced leave balance at the time of separation is required to repay the City-County for this time.

Carryover Policy

Employees covered by the current union Master Agreement between the City and AFSCME may carry over a maximum number of hours equal to the number of hours the employee could accrue in a 12-month period.

All other employees who are normally scheduled to work a 40-hour work week may carry over a maximum of 176 hours (or 165 hours if scheduled to work a 37.5-hour work week) of accrued benefit leave from one calendar year to the next.

Managers are not allowed to approve more carryover benefit leave hours than the maximum allowed. Any exceptions must be approved by the HR Director and if appropriate the County elected official or the Mayor.

Sick Leave

Though employees no longer accrue sick leave, an employee's accumulated sick leave as of September 1, 1994, may be used as follows:

Sick leave may be used in the case of an employee's illness or injury if the employee does not have enough short term disability leave to cover the absence or for a doctor's appointment, or for the first five days of absence from work due to an illness or injury. Sick leave must be used in a minimum increment of one hour. After the first hour, it may be used in 15-minute increments.

Sick leave in excess of 135 hours (37.5-hour work week) or 144 hours (40-hour work week) may be converted to benefit leave at the rate of one benefit leave hour for every two sick leave hours converted. This conversion election may be made twice a year on June 1st and December 1st and will be effective the following July 1st and January 1st. Once conversion is elected, the time converted from sick leave to benefit leave cannot be converted back and will be subject to the maximum established carryover provisions.

a. Separation

Upon an employee's separation due to death, disability (as defined by the Social Security Act) or retirement under circumstances that the employee would be eligible for retirement benefits under Social Security or any other plan in effect with the City-County, any employee with more than one year of employment from the last date of hire may be paid for accumulated sick time remaining in his/her sick leave bank at the rate of one half (1/2) his/her regular rate of pay at the time of retirement.

b. Reduction in Force

An employee who is terminated due to a reduction in force/layoff will be entitled to compensation for time remaining in his/her sick leave bank under the following conditions:

1. At one half (½) his/her hourly rate of pay up to a maximum of 18 days of compensation if the employee has more than one year of employment from the last date of hire; and
2. The employee relinquished any and all recall rights whether established by contract or by policy, within 10 days of being laid off.

Other than the conditions listed above, an employee will not be entitled to be paid for any time in his/her sick leave bank upon separation.

D. FAMILY AND MEDICAL LEAVE ACT (FMLA)

Under the Family and Medical Leave Act of 1993 (FMLA), certain employees are eligible for up to 12 weeks of leave in a 12-month period for any of the following reasons:

1. Birth of a child or to care for a newborn child. The leave must be taken within 12 months of the date of birth.
2. Placement with the employee of a child by way of adoption or for foster care. The leave must be taken within 12 months of the date of placement.
3. To care for a spouse, child, or parent who has a serious health condition.
4. A serious health condition that makes the employee unable to perform the functions of his/her job. This includes a serious health condition resulting from an on-the-job injury or illness.
5. For Military Family Leave, see Military Family Leave in this manual.

Definitions: For the purpose of this policy, the following definitions shall apply:

Family or Medical Leave: Any leave taken pursuant to this policy or for any of the reasons listed above.

Serious Health Condition: Any illness, injury, impairment, physical, or mental condition that involves:

- a. Inpatient care; or
- b. Continuing treatment by a health care provider due to:
 1. A period of incapacity of more than three consecutive calendar days that also involves treatment two or more times by a health care provider or one treatment by a health care provider with a continuing regimen of treatment;
 2. Any period of incapacity due to pregnancy or for prenatal care;
 3. A chronic serious health condition which continues over an extended period of time, requires periodic visits to a health-care provider, and may involve occasional episodes of incapacity (a visit to a health-care provider is not necessary for each absence);

4. A permanent or long-term condition for which treatment may not be effective (only supervision by a health care provider is required, rather than active treatment); or
5. Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated. Voluntary cosmetic treatments are not generally considered serious health conditions unless inpatient care is required or if complications develop.

Parent: The biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child.

Child: A biological, adopted, foster child, stepchild, legal ward, or a child of a person standing in loco parentis, who is under 18 years of age or who is older than 18 years of age and incapable of self care because of a physical or mental disability.

In Loco Parentis: An individual who has day-to-day responsibility to care for and financially support a child.

FMLA Eligibility

An employee who has been employed for at least 12 months (which need not be consecutive) and who has actually worked at least 1,250 hours during the 12 months immediately preceding the date the leave is to begin is eligible for 12 weeks of family and medical leave in a 12-month period. The 12-month period shall be measured backward from the date the employee commences family and medical leave.

If a husband and wife are both employed by the City or both employed by the County and they are both civilian employees, they are permitted to take only a combined total of 12 weeks of family leave during a 12-month period if the leave is taken for the birth of a child or after placement of an adopted or foster child, or to care for the child after birth or placement.

How to Apply for a Leave

An employee who desires a leave as described in this policy must notify the Leave of Absence Coordinator in Human Resources of his/her intent to take a leave 30 calendar days in advance of the date the leave is to begin. If the need for leave cannot be anticipated, notification must be given as soon as practicable. The appropriate FMLA leave request forms should be completed and submitted to the Leave of Absence Coordinator in Human Resources prior to the beginning of the anticipated leave. If the leave cannot be anticipated, the employee must immediately notify the Leave of Absence Coordinator in Human Resources. The Leave of Absence Coordinator in Human Resources will provide the employee with notification of approval or denial of the leave request. Eligible benefits may not be payable until appropriate documentation has been received and approved. Employees applying for FMLA leave for their own serious health condition that will require absence from work of more than 37.5/40 consecutive work hours must apply for short term disability (STD) leave at the same time. FMLA and STD will run concurrently if the leave is due to the serious health condition of the employee.

All paid leave time must be exhausted prior to beginning the unpaid portion of the leave. However, at the discretion of the employee, 37.5 hours (in a 37.5-hour work week) or 40 hours (in a 40 hour work week) of benefit leave may be reserved for later use. Sick leave and short term

disability leave shall be used only if the leave is for the serious health condition of the employee. Once paid leave time has been exhausted, the remainder of the leave shall be unpaid. An employee will not be required to use compensatory time prior to beginning the unpaid portion of FMLA leave. If the employee chooses to use compensatory time, it will not be counted against the employee's FMLA entitlement.

An employee on Family and Medical Leave due to his/her serious health condition or the serious health condition of a parent, child, or spouse will be required to submit medical certification from a health care provider to the Leave of Absence Coordinator in Human Resources on the appropriate form.

Intermittent or Reduced Work Schedule

An employee may take Family and Medical Leave on an intermittent basis or by reducing the number of hours worked if medically necessary and if the leave is taken to care for a sick family member as defined above or for the employee's own serious health condition. After the first hour, leave may be used in 15-minute increments.

Continuation of Health Insurance

An employee on Family and Medical Leave is entitled to remain on the City-County's health insurance policy for the duration of the leave. To maintain coverage, the employee must continue to make his/her contribution to health insurance coverage. If the employee fails to make his/her contribution by the 15th of the month prior to the effective date, health insurance coverage will cease. An employee shall contact City-County Payroll for information on how to continue to make his/her insurance contribution. If an employee on Family and Medical Leave notifies Human Resources that he/she does not intend to return to work for the City-County, the City-County's obligation to provide continued health insurance coverage will cease.

Return to Work

An employee will be required to provide a return to work statement from the doctor prior to returning to work if the leave was due to his/her own serious health condition, unless the employee was on intermittent leave as previously described. At the end of his/her leave, an employee shall be restored to the same position the employee held when leave commenced or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment unless the position has been affected by reorganization or reduction in force or was for a specific term or to work on a specific project. Certain key employees (as defined by FMLA) may be denied reinstatement if necessary to prevent substantial and grievous economic injury to the city or county.

Upon reinstatement an employee who has allowed his/her health insurance coverage to lapse will be entitled to re-enroll; however, he/she must enroll within 30 days of his/her return to work.

E. SHORT TERM DISABILITY (STD) LEAVE

The purpose of STD is to provide paid leave to an employee whose own serious health condition or personal illness or injury prevents the employee from performing his/her regular duties for more than 40 consecutive work hours (or 37.5 consecutive work hours in a 37.5-hour work week). STD will be administered following the same procedures and guidelines as FMLA.

If an employee requests STD leave under circumstances that qualify for the Family and Medical Leave Act (FMLA), the employee must follow the procedures outlined in that policy. Unpaid FMLA leave and paid STD leave will run concurrently if leave is due to the serious health condition of the employee.

Accrual

STD leave accrues on a monthly basis as follows:

1. **Full-Time Employees** – accrue STD leave at a rate of 10 hours (or 9.375 hours per month with a 37.5-hour work week) per month up to a maximum accrual of 400 hours (or 375 hours with a 37.5-hour work week).
2. **Part-Time Employees** – accrue STD leave on a pro-rated basis based on the number of hours scheduled – up to a maximum accrual of ten weeks of their scheduled work week.
3. **Temporary and Seasonal Employees** - do not accrue short term disability (STD) benefits.
4. **New Hires** – with hire dates on or before the 15th day of the month will begin to accrue STD leave on the first day of the following month. Employees with hire dates after the 15th day of the month will begin to accrue STD leave on the first day of the second month following the month of hire.

Note: Both full-time and part-time employees must be in a paid status (or on Worker's Compensation leave) for more than half of the month in order to accrue STD leave for the month.

SHORT TERM DISABILITY MAY NOT BE USED IN ADVANCE OF ACCRUAL.

Conditions for the Use of STD

1. To be eligible to use accrued short term disability, an employee must have an illness or injury that has caused or will cause him/her to be absent from work for more than 40 consecutive work hours (or 37.5 consecutive work hours in a 37.5-hour work week). Employees who work part time may also be eligible for STD. To determine if you are eligible and the number of hours for which you are eligible, contact the Leave of Absence Coordinator in Human Resources. Other paid leave time (excluding STD), if available, must be used during the first 37.5 hours (in a 37.5-hour work week) or 40 hours (in a 40 hour work week); otherwise, an employee will be in an unpaid-leave status.

Employees employed for less than one calendar year or less than 1,250 hours are ineligible for FMLA. However, the employee could be eligible for STD under the same procedures and guidelines used for FMLA.

2. At least 30 days prior to the time the leave is to commence, the employee must submit a completed appropriate form and a doctor's statement documenting the illness or injury and giving an approximate return date to Human Resources. If the need for the leave is not

foreseeable, the necessary documentation must be submitted in writing within fifteen days after the event occurs. STD benefits may not be payable until the appropriate documents have been received and approved. The city or county may require that the employee provide a second opinion (at the city or county's expense) from a doctor selected by the city or county. If the two opinions disagree, the city or county may require that the employee provide a third medical statement (at the city or county's expense) from a doctor jointly agreed to by the city or county and the employee. The third opinion shall be binding. All medical information shall be kept confidential.

Minimum Use of STD

STD leave must be used in day-long increments. If the STD bank balance is reduced to less than the length of a workday, the fraction may be used. The only exception is employees who are receiving temporary total disability benefits as a result of Worker's Compensation illness or injury, in which case an employee may elect to supplement these benefits using STD leave. In no event shall the combination of temporary total disability benefits, STD benefits, and the amount paid from any employer paid disability insurance exceed the employee's regular rate of pay.

Separation of Employment

An employee will not receive pay for any accumulated short term disability leave upon his/her separation of employment.

Granting or Denial of Leave

The Human Resources Division will grant or deny the request for leave in writing after receiving the leave request form and all required documentation.

Maximum Length of Leave

An employee may not be granted or allowed to remain on medical leave for a period longer than 12 months.

Health Insurance Premiums

The city-county will continue to pay their portion of health insurance premiums if the employee is on fully-paid leave status. To be on fully-paid leave status, an employee must be using leave time to receive his/her full salary.

Return From Leave

Prior to returning to work, the employee must submit a medical release stating the employee is able to return to work and perform the functions of his/her position.

F. LONG TERM DISABILITY (LTD) INSURANCE

LTD insurance is available to eligible employees who are scheduled to work 1,320 hours annually. The following groups are ineligible for LTD: bargaining unit employees, police officers, and firefighters.

Upon approval by the LTD insurance company, the benefit is effective after 90 days of disability after an employee's short term disability (STD) and other leave benefits are exhausted.

The City-County pays for the cost of LTD coverage. The benefit pays a percentage of an employee's monthly salary up to a maximum as designated by the insurance plan. If an employee experiences a long-term injury or illness, the employee must contact Human Resources as soon as possible in order to maintain continuity between STD and LTD benefits.

Note: Refer to the LTD certificate booklet for specific plan provisions and benefit levels of the policy.

G. BEREAVEMENT LEAVE

If a death occurs in an employee's family, up to three working days leave with pay may be granted by a department or agency head. For the purpose of this section, members of the family include: spouse, domestic partner, parent, child, sibling, step-parent, step-siblings, step-child, father-in-law, mother-in-law, daughter-in-law, son-in-law, grandparents, grandchildren, or relative who was residing with the employee.

Additional leave may be granted and charged to earned benefit leave time. If the employee has no accrued time, leave without pay may be granted. Similarly, for the death of someone other than those listed above, leave may be granted and charged to accrued time, or the employee may be allowed to take leave without pay if no accrued time is available.

Temporary/Seasonal employees are not eligible for paid bereavement leave.

H. SCHOOL VOLUNTEER LEAVE

The City-County recognizes that parental involvement is vital to our children's education and further recognizes that City-County employees can make significant contributions to education. Each full-time employee of the City-County (except IMPD officers or IFD firefighters who are not eligible under the current City-County ordinance) is eligible for up to 16 hours of paid-school volunteer leave per year to voluntarily participate in activities for the benefit of a public school, school corporation, or other school exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code.

Requesting Leave Time

To receive this leave (which must be taken in increments of two hours or more), an employee must complete a leave request form and submit it to his/her supervisor at least seven days before the date the leave is to be used. An employee may take no more than eight hours of school volunteer leave during the months of January through June each year, and no more than eight hours of school volunteer leave during the months of July through December each year.

The voluntary activities must be for the benefit of a Marion County school or school district and must not promote religion, or attempt to influence legislation, governmental policy, or elections to public office. An employee will not receive pay for any school volunteer leave upon his/her separation from employment. An employee may not use school volunteer leave once he/she submits his/her resignation.

I. EDUCATION FLEXTIME

A full-time employee who is the parent, guardian, or custodian of a child enrolled in school may use flextime to attend a parent-teacher conference or school related activity at his/her child's school.

An employee who desires to use this education flextime must complete a request form.

Non-exempt employees must indicate during what hours that same week the employee will make up the hours missed for the conference and/or activity. An employee must submit his/her leave request form at least seven days before the date the leave is to be used. Supervisors may approve the use of flextime if the request will not adversely affect the ability of the work unit to accomplish its mission. Education flextime will only be allowed as long as no overtime is necessary to compensate for it and the hours will be made up in the same work week.

An exempt employee will be expected to work 75/80 hours (depending on how many hours the employee is normally scheduled to work each pay period) during the two-week pay period in which he/she uses this flextime.

A supervisor may not allow education flextime of more than eight hours during the months of January through June and eight hours during the months of July through December each year.

This policy will not limit current policies of individual City departments or County agencies.

J. JUDICIAL (JURY) LEAVE

Time off with pay shall be granted to an employee who is summoned for jury duty or as a nonpaid witness in any action in any court.

No employee may receive judicial leave in any proceeding in which he/she is a party, has a monetary interest, or serves as a paid expert witness, unless the employee is the victim in a criminal proceeding. At the discretion of the supervisor, however, an employee may use accrued leave benefits in such instances.

Payment of a material witness fee does not change an employee's status as a non-paid witness.

A supervisor has the right to request verification. Temporary-seasonal and part-time temporary employees do not receive paid time off for judicial leave.

K. MILITARY LEAVE

Military leave is granted in accordance with federal, state, and local laws. There are special benefits available for certain extended active-duty employees. Eligible employees who wish to apply for these benefits must complete and submit a leave form along with documentation verifying their orders to full-time active duty to Human Resources. For additional information or any questions regarding this policy, please contact Human Resources.

L. MILITARY FAMILY LEAVE LAW

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Eligible employees who wish to apply for this leave must submit a leave form along with documentation verifying the eligible family members' orders to full-time active duty to Human Resources. For additional information or any questions regarding the policy, please contact the Leave of Absence Coordinator in Human Resources.

M. UNPAID GENERAL LEAVE OF ABSENCE

City department directors or County agency heads may approve a leave without pay for a specified period of time (not to exceed six months) when it is determined that no other leave is available. All such leaves are approved only after considering the effect of the leave on the department's or agency's operations and receipt of appropriate documentation. In addition, the director or agency head, in consultation with the ADA Coordinator shall consider whether the leave is appropriate as a reasonable accommodation for a disability covered by the Americans with Disabilities Act.

Requests for leave without pay are submitted to the supervisor and forwarded to Human Resources. Except in emergencies, the employee is required to make his/her request at least two weeks in advance of the anticipated leave.

If an employee is on leave without pay for more than one half of the calendar month, no leave benefits accrue. Employees must exhaust accrued leave and compensatory time before going into unpaid status.

Employees are eligible to remain on City-County health plans, provided they submit the total amount of premiums due during the course of leave. Premiums must be submitted to the payroll department by the 15th of the month prior to the effective date. If the payment of premiums is not received, coverage will be terminated. Employees allowing coverage to lapse are not eligible for coverage until the next open enrollment.

A City department director or County agency head will grant or deny the request for leave after receiving the leave request form and all required documentation. The employee shall be notified in writing of the director's or agency head's decision.

An employee may request an extension of previously granted leave by following the procedures described above.

Unless an employee has received approval in advance to extend their leave of absence, an employee who does not return from a defined leave of absence will be considered to have voluntarily resigned or discharged.

N. EMERGENCY CONDITIONS LEAVE

The Mayor or his/her designee may authorize the closing of a City facility or the curtailing of operations due to emergency conditions. A County agency head or his/her designee may authorize the closing of a County facility or the curtailing of operations due to emergency conditions. However, affected employees may be required to work at a different location. If conditions of a serious nature exist, but are not sufficient to close facilities or curtail operations, the respective County agency head, City department director, or his/her designee may authorize leave without pay for affected employees.

Emergency Conditions

Emergency conditions are circumstances that necessitate the closing of a City or County facility or the curtailing of operations. When a City or County facility is closed or operations are curtailed due to emergency conditions, employees whose worksite is affected by the declaration of the emergency and who are not required to work shall be given leave with pay.

Non-exempt employees designated as essential employees who are required to work during the emergency will receive their regular pay. In the event that essential employees are required to work more than 40 hours in a work week, they shall be granted compensatory time on an hour-for-hour basis for such hours worked.

Conditions of a Serious Nature

Conditions of a serious nature are circumstances that may prohibit employees from reporting to work but do not necessitate the closure of facilities or curtailing of operations.

If conditions of a serious nature exist, an employee may elect to use accrued benefit leave to cover his/her absences, if authorized by a County agency head, a City department director, or his/her designee.

The provisions of this policy shall not apply to employees on work absences with prior approval or to any other employees who are engaged in emergency response activities, such as, but not limited to, snow removal, radio operations, or emergency management.

Appendix – A
Acknowledgement Form

**City of Indianapolis – Marion County
Employee Manual
Acknowledgement Form**

The Employee Manual summarizes the City of Indianapolis – Marion County’s policies, procedures, practices, and benefits for their employees. It is not intended to cover everything, nor is it a contract of employment. From time to time, changes may be needed. The City of Indianapolis – Marion County reserves the right to make such changes and communicate those changes to employees.

I acknowledge that I have received a copy of the City of Indianapolis – Marion County Employee Manual. I agree that as an employee it is my responsibility to read this manual, to ask questions of my supervisor if I need additional information regarding items covered in this manual, and to abide by and observe any and all of the information, policies, and procedures explained in the employee manual. I also understand that the city-county may periodically change policies, benefits, and procedures and that I will be responsible to abide by and observe such changes.

Employee Signature

Date Signed

Print Name

Department/Agency

Employee ID Number

***This acknowledgement form must be returned to Human Resources in the City County Building in Room 1541. This form will be placed in the employees personnel file. A copy of the form will be provided upon request.**

City of Indianapolis and Marion County Human Resources Division

A Research Note on Time With Children in Different- and Same-Sex Two-Parent Families

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Abstract Public debate on same-sex marriage often focuses on the disadvantages that children raised by same-sex couples may face. On one hand, little evidence suggests any difference in the outcomes of children raised by same-sex parents and different-sex parents. On the other hand, most studies are limited by problems of sample selection and size, and few directly measure the parenting practices thought to influence child development. This research note demonstrates how the 2003–2013 American Time Use Survey ($n = 44,188$) may help to address these limitations. Two-tier Cragg's Tobit alternative models estimated the amount of time that parents in different-sex and same-sex couples engaged in child-focused time. Women in same-sex couples were more likely than either women or men in different-sex couples to spend such time with children. Overall, women (regardless of the gender of their partners) and men coupled with other men spent significantly more time with children than men coupled with women, conditional on spending any child-focused time. These results support prior research that different-sex couples do not invest in children at appreciably different levels than same-sex couples. We highlight the potential for existing nationally representative data sets to provide preliminary insights into the developmental experiences of children in nontraditional families.

Keywords Parenting · Family structure · LGBT · Time use · Gender

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Introduction and Background

The public debate on same-sex marriage has frequently focused on the potential impact of these unions on children (Cole et al. 2012; Joslin 2011). Simply put, opponents of same-sex marriage argue that heterosexual unions provide inherently better contexts for positive child development than same-sex unions (Garret and Lantos 2013). Little research exists, however, to support this argument, with the majority of studies finding little to no effects for children living in same-sex families (Biblarz and Stacey 2010; Crouch et al. 2014; Gartrell and Bos 2010; Rivers et al. 2008; Wainright et al. 2004).

Several limitations have diluted the power of this “no difference” evidence base, and those limitations need to be better addressed moving forward. First, because many studies of same-sex families rely on convenience samples, their findings are not generalizable and may overrepresent families with characteristics that are confounded with other factors related to better child outcomes (Biblarz and Stacey 2010; Gartrell and Bos 2010). Second, same-sex families may be more selective than other families because their children are more likely to come from adoption (often from foster care), from artificial insemination, or through divorce from an opposite-sex partner and subsequent partnership with a new stepparent (Lavner et al. 2012; Potter 2012; Rosenfeld 2010). Third, quantitative research on child outcomes in same-sex families makes assumptions about the types of parenting investments made in different- and same-sex families without directly testing these assumptions, often because the data do not allow for the study of parenting (Biblarz and Stacey 2010; Gartrell and Bos 2010; Rivers et al. 2008; Wainright et al. 2004).

This parenting angle deserves further consideration, especially with data that can address many of the other limitations we noted earlier. Research has documented the benefits for children (above and beyond selection effects) of living with two parents rather than in a single-parent home, with parental time investment being an important mechanism of influence (Crosnoe and Cavanagh 2010; McLanahan 2004; Sanberg and Hofferth 2001). What we do not know is whether this pattern extends to same-sex couples relative to different-sex couples. The former have two parents, but are two parents of the same sex different from two parents of the opposite sex? Past research with convenience or otherwise nonrepresentative samples has not found many differences in parenting associated with the gender composition of two-parent families (Biblarz and Stacey 2010; Farr et al. 2010). Investigating whether this pattern extends to parental time investment in a representative sample can inform this general conclusion.

Exploring time engaged in child-focused activities with household children across same- and different-sex partnerships is an important step in understanding whether and how the gender composition of two-parent families matters. This research note provides a preliminary description of data relevant to this issue from the American Time Use Survey (ATUS), which, we argue, is a valuable source for demographers interested in studying family structure in a time of rapid change in how families are defined. The ATUS captures how and with whom people spend their time in a given day, with a long line of social science research underscoring time spent with children as a developmentally important marker of parenting investments (e.g., Bianchi 2011; Kalil et al. 2012). Nevertheless, one major weakness is the relatively small sample of parents in same-sex partnerships. In this sample, 55 parents were identified as having same-sex partners; hence, the findings should be interpreted with some caution.

Method

The ATUS is a nationally representative time-diary survey conducted by the U.S. Census Bureau. One member of each household sampled was asked to fill out a time diary, reporting detailed information on the activities they participated in, and with whom, over a 24-hour period. In addition, sociodemographic information on the respondent and other household members was collected. We pooled 11 years of data (2003–2013) and then limited this sample to respondents who had a spouse or partner living with them, and household children aged 18 years or younger ($n = 44,188$). Although the legislation concerning same-sex marriage in many states underwent major changes during this period, we use every ATUS year available to maximize the sample size in order to allow for comparisons across gender. We also controlled for year of study participation in the multivariate analyses.

Measures

Time Use

Total time engaged with children was a continuous measure of minutes respondents reported spending doing child-focused activities with household children (e.g., physical care, playing, teaching) or on activities directly related to parenting investment (e.g., attending children's events, participating in parent-teacher conferences, organizing or planning activities). Table 3 in the appendix provides a list of these activities. Total time engaged with children was then used to create another measure of time: the percentage of nonwork time engaged with children (i.e., the proportion of time engaged with children as a proportion of all time not spent at or commuting to paid employment). Using this metric, the proportion of nonwork time engaged with children could be seen as a measure of the free time potentially available for parents to make decisions about investing that time in their children.

Family Structure

Respondents identified the sex of and their relationship to each household member. From this information, we identified different- and same-sex couples based on whether the respondent identified either a spouse or unmarried partner and the sex of that partner. Four dummy variables indicated respondents' and their partners' sex: (1) women with different-sex partners ($n = 23,507$), (2) women with same-sex partners ($n = 38$), (3) men with different-sex partners ($n = 20,626$), and (4) men with same-sex partners ($n = 17$). Although these data provided a unique opportunity to explore time use among same-sex families, a limitation of this survey—and with most other nationally representative data sets in the United States—is that respondents were not explicitly asked whether their partner is of the same or different sex or about their sexual identity.

Covariates

We created controls for other factors that could have influenced the time parents engaged with children (employment, partner's employment, educational

attainment, partner's education, family income, number of children in the household, age of children, gender of children, respondent race/ethnicity, nativity, age, whether they were a student, geographic region, and whether they lived in a metropolitan area) and time-diary information (whether the diary was recorded on a weekend or a summer month, the year, and whether it was a holiday). Table 4 in the appendix presents a description of some of these key covariates by family structure. Overall, those in same-sex partnerships were more socioeconomically and demographically advantaged (e.g., income, education) than those in different-sex partnerships, highlighting the importance of these controls for the multivariate analyses.

Analytical Plan

After estimating bivariate associations between family structure and time engaged with children, we turned to a multivariate framework that controlled for other variables potentially confounded with parenting and family structure. We fit the data using a two-tier Cragg's Tobit alternative (Cragg 1971). This technique, which allows for the joint estimation of two separate processes, is often used to analyze time-diary data because they usually contain many 0 values for certain activities. This "double hurdle" approach is a particularly appropriate estimation technique given the proportion of parents who report not spending child-focused time with their children in a 24-hour period (a little more than one-third of the sample) and given that this may not be a true reflection of parents' long-run time engaged in child-focused activities (i.e., 0 values are likely anomalies resulting from the small window of time recorded, with most parents helping bathe or play with their children, for example, during a given week) (Stewart 2009).

For this study, the first estimate was the probability that parents spent any time engaged with children, and the second was the amount of time engaged with children based on that condition. These two tiers provided insight into not only family structure differences in time engaged with children but also the potential selection factors influencing that time. In Stata, the *craggit* procedure estimated these models (Burke 2009), with the suite of *mi* commands used to impute for three covariates with missing values—family income (7.8 % of all values), partner's education (2.3 %), and metropolitan area (0.6 %)—by estimating and averaging 100 imputations. Weighting accounted for the complex survey design.

Results

Table 1 presents the bivariate associations between family structure and time engaged with children. Overall, women in same-sex partnerships spent the most time engaged with children (an average of 111 minutes per day), but this amount did not differ significantly from those for women in different-sex partnerships (99 minutes per day) and men in same-sex partnerships (103 minutes). Men with different-sex partners spent the least amount of time

Table 1 Bivariate associations between family structure and time engaged with children

	N	Reported Spending Any Time With Children		Minutes With Children		% Nonwork Time With Children	
		N	%	Total	Conditional	Total	Conditional
Women With Different-Sex Partners	23,507	17,479	74.06 (43.83)	99.25 ^c (120.39)	134.02 ^c (119.18)	7.64 ^c (8.84)	10.75 ^c (9.15)
Women With Same-Sex Partners	38	32	88.40 ^c (32.45)	111.36 ^c (119.18)	125.97 (119.38)	9.20 ^c (9.15)	10.81 (9.01)
Men With Different-Sex Partners	20,626	11,289	52.53 ^{a,b,c} (49.94)	51.04 ^{a,b,c} (89.96)	97.16 ^a (104.53)	4.42 ^{a,b} (7.29)	8.96 ^a (8.18)
Men With Same-Sex Partners	17	14	82.8 ^c (38.90)	103.94 ^c (124.97)	125.53 (127.28)	7.90 (8.96)	11.09 (8.75)
Total	44,188	28,814	63.35 (48.19)	75.25 (109.03)	118.78 (116.59)	6.04 (8.26)	10.02 (8.57)

Notes: Unweighted *ns*, weighted %/Means. Standard deviations are shown in parentheses. Chi-squared and *t* tests showed no significant differences from male with male partner in the bivariate associations; significance indicators for other comparisons are as follows:

^a Different from women with different-sex partners at $p < .05$.

^b Different from women with same-sex partners at $p < .05$.

^c Different from men with different-sex partners at $p < .05$.

engaged with children than all other groups, averaging 51 minutes per day. Examining the proportion of time parents engaged with children as a proportion of time not committed to work revealed similar findings.

Table 2 displays the results of the two-tier Cragg's Tobit alternative models, which controlled for the large set of covariates. The first and third columns show the estimated probability that parents spent any time engaged with children. The second column shows the amount of time engaged with children, and the fourth column shows the proportion of free time engaged with children, based on the condition that any time is spent engaged in child-focused activities. Panel A shows estimates in relation to women with different-sex partners, whereas panel B presents estimates with men in different-sex partnerships as the reference group. Overall, women with same-sex partners were significantly more likely to spend any time engaged with children than women or men with different-sex partners. When examining number of minutes or proportion of time spent with children, conditional on spending any time with children (columns 2 and 4), the only statistically significant differences were between women and men with different-sex partners, with the former spending 3.6 % more of their nonwork time engaged with children than the latter.

Key covariates, such as educational attainment and income, that tend to strongly predict time engaged with children in past research, and that predicted such time in our analyses, were more prevalent in the sample of respondents in same-sex partnerships. They did not, however, completely

Table 2 Cragg Tobit alternative (two-tier) models: Time engaged with children in two-parent families

	Minutes With Children		% Nonwork Time With Children	
	Probability of Time With Children (1)	Minutes Conditional on Any Time (2)	Probability of Time With Children (3)	% of Time With Children Conditional on Any Time (4)
Panel A. Respondent Partnership Type (ref. = women with different-sex partners)				
Women with same-sex partners	0.65* (0.27)	55.68 (101.87)	0.65* (0.27)	4.05 (5.23)
Men with same-sex partners	0.08 (0.45)	-28.37 (143.98)	0.08 (0.45)	-3.36 (7.43)
Men with different-sex partners	-0.48*** (0.02)	-77.47*** (13.13)	-0.48*** (0.02)	-3.62*** (0.67)
Panel B. Respondent Partnership Type (ref. = men with different-sex partners)				
Women with same-sex partners	1.13*** (0.27)	133.15 (102.25)	1.13*** (0.27)	7.67 (5.25)
Men with same-sex partners	0.56 (0.45)	49.10 (144.12)	0.56 (0.45)	0.26 (7.43)
Women with different-sex partners	0.48*** (0.02)	77.47*** (13.13)	0.48*** (0.02)	3.62*** (0.67)
Observations	44,188	44,188	44,188	44,188

Notes: Robust standard errors are shown in parentheses. Model controls for respondent's educational attainment, employment, age, race/ethnicity, whether respondent is a student, respondent's partner's education and employment, family income, children in the household (number, age, and gender), whether respondent lives in a metropolitan area, geographic region, and time-diary characteristics (weekend, summer month, year, and holiday).

* $p < .05$; ** $p < .01$; *** $p < .001$

mediate the bivariate findings (full model results presented in Table 5 in the appendix).

Figure 1 shows the unconditional and conditional predicted minutes engaged with children by family structure using the estimates from the Cragg models. In sum, women (regardless of their partners' sex) and men in same-sex partnerships engaged in a similar amount of child-focused time with children—approximately 100 minutes overall, rising to about two hours among just those who engaged in any time with children. Again, however, the distinction among parents appears to be that men in different-sex partnerships engaged in significantly less time with children (although this apparent difference with the small subsample of men in same-sex partnerships was not statistically significant).

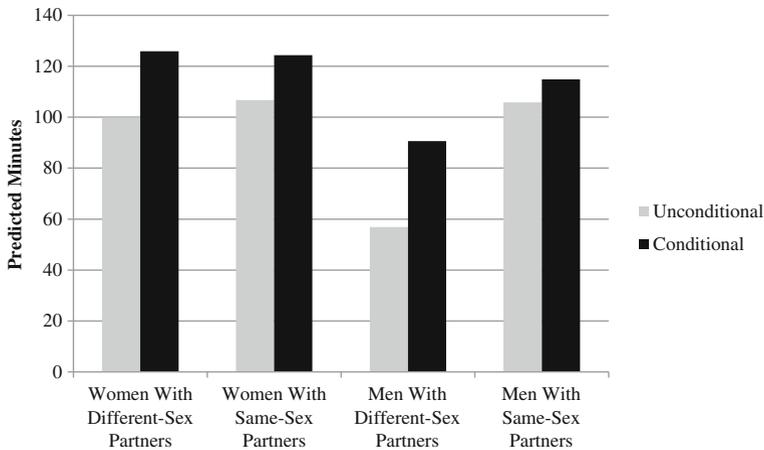


Fig. 1 Unconditional and conditional predicted minutes spent engaged with children by family structure

Finally, we conducted sensitivity analyses to assess whether the differences in time engaged with children across family structures were driven by either the use of a child-focused assessment of time or the clear link between socioeconomic status differences and family structure in the sample. For the first analysis, we created a measure of total time spent where household children were present. For the second analysis, we created a matched sample on key sociodemographic indicators (i.e., sex, education, race/ethnicity, and income) of parents with different-sex partners to parents with same-sex partners. This created a control group of parents with different-sex partners that were not statistically different (at $p < .10$) on these key sociodemographic indicators from the more socioeconomically advantaged sample of parents in same-sex partnerships. These analyses (available on request from the authors) suggest that the findings persisted across a broader definition of time with children (e.g., time in any type of activity where household children were present) as well as when a subsample of sociodemographically similar respondents in different-sex partnerships were used as the comparison group.

Discussion

This study employed a potentially valuable representative data source to study same-sex families that has not been heretofore leveraged in this increasingly important field of research. Consistent with other studies on associations between same-sex family structures and child outcomes (and between such structures and parenting), we found few differences between same- and different-sex couples in child-focused time use, a family process previously implicated as an important mechanism of family structure effects on children. Although we came into this study with a focus on same-sex parents, one of the most compelling findings was about men in different-sex partnerships, who spent less time engaged in child-focused activities than men and women in all other types of partnerships. This finding is in line with prior research on differences in mothers' and fathers' time with children (Bianchi 2010, 2011) but goes beyond

previous research by suggesting that this gender difference does not extend to fathers in same-sex partnerships.

Although the ATUS sample of respondents in same-sex partnerships was small, two findings are particularly interesting and, we argue, should spur future demographic research. First, women with same-sex partners were significantly more likely to report spending any time engaged with children than either women or men with different-sex partners. This finding is important considering that women with male partners might have been more likely to spend time with children because their male partners were typically less likely to also report doing so. These findings align with research suggesting less specialization in the household division of labor in same-sex partnerships (Giddings et al. 2014). Second, these findings suggest that children with parents in same-sex partnerships may experience more time investment, overall, than children of parents in different-sex relationships. By pairing the average unconditional predicted minutes of heterosexual men and women and doubling the minutes of women and men in same-sex partnerships, we extrapolated the findings to create a total amount of parental time investment within a household. Doing so revealed that children with same-sex parents experience, on average, approximately 3.5 hours of time investment per day versus just more than 2.5 hours for children with a mother and father in the household.

Of course, these results supporting the “no difference” paradigm could have resulted from low statistical power and/or unobserved confounds. These limitations are inherent to observational data, which need to be addressed in future research, and highlight the preliminary nature of this study. Indeed, the very small numbers of respondents identifying as being in same-sex partnerships in ATUS compared with a few other nationally representative data sets not focused on families with children (see Black et al. 2000 for a comparison) suggest that many respondents in same-sex partnerships are likely misclassified as being in different-sex partnerships (or single) (Gates 2009).

Future data collection needs to address these two issues by considering oversampling same-sex family structures and incorporating research questions that explicitly ask respondents to confirm partner gender and sexual identity. Fortunately, precedents exist for both, with oversampling of minority and hard-to-reach populations being common in large nationally representative data sets. For example, ATUS already oversamples households with Hispanic or non-Hispanic black householders to improve time-diary estimates for these demographic groups (Bureau of Labor Statistics 2014). Similarly, in preparation for the 2020 decennial census, the U.S. Census Bureau has begun testing new response categories that explicitly ask respondents to classify themselves in “opposite-sex” or “same-sex” relationships (U.S. Census Bureau 2014). More immediately, however, we argue that this research note highlights the importance of exploring data sets that already exist, potentially informing future research directions in family demography.

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Appendix

Table 3 List of ATUS activity codes indicating time engaged with children

Major Category	Second-Tier Category	Third-Tier Category
03. Caring for and helping household members	01. Caring for and helping household children	01. Physical care for household children
		02. Reading to/with household children
		03. Playing with household children, not sports
		04. Arts and crafts with household children
		05. Playing sports with household children
		06. Talking with/listening to household children
		08. Organization and planning for household children
		09. Looking after household children (as a primary activity)
		10. Attending household children's events
		11. Waiting for/with household children
		12. Picking up/dropping off household children
		99. Caring for and helping household children, n.e.c.
	02. Activities related to household children's education	01. Homework (household children)
		02. Meetings and school conferences (household children)
		03. Home schooling of household children
04. Waiting associated with household children's education		
03. Activities related to household children's health	01. Providing medical care to household children	
	02. Obtaining medical care for household children	
	03. Waiting associated with household children's health	
	99. Activities related to household children's health, n.e.c.	

Source: American Time Use Survey Lexicon, 2013. Retrieved from <http://www.bls.gov/tus/lexiconwex2013.pdf>

Table 4 Sample description

	Total Sample, %/Mean	Women With Different-Sex Partners, %/Mean	Women With Same-Sex Partners, %/Mean	Men With Different-Sex Partners, %/Mean	Men With Same-Sex Partners, %/Mean
Employment Status					
Full-time employed	65.3	44.7 ^c	57.5 ^c	86.0 ^{a,b,d}	43.6 ^c
Part-time employed	13.3	21.5 ^c	17.0 ^c	5.0 ^{a,b,d}	21.6 ^c
Unemployed	4.4	4.8 ^{c,d}	10.1	4.0 ^{a,d}	16.4 ^{a,c}
Not working	17.1	29.1 ^c	15.4 ^c	5.0 ^{a,b}	18.4
Partner Employment Status					
Full-time employed	63.1	81.7 ^{c,d}	72.9 ^c	44.4 ^{a,b}	63.1 ^a
Part-time employed	14.9	8.6 ^c	11.1 ^c	21.2 ^{a,b}	10.8
Unemployed	6.6	5.8 ^c	8.2	7.5 ^a	0.0
Not working	15.4	3.9 ^{c,d}	7.9	26.9 ^a	26.1 ^a

Table 4 (continued)

	Total Sample, %/Mean	Women With Different-Sex Partners, %/Mean	Women With Same-Sex Partners, %/Mean	Men With Different-Sex Partners, %/Mean	Men With Same-Sex Partners, %/Mean
Respondent Has College Degree	35.9	36.9 ^{b,d}	49.6 ^{a,c}	34.8 ^{b,d}	66.8 ^{a,c}
Partner Has College Degree	37.2	36.5 ^{b,c,d}	60.1 ^{a,c}	37.7 ^{b,d}	66.0 ^{a,c}
Family Income	\$50–59,999	\$50–59,999 ^{b,c,d}	\$60–74,999 ^a	\$50–59,999 ^a	\$75–99,999 ^a
Household Children Characteristics					
Number of children in household	1.9	1.9	1.7	1.9	2.0
Child aged between 0–2 years	28.5	28.8	26.4	28.3	30.6
Child aged between 3–5 years	28.7	28.7	22.9	28.7	18.0
Child aged between 6–18 years	74.7	74.2	69.3	75.1	73.5
Female child in household	68.2	67.8	75.4	68.7	69.5
Male child in household	70.0	70.2 ^b	43.8 ^{a,c}	69.9 ^b	65.4
<i>N</i>	44,188	23,507	38	20,626	17

Notes: Unweighted *ns*, weighted % / means. Standard deviations are shown in parentheses. Chi-squared and *t* tests are as follows:

- ^a Different from women with different-sex partners at $p < .05$.
- ^b Different from women with same-sex partners at $p < .05$.
- ^c Different from men with different-sex partners at $p < .05$.
- ^d Different from men with same-sex partners at $p < .05$.

Table 5 Cragg Tobit alternative (two-tier) models: Time engaged with children in two-parent families

	Minutes With Children		% Nonwork Time With Children	
	Probability of Time With Children (1)	Minutes Conditional on Any Time (2)	Probability of Time With Children (3)	% of Time With Children Conditional on Any Time (4)
Respondent Partnership Type (ref. = women with different-sex partners)				
Women with same-sex partners	0.65* (0.27)	55.68 (101.87)	0.65* (0.27)	4.05 (5.23)
Men with same-sex partners	0.08 (0.45)	-28.37 (143.98)	0.08 (0.45)	-3.36 (7.43)
Men with different-sex partners	-0.48*** (0.02)	-77.47*** (13.13)	-0.48*** (0.02)	-3.62*** (0.67)
Respondent Characteristics				
College degree	0.30*** (0.02)	45.09*** (10.96)	0.30*** (0.02)	2.37*** (0.58)

Table 5 (continued)

	Minutes With Children		% Nonwork Time With Children	
	Probability of Time With Children (1)	Minutes Conditional on Any Time (2)	Probability of Time With Children (3)	% of Time With Children Conditional on Any Time (4)
Employment status (ref. = full-time)				
Part-time	0.19*** (0.03)	167.80*** (16.06)	0.19*** (0.03)	4.67*** (0.76)
Unemployed	0.37*** (0.04)	275.68*** (25.25)	0.37*** (0.04)	7.39*** (1.27)
Not in the labor force	0.42*** (0.03)	305.41*** (17.30)	0.42*** (0.03)	8.98*** (0.68)
Age	-0.02*** (0.00)	-5.37*** (0.97)	-0.02*** (0.00)	-0.28*** (0.05)
Race/ethnicity (ref. = non-Hispanic white)				
Non-Hispanic black	-0.19*** (0.04)	-126.08*** (24.09)	-0.19*** (0.04)	-7.50*** (1.31)
Hispanic white	-0.17*** (0.03)	-80.50*** (16.83)	-0.17*** (0.03)	-4.75*** (0.93)
Asian	-0.05 (0.05)	14.83 (21.83)	-0.05 (0.05)	0.81 (1.19)
Other race/ethnicity	-0.19*** (0.05)	-9.94 (27.52)	-0.19*** (0.05)	-0.19 (1.55)
Foreign-born	-0.13*** (0.03)	-1.23 (14.94)	-0.13*** (0.03)	0.05 (0.82)
Student	-0.06 (0.04)	-117.58*** (19.57)	-0.06 (0.04)	-6.78*** (1.06)
Partner Characteristics				
College degree	0.19*** (0.02)	33.41** (11.22)	0.19*** (0.02)	1.85** (0.60)
Employment status (ref. = full-time)				
Part-time	-0.01 (0.02)	-19.65 (14.25)	-0.01 (0.02)	-1.01 (0.76)
Unemployed	-0.17*** (0.04)	-19.81 (22.10)	-0.17*** (0.04)	-1.74 (1.21)
Not in the labor force	-0.21*** (0.03)	-42.36* (19.17)	-0.21*** (0.03)	-2.56** (0.95)
Children Characteristics				
Number of household children	0.19*** (0.01)	42.76*** (6.39)	0.19*** (0.01)	2.36*** (0.34)

Table 5 (continued)

	Minutes With Children		% Nonwork Time With Children	
	Probability of Time With Children (1)	Minutes Conditional on Any Time (2)	Probability of Time With Children (3)	% of Time With Children Conditional on Any Time (4)
Child aged 0–2 years	0.44*** (0.03)	253.72*** (17.34)	0.44*** (0.03)	14.09*** (0.84)
Child aged 3–5 years	0.36*** (0.02)	66.96*** (10.57)	0.36*** (0.02)	4.16*** (0.57)
Child aged 6–18 years	-0.30*** (0.03)	-125.40*** (15.38)	-0.30*** (0.03)	-6.82*** (0.81)
Female child	0.12*** (0.02)	8.89 (10.79)	0.12*** (0.02)	0.56 (0.59)
Male child	0.14*** (0.02)	41.42*** (12.03)	0.14*** (0.02)	2.37*** (0.65)
Household and Geographic Characteristics				
Family income (scale 1–16)	0.01*** (0.00)	4.68** (1.81)	0.01*** (0.00)	0.28** (0.10)
Lives in a metropolitan area	0.13*** (0.02)	41.32** (13.02)	0.13*** (0.02)	2.27** (0.70)
Region (ref. = Northeast)				
Midwest	-0.10*** (0.03)	-26.32* (13.06)	-0.10*** (0.03)	-1.15 (0.70)
South	-0.12*** (0.02)	-41.77** (12.69)	-0.12*** (0.02)	-1.95** (0.67)
West	-0.11*** (0.03)	-68.33*** (14.35)	-0.11*** (0.03)	-3.89*** (0.76)
Time-Diary Information				
Weekend day	-0.39*** (0.02)	33.42*** (7.86)	-0.39*** (0.02)	-3.76*** (0.47)
Summer month	-0.29*** (0.02)	-35.01*** (10.24)	-0.29*** (0.02)	-2.19*** (0.56)
Year (ref. = 2003)				
2004	0.02 (0.04)	3.35 (17.52)	0.02 (0.04)	0.12 (0.97)
2005	0.05 (0.03)	-15.31 (17.95)	0.05 (0.03)	-1.07 (0.99)
2006	-0.00 (0.04)	-19.94 (17.04)	-0.00 (0.04)	-1.09 (0.94)

Table 5 (continued)

	Minutes With Children		% Nonwork Time With Children	
	Probability of Time With Children (1)	Minutes Conditional on Any Time (2)	Probability of Time With Children (3)	% of Time With Children Conditional on Any Time (4)
2007	0.05 (0.04)	-7.20 (17.48)	0.05 (0.04)	-0.56 (0.95)
2008	0.10** (0.04)	5.40 (20.13)	0.10** (0.04)	0.10 (1.06)
2009	0.07 (0.04)	29.72 (19.16)	0.07 (0.04)	1.33 (1.03)
2010	0.06 (0.04)	-7.56 (17.15)	0.06 (0.04)	-0.75 (0.94)
2011	0.02 (0.04)	7.05 (18.36)	0.02 (0.04)	0.11 (0.99)
2012	0.07* (0.04)	27.89 (19.31)	0.07* (0.04)	1.31 (1.03)
2013	0.08* (0.04)	15.29 (18.49)	0.08* (0.04)	0.77 (1.02)
Holiday	-0.36*** (0.06)	-43.56 (34.21)	-0.36*** (0.06)	-7.36*** (2.06)
Constant	0.90*** (0.08)	-460.44*** (51.36)	0.90*** (0.08)	-14.45*** (2.46)
Sigma Constant		243.84*** (8.12)		15.67*** (0.42)
Observations	44,188	44,188	44,188	44,188

Note: Robust standard errors are shown in parentheses.

* $p < .05$; ** $p < .01$; *** $p < .001$

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