

**PERSONNEL RULES AND
REGULATIONS
OF THE
COUNTY OF INYO**

1/2/07

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PERSONNEL RULES AND REGULATIONS OF THE

COUNTY OF INYO

ARTICLE I

INTRODUCTION

1. Authority. Adoption of these personnel rules and regulations ("rules") is authorized and directed pursuant to Ordinance No. 102 of the Board of Supervisors of the County of Inyo.

1.2 Objectives. The objectives of these rules are to facilitate efficient and economical services to the public and to provide for an equitable system of personnel management in County government. The purpose of these rules include administration of the merit system, classification of positions, compensation of employees, recruitment and qualifications of applicants, appointment of employees, evaluation of performance, promotion, discipline and separation of employees, standards for attendance and leaves, and policies for services and records.

1.3 Interpretation. The County Administrator shall be responsible for the interpretation of these rules.

1.4 Application. These rules shall apply to County employees, with the exception of those who are elected or who are appointed by the Governor. These rules shall apply to all department heads and all other employees directly appointed by the Board with the exception of Articles XII and XIII, which shall be expressly inapplicable to direct Board appointees. Such employees serve at-will, for statutory terms, and/or subject to contractual provisions. All provisions of these rules shall apply to temporary, emergency, contract and seasonal employees with the exception of Articles XII and XIII, which shall be inapplicable to such employees. Such employees either serve at-will or are subject to contractual provisions.

1.5 Severability. If any section, subsection, sentence, clause or phrase of these rules is found to be illegal or invalid, such findings shall not affect the validity of the remaining portion of these rules.

1.6 Violation of Rules. Violation of any of the provisions of these rules shall be grounds for discipline up to and including termination. The type and extent of disciplinary action shall be determined on a case-by-case basis and shall generally be governed by Article XII of these Rules.

ARTICLE II

DEFINITIONS OF TERMS

2. General Statement. All words used in these rules shall be defined as they are normally used in the field of personnel administration. For the purpose of convenience, the following words are defined. Words in the singular number include the plural, and words in the plural number include the singular. The word "shall" is mandatory and not discretionary. Words in the masculine shall include the feminine and vice-versa.

2.1 Administrative Leave. Leave of absence with pay and benefits which may be imposed by the County Administrator pursuant to these Rules.

2.2 Advancement. A salary increase within the limits of a pay range established for a classification.

2.3 Anniversary Date. The date used in the rules for determination of an employee's eligibility for pay increases and for rendering of performance evaluations.

2.4 Appellant. A person who has appealed an action, inaction, charge or procedure.

2.5 Applicant. A person who files an application for a position of employment with the County.

2.6 Appointment. The designation of a person to fill a position of employment.

2.7 Appointing Authority. Except the positions appointed by the Board of Supervisors, or Governor, the County Administrator or designee shall be the appointing authority.

2.8 Assessment Center. A role-playing examination designed to simulate realistic job situations in order to gain insight as to an applicant's possession of the various skills necessary for a particular position.

2.9 Authorized Strength. The assignment of a single position to its proper class in accordance with the duties performed and the authority and responsibilities exercised as approved by the Board of Supervisors.

2.10 Bereavement Leave. A specified period of time in which an employee may take a leave of absence with pay due to the death of the employee's family member.

2.11 Board of Supervisors. The duly elected or appointed legislative body of the County of Inyo, also referred to herein as "Board".

2.12 Candidate. A person who has taken an examination for a position in the classified service whose name has not been recorded on an employment list.

2.13 Career Employee. An employee hired for an indefinite term into a budgeted position who is regularly scheduled to work no less than 1,040 hours per year, has successfully completed his or her probationary period and has been retained as provided in these Rules.

2.14 Class of Position. All positions of employment sufficiently similar in duties, authority, responsibility and working conditions to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary.

2.15 Classification. The identity of a position of employment by title.

2.16 Classification Plan. An orderly arrangement of separate and distinct classes so that each class will contain all those positions which are sufficiently similar in respect to duties and responsibilities to meet the requirements as established under the definition of class.

2.17 Classification Series. A group of classifications ranked from lowest to highest salary in which there are natural lines of progression from the lowest to the highest because of the inclusion in the higher classification(s) of those qualifications that are required in the lower classification(s).

2.18 Classified Service. All positions of employment in the service of the County allocated to classes in the classification plan, except for temporary, contract, emergency, seasonal and those appointed by the Board of Supervisors, or Governor.

2.19 Compensation. Salaries and wages paid to employees.

2.20 Compensation Plan. The schedule of salary ranges and steps set forth in a salary ordinance and/or resolution for the various classifications in the classification plan.

2.21 Confidential Employee. An employee who in the course of his or her duties has access to information relating to the County's administration of employer-employee relations.

2.22 Contract Employee. A person whose services are obtained to perform a specific duty for a specific period of time pursuant to an individual written agreement signed by the employee and by the Chairman of the Board of Supervisors or his designee.

2.23 County. The County of Inyo, a political subdivision of the State of California.

2.24 County Administrator. The County's chief executive officer, as appointed by the Board of Supervisors.

2.25 Days. Calendar days, unless stated to be otherwise.

2.26 Demotion. The voluntary or involuntary transfer of an employee from a position in one class to a position in another class having lesser responsibilities and a lower salary grade or to a lower step in a classification grade or hierarchy of positions.

2.27 Department Head. A person elected or appointed by the Board of Supervisors to head a County department.

2.28 Disciplinary Action. The discharge, demotion, suspension, or issuance of a written or oral reprimand or warning, or any other action taken for punitive, corrective or disciplinary reasons, towards a County employee.

2.29 Disciplinary Suspension. A disciplinary action that temporarily separates an employee from County service without pay.

2.30 Dismissal. The discharge or termination of an employee by the County from County employment.

2.31 Eligibility List. A list of names of eligible persons who have taken and passed an examination process for employment and who are ranked on the list in order of "tiers" or final scores, from highest to lowest, valid for a period of not more than one year.

2.32 Emergency Appointment. An appointment made to meet immediate requirements of an emergency situation, such as fire, flood or earthquake,

which threatens life or property, where such employment is not anticipated to endure beyond the duration of such an emergency.

2.33 Employee. A person elected or appointed to, and occupying, a position in County employment, providing personal services to the County or its residents. This excludes independent and outside contractors and volunteers serving without compensation, unless required by law to be otherwise.

2.34 Examination. An appraisal process conducted at a specified time and place at which applicants are required to appear.

2.35 Family Member. An employee's or applicant's parent, child (natural, adopted or step), child for whom said employee is legal guardian, spouse, sibling, grandparent, grandchild, parents in-law, and siblings in-law, domestic partners.

2.36 Full Time Employee. An employee who is regularly scheduled and expected to work forty (40) hours during a work week, or thirty-five (35) where such employee's position has been specifically designated to be full-time.

2.37 Grievance. A written claim by an employee or recognized employee organization on behalf of an employee or group of employees, that the County has violated, misinterpreted or misapplied a provision of these rules, a memorandum of understanding applicable to such employee or a written ordinance or resolution. Individual grievances must be signed by the employee, group grievances should be signed by the members of the group grieving, and association grievances should be signed by an authority in the association.

2.38 Grievance Procedure. The process, set forth hereinafter, by which the merits of a grievance are determined.

2.39 Hire Date. The first date of employment of an employee within the employee type.

2.40 Immediate Supervisor. The lowest level supervisor who directs the work of an employee and who has immediate jurisdiction over an employee and has been designated as the initial recipient of a grievance.

2.41 Industrial Accident/Illness Leave. A period of time, either paid or unpaid, provided to an employee who is disabled due to an injury or illness arising out of and in the course of his or her employment to recover from such injury or illness.

2.42 Layoff. The separation of employees from the active work force due to reorganization or lack of appropriation as determined by the Board of Supervisors.

2.43 Management Employee. An employee who is engaged in developing, implementing or recommending policy, including but not limited to the Board, County Administrator, County officers and their immediate assistants, department heads and their assistants, and others who recommend or otherwise significantly affect County or department policy.

2.44 Merit Salary Increase. The increase of an employee's salary within the salary range resulting from satisfactory job performance.

2.45 Overtime. The time in which a non-exempt employee is required or permitted to work beyond the number of hours of the work period, unless otherwise provided in an applicable memorandum of understanding.

2.46 Part-time, Benefited B-PAR, No PERS Retirement, Classified Service Employee. An employee regularly scheduled to work between 832 and 1559.48 hours per fiscal year.

2.47 Part-time, Non-Benefited A-PAR, Classified Service Employee. An employee regularly scheduled to work between 1 and 831.48 hours per fiscal year.

2.48 Part-time, Pro-rated Benefited C-PAR, Classified Service Employee. An employee regularly scheduled to work between 1559.5 to full time (35 to 40 hours per week, as determined the these rules.

2.49 Personnel Ordinance. Ordinance No. 102 adopted by the Board, which creates a personnel system for the County.

2.50 Position. A collection or group of duties and responsibilities, which require the full- or part-time services, and employment of one person.

2.51 Probationary Employee. An employee in the classified service who, during a probationary period, is required to demonstrate his or her fitness by actual performance of the duties of the position to which he or she has been appointed.

2.52 Probationary Period. A period of time following the appointment of an employee to a position in the classified service to be considered an integral part of the examination, recruitment, testing and selection process during which the employee is required to demonstrate satisfactory fitness for the position to which he or she has

been appointed by actual performance of the duties of such position. Lateral transfers will serve no new probation period.

2.53 Promotion. The movement of an employee from one class to a higher class of employment having greater responsibilities and a higher maximum base rate of pay.

2.54 Promotional Eligibility List. A list of names of eligible employees who have taken and passed a promotional examination for a position in the classified service and who are ranked on the list in order of tiers or final scores, from highest to lowest, valid for a period of not more than one year.

2.55 Promotional Examination. An examination for a particular classification or position, which is open only to eligible incumbent employees meeting the qualifications for the classification or position.

2.56 Range. A number assigned to a position title, which indicates the salary steps for that position.

2.57 Reasonable Cause. The facts, conditions or circumstances, which justify disciplinary action against an employee.

2.58 Reclassification. The reassignment from one class to a different class at the same salary step, in accordance with a re-evaluation of the minimum qualifications, duties and responsibilities.

2.59 Regular Employee. An employee in the classified service who has successfully completed his or her probationary period and has been retained.

2.60 Reinstatement. The restoration without examination of a former employee to the same or lower classification within the same classification series in which the employee formerly served as a regular employee.

2.61 Rejection. The separation of an employee from the classified service during his or her probationary period.

2.62 Resignation. The voluntary separation by an employee from County employment.

2.63 Rules. These personnel rules, as they may be amended from time to time.

2.64 Safety Employee. An employee in the Sheriff's or District Attorney's Department who is a "peace officer" within the meaning of the provisions of the California Penal Code and who is a "safety member" under the Public Employees Retirement System.

2.65 Salary Anniversary Date.

- (a) For new hires in the classified service, the employee's salary anniversary date shall be six or twelve months after the successful conclusion of the employee's probationary period, and annually thereafter, as set forth in rule 5.6 hereof.
- (b) For promoted employees in the classified service, the salary anniversary date shall be the date on which the employee's promotional probationary period concludes, and annually thereafter.
- (c) Except as specifically provided in Rule 5.6 (i), any regular employee who takes an authorized leave of absence without pay shall have his or her salary anniversary date extended by the same amount of time as his or her period of leave.

2.66 Salary Schedule. An annual listing of the minimum to maximum salary ranges of pay for all defined County classifications as prepared by the County Administrator and adopted by the Board by resolution.

2.67 Salary Range. Where applicable, the range of pay an employee may earn while employed in a particular classification.

2.68 Seasonal Employee. A seasonal employee shall be one employed only for certain specified periods of the year to perform specific duties only required by the County during such time periods, such as employees who only work during summer months in recreational activities or during winter months for purposes related to cold weather conditions.

2.69 Sick Leave. Absence from work of an employee because of illness or injury to the employee not incurred on the job, exposure to contagious disease, medical or dental appointments, or care for a sick member of an employee's family.

2.70 Step. The various increments of a salary range, from minimum to maximum, authorized for the class in question.

2.71 Temporary Assignment. The temporary assignment of an employee to duties other than those of said employee's regular assignment. All temporary assignments are at the will and discretion of the appointing authority.

2.72 Temporary Employee. A person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class on other than a probationary or regular basis. Such an appointment shall not exceed six months. The County Administrator may extend the appointment for one additional six-month period. Temporary employees are not part of the classified service.

2.73 Termination. The separation of an employee from County service because of retirement, resignation, death or dismissal.

2.74 Tiers. Groupings of closely related scores on employment lists grouped together by the Director of Personnel Services in his or her discretion by the differences between individual scores that are not significantly different in order to allow a clear determination of merit based upon individual rankings.

2.75 Transfer. The movement of an employee from one class or position to another having similar responsibilities without changing the employee's class or maximum salary rate. The Personnel Director shall take all reasonable steps to inform employees of transfer opportunities.

2.76 Work Week. For employees, a regularly recurring period of seven consecutive twenty-four hour days beginning at 12:01 a.m. each Sunday morning and concluding at 12:00 a.m. (midnight) the following Saturday night.

ARTICLE III

GENERAL PROVISIONS

3.1 Administration. The County Administrator or his or her designee shall be responsible for the administration of these rules. The County Administrator may delegate any of the powers and duties related herein to the Personnel Director, the Deputy County Administrator or any department head. The County Administrator shall:

- (a) Act as the appointing authority for all County employees except those who are elected or who are directly appointed by the Board, or the Governor.
- (b) Administer all of the provisions of these rules except as specifically reserved to the Board.
- (c) Prepare and recommend to the Board any appropriate rules and revisions to these rules, subject to the meet and confer requirements of the Meyers-Milias-Brown Act, Government Code section 3500 et seq.
- (d) Prepare or cause to be prepared, and revise as appropriate, a position classification schedule, including class specifications.
- (e) Have the authority to reclassify employees in accordance with class of positions established by salary schedule.
- (f) Have the authority to discipline County employees in accordance with these rules.

3.2 Amendment of Rules. Recommendations for amendment and revision of these rules may be made by the County Administrator to the Board of Supervisors. Prior to consideration by the Board, any proposed substantive amendment within the scope of representation shall be subject to the meet and confer process pursuant to the Meyers-Milias Brown Act, Government Code Section 3500 et seq., with all duly recognized employee organizations.

3.3 Fair Employment Practices. The County offers equal opportunity in all matters of employment. Employment is based solely upon the qualifications of the individual applicant. The County shall not discriminate against any employee or applicant for employment because of such person's race, color, sex, age, national origin, ancestry, religious creed, marital status, veteran's status, physical or mental disability, medical condition, sexual orientation or political belief. Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job-related qualifications of applicants. No recruitment or selection technique shall be used which, in the opinion of the County Administrator, is not reasonably linked to successful job performance.

3.4 Harassment Policy. It is the policy of the County to provide a work environment free from discriminatory harassment. In order to achieve that policy, the County has adopted the County of Inyo Harassment Policy, the terms of which are incorporated herein by this reference.

3.5 Nepotism Policy. An applicant shall not be denied the right to file an application and to be considered for employment. However, the County retains the right to refuse to hire or place a person under the direct supervision of a family member or in the same department, division or facility in which a family member is employed if such action has the reasonable potential for creating an adverse impact on supervision, safety, security or morale, or which involves reasonable potential conflicts of interest. Where two family members work in the same department, division or facility at the time of the adopting of this section, the employees may continue in their respective positions as long as their mutual employment does not have the potential to create an adverse impact on supervision, safety, security or morale.

Upon the marriage or creation of a relationship due to marriage or creation of a domestic partnership between two County employees, which has the reasonable potential to impact supervision, safety, security or morale, the department head shall notify the Personnel Director. The Personnel Director shall be responsible for consulting with the department head and the specific employees in accommodating the situation in accordance with these guidelines. When in the opinion of the Director of Personnel Services a situation occurs which could reasonably create a potential conflict, every attempt shall be made to transfer one employee to a position where no such potential conflict would exist. In the event such a transfer is not feasible, the employees shall be given the opportunity to make the decision as to which one shall resign. In the event neither employee resigns, the least senior employee shall be laid off with reinstatement rights to a position in the same or similar position when a potential conflict no longer exists.

The County Administrator shall be the final determining authority in all such matters.

When an eligible candidate is refused appointment by virtue of this section, the name of the candidate shall remain on the eligibility list for openings in the same classification, as otherwise provided in these rules. In no case shall an employee participate directly, or indirectly, in the recruitment or selection process for a position for which the employee's family member has filed an employment application.

3.6 Political Activities. Employees shall not campaign or conduct any political activity during normal work hours. An employee who seeks elective office of the County may either request an unpaid leave of absence or use accrued vacation/compensatory time off during the term of the campaign and election. If successful in the election, the employee shall be deemed to have resigned from his or her position with the County upon assuming office.

3.7 Gratuities and Gifts. Since service rendered by a County employee requires unimpeachable public trust, confidence, and impartiality, an employee shall disclose to his or her department head, any personal gift which exceeds \$50.00 which is received from any person or entity for whom the employee has contact as a County employee. No employee shall accept any personal gift or combination of personal gifts from a single source in excess of \$250.00 in value. No employee shall accept any personal gift regardless of value, which could reasonably be construed as a gift or gifts given to obtain a benefit or advantage from the County.

3.8 Personal Telephone Calls. Telephones provided by the County are for use in conducting County business. Use of County telephones by County employees for personal reasons, which are local and non-long distance, is not strictly prohibited, but such calls shall be kept to a minimum. County telephones may not be used for personal long distance calls.

3.9 Outside Employment. No County employee shall engage in any outside employment which is inconsistent, incompatible and/or in conflict with their County employment. No County employee shall engage in any outside employment without first obtaining written approval from his or her department head and the County Administrator. Approval will not be unreasonably withheld so long as the outside employment does not negatively affect the employee's job performance with the County. Each County employee will report any outside employment annually on forms provided by the County.

3.10 Alcohol and Drug-Free Workplace. It is the County's intent to maintain an alcohol and drug-free workplace. Any employee found to be in violation of this policy shall be subject to disciplinary action up to and including discharge. The County has adopted a comprehensive drug-free workplace plan, which is incorporated herein by reference.

The unlawful manufacture, distribution, dispensation, possession or use of any alcohol or illegal drug or controlled substance is prohibited on the job or in the County's workplace. The County reserves the right to require that an employee undergo testing if the County determines that reasonable suspicion exists to believe that an employee is under the influence of any alcohol or illegal drug or controlled substance. Any employee found to be in violation of this policy or who has been convicted of violating a criminal drug statute shall be subject to the disciplinary actions which are outlined in these rules. The County may place a willing employee with an available employee assistance program or service for purposes of rehabilitation under appropriate circumstances, in conjunction with or in mitigation of disciplinary action.

3.11 Personnel Records and Files. The Personnel Director shall maintain an official personnel file for each County employee showing the name, title of position held, department to which assigned, salary and employment history and status, performance evaluations, records of disciplinary actions, and such other information as may be considered pertinent by the County Administrator. Supervisors may keep working files, but material not maintained in the official personnel file shall not provide a basis for discipline against an employee. All material in the personnel file which is derogatory in nature, must be presented to the employee and the employee given the opportunity to respond to the material. If an employee is not provided an opportunity to respond to the material, such material shall not be used against an employee in a disciplinary action.

- (a) Inspection of File by Employee. Upon an appropriate request, an employee may inspect his or her personnel file. Such inspection shall occur at a time and in a manner mutually agreed upon by the employee and the County. An employee who provides an authorization may have a representative or counsel of his or her choice inspect the personnel file.
- (b) Receipt of Copies of Records. Copies of materials in an employee's personnel file shall be provided to the employee upon request. The employee shall bear the cost of duplication.
- (c) Pre-employment Information. Pre-employment information, such as reference checks and responses, or information provided the County with the specific request that it remain confidential, shall not be subject to inspection or copying by the employee or applicant.

- (d) Placement in File. Upon request of the employee, an employee may place documents in his or her personnel file that commend his or her job performance with the County or demonstrate educational attainment. Disciplinary documents shall be placed in the personnel file. An employee shall be provided a copy of any documents placed in his or her personnel file.
- (e) Retention of Records. The files of all employees who have separated from County employment, regardless of reason, shall be retained for a minimum of three (3) years after the employee's date of separation. All employment applications of persons who are not offered employment with the County shall be retained for a minimum of three (3) years.

3.12 Release of Information. No person other than the employee, his or her designated representative, County Administrator, Personnel Director, County Counsel, special legal counsel, the employee's department head, or their designated representatives, shall have access to an employee's personnel file, unless required by law.

3.13 Disclosure of Information. Except as provided above, as is authorized by law, or upon receipt of a duly executed written authorization from an employee, the only information that shall be disclosed from the personnel file of a current or former County employee will be the employee's current or final job title and inclusive dates of employment with the County.

3.14 Reference Checks. It is the policy of the County that all reference checks and requests for information concerning current or former employees be responded to only by the County Administrator, Personnel Director or Department Head. No County employee shall provide any information concerning a current or former employee of the County to anyone seeking information concerning such current or former County employee. All such requests for information, whether received personally, by telephone or in writing, shall be directed to the Personnel Director. Any violation of the above shall be considered grounds for disciplinary action.

3.15 Use in Disciplinary Proceedings. Nothing herein shall preclude or specifically deny the use of any information in an employee's personnel file where relevant in any phase of a disciplinary or probationary action, by either the County or the employee.

3.16 Smoking Policy. Smoking and chewing tobacco is prohibited in all County facilities and County vehicles. Smoking means inhaling, exhaling, burning or carrying a lighted cigar, pipe, cigarette or other plant.

3.17 Management Rights. The County reserves, retains and is vested with, solely and exclusively, all rights of management which are not expressly abridged by law to manage the County. The County may exercise its management rights unilaterally without the obligation to meet and confer on the decision to exercise such rights. However, the County shall meet and confer on the impact thereof pursuant to Section 3.18 of these rules. The sole and exclusive rights of management shall include, but not be limited to, the following:

- (a) To manage the County generally and to determine all issues of policy.
- (b) To determine the existence or nonexistence of facts which are the basis of management decisions.
- (c) To determine the necessity of organization of any service or activity conducted by the County and expand or diminish such services.
- (d) To determine the nature, manner, means and technology and extent of services to be provided to the public.
- (e) To determine methods of financing.
- (f) To select types of equipment or technology to be used.
- (g) To determine and/or change the facility, methods, technological means, and size of the work force by which County operations are to be conducted.
- (h) To determine and change the number of locations, relocations and type of operations, processes and materials to be used in carrying out all County functions including, but not limited to, the right to contract or subcontract any work or operation of the County.
- (i) To assign work to and schedule employees in accordance with requirements as determined by the County and to establish and change work schedules and assignments

upon reasonable notice and in accordance with these Rules and memoranda of understanding.

- (j) To relieve employees from duties for lack of work, funds, or similar non-disciplinary reasons.
- (k) To determine and modify productivity and performance programs and standards.
- (l) To discharge, suspend, demote or otherwise discipline employees for proper cause.
- (m) To determine job classifications and to reclassify employees in accordance with these Rules and applicable resolutions and ordinances of the County.
- (n) To hire, transfer, promote and demote employees for non-disciplinary reasons in accordance with these Rules and applicable ordinances and resolutions of the County.
- (o) To determine and administer policies, procedures and standards for selection, training and promotion of employees in accordance with these rules and applicable resolutions and ordinances of the County.
- (p) To establish employee performance standards including, but not limited to, qualification and quantity standards and to require compliance therewith.
- (q) To take any and all necessary action to carry out the functions of the County in emergencies.

3.18 Impact of Exercise of Management Rights. Except in emergencies, whenever the exercise of management rights shall impact on employees within a designated bargaining unit, the County shall offer to and thereafter on request meet and confer with any employee organization, which has been recognized by the County as representing such bargaining unit regarding the impact of the exercise of such rights. By agreeing to meet and confer as to the impact of the exercise of management rights, the County's discretion in the exercise of such rights and the implementation thereof shall not be diminished, held in abeyance or prohibited.

3.19 Bulletin Boards. Space shall be provided on County designated bulletin boards for posting of notices and bulletins of the following types:

- (a) Notice of recreational, social affairs and related business news.
- (b) Notices of elections; provided that this shall not include campaign materials.
- (c) Notices of recognized employee organization appointments and results of their elections.
- (d) Notices of employee organization.
- (e) Employee organization constitution, by-laws and proposed amendments thereto.
- (f) Such other notices as may be mutually agreed upon by an employee organization and the County Administrator.
- (g) There shall be no postings on County building doors or windows.

All materials posted on such bulletin boards shall indicate the name of the employee organization responsible for the material and clearly indicate the author's identity, preferably by signature by an official of the organization. It must be clearly understood that such material is neither official material nor endorsed by the County, and the material may not contain anything that would identify it as such.

In no case shall obscene material or personal attacks on anyone be placed on any bulletin board. Copies of all information posted on any bulletin board pursuant to this rule shall be submitted to the Personnel Director at the time of posting. In the event objectionable material is posted, the Personnel Director will so inform the organization representative, stating the basis for the objection, and such material shall be removed from the bulletin board immediately.

No employee organization shall post, or authorize any of its members to post, any material anywhere upon County property except as provided in this rule. The County may remove or relocate any of its bulletin boards in the event of violations of this section or for reasons such as alterations in physical facilities, etc., and will inform the employee organizations whenever the County removes such bulletin boards.

Excluding meal and break periods, in no case shall the distribution of literature at the work place of employees be allowed during regular working hours.

3.20 Search of Lockers, Desks and Other Containers. Lockers, desks and other containers provided to employees for their convenience are and remain County property. Such lockers, desks and other containers are to be secured by County locks. No personal locks are to be used. The County specifically retains the right to open and search any such locker, desk or container at any time for any purpose. These will not be opened and inspected without a search warrant, and/or with the employee's consent or presence, or with the employee having been given notification.

3.21 Safety and Health. Each employee shall comply with all applicable safety laws, rules and regulations. All employees shall follow safety practices, use personal protective equipment as required, render every possible aid to safe operations, and report to proper authority all unsafe conditions or practices. All workplace injuries shall immediately be reported to the supervisor, department head and risk manager. Any violation of this requirement shall be a basis for disciplinary action.

3.22 Personal Property Damage. Any employee who suffers damage to his or her personal property while in the scope of employment shall be reimbursed for said damage upon certification by the County Administrator that such damage occurred in the course of his or her employment and that the amount claimed is reasonable. Upon approval of such item by the County Administrator, the employee shall be reimbursed consistent with County risk management policy.

3.23 Homework. Homework will not be assigned while the employee is receiving short-term disability (STD) or temporary disability (TD) for any condition which prohibits or impairs the employee from performing the functions of the employee's position with the County.

APPROVAL OF HOMEWORK:

1. At his/her discretion the Department Head may initiate a request for Homework from the Personnel Department if the following requirements are met:
 - (a) The Department Head must make a finding that the employee can perform essential job functions from home in an efficient and effective manner.

LENGTH:

1. Homework will not be allowed for any period exceeding six (6) hours per normal workday or more than twenty (20) hours in

any workweek. Should not exceed time it would normally take to perform job duties.

2. The time period for which Personnel may authorize homework shall not exceed one hundred twenty (120) days in a calendar year from the date of approval.
3. Authority to perform homework may be withdrawn at any time by Personnel Director or Department Head, without cause, provided that the employee is given five (5) calendar days prior written notice of such cancellation.

The Department Head shall be responsible for supervising and administering homework in accordance with the terms and conditions as stated above.

3.24 Conflict of Interest. All County employees and officials required to do so by the Political Reform Act of 1974, as amended (Government Code § 87100 et seq.), or by the County Conflict of Interest Code shall comply with all statutes, regulations and ordinances regarding conflict of interest and incompatible activities. Failure to do so may constitute grounds for disciplinary action up to and including termination.

3.25 Fitness for Duty. A Department Head or Supervisor, upon consultation and approval by the Personnel Director and/or the Risk Manager, who has reasonable cause to believe that an employee is not capable of properly performing the essential functions of his/her position may require such employee to submit to a fitness for duty examination. The medical professional performing the fitness for duty examination shall inform the County whether or not the employee is fit to perform his or her essential functions. No other information shall be provided to the County without a release signed by the employee which release shall not be required. An employee who knowingly and deliberately makes a false claim or charge that another employee is not fit for duty will be subject to disciplinary action, up to and including termination.

ARTICLE IV

CLASSIFICATION PLAN

4.1 Preparation, Adoption and Amendment. The County Administrator shall ascertain and record the duties and responsibilities of all County positions in the classified service for inclusion in the classification plan. The classification plan shall be so developed and maintained to ensure that all positions which are substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class, and that the same schedules of compensation shall apply to all positions in the same class. Each classification shall have a written specification. Classification specifications are explanatory, but not restrictive. The listing of particular tasks shall not preclude the assignment of other related kinds of tasks or related jobs requiring lesser skills. The classification plan shall be amended or revised, as required.

4.2 Allocation of Positions. Positions shall be as approved by the Board of Supervisors in the annual budget. Department heads shall not appoint persons to a position, which is not approved. The County Administrator shall approve the appointment of employees to positions in the classification plan. Only allocated positions which have been approved by the Board may be filled, except that emergency and 1-15.99 part-time positions, temporary positions, seasonal position may be approved and filled by the County Administrator without prior Board approval.

4.3 New Positions. When a new position is created, no person shall be appointed or employed to fill the position prior to the position's assignment to a class of position, unless otherwise provided by these Rules.

4.4 Reclassification. The duties of positions, which have been changed substantially over time so as to require reclassification, shall be allocated to an appropriate class. Reclassification shall not be used for the purpose of avoiding rules governing demotions or promotions. Should the duties of a position change over time, the department head may request the reclassification of the position. After proper review or study by the County Administrator or designee, the position may be allocated to a higher or lower classification by the Board. The wage level of any employee holding a reclassified position shall remain at the same step within the new range. No change in the title of any job classification shall affect the tenure of the holder thereof where the position is, in effect, continued in existence. A reclassification will not cause a change in an employee's anniversary date.

4.5 Types of Appointments. Except for temporary vacancies and provisional appointments, all vacancies shall be filled by transfer, promotion, demotion, re-employment, and reinstatement or from candidates on an appropriate eligibility list if one is available. In the absence of eligible candidates in one of the above categories,

temporary appointments may be made in accordance with these rules pending development of a list of eligible candidates.

4.6 Emergency Appointments. To meet immediate requirements of an emergency condition which threatens life or property, the County Administrator may create positions and employ such persons as temporary employees as may be needed for the duration of the emergency. The method of hiring for emergency appointments shall be subject to the discretion of the County Administrator. All such appointments shall be reported to the Board as soon as possible and shall be compensated at an hourly rate as approved by the County Administrator. Emergency appointees shall not be entitled to appeal disciplinary actions and have no rights to continued employment beyond the duration of the emergency for which they are employed.

4.7 Acting Appointments. If deemed to be in the best interest of the County, the County Administrator may authorize and approve an acting appointment. If the position being filled on an acting basis would normally require Board approval (i.e. direct board appointee), the Board shall authorize the acting appointment.

- (a) An acting appointment may be authorized for a period not to exceed six (6) months from the date of appointment, subject to an extension for an additional six (6) months on written approval of the County Administrator, or Board, as the case may be. All acting employees must meet the minimum qualifications for the vacant position.
- (b) Employees filling temporary appointments serve at the will of the appointing authority and may be removed at any time without cause or right to appeal.
- (c) During the acting period, the employee will be assigned the title of the acting position and will be paid at the salary range of the acting position for the duration of the acting assignment.
- (d) No employee in a temporary appointment shall receive a merit increase except after accrual of 1040 hours as provided in Section 8.2 (3).
- (e) While serving in an acting appointment, the employee shall continue to receive regular County benefits. In addition, the employee shall receive any benefits of the temporary position. However, if an employee receiving overtime benefits is assigned to an acting position, which does not

receive overtime benefits, the employee shall not receive overtime pay for the duration of the assignment. An employee, shall continue to accrue seniority in his or her position and shall be eligible to receive merit increases in the position.

- (f) If an employee serving a temporary appointment is permanently appointed to the position, time served in the temporary appointment will be applied toward fulfilling the required probationary period.

4.8 Working Out of Class. Unless otherwise provided in a memorandum of understanding, any employee assigned work in a higher classification will have his/her salary increased by a minimum of 5% or be increased to the higher classification for the time worked, which-ever is greater, after five (5) working days, effective the first day worked.

Nothing herein shall be construed as limiting management's authority to assign County employees temporarily to different or additional work duties and responsibilities for the purpose of responding to emergencies or necessary special, limited time assignments.

- (a) Out of class assignment shall be recorded only in full working days. An employee working out of class for less than one full day will not be credited with working out of class time or pay.
- (b) To qualify for out of class pay, an employee must be assuming substantially the full range of duties and the responsibility of the higher-level position.
- (c) Time worked out of class shall not be credited toward the completion of probationary requirements in the higher class.

ARTICLE V

COMPENSATION PLAN

5.1 Preparation of Plan. The Director of Personnel Services or the County Administrator shall submit to the Board a proposed compensation plan based on salary recommendations covering those positions in County employment not otherwise set by law.

5.2 Adoption of Plan. The Board shall review the proposed compensation plan, make any changes the Board believes necessary or desirable and in its discretion approve the plan by incorporating it in a salary resolution.

5.3 Application of Rates. An employee shall be paid a salary within the range or established for the class or position to which he or she has been appointed.

5.4 Salary Payment Procedure.

- (a) Schedule of Payments. Employees shall be paid on a schedule of dates approved by the Board.
- (b) Certification. Each department head or authorized designee shall, at the time he or she submits the payroll to the Auditor, certify that each employee has performed the number of days of work shown. The Auditor shall not issue a payroll warrant unless there is an authorized position supported by a valid personnel action form to substantiate the rate shown on the department payroll for each employee. The department head shall determine and certify the payroll of the employees to the Auditor before warrants are issued to such employees. Time/Payroll Sheets. Time/payroll sheets showing hours worked and leave taken must be completed by each County employee. Such sheets must be signed by the individual employee, the employee's supervisor, division, and department head or designee. Time/payroll sheets will be reviewed and audited by the County Auditor. Notice of any correction(s) to the time/payroll sheet will be sent to the employee and the department head. Such corrections will be deemed final unless questioned by the employee within thirty (30) days after notice of correction has been given to the employee. Unresolved matters may be taken to the Personnel Director

for determination, which shall not preclude the filing of a grievance should the employee wish to do so after review by the Personnel Director.

- (c) Separation. When an employee leaves County employment for any reason, his or her department head should immediately prepare a special payroll, certify it as provided in this section and submit it to the Auditor, who shall issue a warrant. Such warrant shall include all compensation due to the employee up to and including the employee's final workday, including all accrued but unused vacation time and any other amounts due to the employee.

5.5 Compensation for New Employees. New employees shall be at the first step of the salary range for the class to which appointed. The County Administrator may approve an appointment up to the "C" step of the range. If the County Administrator finds that qualified applicants cannot be recruited successfully at the "B" or "C" step, he or she may request that the Board authorize an appointment at a higher step of the range.

5.6 Anniversary Date. Each employee in the classified service shall have an anniversary date to be determined as follows:

- (a) New Employees. For a new employee who starts between the 1st through the 15th of the month, the salary anniversary date shall be the 1st of the month; for a new employee who starts between the 16th through the 31st of the month, the salary anniversary date shall be the 1st of the following month.
- (b) New Employee Hired at Step A - For those new employees serving a six-month probationary period and who begin at Step A of a pay range, the salary anniversary date shall be six months from date of hire.
- (c) New Employees Hired above Step A - For those new employees serving a six-month probationary period and who begin at higher than Step A of a pay range, the salary anniversary date shall be one-year from date of hire.
- (d) New Employees with One Year Probation - For those new employees serving a one-year probationary period,

regardless of the starting step in the pay range, the salary anniversary date shall be one year from date of hire.

- (e) Promotion or Demotion. An employee who is promoted or demoted shall have a new anniversary date which shall be the first day of the month following the date of his or her promotion or demotion, except that when an employee's promotion or demotion is effective on the first working day of a month, the anniversary date shall be the first calendar day of that month. In addition, an employee who has been promoted or demoted, shall have an anniversary date which shall be the first calendar day of the seventh month of service at the new class of position.
- (f) Transfer. An employee who is transferred shall have no change in anniversary date.
- (g) Change in Range Allocation. If the salary range of a class is changed, the anniversary date of an employee holding a position allocated to said class shall not change.
- (h) Reclassification. If the position held by an employee is reclassified to a new class with a higher salary range, the employee shall not have a new anniversary date.
- (i) Service Interruptions. The granting of any leave of absence without pay exceeding fifteen (15) calendar days shall cause the employee's anniversary date to be postponed the number of calendar days in such leave.
- (j) Modified Duty. Where an employee is assigned to modified duty in order to make a reasonable accommodation when required by state or federal law the employee's anniversary date shall not be affected thereby.

5.7 Merit Advancement Within Range. An employee may be advanced on his or her anniversary date to the next higher step of the salary range if he or she has earned such advancement.

5.8 Progression on Merit Steps.

- (a) Full-time and Part-time.

- (1) Normal Progression. From the date of employment until the successful conclusion of the probationary period, no merit step increase shall be granted. If hired at Step A, the employee shall become eligible for a merit step increase at the end of a successful probationary period. Thereafter, eligibility for merit step increases shall occur annually on the employee's salary anniversary date until such time as the employee reaches the last salary step available for his or her position.
- (2) Accelerated Progression. If an employee has been appointed at Step B or higher, as previously provided in Section 5.6 (a) no merit step increase shall be granted until the employee has both successfully completed the probationary period and has worked one (1) calendar year in such position. At the end of such first year the employee shall first become eligible for a merit increase. Thereafter, eligibility for merit step increases shall occur annually until such time as the employee reaches the last salary step available for his or her position.
- (3) Promotional Progression. From the date of promotion until the successful conclusion of the probationary period, no merit step increase may be granted. When an employee is promoted, his or her salary increases to an appropriate step within the grade of the new job classification. An employee who is promoted shall be compensated at the step in the new salary range which comes nearest to but not less than five percent (5%) higher than the step he or she held in the previous salary range. The anniversary date of a promoted employee is changed to be the effective date of the promotion.

All promoted employees who successfully pass their probationary promotional review period are eligible for a merit step increase to the next step in the salary range of their new classification. Employees promoted to Step A of the new range are first eligible six (6) months after the date of promotion. If promoted to Step B or higher in the new range,

employees are eligible twelve (12) months from the date of promotion. (See Section 5.6(a) of these Rules.) A promoted employee is eligible for another merit step increase annually thereafter, from the completion date of the probationary period until his/her pay reaches the last step.

- (4) Temporary /Seasonal Employees – Temporary and Seasonal Employees shall not receive merit reviews. However, a temporary or seasonal employee shall receive a performance evaluation when his or her period of service concludes to determine whether he or she is eligible for rehire. This performance evaluation shall also be used as a basis for considering salary in the event the employee is rehired. A step increase may be granted after the accrual of 1040 hours of service.

5.9 Promotion. An employee promoted to a position in a class with a higher salary range may be paid either at the minimum rate of the new range or at the nearest higher rate to that which he or she would otherwise be entitled to in his or her former position on the date his or her promotion is effective, whichever is greater. However, the pay rate shall be at least 5% above the present rate of pay or at the highest step in the promoted salary range, if less than 5% higher.

5.10 Demotion. An employee demoted to a position in a class with a lower salary range shall be paid at the step currently held unless the appointing authority directs placement in a different step.

5.11 Transfer. An employee transferred to a position in a class with the same range shall receive the same salary. The transferring employee may be required to serve a probationary period in the new position unless he or she has previously completed a probationary period successfully in the position.

5.12 Change in Range Allocation. The salary of an employee in a position in a class which is reallocated to a new salary range shall be adjusted to the corresponding step of the new range, i.e., step to step.

5.13 Position Reclassification. The salary of the incumbent in a position which is reclassified shall be adjusted to the corresponding step of the new classification, i.e. step to step.

5.14 Board Authority to Specify Salary. Notwithstanding anything in these rules to the contrary, the Board may specify that the incumbent of a particular position shall be placed on a step on the salary range for that class higher than that provided for elsewhere in these rules. Action based on this section shall be taken only under unusual circumstances where such action is important to the successful operation of a department of County government.

5.15 Overtime. Overtime may be worked only when approved in advance by the Board or, if budgeted, by the department head. Overtime is to be discouraged except in situations where emergencies exist. An emergency shall exist when work is required to correct a condition that is threatening or affecting the peace, health or safety of the general public or work is required beyond the regular working hours to meet deadlines established by law.

Payment for overtime or accrual of compensatory time-off shall be made to non-FLSA (exempt employees at the rate of time and one-half the employee's regular hourly rate, or as compensatory time off at one and one-half hour for each hour of overtime worked. The County Administrator shall determine and advise the Board as to which employees and position classifications are FLSA exempt for purposes of entitlement to overtime compensation. Overtime shall be paid or compensatory time off given for all hours worked by non-exempt employees in excess of 35 hours per week for those on a 7 hour per day schedule and 40 hours for those on an 8 hour per day schedule unless otherwise provided in an applicable Memorandum of Understanding. Non-exempt sworn peace officers may accrue compensatory time off in lieu of compensation at their option.

Overtime: Paid Time or Compensatory Time. For positions which do not meet one of the Fair Labor Standards Act (FLSA) exemption categories, overtime hours worked shall be compensated in one of the following ways for time worked (pursuant to rule 5.17) in excess of thirty-five (35) or forty (40) hours in any work week, depending upon the individual employee's regularly assigned work week and shift.

1. as paid time at the one-and-one-half rate of pay; or
2. for non-exempt safety employee's only, as compensatory time accrued at the one-and-one-half rate of pay, as set forth in applicable Memorandum of Understanding.

Prior to overtime being authorized, the employee and his or her supervisor shall agree as to how the employee shall be compensated (i.e., as paid time or compensatory time). If the employee and supervisor do not agree on the method of compensation, the supervisor may ask another employee to perform the overtime work. However, if the supervisor requires that a particular employee perform the overtime,

and they cannot agree on the method of compensation, then the employee shall be given the choice of how he or she wishes to be compensated. County will allow non-exempt employees to carry 40 hours of compensatory time on the books. Compensatory time will be placed on the books at the rate of one and one-half (1 1/2) hours for each hour of approved overtime worked. When an employee leaves employment, any compensatory time remaining on the books will be paid at the employee's hourly rate.

For non-exempt safety employees only, compensatory time accumulated under these rules and regulations is vested time and must be utilized or paid in conjunction with termination of employment. No safety employee may accrue more than one hundred twenty (120) hours of compensatory time off. Any excess shall be paid at time and one-half rates.

5.16 Standby and Call-Out Policy.

- (a) Standby. A standby roster shall be comprised of County employees from designated departments or divisions who have been designated to be on call and available to work after regular working hours. An employee on standby will be permitted to take home a County vehicle equipped with appropriate tools and supplies for use when called out on standby.

The designated department or divisional supervisor shall be responsible for scheduling his or her employees for standby duty and for providing duty rosters to the Sheriff's department. The Sheriff's department will be given a roster of employees with their standby duty dates, home telephone numbers, and pager numbers and codes. Once assigned to specific standby duty, employees may not trade standby assignments, except with the prior approval of the designated supervisor.

Compensation for standby duty shall be as set forth in duly adopted memoranda of understanding.

An employee assigned to standby duty must be available to respond to emergency calls at all times. The employee must refrain from consuming alcoholic beverages or other substances which could impair his or her effectiveness or safety on the job. Violation of this policy shall result in disciplinary action, as outlined in Chapter XII of these rules.

Nothing herein shall be construed to require that the County establish standby duty for employees in any department or division.

- (b) Call-Out Compensation. Unless otherwise provided in a memorandum of understanding, employees eligible for overtime compensation who have ended their workday and left their places of employment, but who have been requested to perform duties after normal working hours, will be compensated at time and one-half. If the time worked is less than two (2) hours, the employee will receive two (2) hours compensation minimum at the rate of time and one-half. If the time worked is more than two (2) hours, the employee will receive time and one-half for the actual hours or portions thereof worked.

These call-out provisions will apply to no more than two (2) call-out instances per twelve (12) hour period. Any call-out instance after the first two (2) in a twelve (12) hour period will be paid at normal overtime rate.

Compensation for hours worked in excess of the normal work period, including hours worked on call-outs, shall be paid at time-and-one-half for the number of hours actually worked. A minimum of two (2) hours shall be credited as time worked for each call out. For the purpose of this rule, actual time worked shall include all time from the time the employee leaves home to respond to the call until the employee has returned home.

5.17 Work Week. For purposes of applying the overtime requirements of the Fair Labor Standards Act (FLSA), the work week for County employees shall begin at 12:01 a.m. Sunday and end at 12:00 a.m. (midnight) Saturday night. Vacation, sick leave, holiday hours or other leave time will not be included as time worked for purposes of calculating FLSA overtime.

5.18 Split Classifications. In cases where an employee is employed in a capacity which has been recognized as involving "split classifications", in that his or her duties are divided between two different positions in County government, such employee's regular rate of pay shall be determined by pro-rating the regular salary payable to each of the two positions based upon the average percentages of time devoted by the employee to each of the two positions.

ARTICLE VI

RECRUITMENT AND SELECTION

6.1 Employment Goals and Policies. In adopting these rules, it is the goal of the County to employ the most qualified individuals and to achieve excellence in serving the needs of the people of the County. Employment and promotions in the County shall be based upon merit and shall be free from political influence and discrimination based upon religious creed, age, sex, marital status, race, color, national origin, ancestry, medical condition, physical or mental disability, sexual orientation and political affiliation.

6.2 Job Announcements. Job announcements providing information about the position, its title and pay, location of workplace, its major responsibilities and duties, qualifications, where and when to apply, and the last day on which applications will be accepted shall be prepared and distributed by the County Administrator or designee. All positions to be filled will be publicized by posting announcements on the County's official bulletin boards and in such other places deemed advisable by the County Administrator or designee. Employees may suggest additional locations.

Notice of opening shall be posted a minimum of ten (10) working days before the filing deadline for applications. Notice of promotional openings shall be posted a minimum of ten (10) working days before the filing deadline for applications.

A job announcement is not and shall not be construed as an offer of employment.

6.3 Employment Applications. Applications for employment or promotion with the County shall be made on forms approved by the County Administrator. All information required by the application shall be provided and the applicant shall certify under penalty of perjury as to the truth thereof. A material false statement or omission on an application may disqualify the applicant and may be cause for termination or other discipline if the applicant is or subsequently becomes an employee of the County. Resumes and other supplementary information may be submitted and attached to the application for consideration, but may not be used as a substitute for the application. In order to be considered, an application must be actually received in the County personnel office in Independence by the final day of the advertised recruitment period. Postmarks shall not be accepted. All employment applications shall be kept confidential for the County as permitted by law.

The County Administrator may, at his or her discretion, establish a maximum number of applications to be accepted by the County for employment vacancies in cases where the County Administrator determines that the number of

applications anticipated will be so numerous as to preclude an effective evaluation of each such application. Where such maximum number has been established, such facts shall be set forth in the job announcement.

6.4 Recruitment. It is the County's policy to recruit the best qualified persons available regardless of religious creed, age, sex, marital status, race, color, national origin, ancestry, political affiliation, medical condition, sexual orientation and physical or mental handicap, unless sex or physical ability is a bona fide occupational qualification. While recognizing the need to recruit from a pool of persons both inside and outside County employment at all levels, the policy of the County is to transfer and promote persons already employed by the County when their qualifications, training, work performance and work experience are determined to be comparable to other applicants. The County Administrator, at the recommendation of the Department Head, shall determine whether the recruitment shall be departmental promotional.

In order to assure equal opportunity for employment, it is the County's policy to accept applications on an open and continuous basis. Therefore, applications shall be received notwithstanding the existence of current vacancies and shall be kept on file for a period of one year for future consideration if and when appropriate vacancies exist.

6.5 Types of Examinations. Except as specifically provided otherwise in these rules, selection for a position in County employment shall be by one of the following types of examinations:

- (a) Open Competitive. Examinations which are open to all persons who possess the indicated minimum qualifications as set forth in the job announcement. Applicants for open competitive examinations may, but are not required to be, employees of the County.
- (b) Promotional Competitive. Examinations which are open only to County employees who possess the indicated minimum qualifications as set forth in the job announcement. This shall exclude contract employees.
- (c) Closed Department Promotional. Examinations which are open to all employees in the Department who possess the indicated minimum qualifications as set forth in the job announcement.

Final decisions as to the type of examination to be utilized shall be made by the County Administrator.

6.6 Evaluation of Applications. Each application shall be reviewed to determine if the applicant satisfies the minimum requirements.

- (a) Selection technique shall be impartial and relate to those areas which will adequately and fairly indicate the relative capacity of the applicants successfully to perform the duties and responsibilities of the position in which they seek employment. The selection procedure will be determined by the County Administrator or designee.
- (b) In all examinations, the minimum grade or standing for which eligibility may be earned may be based upon all factors in the examination, including educational requirements, experience, and other qualifying elements as shown in the application of the candidate or other verified information. Failure in one part of the examination may be grounds for declaring the applicant as failing in the entire examination, or as disqualified for subsequent parts of an examination.

6.7 Candidates' Examination. County will use Cooperative Personnel Services for all examinations.

6.8 Driving Safety Check. A verifiable and acceptable driving record may be required of each final candidate for employment whose position will or does require driving a County vehicle or if the employee will receive a vehicle allowance or mileage reimbursement. Verification of acceptable driving records of all employees may be conducted periodically.

6.9 Eligibility Lists. Lists of applicants to be considered for job openings in a particular position may be established for open competitive or promotional competitive positions. An eligibility list shall be a list of persons who have taken an open competitive or promotional competitive examination and have qualified for said position. Each such list shall bear an expiration date. Placement of a person's name on an eligibility list does not guarantee employment with or an offer of employment from the County.

Eligibility lists will normally remain in effect for one year from the date of certification or until exhausted, whichever occurs first. The County Administrator shall have the right to extend an eligibility list, from time to time, for a period not to exceed two (2) years from the date of first certification. The County Administrator shall also have the right to decertify a list in his or her discretion prior to the expiration thereof and to request the establishment of a new list.

6.10 Removal of Names From Lists. The County Administrator may remove a name from an eligibility list for any of the following reasons:

- (a) If the eligible person accepts an appointment with the County to a career position of the same level. Acceptance of a temporary appointment at any level will not in itself be cause for removal from an eligibility list. An eligible person may refuse an appointment to a particular position and request to remain on the eligibility list.
- (b) If the eligible person requests in writing that his or her name be removed from the list.
- (c) If the eligible person fails to respond within ten (10) calendar days to a notification or letter which has been mailed to the person's last address on file with the County.
- (d) If a non-employee eligible person is unable or unwilling to accept any offered position.
- (e) If an employee refuses promotional appointment on three separate occasions.
- (f) If a person on a promotional eligibility list resigns from County employment.
- (g) If other circumstances, such as conviction of a crime, loss of a required license or other reason as determined by the County Administrator make the person ineligible for appointment from the list.

6.11 Final Decision on Selection. The department head or designee will select the most qualified person from the eligibility list. All appointments shall be subject to final approval by the County Administrator before becoming effective. If the selected candidate accepts the appointment and reports for duty within the agreed upon time, the applicant shall be deemed appointed to the position. If the selected candidate does not report to duty within the agreed upon time, the candidate shall be deemed to have declined the appointment. By mutual agreement of the department head, the County Administrator and the candidate, the date of the appointment may be changed. Upon the affected employee's written petition, effort shall be made to accommodate current County employees who are or will be on an approved leave as of the date of appointment and thereby unable to report for duty at the designated time. In

making selections due regard shall be given to the County's obligations to make reasonable accommodations to mental or physical disabilities except where there is clear indication that to do so would result in an undue hardship.

- (a) Veterans Preference - Veterans who have receive an honorable discharge from the military service and whom meet the minimum qualifications for the job will receive 4 additional points on the interview score.

6.12 Pre-employment Physical. Each person to whom employment with the County is offered, shall be required to pass a pre-employment physical at a County designated medical facility and at County cost before appointment to such employment becomes effective. This rule shall also apply to changes of employment within the County when the new position has substantially more physical demands upon the employee. Employment shall be conditioned upon the results of said examination. Said examination shall include a screening for alcohol or unlawful drugs and controlled substances. No person shall be denied employment or shall be failed on a pre-employment physical because of a physical or mental disability where such person could perform the essential duties of the job with or without a reasonable accommodation except when the applicant cannot perform the job without presenting a direct or threat to the health and safety of himself/herself or others.

- (a) Medical reports shall not be accessible to unauthorized persons. Those authorized to review such reports generally include: County Administrator, County Counsel or other County retained legal advisor, Health Officer and related Health Department staff, the Personnel Director, or other County retained medical advisors or as provided by law. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for County business reasons. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations. The County will not provide employee or applicant medical information to a third party/person (except as permitted under the California Confidentiality Medical Information Act) unless the employee signs an authorization. If the employee's authorization indicates any limitations regarding the use of the medical information, the County will communicate those limitations to the person or entity to which it discloses the medical information.

- (b) No person who has ever been disqualified from County employment by medical examination shall be appointed to any classified position without written approval of the County Administrator.
- (c) An applicant who has been selected for appointment but who has disqualifying medical conditions which are temporary or correctable may, upon proof from his or her personal physician that such condition has been remedied, subject to verification by the County physician, be reinstated on the same eligibility list, provided it is not expired or been decertified.
- (d) All pre-employment medical examination lab work will be done by the Health Department or approved laboratory as determined by the County Health Officer.
- (e) The County Health Officer, or designee, will notify the County Personnel Office of whether a candidate has passed or failed the pre-employment medical examination. If the candidate is medically qualified to accept the position, the Personnel Director will notify the appropriate appointing authority and indicate that appointment can be made. The candidate is not to be appointed until the appointing authority is notified by the Personnel Director that the candidate has passed the medical examination.
- (f)
 - (1) If the candidate fails the pre-employment medical examination, he or she will be notified of such failure by the Personnel Director, who will also inform the appointing authority.
 - (2) A candidate failing the pre-employment medical examination will be given all written documentation of the examination and reasons for failure. The candidate will also receive a written statement that medical records are confidential and not available for release without a signed written statement of release by the candidate.
 - (3) A candidate failing a pre-employment medical examination will be provided a written statement that he/she is entitled to obtain a second opinion, at

his/her expense, for review by the County Health Officer or designee. All costs associated with the second opinion, including any medical tests or procedures will be at the expense of the candidate. The candidate must notify the Personnel Office in writing within 30 days of receipt of failure notification that a second opinion is requested. Such a second opinion must address the specific reason(s) for failure of the County's pre-employment examination. The result of this second examination will be reviewed by an independent medical examiner if such review is recommended by the County Health Officer.

- (g) Job analyses shall identify and document the job-related physical tasks. All candidates will be permitted to participate in examination procedures regardless of existing disability, unless the disability is specifically stated in the recruitment announcement as disqualifying. Cases will be evaluated on an individual basis with respect to the ability to perform the tasks of the specific position.

6.13 Compliance with U.S. Immigration and Nationality Laws. In hiring employees the County shall comply with all applicable laws relating to immigration and nationalization. The County shall complete the "I-9 form" required by the Immigration Reform and Control Act of 1986 and each person hired by the County shall, as a condition of employment, be required to provide, prior to commencing work, proper documentation required by said law indicating either United States citizenship or legal entitlement to hold employment within the United States.

6.14 Loyalty Oath or Affirmation. All persons hired by the County as employees shall be required to subscribe in writing to the following oath or affirmation:

"During such time as I am an member or employee of the
County of Inyo _____
(insert department/title)

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic, that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter."

(Signature of Employee)

Subscribed and sworn before me this ___ day of _____, 20 ____.

(Signature and title of officer.)

ARTICLE VII

PROBATIONARY PERIODS

7.1 Purpose. The probationary period is deemed to be a part of the examination process, affording the appointing authority an opportunity to evaluate those factors and qualities affecting competence and fitness. It is a basis for determining the eligibility of an employee for regular status in a classified position.

7.2 Initial Probation. All persons hired into the classified service shall serve an initial probation period of six months of service (12 months for Deputy Sheriffs and other subordinate sworn safety employee ranks below Undersheriff, Deputy Probation Officers, sheriff's department Dispatchers, correctional Officers and Supervising Group Counselor, Group Counselor), from their most recent date of appointment before becoming eligible for regular status. An employee serving an initial probation period may be separated from County employment at any time and at the discretion of the appointing authority without cause and without right of appeal. The probationary period may be extended for up to an additional six (6) months on written approval of the County Administrator obtained prior to the expiration of the initial period.

7.3 Promotional Probation. An employee who is promoted from one classification to another classification with a higher salary range shall serve a promotional probation period of six (6) months of actual and continuous service ((12 months for Deputy Sheriffs and other subordinate sworn safety employee ranks below Undersheriff, Deputy Probation Officers, sheriff's department Dispatchers, Correctional Officers and Supervising Group Counselor, Group Counselor). An employee who does not satisfactorily complete the promotional probationary period shall be returned to the classification from which promoted, provided the employee has sufficient seniority to retain a position. If such a position was filled, the probationary employee may be separated from County employment or returned to a prior position if the Department would otherwise be over the authorized level of personnel.

7.4 Effect of Leaves of Absence. Any period of absence from regular duty or assignment in excess of ten (10) working days, for any reason during the probationary period, except scheduled vacations, shall cause the probationary period to be extended for a period equal to the total number of days absent.

7.5 Reinstated and Re-employed Employees. An employee in good standing who has been laid off and re-employed within a one (1) year period in the same classification shall not be subject to a new probationary period provided the employee successfully completed a probationary period prior to the time of layoff. The probationary period for employees reinstated within one (1) year of separation may be

waived at the discretion of the appointing authority, provided the employee has previously successfully served a probation period with the County in that classification.

7.6 Effect of Reclassification. If a position is reclassified, the employee shall not be required to serve a new probation period.

ARTICLE VIII

PERFORMANCE EVALUATIONS & SALARY ADJUSTMENTS

8.1 Initial Appointments. All new employees shall be appointed at the first step of the salary range unless the County Administrator approves placement at step "B" or "C", or the Board approves placement above step "C".

8.2 Performance Evaluations. Regular performance reports shall be made at times and on forms prescribed by the County Administrator as to the efficiency, competence, conduct and merit of all employees in the classified service. In addition to the formal performance evaluation before the conclusion of the probationary period, one or more formal or informal performance evaluations shall be made during an employee's probationary period.

- (a) As part of the performance evaluation, the employee and his/her supervisor shall meet to review and discuss the employee's significant accomplishments, training, areas needing attention or improvement, and future development and objectives. After reviewing the job description, duties and any established performance standards for that position, an evaluation shall be made by the supervisor as to whether the employee's performance has been acceptable or unacceptable. An explanation must accompany any unacceptable or conditional rating. The employee shall have an opportunity to review his or her performance evaluation report and agree or disagree with it. The employee shall have the right to attach a written response to the performance evaluation which shall be attached to the performance evaluation report and placed in his or her personnel file. Based upon the performance evaluation report, the department head may, at his or her discretion, make appropriate recommendations regarding a merit increase, promotion or other action.
- (b) The employee and supervisor must sign and date the performance report. If the employee refuses to sign the report, the supervisor shall note this fact on the performance evaluation report and any circumstances surrounding the employee's refusal. Copies of the report shall be distributed to the employee, the department head and the Personnel Director.

- (c) If an employee is not in agreement with a performance evaluation which results in a less than acceptable rating, the employee may, within ten (10) working days after receipt of the evaluation, request a review of such evaluation by his or her department head. If the employee is not in agreement with the determination of the department head, the employee may, within ten (10) working days after receipt of the determination of the department head, request a further review by the County Administrator or designee, whose decision shall be final and conclusive and not subject to further appeal or grievance.
- (d) With regard to the procedures established in subparagraph (c) above, if the employee's department head prepared the evaluation report in question, the employee may omit review by the department head and proceed directly to review by the County Administrator or designee. If the final decision is adverse to the employee, a further performance evaluation shall be conducted by the department head or designee not later than ninety (90) days after the prior evaluation.

ARTICLE IX

TRAINING AND CONTINUING EDUCATION

9.1 Training. The County recognizes the importance of training. Training may be provided in house or by outside trainers.

9.2 Seminars and Conferences. Employees may attend seminars or conferences covering current issues and areas relevant to their positions under the following conditions.

- (a) Employees must submit their request on forms prescribed by the Auditor and follow all applicable procedures.
- (b) Budgeted funds must exist for all such training and any travel. Out of County attendance shall require written approval of the County Administrator and in conformance with the County's travel policy.
- (c) Employees must comply with the County travel policy and provide necessary receipt documentation as required by the Auditor.
- (c) Employees who have recently received such training must be willing to provide "in-house" training to other employees if so requested.

9.3 Training and Travel Reimbursement. In accordance with the Fair Labor Standards Act (FLSA), employees who are not exempt from FLSA shall receive training and travel reimbursement as provided in this rule.

Time spent in attending lectures, meetings, training programs, and similar activities shall not be counted as time worked where such attendance is outside of the employee's regular working hours, except in situations where the employee is directed by his or her department head to attend such lecture meeting, training program, or similar activity. Leisure and meal times are not considered time worked unless they are part of the seminar.

Time spent by an employee traveling between the employee's residence and the regular workplace is not work time and shall not be treated as hours worked.

When an employee is assigned by his or her department head to travel outside of the County, time spent traveling between the employee's home and assigned destination shall be treated as time worked only to the extent that it exceeds the amount of time normally taken by the employee to travel between his or her residence and regular workplace.

When an employee, who is assigned to travel outside the County and return the same day, utilizes public transportation, the time spent traveling between the employee's home and the location of the public carrier (i.e. airport or bus station) shall be treated as time worked. Also, time spent traveling to a final destination via public carrier is considered time worked.

Employees shall receive mileage and travel reimbursement in accordance with provisions outlined in the County's travel policy.

In general, training time during working hours shall be considered part of the job. Training after hours shall be considered voluntary, and no additional pay, overtime or compensatory time shall be given by the County, unless advance special written approval is granted. Study time shall be considered completely voluntary.

9.4 Tuition Reimbursement. Subject to department head and County Administrator approval and available funding, employees may attend and be reimbursed for part or all of the costs of educational and other training courses which provide a benefit to the County. The Board may establish a amount limitation per employee per fiscal year, or as designated by memorandum of understanding. Payments shall be subject to all applicable federal and state tax laws.

Notwithstanding the tuition reimbursement amount set by the Memorandum of Understanding, if the employee voluntarily leaves County employment within two (2) years after such date of completion, he/she shall refund to the County the amount of such reimbursement in pro-rated amounts up to a period of two (2) years; i.e. if employee leaves the County one (1) year after completing a Bachelor Degree program, employee shall reimburse County 50% of all costs reimbursed.

Any educational or training course that is a requirement for continuation of employment or is an identified part of a job evaluation shall be paid for by the County. Any other educational or training course that is job-related shall, if prior approval for reimbursement is given by the County Administrator, be reimbursed at 1/2 (50%) after successful completion. All college or other graded classes shall require a minimum grade of a "C" in order to receive such reimbursement. Books or other materials shall only be paid if some defined benefit can be shown to the County (i.e., course books become part of a County reference library).

No reimbursement shall occur if an educational class does not provide a benefit to the County. There shall be no mileage reimbursement for travel to and from educational classes. Required forms must be completed and necessary documentation (receipts and grades) must be provided in order to receive reimbursement. Final and conclusive determinations of the reimbursement amount shall be made by the County Administrator after review of the request and recommendations by the department head and the Personnel Director.

Time spent in attending lectures, meetings, training programs, and similar activities during an employee's regular work hours shall be counted as time worked only if authorized in advance and in writing by the employee's department head. No such authorization shall be given unless the lecture, meeting, program or other activity is directly related to improving the employee's ability to perform his or her job.

ARTICLE X

LEAVES

10.1 Jury Duty and Witness Leave. No employee shall be dismissed, suspended or in any manner discriminated against for taking time off from work to serve as a juror or witness when required by law provided such an employee complies with the provisions of this rule. An employee called to serve as a juror or witness shall notify his or her supervisor at least one (1) week prior to the commencement of such service, unless extenuating circumstances exist.

- (a) Any employee of the County called as a courtroom juror shall be entitled to be absent from his or her duties with the County as long as required by the court system or other tribunal. The employee shall obtain a jury calendar or assignment sheet weekly during such service. The employee shall have the jury calendar or assignment sheet signed by the jury clerk or commissioner and shall deliver this sheet to his or her supervisor at the end of each week to verify jury duty or witness service. Time off for courtroom jury duty shall be with pay if the employee submits jury duty fees to the Auditor. Submission of mileage fees is not required.
- (b) If an employee is required to serve on courtroom jury duty while on probation, his or her probationary period shall be extended the same length of time as the jury duty. Such extensions of salary anniversary dates and probationary periods which arise as a result of this policy shall not reflect negatively on any employee's performance.

Any employee required to appear as a witness by proper subpoena issued by a court or other legally empowered agency in a matter arising out of his or her County employment shall be required and paid to attend the trial or hearing as a regular part of job duties. In such case, any fees, including mileage, must be deposited with the County. An employee required to be present as a witness in any other matter shall not be entitled to be paid during such absence.

- (c) An employee who is released by the court from jury duty on any regularly scheduled work day shall contact his or her supervisor to find out whether he or she is required to return to work. An employee who is scheduled for standby duty while serving on jury

duty shall be rescheduled for standby duty after the conclusion of jury duty, unless the employee agrees to serve both.

- (d) An employee may become a member of the County Grand Jury if selected by the Superior Court. However, participation on the County Grand Jury is without pay except to the extent that the employee may cover any absences from work with the use of accrued and scheduled vacation time. If approved in advance by the department head, and based upon the needs of the department, an employee may be allowed to alter his or her regular work hours in order to accommodate Grand Jury service.

10.2 Maternity Leave. Leaves of absence without pay shall be granted to employees affected by pregnancy, childbirth or related conditions, provided such leave shall not exceed four (4) months. At the commencement of a maternity leave of absence, employees have the option of using accrued sick leave, vacation, compensatory time-off or administrative leave allowances and thus, continuing to receive pay. The use of accrued time-off shall not extend the length of the maternity leave.

When an employee is on maternity leave, the County shall continue payment of benefit premiums for the employee and her dependents only to the extent the employee's maternity leave is covered by vacation or sick leave. The County shall not continue payment of retirement contributions unless the employee is continuing to receive pay from the County by utilizing accrued earned leave time. Vacation time, sick leave or holidays shall not accrue during a maternity leave of absence unless the employee is continuing to receive pay by utilizing accrued sick leave, vacation, compensatory time-off or administrative leave allowances. Employees on maternity leave may also be eligible for benefits under the County's short term disability program. Employees must file a claim in order to receive these benefits.

If an employee takes a maternity leave of absence while on probation, her probationary period shall be extended the same length of time as the maternity leave. Such extensions of salary anniversary dates and probationary periods which arise as a result of this policy shall not reflect negatively upon the employee's performance.

A request for a maternity leave of absence should be submitted by the employee as soon as feasible after the employee learns of her pregnancy. The employee must provide a written statement from her physician indicating the date the physician believes the leave of absence should begin and the estimated date of birth. The County may require a pregnant employee who wishes to continue working to provide a physician's statement approving the continuance of her current work duties.

An employee must have a written authorization from her personal physician to return to work from maternity leave, and, may at the County's discretion, be required to obtain a return to duty physical examination by the Health Officer or designee, at County expense.

Before returning to work following a maternity leave of absence, the employee shall submit her physician's verification, and a written consent to return to work from the County designated physician, stating the employee's ability to return to work and note any restrictions which may be placed on the employee. In conjunction with the return, the County shall comply with all applicable laws, including the Americans with Disabilities Act. At the end of the maternity leave period the employee shall be required to return to work full-time. If approved by the employee's physician, Health Officer and/or designee and the County Administrator, the employee may choose the option of returning to work prior to the conclusion of the four (4) month period on either a full-time or part-time basis and receive prorated benefits.

10.3 Military Leave. Military reserve leave is defined as: military duty ordered for purposes of active military training, encampment, naval cruises, special exercises, or like activity as a reserve member of the U.S. Armed Forces or National Guard, provided that the period of ordered duty does not exceed one hundred eighty (180) calendar days, including time involved in going to and returning from the duty, but not for inactive duty (for training) such as scheduled reserve drill periods.

For the purposes of this section, "active military training" shall be defined as a period of training (i.e., encampment, naval cruises, special exercises, or like activities) which normally occurs once a year over a two-week interval. "Inactive duty for training" and "scheduled reserve drill periods" shall be defined as the weekend periods of training which are scheduled once a month.

Employees must submit a copy of military orders to their department head and the Personnel Director prior to the beginning of the military leave period and as soon as the employee knows of the need to request such leave, except where military necessity dictates.

Regular and probationary employees shall receive their full regular pay and benefits for the first thirty (30) days of military leave in any one fiscal year. After the first thirty (30) days of military leave in a fiscal year, employees may take a leave of absence without pay or they may utilize their vacation, administrative leave, or compensatory time-off in order to fulfill their military duties. Regular and probationary employees on a military leave of absence shall receive the same vacation, sick leave, and holiday privileges and the same rights and privileges to promotions, continuance in office, employment, reappointment to office, or re-employment that they would have enjoyed had they not been absent therefrom. Contributions to retirement, life

insurance, and medical and dental plans shall be suspended after thirty (30) days of military leave until the employee is reinstated. However, upon approval of a leave of absence without pay, the employee may elect to continue benefits coverage at his or her own expense, with the exception of retirement.

If an employee is required to perform military reserve duties while on probation, his or her probationary period shall be extended the same length of time as the military leave. Such extensions of salary anniversary dates and probationary periods which arise as a result of this policy shall not reflect negatively on any employee's performance.

The County shall reinstate those employees returning from a military leave of one hundred eighty (180) days or less to the position they occupied prior to taking a military leave of absence or to a position of comparable seniority, status, and pay, upon presentation of a certificate of satisfactory completion of service and if such employees are qualified to return to their former positions.

If an employee is required to perform active military duty for a period in excess of one hundred eighty (180) days as part of his or her military obligation as a reserve member of the U.S. Armed Forces or National Guard, upon expiration of the one hundred eighty (180) days of military leave, such employee will be released from County employment subject to such rights to re-employment.

10.4 Leave of Absence Without Pay. Any employee who is absent from work and who is not on leave of absence with pay may be placed on leave of absence without pay. Such leave without pay must be authorized in writing by the County Administrator. If in excess of 90 days, such leave without pay must be approved by the Board.

This section is designed to grant special requests for leaves of absence without pay which are not specifically addressed in other provisions of these rules.

- (a) A leave of absence without pay may be granted, for no more than ninety (90) calendar days, at the discretion of the County Administrator. Any leave of absence without pay in excess of ninety (90) calendar days must be approved by the Board. No leave of absence without pay shall be considered unless the employee requests the leave in writing and includes the reason for the request. Approval by the County Administrator shall be in writing. No leave of absence without pay pursuant to this rule shall be requested or authorized for the purpose of imposing disciplinary action upon any employee.

- (b) An employee on a leave of absence without pay shall not receive compensation or accrue sick leave, vacation, or holiday credits. County's contributions to the employee's retirement, life insurance, medical, dental, or other designated benefit plans shall be suspended until the employee is reinstated. However, upon approval of a leave of absence without pay, the employee may elect to continue his or her benefits coverage at his or her own expense, with the exception of retirement and Social Security. Any employee requesting a leave of absence without pay shall utilize all of his or her accrued compensatory time-off, administrative leave, and vacation time prior to the start of the leave without pay.
- (c) If an employee takes a leave of absence without pay while on probation, his or her probationary period shall be extended the same length of time as the leave without pay. Such extensions of salary anniversary dates and probationary periods which arise as a result of this policy shall not reflect negatively on any employee's performance.
- (d) Any employee of the County excluding department heads, absent from work on administrative leave for medical reasons for any period in excess of five (5) consecutive work days shall furnish his department head (at the employee's own expense) a certificate signed by a licensed physician or dentist that said employee or member of his immediate family was medically unable to work. Said certificate shall be furnished to the department head and a copy to the Personnel Office. Before an employee returns to work, a return to duty physical examination by the Health Officer or designee may, at the County's discretion, be required at County expense.
- (e) Upon expiration of an approved leave of absence without pay, the employee shall be reinstated to the position he or she occupied at the time leave was granted. Failure on the part of an employee to report to work upon expiration of the leave of absence without pay shall constitute job abandonment and may result in dismissal.

10.5 Advance of Sick and Vacation Leave. The County Administrator may in his or her discretion advance to an employee up to but no more than five (5) days unaccrued sick leave and/or five (5) days unaccrued vacation leave (a maximum of ten (10) days) for use as sick leave or bereavement leave, if no other applicable form of leave is available to the employee in question.

10.6 Leave of Absence With Pay. Leave of absence with pay may be directed by the County Administrator for either of the following reasons. Duration of such leave should generally not exceed four(4)weeks.

- (a) Where the County Administrator determines that it is in the best interest of the County that an employee be removed from the work place pending resolution of the "Skelly" process.
- (b) Where the County Administrator determines that it is in the best interest of the County that an employee be removed from the work place pending investigation of allegations which could lead to disciplinary action.

10.7 On-the-Job Injuries and Workers' Compensation Coverage. When an employee experiences an injury or illness arising out of and in the scope of employment, worker's compensation leave and benefits will be provided as required by law. Procedures to be followed in the event of an industrial injury or illness shall be governed by Section V, subsections A and B of the Injury and Illness Prevention Plan. An employee shall receive full compensation for the date of injury and shall be allowed to use accrued and unused sick, vacation or flex leave for any waiting period required by law. Employees incapacitated by reason of an injury or illness arising out of and in the course and scope of employment shall be allowed to receive a sum which, when combined with the amount of temporary disability payments results in a payment equal to but not exceeding such employee's regular compensation, up to the total amount of the employees accrued but unused sick, flex and vacation. Sworn peace officers injured in the course and scope of employment shall be subject to Labor Code section 4850. An employee's salary, anniversary date and, where appropriate, probationary period shall be adjusted as provided elsewhere in these rules.

10.8 Retirement. All employees in the classified service, excluding part-time non-benefited no PERS retirement, shall be members of the Public Employees Retirement System as provided by law and terms of the contract in effect between the County and the Public Employees Retirement System. The Board may amend the contract as provided by law. The County Administrator shall advise the Board regarding policy matters concerning the contract or amendments to it.

10.9 Vacation. Except for part-time employees, County officers and employees working more than twenty (20) hours per week, other than temporary and seasonal employees, shall be entitled to ten (10) working days vacation with pay per year as follows: (1) vacation for full-time employees shall accrue at the rate of five-sixths (5/6) of a day for each calendar month, or major fraction thereof of actual service, commencing with the date of original employment; after three (3) years of continuous service, vacation shall accrue at the rate of one (1) and one-quarter (1 1/4) days for each calendar month of service; after ten (10) years of service, vacation shall accrue at the rate of one (1) additional day of vacation for each year of service beyond ten (10) years up to a maximum of twenty-five (25) vacation days per year; (2) part-time employees, excluding part-time non-benefited no PERS retirement, shall accrue vacation at the same rates set forth above, but in proportion to the total number of hours worked in any week, divided by forty (40).

- (a) All vacation shall be taken within twenty-four (24) months of the time the total vacation has accrued. Vacation shall be taken only with the consent of the department head. Such consent shall not be unreasonably denied. However, vacations may be scheduled so as to ensure that department functions are adequately staffed at all times. Vacation time may be utilized up to a maximum of twenty (20) working days for any one (1) vacation. The County reserves the right to schedule and require vacation time off for employees who have accrued but unused vacation in excess of these maximum levels of accrual. A period of at least thirty (30) calendar days must elapse before an employee may again apply for and receive vacation, provided the vacation taken has been at least fifteen (15) consecutive working days. Otherwise, the thirty (30) day requirement does not apply.
- (b) Department heads shall have full responsibility and discretion for setting vacation periods for all employees under their supervision. In doing so they shall be guided by the good of the County service, the desires of the individual employee and the orderly conduct of the work and functions of each department.
- (c) Upon termination, the employee shall receive pay for vacation time accrued but which remains unused as of the date of termination.

- (d) No employee shall accrue more than 35 days vacation leave. Once an employee has accrued but not used thirty-five (35) days of vacation leave, such employee shall not accrue any further vacation leave until such employee's amount of accrued vacation leave is reduced below thirty-five (35) days. However, in no case shall employee's total accrued and unused vacation exceed thirty-five (35) days. Any employee who has accrued but not used vacation in excess of thirty-five (35) days as of the date of the adoption of these rules shall be required to use the excess over thirty-five (35) days pursuant to Memorandum of Understanding affecting such employee.

10.10 Sick Leave. County employees working more than twenty (20) hours per week, other than temporary and seasonal, shall be entitled to sick leave as follows: (1) full-time employees shall accrue sick leave at the rate of one and one-quarter (1 1/4) working days sick leave, with pay, for each calendar month of service rendered, or major fraction thereof; (2) part-time employees, excluding part-time non-benefited no PERS retirement, shall accrue sick leave at the same rate set forth above but in proportion to the total number of hours worked in any month, divided by forty (40). Sick leave earned may be taken after one (1) month of continuous employment. On termination there shall be no payoff of unused accrued sick leave except as provided herein or in an applicable memorandum of understanding.

- (a) Doctor's Certificate. Any employee of the County excluding department heads, absent from work on sick leave for any period in excess of five (5) consecutive work days shall furnish his department head (at the employee's own expense) a certificate signed by a licensed physician or dentist that said employee or member of his immediate family was medically unable to work. Said certificate shall be furnished to the Department of Personnel Services. Before an employee returns to work, a return to duty physical examination by the Health Officer or designee may, at the County's discretion, be required at County expense.
- (b) Consent. Sick leave with pay shall be granted only upon the approval of the department head in the case of an actual and verifiable illness or injury.
- (c) Use of Sick Leave. Sick leave may be taken only for the following reasons:

- (1) illness or injury of the employee;
 - (2) illness or injury of a member of the employee's family member or domestic partner;
 - (3) employee's receipt of medical or dental care which is not available except during working hours;
 - (4) death of a family member pursuant to these rules;
 - (5) approval of the use of sick leave beyond the restrictions stated in these rules may be granted by the Board of Supervisors for specific cases;
 - (6) in connection with the provisions of these Rules governing family or medical care leave.
- (d) Abuse of Sick Leave. Sick leave is a privilege, not a right, and may only be used for the purposes enumerated in these rules. The County reserves the right to require any employee utilizing sick leave to provide medical verification of the illness, injury or treatment at County expense, for which sick leave is requested or granted. Abuse of sick leave shall be considered a basis for disciplinary action up to and including termination.
- (e) Coordination of Benefits. If applicable and available, an employee may coordinate the use of sick leave with County short-term disability program benefits such that an employee's accrued sick leave would be charged only for the difference between the regular rate of pay and the amount of County short-term disability benefits received.

10.11 Conversion to Vacation.

- (a) Upon the accumulation of a total of sixty (60) days sick leave, an employee may have the option of converting accrued sick leave in excess of sixty (60) days to vacation leave at a ratio of four (4) sick leave days to one (1) vacation leave day. Said conversion shall only be made at time of use, when the employee has utilized all other existing vacation time and compensatory time and shall not be

subject to payoff at employee's termination unless otherwise provided for in these rules or in an applicable memorandum of understanding or employment contract.

- (b) Sick Leave Buy-Back. Except as otherwise specifically provided in a MOU with a recognized bargaining group, employees, except Department Heads, using less than five (5) days of sick leave in any calendar year may, at the employee's option, exchange up to five (5) days of sick leave with the County for monetary compensation at the employee's current hourly rate. Employee must complete one year of service with the County and have eighty (80) hours of accrued but unused sick leave available to be eligible for buy-back.
- (c) Employee association memberships have created a sick leave pool for use by those members who exhaust all accrued leave (flex, vacation, sick, compensatory time) due to non-industrial illness or injury. Rules governing use of the sick leave bank have been established by the respective employee bargaining units. A copy of those rules is available through the Department of Personnel Services, the Department Head or the Employee Association.
- (d) Sick Leave Bank. A sick leave bank exists for use by employees who exhaust accrued leave (flex, vacation, sick) due to non-industrial illness or injury. The time employees donate may come from either vacation or sick leave accruals. A request for such donated time from the ill or injured employee should be forwarded to the respective employee's association for approval. Employees who receive time donated from a sick leave bank will have such time credited to them as sick leave.

10.12 Sick Leave Conversion to Compensation.

- (a) Except as otherwise specifically provided in a MOU with a recognized bargaining unit, on retirement, employee may convert up to two hundred sixty (260) days accumulated unused sick leave to service credit.
- (b) Except in subsections above, there shall be no pay off of sick leave upon separation, termination, or retirement.

10.13 Bereavement Leave Due to Death of Family Member. Whenever it is reasonably necessary for an employee in the classified service to be absent from duty because of the death of a family member, he or she may request permission from his/her department head to be absent for not more than seven (7) calendar days with pay, per death. Any time off granted shall be charged to sick leave. Any additional days shall be charged to vacation or flex days. Bereavement Leave will not be counted in the calculation for sick leave buy back purposes.

10.14 Family or Medical Care Leave. Leave under this rule shall only be available to persons employed by the County for at least one year who have worked at least 1250 hours within the twelve (12) months immediately preceding the commencement of the leave time. Employees who qualify shall be entitled to family or medical care leave as provided by state and federal law.

(a) Reason for Leave. Employees may be entitled to such leave for any of the following reasons:

1. The birth of a child of the employee or to care for such child.
2. The placement of a child with the employee in connection with adoption or foster care.
3. To care for a parent, spouse or child of the employee who has a serious illness or health condition.
4. Because of a serious health condition of the employee which prevents the employee from performing the functions of the employee's position with the County.

(b) Definitions:

Child – includes a biological, adopted, or foster child, a stepchild, a legal ward, or a child of person standing “in loco parentis”.

Parent – includes biological, foster, or adoptive parent, a stepparent, legal guardian, or a person having stood in loco parentis.

Serious health condition or illness – is limited to an illness, injury, impairment, or physical or mental condition which warrants the participation of a family member to provide care during a period of treatment or supervision and involves either 1) inpatient care in a hospital, hospice, or residential health care facility; or 2) continuing treatment or continuing supervision by a health care provider. It specifically does not include short-term minor injuries and illness for which sick leave may be utilized.

Twelve month period – a rolling twelve month period measured backward from the day leave is taken and continuous with each additional leave.

- (c) Amount of Leave. Subject to the limitations set forth herein, an eligible employee shall be entitled to a total of 12 work weeks of leave during any twelve (12) month period for one or more of the covered reasons. The amount of leave available to an employee shall depend upon the amount of family or medical care leave taken by the employee during the twelve (12) month period immediately preceding the date the leave is to commence.

An employee's option to take leave to care for a newborn, adopted, or foster child expires one year after the birth or placement of the child with the employee. Thus, an employee must conclude leave within a year of the child's birth or placement or else forfeit the option.

In the event both parents are employed by the County, they are limited to a combined leave which does not exceed the maximum amount available to one employee, if leave is requested with regard to the birth, adoption, or foster care of the employees' child. In addition, the County may refuse to grant one parent employee's request for leave if it would result in both parent employees being on leave at the same time.

These limitations do not apply, however, to leave requested by either spouse to care for the other who is seriously ill and unable to work, to care for a child with a serious health condition, or in the event of the employee's own serious illness. Under these circumstances, each employee may simultaneously take the maximum amount of leave available.

(d) Status While on Leave/Pay and benefits. Such leave shall be without pay, subject to the following:

1. The employee may, at his/her option, use accrued vacation, flex or sick leave during the period of family or medical leave. All County benefits will continue during the use of accrued vacation, flex, or sick leave.
2. Where the leave is taken pursuant to subsection (a)(4), the employee shall use both accrued vacation leave and accrued sick leave.
3. During a leave granted pursuant to this section, the employee's group health plan insurance benefits shall be maintained as if the employee had not been on such leave. However, should an employee voluntarily terminate from the County while on Family or Medical Care Leave (for reasons other than the need to provide continuing care for an ongoing serious health condition affecting the employee's spouse, child, or parent, or in the event an ongoing serious health condition affecting the employee, prevents his/her return to work), then the County may collect the cost of the premiums from the employee.

If after the first 12 weeks of Family Care or Medical Leave, an employee is granted additional leave by the County, the employee may at his or her own expense continue his/her health insurance.

4. During Family or Medical Care Leave, continuance in all other employee benefits (e.g., pension) shall be under the same conditions as apply to any other unpaid leave of absence from County employment.
 5. In the event an employee has taken the maximum four-month maternity leave that California law requires employers to provide, the total amount of family or medical care and maternity leave granted to the employee combined shall not exceed seven months.
- (e) Intermittent or Reduced Leave - Employees need not take leave continuously when leave is considered “medically necessary” for the purpose of caring for a seriously ill spouse, parent, or child, or in the event of the employee’s own serious illness. Under such circumstances leave may be taken intermittently (hours, days, weeks, etc.) or on a reduced leave schedule (half days, half weeks, etc.).
- (f) Job Protection - Family Care and Medical Leave does not constitute a break in service. The employee will be returned to the same or to a comparable position upon completion of the leave. Moreover, the employee shall retain that same seniority that the employee possessed at the time the leave commenced for the purpose of layoff, recall, promotion, job assignment, and seniority related benefits. Seniority shall not continue to accrue during the leave period. The County may deny reinstatement to any “key” employee if necessary to prevent substantial and grievous economic injury to the County. A “key” employee refers to any employee who, on the date of the request for leave, is either one of the five highest paid employees, or whose gross salary is among the top ten percent of employees. An employee will be notified of his/her status as a key employee if there is any possibility that reinstatement may be denied at the end of the leave period. Should the employee still decide to take leave, the County will continue to pay the employee’s

health benefits until the expiration of the maximum leave period.

- (g) Procedure for Requesting Family or Medical Care Leave - To the extent that leave is foreseeable or based on planned medical treatment, an employee is required to notify the County as soon as he/she is aware of the need to take leave, and if practical, must try to schedule the leave so as to minimize disruption to County operations. The leave request should be written to the department head and include the anticipated date and duration of the family care or medical leave. Upon request, the employee will be required to obtain a medical certification of the serious health condition requiring leave from the "health care provider" treating the individual. A health care provider includes any licensed physician, osteopath, or other health care provider designated by the Secretary of Labor. An acceptable certification will include:

- (1) the date on which the serious health condition commenced;
- (2) the probable duration of the condition;
- (3) the health care provider's estimate of the amount of time needed for family or medical leave;
- (4) the health care provider's assurance that the health care condition requires family or medical leave.

If the employee's Family or Medical Care Leave extends beyond the period indicated in the original medical certification, the County may request an updated certification. In addition to a medical certification, the employee shall be responsible for informing the county, as far in advance as possible, of the date upon which the leave is expected to be completed, or any extensions of the anticipated leave completion date.

Should the employee fail to return to work upon the expiration of the leave period without obtaining an extension, the employee will be considered to have voluntarily separated from his/her employment with the County.

10.15 School Visit Leave. Any employee who is a parent, guardian or grandparent having custody of one or more children in kindergarten or grades 1-12 or attending a licensed day care facility shall be allowed up to forty (40) hours each school year, not to exceed eight (8) hours in any calendar month of a school year, without pay to participate in activities of the school of their child. Such employee must provide reasonable advanced notice of the planned absence. The employee shall utilize accrued vacation or compensatory time off, if any, for purposes of this absence. The County may require documentation from the school as verification that the employee participated in school activities on a specific date and at a particular time. If both parents, guardians or grandparents having custody, work for the County at the same work site, only the first parent requesting shall be entitled to the leave under this provision.

10.16 Holidays.

- (a) County offices, except those for which special regulations are required, shall be closed on the following legal holidays:

January 1 (New Year's Day)
February 12 (Lincoln's Birthday)
Third Monday in February (Washington's Birthday)
Last Monday in May (Memorial Day)
July 4 (Independence Day)
First Monday in September (Labor Day)
November 11 (Veterans' Day)
Thanksgiving Day
Friday immediately following Thanksgiving Day
December 25

- (b) Employees in the classified service other than non-benefited part-time no PERS retirement employees, will be entitled to a paid holiday as set forth in these rules.
- (c) Employees in the classified service other than non-benefited part time no PERS retirement employees, working in offices or departments which do not close for 1. Martin Luther King

Day (3rd Monday in January), 2. Columbus Day (2nd Monday in October), or 3. Admission Day (September 9) shall receive five (5) additional days off as "flex" days to be scheduled with the approval of the department head. All "flex" days must be taken no earlier than July 1 of the calendar year in which such holiday falls and no later than June 30 of the following year. Otherwise "flex" days may not be accrued or carried over from year to year.

- (d) All employees in the classified service other than non-benefited part-time no PERS retirement employees shall be entitled to a one (1) day holiday with pay on their last working day preceding either December 25 or January 1 of each year. Each employee's department head shall determine upon which of the alternative days the employee may take such leave. Department heads shall schedule such leaves in a manner which ensures continuation of regular County business with a minimum degree of disruption. If an employee cannot be excused on either such day, the employee shall be entitled to the leave at some other time convenient to the department.
- (e) If any of the holidays designated in section 10.16 (a) fall on a Saturday, the preceding Friday is a holiday. If any of such designated holidays fall on a Sunday, the following Monday is a holiday. Employees for whom necessity requires a different holiday schedule than generally applied shall work according to regulations prepared by the department head.
- (f) Group Counselors, Supervising Group Counselors, Correctional Officers, jail Dispatchers, jail Cooks and airport personnel shall be paid at time and one-half their regular rates of pay for working on County recognized holidays.

10.17 Holiday Policy. Paid holidays shall be authorized only for officers and employees in the classified service other than the non-benefited part-time no PERS retirement employees. To be entitled to pay for such paid holidays, an officer or employee must be entitled to pay for both the scheduled working day before and after such paid holiday.

10.18 Voting Time. If an employee does not have sufficient time outside of his or her work hours to vote at a statewide election, the employee may take off enough working time which, when added to the voting time available outside of work

hours, will enable the employee to vote. However, only two (2) hours of the time taken off for voting shall be with pay. Such time off for voting shall be only at the beginning or ending of the regular working shift, whichever allows the most free time for voting and the least time off from the regular working shift, unless otherwise mutually agreed between the employee and department head. If the employee on or before the third working day prior to the day of the election knows or has reason to believe that time off will be necessary in order to enable the employee to vote on election day, such employee shall give the department head at least two (2) working days notice that time off for voting is desired, in accordance with the provisions on this rule.

Not less than ten (10) days before every statewide election, a notice shall be posted setting forth the provisions of this rule. Such notices shall be posted at locations where they may be seen by County employees as they come or go to their places of work.

10.19 Debiting of Employee Accrued Leave. Where an employee takes vacation or sick leave time for less than one (1) work day, such employee's accrued sick leave or vacation time, as applicable, shall be charged only for the amount of time actually taken. In the case of employees exempt from the receipt of overtime pursuant to the Fair Labor Standards Act, and where such employee does not have adequate sick leave or vacation to cover an absence of less than one (1) day, such employee's salary shall not be docked.

10.20 Union Leave. Employee will be granted unpaid leave to conduct Union business not covered Under the Release Time Article of the applicable MOU. The Union shall pay the employees actual salary and cost of benefits. This leave shall not constitute a break in service. Upon completion of leave the employee(s) shall return to his/her former position and shift. This request will be treated like a vacation request.

ARTICLE XI

LAYOFFS AND REDUCTIONS IN FORCE

11.1 Layoff - Reduction in Work Force. If a position is abolished because of administrative reorganization or lack of appropriation, as determined by the Board upon recommendation from the County Administrator and Department Head, employees shall be laid off as provided in these Rules.

- (a) The department head shall notify the employee(s) of the layoff at least thirty (30) calendar days before the effective date of the layoff. If any such employee has regular status, the Personnel Director shall make a reasonable effort to certify him or her as being qualified for other employment with the County.
- (b) Layoffs shall be made by department and by classification. The department head shall recommend to the Board the classification(s) from which layoffs are to be made, and the number of employees to be laid off. The Board shall approve, disapprove or modify such recommendations. Layoffs shall be made in the following order of categories: 1. Temporary and provisional employees in such classification, 2. Probationary employees in such classification, 3. Regular employees within such classification, with a less than satisfactory performance evaluation, 4. Regular employees in such classification, having satisfactory or satisfactory but improvement needed evaluations. Within each category of layoff priority, layoffs shall be on a departmental seniority basis within the classification; that is, the employee with the least seniority in the department in the classification from which layoffs are to be made shall be laid off first. Seniority shall be determined by uninterrupted continuous employment in the classification within the department.
- (c) Whenever there is a reduction in work force the department head shall offer to transfer any regular employee to be laid off to a departmental vacancy, if any, in another class for which the employee is qualified.

Whenever two (2) or more employees have identical classification seniority in the department, the order of lay off will be determined by the department head.

- (d) Employees who transferred to a lower classification as a result of a reduction in force shall have their names placed on an employment list for the classification from which they were transferred, in the order of their classification seniority. Vacant positions within a classification series shall first be offered to employees on this list.
- (e) Employees who are laid off and who held regular County status at the time of layoff shall have their names placed on a re-employment list for classifications in which they previously held regular status and for classifications at the same or lower salary range for which they qualify in the order of their classification seniority. Vacant positions in such classifications will be offered to eligible candidates on the re-employment list in the department from which the employee was laid off. If the vacancy is in the department from which the employee was laid off the offer is automatic. If the vacancy is in another department, the department head has the discretion to make an offer.

The eligibility of individuals on the reinstatement and re-employment lists shall extend for a period of one year from the date of transfer or layoff. Eligible candidates not responding to written notification by certified mail, return receipt requested, of an opening within fifteen (15) working days shall have their names removed from the re-employment list. If an eligible individual will be out of the County for more than fifteen (15) calendar days, he/she may notify the Personnel Director, in writing, as to how he/she may be contacted.

- (f) Upon re-employment following a reduction in force, an individual will have the following benefits restored:
 - (1) prior unused sick leave accruals;
 - (2) seniority at time of layoff for purposes of determining merit increases, vacation accruals, and future reduction in force.
- (g) The salary paid to an employee who is re-employed shall be equivalent to that which the employee was receiving immediately prior to layoff. If the employee chooses to be re-employed in a classification which has a salary range lower than the classification from which he or she was laid off, then salary placement will be

made at a point either equivalent to his or her salary immediately prior to the layoff, or, if the maximum of the salary range of the position to which the employee is to be re-employed is less than the employee's salary immediately prior to the layoff, then the employee will receive the maximum of the salary range contingent upon Board approval.

- (i) Laid off employees are to be paid all accrued holiday, vacation and compensatory time when separated as a result of a layoff. The sick leave accruals of such employee shall remain on the books and will be reinstated if they are reappointed.

ARTICLE XII

DISCIPLINARY ACTIONS AND APPEALS PROCEDURES

A. Disciplinary Procedures.

12.1 Application. This article relating to disciplinary actions and appeals procedures applies only to regular employees in the classified service of the County. It does not apply to County officers and employees appointed by the Board of Supervisors, or the Governor or to temporary, seasonal or probationary employees.

12.2 General Authority and Purpose. An employee in the classified service may be disciplined whenever the employee's work or conduct so warrants. Any such action shall be in accordance with the procedures as set forth in these provisions.

An employee's length of service with the County, his or her prior disciplinary record, if any, and the quality of performance shall be taken in account.

12.3 Reasonable Cause for Action. Disciplinary action may be imposed upon any employee subject to this Article whenever reasonable cause exists justifying disciplinary action. The following conduct constitutes cause for disciplinary action, but shall not necessarily be limited to one or more of the reasons listed:

- (a) Incompetency, i.e., inability to comply with the minimum standard of an employee's position.
- (b) Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of an employee within his/her position.
- (c) Dishonesty.
- (d) Fraud in securing employment or making a false statement on application for employment.
- (e) Discourteous treatment of public or other employees.
- (f) Being under the influence of alcohol or illegal drugs or narcotics while on duty, being impaired by alcohol or illegal drugs in your biological system while on duty which could impact your ability to do your job.

- (g) Abuse of sick leave, i.e., taking sick leave without a doctor's certificate when one is required, or misuse of sick leave.
- (h) Conviction of a crime involving moral turpitude.
- (i) Damage or waste of public property.
- (j) Conduct unbecoming an officer or employee.
- (k) Inexcusable absence or absence without leave.
- (l) Violation of applicable provisions of the federal or state Constitution statutes, or laws, or County ordinances, rules, or regulations, including these Rules and Departmental Rules and Regulations.
- (m) Violation of policies and procedures set forth in the County's Injury and Illness Prevention Plan.
- (n) Willful or negligent exposure of others to significant risk or harm.
- (o) Acts which are incompatible with or inimical to public service.
- (p) Failure of good behavior.
- (q) Willful disobedience and insubordination, a willful failure to submit to duly appointed and acting supervision or to conform to duly issued orders or directions of person in a supervisory position or insulting or demeaning the authority of a supervisor or manager.
- (r) Excessive absenteeism.
- (s) Improper or unauthorized use of agency property.
- (t) Any willful act or conduct undertaken in bad faith, either during or outside of duty hours which is of such nature that it causes discredit to the County, the employee's department or division.

- (u) Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an employee for the performance of his or her official duties.
- (v) Improper political activity. Example: Those campaigning for or espousing the election or non-election of any candidate in national, state, county or municipal elections while on duty and/or during working hours or in uniform.
- (w) Making false or malicious statements concerning any employee, County policies or practices.
- (x) Unauthorized possession of weapons on County property.
- (y) Working overtime without authorization.

12.4 Types of Disciplinary Action. The following are the types of discipline that may be imposed:

- (a) Oral Warnings, Written Reprimands and Departmental Counseling Memoranda. Whenever an employee's performance falls below the required level or when an employee's conduct constitutes a basis for disciplinary action the supervisor may orally inform the employee promptly and specifically of such instances. Written documentation shall be created and maintained in the employee's personnel file concerning the oral warning and the reasons therefore. A copy of this written documentation shall be given to the employee, and he/she shall have the right to attach a rebuttal statement. In situations where an oral warning has not resulted in the correction of the condition or where more severe initial action is warranted, a written reprimand or a departmental counseling memorandum may be delivered to the employee and a copy placed in the employee's personnel file. In such a case, the employee shall have the right to respond in writing within ten (10) days or to a personal interview with the Department Head. The response shall be placed in the employee's personnel file as a permanent record if received within ten (10) days. (or a specified time period as determined by the Department Head.)

- (b) Suspensions/Reduction in Pay. In those cases where one or more written reprimands has not proven to be effective, or in those cases where the seriousness of the conduct so warrants, the department head, after review by the County Administrator, may suspend an employee without pay for a period not to exceed thirty (30) calendar days. In those cases where circumstances warrant, the department head, after review by the County Administrator may, in lieu of suspension without pay, reduce the compensation of the employee up to an amount equal to one-half (1/2) of the employee's salary for a period not to exceed sixty (60) calendar days.
- (c) Demotions and Dismissals. When other forms of disciplinary action have proven ineffective, or where the seriousness of the conduct so warrants, the department head, after review by the County Administrator and County Counsel, may demote or dismiss the employee.

12.5 Suspension Pending Investigation. Pending investigation an employee may be suspended with pay by the appointing authority for a period of up to 4 weeks in accordance with Rule 10.6.

12.6 "Skelly" Procedure. The following actions shall be taken by the appointing authority when the disciplinary action of suspension, reduction in pay, demotion and/or dismissal is being considered against an employee in the classified service.

- (a) The employee shall be served with formal written notice of the proposed disciplinary action ("Skelly" notice) a reasonable period of time in advance of the date upon which the proposed discipline is to be implemented. At least two (2) weeks advance notice shall be given.
- (b) The notice will inform the employee of:
 - (1) the discipline proposed;
 - (2) the charges upon which the proposed discipline is based;
 - (3) the reasons for the proposed disciplinary action against the employee;

- (4) copies of all documents upon which the proposed discipline is based; and
 - (5) the opportunity to respond to the proposed disciplinary action either orally or in writing within the allowed time.
- (c) The employee shall be given the right to respond, either orally or in writing, to the County Administrator or his designee, prior to the disciplinary action being taken. The notice shall so inform the employee and set forth the time period and procedure for submitting or scheduling such a response.
- (d) The time period set for the employee to respond, either orally or in writing, is jurisdictional and are to be strictly adhered to by the employee, unless an extension of such time is requested by the employee in writing and granted by the County Administrator or his designee in writing, an employee who fails to respond in the time period specified waives the right to respond either orally or in writing.

12.7 Emergency Situations. In the event that emergency circumstances exist which require the immediate removal of an employee to avoid potential harm to the County or to the public, the appointing authority may immediately suspend the employee pending completion of a full investigation after giving the employee, by whatever means may be reasonably available, notice which meets the requirements of Rule 12.6(b)(1) through (b)(4) and offering the employee an opportunity to respond immediately. If the employee cannot reasonably be found at his or her place of work or residence, the department head may thereafter immediately suspend the employee. Such suspension may only be for such period as is reasonably necessary for the appointing authority to complete a full investigation and, if warranted, initiate additional disciplinary action in accordance with these Rules.

12.8 Notice of Disciplinary Action Taken. Prior to an employee being dismissed, suspended, demoted or reduced in pay , and after the employee has either exercised the procedures afforded by Rule 12.6 or has not availed himself or herself of such rights within the time allowed to do so, the appointing authority shall serve on the employee a formal written order informing the employee of: (1) the discipline being imposed (2) the charges for which the discipline is imposed; (3) the reasons for imposing the discipline. Each order of dismissal, suspension, demotion or reduction in compensation shall also contain, in substantially the following language, notice of the

employee's right to appeal (only regular employees in the classified service have the right to appeal):

"If you wish to appeal this order, you must file such appeal in writing with the County Administrator within ten (10) calendar days of the date of this order."

Any order of termination shall direct the employee to return at or prior to the effective date of termination all County property which has been entrusted to the employee such as but not limited to keys, vehicles, identification cards, credit cards, books, manuals, etc. The order shall also advise the employee of rights and procedures to be allowed concerning the employee's pension rights, "COBRA" rights, etc.

Any order of suspension shall advise the employee of the period of suspension and the date upon which he or she is to return to work.

12.9 Development of Further Information. If after the "*Skelly*" notice is delivered to the employee pursuant to rule 12.5 further information comes to the attention of the appointing authority which requires amendment, revision or supplement to such "*Skelly*" notice, the notice may be revised but must thereupon be promptly served upon the employee. The employee shall be given additional time and an additional opportunity to submit a "*Skelly*" response pursuant to rule 12.6 when served with an amended or revised "*Skelly*" notice.

B. Appeals Procedure.

12.10 Right to Appeal. An employee who has been disciplined – by reduction in pay, suspension, demotion or dismissal, may appeal such discipline to a Hearing Officer in accordance with the following procedures. Denials of merit advancement within range, oral or written reprimand, warning or counseling, and performance evaluations may not be appealed pursuant to these procedures.

- (a) Compliance With Time Limitations. The time periods set forth in this Article are jurisdictional and are to be strictly adhered to by an appellant. An employee who fails to act within any time period specified waives any right to appeal to the Hearing Officer.
- (b) Administrative Appeals By Sworn Peace Officers. Requests by sworn peace officers for administrative appeals of disciplinary matters subject to the provisions of Government

Code section 3304(b) shall be subject to the provisions of this Article.

12.11 Appeal to Hearing Officer. In the event the appellant desires to appeal the written order of discipline issued pursuant to Rule 12.8., he or she must do so within ten (10) calendar days following the such written order of discipline. The appellant must submit to the County Administrator a written appeal and a request for a hearing before the Hearing Officer. The written appeal must set forth the reasons why the discipline should not have been imposed. The County Administrator shall immediately notify the Hearing Officer of the request and submit to the Hearing Officer copies of the written order of discipline and the written appeal of the appellant.

12.12 Hearing Officer Procedures. Hearings before the Hearing Officer shall be governed by the following procedures:

- (a) Private or public hearings: All hearings shall be private; provided that the employee may request a hearing open to the public. Any request for an open hearing shall be submitted five working days prior to the hearing date or the hearing will be closed.
- (b) Pre-hearing procedure:
 - (1) Subpoenas: Before the commencement of the hearing, the County Administrator or his designee is authorized to issue subpoenas at the request of either party prior to the commencement of the hearing. After the commencement of the hearing, subpoenas shall be issued by the Hearing Officer and only for good cause. The Personnel Department will prepare subpoenas for all witnesses however, they will only serve subpoenas on individuals who are currently employed by the County. It will be the responsibility of the employee and the County to submit the names of current County employees to be subpoenaed at least ten (10) working days before the date of the hearing at which they are requesting the witnesses to appear.
 - (2) Exhibits and Witness List: Five working days prior to the date of hearing, each party shall serve upon the other party and submit to the Personnel Department a list of all witnesses and a list and a copy of all

exhibits. The County's exhibits shall be designated by number. The employee's exhibits shall be designated by alphabetical letter. Neither party will be permitted to call during the hearing, a witness not identified pursuant to this section nor use any exhibit not provided pursuant to this section unless that party can show that they could not reasonably have anticipated the prior need for such witness or such exhibit.

- (c) Record of Proceeding and Cost. All disciplinary appeal hearings may, at the discretion of either party or the County, be recorded by a court reporter. Any hearing which does not utilize a court reporter, shall be recorded by audiotapes. If a court reporter is requested by either party, that party shall pay the cost of the court reporter. If both parties request a court reporter the cost will be split equally.
- (d) Right of Inspection. The appellant and/or his or her designated representative shall have the right to inspect documents in the possession of, or under the control of, the County which are relevant to the appeal, and that are not protected from such disclosure by applicable Federal or State law. The Hearing Officer shall determine whether access shall be provided to any such document in the event of a disagreement between appellant and the County.
- (e) Evidence and Procedure.
 - (1) The appellant shall be entitled to appear and testify personally, to produce evidence both oral and documentary, to obtain issuance of subpoenas for the production of witnesses and evidence, to be represented by counsel or other representative of his or her choice, and to have a public hearing.
 - (2) The appointing authority may be represented by counsel.
 - (3) Technical rules of evidence shall not apply to such hearings.

- (4) The burden of proof shall be on the appointing authority. The burden shall be met by a preponderance of the evidence.
 - (5) A record of the hearing shall be made by tape recording, or court reporter.
 - (6) The County Administrator and Hearing Officer shall be authorized to issue subpoenas for the attendance of witnesses and production of documents at the hearing.
 - (7) The Hearing Officer shall administer oaths and receive evidence in its discretion consistent with the general rules applicable to administrative proceedings.
 - (8) Stipulations of fact may be introduced into evidence with respect to any issue. (9) The Hearing Officer shall rule on all evidentiary disputes.
- (g) Postponement and Dismissal. If the appellant or his or her representative fails to appear at the hearing, the Hearing Officer may order that the hearing be stayed until the appellant or his or her counsel or representative appears, or may dismiss the appeal and thereby affirm the order of discipline.
- (h) Decision by the Hearing Officer. Within thirty (30) days following the conclusion of the hearing, the Hearing Officer shall make written findings of fact and conclusions of law and issue a written decision affirming, modifying or revoking the discipline imposed on the appellant. The decision of the Hearing Officer shall be final and binding on the parties. The Hearing Officer shall promptly deliver an original decision to the County Administrator, and the appellant or the appellant's representative.

The award of the Hearing Officer shall be final and binding.

The Hearing Officer will have no power to add to, subtract from, or modify the terms of any Memorandum of Understanding, these rules or any other written policies,

rules, regulations, and procedures of the County; nor shall the Hearing Officer be empowered to render a decision on issues not before the Hearing Officer or on facts not supported by the evidence.

If any question arises regarding the appealability of an appeal, the party raising the question of appealability may, upon request, have such question first ruled upon and decided by the Hearing Officer prior to any other hearing on the merits of the appeal.

By submitting the appeal to the Hearing Officer, the appellant expressly waives any right to statutory remedies or to the exercise of any legal process other than as provided by this procedure. The appeal of discipline pursuant to Rule 12.10 shall constitute an express election on the part of the appellant that this procedure is the chosen forum for resolving the issues contained in the appeal, and that the appellant will not resort to any other forum or procedure for resolution or review of the issues. The parties do not intend by the provisions of this paragraph to preclude the enforcement of any award in any court of competent jurisdiction.

12.13 Judicial Review/Enforcement of Award. Judicial review of the award by the Hearing Officer shall be made in accordance with Section 1094.5 of the California Code of Civil Procedure.

12.14 Time Limits of Judicial Review/Enforcement of Award. The time within which a party may seek review shall be governed by Code of Civil Procedures Section 1094.6 which requires filing not later than the (90th) day following the date on which the officer gives written notice of the final decision.

ARTICLE XIII

GRIEVANCES

13.1 Reviewable and Non-Reviewable Grievances.

(a) Reviewable Grievances. A written claim by an employee or recognized employee organization on behalf of an employee or group of employees, that the County has violated, misinterpreted or misapplied a provision of these rules, a memorandum of understanding applicable to such employee or a written ordinance or resolution. All grievances must be signed by the employee or each employee of a group on whose behalf the grievance is submitted. The grievance must be submitted as herein specified.

(b) Non-reviewable Grievances. The following shall be excluded from the grievance procedure:

- (1) oral or written counseling, warnings or reprimands, suspensions, reductions in pay, demotions, and dismissals;
- (2) complaints or requests for changes regarding wages, hours and working conditions;
- (3) to challenge reclassifications, lay off, transfer, denial of a merit advancement, denial of reinstatement or denial of re-employment;
- (4) to challenge violations of law or past practice unless the personnel rules or applicable memorandum of understanding expressly refers to same;
- (5) to challenge examinations or appointment to positions;
- (6) any act or omission that occurred more than 45 days prior to the initiation of the grievance process.

(c) Time Periods. The time periods set forth in this Article are to be strictly adhered to by grievant and any failure to act within any specified time period will result in the grievance being rejected. Grievances which are rejected will not be

processed further. A grievance must be filed no later than forty five (45) days from the act or occurrence giving rise to the alleged grievance. Any failure by County to act within a specified time period shall allow the grievant the option to proceed to the next level of the grievance procedure.

13.2 Grievance Procedure - Oral Presentation; Written Submission.

The employee concerned (hereinafter called "grievant") shall first informally discuss his or her grievance with the immediate supervisor in an attempt to resolve the matter. In the event the grievance is not resolved, the grievant shall reduce the grievance to writing within 10 days of the meeting with the immediate supervisor. The written grievance shall set forth all facts necessary to understand the issues involved in the grievance. The grievance shall be signed by the grievant and shall be submitted to his or her immediate supervisor. Within ten (10) calendar days of receiving his/her supervisor's response, or in the case where the supervisor failed to respond, within twenty (20) calendar days of the informal meeting the grievant shall appeal to the department head. The supervisor immediately shall forward a copy to the appointing authority.

13.3 Department Head's Response. Within ten (10) calendar days of the receipt of the grievance, the department head shall make such investigation of the facts and issues as is required and shall reply in writing to the grievant stating the department's position.

13.4 Meeting With County Administrator. If the grievant wants to review the grievance further, he or she shall, within ten (10) calendar days of receipt of the department head's reply, submit a written request for a meeting with the County Administrator. The request shall include the grievance, the decision of the department head and the reason for the request for further discussion of the matter.

A meeting shall be held by the County Administrator within ten (10) calendar days of the receipt of the written request. The meeting shall be attended by the grievant, the grievant's representative (if requested by the grievant), the department head and any other persons invited by the County Administrator. The County Administrator shall provide a written decision on the matter to the grievant and the department head within ten (10) calendar days following the meeting. In the event the County Administrator is prevented by conflict of interest from considering the grievance, the meeting shall be conducted and the decision issued by an uninvolved elected or appointed department head.

13.5 Appeal to Arbitration. In the event the grievant desires to appeal the decision of the County Administrator, he or she may do so within ten (10) calendar days following the date of the written notification of the County Administrator's decision by submitting to the County Administrator a written appeal and a request for a hearing

before the arbitrator. The written appeal shall set forth all facts necessary to understand the issues involved in the grievance. The County Administrator shall immediately notify the Arbitrator and the grievant.

13.6 Scheduling the Hearing. The hearing shall be heard as soon as the Arbitrator is available, but not earlier than thirty (30) calendar days from the date the Arbitrator is notified for the appeal.

- (a) Procedure. The grievant, or a representative designated by the grievant, shall have the right to inspect any documents in the possession of or under the control of the County which are relevant to such appeal and that are not protected from disclosure by applicable Federal or State law. Determinations as to relevance of any document shall be made by the Arbitrator if there is a disagreement between the grievant and the County.
- (b) Hearing. A record of the hearing shall be made by tape recording or court reporting. Stipulations of fact may be introduced into evidence with respect to any issue. The Arbitrator shall administer oaths and rule on all evidentiary disputes. The appointing authority and the grievant may be represented by counsel. Technical rules of evidence shall not apply to such hearings. The burden of proof shall be on the grievant based on a preponderance of the evidence. The County Administrator and Arbitrator shall be authorized to issue subpoenas for the testimony of witnesses and production of documents at such hearing in the same manner the County Administrator and Hearing Officer are authorized to issue subpoenas in disciplinary appeals.
- (c) Grievant's Rights. The grievant shall be entitled to appear personally, to testify on his or her behalf, to produce evidence, to obtain issuance of subpoenas for the attendance of witnesses and production of evidence, to be represented and to have a public hearing. The hearing shall be closed to the public unless the grievant requests in advance that the hearing be open.

If the grievant fails to appear at the hearing, the Arbitrator may order that the hearing on the appeal be stayed until the grievant appears or may dismiss the appeal and thereby affirm the decision of the County Administrator.

- (d) Arbitrator Decision. Within thirty (30) days after the conclusion of the hearing, the Arbitrator shall issue a decision on the grievance. The decision of the arbitrator shall be final and shall be delivered in writing to the County Administrator and the grievant.

The Arbitrator will have no power to add to, subtract from, or modify the terms of any Memorandum of Understanding, these rules or any other written policies, rules, regulations, and procedures of the County; nor shall the Arbitrator be empowered to render a decision on issues not before the Arbitrator or on facts not supported by the evidence.

If any question arises regarding the arbitrability of a grievance, the party raising the question of arbitrability may, upon request, have such question first ruled upon and decided by the Arbitrator prior to any other hearing on the merits of the grievance.

By submitting the grievance to arbitration, the grievant expressly waives any right to statutory remedies or to the exercise of any legal process other than as provided by this procedure. The grievance shall constitute an express election on the part of the grievant that this procedure is the chosen forum for resolving the issues contained in the grievance, and that the grievant will not resort to any other forum or procedure for resolution or review of the issues. The parties do not intend by the provisions of this paragraph to preclude the enforcement of any award in any court of competent jurisdiction.