



TULARE COUNTY PERSONNEL RULES

**Resolution No. 2017-0479
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PERSONNEL RULES

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Rule 1 - GENERAL PROVISIONS

1.1 AUTHORITY

The following Rules are promulgated under the authority of the Tulare County Ordinance Code Section 1-07-1005 Rules and Regulations.

1.2 PURPOSE

It is the purpose of these Rules to establish a system of uniform and appropriate personnel policies and procedures that shall maintain the quality of personnel administration consistent with such merit principles as:

- 1.2.1 Recruiting, appointing, and promoting employees on the basis of their relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment;
- 1.2.2 Retaining employees on the basis of the adequacy of their performance, correction of inadequate performance and separating employees whose inadequate performance cannot be corrected;
- 1.2.3 Assuring impartial treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, religion, color, gender, sexual orientation, age, marital status, national origin, or physical or mental handicap or any other basis proscribed by law and with proper regard for their privacy and constitutional rights as citizens; and,
- 1.2.4 Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

1.3 APPLICATION

Except as otherwise provided, the provisions of these Rules shall apply to all offices, positions, and employees in the service of the County, except:

- a) Elected Officials;
- b) Members of Appointed Boards, Commissions and committees.
- c) Volunteer personnel who receive no regular compensation other than reimbursement for expenses.
- d) Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as an extraordinary fire, flood, earthquake, or other disaster, which threatens life or property.

1.4 SCOPE

This document is a compilation of Rules, which shall govern and affect personnel administration for all employees of the County of Tulare, pursuant to the purposes outlined in Rule 1.2 herein, except as otherwise provided. The provisions of these Rules as incorporated herein, shall not preclude the development of operational policies and

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procedures within specific departments of the County nor the development of personnel or administrative policies and procedures governing the implementation of these Rules, providing such policies and procedures are consistent with these Rules as determined by the Human Resources Director.

1.5 **SEVERABILITY**

If any provision, section, paragraph, sentence, clause or phrase of these Rules, or the application of such to any person or circumstance, shall be held invalid or declared unconstitutional or void, the remainder of the Rules, or the application of such provisions to persons or circumstances other than those to which it is held invalid or declared unconstitutional or void for any reason, shall not be affected thereby.

1.6 **TENSE/NUMBER/GENDER**

For purposes of these Rules, words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; and, words in the masculine gender include the feminine and gender neutral.

1.7 **DELEGATION OF AUTHORITY**

In all cases, unless specifically noted otherwise, actions or authority assigned by these Rules to the County Administrative Officer or Department Head may be delegated to the assistant.

For purposes of these rules an Agency Head is equivalent to a Department Head and the Assistant Agency Head is equivalent to an Assistant Department Head.

1.8 **PERSONNEL RECORDS AND EMPLOYEE FILES**

1.8.1 **Centralized Position Control**

A centralized position control system shall be maintained which will show the historical and current record of each position as authorized by resolution of the Board of Supervisors. Such records shall include pertinent personal data, as determined appropriate by the Human Resources Director, applicable to the incumbent of each position, if occupied. If unoccupied, the record shall clearly designate a vacant position.

1.8.2 **Change-of-Status Reports**

Every appointment, transfer, promotion, demotion, change of salary rate, and any other temporary or permanent changes in status of employees must be reported to the Human Resources Director in such manner as may be prescribed by the Human Resources Director.

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1.8.3 Employee Files - Content

1.8.3.1 The Human Resources Director shall maintain personnel folders or employee files in paper or electronic form which shall contain the official employment record of each County employee including personnel transaction forms, performance appraisal forms, and other pertinent data and documents pertaining to the employment status and history of the employee. Unless otherwise required by law the Human Resources Director shall determine whether a document and/or the data it contains is maintained in paper or electronic form.

1.8.3.2 No counseling or disciplinary document shall be placed in the employee's personnel file until such employee has had the opportunity to review the document, to receive a copy of same, and to discuss the document with the issuing party.

1.8.3.3 An employee has the right to file a response to any counseling or disciplinary document placed in the employee's personnel file.

1.8.4 Employee Files - Access

1.8.4.1 The confidential information in personnel files shall not be revealed to outside sources except as required or permitted by law, or with the written consent of the employee. The Human Resources Director may reveal the following information regarding an employee, or an ex-employee, in response to outside inquiries:

- a) Employee's Name
- b) Classification Title and Department
- c) Employment Status
- d) Salary
- e) Hire Date and/or Separation Date

This information is a matter of public record and is available to anyone.

1.8.4.2 In addition, the Appointing Authority, Manager, or Supervisor may, upon written request of a prospective employer, release through the Human Resources Director information concerning the job performance or qualifications for employment of a current or former employee provided the information is:

- a) directly related to the job, and
- b) is based upon credible evidence, and
- c) does not relate to speech or conduct not related to the current or former employee's job performance or qualifications of their position with the County, and
- d) is made without malice.

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1.8.4.3 An employee, his immediate supervisor and/or Department Head, or the employee's representative with written consent of the employee, may inspect his own personnel file at any time during the normal working hours of the Human Resources and Development Department. Upon written request, the employee or his representative shall be allowed to copy any materials in the employee's personnel file. The Human Resources & Development Department may charge a fee to provide copies of materials from the employee's personnel file.

1.8.4.4 When an employee is seeking another position in the County, the appointing authority and/or those in a position to effectively recommend hiring the employee may review his personnel file.

1.8.5 Letters of Reference

Letters of reference or recommendations shall not be provided to employees or former employees. The only exceptions shall be for employees pursuing an advanced degree or, upon request of a prospective employer, as provided in 1.8.4.2 above.

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Rule 2 - DEFINITION OF TERMS

2.1 **ADMINISTRATIVE LEAVE**

A paid or unpaid leave of absence while an employee is under investigation or for other administrative purposes. This leave may be extended until the final outcome of the investigation or administrative action has been determined.

2.2 **AGENCY**

Several County functions that were at one time Departments grouped under one administration. For purposes of these rules an Agency is treated as a Department. The Agency Director is, for purposes of these rules, considered to be the Department Head and the Associate Agency Director is considered to be the Assistant Department Head.

2.3 **ALLOCATION**

The authorization by the Board of Supervisors of a position in a specific classification in a department, agency or other County entity. The position may be allocated as full or part time as expressed in whole or percentage Full Time Equivalent (FTE's).

2.4 **ANNIVERSARY DATE**

The date recurring yearly based upon an employee's most recent regular appointment. This date is used principally in matters regarding salary administration as well as seniority.

2.5 **APPLICANT**

A person who, under these Rules, has made formal written application for a position in the County service.

2.6 **APPLICATION**

A request to be considered for appointment to a vacant position in a particular classification, submitted in a form and/or format that is acceptable to the Human Resources Director.

2.7 **APPOINTING AUTHORITY**

The individual or group of individuals responsible for the appointment, discipline, and termination of an employee or employees, and subordinates to whom such authority is delegated. Unless otherwise provided, the Appointing Authority is the Department Head or Assistant Department Head.

2.8 **APPOINTMENT**

The employment of a person in a position.

2.8.1 **Original Appointment Date**

The first date of employment in a probationary or regular position as a County employee. (Appointment to an Extra Help position does not qualify as the

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employee's Original Appointment date.)

2.8.2 Provisional Appointment

The employment of a person in a vacant position, pending the selection process, for no more than a six (6) month period unless otherwise extended as provided herein.

2.8.3 Temporary Appointment

Also known as a parallel fill. The employment of an existing County employee in a position temporarily vacant due to a leave of absence.

2.8.4 Project Service Appointment

The employment of a person to a Project Service position. Project Service positions are those tied directly to non-County funding for a limited time period.

2.8.5 Probationary Appointment

The probationary employment of a person in a regular position. A probationary appointment is for a specified period during which job performance is evaluated as a basis for consideration for regular appointment.

2.8.6 Regular Appointment

The employment of a person in a regular position, following the successful completion of a probationary period

2.8.7 Promotional Appointment

The probationary employment of a regular or probationary employee in a regular position as a result of a promotion.

2.9 **ASSIGNED HOURS**

The number of hours an employee is expected to work each pay period, as defined by department work schedules.

2.10 **AT-WILL**

The employee serves "at the will of" his appointing authority. See 2.32.9 for further information.

2.11 **CALL BACK**

The required return to duty of an employee after the workday is completed to perform an emergency task.

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2.12 **CERTIFICATION**

The processes whereby eligible applicants are referred by the Human Resources Department to the appointing authority for selection.

2.13 **CLASS (CLASSIFICATION)**

A group of positions sufficiently similar in duties, responsibilities, authority, and employment standards to permit combining them under a single title and using common standards of selection and compensation.

2.14 **CLASSIFICATION PLAN**

The designation of titles for each class together with the class specification for each class as prepared and maintained by the Human Resources Director.

2.15 **CLASS SERIES**

A group of two or more classes having the same or similar occupational duties with various levels of responsibility and employment standards.

2.16 **CLASSIFICATION SPECIFICATION**

A written description of the representative duties, responsibilities, and qualifications of a class.

2.17 **COMPENSATION**

Any salary, wage, fee, allowance, or other remuneration or valuable consideration paid to or on behalf of an employee for performing the duties and exercising the responsibilities of a position.

2.18 **COMPENSATORY TIME OFF (CTO)**

Time off taken in lieu of cash compensation for overtime accrual in accordance with MOU provisions or the Personnel Rules.

2.19 **COMPETITIVE SERVICE**

Positions filled through a hiring process that requires applicants to compete for placement on an employment list. Elected and at-will positions do not fall under the competitive service.

2.20 **CONTINUOUS SERVICE**

Employment without break or interruption.

2.21 **CONFIDENTIAL EMPLOYEE**

Employees who are privy to information pertaining to the decision making process of County

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management in the area of Employee Relations. An employee who is required to develop or present management positions on collective bargaining, or whose duties normally require access to confidential information that contributes significantly to the development of management positions on collective bargaining matters within the scope of representation.

2.22 **COUNTY**

When used alone, the County of Tulare.

2.23 **DATE OF HIRE**

The first date of employment with the County.

2.24 **DATE OF SENIORITY**

The most recent date of hire in the competitive service.

2.25 **DEMOTION**

The voluntary or involuntary movement of an employee from a position to another position that has a lower maximum salary rate.

2.26 **DEPARTMENT**

An organizational unit of County government that is established as a department by statute, ordinance or resolution of the Board of Supervisors. For purposes of these rules an Agency is considered to be a Department.

2.27 **DEPARTMENT HEAD**

The person who is appointed by the Board of Supervisors, or elected by the public, to manage and assume complete responsibility for the operations of a County department.

2.28 **DIRECTOR**

When used alone, the Human Resources Director who is the Director of the Human Resources and Development Department. The term "Employee Relations Officer" also refers to the Human Resources Director.

2.29 **DISMISSAL**

The involuntary separation of an employee from the County service.

2.30 **DRUG**

As used in these rules, "drug" shall include any illegal or illicit substance or drug as defined in State or Federal law. Also, "drug" shall mean any legal prescription or non-prescription medication whose use, abuse or prescribed use impairs an employee's ability to perform the duties of their position. Also, "drug" shall mean any alcoholic beverages including beer, wine and distilled spirits.

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2.31 **ELIGIBLE**

A person whose name is on an employment list.

2.32 **EMPLOYEE**

A person employed by the County as defined in 2.32.1 – 2.32.9.

2.32.1 **Extra-help Employee**

An employee hired at-will to fill a short term, typically unexpected, temporary need. An extra-help employee's rate of pay is fixed on an hourly basis and is paid only for actual hours worked. An extra help employee is limited to a total 1559 hours of service in a fiscal year.

2.32.2 **Full-time Employee**

An employee who is appointed to a full-time allocated position and who's generally assigned hours are 80 hours a pay period, or 56 hours for certain Fire Occupations.

2.32.3 **Part-time Employee**

An employee who is appointed to an allocated position and who's generally assigned hours are less than 80 per pay period.

2.32.4 **Probationary Employee**

An employee who has not yet completed the probationary period for the position held.

2.32.5 **Provisional Employee**

An employee who has an appointment to a vacant position pending the establishment of an employment list and subsequent completion of the selection process as provided in Rule No. 5 for no more than a six (6) month period, unless extended.

2.32.6 **Regular Employee**

An employee appointed to an allocated position and who has successfully completed the specified probationary period.

2.32.7 **Seasonal Employee**

An employee hired at-will through a non-competitive process to fill a predictable recurring need where the amount of hours fluctuates each pay period and/or year. Seasonal employees are typically employed on a short term but regular annual

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basis.

Seasonal positions are allocated in the budget process, but an individual seasonal employee may not work more than 1,559 hours in any one fiscal year.

2.32.8 Temporary Employee

An employee in a regular allocated position that is vacant due to a leave of absence.

2.32.9 At-Will Employee

An employee who is appointed to a position who serves at the will of the appointing authority. At Will employees may be terminated at any time, with or without cause, or advance notice. Such employees do not have appeal rights upon termination and are not subject to a probationary period.

2.33 **EMPLOYEE RELATIONS OFFICER**

The person responsible for managing the meet and confer process as provided in the Employment Relations Policy. Unless otherwise provided by the Board of Supervisors the Human Resources Director is the Employee Relations Officer.

2.34 **EMPLOYER**

As used in these Rules, the County of Tulare.

2.35 **EMPLOYMENT LIST**

A list of persons who have qualified to be considered for appointment in a class.

2.35.1 Open Employment List

A list of names of applicants who have participated in an open examination, as defined by Personnel Rule 2.36 for a class in the in the competitive services and have qualified for appointment.

2.35.2 Promotional Employment List

A list of names of current employees who have participated in an open examination, as defined by Personnel Rule 2.36 for a promotional examination for a class in the competitive service and have qualified for appointment.

2.35.3 Re-employment List

A list of names of employees who have been laid-off, and who qualify for re-employment as provided in Personnel Rule 11. The duration of the list is two (2) years.

2.35.4 Reinstatement Employment List

A list of names of current and former employees who have requested to return to a position in a classification in which they have previously held regular or probationary status and whose application has been approved in accord with these rules.

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2.35.5 Transfer Employment List

A list of names of current employees who have requested to transfer and whose application has been approved in accord with these rules.

2.36 EXAMINATION

Any procedures used in the selection process to measure applicant abilities and suitability for a position including, but not limited to, oral interviews, written tests, performance tests, medical evaluations, psychological evaluations, evaluation of performance during probation, and an evaluation of education and experience. The types of examination processes include, but are not limited to, the following:

2.36.1 Open-Competitive Examination

An examination for a particular class that is open to all persons meeting the necessary employment standards for the class.

2.36.2 Promotional Examination

An examination for a particular class, which is open to any current employees whose original appointment, was achieved through a competitive process, and who meets the necessary employment standards for the class.

2.36A FLAT RATE

A salary amount that is fixed for a specific classification.

2.37 FLSA

The Federal Fair Labor Standards Act which governs overtime eligibility compensation.

2.37.1 FLSA Covered

Positions that are subject to the overtime provisions of the Federal Fair Labor Standards Act. These positions typically earn time and one half for qualifying overtime. May be paid or banked into CTO balance.

2.37.2 FLSA Exempt

In these rules, unless otherwise specified, "exempt employee" means an employee/position exempt from the overtime provisions of the Federal Fair Labor Standards Act. These positions typically do not earn and receive overtime.

2.37.3 FLSA Excluded Positions

An employee not subject to any provisions of the Federal Fair Labor Standards Act, including but not limited to elected officials and members of an office holder's personal staff, immediate legal advisors to elected officials and other such positions as defined in the Fair Labor Standards Act.

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2.38 **GENDER**

Use of the masculine gender includes the feminine. Pro-nouns such as 'he' or 'him' are considered gender neutral.

2.39 **GOOD STANDING RESIGNATION**

The resignation of an employee: 1) after filing a written notice of resignation giving two weeks' advance notice, or notice acceptable to the Appointing Authority, and; 2) whose last performance evaluation met normal expectations of proficiency, and; 3) the employee works his scheduled hours during the notice period, unless otherwise agreed to by Appointing Authority.

2.40 **INVESTIGATIVE LEAVE**

Also called ADMINISTRATIVE LEAVE, see 2.1.

2.41 **LAY-OFF**

The involuntary termination of employment, without prejudice as to any re-employment rights, due to reorganization, reallocation, the lack of work to be accomplished, or the lack of funds, or as the needs of the County as determined by the Board of Supervisors require.

2.42 **LEAVE OF ABSENCE**

An authorized absence from duty for a specified period granted pursuant to these Rules.

2.43 **MANAGER**

An employee whose primary function is to plan, organize, and direct a division or program within an agency or department, inclusive of evaluating the work of employees, and is vested with a certain amount of discretion and independent judgment. Organizationally a manager is an intermediate between operational supervisors and policy-making administrators.

2.44 **NECESSARY EMPLOYMENT STANDARDS**

Those minimum knowledge, skills, abilities, education and experience which are stated in the class specifications as necessary entrance requirements for a person appointed to a specific class.

2.45 **NON-COMPETITIVE SERVICE**

County positions that are not required to be filled through the competitive process. Employees appointed in this service type are not required to take part in a competitive selection process and no probationary period is served; however, employees must meet the necessary employment standards of the classification as determined by the Director. Positions designated as non-competitive include:

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- a) Officers who hold elective office and members of appointed County Boards, Commissions, and Committees.
- b) All persons serving without compensation.
- c) Seasonal, provisional and extra help employees
- d) Selected Department Heads, Assistant Department Heads, and any other positions which are so designated by Resolution of the Board of Supervisors, except for the Agricultural Commissioner and County Counsel.

2.46 **ON CALL TIME**

The time during which an employee is required by the Department Head to be available to perform duties for the County in the event the need should arise and during which no actual duties are performed.

2.47 **OVERTIME**

Overtime is time worked by an FLSA covered employee in excess of forty (40) hours per week in accordance with the compensation provisions of these Rules. Overtime is time worked by uniformed Fire personnel in excess of 182 hours in a 24-day work period or any other work schedule where the average hours worked in excess of 53 hours in seven (7) consecutive days is eligible for FLSA overtime.

2.48 **PAY PERIOD**

A 14-day period, timed for payroll purposes.

2.49 **PERSONNEL ACTION**

Any action taken with reference to appointment, compensation, promotion, transfer, layoff, dismissal, discipline, commendations, or any other action affecting the status of employment.

2.50 **POSITION**

A combination of prescribed current duties and responsibilities requiring the full or part-time services of an employee. The Board of Supervisors allocates positions. Employees are assigned to positions. Regular Positions are those allocated and budgeted by the Board of Supervisors.

2.51 **PROBATIONARY PERIOD**

A trial period during which an employee who has received a probationary appointment is required to demonstrate competency in the knowledge, skills, and abilities necessary for the class to which the position is allocated by actual performance of the duties of the position.

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2.52 **PROMOTION**

The advancement of an employee from a position in one class to a position in another class having a higher maximum rate of pay, other than from the transfer employment list.

2.53 **REALLOCATION**

The change of a budgeted position from one classification to another classification.

2.54 **REASSIGNMENT**

The movement of an employee from one assignment to another within the same classification and within the same department. The reassignment may result in a change in specific duties within his classification and/or a change in budget position number. The County shall, when practicable and feasible, consider an employee's request to minimize the effects of any reassignment on the employee's commuting time and expenses.

2.55 **RECLASSIFICATION**

A change in the classification of an individual position by raising it to a higher class, reducing it to a lower class, or by moving it to another class at the same level on the basis of significant changes in kind, difficulty, or responsibility of the work performed by the employee in the position.

2.56 **REDUCTION IN PAY**

A salary decrease within the limits of the pay range or salary band established for a class.

2.57 **RE-EMPLOYMENT**

The return of an employee into the same or lower class in the class series from which the employee was laid-off, within two (2) years from the date of lay-off.

2.58 **RE-HIRE**

The return of a former County employee to County service by means other than re-employment or reinstatement.

2.59 **REINSTATEMENT**

The return of a County employee to a class from which the employee requested a voluntary demotion, providing the employee held regular or probationary status in the appropriate service type, or

The return of a former County employee to County employment in a class in which he previously held status providing the employee: 1) resigned from County employment for a minimum period of thirty (30) calendar days; 2) left County employment in good standing, and; 3) held regular or probationary status in the appropriate service type.

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2.60 **RELEASE FROM PROBATION**

Notice to a probationary employee that their services are no longer required thus terminating their probationary period and releasing them from the position.

2.61 **SALARY BANDS**

Salary bands, as distinguished from salary ranges/grades, do not have incremental pay adjustments at predetermined intervals based on length of service.

2.62 **SALARY RANGE**

The minimum, maximum, and intermediate salary rates established for a classification.

2.63 **SENIORITY**

The length of continuous service within the County as determined by the most recent hire date in the competitive service as defined in 2.32.2 or 2.32.3.

2.64 **SEPARATION**

The termination of employment with the County because of retirement, resignation, incapacity, death, probationary release or dismissal.

2.65 **STATUS**

The standing of an employee relative to a position within County employment. Examples include: regular, probationary, provisional, seasonal, laid-off, dismissed, on leave of absence.

2.66 **SUPERVISOR**

An employee assigned the responsibility of organizing, directing, and formally evaluating the work of other employees.

2.67 **SUSPENSION**

The temporary and involuntary placement of an employee on leave of absence without pay for a specified period of time for disciplinary purposes.

2.68 **TRANSFER**

Movement of an employee from one position to another position in the same class or in a comparable class in a different unit in the employee's current department, and/or in a different department.

2.69 **VACANCY**

An authorized position for which funds are available to which no employee has been appointed.

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2.70 WORK PERIOD

For personnel whose normal work week is a regularly scheduled 40 hours, a seven consecutive day (168 hour) week generally commencing Saturday night/Sunday morning at 12:00 midnight except as otherwise may be provided by memorandum of understanding or a declaration of the Board of Supervisors or authorized appointing authority. For selected public safety employees eligible for the 207K overtime exemption, as set forth in the regulations interpreting the Fair Labor Standards Act, and alternate work period as provided by a memorandum of understanding or a declaration of the Board of Supervisors or authorized appointing authority. For Fire Shift personnel working a 56-hour regular work week a 24-day recurring work schedule unless otherwise modified by memorandum of understanding.

2.71 Y-RATE

A salary paid above the maximum salary of a range when an incumbent employee is reclassified from his class to a lower class, but retains his current rate of pay until such time that the assigned class has a maximum salary rate which is equal to or higher than the "Y" rate. Benefits may be included in a Y-rating.

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Rule 3 - CLASSIFICATION

3.1 **CLASSIFICATION OF POSITIONS**

All positions in the County service are grouped into classes. Each class includes those positions sufficiently similar in duties and responsibilities as to require similar education, experience, knowledge, skills, abilities and personal characteristics.

3.1.1 **Flexibly-Allocated Classification**

A class series may contain two (2) or more levels to recognize the differences between the entry and the experienced performance level. If an employee is appointed to a flexibly allocated classification at the entry level, the employee is generally considered to be in a training status. As assigned responsibilities and breadth of knowledge increase with experience, the employee may reasonably expect to be promoted, upon the Department Head's recommendation and within any budgetary constraints to the experienced, or next higher level without application or competitive examination.

3.2 **PREPARATION AND CONTENT OF CLASS SPECIFICATIONS**

The Human Resources Director is responsible for preparing and maintaining class specifications for all positions. The specifications include, but are not limited to, a class title, a definition of the class, a list of examples of duties and a statement of qualifications required for appointment.

3.3 **INTERPRETATION OF CLASS SPECIFICATIONS**

All class specifications describe typical duties that employees occupying positions in the class may be required to perform. Class specifications are explanatory but not restrictive. The listing of particular tasks does not preclude the assignment of other tasks of related kind or character, or requiring lesser skills.

3.4 **ADOPTION OF CLASSIFICATION PLAN**

Before the classification plan or any part thereof becomes effective, the Board of Supervisors must first approve it in whole or in part, as appropriate. The classification plan may be amended or revised as occasion requires in the same manner as originally established. Upon adoption by the Board of Supervisors, changes to the provisions of the classification plan shall be observed in the handling of all personnel actions and activities.

3.5 **ALLOCATION OF POSITIONS**

The Human Resources Director will recommend the allocation of positions to one of the classes established in the classification plan for approval by the Board of Supervisors.

3.6 **NEW POSITIONS**

When a new position is created, no probationary or regular appointment shall be made to fill any such position until the allocation list has been amended.

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3.7 RECLASSIFICATION

A change in classification is warranted when:

- 1) Tasks of the position have significantly changed over time.
- 2) The new tasks require higher-level skills, knowledge and abilities.
- 3) The tasks are performed as a primary part of the position's on-going duties.
- 4) The employee in the position has performed at the higher level for at least six (6) months.

When the duties, responsibilities, nature, and scope of a position have changed materially, the Human Resources Director may recommend changing the position to a more appropriate class. Reclassification is not to be used for the purpose of avoiding restrictions surrounding demotions, promotions, or the County's Compensation Plan.

Reclassification is not warranted when: a) the volume of work has increased but the nature of the work is substantially the same, b) an employee demonstrates superior performance, but the tasks and responsibilities of the position have not changed, c) an employee has served in a position for many years and has reached the top of the pay range, but the tasks and responsibilities of the position have not changed, d) a position is assigned new duties that are within the level and scope of the existing job classification.

3.7.1 Effect on Incumbent

- a) When a position is changed to a new or different classification such that the actual duties, responsibilities, nature, and scope of the position will be substantially the same as the incumbent had been performing the preceding six (6) months-- the incumbent shall be granted the same regular or probationary status in the new class as was held in the old class.
- b) When a position is changed to a new or different classification as a result of a job redesign, such that there is a significant and substantial change in the actual duties, responsibilities, nature, necessary employment standards and/or scope of the position, and;
 - 1) the new or different classification is assigned a salary range higher or the same as the position's existing salary range, the incumbent may gain eligibility and seek appointment according to these Rules;
 - 2) the new or different classification is assigned a salary range lower than the position's existing salary range, the incumbent may choose to retain the position by accepting a voluntary demotion, or accept a transfer to another position in the same class from which the initial position was reclassified, if available. If neither option is chosen, the normal lay-off procedures shall be followed.

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The appropriate rules regarding probationary status and salary on promotion/demotion are applicable, and any such status and salary changes shall only become effective upon the effective date of the approved reclassification (see also 4.2.5 and 4.2.6).

3.7.2 The Human Resources Director may, from time to time, amend a class specification to more accurately describe the duties and typical tasks of the class specification and/or the minimum requirements of the class on his own initiative. Amendments to the class title and compensation shall only be modified by action of the Board of Supervisors.

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Rule 4 - COMPENSATION

4.1 PREPARATION OF PLAN

The Board of Supervisors shall adopt the County's compensation by resolution. The compensation plan shall include, for each class, a minimum and maximum compensation rate and such intermediate rates as are considered necessary, as well as such additional provisions sufficient to set forth the compensation of the different classifications of employee positions. Flat rates may be used instead of salary ranges where appropriate. Salary Bands may also be used where appropriate. The salary plan shall also contain designations of exempt and non-exempt employees pursuant to the Fair Labor Standards Act. The Board may modify this compensation plan by resolution as the Board deems necessary or by the County Administrative Officer with a properly executed Delegated Action Request (DAR).

4.2 ADMINISTRATION OF THE PLAN

4.2.1 Rates of Pay

Each employee is paid a rate of pay within the salary range for the class in which employed.

4.2.2 Entrance Salary

New employees shall be appointed at the first step (minimum rate) of the salary range to which their class is assigned except under the following circumstances:

Authorization of Advance Step Hires

- a) When an Appointing Authority believes that the qualifications, education, previous training and experience of a proposed employee justify a beginning salary in excess of the first step of the salary range, the Department Head may appoint at Step 2 or Step 3 in accordance with Administrative Regulation #33. Appointments may be made by the department at Step 4 or Step 5 with the advance approval of the Human Resources Director. Disagreement on Step 4 or Step 5 appointments shall be resolved by the CAO whose decision shall be binding. The Appointing Authority shall submit a recommendation for all such advance step appointment to the Human Resources Director.

In reviewing such requests, consideration will be given to unusually high qualifications of the proposed employee, the proposed employee's salary history, and the availability of qualified applicants.

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- b) Notwithstanding a) above, whenever the Board of Supervisors finds that a critical shortage of qualified personnel exists in a class with special skills, the Board of Supervisors may, by resolution, authorize that all new appointments to positions in this class be made at any step above the first step in the salary range for this class. In such cases, the Board of Supervisors shall, by resolution, advance all incumbents of positions in the same class who are earning less than the step at which new employees are to be employed to the same or a higher step. When such incumbent employees are advanced to the same or a higher step in the salary range they shall have a new salary anniversary date. The new salary anniversary date shall be the first day of the pay period following the effective date of the salary increase; provided, however, that if the salary increase is effective on the first working day of a pay period, the new salary anniversary date shall be the first day of that same pay period.
- c) When an Appointing Authority believes that the qualifications, education, previous training and experience of a returning Seasonal Employee justify a beginning salary in excess of the first step of the salary range the Appointing Authority may authorize appointment at Step 2.

4.2.3 Merit Salary Adjustments

Except for Extra-Help employees, employees in Flat Rate classifications, and employees in Salary Bands, employees may receive merit salary adjustments within the salary range applicable to their class. A qualified employee will become eligible to be considered for a Merit Salary Adjustment on his Salary Anniversary Date as provided in 4.2.4 below. Adjustments shall not be automatic, but shall require the recommendation of the Department Head. Such recommendation shall be accompanied by a satisfactory performance evaluation.

Department Head recommendations for employee merit salary adjustments, including early or accelerated increases, shall be sent to the Human Resources Director, and thereupon forwarded to the County Auditor, at such time and in such a manner as may be prescribed by the Human Resources Director, and consistent with any performance evaluation reports as may be required.

4.2.4 Salary Anniversary Date

Except as otherwise provided, salary anniversary dates, for purposes of this Rule, shall be determined as follows:

- a) An employee who is appointed to a position at the first step of the salary range shall have his first salary anniversary date on the first day of the pay period following the completion of thirteen (13) full pay periods of actual service.
- b) An employee who is appointed to a position at a step higher than the first step of the salary range shall have his first salary anniversary date on the first day of the pay period following the completion of twenty-six (26) full

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pay periods of actual service.

c) The salary anniversary date of an employee who is granted a leave of absence without pay shall be postponed in accordance with the provisions of Rule 6.

d) Except when an employee's salary anniversary date is changed in accord with this rule, once an employee's salary anniversary date has been established, the employee will become eligible for consideration for a merit salary adjustment each year on the first day of the pay period following each twenty-six (26) pay periods of service until he reaches the top salary step of his classification.

4.2.5 Salary on Movement to a Higher Classification

a) Promotion

An employee who is promoted to a classification with a higher salary range shall be entitled to the lowest step in the higher range which exceeds the employee's rate of pay by a minimum of five percent (5%), and a new salary anniversary date is thereby established in accordance with Rule 4.2.4. An employee who, within ninety (90) days prior to the employee's salary anniversary date, is promoted to a class with a higher salary range, shall first receive any within-range increase which the employee would otherwise receive, and then any increase as provided in this sub-section, 4.2.5.

b) Reclassification

An employee whose position is allocated to classification with a higher salary range as a result of a reclassification or reorganization shall be entitled to the lowest step in the range for the higher class which exceeds the employee's rate of pay by a minimum of five percent (5%), and a new salary anniversary date is thereby established in accordance with Rule 4.2.4.

4.2.6 Salary on Movement to a Lower Classification

Except as provided in (a) below, when an employee is demoted or their position is allocated to a class with a lower salary range, the employee's salary shall be reduced to the salary step in the range for the lower class next lower in amount than the salary which the employee received before the demotion or reallocation and a new salary anniversary date shall be established in accordance with Rule 4.2.4.

a) Upon recommendation of the County Administrative Officer, the Board of Supervisors may, by resolution, direct that the salary of an employee whose position is reclassified to a class having a lower salary range not be reduced and that the employee remain at the same rate of pay until such time as the assigned class has a maximum salary rate which is equal to or higher than the employee's existing rate of pay. Such rate of pay shall be designated on appropriate personnel and payroll records as a "Y" rate.

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4.2.7 Salary on Transfer

When an employee is hired from the transfer employment list in a class with the same salary range, the employee shall be compensated at the same step in the salary range as the employee previously received and the employee's salary anniversary date shall not change.

When an employee is transferred from one position to another position in a similar class having a higher salary range, the employee shall be compensated at the step on the new range closest to the employee's previous salary, and a new salary anniversary date shall thereby be established in accordance with Rule 4.2.4.

4.2.8 Salary Range Adjustments

Salary range adjustments are effective on the date specified by the County Administrative Officer unless otherwise required by a Memorandum of Understanding. Salary range adjustments are to be distinguished from merit salary increases, as they are not intended to give recognition to length and/or quality of service. When the salary rate of a class is changed the salary rate of each incumbent in such class on the date the change is effective shall be adjusted to the same step in the revised salary range. Incumbent's salary anniversary date shall not change solely as a result of this adjustment.

4.2.9 Salary for Temporary Services (or Acting Pay)

When an employee is specifically assigned significant and critical duties of a higher classification such that the employee meets the criteria of 4.2.9.1 below the employee may be compensated an additional five percent (5%) above the employee's current salary for a period beginning 30 calendar days or such other waiting period as established by memorandum of understanding after the critical duties are assigned and ending when the duties are removed.

4.2.9.1 Criteria

- a) The duties are specifically assigned to the employee by his immediate supervisor or appropriate Department management.
- b) The duties are significant and critical and are normally performed by a higher classification.
- c) The duties require more than 50% of the employee's time.
- d) No other employee(s) in the Department can reasonably be assigned these duties.
- e) The employee is assigned these duties for more than 30 calendar days.

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4.2.9.2 Compensation

- a) The request for salary for temporary services must be made in advance of the completion of the 30-day exclusion period or the higher salary will not take effect until the beginning of the first pay period following the receipt of the request.
- b) The Department may request compensation by memo to the County Administrative Officer containing the following information:
 - 1) The conditions creating the need for requiring the employee to perform above class tasks.
 - 2) The tasks to be assigned to the employees and a brief explanation of why the tasks cannot be distributed to other staff.
 - 3) The expected duration of the above class assignment.

4.2.10 Salary for Part-time Employment

A work schedule of less than the number of hours of full-time employment (80 hours per pay period) shall be considered part-time employment. The compensation for part-time employment shall be pro-rated on an hourly basis, except for those positions for which the Board of Supervisors has established a special or flat rate of pay as full compensation for all services rendered regardless of the number of hours worked.

4.2.11 Special Salary Adjustments

Notwithstanding anything in this Rule to the contrary, in order to correct gross inequities, to reward outstanding achievement and performance, or for other reasons the County Administrative Officer may find justified, the County Administrative Officer may adjust the salary rate of an incumbent of a particular position to any step within the salary range for the class to which the position is allocated and the County Administrative Officer may change the employee's salary anniversary date.

4.2.12 Fees and Commissions

All fees, commissions, compensation and other items of value received, other than salary received from the County, by any employee of the County for services rendered in the official capacity of the employee, shall become the property of the County and shall be paid into the County Treasury at the time required by State law.

4.2.13 Special Compensation Provisions

No employee who holds a full-time compensated position shall receive any

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compensation for any other additional services rendered to the County or for any services rendered to any other political subdivision or public agency, except as follows:

- a) Elected employees shall receive such additional compensation for additional services rendered by them as authorized by resolution or ordinance.
- b) When in the judgment of the Board of Supervisors it is necessary or desirable to utilize the services of a County employee in a capacity other than that in which the employee is regularly employed, the Board of Supervisors may, by resolution, authorize such additional employment and compensation therefore.
- c) The Human Resources Director may grant permission to an employee to perform services for compensation for another political subdivision or public agency pursuant to Personnel Rule 7, **OUTSIDE EMPLOYMENT AND PROHIBITED ACTIVITIES**.

4.2.13a Notwithstanding any other provision of these Rules, an employee who has been designated as exempt from the overtime provisions of the Fair Labor Standards Act, shall be paid for a full day if the employee is absent for less than a full day. Nothing in this Rule shall relieve the employee from his obligation to obtain approval for any absence according to County and/or department policy. Nothing in this Rule shall be deemed, construed or interpreted to provide a defense to any employee who is disciplined for absence from work.

4.2.14 Payment of Salaries

- a) Except when an emergency, as declared by the County Administrative Officer, prevents the processing of payroll, the salaries of employees shall be paid on the second Tuesday following the end of the pay period for all services rendered during the applicable pay period; provided, however, if such Tuesday is a County holiday, then such salaries shall be paid on the preceding Monday unless the Monday is also a holiday in which case salaries shall be paid on the following Wednesday.
- b) Each Department Head shall submit a payroll and attendance report to the County Auditor for each pay period, in a form and at a time prescribed by the County Auditor. The Department Head who shall bear full responsibility for the accuracy thereof shall certify payroll documents as correct. Individuals shall be placed on the payroll by use of a personnel transaction form submitted to, and approved by, the Human Resources Director.

4.3 OVERTIME

4.3.1 General Policy

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It is the policy of the County to avoid overtime work whenever possible and Department Heads shall, insofar as possible, plan the work of their departments so as to avoid the need for overtime work.

4.3.2 Applicability of Fair Labor Standards Act (FLSA)

All overtime worked by employees covered by the Federal Fair Labor Standards Act (FLSA) shall be compensated pursuant to that act and any other applicable federal laws and regulations.

4.3.3 Overtime Hours

The term "overtime" as used in this section means time worked by an FLSA non-exempt employee in excess of forty (40) hours per week, or in the case of non-exempt uniformed Fire personnel, 53 hours per week averaged to a designated work period, except as otherwise provided by memorandum of understanding.

4.3.4 Compensatory Time-Off

The term "compensatory time-off" (CTO) as used in this section 4.3 means an approved paid leave of absence for accumulated overtime. Compensatory Time Off provisions shall only apply to an employee when provided for in his classification by Memorandum of Understanding or by resolution approved by the Board of Supervisors.

4.3.5 Overtime Authorization

The Department Head or his designee shall authorize and order an employee to work overtime before the employee works overtime. No employee shall work overtime without such advance authorization, unless prior authorization is not possible because of emergency conditions. In that case, the employee shall obtain a ratification of his overtime from the Department Head or his designee on the next regular business day after such overtime is performed.

4.3.6 Accounting for Overtime

- a) Each employee shall make a written report of all time worked and each department shall keep an accurate record of time worked by employees. No changes shall be made in the time worked as reported by the employee unless the proposed changes and the reasons therefore are first discussed with the employee by the Department Head. All time worked shall be reported to the County Auditor on the forms required by the Auditor.
- b) All overtime worked will be rounded off to the nearest one-tenth (1/10) of an hour, and all overtime will be reported in hours and tenths.

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4.3.7 Alternative Work Schedule

- a) Employees participating in an approved alternative working hours' program, such as but not limited to a nine (9) hour work day for nine (9) days with a tenth (10) day off in a bi-weekly work cycle, shall be scheduled so that they do not accrue overtime as a result of their regular scheduling.
- b) Employees participating in an approved alternative working hours' program shall be allowed to make up time lost within a designated work week with the approval of their supervisor. Upon request the supervisor will make known to the employee the reason for denying such request.

4.3.8 Exempt Employees

- a) Those positions are either excluded from the FLSA or exempt from the overtime provisions of the Act, or those persons designated by the Board of Supervisors as FLSA non-covered employees and, therefore as not entitled to compensatory time off (CTO) or overtime, shall not accumulate any compensatory time off nor overtime unless otherwise provided for in a Memorandum of Understanding or by resolution approved by the Board of Supervisors. As FLSA Exempt or excluded positions employees they shall devote the time necessary to fully perform their functions, whether it be more, or less than the normal workday and workweek for their position. Therefore, the provisions of this Rule with regard to accumulation of overtime, compensating time off, and payment for overtime are not applicable to such employees.
- b) Members of Boards and Commissions are not subject to the provisions of Section 4.3.
- c) Regardless of the provisions of this section 4.3.8, the Board of Supervisors may determine that special circumstances make it necessary that certain employees of certain departments be compensated for all overtime worked. In order to provide such compensation, a resolution must be adopted and appropriated funds must be available.
- d) Notwithstanding any other provision of these Rules, an employee who has been designated as overtime exempt or excluded from the provisions of the Fair Labor Standards Act shall be paid for a full day if the employee is absent for less than a full day. Nothing in this Rule shall relieve the employee from his obligation to obtain approval for any absence according to County and/or department policy. Nothing in this Rule shall be deemed, construed or interpreted to provide a defense to any employee who is disciplined for absence from work.

4.4 ON-CALL TIME

"On-call" time is the time during which an employee is required by the Department Head to

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be available to perform duties for the County in the event the need should arise and during which the employee for the County performs no actual duties. On-call time shall not be considered as hours worked by an employee under the provisions of Section 4.2 or any other portion of this Rule, unless, with regard to covered employees such on-call time is considered time worked within the applicable provisions of the Fair Labor Standards Act. The Board of Supervisors may, by resolution, authorize the payment to specified classes for on-call time at rates of pay which the Board of Supervisor deems appropriate. No on-call time compensation shall be paid to an employee for hours actually worked.

On-call compensation shall only be paid under the following conditions:

- a) In the appointing authority's judgment there is reasonable potential for the need of the employee's services.
- b) The appointing authority informs the employee designated for on-call service by written notice indicating dates and times of such service.
- c) The appointing authority will cause such on-call service time to be reported each pay period to the Auditor-Controller on the regular bi-weekly attendance report.
- d) As required by a Memorandum of Understanding or resolution of the Board of Supervisors for selected unrepresented employees.

Any employee who is not required to remain on the County premises, but is merely required to leave word at his home or with departmental officials where he may be reached is not working "on-call."

4.5 **CALL BACK TIME**

"Call Back" time is the required return to duty of an FLSA covered employee after the work day is completed to perform an emergency task. A qualified employee who is called back shall receive compensation for a minimum of two (2) hours straight time, unless otherwise provided by an MOU, regardless of the actual time required to perform the emergency task. In the event the task exceeds two (2) hours in duration, or 90 minutes if the applicable overtime rate is time and one-half, the total compensation shall be based on actual hours worked at either straight time or time and one-half if applicable.

4.6 **SALARY FOR FORMER EMPLOYEES**

- a) **RE-EMPLOYMENT:** An employee placed on a re-employment list may, within two (2) years after the date that the employee's name was placed on said list, be re-employed in a position in a different class at the same salary step that the employee was receiving at the time of lay-off. In addition, such a former employee may, within such two (2) year period, be re-employed in a position in a different class at a salary step within the assigned salary range nearest to, but not more than, the salary amount the employee was receiving at the time of lay-off.

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- b) REINSTATEMENT: An employee who resigns from County employment may, within two (2) years, be reinstated in a position in the same class at a step in the salary range which is the same salary step that the employee was receiving at the time of resignation. In addition, such a former employee may, within such two (2) year period, be reinstated in a position with similar minimum qualifications in the same class at a salary step within the assigned salary range which is nearest to one (1) step lower than the salary step that the employee was receiving at the time of resignation. The Appointing Authority may, upon submitting a declaration to the Human Resources Director that the position is critical and the employee brings essential skills, reinstate the employee at his prior salary step.
- c) REHIRE: A former employee who returns to County service in a job classification which they never held status or were ineligible for reinstatement.

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Rule 5 - RECRUITMENT AND SELECTION

5.1 RECRUITMENT AND SELECTION PROCEDURES

The methods used in the recruitment and selection of County employees shall be competitive, impartial, and of a relevant nature so as to fairly measure the relative capacity of applicants to execute the duties and responsibilities of the position to which they seek appointment. All vacancies in the County service shall be filled as provided in the Rules. The primary methods for filling vacancies will be through the use of Open, Promotional and Continuous recruiting processes. When available, positions may be filled by using current and former employees whose names appear on re-employment, reinstatement and transfer employment lists. Appointments shall be made with the objective of obtaining the best qualified person or persons available who, in the judgment of the Appointing Authority, will best meet the needs of the Department. Accommodations are priority placements and will supersede these recruitment and selection processes. Positions in the non-competitive and At-will service shall not be subject to the provisions of this rule.

5.2 RECRUITMENTS

5.2.1 Recruitments

Recruitments may include any of the selection techniques mentioned in Rule 5 of this Rule, or any combination of them. The recruitment type, its timing, and the testing used to determine the most qualified candidates is at the sole discretion of the Human Resources Director. Eligible shall be placed on employment lists, and shall remain on such lists, as prescribed in this Rule.

5.2.2 Open Recruitments

Open recruitments are general recruitments for which any person meeting the minimum qualifications for the class may apply.

5.2.3 Promotional Recruitments

Promotional recruitments are limited recruitments for which any current employee of the County holding regular or probationary status and meeting the minimum qualifications for the class may apply.

5.2.4 Continuous Recruitments

Continuous recruitments have no fixed closing date. They are general recruitments for which any person meeting the minimum qualifications may apply.

5.2.5 Participation of County Employees

County employees who hold regular or probationary status shall be granted reasonable and sufficient release time, with pay, from duties to participate in County recruitment and selection processes, including testing and interviewing.

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5.3 APPLICATIONS AND APPLICANTS

5.3.1 Announcements

All recruitments shall be publicized in the Human Resources & Development Department and at other County work sites and by such methods as the Human Resources Director deems appropriate. Special recruiting efforts shall be conducted, if necessary, to insure that all segments of the community are aware of recruitments. Publicized announcements shall include:

- a) A description of the duties and responsibilities of the class;
- b) necessary, and any additional desirable employment standards;
- c) compensation; and,
- d) information concerning the time and location for filing applications.

5.3.2 Application Forms

Applications shall be submitted as prescribed on the recruitment announcement in a form and/or format that is acceptable to the Human Resources Director. Application forms shall require information covering training, experience, and other pertinent information. The person applying unless submitted by on-line methods must sign all applications. On line applications shall be subject to subsequent attestation of the truth and accuracy of the representations made. Completed applications become the property of the County and shall not be returned to the individual. Names of persons applying for County positions and/or information regarding their performance in any selection process shall remain confidential information to the Human Resources & Development Department, except as required by law or legal process.

5.3.3 Disqualification

The Human Resources Director may reject any application, which indicates on its face that the applicant does not meet the necessary employment standards required for the position. Applications may also be rejected if the applicant:

- a) has made a false statement or misrepresentation of material fact.
- b) has improperly used or attempted to use any personal or political influence to further their eligibility for appointment.
- c) has failed to submit an application correctly or within the prescribed time limit.
- d) has been convicted of a crime relative to the duties of the position.
- e) has resigned from the County service not in good standing, has been

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discharged for cause, or has abandoned any position in the County service.

Whenever an application is rejected, notice of such rejection with statement of reason shall be given to the applicant by the Human Resources Department.

5.3.4 Applicant Appeal

Applicants may appeal their disqualification to the Assistant Human Resources Director within (5) five business days of notification. The appeal must be made in writing on forms designated by the Human Resources Assistant Director. The decision of the Human Resources Assistant Director may be appealed to the Human Resources Director. The appeal process will not delay or suspend the recruitment or selection process.

5.3.5 Background Investigation

The Human Resources Director or Appointing Authority may conduct such investigation of the applicant's training and experience, and job related mental, physical and personal fitness as may be necessary to verify and clarify statements contained in the application.

5.4 EXAMINATIONS

5.4.1 Nature and Type of Examinations

Examinations shall consist of selection techniques which, in the opinion of the Human Resources Director, will test fairly the qualifications of applicants, and may include but are not necessarily limited to, resume review, application and supplemental application review, written exams, oral exams, personal interviews, performance tests, physical agility tests, medical examinations, psychological evaluations, evaluations of driving records, or any combination of these or other tests. Examinations shall be designed to provide equal opportunity to all candidates by being based on the essential requirements of the class and covering factors related to such requirements. In instances where the qualified applicant pool for a classification is limited, and the needs of the County are great, the Human Resources Director may, at his or her sole discretion, establish an unassembled employment list. The unassembled employment list will consist of all qualified applicants who meet the necessary employment standards.

5.4.2 Scoring Examinations and Qualifying Scores

A candidate's score in a given examination shall be the total of his scores on each competitive part of the examination on which he qualified. The Human Resources Director may, at his or her direction, include as a part of the examination, tests which are qualifying only.

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5.4.3 Notification and Review of Examination Results

Except as set forth below, each candidate who takes an examination shall be given written notice of the results thereof, and if successful, of his final earned score and rank on the employment list.

Any candidate shall have the right to inspect his own examination answer sheets within five (5) working days after the notices of examination results are mailed. Oral exam rating sheets, test booklets, and related examination materials are not open to candidate inspection. Any error in computation, if appealed to the Human Resources Director within this period, shall be corrected. Such corrections shall not, however, invalidate appointments previously made.

5.4.4 Examination Security

No communication between applicants during an examination will be permitted. No applicants may have in their possession material which would give unfair advantage during the examination. Copying or collusion shall be grounds for disqualification. Examination materials shall not be removed by applicants from the examination area.

5.4.5 Applicant Identity

Photographic identification with a signature may be used as a positive means of identifying applicants.

5.5 EMPLOYMENT LISTS

5.5.1 Preparation and Availability

As soon as possible after the completion of a recruitment and/or examination, the Human Resources Director shall prepare and keep available one or more of the following employment lists: Open, Promotional, or Continuous.

An employment list consisting of the names of eligible who qualified in the selection process, arranged in order of final scores, from the highest to the lowest qualifying score.

Following the completion of an open, promotional or continuous recruitment, the Human Resources Director may direct the establishment of an employment list without the use of an examination process. This type of employment will consist of all applicants who meet the necessary employment standards for the classification and will be referred to as unassembled. The establishment of an unassembled employment list is appropriate when the number of qualified applicants is either too limited, the number of vacancies too great, or the needs of the county so urgent that it would not justify the delay or expenditure of resources.

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5.5.2 The Human Resources Director will maintain the following types of employment lists:

5.5.2.1 Open Employment Lists

A list of names of applicants who have taken an open-competitive examination for a class in the competitive service and have qualified for appointment.

5.5.2.2 Promotional Employment Lists

A list of current employees who have taken a promotional examination for a class in the competitive service and have qualified for appointment.

5.5.2.3 Re-employment Lists

The names of probationary and regular employees who have been laid-off shall be placed on appropriate re-employment lists in accordance with Rule 11. Such names shall remain thereon for a period of two (2) years unless such persons are sooner re-employed in the same class or a lower class within the class series from which they were laid off, or such persons refuse two (2) offers of re-employment or as provided for in 5.5.6. When a re-employment list is to be used to fill vacancies, the Human Resources Director shall certify all of the names on the list for consideration by the Appointing Authority.

5.5.2.4 Transfer Lists

The names of probationary and regular employees who have requested a transfer in their current classification shall be placed on appropriate transfer lists. Such names shall remain on the transfer list for a period of one (1) year. All names on the transfer list will automatically be referred to departments, in addition to referrals from other employment lists except reemployment.

5.5.2.5 Reinstatement Lists

The names of qualified former employees or former incumbents in the classification who have requested reinstatement into the classification shall be placed on appropriate reinstatement lists. Such names shall remain on the reinstatement list for the shorter of a period of one (1) year or three (3) referrals. All names on the reinstatement list will automatically be referred to departments, in addition to referrals from other employment lists except re-employment.

5.5.3 Duration of Lists

Employment lists, established through the Open, Promotional or continuous recruitment processes will remain in effect for six (6) months, unless sooner ex-

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hausted or abolished by the Human Resources Director, or else provided by an MOU. Departments may request an open list be shortened by submitting a written justification for their request. Each request will be reviewed by the Human Resources Director on a case by case basis. Employment lists may be extended, by action of the Human Resources Director for additional periods, but in no event shall an employment list remain in effect for more than (2) two years.

5.5.4 Removal of Names from List

Except as otherwise provided in these Rules the Human Resources Director may remove the name of any person appearing on an employment list:

- a) if the eligible requests in writing that his name be removed;
- b) if the eligible fails to respond to a notice of certification mailed to his last known address;
- c) for any cause in these Rules deemed sufficient for disqualification of application or dismissal from the County service.
- d) if three (3) certifications for appointment have failed to result in selection and appointment unless additional certifications are authorized by the Human Resources Director (upon request of the Appointing Authority more certifications may be allowed),
- e) if the eligible has received appointment to a position in the class for which the employment list was established,
- f) if the person has received regular appointment to a higher level class in the same class series for which the employment list was established.
- g) if eligible on a promotional or transfer list are separated from County service their names shall be removed from that list.
- h) failure to appear at work on the scheduled hire date.

5.5.5 Revision of Employment Lists

Whenever it becomes evident that an error or mistake has occurred in the preparation of a list or certification the Human Resources Director shall revise the list, placing the eligible in the proper order to correct the error. If a name has been improperly omitted from or included in the list, the correction may be made in the same manner. If appointment(s) have been made from the employment list before an error is discovered, revision of the list to correct this error shall not affect appointments previously made unless the error is a result of fraud.

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5.5.6 Inactive Status

Upon written request, an eligible may request inactive status from an employment list once during the life of any one list, provided, however, that upon again becoming an active eligible the person may not claim eligibility for any position to which certification or appointment has been made during the period when the person's name was inactive.

5.6 METHODS OF FILLING VACANCIES

5.6.1 Notice to Human Resources Director

Whenever a vacancy is to be filled, the Department Head shall notify the Human Resources Director in the manner prescribed.

5.6.2 Types of Appointments

All vacancies in the competitive service shall be filled by eligible certified by the Human Resources Director from an appropriate employment list.

Vacancies in the Project Service (limited term) may be filled from any available employment list for the classification.

Regular and Probationary Appointments

The Appointing Authority shall make appointments from among those certified, and shall immediately notify the Human Resources Director of the person(s) appointed in the manner specified. The person accepting the appointment shall present himself to the Human Resources Director, for processing on or before the date of appointment.

Temporary Appointment

Positions, which are temporarily vacant due to an unpaid leave of absence, may be filled on a temporary basis. A temporary appointee must be a current regular or probationary employee and meet the necessary employment standards for the class. If the regular employee does not return from the leave of absence, the position shall be filled from a regularly established employment list. If the temporary appointment was made from an existing employment list, the temporary appointee may retain the position and will receive credit toward the required probationary period, provided there was no break in service. A temporary appointment of an employee, who has regular status in a position in the competitive service, to a position with a higher compensation level shall not jeopardize that employee's status in his regular position while serving in the temporary status. Compensation for a temporary appointment shall be handled in accordance with Rule 4 Compensation.

Emergency Appointments

Whenever in the judgment of the Board of Supervisors it is necessary for the expeditious transaction of business for any County department to employ a person on an emergency basis, the Board of Supervisors may, by resolution, authorize such employment and limit the period of time during which the position will be allowed on an

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emergency basis. Emergency situations shall be defined as situations where there is a threatened interruption of essential County services and immediate action is necessary.

Provisional Appointments

In the absence of there being an appropriate employment list, a provisional appointment may be made by the Appointing Authority with the approval of the Human Resources Director, of a current employee meeting the necessary employment standards for the class. A provisional employee may be employed as such for up to six (6) months duration. The Appointing Authority, with the approval of the Human Resources Director, may extend the period for any provisional appointment for not more than one (1) additional six (6) month period. A provisional appointment shall be deemed a continuing request for certification. A provisional employee appointed to the same position shall receive credit towards the required probationary period, for that time spent in a provisional status, if there is no break in service. A provisional appointment of an employee, who has regular status in a position in the competitive service, to a position with a higher compensation level shall not jeopardize that employee's status in his regular position while serving in the provisional status.

Extra Help Appointments

All Extra Help appointments will meet the necessary employment standards for the classification. The appointment of an Extra Help employee may be made from a competitive employment list; however, such appointment will not confer property rights to the extra help employee.

5.6.3 Certification of Eligibles

With the exception of Reemployments list, when more than one (1) employment list is in existence for a class, certification shall be made in the following order from one or more of the following lists, provided eligibles are available. The Human Resources Director may change the number of eligible candidates on a list if unusual circumstances require increasing or decreasing the number:

Re-employment List:

The re-employment list for any given class shall be certified to an Appointing Authority for consideration before any other employment lists for the class. The names of probationary and regular employees who have been laid-off shall be placed on appropriate re-employment lists in accordance with Rule 11. Such names shall remain thereon for a period of two (2) years unless such persons are sooner re-employed in the same class or a lower class within the class series from which they were laid off, or such persons refuse two (2) offers of re-employment or as provided for in 5.5.6. When a re-employment list is to be used to fill vacancies, the Human Resources Director shall certify all of the names on the list for consideration by the Appointing Authority.

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Reinstatement List:

In addition, the names requesting reinstatement, as determined by approval date, shall be added, if available. The Appointing Authority shall be certified, on request, the entire Reinstatement list in lieu of, or in addition to, an Open or a Promotional employment list.

Transfer Lists

In addition, the names requesting transfer, as determined by approval date, shall be added, if available. The entire list shall be certified to the Appointing Authority upon request. The Human Resources Department may add names to the transfer list certified to departments in an effort to provide a reasonable accommodation.

Open/Promotional Employment List:

Except as provided above, the top seven (7) ranks appearing on the Open employment list or Promotional employment list shall be certified for each vacancy. In the case of multiple vacancies, the number of eligibles certified shall be seven (7) ranks for the initial vacancy plus one (1) additional rank per each additional vacancy. When the score of the final eligible on the specified employment list is tied with other eligibles, all those on such list having that score shall be certified.

Whenever there are fewer than seven (7) ranks of individuals willing to accept appointment on a Promotional employment list or on an Open employment list, the Appointing Authority may make an appointment from among such eligibles or may request the Human Resources Director to establish a new list. When so requested, the Human Resources Director shall conduct a new recruitment and establish a new employment list.

When no employment list for a specified class exists, certification may be made from a list established for a class of the same or higher level in the same or similar class.

5.7 **VETERANS PREFERENCE**

5.7.1 Definition

For the purposes of this rule, a veteran is one who has served on active duty in the United States armed forces for a period of at least 91 continuous days and who has received an honorable discharge from active duty. The definition of the term "veteran" as used in this rule shall not include reserve or other inactive service.

5.7.2 Applicability

Veteran's preference is allowed only on initial entrance into County service. The

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exercise of veteran's preference shall be exhausted upon regular or probationary appointment to a position from an employment list. The application of veteran's preference on any other recruitment, employment list, and/or certification shall be canceled upon hiring of the veteran into the competitive service.

5.7.3 Competitive Service Appointment

Military veterans shall be given preference in initial appointment in competitive service classifications. To receive veteran's preference, the veteran must meet the necessary employment standards established for the classification, participate in all examination processes, and attain a passing score in each phase of the examination.

5.7.4 Non Competitive Service Appointment

This rule does not apply to job classifications in the non-competitive service.

5.7.5 Eligibility for Veteran's Preference

To claim veteran's preference an applicant must apply in the space provided on the application and submit their most recent form, DD214, or equivalent document acceptable to the Human Resources Department, as evidence of military service on or before the final filing date for the recruitment. Veteran's preference must be established separately for each recruitment. Failure to request veteran's preference on the application or to submit the required credentials (DD-214) prior to the final filing date for the recruitment will be deemed a waiver of veteran's preference.

Veterans who are in the process of separation from military service may file a written statement showing the anticipated date of discharge and certifying that the discharge is for honorable reasons. Such statement must be filed no later than the final filing date for the recruitment. A veteran filing a statement in this manner shall be entitled to veteran's preference pursuant to this rule only if Form DD214 or other satisfactory proof of discharge is filed with the Human Resources Department prior to the date of certification for appointment. Until such proof is filed, the veteran's position on the employment list for certification purposes shall be determined on the basis of the veteran's score on the examination without the veteran's preference.

5.7.6 Employment Lists

Employment lists and ranking will be established based on each applicant's individual earned score in the examination process. Applicants who receive a final passing score on an open recruitment and who are eligible veterans, shall receive an additional 5% of the earned score for certification purposes.

5.7.7 Certification

Departments will be certified the top seven (7) ranks in accordance with Personnel Rule 5. In addition, at the time of certification, if an eligible veteran's earned score plus 5% places the eligible veteran in the top five ranks, the eligible veteran will be added to the certification. No score shall actually be changed and no new ranking created as a result of the application of veteran's preference.

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Rule 6 - ATTENDANCE AND LEAVES

6.1 **APPLICATION**

Except as otherwise provided in a particular section of this Rule, the applicability of Rule 6 is governed by Rule 1.3. In addition, Rule 6 shall apply to all positions in the Non-Competitive service with the exception of the following:

- 1) Elected officials and members of appointed County Boards, Commissions, and committees.
- 2) Extra-help employees.
- 3) Seasonal Employees.
- 4) Persons serving without compensation.

Leaves and any compensation for such for fire personnel assigned to work a 56-hour work week shall be as set forth herein except as specifically provided for in an operative memorandum of understanding for bargaining unit 23.

6.2 **WORKING HOURS**

The Department Head or his designee shall establish the work schedule for the Department or for individual employees as may be required to meet the needs of the Department or the County. The Department Head shall designate the work week or work cycle for each position. Once established, the work week or work cycle shall not be changed except upon approval of the Human Resources Director.

For purposes of this Rule, an employee who commences work on the first working day of a pay period, and who works through the last working day of the pay period, shall be deemed to have served for the full pay period.

6.3 **MEAL AND REST PERIODS**

Meal and rest periods for all employees, including those otherwise exempt from this rule, shall be as prescribed by Departmental operating procedures.

- a) Meal periods should normally not be less than thirty (30) minutes. Meal periods should occur near the mid-point of the work shift.
- b) Subject to departmental staffing needs as determined by the department head, employees will normally be granted rest periods not to exceed fifteen (15) minutes in length during each four (4) hours, or major fraction thereof, of a working period. The total length of all rest periods for any workday shall not exceed thirty (30) minutes.
- c) The Department Head shall determine the time when the rest period is to be taken and to whom it applies. Insofar as practical, rest periods shall be granted in the middle of each work period. A rest period shall not be granted during the first or last hour of a work period nor shall rest time be accumulated.

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- d) No wage deduction or time off shall be made or charged for an authorized rest period, nor shall any rights accrue for overtime if a rest period is not taken as rest periods as opposed to most meal periods are compensated time.
- e) Rest periods shall not be authorized if granting them would in any instance require the hiring of additional personnel to perform work of regular employees during rest periods.

6.4 **MILITARY LEAVE**

The Human Resources Director in accordance with the provisions of applicable State and Federal law shall grant military leave. All employees entitled to military leave shall give the County an opportunity within the limits of military regulations to determine when such leave shall be taken.

- a) Employees who are called or volunteer for services with the armed forces of the United States or the California National Guard shall be entitled to be considered for reinstatement in accordance with the provisions of these rules.
- b) An employee promoted to fill a vacancy created by a person serving in the armed forces shall hold such position subject to the return of the veteran. The employee affected by the return shall be restored to the position he or she had held previously or any other equivalent position.
- c) A new employee hired to fill a vacancy created by a person serving in the armed forces shall hold such position subject to the return of the veteran. The employee affected by the return shall be placed in as nearly equal a vacant position as may exist, or if no such position exists, may be subject to lay-off.

6.5 **WORKERS' COMPENSATION LEAVE**

The workers' compensation laws of the State shall cover all employees of the County. Any employee who is eligible for temporary disability payments under the workers' compensation laws, shall, for the duration of such payments, receive only that portion of his regular salary which, together with said payments, will equal his regular salary. Such salary payments made during a period of temporary disability payments shall be charged against the employee's accumulated sick leave and then vacation leave. Use of other paid leave is at the election of the employee. Should the employee's accumulated sick leave and vacation leave or other paid leave be exhausted, the temporary disability payments shall continue and the employee shall be subject to a leave of absence without pay. During a leave of absence without pay pursuant to this Section 6.5, an employee shall continue to accrue seniority, vacation leave and sick leave which shall not be credited to the employee until he either returns to work or terminates employment. A workers' compensation leave is not considered a break in service for purposes of calculating seniority.

Applicable state and federal family/medical leave provisions will run concurrent with worker's compensation leaves.

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6.6 HOLIDAY LEAVE

6.6.1 Holidays

Regardless of an employee's scheduled hours, Holiday Leave for each holiday is eight (8) hours. Holidays to be observed by the County shall include:

- a) January 1st (New Year's Day)
- b) Third Monday in January (Martin Luther King, Jr. Birthday)
- c) Third Monday in February (President's Day)
- d) Last Monday in May (Memorial Day)
- e) July 4th (Independence Day)
- f) First Monday in September (Labor Day)
- g) November 11th (Veteran's Day)
- h) Thanksgiving Day
- i) The Day after Thanksgiving Day
- j) December 24th (Christmas Eve Day)
- k) December 25th (Christmas Day)
- l) Every day appointed by the President or Governor, and approved by the Board of Supervisors, for a public fast, thanksgiving, or holiday.
- m) One personal holiday to be taken off at the request of the employee with departmental approval (i.e. no set date). The personal holiday for a given year is credited July 1 and must be used by the following June 30 or it is forfeited (Reference 6.6.6).

6.6.2 Holidays on Saturdays, Sundays or Scheduled Days Off

- a) For those employees entitled to holiday leave, pursuant to Section 6.6.3, eight (8) hours of vacation credit shall be added to each eligible employee's vacation balance in lieu of each holiday listed in Section 6.6.1 which falls on a Saturday or on an employee's scheduled day off when that day off is on a Monday through Friday. Such vacation crediting shall occur during the pay period immediately following the holiday for which the vacation credit is earned.
- b) When a holiday listed in Section 6.6.1 falls on a Sunday, it shall be observed on the following Monday.

6.6.3 Holiday Entitlement

An employee shall be entitled to the provisions of this section only if the employee was on the County payroll, and entitled to receive salary for, the employee's entire

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scheduled working day before and the employee's entire scheduled working day after the holiday. For purposes of this rule, salary includes compensation from paid leave.

6.6.4 Work on a Holiday

Any employee who is required to work on any day designated as a holiday pursuant to Section 6.6.1 of this Rule shall be entitled to receive one hour of vacation for each hour worked up to a maximum of eight (8) hours.

6.6.5 Holidays for Regular Part-time Employees

For part-time employee's holiday leave shall be pro-rated based on the full-time equivalency of their position.

6.6.6 Personal Holiday

Personal Holiday is only available to Regular and Probationary employees who are eligible to earn paid leave and who are either unrepresented employees or employees covered by a Memorandum of Understanding providing this holiday.

- a. The Personal Holiday is eight hours. Employees with workdays longer than 8 hours must work or use other paid leave to make up a full workday.
- b. The Personal Holiday is credited July 1 and, unless otherwise provided in an MOU, must be used by the following June 30 or it is forfeited.
- c. The Personal Holiday is prorated for part time employees. As with other benefits, employees whose assigned hours are half time or greater qualify for and shall be credited with the full holiday.
- d. An employee new to Tulare County is not eligible to take paid leave until completion of the first thirteen full pay periods of continuous service. At that point, the employee will receive and be eligible to use a Personal Holiday. The department will work with the employee to ensure an opportunity to take the Personal Holiday, even if this credit occurs late in the fiscal year.
- e. The Personal Holiday must be taken as a single block of eight hours.
- f. If an employee leaves County employment without having taken the Personal Holiday credited July 1 of the fiscal year, the employee will receive eight hours of pay in lieu.
- g. The Personal Holiday may only be taken upon request of the employee with the approval of his supervisor. As with all leaves, the supervisor and/or department may require reasonable advance notice of the request.
- h. The Personal Holiday is a leave with pay subject to the rules and regulations of Tulare County.
- i. An unused Personal Holiday is to be used prior to going into an off payroll status.
- j. Employees on unpaid leave of absence on July 1 will be credited with one Personal Holiday upon their return to paid payroll status.

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6.7 SICK LEAVE

An employee shall notify his immediate supervisor or a designated departmental representative in each instance that the employee is unable to report to work due to illness or injury. A fully completed and approved Leave of Absence form may be required, when an employee is expected to be absent from employment in excess of forty (40) hours due to medical reasons. If required, a Leave of Absence form shall be submitted to the Department Head within five (5) days after the leave commences. A doctor's certification and/or a Leave of Absence form may also be required when an employee's current leave extends beyond its expected ending date.

Prior to an employee's return to work following an illness or injury, the Department Head may request a physician's statement confirming the employee's ability to return to normal duties with or without limitations.

Any sick leave that results in the exhaustion of the employees paid sick leave balance shall be considered FMLA or CFRA leave commencing with the original date the leave began, subject to the employee's eligibility for FMLA and CFRA.

6.7.1 Sick Leave Entitlement/Accumulation

For each one (1) hour of service other than overtime, employees earn and accumulate .0462 hours of sick leave with pay.

- a) Employees continue to earn and accumulate sick leave while on any paid leave.
- b) There shall be no limit to the amount of sick leave credit an employee may accrue.
- c) In accordance with the Healthy Workplaces, Healthy Families Act cited in the California Labor Code, sections 245 – 249 (also to be known as "HWA" for policy purposes), up to forty-eight (48) hours (or the equivalent hours of six (6) work days, whichever is greater) of an employee's sick leave hours that are accrued under the County's Sick Leave Entitlement/Accumulation shall be designated as HWA paid sick leave hours. A work day is defined as the number of hours that an employee is regularly scheduled to work during a twenty-four (24) hour calendar day.

Once an employee's reaches the maximum number of HWA paid sick leave hours that can be accrued, no further accruals of HWA paid sick leave hours shall occur until an employee's accrued HWA paid sick leave hours fall below the maximum accrual. However, employees shall continue to accrue sick leave with pay in accordance with the County's Sick Leave Entitlement/Accumulation cited above.

6.7.2 Accounting for Sick Leave Used

- a) Each employee has one (1) hour deducted from the employee's accrued sick leave time for each one (1) hour of sick leave taken. If less than one-tenth (1/10) hour sick leave is taken, the minimum charge against accumulated sick leave credits shall be one-tenth (1/10) hour. All sick leave shall be

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reported on such forms as may be prescribed by the County Auditor-Controller.

- b) This shall not apply to employees in FLSA exempt classifications if the absence is for less than a full work day unless the partial day absence is immediately adjacent to a full day's absence due to illness.

6.7.3 Holiday during Sick Leave

In the event that a paid holiday occurs during a period when the employee is on sick leave, the holiday is not charged against the employee's accrued sick leave.

6.7.4 Use of Sick Leave

An employee who would otherwise be entitled to sick leave shall be granted such leave only after having completed 13 full pay periods (with the exception of an employee using paid sick leave hours in accordance with the HWA beginning on the 90th day of employment, see section 6.7.4.1 below) of continuous service. Further, except as otherwise provided in a Memorandum of Understanding, an employee entitled to sick leave shall be granted such leave only for the following reasons and in the following manner:

- a) Illness or injury to the employee, or physical or mental incapacity of the employee.

Exception: Service-related illness or injury and/or service-connected physical or mental incapacity are subject to Section 6.5 (WORKERS' COMPENSATION LEAVE) of these Rules.

- b) Medical or dental office or hospital visits for examination, diagnosis, or treatment.

- c) Illness, injury, or death of the spouse, registered domestic partner, parent, step-parent, brother, sister, child (i.e. natural child, adopted child, step child and/or child who is employee's legal ward), grandparent, or grandchild of the employee, or in connection with required attendance at or necessary transportation to medical appointments for the spouse and/or children of the employee.

Not more than sixty (60) hours of sick leave may be taken by an employee for the combined illness and/or medical appointments of all the aforementioned relatives and employee within a calendar year in accordance with and under the protection of California Labor Code section 233.

- d) Bereavement

Not more than forty (40) hours of sick leave may be taken as bereavement leave by an employee for each absence due to the death of one of the aforementioned relatives and for the death of the employee's mother-in-law and/or father-in-law. For unlisted in-laws, employee may take bereavement leave which shall be charged to vacation, CTO, or leave without pay.

- e) Use of Vacation Leave In lieu of Sick Leave

Use of Vacation Leave In lieu of Sick Leave (i.e. when due to an illness or

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event that qualifies for use of Sick Leave) is only allowed in the following circumstances:

1. When the employee's sick leave balance is exhausted.
2. When the vacation is scheduled and approved at least one-week in advance.
3. When the employee is off work due to illness and the employee's Vacation Leave balance is such that continued accrual will cause the employee to exceed 300 hours of Vacation Leave.
4. When such use is approved by the employee's Appointing Authority or when required by the Appointing Authority to avoid going off payroll.

6.7.4.1 Use of Paid Sick Leave Hours under the Healthy Workplaces, Healthy Families Act

Beginning on an employee's 90th day of employment and subject to an employee's accrued paid sick leave hours, an employee shall be able to use up to twenty-four (24) hours (or the equivalent hours of three (3) work days, whichever is greater) of paid sick leave hours in a calendar year, in accordance with the HWA.

HWA paid sick leave hours shall be used for medical or dental appointments, diagnosis, care, or treatment of an existing health condition of, or preventive care, for an employee or a covered family member, or where an employee is a victim of domestic violence, stalking, or sexual assault. A covered family member means any of the following:

- 1) A child means a biological, adopted, foster, step, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
- 2) A parent of the employee means a biological, foster, adoptive, step, legal guardian, or a person who stood in loco parentis.
- 3) A parent of the employee's spouse or registered domestic partner means a biological, foster, adoptive, step, legal guardian, or a person who stood in loco parentis.
- 4) A spouse.
- 5) A registered domestic partner.
- 6) A grandparent.
- 7) A grandchild.
- 8) A sibling.

Sick leave hours that are used for the employee and family members that are considered covered family members under both the HWA and Family Sick shall be applied to the hours available under both the HWA and Family Sick.

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6.7.5 Exclusions

No employee is entitled to sick leave with pay while absent from duty on account of any of the following reasons:

- a) Illness or injury sustained while on leave of absence without pay.
- b) Illness or injury purposely self-inflicted, or sustained from improper employee conduct as defined in Rule 12 herein. Nevertheless, in some limited circumstances the illness or injury may qualify the employee for sick leave usage under ADA / FMLA law.

6.7.6 Proof Required

- a) A Department Head shall approve sick leave only after having ascertained that the absence was for an authorized reason. Should the Department Head disapprove the request for sick leave the time off will be considered a leave of absence without pay.
- b) The Department Head may require the employee to submit substantiating evidence including, but not limited to, a written statement and/or a physician's certificate stating:
 1. That the physician has examined the employee during the period for which sick leave is being claimed, and
 2. That the employee is unable to work during that period, and
 3. The date the employee is expected to be able to return to full duty. The Department Head may not require a diagnosis.
- c) To require a physician's certificate and/or an examination for the purpose of determining an employee's eligibility to be paid sick leave for a particular absence, the employee must be notified in advance of or during the course of the absence. Such notice may be either oral or written.
- d) Section 6.7.6 shall not apply to sick leave hours used under the HWA (with the exception of unscheduled absences for domestic violence, stalking, or sexual assault, where the department may require certification).

6.7.7 Review of Sick Leave Usage

An employee's use of sick leave shall be periodically reviewed by his supervisor. This review will be part of the performance appraisal process for all employees and may be conducted more often as deemed necessary by the employee's supervisor. This review will also take into consideration the number of and reason for unscheduled absences without violating Federal or State health privacy rules.

Sick leave qualifying under the Family Medical Leave Act, the California Family Rights Act, Family Sick Leave Act, HWA, Workers' Compensation or bereavement

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will be noted as protected leave, but otherwise excluded from this review.

When reviewing usage:

- a) If the hours used are below seven (7) shifts overall of unscheduled sick leave, the hours used will be noted on the performance appraisal.
- b) If the hours used exceed seven (7) shifts overall of unscheduled hours, such use shall be considered "high" use and the supervisor will review the reason(s) for that high use:
 - 1) If the high use is primarily due to a major illness, injury or surgery which required the employee to be off work several days for a single illness this fact will be noted in the performance appraisal and no further action taken.
 - 2) If the high use is primarily due to multiple short absences or long absences for reasons not noted in 1 above, this fact will be noted in the performance appraisal and appropriate action will be taken.
- c) If the use is due to a new illness or injury, the employee will be counseled regarding the impacts of continued high absence and an action plan will be developed to assist the employee in reducing future absence.
- d) If the high use is due an ongoing chronic serious illness or lengthy recovery from a severe injury, that fact will be noted and no further action taken.
- e) If the high use is due a continuing minor illness, or a series of minor illnesses for which there is no adequate explanation of an underlying serious health condition, appropriate corrective and/or disciplinary action will be initiated by the supervisor.

6.7.7.1 Exhaustion of Sick Leave

In the event an employee has an unpaid qualifying FMLA or CFRA leave requiring the County to continue health insurance on their behalf such employee shall be required to use other paid leave as provided by law until such time as such leave is expired or the employee returns to work.

6.7.8 Sick Leave Pay on Separation

Except as otherwise provided in an MOU or below, an employee is not entitled to receive compensation for unused, earned sick leave upon separation from the County service.

- a) Any employee who has been laid off and who is subsequently re-employed within two (2) years after the day of lay-off, shall be granted sick leave credits equivalent to the accrued credits of the employee at the time of

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lay-off.

- b) Any regular or probationary employee who is elected to a County position that is an elective office, who continuously remains in County elective office whether in the same or in a different position, and who either retires directly from county elective office or is re-hired directly from County elective office without any break in service shall be granted sick leave credits equivalent to the accrued credits of the employee at the time the employee left regular service through election.
- c) An employee who separates from the County service after having completed ten (10) years of service, and who retires in accordance with the provisions of the Tulare County Employee's Retirement System, may initially receive compensation in an amount up to twenty percent (20%) of the accumulated sick leave credits of the employee at the time of separation; provided, however, that such compensation shall in no event exceed an amount equal to such employee's salary for two hundred fifty (250) hours of service. Such compensation shall be calculated on the hourly rate of pay for the position occupied at the time of separation. Such compensation shall not be paid upon the election of the employee to take a deferred retirement. Once such compensation has been calculated and paid, the above provisions relating to additional service credits shall take effect.
- d) An employee who retires in accordance with the provisions of the Tulare County Employee's Retirement System may elect to have his accumulated unused sick leave, minus any sick leave converted to compensation under c) above, converted to additional service credits as of the date of their retirement. No more than six months of service credit will be provided to employees that are Tier 4 members of the Tulare County Employees Retirement System.
- e) If an employee separates from County service and is rehired within one (1) year from the date of separation, previously accrued and unused HWA paid sick leave hours shall be reinstated.

6.8 **VACATION LEAVE**

6.8.1 Vacation Leave Entitlement/Accumulation

For each one (1) hour of service other than overtime, employees earn and accumulate vacation leave with pay in accordance with the following schedule:

FLSA <u>Covered</u> Employees (employees who are eligible to be paid Premium Overtime)				
Years of Continuous Service	Pay Periods of Continuous Service*	Earning Rate Per Hour**	Earning Rate Hours Per Pay Period	Weeks Per Year
0 - 3	1 – 78	.03846	3.077	2
3 - 7	79 – 182	.05769	4.615	3
7 - 11	183-286	.07692	6.154	4
Over 11	More than 286	.09615	7.692	5

* On the first day of the 4th year, the employee begins to accrue 3 weeks of vacation. On the first day of the 8th year, the employee begins to accrue 4 weeks of vacation. On the first day of the twelfth year, the employee begins to accrue 5 weeks of vacation.

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FLSA <i>Exempt</i> Employees (employees who are not eligible to be paid Premium Overtime)				
Years of Continuous Service	Pay Periods of Continuous Service*	Earning Rate Per Hour**	Earning Rate Hours Per Pay Period	Weeks Per Year
0 - 3	1 - 78	.05769	4.615	3
3 - 7	79 - 182	.07692	6.154	4
7 - 11	183-286	.09615	7.692	5
Over 11	More than 286	.11538	9.23	6

* On the first day of the 4th year, the employee begins to accrue 4 weeks of vacation. On the first day of the 8th year, the employee begins to accrue 5 weeks of vacation. On the first day of the twelfth year, the employee begins to accrue 6 weeks of vacation.

- a) Employees continue to earn and accumulate vacation leave while on any paid leave.
- b) Credits for vacation with pay may be accumulated up to a maximum of three hundred (300) hours. Once an employee has accumulated three hundred (300) hours he shall receive no further vacation accruals until the employee's accrual falls below three hundred (300) hours.
- c) Employees who come directly to Tulare County from prior public service in which they were eligible to earn and use vacation leave may accrue vacation as if all their most recent years of continuous public service were with Tulare County. "Directly" is defined as within 30 days of separating from a prior employer unless the employee is physically relocating their principal residence in which case "directly" is defined as within 90 days of separating from a prior employer. Eligible service will be determined by the Human Resources Director whose decision is final.

6.8.2 Scheduling of Vacations

Vacations may be taken at any time following the completion of the first thirteen (13) full pay periods of continuous service. Vacations shall be scheduled in advance. The date and time at which an employee takes vacation leave shall be determined by the prior approval of the Department Head with due regard to the employee and the needs of the County. An employee is only entitled to request and schedule vacation for the number of hours that will be accrued and credited to him as of the beginning of the pay period in which the first day of vacation occurs.

6.8.3 Exclusions

Except as provided in Section 6.5 (Workers' Compensation), an employee does not accrue vacation during any leave without pay.

6.8.4 Holiday During Vacation

If a County observed holiday, as noted in Section 6.6.1, occurs while the employee is on vacation leave, such holiday time is not deducted from the amount of vacation leave to which the employee is entitled.

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6.8.5 Sick Leave During Vacation

An employee may substitute sick leave for vacation leave only when the employee or immediate family member listed in Section 6.7.4 c) above is hospitalized or receives outpatient medical care for a serious injury or illness while the employee is on a scheduled, pre-authorized vacation. Substantiating documentation including a statement from the treating physician may be required.

6.8.6 Accounting for Vacation Used

- a) Each employee will have one-tenth (1/10) hour deducted from his accrued vacation credits for each one-tenth (1/10) hour of vacation leave taken. All vacation leave shall be reported on such forms as may be prescribed by the County Auditor- Controller.
- b) Vacation leave will not be required of employees in FLSA exempt classifications if the absence is for less than a full work day, unless the partial day off is immediately preceded or followed by a full day of vacation.

6.8.7 Vacation Leave Pay on Separation

Upon separation, an employee receives compensation at his current salary rate for all unused earned vacation as of the effective date of separation, subject to the following:

- a) An employee shall not use accrued vacation credits to extend his separation date.
- b) A full-time employee who has resigned, or who has been laid-off and who is subsequently reinstated or re-employed in a full-time position within a two (2) year period shall have their vacation leave rate, at the time of reinstatement or re-employment, computed, pursuant to Section 6.8.1, to include their total pay periods of continuous full-time service prior to the resignation or lay-off.

6.8.8 Vacation Donation

County employees will be able to donate vacation time to a regular employee, hereinafter referred to as recipient, provided:

- a) The recipient, or a member of his immediate family as defined in Personnel Rule 6.7.4 c) and for whom the recipient is responsible, experiences a catastrophic and/or serious chronic illness or injury (see Definition below) which requires the recipient to be absent from work over an extended period time, and,
- b) The recipient has exhausted, or will soon exhaust, all accrued balances (sick leave, vacation leave, CTO, MTO, Personal Holiday), and,
- c) The recipient has agreed to accept the donation, if approved, and
- d) An employee will not be eligible for the Vacation Donation program if he

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is receiving Workers Compensation or 4850 payments, and

e) The character of the leave shall be changed from vacation (donor) to sick leave (recipient) upon transfer of the hours. The hours shall be used hour for hour, regardless of any differing pay rate between the donor and recipient and shall be paid at the recipients pay rate.

Definition of Catastrophic Illness or Injury:

A serious non-work related health condition which incapacitates the employee or a member of their immediate family, and which creates a financial hardship because the employee has exhausted their sick and vacation leave, MTO, Personal Holiday, as well as CTO. A catastrophic illness or injury is defined as a serious illness, injury, impairment, physical, or mental condition that is present for a minimum of seven (7) calendar days, and that involves incapacity or treatment:

1. Connected with inpatient care (e.g., an overnight stay) in a hospital, hospice, or residential health care facility; or
2. Requiring absence of more than seven calendar days from work, and that also involves continuing treatment by (or under the supervision of) a licensed health care provider; or
3. Due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
4. That is long-term due to a condition for which treatment may be ineffective (e.g., stroke, terminal disease, etc.); or
5. To receive multiple treatments (including any period of recovery there from) either for restorative surgery after an accident or other injury, or for a chronic condition such as cancer or kidney disease.

Procedure:

- 1) The requesting employee must complete a "Vacation Donation: Request to Participate" form and submit a "Physician Certification" form in order to be considered for participation in the vacation donation program. These forms shall be sent by the employee to the Human Resources Director for review. The review shall determine eligibility and if the medical certification is sufficient. The Human Resources Director will make a determination as to whether or not the request qualifies under this policy. Further verification of the nature of the catastrophic illness or injury or medical emergency may be required.
- 2) If the recipient is dissatisfied with the Human Resources Director's determination, a second review may be requested by the recipient. The second review will be made by the County Administrative Officer whose decision is final and not appealable.
- 3) If a Request to Participate form is approved, the County's Human Resources Department will authorize an electronic message to be sent (the Recipients name will not be posted) to notify all County Departments that a

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vacation donation request has been approved. The message will provide information on how to access the County intranet site to participate in the donation of vacation hours. The Auditor's Office-Payroll Department will be provided with the necessary Recipient information for the processing of donated hours. Donors will send completed Vacation Donation forms to the Auditor's Office-Payroll Department for processing. Donation pledge forms will be made available in the department and/or electronically for a designated period of time. The donation forms will include a statement informing the potential donor that all donations may be irrevocable once they are credited to the recipient. Donations must be made at a minimum of four (4) or more hour increments. Donors must specify the intended recipient by noting the "Request number" of the recipient on the Vacation Donation Pledge form.

4) Once the completed donation forms are returned to the Auditor's Office-Payroll Department, payroll staff will:

- A. Log in each donation and assign a number based on when it is received, i.e. first donation is #1, etc.
- B. Verify that each donor has enough vacation to cover the amount of the donation. The donor must have a sufficient leave balance on the books at the time the donation form is submitted. If the donor does not have a sufficient balance, the donation will not be processed and the donation form will be returned to the donor. Donations may not drop the donor's vacation balance below forty (40) hours.
- C. Deduct the donated vacation from the donor's vacation balance and apply the donated hours to the Recipient.

5) After the recipient has exhausted all of his/her own paid leave balances, donations will be processed and credited to the recipient in numerical order until there are enough donated hours to make up a full pay period of hours (includes regular, SDI or LTD integrations), i.e. 80 hours for a full time employee or the number of assigned hours for a part-time employee. Donations shall be on an hour for hour basis, i.e. for each hour of vacation donated the recipient will receive one hour of sick leave. Donations received but not credited for this pay period will be held to be used in future pay periods. This process will be repeated each pay period until the recipient's status changes so that he/she is no longer eligible for vacation donation or if the recipient has received 12 months (26 pay periods of receiving donated hours) of vacation donations during their tenure with the County, whichever occurs first.

6) Each pay period the Auditor's Office-Payroll Department will add the appropriate number of hours to the recipient's Sick balance. Payments will be made to the recipient based on the normal payroll schedule at the recipient's regular biweekly salary. Recipients will continue to accrue vacation and sick hours on a pro-rated basis depending upon the number of donated hours that are used in a given pay period.

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7) When the event that caused the need for the Vacation Donation program is concluded or resolved, any remaining un-credited donations will not be processed and the donation form and credits will be returned to the donor(s) and restored to his/her vacation balance(s).

8) The County will immediately investigate any allegation of coercion or pressure in the solicitation of transfers for Vacation Donation and take appropriate action.

9) Any donated hours used by a recipient are considered compensable earnings and are subject to applicable Federal, State and Local taxes. Deductions for any benefits premiums and retirement shall also occur. A recipient is responsible for paying the employee portion of any benefits premiums or retirement costs not paid for through the payroll deduction process.

6.9 OTHER LEAVES OF ABSENCE WITH PAY

6.9.1 Court Leave

While on trial or inquest jury duty, or while appearing as a legally required witness, an employee will receive full pay from the County provided the employee is not a party to the action.

- a) Employees receiving witness fees, or trial or inquest jury service fees while on Court Leave shall endorse such payments, except those for travel expenses, to the County.
- b) Nothing in this section is intended to prevent an officer or employee from using accrued vacation credits or compensating time off to which the officer or employee is entitled during the time spent serving as a juror or witness, and retaining the fees for jury service or serving as a witness.

6.9.2 Administrative Leave

Under the provisions of Rule 12.5.A, the Appointing Authority may place an employee on Administrative Leave with Pay during an investigation whenever the Appointing Authority deems it necessary in order to conduct an orderly investigation, to protect and preserve possible evidence, to avoid intimidation or coercion of potential witnesses and/or to protect the property and systems of the County.

6.10 LEAVES OF ABSENCE WITHOUT PAY

6.10.1 Entitlement and Length of Leaves of Absence Without Pay

- a) Except when otherwise required by law, a leave of absence without pay may only be granted to an employee who has completed at least thirteen (13) full pay periods of continuous employment.
- b) Except when otherwise required by law, if the employee has not completed thirteen (13) full pay periods of continuous employment, he may only be granted a leave of absence without pay

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- 1) for medical reasons, or
- 2) for compelling reasons other than medical which are satisfactory to the Human Resources Director.
- c) For other than medically related requests, leaves of absence without pay shall not be granted for more than six (6) continuous months of such leave.
- d) If applicable, state and federal family/medical leave provisions may run concurrent with the leave of absence.
- e) There shall be no extensions beyond the above stated periods except as otherwise provided by law.

6.10.2 Authorization for Leave of Absence Without Pay

The Human Resources Director shall have the authority to grant leaves of absence without pay, and extension thereof, for all employees.

- a) Except when otherwise required by law, leaves of absence without pay shall not be granted without the approval of the employee's Department Head.
- b) Application for leave of absence without pay, or an extension of said leave, shall be made upon forms prescribed by the Human Resources Director. Upon application for a medical leave of absence, the Human Resources Director may require a medical evaluation of the employee by a County selected physician at the County's expense.
- c) Notwithstanding any other provisions of this Rule, a Department Head may authorize an employee leave of absence without pay for not more than forty (40) consecutive working hours for any reason determined to be appropriate by the Department Head.

6.10.3 Effect On Other Leaves

An employee shall not accrue vacation leave or sick leave with pay while on any leave of absence without pay with the exception of leaves of absence without pay occurring as a result of a workers' compensation related leave pursuant to Section 6.5.

6.10.4 Effect On Service Credits/Service Dates

- a) A leave of absence without pay shall not constitute a break in County service and shall have no effect on an employee's status with the exception of the employee's salary anniversary date.
- b) Service Dates

The following dates shall be postponed one (1) full pay period for each one (1) full pay period the employee is on such leave of absence:

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1. Salary anniversary date
2. Vacation accrual date
3. Next Performance Evaluation date
4. Probationary Period

6.10.5 Effect On Employee's Employment Status

- a) During the period an employee is on leave of absence without pay, the employee's position shall be treated as vacant. The position may be temporarily filled (or parallel filled) until such employee returns from the leave of absence without pay or the position is otherwise vacated.
- b) Should an employee fail to return to County employment upon the conclusion of the leave of absence without pay granted pursuant to this Rule, the Department Head shall notify the employee that he is Absent Without Approved Leave and subject to termination from the County service pursuant to Rule 12.

6.11 MEDICAL SEPARATION

- a) When the County determines that an employee who is not eligible for consideration for disability retirement is unable to satisfactorily perform essential assigned functions due to a disability or other medical condition, for which no reasonable accommodation can be made, that employee may be medically separated from County service. This procedure shall apply regardless of the cause of the disability or medical condition.
- b) A medical separation shall be based on:
 - 1) A statement describing the essential functions the employee is not performing satisfactorily or is not capable of performing, and;
 - 2) A description of any reasonable accommodations considered and why these have not enabled the employee to perform essential assigned functions satisfactorily, and;
 - 3) Any medical, psychiatric or other pertinent information presented by the employee or the County.
- c) The County shall pay the reasonable costs of any medical examinations required by the County.
- d) An employee shall not be eligible for medical separation unless the following criteria have been satisfied:
 - 1) The employee is unable to satisfactorily perform essential assigned functions due to a disability or other medical condition;
 - 2) The employee does not have sufficient service credit to be eligible for consideration for disability retirement.
 - 3) The disability or medical condition will continue for a period of time, which

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will be detrimental to the needs of the department;

- 4) All available leave balances (sick leave, vacation, CTO) have been exhausted;
 - 5) The employee has exhausted any medical leave of absence(s) without pay provided under Personnel Rule 6.10. The only exception to this criterion is if the prognosis indicates that the condition is permanent or will exist for a period of time that would exceed the period of time allowed for a medical leave of absence.
- e) Written notice of intent to medically separate shall be given to the employee either by delivery of the notice to the employee in person, or by mail. The notice shall:
- 1) inform the employee of the action intended, the reason for the action, as specified in 6.11 b) 1), 2), and 3) above and the effective date of the action; and
 - 2) inform the employee of the right to respond and to whom to respond within ten (10) calendar days from the date of such notice of intent in accordance with instructions given by the County in the written notice sent to the employee.
 - 3) inform the employee of the right to apply for a disability retirement, if the employee meets the criteria.
- f) After review of the employee's timely response, if any, the County shall notify the employee of any action to be taken. Such notice shall be mailed or personally delivered to the employee prior to the effective date.
- g) Any employee who is medically separated shall have the right to appeal such action in accord with the procedures as set forth in Personnel Rule 12. The basis of the appeal shall be limited to whether or not the criteria, as specified in paragraphs b) and d) above, have been met.
- h) Any employee who is medically separated shall be eligible to apply for reemployment or reinstatement if their medical condition improves to the point where they would be able to perform the full range of assigned, essential functions. A medical and/or psychological exam may be required prior to appointment.
- i) Prior to a Medical Separation taking effect, the employee may apply for a transfer to another position providing he meets the necessary employment standards for and is able to perform the essential functions of that position, with or without accommodation. The employee must comply with applicable County rules and procedures concerning transfers, including compliance with accommodation provisions of Federal and State laws.
- j. Failure to participate in the mandated interactive process will constitute a waiver.

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6.12 FAMILY MEDICAL LEAVE ACT AND CALIFORNIA FAMILY RIGHTS ACT

The purpose of Tulare County's Family Care Leave policy is to adhere to the standards required by state and/or federal regulations. This policy incorporates those standards by reference. All references to Family Care Leave are to CFRA and/or FMLA as appropriate. Apparent or actual conflicts between CFRA and FMLA will normally be resolved in favor of the employee unless otherwise provided in current case law.

Should the state (CFRA) and/or federal (FMLA) regulations be amended, modified and/or changed, it is the intent of this Personnel Rule to immediately incorporate said changes.

6.12.1 Entitlement and Length of Family Care Leave

- a) A family care leave may be granted to an employee who has completed twenty-six (26) full pay periods of employment (this employment does not need to be in consecutive pay periods). The employee must have worked at least 1250 hours in the 12-month period prior to the commencement of the leave.
- b) A family care leave may be taken for the following reasons:
 - 1) The birth of a child of the employee or the placement of a child with an employee in connection with the adoption of the child by the employee or for foster care.
 - 2) Leave to care for a parent, spouse, Registered Domestic Partner, or child who has a serious health condition. A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that warrants the participation of a family member to provide care during a period of the treatment or supervision of the parent, spouse or child and involves either inpatient care in a hospital, hospice, or residential health care facility or continuing treatment or continuing supervision by a health care provider.
 - 3) As defined under California Family Rights Act (CFRA) and Federal Family Medical Leave Act (FMLA), for the employee's own serious health condition that makes the employee unable to perform their job.
- c) Family care leave shall not be granted for more than twelve (12) weeks in a twelve (12) month period. The 12-month period shall commence on the first day of the family care leave.
- d) Family care leave does not need to be taken in one continuous period of time. Intermittent leave (separate blocks of time) or reduced leave (reduction in hours on a daily or weekly basis) is permissible for qualifying circumstances.
- e) For family care leave taken for reason of the birth, placement of a child for adoption or foster care, the leave shall be taken within one year of the birth

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or placement of the child with the employee.

- f) CFRA family care leave shall be considered as separate and distinct from leave under Government Code Section 12945 (pregnancy disability leave). Section 12945 allows up to four months leave for employees who are disabled due to pregnancy, childbirth or related medical conditions.
- g) The department head may require the employee to use any type of accrued paid leave except compensating time off (CTO) during this period. Use of CTO requires approval of the employee.
- h) Where appropriate, the County will designate Worker's Compensation injuries concurrent with FMLA/CFRA entitlements.

6.12.2 Authorization for Family Care Leave

- a) Application for family care leave, or an extension of said leave, shall be made upon forms prescribed by the Human Resources Director. Upon application for a leave to care for a parent, spouse or child with a serious health condition, the employee must provide a certification from the health care provider of the individual requiring care. If the employee requests and the department head concurs sick leave may be used in accordance with Personnel Rule 6.7.4. The employee must request a family care leave at least thirty (30) days prior to the leave or as soon as practicable after the employee learns of the need. Under certain circumstances, as provided for in CFRA and/or FMLA, if the employee fails to provide appropriate advance notice, the County may delay the onset of the leave for up to thirty (30) days.
- b) Upon application of a family care leave for the birth, adoption, foster placement or serious health condition of a child, and where both parents are employed by the County coordination will occur so that granting the leave would not allow the employee and the other parent of the child to take a combined family care leave which totals more than twelve (12) weeks in a twelve (12) month period.
- c) If an employee applies for a medical leave or personal leave under circumstances that qualify for Family Care Leave, the leave shall be designated as such and the employee shall be so advised.

6.12.3 Effect on Other Leaves/Service Credits

Unpaid Family Care Leave shall be treated as Leave of Absence Without Pay (Rule 6.10.3) for purposes of service credits.

6.12.4 Effect on Employee's Employment Status

Unpaid Family Care Leave shall be treated as Leave of Absence Without Pay (Rule 6.10.4) for purposes of employment status.

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6.13 ADVANCED DISABILITY PAYMENTS PENDING A DISABILITY RETIREMENT APPLICATION FOR LOCAL SAFETY OFFICERS

Labor Code section 4850.4 provides that Counties subject to the County Employee's Retirement Law of 1937 shall make advance disability payments to local safety officers in accordance with Labor Code section 4850.3 unless certain disqualifying conditions are presented. This rule provides for implementation of Labor Code section 4950.4.

1. Qualification

A. This policy pertains only to local safety officers who have qualified for benefits under Labor Code section 4850 and who are approved for a disability allowance as provided for herein. A local safety officer is eligible for advanced disability pension payments in accordance with Labor Code section 4850.3 unless any of the following are applicable:

- (1) After an examination of the employee by a physician, the physician determines that there is no discernable injury to, or illness of, the employee.
- (2) The employee was incontrovertibly outside the course of his or her employment duties when the injury occurred.
- (3) There is proof of fraud associated with the filing of the employee's claim.

2. The Process

A. The County shall be obligated to make advance disability pension payments pursuant to Labor Code section 4850.4 only if the eligible employee does all of the following:

- (1) Files an application for disability retirement at least 60 days prior to the payment of benefits pursuant to Section 4950 (a).
- (2) Fully cooperates in providing the employer with medical information and in attending all statutorily required medical examinations and evaluations set by the employer.
- (3) Fully cooperates with the evaluation process established by the retirement plan.

3. Payment

A. When the County is required to make advanced disability pension payments, those payments shall commence no later than 30 days from the date of issuance of the last disbursed of the following:

- (1) The employee's last regular payment of wages or salary.
- (2) The employee's last payment of benefits under Section 4950.

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(3) The employee's last payment for sick leave.

- B. The advanced disability payments shall continue until the claimant is approved or disapproved for a disability retirement allowance pursuant to the final adjudication as provided by law.
- C. The 30-day period for the commencement of payments shall be tolled by whatever period of time is directly related to the employee's failure to comply with the provisions of 2. A. above.
- D. The amount of advance disability pension payments shall be that provided for in Labor Code section 4850.3.

4. Reimbursement

- A. After final adjudication, if an employee's disability retirement application is denied, the Auditor shall calculate the total of the advanced disability pension payments made and arrange with the employee a plan of repayment. The repayment plan shall take into account the employee's ability to repay the advanced disability payments received. Absent an agreement on repayment, the matter shall be submitted for a local agency administrative appeals remedy that includes an independent level of resolution to determine a reasonable repayment plan. If repayment is not made according to the repayment plan, the local agency may take reasonable steps, including litigation, to recover the payments advanced.
- B. After final adjudication, if an employee's disability retirement application is granted, the retirement system shall reimburse the County for the advanced disability pension payments pursuant to Government Code section 31897.6, which provides that:

The board shall deduct the amount of advanced disability pension payments made to a local safety member pursuant to Section 4850.3 or 4850.4 of the Labor Code from the member's retroactive disability pension payments. If the retroactive disability allowance is not sufficient to reimburse the total advanced disability pension payments, an amount no greater than ten (10) percent of the member's monthly disability allowance shall be deducted and reimbursed to the local agency until the total advanced disability pension payments have been repaid. The local safety member and this system may agree to any other arrangement or schedule for the member to repay the advanced disability pension payments.

5. Other Considerations

- A. Nothing in this regulation shall preclude the Department or the County from providing reasonable accommodation for any work restrictions and requiring the employee to work within their classification during the pendency of any disability retirement application filed by or joined in by the department. If such employee is accommodated during the pendency of the applicable disability retirement application, no payments shall be payable to that employee pursuant to this regulation. If payments have commenced, they shall cease upon such accommodation.

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- B. Any advanced disability payments payable pursuant to this regulation may be reduced by any worker's compensation benefits which were paid in excess of sums actually due. The determination that such over-payments were made and are thus subject to such offset, and the manner and timing of the offset(s) shall be determined by the Human Resources Director in consultation with the Auditor's Office.

6.14 SCHOOL LEAVE

Any County employee who is a parent, guardian or grandparent having custody, of one or more children in kindergarten or grades 1 through 12 shall be allowed up to forty (40) hours each school year, not to exceed eight (8) hours in any calendar month of the school year, to participate in activities of the school of their child. Such employee must provide reasonable advance notice of the planned absence and may be required to use vacation and/or CTO to cover the absence. The department may require the employee to provide 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 and work for the County at the same work site, only the first parent requesting shall be entitled to leave under this provision.

6.15 TIME TO VOTE

California Elections Code provides that if an employee does not have sufficient time outside of his scheduled working hours to vote in a statewide election, the voter may take time off from work without loss of pay, subject to the following:

- a) No more than two (2) hours of time shall be taken off for voting. Such time off shall be without loss of pay.
- b) The time off shall be only at the beginning or end of a regular working shift, whichever allows the most free time for voting and the least time off from the regular working shift, unless otherwise agreed.
- c) The employee shall give at least two (2) working days' notice prior to the election that time off to vote will be required.

6.16 DOMESTIC VIOLENCE LEAVE

The County will follow the guidelines set forth by the Federal and State law regarding Domestic Violence Leave. To the extent allowed by law, the County shall maintain the confidentiality of the employee. Domestic Violence Leave will be allowed to:

- A. Seek medical attention,
- B. Obtain services such as safe shelter and access domestic violence programs,
- C. Attend psychological counseling or safety planning,
- D. Take other actions to increase safety from future violence.

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When possible the employee should give reasonable advance notice for each absence. When an unscheduled absence occurs the employee may be asked to provide a police report, a court order, or documentation from a medical professional, domestic violence advocate or counselor.

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Rule 7 - OUTSIDE EMPLOYMENT AND PROHIBITED ACTIVITIES

7.1 DEFINITION

This regulation covers any and all employment, activity or enterprise engaged in by an employee of the County of Tulare, in addition to his employment with the County, except as otherwise provided by law.

7.2 PROHIBITION

A County officer or employee shall not engage in any employment, activity or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a County officer or employee. Activities deemed to fall in these categories should include, but not be limited to, all of the following:

- 7.2.1 Using the prestige or influence of the County or the appointing authority for the officers or employees private gain or advantage, or the private gain of another.
- 7.2.2 Using County time, facilities; or the badge, uniform, prestige or influence of one's County employment for private gain or advantage.
- 7.2.3 Using, or having access to, confidential information available by virtue of County employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.
- 7.2.4 Receiving or accepting money or any other consideration from anyone other than the County for the performance of an act which the officer or employee would be required or expected to render in the regular course or hours of County employment or as a part of the duties of the County officer or employee.
- 7.2.5 Performance of any work, service, or counsel for compensation outside of such person's County employment where any part of such person's efforts will be subject to approval by any other officer, employee, board, or commission of the County, unless such person obtains the prior approval of the Human Resources Director.
- 7.2.6 Performance of an act, in any capacity other than in his or her capacity as a County officer or employee, knowing that the act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by such officer or employee.
- 7.2.7 Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan or any other thing of value from anyone who is doing or is seeking to do business of any kind with the officer's or employee's appointing authority or whose activities are regulated or controlled by the appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions performed by the officer or employee.
- 7.2.8 Subject to any other laws, rules, or regulations as pertains thereto, not devoting his or her full time, attention, and efforts to his or her County office or employment during his or her hours of duty as a County officer or employee.

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- 7.2.9 Performance of any work, service, or counsel which involves such time demands as would render performance of his or her duties as a County officer or employee less efficient.

7.3 **DETERMINATION OF INCOMPATIBLE ACTIVITIES**

- 7.3.1 The County Administrative Officer and each County Department Head, in conjunction with the Human Resources Director, may determine additional specific activities that, for officers and employees under their respective jurisdiction, are predetermined to be inconsistent with, incompatible to, in conflict with, or inimical to the duties of such officers or employees.
- 7.3.2 A proposed list of additional prohibited activities shall be submitted to any officer or employee to be affected by such determination; and any such officer or employee may respond, in writing, to the Human Resources Director within five (5) working days of service of the list setting forth objections to the determination and/or its application to the objector. Thereafter, the Human Resources Director and Department Head shall meet with the objector to seek resolution of the objections.
- 7.3.3 If objections are not resolved through discussion, any person who has followed the objection process shall be notified at least ten (10) working days before the proposed list is to be considered by the Chief Administrative Officer (CAO); and such objecting person may present their objections to the CAO in writing at least five (5) working days. Thereafter the CAO may approve, approve with change, disapprove, or re-refer the proposed determination. A determination by the CAO shall be final.
- 7.3.4 At any stage of the determination process, an officer or employee may be represented by a person of their choice.

7.4 **AUTHORIZATION OF ADDITIONAL EMPLOYMENT**

Any officer or employee who desires to work for more than one County Department, or to hold outside employment in addition to County employment, shall submit a request through his Department Head to the Human Resources Director for permission to hold such position(s). Such requests shall be submitted prior to any work performed in the outside position and shall be resubmitted annually. Each employee who is holding outside employment on the date when this regulation takes effect shall, within 30 days, submit a new request for outside employment. Department heads desiring to hold outside employment shall submit a request directly to the County Administrative Officer (see Personnel Rule 16.4).

- 7.4.1 The officer's or employee's Department Head or the County Administrative Officer, as appropriate, shall review the request and determine whether such employment would be clearly inconsistent, incompatible, in conflict with or inimical to their duties as a County officer or employee, or with the duties, functions or responsibilities of their appointing authority or Department; or whether the work involves such time demands as would likely render performance of the employee's duties as a County employee less efficient. If so, the County Administrative Officer or the Department Head will reject the request. If not, the request shall be approved and forwarded to the Human Resources Director.

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7.4.2 The Human Resources Director shall review the request and determine whether such employment would be considered joint employment as provided by the Fair Labor Standards Act. If necessary, the Human Resources Director shall obtain a ruling from the United States Department of Labor as to whether the employment will be considered joint employment pursuant to the Fair Labor Standards Act. If so, the Human Resources Director shall reject the request. If not, the request shall be approved.

7.5 **VOLUNTEERING**

No officer or employee may volunteer any time for any County Department without the prior written approval of the Human Resources Director.

7.6 **VIOLATIONS**

Participation in any prohibited activity by any non-elected officer or employee may be cause for suspension, demotion, reprimand, transfer, or removal from employment.

7.7 **USE OF COUNTY PROPERTY**

No equipment, autos, trucks, instruments, tools, supplies, machines, copiers, computers, printers, laptops, PDAs, cell phones and software, or any other item which is the property of the County shall be used by any employee of the County while engaged in any outside employment or activity, for compensation or otherwise, except upon prior order of the Board of Supervisors.

No employee shall allow any other person to rent, borrow or use any of the County property mentioned in this subsection for other than County purposes, except upon prior order of the Board of Supervisors.

7.8 **PRIVATE BUSINESS ACTIVITIES**

The solicitation and conduct of non-County related business by salesmen, peddlers, collectors, or other similar persons in the offices of the County government are prohibited unless specifically authorized by the Board of Supervisors. All employees shall conduct their personal business activities, if any, outside of regular working time. This Section does not prohibit any activity otherwise permitted by law.

7.9 **APPEAL PROCEDURE**

7.9.1 Any employee who contends there has been a misinterpretation of the Outside Employment policy may file an appeal with the County Human Resources Director who shall hear the matter and make a recommendation to the County Administrative Officer for final resolution of the appeal.

7.9.2 The County Administrative Officer shall consider the recommendation and evidence submitted and make a decision regarding the appeal within thirty (30) days. The decision of the County Administrative Officer shall be final.

7.9.3 The individual determinations are not subject to the grievance procedure.

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Rule 8 - NEPOTISM

8.1 **GENERAL PROVISIONS**

Persons closely related by marriage, blood or a significant personal or financial relationship may be appointed to positions only if neither directly supervises nor is in a managerial capacity over the other.

8.2 **RELATED**

For purposes of this Rule, related shall consist of the following relations:

- Spouse
- Registered Domestic Partner
- Parent
- Step-parent
- Brother
- Sister
- Child
- Step-child
- Grandparent
- Grandchild
- Any other person who shares a significant personal or financial relationship with the employee which may adversely affect the work environment.

If employees become related as described above, the County will attempt to reassign one of the employees to another position for which he or she is qualified if such a position is available within six (6) months. If no such position is available, then one of the employees will be required to terminate employment with the County. The decision as to which employee terminates will be left solely to the affected employees provided a decision is reached and provided to their Appointing Authority within 180 calendar days of the event making them related. In the event that no alternative position is available and neither employee voluntarily leaves the County, the employee with the least seniority will be terminated effective the end of the first full pay period following the expiration of the above 180 calendar days.

8.3 **EXEMPTION**

Related employees, as defined above, already working in a situation where one has a management relationship over the other on the date this rule revision takes effect are exempt from that provision of this rule until such time as that management relationship ends.

8.4 **MARRIAGE OR REGISTRATION FOR DOMESTIC PARTNERSHIP WHILE EMPLOYED**

Employees who become related as defined in 8.2 above through marriage, formation of a Registered Domestic Partnership, and/or the development of a dependent, significant personal or financial relationship will be permitted to continue employment with the County only if they do not work in a management or direct supervisory relationship with one another.

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Rule 9 - TRAINING

9.1 GENERAL POLICY

It is the policy of the County to encourage and promote training and educational opportunities for all employees to the end that the services they render to the County may be enhanced and made more effective.

9.2 ORIENTATION OF NEW EMPLOYEES

The Human Resources Director and a new employee's Appointing Authority shall have the responsibility for familiarizing a new employee with the employee's obligations and rights and also inform the employee about the functions and operations of the County. The Human Resources & Development Department shall coordinate general orientation sessions for all new employees, and assist departments with department-specific orientations as necessary.

The County will comply with mandated Federal and State training requirements which include, but are not limited to Sexual Harassment Prevention and Ethics Training for Local Officials.

9.3 TYPES OF TRAINING

For the purposes of administration, the following categories of training are recognized:

9.3.1 In-Service Training

Any formal employee training or development program that is sponsored by the County. Such programs are designed and conducted to meet the job-related needs of County employees.

9.3.2 Supervisory Academy

All new supervisors shall participate in the County's Supervisory Training Program as set forth:

1. All new supervisors, except Sheriffs Sergeants, shall commence participation in the Supervisory Academy within 180 days of appointment to the position of supervisor and conclude the training session within two years of appointment.
2. The Human Resources Director shall publish a list of classifications deemed to be supervisory and subject to this rule and submit such list to all appointing authorities.
3. Appointing Authority may request the exclusion of a classification or positions from such list by providing evidence of alternative training.

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9.3.3 Out-Service Training

Any formal employee training or development program that is sponsored and conducted by any agency or organization other than the County. Enrollment in or assignment to such a program is for the purpose of meeting the needs of the County, for continuing employee training and development, and/or the upgrading of employee skills. Conferences and seminars that are conducted primarily for training and educational development purposes are considered Out-Service Training.

9.3.3.1 Required, Out-Service Training

Required Out-Service Training is directly related to improving the employee's performance of present duties and is required by the County.

9.3.3.2 Career-Related, Out-Service Training

Career-Related, elective, Out-Service Training is related to improving the employee's performance of present or future assignments in the County, and is not required by the County.

9.4 **PAYMENT OF TRAINING EXPENSES**

9.4.1 Approval of Department Head

No Out-Service Training may be authorized or expenses paid without the approval of the Department Head.

9.4.2 Tuition Reimbursement Program

The Tuition Reimbursement Program is intended for those employees who, in their off-duty hours, plan to attend an education/training course which will benefit both themselves and the County of Tulare. Its purpose is to increase the effectiveness of Tulare County employees in the performance of their duties by providing financial assistance for academic or job-related training.

1. Eligibility

County employees in the competitive and non-competitive service are eligible to participate in this program provided they have:

- a. Regular status or probationary status as the result of a promotion.
- b. Satisfactory performance evaluation rating (overall rating of 5 or higher) on their last annual performance evaluation, and an employment record free of disciplinary action (Formal Reprimand, Suspension or Demotion) for the preceding six (6) months.
- c. Remains a continuing employee with the County throughout the course period including submission for reimbursement with the appropriate documentation of receipts and course completion.

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2. Application Review

- a. Applications are reviewed by the Department Head on a first-come, first-served basis and are dependent on the availability of funds.
- b. Coursework must be applicable to the employee's current position or to a position to which he might reasonably promote.
- c. The application must be fully and properly completed and received by the employee's Department Head in a timely manner. Applications submitted after a course has begun will likely be denied.

3. Allowable Expenses

- a. The program may reimburse an employee for registration fees, tuition fees, books, special supplies unique to the course and/or laboratory fees.
- b. Expenses for mileage, meals, parking, routine supplies such as paper, binders, pencils, pens, etc. or other related items are not reimbursable under this program.

4. Reimbursement

- a. The program only pays for the first \$350 of covered expenses incurred in any one fiscal year.
- b. Upon successful completion of the approved course, the employee may submit a claim for reimbursement. This claim must be submitted prior to the end of the fiscal year for which the course was approved and must be accompanied by all of the following:
 1. A properly completed Claim form, including a statement certifying this or any other expenses associated with this training has not been and will not be reimbursed through any other program or any department expense funds.
 2. Itemized receipts, cancelled checks, or other documentation indicating the actual expenses. (Note: Bookstore receipts must contain the title of the book and a detailed listing of any special supplies for which the employee is claiming reimbursement.
 3. Evidence of satisfactory completion of the training or course.
 - a. For academic courses a grade of "C" or higher.
 - b. For non-academic courses a certificate of completion or notice of attendance or similar document.

9.4.3 Required, Out-Service Training

When an employee is assigned Out-Service Training, the employee shall be reimbursed for tuition, travel, and other related expenses in accordance with applicable County provisions.

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9.4.4 Elective, Out-Service Training

When an employee desires to participate in Career-Related Out-Service Training not otherwise covered by the Tuition Reimbursement program, the Department Head may authorize reimbursement for registration and expenses in accordance with applicable County provisions.

9.4.5 Incomplete Training

9.4.5.1 An employee who does not appropriately attend and/or satisfactorily complete an Out-Service Training or educational program within the time frame and according to standards established by his department is not eligible for reimbursement of registration costs nor any related expenses except as provided in 9.4.4.2 below.

9.4.5.2 The employee or his estate will receive reimbursement for registration and other related expenses previously approved if the Out-Service Training program is terminated prior to completion either:

- a) At the convenience of the County, or
- b) Because of death, prolonged illness, disability or other eventuality beyond the control of the employee as determined by the Department Head.

9.5 **TRAINING STANDARDS FOR LAW ENFORCEMENT, CORRECTIONAL, AND PROBATION OFFICERS**

In accordance with provisions of Sections 6041 and 13522 of the Penal Code of the State of California, the County shall, for those classes specified by resolution by the Board of Supervisors, adhere to the standards for selection and training of law enforcement officers established by the California Commission on Peace Officer Standards and Training, and of corrections and probation officers established by the California Commission on Correctional Officers Standards and Training, while receiving aid from the State of California pursuant to provisions of Chapter 1 of Title 4 of Part 4 and Article 3 of Chapter 5 of Title 7 of Part 3, respectively, of the Penal code of the State of California.

By resolution and/or by Memorandum of Understanding covering represented employees, the Board of Supervisors may authorize reimbursement in whole or in part of employee continuing education expenses.

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Rule 10 - TRANSFERS

10.1 GENERAL POLICY

An employee may be transferred or may request a transfer from one position to another position in the same service and in the same or related class as the training needs, work load, equal opportunity, or best utilization considerations of County personnel requires and upon the approval of the respective Department Heads.

An employee in the non-competitive service may be transferred to or transfer into the competitive service if his appointment to the non-competitive service was through a competitive process.

10.2 CONDITIONS FOR TRANSFER

Transfer to a position in the same or a related class may be made only if:

- a) The salary range of the class to which being transferred is the same or sufficiently similar as that of the class from which being transferred as determined by the Human Resources Director.
- b) The Necessary Employment Standards of the two (2) classes are equivalent or sufficiently similar as determined by the Human Resources Director.
- c) The employee meets the minimum qualifications for the new class.

10.3 TRANSFER PROCEDURES

10.3.1 Initiating Transfers

10.3.1.1 Inter-Departmental Transfers

Any employee who desires to initiate a transfer from a position in one (1) department to a position in another department shall file a transfer application with the Human Resources Department.

10.3.1.2 Intra-Departmental Transfers

Any employee who desires to initiate a transfer from his current position to another position in the same classification and department shall submit a request for such transfer in writing to the Appointing Authority or designee. The Appointing Authority shall notify the employee of acceptance or rejection at the time of the hiring decision.

No intra-departmental transfer shall be made unless:

- a) The employee consents, and/or
- b) A business purpose can be demonstrated.

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10.3.1.3 Mandatory Transfers

The County Administrative Officer, in order to implement an A.D.A. accommodation, may order a transfer of one position/incumbent to a vacant position in another department in the same classification. An elected Department Head will be encouraged to accept the transfer but will not be mandated to do so.

10.3.2 Removal of Names From the Transfer List

Upon the earlier of either three (3) certifications or one (1) year the name(s) shall be removed from the transfer list.

There will be no limit on the number of certifications when an accommodation attempt is necessary.

10.3.3 Employees in the project service must have been hired through a competitive process in order to transfer or demote into positions in the competitive service.

10.3.4 Non-transfer Changes

The following changes in job assignments do not qualify as transfers:

Reassignment without pay change

The movement of an employee from one assignment to another within the same classification, within the same department. The reassignment may result in a change in specific duties within his classification. The County shall, when practicable and feasible, consider an employee's request to minimize the effects of any reassignment on the employee's commuting time and expenses.

Reassignment with pay change

The reassignment of an employee from a special assignment that qualifies him for additional pay into an assignment in the same classification that does not qualify for additional pay.

- 1) In addition to not being a transfer, such a reassignment is not a disciplinary demotion and may not be appealed as such.
- 2) A peace officer or firefighter may appeal a reduction in pay in accord with the Police Officer Bill of Rights or Firefighter Bill of Rights respectively.

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Rule 11 - SEPARATION FROM COUNTY SERVICE

11.1 DISCHARGE

11.1.1 Competitive Service

An employee in the competitive service may, with the appropriate dismissal proceedings as provided in Rule 12, be discharged at any time by the employee's Department Head.

11.1.2 Non-Competitive Service

An employee in the non-competitive service who is also At-will serves at the pleasure of the employee's Appointing Authority and, as such, may be discharged at any time according to the needs of the service and at the discretion of the Appointing Authority.

11.1.3 Notification

Whenever it is the intention of a Department Head to discharge an employee in the competitive or non-competitive service, the Human Resources Director shall be notified.

11.2 LAY-OFF

11.2.1 General Policy

An employee in the competitive or non-competitive service may be laid-off because of either the abolishment of the employee's position by action of the Board of Supervisors or a determination by the County which has been adopted by the Board of Supervisors that there is a shortage of work or funds. Such lay-offs shall occur by classification within the department. The Department Head shall determine the class and number of positions to be affected within a department and the lay-off date. The Department Head shall notify the Human Resources & Development Department in writing at the earliest possible date.

11.2.2 Scope and Order of Lay-Off

Lay-offs shall occur within a job classification in inverse order of seniority in the following order of employee status:

- a) Extra-Help
- b) Seasonal
- c) Provisional
- d) Temporary Part-time
- e) Temporary Full-time
- f) Project Service Part-time
- g) Project Service Full-time
- h) Probationary
- i) Regular Part-time
- j) Regular Full-time

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The Human Resources Director shall make an effort to arrange the transfer of an employee who is affected by a lay-off to a vacant position for which the Human Resources Director determines the employee qualified.

11.2.3 Seniority

An employee's seniority shall be computed based on the employee's most recent hire date.

- a. Any time spent as an Extra-Help or Seasonal employee is excluded.
- b. Project service employment shall be excluded except where appointment to such project service has been made through a competitive selection process.
- c. Employees with regular or probationary status serving a provisional or temporary appointment shall retain and accrue seniority in the class occupied prior to the temporary or provisional appointment.
- d. Except where provided by Memoranda of Understanding, in addition to the seniority determined above, each employee serving in a regular appointment as of the date of computation of the seniority, shall have one year added for achieving an overall rating of eight (8) or better on the employee's last two (2) annual written performance appraisal reports.

11.2.4 Tied Seniority

Employees with the same employment status whose seniority is tied shall, for purposes of lay-off order, have such ties broken as follows in favor of the:

- a) Employee or employees who have the greatest length of time employed within the class identified for lay-off during the current period of continuous service.
- b) Employee or employees who have the greatest length of time employed within the Department during the current period of continuous service.
- c) Employee's who's most recent PAF Overall Score is 5 or better over an employee's who's most recent PAF Overall Score is 4 or less.
- d) Employee or employees whose names are drawn by lot, or as otherwise provided by memorandum of understanding.

11.2.5 Displacement Policy

An employee who receives notice of lay-off may, if the employee so chooses, displace within the same service (competitive and project service) within the same department an employee in a lower salary range provided that:

- a) The employee has greater County-wide seniority than the

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employee to be displaced.

- b) The employee is willing to accept the reduced compensation level.
- c) The employee selects a position that is:
 - in their current class series, or
 - in a closely related class series as determined by the Human Resources Director, or
 - in a class in which they have previously held regular appointment status.
- d) The employee submits written displacement notice to the Human Resources Director within ten (10) calendar days after receipt of notification of lay-off according to this Rule.

11.2.6 Re-employment List

The names of employees who have been laid-off, reduced-in-class, displaced, or who have received lay-off notice and voluntarily resigned, and who received their most recent appointment through the competitive process shall be placed on the re-employment list for the class from which they were laid-off, reduced-in-class, or displaced in order of seniority score. The re-employment list for any given class shall be certified to an Appointing Authority for consideration before any other employment lists for the class. When a person is re-employed within two years the time away from work shall be treated as an unpaid leave of absence except that vacation and compensating time off that were converted to cash shall not be restored.

11.2.7 Lay-Off Notice

Employees in the competitive service subject to lay-off shall receive a thirty (30) day notice from their Department Head. Lay-off notice to Project Service employees may be less than thirty (30) days if the funding source does not give sufficient notice of termination of funds. No advance notice need be given to employees in the non-competitive service. A lay-off notice shall include the following information:

- a) Reason for lay-off.
- b) Effective date of the lay-off.
- c) The employee's seniority score.
- d) Classes to which the employee may request displacement within the Department.
- e) The location of where the employee may review seniority list.
- f) The re-employment procedure.
- g) A copy of this Lay-Off Rule 11.2
- h) Reference to the Grievance Procedure (Rule No. 13) for resolution of disputes regarding the lay-off process.

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11.3 RESIGNATION

As a normal employment courtesy and in order to be considered to have left in good standing, a written resignation signed by the employee shall be submitted to the Appointing Authority at least two weeks in advance of the expected separation date of the employee unless a shorter period is agreed to by the Appointing Authority. A copy of such letter of resignation shall be submitted to the Human Resources & Development Department along with any required personnel action processing documents.

Once a resignation has been accepted, a resignation may only be withdrawn if the Appointing Authority agrees in writing. An employee wishing to withdraw his resignation shall submit a written request to the Appointing Authority. The Appointing Authority will state in writing whether the request is granted or denied. A copy of the withdrawal request shall be forwarded to the Human Resources Director with the Appointing Authority's written concurrence or denial.

11.3.1 Deemed Voluntary Resignation

An employee without authorized leave may be deemed by the Appointing Authority to have voluntarily resigned only in the following circumstances:

- a) Where there exist objective facts that the Appointing Authority could reasonably believe an abandonment has occurred, which would include instances when:
 - i. The employee fails to apply for the necessary leave of absence pursuant to Rule 6, or has been denied leave and fails to report to work, or
 - ii. The employee fails to notify his Department or supervisor before the absence, or
 - iii. The employee fails to notify his Department or supervisor within five (5) days after mailing of notification of his deemed resignation.
- b) An employee shall not be deemed to have resigned when there exist objective facts that the employee did not abandon his position, which include instances when:
 - 1) The employee has taken the applicable steps in obtaining the leave of absence pursuant to Rule 6; or has been denied leave and fails to come to work.
 - 2) The employee notifies the Department or his supervisor in a timely manner concerning the absence, including the specific reason therefore; and,
 - 3) The employee intends to return to work and provides a reasonable anticipated date of return.

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- c) In any event, before action is taken involving a deemed voluntary resignation the Human Resources Director shall be contacted.
- d) Nothing in this section shall preclude the department from taking appropriate disciplinary action.

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Rule 12 - EMPLOYEE CONDUCT AND DISCIPLINE

12.1 EMPLOYEE CONDUCT GENERALLY

It is expected that all County employees will render the best possible service and reflect credit upon the County. Therefore, high standards of conduct are necessary and essential.

12.2 CONDUCT SUBJECT TO DISCIPLINE

Any employee may be disciplined for cause, and such cause shall be based upon employee conduct during or outside of duty hours which reflects discredit upon the public service, the employee, the effective performance of the duty assignments of other County employees, or the effective performance of the department in which employed.

Conduct which shall be deemed to constitute cause for discipline as described above, shall include, but not be limited to the following:

- a) Conviction of any felony or conviction of a misdemeanor committed while engaged in the performance of duties. A plea or verdict of guilty, or a plea of nolo contendere to a charge of a felony or a misdemeanor as described in this section 12.2(a) is deemed to be a conviction within the meaning of this section.
- b) Being under the influence of intoxicating beverages or non-prescribed narcotics or drugs, or prescribed narcotics or drugs in excess of the prescribed amount, while on duty.
- c) Insubordination.
- d) Inefficiency
- e) Incompetence.
- f) Inattention to duty, carelessness, damage to, or negligence in the care and handling of County property.
- g) Improper or unauthorized use of County vehicles, instruments, tools, machines, phones, copiers, computers, printers, laptops, PDA's, cell phones, the County's information technology infrastructure pursuant to the information technology policy, or misappropriation of supplies.
- h) Excessive and/or unexcused absences/tardiness, or the claim of sick leave under false pretenses.
- i) Submitting a falsified time card and/or a time card which shows time worked in excess of authorization
- j) Misrepresentation of facts in securing or maintaining appointment.
- k) Absence from duty without leave, failure to report after leave of absence has expired, or after such leave of absence has been disapproved, revoked, or canceled.

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- l) Dishonesty.
- m) Theft
- n) Discourteous treatment of the public or other employees.
- o) Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, gender, sexual orientation, age, or any other basis prescribed by law against the public or other employees while acting in the capacity of a County employee.
- p) Acceptance by an employee of any bribe, gratuity, kickback, or other form of remuneration in addition to regular compensation with an attempt to influence the action or opinion of an employee in the performance of the employee's duties.
- q) Using, or having access to, confidential information available by virtue of County employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.
- r) Violation of these Rules, Department policies, or any written policies which may be prescribed by the County.
- s) Failure to maintain necessary employment standards of position, e.g. driver's license, professional certification or license, etc.

12.3 **TYPES OF DISCIPLINARY ACTION**

The purpose of disciplinary action is to correct deficiencies in employee performance, to assure improvement to meet appropriate standards, to correct for violation of these Rules, and/or, in appropriate cases, to remove an employee from the County service.

Disciplinary actions which may be imposed may include, without limitation, one or more of the actions listed below. In addition to or in lieu of such disciplinary actions, the appointing authority may direct the employee to undergo training, may reassign an employee, and may require that an employee receive counseling.

A. Formal Written Reprimand

When the Department Head or immediate supervisor determines more severe action is not immediately necessary, the Department Head may in writing communicate to the employee the deficiency or problem observed. A copy, and the employee's response, if any, shall be filed in the employee's personnel file after a copy has been given to the employee and the employee has acknowledged receipt of same. Failure to correct deficiencies and improve to meet the standards may result in further discipline including suspension, reduction in pay, demotion, and/or discharge.

B. Suspension

A Department Head may suspend an employee for cause and without pay after the appropriate disciplinary proceedings.

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Fair Labor Standards Act (FLSA) exempt employees shall not be subject to a suspension of less than a full work day. The only exception is for infractions of safety rules of major significance.

1. Administrative Leave

The Department Head may verbally or in writing, authorize an immediate administrative leave with or without pay (an administrative leave without pay shall require the approval of the Human Resources Director) pending the determination of whether disciplinary action shall be taken against the employee in an emergency situation or when the seriousness of the matter warrants.

If verbal, the administrative leave shall be confirmed in writing within five (5) days from the effective date.

C. Demotion

1. Reduction-in-Class

A Department Head may demote an employee for cause to a lower level classification as a disciplinary action.

2. Reassignment with Loss of Pay

The reassignment of an employee out of a special assignment that happens to qualify him/her for additional pay into an assignment in the same classification that does not qualify for additional pay is not a disciplinary demotion. Such reassignment may only be addressed through the grievance procedure, Rule No. 13.

3. Reduction-in-Pay

A Department Head may reduce an employee's pay for cause to a lower step or range as a disciplinary action. Highly compensated FLSA exempt employees shall be subject to reductions in pay. Non-highly compensated FLSA exempt employees shall not be subject to a reduction in pay except for infractions of safety rules of major significance.

Reductions are accomplished by temporarily withdrawing merit increase steps. For example, if the employee is at Step 4, reducing him or her to Step 3 for two pay periods has the same salary impact as a one-day suspension.

Table of Suspension Equivalents

1 day	1 step for two pay periods
2 days	1 step for four pay periods or 2 steps for two pay periods
3 days	1 step for six pay periods or 2 steps for three pay periods
4 days	1 step for eight pay periods or 2 steps for four pay periods
5 days	1 step for ten pay periods or 2 steps for five pay periods
10 days	1 step for twenty pay periods or 2 steps for ten pay periods

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Fire personnel assigned to 56 hours per week shifts shall have the table of suspension equivalents computed such that a 5% step reduction for 224 hours worked is equal to 11.2 hours of a suspension and multiples thereof for each 11.2 hours of suspension.

D. Discharge of Regular Employees

A regular employee may be discharged by the employee's appointing authority for cause. Regular employees shall be discharged only after the appropriate dismissal proceedings. The Appointing Authority may suspend the employee immediately, as provided in Rule 12.3. B.1. pending the proper dismissal process. Prompt dismissal processing shall follow.

E. Discharge of Probationary and At-Will Employees

Probationary employees and non-competitive at-will position incumbents may be discharged by the appointing authority without cause.

12.4 DISCIPLINARY PROCEDURES

Whenever any of the actions specified in Rule 12.3 (with the exception of 12.3.E) are to be taken, the Department Head shall notify the Human Resources Director, in a manner specified by the Human Resources Director. The Human Resources Director shall be responsible for determining that the process outlined in Section 12.5 of this Rule is followed, and that the action to be taken is in accordance with the provisions of these Rules, as appropriate. The Human Resources Director may enlist the services of County Counsel as he/she deems necessary.

12.5 DISCIPLINARY PROCESS

A. Administrative Leave

The Appointing Authority may place an employee on Administrative Leave during an investigation whenever the Appointing Authority deems it necessary in order to conduct an orderly investigation, to protect and preserve possible evidence, to avoid intimidation or coercion of potential witnesses and/or to protect the property and systems of the County. Such leave shall be with pay and shall not be charged against any of the employee's leave balances. The employee shall continue to accrue vacation and sick leave as well as service credit while on Administrative Leave as if he/she were working. An Administrative Leave is not a disciplinary action. An Administrative Leave may not be appealed nor may it be grieved.

During an Administrative Leave an employee may be required to:

1. Turn in county equipment, credit cards and keys,
2. Stay out of department sites and facilities except for those areas open to the general public,
3. Provide a phone number where you can be reached during normal business hours,
4. Be available to return to work on the work day following notice,

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5. Refrain from accessing County email, telephone and/or computer systems that are not open to the general public.
6. Refrain from contacting clients, employees or officials of the County on business related issues or regarding the issues and charges of this disciplinary action,
7. Call in each work day during a time frame specified by the department.

B. Notice of Proposed Disciplinary Action

Except in cases of emergency or when immediate action is required, notice of proposed disciplinary action shall be given by the Department Head to the affected employee in a manner specified by the Human Resources Director. Appropriate notices for the various stages of the disciplinary action shall be developed in accordance with State law. At a minimum, each notice will contain:

1. Name, Class Title, and Department of employee being disciplined.
2. Date on which the notice is being served.
3. The type of discipline being proposed. If a suspension, the length of the suspension in work days.
4. The causes from this rule under which the employee is being charged.
5. The acts and/or omissions upon which the cited causes are based. Each act or omission may be stated in terms of the specific disciplinary action that it alone would support.
6. A statement that copies of the documents giving rise to this action are attached to the Notice or will be provided upon request.
7. Notice of the employee's right to a Skelly review.
8. The name, title and signature of the Department Head issuing the Notice.
9. A service block with the name and signature of the person serving the Notice on the employee along with the date and method of service.
10. A receipt block wherein the employee shall sign to acknowledge receipt of the Notice. This block shall include the statement, *"MY SIGNATURE DOES NOT MEAN I AGREE WITH THIS ACTION."*
11. A copy of this Rule shall be given the employee along with this Notice.

Failure or refusal by the employee to sign acknowledging receipt of the Notice shall not invalidate or delay the disciplinary action. Should an employee refuse to sign, the server and a witness will sign the Notice and add the phrase, "Employee refuses to sign."

The Notice of Proposed Action shall be reviewed by County Counsel prior to service to ensure it complies with current law. In cases of emergency or when immediate action is required, the affected employee shall be verbally informed of the reasons for the

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immediate action and shall be served with a written Notice of Proposed Disciplinary Action within five (5) working days of the effective date. Mail is deemed received five (5) business days from the date of mailing.

C. Employee Right to Respond (Commonly called the Skelly Review)

Except as otherwise provided by a Memorandum of Understanding, the following shall apply;

At any time prior to the effective date, the employee subject to the proposed discipline may respond in writing to rebut the charges against him/her, or to state any mitigating circumstances.

The Appointing Authority will conduct this review and will review the written record, including written statements and documents presented by the employee, discuss the proposed discipline with supervisory or management personnel who have initiated the proposed disciplinary action, and determine whether the proposed action should be made final, should be modified to a lesser penalty, or should be withdrawn. While conducting his review, the Appointing Authority may meet with the employee and his/her representative and anyone else the Appointing Authority may deem appropriate to his review. The decision of the Appointing Authority is binding.

When in the judgment of the Human Resources Director the appointing authority has been privy to the detailed basis for the proposed discipline, the Human Resources Director may require a substitute Skelly Officer such as the Assistant County Administrative Officer or similar managerial position.

This review request to the Appointing Authority, if sought by the employee, shall be completed prior to the imposition of the proposed discipline.

Time Within Which Review Must Be Requested:

An employee who wishes to request a review of the proposed action must respond in writing to the charges to rebut or present mitigating circumstances within the time set forth in the notice of proposed discipline. The response and review request of the employee shall be made to the Appointing Authority. The written response must be actually received in the Appointing Authority's office prior to the expiration of the time stated in the notice of the proposed discipline. The date stamp on that response shall be considered the date it was received by the Appointing Authority. The failure of the employee to timely request a review waives the right of review and the Appointing Authority shall be free to impose the discipline as proposed.

The Nature of the Appeal Review:

The Appointing Authority will review the employee's response, the written record, including documents presented by the employee, discuss the proposed discipline with the involved human resources staff, and may make further inquiries for the purpose of determining whether the proposed action should be made final, or should be modified to a lesser penalty, or should be withdrawn.

The Post-Review Decision:

The Appointing Authority will communicate his/her decision in writing to the employee. The decision of the Appointing Authority shall be final and binding on the County and the employee. The Appointing Authority shall then promptly serve the employee with a final

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notice of the discipline to be imposed.

D. Final Notice of Disciplinary Action

Following issuance of the decision from the above review, the appointing authority shall prepare a Final Notice of Disciplinary Action which shall include the information provided in the Proposed Notice updated and/or adjusted to reflect the results of the above Appointing Authority review in a manner as prescribed by the Human Resources Director, or shall advise the Human Resources Director that no action will be taken, as appropriate. The notice shall be delivered to the employee, and a copy filed with the Human Resources Director before the effective date. Mail is deemed received five (5) business days from the date of mailing.

12.6 APPEAL OF A DISCIPLINARY ACTION

Except as required by law (as in the case of POBOR or FOBOR covered employees) or Memorandum of Understanding:

A) Disciplinary actions consisting of a Formal Written Reprimand; or Suspensions of 5 (five) days or less; or Reductions in Pay of five (5) days or less shall not be subject to appeal.

B) Disciplinary actions of Suspensions of six (6) days or more; Reductions in Pay of six (6) days or more, Demotions; or Dismissals, shall be subject to appeal, per rule 12.7 "Notice of Appeal" cited below.

12.7 NOTICE OF APPEAL

Except as otherwise provided by a Memorandum of Understanding, an employee may file a written Notice of Appeal in response to Final Notice of Disciplinary Action according to the qualifications set forth in rule 12.6. A written Notice of Appeal, in a form acceptable to the Human Resources Director, must be filed with and received by the Human Resources Director within five (5) working days from the effective date of the disciplinary action as stated in the Notice. Failure to file a Notice of Appeal within this specified time period shall be deemed a waiver of any right to appeal the action taken. No exceptions to this failure-to-file time period will be permitted.

The Notice of Appeal must state:

- The reasons for the appeal
- The type of hearing requested.
- The name of the employee's representative, if any.

Following receipt of a Notice of Appeal, the Human Resources Director shall immediately furnish copies of same, including any other relevant documents, to County Counsel.

A. Statement of Charges - Preparation

Within fifteen (15) calendar days after the receipt of the Notice of Appeal, the County Counsel's Office shall prepare, and file with the Human Resources Director, a Statement

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of Charges. Such statement shall specify the Rules which the employee is alleged to have violated, and the acts or omissions with which the employee is charged.

B. Statement of Charges - Issuance

Upon the filing of the Statement of Charges, County Counsel shall either cause a copy thereof to be delivered to the employee personally, or sent to the employee by certified or registered mail at the last known mailing address of the employee on file in the Human Resources & Development Department. Included with the Statement of Charges shall be a form entitled "Notice of Defense" which, when completed, signed by or on behalf of the employee, and returned to the Human Resources & Development Department, will acknowledge service of the Statement of Charges.

C. Notice of Defense

Within fifteen (15) calendar days after service upon the employee of the Statement of Charges, an employee may file with the Human Resources Director a Notice of Defense in which the employee may:

1. Request a hearing. If the employee requests a hearing the employee must indicate their estimation for the length of time necessary to present, their case.
2. Object to the Statement of Charges on the ground that it does not state acts or omissions upon which the Appointing Authority may proceed.
3. Object to the form of the Statement of Charges on the ground that it is so indefinite or uncertain that the employee cannot identify the transaction or prepare a defense.
4. Admit the Statement of Charges in whole, or in part.
5. Present new matter by way of defense. No exceptions to the time period provided herein shall be permitted.
6. The Notice of Defense must specify every defense that the employee intends to rely upon. The employee shall be bound by the Notice of Defense and may not change the Notice of Defense unless revised as provided for herein. At any time prior to the submission of the matter to the hearing officer, the appellant may amend the Notice of Defense. Such right to amend shall include the right to amend according to proof at the hearing. All parties shall be given written notice thereof, except when the amendment is made according to proof at the hearing. If the amendment presents new matter, the Appointing Authority shall be afforded a reasonable opportunity by the hearing officer to prepare a response thereto.
7. The employee shall be entitled to a hearing on the merits of the charges if the employee files a Notice of Defense, and any such notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a Notice of Defense shall constitute a waiver of the employee's right to a hearing. Unless objection is taken as provided in paragraph (3) of the above subsection 12.7 C 6 all objections to the form of the Statement of Charges shall be deemed waived.

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8. The Notice of Defense shall be in writing, signed by, or on behalf of, the employee and shall state the employee's mailing address.

12.8 TYPES OF HEARINGS

Only one type of hearing (Hearing Panel or ALJ) may be selected for any one Disciplinary Action. The selection of the type of hearing is final and binding. Absence of a request for a particular type of hearing will be deemed a non-revocable election to have the appeal heard by an Administrative Law Judge which is subject to judicial review under California's Code of Civil Procedure 1094.6.

A. Hearing Panel

By selecting this type of hearing, the employee agrees to promptly identify the person he/she selects to be a Hearing Panel member and agrees to cooperate to schedule a hearing within the time guidelines pertaining, and agrees to comply with the pre-hearing conference procedures, including identification of witnesses and exchange of evidence. Employees who elect to have a disciplinary action reviewed by a Hearing Panel waive the right to judicial review of the final decision of the Hearing Panel under California's Code of Civil Procedure 1094.6.

1. The Disciplinary Action will be reviewed by the Hearing Panel consisting of one County employee selected by the appellant, one person selected by the department and one person appointed by the Board of Supervisors. No panel member may be otherwise involved in the appeal nor may they be a witness to the facts underlying the action.
2. The Board appointed member shall chair the committee and shall be the hearing officer as set forth in Section III above. If the Board appointed member is not an attorney, the Board shall also appoint a legal advisor who will advise the committee chair on the admissibility of evidence.
3. Failure on the part of the County or the appellant to appear before the Hearing Panel, without good cause as determined by the Panel Chairman, shall result in forfeiture of the case.

I. Procedures for Conduct of the Panel Hearing:

The hearing shall be open to the public only if the employee so requests. The employee shall be present in person at the hearing and may be represented by counsel and/or by a representative of an employee organization of which the employee is a member. The employee's department may be represented by counsel and/or have a lay representative present throughout the hearing.

Pre-Hearing Conference: At the pre-hearing conference, the parties shall be required to meet in good faith:

- a) to discuss possible resolutions to the appeal.
- b) to attempt to narrow the issues and facilitate the hearing of the appeal by stipulations to facts, issues and evidence.

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- c) to exchange all relevant information, documents, exhibits, and evidence, including identification of witnesses, brief descriptions or summaries of anticipated testimony, copies of specific provisions and/or rules, policies relevant to the charges.
- d) to provide to the other party a written statement of their positions on the issues and facts involved.
- e) the parties may agree to present certain evidence by affidavit. Such evidence may not, however, be presented without the agreement of both parties.
- f) At the conclusion of the pre-hearing conference the parties shall both sign a Pre-Hearing Conference Statement consisting of a summary of what was agreed to and exchanged, with the exchanged documents and position statements of each attached, and that document shall be submitted to the Hearing Panel at or prior to the time of the hearing.

II. Setting the Hearing

Upon receipt of the Notice of Defense, the County shall:

Contact the members selected for the panel and ascertain presently available dates when the panel members might be available to conduct a formal disciplinary hearing pursuant to these Rules and shall notify the employee of such dates, and of the dates on which the County's representative will be available for the hearing.

III. Procedures for Conduct of the Panel Hearing:

- a) Although it is the employee who is appealing the disciplinary decision, the burden of proof is on the appointing authority regarding the facts upon which the discipline was based and the correctness of the penalty imposed.
- b) Appellant's failure to appear at the hearing, or failure on more than one occasion to cooperate with the scheduling of the hearing, the pre-hearing conference procedures, or to abide by the hearing processes necessary to enable the matter to be timely heard, without good cause as determined by the Panel Chairman, shall result in forfeiture of the case or be deemed an abandonment of the appeal.

The County will provide written notice to the employee and his/her representative upon the first incidence of failure to cooperate. If, within five workdays, the employee fails to correct the problem that triggered the notice, such failure shall be deemed a separate incidence of failure to cooperate.

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- c) The hearing will be closed to the public unless the employee requests in writing that it be open to the public. Notwithstanding, where a hearing is open, either party may request that the Chair close portions of the hearing where sensitive or confidential or sensational material may be presented or discussed.
- d) All witnesses who are not parties may be excluded from the hearing by the hearing officer except when testifying. If the employee does not testify in his or her own behalf, the employee may be called and examined as an adverse witness. All testimony shall be taken under oath or affirmation.
- e) The hearing is not required to be conducted according to technical rules relating to evidence and witnesses. Any evidence upon which reasonable persons might rely in the conduct of their everyday affairs may be admitted. Subject to the provisions herein regarding pre-hearing conferences, any relevant evidence shall be admitted if it is the sort of evidence which responsible persons are accustomed to rely upon in the conduct of serious affairs. Hearsay evidence may be used only for the purpose of explaining or supplementing other evidence, or where otherwise corroborated. Persons who provide direct testimony may be called by the other party for cross examination under oath. Cross examination shall be limited to those areas covered in their prior testimony, unless the Panel Chairman permits otherwise. The Panel Chairman controls which evidence is admitted, and may exclude evidence which is irrelevant, cumulative or otherwise found to be not probative.
- f) The proponent of any evidence is responsible to obtain and present clean and legible evidence in sufficient copies for all parties, including the hearing panel members and for the court reporter.
- g) The Panel Chairman may take official notice of any matter which may be judicially noticed.
- h) Each party shall have the right to subpoena witnesses. The Board of Supervisors will, on request, issue in blank subpoenas.
- i) Except for rebuttal testimony, modification of position statements or newly discovered facts, documents of witnesses, or information not shared at the pre-hearing conference shall not be presented to or considered by the Hearing Panel. The Chairman of the Panel may, but is not required to, modify this provision and permit such evidence for good cause and in a manner which is fair to both parties.

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- j) All testimony is to be taken under oath or affirmation. A certified Court Reporter shall record all testimony
- k) The County Administrative Officer may promulgate such additional hearing procedures as he/she deems necessary.
- l) The Panel Chairman shall be responsible for preparing and issuing the written decision of the Panel. During the process of producing the Panel's written decision the Panel chairman may be assisted by counsel appointed by the Board of Supervisors.
- m) The decision of the Hearing Panel shall be by majority vote and shall be made in writing within thirty (30) calendar days after the hearing of the matter is concluded. The decision of the Hearing Panel shall be made in writing and is final and binding on all parties and shall not be subject to judicial review under California's Code of Civil Procedure 1094, et. seq.
- n) The decision shall be signed by the Chair, who shall provide a copy of Notice of Decision to the employee, the employee's representative, if any, to the employing department, and to County Counsel.

B. Administrative Law Judge

The following procedures apply to hearings before an ALJ:

1. Hearings before an Administrative Law Judge (ALJ) may be delayed up to six to nine months or more due to the schedule of the ALJ. An employee selecting this type hearing waives all claims to back pay for any period beyond sixty calendar days which is the time period in which a Hearing Panel would have been convened.
2. County Counsel shall contact the State Office of Administrative Hearings and ascertain presently available dates when a Hearing Officer might be available to conduct a formal disciplinary hearing pursuant to these Rules and shall notify the employee of such dates, and of the dates on which the County's representative will be available for the hearing.
3. The employee shall then deliver to County Counsel, within (10) calendar days, the employee's choice of the available dates for the hearing. Such dates shall not be inconsistent with the dates provided by the County or indicated to be available by the Office of Administrative Hearings. The employee shall concurrently provide notice of the name and address of any party who might be representing the employee at the hearing.
4. County Counsel shall thereafter give the employee notice of the time, date, and place of the hearing. Said notice shall either be delivered to the employee personally or sent to the employee by certified or registered mail, at the last

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known mailing address of the employee on file in the Human Resources & Development Department.

5. Should the employee fail to provide a written list of available dates within the time lines indicated above, the appeal shall be dismissed.

Additionally, the following procedures apply:

a) The County will obtain from the OAH a list of consecutive dates on which ALJ's are available to hear an appeal of the estimated duration. The hearing will then be scheduled, from the OAH list of available dates, on a date or dates when all parties and their representatives are available.

b) A mandatory pre-hearing conference shall be scheduled by agreement between the County Counsel's office and the employee and his or her representative, if any, not less than sixty (60) days prior to the date set for the hearing. County Counsel shall initiate this process. If the parties are not able to agree to a date for the pre-hearing conference, the date shall be set by the Office of Administrative Hearings.

c) Appellant's failure to appear at the hearing, or failure on more than one occasion to cooperate with the scheduling of the hearing, the pre-hearing conference procedures, or to abide by the hearing processes necessary to enable the matter to be timely heard, without good cause as determined by the Administrative Law Judge, shall result in forfeiture of the case or be deemed an abandonment of the appeal.

The County will provide written notice to the employee and his/her representative upon the first incidence of failure to cooperate. If, within five workdays, the employee fails to correct the problem that triggered the notice, such failure shall be deemed a separate incidence of failure to cooperate.

d) The hearing will be closed to the public unless the employee requests in writing that it be open to the public. Notwithstanding where a hearing is open, either party may request that the Chair close portions of the hearing where sensitive or confidential or sensational material may be presented or discussed. The employee shall be present in person at the hearing and may be represented by counsel and/or by a representative of an employee organization of which the employee is a member. The employee's department may be represented by counsel and/or have a lay representative present throughout the proceeding.

e) Although it is the employee who is appealing the disciplinary decision, the burden of proof is on the appointing authority regarding the facts upon which the discipline was based and the correctness of the penalty imposed.

f) All witnesses who are not parties may be excluded from the hearing by the hearing officer except when testifying. If the employee does not testify in his or her own behalf, the employee may be called and examined as an adverse witness. All testimony shall be taken under oath or affirmation.

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g) The hearing is not required to be conducted according to technical rules relating to evidence and witnesses. Any evidence upon which reasonable persons might rely in the conduct of their everyday affairs may be admitted. Subject to the provisions herein regarding pre-hearing conferences, any relevant evidence shall be admitted if it is the sort of evidence which responsible persons are accustomed to rely upon in the conduct of serious affairs. Hearsay evidence may be used only for the purpose of explaining or supplementing other evidence, or where otherwise corroborated. Persons who provide direct testimony may be called by the other party for cross examination under oath. Cross examination shall be limited to those areas covered in their prior testimony, unless the Hearing Officer permits otherwise. The Hearing Officer controls which evidence is admitted, and may exclude evidence which is irrelevant, cumulative or otherwise found to be not probative.

h) The proponent of any evidence is responsible to obtain and present clean and legible evidence in sufficient copies for all parties, including the ALJ and for the court reporter.

i) The hearing officer may take official notice of any matter which may be judicially noticed.

j) Each party shall have the right to subpoena witnesses. The Board of Supervisors, of Office of Administrative Hearings, will, on request, issue in blank subpoenas.

k) Except for rebuttal testimony, modification of position statements or newly discovered facts, documents of witnesses, or information not shared at the pre-hearing conference shall not be presented to or considered by the Hearing Panel. The Chairman of the Panel may, but is not required to, modify this provision and permit such evidence for good cause and in a manner which is fair to both parties.

l) All testimony is to be taken under oath or affirmation. A certified Court Reporter shall record all testimony.

m) The hearing officer shall prepare a record of the proceedings, and shall, within 30 days of the completion of the hearings, prepare recommended findings, conclusions and a recommended decision. The hearing officer shall promptly file the record of the proceedings and the recommended findings, conclusions and decisions with the Board of Supervisors.

n) Within a reasonable time, but no sooner than one week nor longer than 30 calendar days, after filing of the recommended findings, conclusions and decision, the Board of Supervisors shall, after a review of the record, adopt such recommended findings, conclusions and decision, or shall reject the recommendations in whole or in part, and adopt its own findings, conclusions and decision. The Board of Supervisors shall affirm, modify or reverse the order of the Appointing Authority. The decision of the Board of Supervisors shall be final and not subject to rehearing or reconsideration.

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o) The Clerk or the Board of Supervisors shall provide written notice of the decision of the Board of Supervisors to County Counsel, to the involved appointing authority, and to the employee. That notice shall recite: (Writ issue)

Judicial review of a decision of the Board of Supervisors made after a hearing pursuant to this Rule shall be made pursuant to Section 1094.6 of the Code of Civil Procedure of the State of California, if the Board determines that the employee shall be dismissed, demoted or suspended. The method of judicial review, the time limits for judicial review, and all of the other provisions of said Section 1094.6 shall govern such judicial review. When giving written notice to the employee of the decision of the Board of Supervisors, the Board shall provide notice to the employee that the time within which judicial review must be sought and is governed by Section 1094.6.

12.9 **DISCIPLINE OF DEPARTMENT HEADS**

A. Application

For purposes of Rule 12.6 only, "Department Head" shall refer to any appointed Department Head and/or Agency Head who serves at the will of the Board.

B. At-Will Status of Department Heads

Department Heads and Agency Heads serving at the will of the Board are At-Will employees serving in non-competitive positions. Such employees may be released from County service at any time. No advance notice is required. No cause needs to be stated.

Nothing in Rule 12.6 shall be construed to grant to any appointed Department Head any property right in employment which does not otherwise exist by law, or in any way alter the status of the appointed Department Heads as officers who serve at the will of the Board of Supervisors.

C. Authority of the County Administrative Officer to Discipline

The County Administrative Officer shall have the authority to administer discipline, as described in Rule 12.6.2, to any Department Head.

D. Types of Disciplinary Action

The County Administrative Officer may administer discipline consisting of an informal reprimand, a formal reprimand, or a suspension without pay. A suspension without pay must be in increments of whole work days.

E. Disciplinary Process

The procedures outlined in Rules 12.5.1 through 12.5.4, inclusive, apply to any discipline administered by the County Administrative Officer pursuant to Rule 12.6. For purposes of Rule 12.6 the terms "Department Head" and "Appointing Authority" shall mean the County Administrative Officer where used in such Rules.

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F. Appeal

Nothing in these Rules shall be construed to give any appointed Department Head any appeal rights of any kind whatsoever regarding discipline imposed by the County Administrative Officer pursuant to section 12.6. Those appeal rights as described in sections 12.5 through Rule 12.8 shall not apply to any discipline imposed by the County Administrative Officer pursuant to rule 12.6.

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Rule 13 - EMPLOYEE GRIEVANCE PROCEDURE

13.1 **DEFINITION, SCOPE, AND RIGHT TO FILE**

13.1.1 A grievance is a claimed violation, misinterpretation, inequitable application or non-compliance with provisions of a County:

- 1) Collective bargaining agreement,
- 2) Ordinance,
- 3) Resolution,
- 4) Written Rule,
- 5) Written Regulation,
- 6) Written Policy.

13.1.2 The following are not grievable through this process:

- 1) Matters, such as Disciplinary Actions and Performance Evaluations, reviewable under some other established County administrative appeal procedure.
- 2) Employment examinations
- 3) Appointments to a position
- 4) The Board of Supervisors exercise of legislative or judicial authority and the authority to appropriate funds and adopt the budget
- 5) Discrimination complaints reviewable under the County's discrimination complaint procedure.

13.1.3 A grievance may be filed by an employee in his own behalf, or jointly by any group of employees. At the employee's request, a union representative may assist in the preparation of the grievance during non-work time.

13.2 **DISCRIMINATION COMPLAINTS**

If a complaint alleges discrimination, the Human Resources Director shall be immediately informed and, upon completion of his investigation and review, shall advise the County Administrative Officer (CAO), the department and the employee of the resolution of the complaint.

13.3 **TIMELINES FOR FIRE PERSONNEL**

The provisions of this article when applied to Fire fighter personnel who work 24 hours shifts or 48 hour tours of duty shall be converted to calendar days such that for every 5 work days applied to 40 hour employees shall be converted to 8 calendar days (a ratio of 1:1.6).

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13.4 **INFORMAL GRIEVANCE**

13.4.1 Within five (5) work days of the event giving rise to the grievance, the grievant shall present the grievance informally for disposition by the immediate supervisor or at any appropriate level of authority within the department. The immediate supervisor (or other appropriate level of authority) shall respond informally within five (5) work days.

13.4.2 Except as provided in 13.2 above, presentation of an INFORMAL grievance shall be a prerequisite to the institution of a formal grievance.

13.5 **FORMAL GRIEVANCE**

13.5.1 If the grievant believes that the issue(s) of the grievance have not been resolved within five (5) work days of the informal presentation he may initiate a formal grievance within five (5) work days thereafter. A formal grievance can be initiated by completing and filing a County Employee Grievance Form with the Human Resources & Development Department. The form shall contain:

- 1) Name(s), class title(s), department(s) and mailing address(s) of the grievant(s),
- 2) A clear statement of the nature of the grievance (citing the applicable ordinance, rule, regulation, or contract language),
- 3) The date upon which the event giving rise to the alleged grievance occurred,
- 4) The date upon which the informal discussion with the supervisor or Human Resources Officer took place,
- 5) A proposed solution to the grievance,
- 6) The date of the execution of the grievance form,
- 7) The signature of the grievant(s),
- 8) The name of the organization, if any, representing the grievant followed by the signature of the organization's representative.

13.5.2 **Step 1**

Within ten (10) working days after a formal grievance is filed, the Supervisor or Manager shall investigate the grievance, confer with the grievant in an attempt to resolve the grievance, and make a decision in writing. The department head may first seek to resolve the issue(s) through a meeting including the grievant and such staff as the grievant's supervisor, a manager of that supervisor and/or a department Human Resources specialist.

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13.5.3 Step 2

- a) If the grievance is not resolved in Step 1 to the satisfaction of the grievant, he may, within not more than five (5) work days from his receipt of the Supervisor's or Manager's decision, request consideration of the grievance by the Appointing Authority, by so notifying the Human Resources & Development Department in writing.
- b) Within ten (10) work days after such notification, the Appointing Authority shall commence investigation of the grievance, confer with the grievant and other persons affected and their representatives (if any) to the extent he deems necessary, and render a decision in writing.
- c) If the written decision of the Appointing Authority resolves the grievance to the satisfaction of the grievant, it shall end the grievance process.

13.5.4 Step 3

- a) A final appeal may be filed by the grievant, in writing, with the Human Resources & Development Department not more than five (5) work days from receipt of the Appointing Authority's decision.
- b) The grievance will be reviewed by the Grievance Panel consisting of one County employee selected by the grievant, one person appointed by the department and one member appointed by the Board of Supervisors. The Board appointed member shall chair the committee.
- c) Failure on the part of the County or the grievant to appear before the Grievance Panel, without good cause as determined by the Panel Chairman, shall result in forfeiture of the case.
- d) The decision of the Grievance Panel shall be made in writing within thirty (30) calendar days after the conclusion of the appeal hearing. The decision of the Grievance Panel shall be final and binding on all parties, subject to ratification by the Board of Supervisors if the decision requires an unbudgeted expenditure.

13.6 GENERAL CONDITIONS

- 13.6.1 The Human Resources & Development Department shall act as the central repository for all grievance records. The Human Resources & Development Department will be sent a copy of the decision at each level or step.
- 13.6.2 Any time limit may be extended only by mutual agreement in writing.
- 13.6.3 An aggrieved employee may be represented by any person or by the organization certified as the representative for the Representation (Bargaining) Unit in which the aggrieved employee is included. The representative shall be a non-attorney lay advocate unless otherwise mutually agreed in advance that both parties may be represented by attorneys. The representative is entitled to be present at all formal meetings, conferences and hearings pertaining to the grievance.

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- 13.6.4 At any level, in order to provide a timely and appropriate response, the named County official may delegate the handling of the grievance.
- 13.6.5 At any level, should either party raise a procedural issue such as, but not limited to, whether the other party filed or responded in a timely manner or whether a particular issue falls within the jurisdiction of the grievance procedure; the County Administrative Officer (CAO), or his designee, shall meet with the parties within five work days solely to hear and rule on the procedural issue(s). The CAO will issue his ruling within five (5) work days. The decision of the CAO shall be final and binding on all parties.
- 13.6.6 The processing of an appeal shall be considered County Business with the aggrieved employee and the representative (if a County employee) receiving reasonable release from duty for this purpose without loss of pay.

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Rule 14 - EQUAL EMPLOYMENT OPPORTUNITY / DISCRIMINATION / SEXUAL HARASSMENT POLICY

14.1 GENERAL POLICY ON EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of the County of Tulare to provide equal employment opportunity to all persons.

All County recruitment, hiring, training, promotion, transferring, and related personnel transactions shall be done without regard to race, color, religion, national origin, sex, sexual orientation, gender identification, creed, political affiliation, ancestry, marital status, age, or disability or other criteria prohibited by law not constituting bona fide occupational qualifications and all personnel policies, procedures, and practices shall be administered accordingly.

The County of Tulare recognizes its responsibility to provide equal employment opportunity, to take affirmative and direct action at all levels of County government, regarding job classifications, salaries, training, fringe benefits, and other personnel policies, and to improve employment and career opportunities for minority group persons and women according to affirmative action principles.

Appointing Authorities are required to assure that equal employment opportunity concepts are supported by their departments.

For purposes of this section, "bullying" or "abusive conduct" means conduct of an employer or employee in the workplace with malice that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious. That behavior can be from a supervisor to an employee, or the other way around. It also can occur between employees, or even come from a third party who visits the workplace.

14.2 GENERAL POLICY ON DISCRIMINATION AND SEXUAL HARASSMENT

Tulare County, as part of its continuing affirmative action efforts and pursuant to the guidelines on discrimination issued by the Equal Employment Opportunity Commission, the Department of Fair Employment and Housing, and/or the Labor Commissioner, fully supports efforts to protect and safeguard the rights and opportunities of all people to seek, obtain and hold employment without discrimination or sexual harassment. It is the policy of Tulare County that all applicants and employees are entitled to a work environment which is free from unlawful discrimination and to provide reasonable accommodation to qualified employees with physical or mental disabilities.

Discrimination and sexual harassment are violations of Labor Code section 1102, Title VII of the Civil Rights Act of 1964 and Gov. Code Sect. 12941 et. seq. It is against the policies of the County for any employee, male or female, to discriminate against or sexually harass another employee.

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Discrimination and/or sexual harassment can decrease work productivity, undermine the integrity of employment relationships, decrease morale and cause severe emotional and physical stress.

1. All employees shall be informed of the discrimination complaint process and be assured of their right to file complaints without fear of reprisal. All employees, including supervisors and managers, should be trained regarding behavior that constitutes discrimination or sexual harassment. Employees should also understand the importance of reporting incidents immediately to assure that further incidents do not occur.

2. The Board of Supervisors expects County department heads to convey to their employees the unacceptability of discrimination and sexual harassment, and to clearly inform them that behavior that constitutes discrimination or sexual harassment will not be tolerated. The department head shall make employees aware that discrimination or sexual harassment of another employee, a client or a member of the public while the employee is on duty and/or representing the County is grounds for disciplinary action up to and including termination.

3. It is the policy of the County of Tulare to provide equal employment opportunity to all persons.

14.3 **DEFINITION OF DISCRIMINATION**

Discrimination, as defined in State and Federal law, is any unlawful consideration or use of race, color, religion, national origin, sex, sexual orientation, creed, political affiliation, ancestry, marital status, age, physical disability, or mental disability or any other criteria prohibited by law (except where such criteria is a bona fide occupational qualification) in recruitment, hiring, training, promotion, transferring, discipline, termination, or other personnel action.

14.4 **DEFINITION OF SEXUAL HARASSMENT**

1. Sexual harassment is a form of discrimination based on sex. Sexual harassment, as used in this policy, includes any unsolicited and unwelcome sexual overtures or actions by any employee, supervisor, or manager, whenever:

a) Submission is made either explicitly or implicitly a term or condition of employment;

b) Submission or rejection by an employee is used as a basis for employment decisions affecting the employee; or,

c) Such conduct affects an employee's work performance negatively or creates an intimidating, hostile or otherwise offensive work environment. Sexual harassment also includes any unsolicited and unwanted sexual overtures or actions directed to an employee by a client, citizen or member of the public in the workplace or while the employee is performing their duties for the County.

2. Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature that would not be considered sexual harassment by a reasonable person. It refers to behavior that is not welcome, that is personally offensive, that fails to respect the rights of others, that lowers morale and that, therefore, interferes with work effectiveness.

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Sexual harassment may take different forms. One specific form is the demand for sexual favors. Other forms of harassment include:

- Verbal Sexual innuendos, suggestive comments, whistling, jokes of a sexual nature, sexual propositions, sexual threats.
- Visual Sexually suggestive objects, pictures, or cartoons, graphic commentaries, leering, obscene gestures.
- Physical Unwanted physical contact, including touching, pinching, brushing the body, coerced sexual intercourse, assault.

3. Sexual harassment may be overt or subtle. Some behavior which may be appropriate in a social setting away from the work site may not be appropriate in the workplace. But whatever form it takes, verbal, non-verbal or physical, sexual harassment can be insulting and demeaning to the recipient and cannot be tolerated in the workplace.

14.5 **DEFINITION OF MENTAL DISABILITY**

“Mental disability” includes, but is not limited to, all of the following:

- 1) Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:
 - a) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
 - b) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.
 - c) “Major life activities” shall be broadly construed and shall include physical, mental, and social activities and working.
- 2) Any other mental or psychological disorder or condition not described in paragraph 14.4.1 a) that requires special education or related services.
- 3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.
- 4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.
- 5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

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6) "Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psycho active substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

14.6 DEFINITION OF PHYSICAL DISABILITY

"Physical disability" includes, but is not limited to, all of the following:

1. Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

a) Affects one or more of the following body systems: neurological, immunological, muscular skeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

b) Limits a "major life activity". For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

2. Any other health impairment not described in paragraph (1) that requires special education or related services.

3. Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

4. Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

5. Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

6. "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

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14.7 **IMPROPER CONDUCT**

A County official, manager, supervisor or employee will be subject to disciplinary action for:

1. Failing to take corrective action when the officials or supervisory employees know, or reasonably should know, that an employee or applicant for employment is being subjected to prohibited sexual harassment or discrimination on the job by anyone, or
2. Retaliation against an employee or applicant for employment who complained of sexual harassment or discrimination, or who testified on behalf of one who made a complaint, or who assisted or participated in any manner on behalf of a complainant in an investigation, proceeding or hearing conducted under this policy.

14.8 **DEPARTMENT OBLIGATION AND RESPONSIBILITY**

Every department has an obligation to assure that the work environment is free from all types of unlawful discrimination--including sexual harassment. Prevention is the best tool. Prompt, appropriate action may help to avoid, or at least minimize, the incidence of discrimination or sexual harassment.

By law, department heads, other managers and supervisors may be held responsible for the actions of their employees. Department heads must ensure that employees, supervisors and managers are aware of the County's policy. Supervisory training and employee orientation programs should include information about the County's nondiscrimination/sexual harassment policy. This policy will be distributed to all employees annually with each employee signing an acknowledgment of receipt and understanding of the requirements of the policy.

14.9 **EMPLOYEE ACTION**

Many persons are not aware that their behavior is offensive or potentially discriminatory or harassing. Often simply advising someone of the offensive nature of their behavior will resolve the problem. Whenever possible, employees should inform the discriminator/harasser that his or her behavior is unwelcome, offensive, in poor taste or highly inappropriate. If this does not resolve the concern or if an employee feels threatened, or has difficulty expressing his or her concern and therefore does not feel comfortable confronting the discriminator/harasser, the complaint procedure should be used.

14.10 **COMPLAINT PROCEDURE**

The complaint procedure has been determined as the most appropriate means for registering a complaint of discrimination or sexual harassment to insure an appropriate and timely investigation and resolution. Complainants pursuing other methods will be redirected to this procedure.

Nevertheless, Department Heads, other managers and supervisors have a legal obligation to effectively deal with any and all reported or observed incidents that may constitute sexual harassment or discrimination whether or not a complaint has been registered through the appropriate procedure.

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14.10.1 Managers and Supervisors shall:

- a. Immediately report all reported and/or observed incidents and their supporting facts to their Department Head.
- b. Thoroughly document all reported and/or observed incidents and their supporting facts.

14.10.2 Department Heads shall:

- a. Immediately report all reported and/or observed incidents and their supporting facts to the Human Resources Officer who will inform the Human Resources Director.
- b. Thoroughly document all reported and/or observed incidents and their supporting facts.

14.10.3 Within the context of the Complaint Procedure:

a. Any employee who believes he or she has been the subject of discrimination or sexual harassment shall report the alleged act immediately to his or her department supervisor, or, if the complaint is against actions of the supervisor, the alleged acts shall be reported to his or her department head, or the County Human Resources Director. When a complaint is made through the Human Resources Director, the Human Resources Director will inform the Department Head of the complaint unless the complaint is against the Department Head.

A supervisory employee receiving a complaint of discrimination or sexual harassment shall immediately inform their Department Head of the complaint even if the complainant requests the incident(s) be kept confidential. The Department Head will immediately notify the County Human Resources Director of the complaint. The County Human Resources Director has full authority to investigate all aspects of the complaint, and to notify County Counsel of the allegation.

b. The results of the investigation shall be reported to the County Administrative Officer (CAO) along with a recommended action and remedy, if deemed appropriate. The CAO will review the results of the investigation and any recommended actions, then take whatever action he or she deems necessary and appropriate.

c. Upon conclusion of the investigation, the Human Resources Director will notify the Appointing Authority and employee in accord with the restrictions set forth in Federal and State law.

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Rule 15 – DRIVING

15.1 AUTHORIZED COUNTY DRIVERS AND OPERATION OF COUNTY VEHICLES

This section sets forth the minimum requirements for all persons driving a County-owned or privately owned vehicle on official County business, including regular, extra-help, Intermittent, Provisional, Seasonal, Temporary, contract employees, and volunteers.

15.1.1 Authorized County Drivers

The Department Head, or designated representative, may authorize driving privileges to an employee or volunteer, providing the department has determined that the following three requirements have been met:

1. The employee or volunteer possesses a valid California driver's license.
2. Employees or volunteers driving private vehicles on County business are required to provide, on request, certification they have the minimum auto insurance coverage required by the State.
3. Prior to hiring, promotion, or transfer to a County position which requires driving while on County business, the applicant shall provide the department or the department they are transferring to with a printout of their driving record obtained from DMV. The department shall determine if the applicant meets County standards.
4. Employees will certify to departments on an annual basis that their driving records continue to meet County standards.

15.1.2 Satisfactory Driving Record

1. For County positions which may require the operation of a motor vehicle in the course of County business, driving records will be obtained from the Department of Motor Vehicles.
2. For new employees, it is the Human Resources and Development Department's responsibility to include in all job announcements for positions which may require driving of a vehicle on official County business a statement that driving histories will be obtained from the DMV and that a satisfactory driving history is a requirement for employment in such positions.
3. For new employees, each department shall be responsible to obtain the driving history from the DMV of each person certified for a position which may require the driving of a vehicle on official County business and eliminate candidates with poor driving histories from further consideration for employment for any position, either regular or extra help,

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requiring the operation of a vehicle on official County business.

15.1.3 Appeal Procedure

Any applicant or employee who contends there has been a misinterpretation of the Satisfactory Driving Record policy may file an appeal with the County Human Resources Director who shall hear the matter and make a recommendation to the County Administrative Officer for final resolution of the appeal.

The County Administrative Officer shall consider the recommendation and evidence submitted and make a decision regarding the appeal within thirty (30) days. The decision of the County Administrative Officer shall be final.

15.1.4 Operation of County Vehicles

15.1.4.1 Assigned Vehicles.

At the request of a Department Head, a County vehicle may be assigned by the County Administrative Officer to the department and/or individual employed by said department. Vehicles may be assigned if any of the following conditions exist:

- a. The vehicle has special fittings and/or carries special equipment applicable to a single department or a single position. Special fittings or equipment include such items as red lights, sirens, undercover car radios and fittings, and utility bodies, but does not include portable equipment.
- b. The use of the vehicle is required an average of twenty (20) working hours each week.
- c. The need for a vehicle is demonstrated where no vehicle pooling arrangements are reasonably available to the employee's headquarters.
- d. An automobile allowance in lieu of assignment of a County vehicle, may be authorized by the County Administrative Officer in accordance with Board of Supervisors' policy. Rates will be determined by the latest 12-month CPI for the Los Angeles-Anaheim-Riverside area and include other factors such as the cost of fuel and insurance. Leased vehicles shall be authorized by the County Administrative Officer in accordance with Board policy with rates determined by the latest 12-month CPI for the Los Angeles-Anaheim-Riverside area. Recognizing other factors such as the cost of vehicles, the rates set after July 1995 shall not increase more than 9-1/2% per year.

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15.1.4.2 Use of Assigned Vehicles Outside Regular Working Hours.

At the request of a Department Head, an assigned vehicle may be authorized for use outside regular working hours if any of the following conditions exist:

- a. An employee is departing or returning from an authorized out-of-county trip.
- b. An employee is working in a remote location and reports directly from home to their place of work. This includes an employee who works in various locations without one designated place for commencing regular working hours.
- c. An employee is required to attend a meeting on official County business.

15.1.4.3 Use of Assigned Vehicles for More Than One Week

A request for assigned vehicles during working and non-working hours for a period longer than one week shall be made in writing to the County Administrative Officer, and contain the following information:

- a. The type of request: assignment or after-hours use.
- b. The justification for the request.
- c. The effective dates of the assignment.
- d. The employee's name, position title, and the general function for which the vehicle will be used.

15.1.4.4 Seat Belts

State law requires all drivers and passengers to utilize the seat belts provided at all times. Failure to do so can result in serious consequences, including traffic citations, disciplinary action, and the greater risk of bodily injury in the event of an accident.

15.1.4.5 Infant/Child Car Seats

When transporting an infant or child, an appropriate infant or child car seat will be used in accord at all times. Installation and use of the seat will be in accord with state law and manufacturer's directions.

15.1.4.6 State Law

Vehicles will be operated in accord with state law.

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15.1.4.7 Traffic Citations

Traffic citations received for violations that occur while the employee is operating a vehicle while on County business, whether for moving or non-moving violations, shall be the sole responsibility of the employee who is assigned the County vehicle. The employee will immediately notify his supervisor of receipt of such a citation.

15.1.4.8 Pool Vehicles

Employees who are authorized County drivers and are traveling on official County business may use pool vehicles, subject to availability.

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Rule 16 - EXTRA HELP PERSONNEL

16.1 **EXTRA HELP**

Extra-help employees are essential to the effective operation of County government. This type of employment shall be used to supplement the regular work force in meeting short-term, irregular needs. An extra-help employee is limited to 1559 hours' employment per fiscal year. All extra help classifications are in the non-competitive service.

16.2 **EMPLOYMENT STANDARDS**

Persons selected for extra-help employment must meet the employment standards for the classification. Departments should consider using individuals on eligible lists who have indicated an interest in extra-help employment.

16.3 **COMPENSATION OF EXTRA HELP EMPLOYEES**

Compensation of extra help employees will be tied to the salary of the regular general classification. Extra help personnel will be compensated at step 1 of the salary grade and will not receive merit increases. Department Heads may make step 2 appointments or, with adequate justification, request from the Human Resources Director approval to hire at a higher step in the salary grade. No person will be employed in a classification or at a pay rate, which is not included in the classification and pay schedule established by the Board of Supervisors.

16.4 **REGULAR EMPLOYEES WORKING EXTRA HELP**

Regular employees will not work extra-help except as allowed in this paragraph. Part-time regular employees may, on occasion, work extra-help not to exceed two (2) consecutive pay periods, subject to approval of the County Administrative Officer. In unusual circumstances, the County Administrative Officer may authorize such extra-help employment for more than two (2) pay periods. Exceptions to this general rule are extra-help students. (See Personnel Rule 7.4)

16.5 **RETIREEES WORKING EXTRA HELP**

Upon demonstration to the County Administrative Officer by a department that a Retired employee possesses unique skills and/or knowledge needed by the department, that Retired employee may return to work on an extra-help basis up to 120 days or 960 hours, whichever is greater, per fiscal year except as otherwise required by law. A Retired employee may return to County service in the same position and at the same salary step he held prior to retirement, provided however, the individual may be paid at a different rate based on the position proposed to be filled and for which they have the minimum qualifications.

A retiree who retired under a Golden Handshake program is limited to working 720 hours per fiscal year or he will lose his Golden Handshake eligibility.

16.6 **SEPARATION OF EMPLOYMENT**

If an extra-help employee has not been paid for four (4) pay periods, the employee shall be terminated from active status.

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16.7 PAID SICK LEAVE

In accordance with the Healthy Workplaces, Healthy Families Act of 2014 (hereafter, known as "HWA", see California Labor Code, Sections 245-249), employees classified as Extra Help (which includes Seasonal and Temporary employees) shall be eligible to accrue paid sick leave hours, in accordance with the HWA.

16.7.1 Accrual

One (1) hour of paid sick leave shall be accrued for every thirty (30) hours worked. Employees shall be able to accrue up to a maximum of forty-eight (48) hours (or the equivalent hours of six (6) work days, whichever is greater).

A work day is defined as the number of hours that an employee is regularly scheduled to work during a twenty-four (24) hour calendar day. Once an employee reaches the maximum number of HWA paid sick leave hours that can be accrued, no further accruals of HWA paid sick leave hours shall occur until an employee's accrued HWA paid sick leave hours fall below the maximum accrual.

16.7.2 Eligibility for Usage

An employee shall be able to commencing using paid sick leave hours beginning on their 90th day of employment. Paid sick leave hours are only eligible to be used when an employee is scheduled or called to work and is unable to work due to a reason cited under the Use of Paid Sick Leave section below.

16.7.3 Amount of Usage

An employee shall be able to use up to twenty-four (24) hours (or the equivalent number of hours of three (3) work days, whichever is greater) of paid sick leave, based on their accrued balance, in a calendar year.

16.7.4 Use of Paid Sick leave

HWA paid sick leave hours shall be used for medical or dental appointments, diagnosis, care, or treatment of an existing health condition of, or preventive care, for an employee or a covered family member, or where an employee is a victim of domestic violence, stalking, or sexual assault.

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16.7.5 Covered Family Member

A covered family member includes any of the following:

1) A child means a biological, adopted, foster, step, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.

2) A parent of the employee means a biological, foster, adoptive, step, legal guardian, or a person who stood in loco parentis.

3) A parent of the employee's spouse or registered domestic partner means a biological, foster, adoptive, step, legal guardian, or a person who stood in loco parentis.

4) A spouse.

5) A registered domestic partner.

6) A grandparent.

7) A grandchild.

8) A sibling.

16.7.6 Minimum Time Usage

Each employee has one (1) hour deducted from the employee's accrued sick leave time for each one (1) hour of sick leave taken. If less than one-tenth (1/10) hour sick leave is taken, the minimum charge against accumulated sick leave credits shall be one-tenth (1/10) hour. All sick leave shall be reported on such forms as may be prescribed by the County Auditor-Controller.

16.7.7 Physician's Certification

A department may not require certification for the use of paid sick leave hours used in accordance with the HWA, (with the exception of unscheduled absences for domestic violence, stalking, or sexual assault, where the department may require certification). When an unscheduled absence occurs the employee may be asked to provide a police report, a court order, or documentation from a medical professional, domestic violence advocate or counselor

16.7.8 Protection for Sick Leave Usage

Paid sick leave hours used in accordance with the HWA shall not be used as a basis to threaten to discharge or actually discharge, discipline, or otherwise discriminate against an employee for their sick leave used in accordance with the HWA.

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16.7.9 Sick Leave Pay on Separation

An employee is not entitled to receive compensation for any accrued and unused sick leave hours upon separation from employment.

16.7.10 Sick Leave Hours Eligibility Upon Return to Employment

If an employee separates from County service and is rehired within one (1) year from the date of separation, previously accrued and unused paid sick leave hours shall be reinstated.

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Rule 17 - MEDICAL/PSYCHOLOGICAL/PHYSICAL CAPACITY EXAMINATIONS

17.1 MEDICAL/PSYCHOLOGICAL EXAMINATIONS

17.1.1 Examinations Required

In accordance with the Medical and Psychological Evaluation policies of the County and consistent with state law, medical and psychological examinations may be required under the following circumstances:

- a) In order to be eligible for employment or re-employment with the County.
- b) In order to be eligible for promotion or transfer to a position classification requiring greater physical and/or mental qualifications, as appropriate, than his present position classification.
- c) In order to determine if the employee is fit to continue in their present position.

17.1.2 Physician/Psychologist

All medical and psychological examinations will be performed by a duly licensed physician appointed by the County, or a licensed psychologist, as appropriate, in accordance with applicable State law, and as approved by the County.

17.1.3 Cost of Exam

Except as provided under Appeal below, the County will pay the cost of any medical/psychological examination required under this Rule and approved by the County.

17.1.4 Appeal

An applicant or employee who does not pass a medical and/or psychological examination may appeal by submitting to a second examination by the physician/psychologist of his choice from a panel of qualified physicians/psychologists selected for this purpose by the County. This appeal exam will be paid for in its entirety by the employee.

Should this appeal physician/psychologist also rule the applicant or employee is not fit, the ruling shall be final.

Should this appeal physician/psychologist find the employee fit, the applicant or employee shall submit to a third tie-breaker exam by the physician/psychologist of the County's choice from a panel of qualified physicians/psychologists selected for this purpose by the County. The third exam will not be conducted by either of the first two doctors. The third physician/psychologist will render an independent evaluation without reference to the first two opinions. This appeal exam will be paid for in its entirety by the County.

The ruling of this third physician/psychologist shall be final and binding on all parties.

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Rule 18 - PROBATIONARY PERIOD

18.1 PROBATIONARY PERIOD

18.1.1 Regular Appointment Following Probationary Period

An appointment made in the competitive or project service to a class in which the employee has not previously held regular status shall be tentative and subject to a probationary period of not less than thirteen (13) pay periods of actual service. The Board of Supervisors may designate some classifications to serve a probationary period of up to twenty-six (26) pay periods. Two pay periods before the end of the probation period, the Department Head shall file with the Human Resources Director a statement of performance in writing to the effect that the retention of such employee is desired or undesired. If a performance statement is filed indicating that retention is not desired, the process to effect termination of the employee's employment shall be immediately initiated. A performance statement affirming the desirability of retaining a probationary employee shall be required to effect the regular appointment of the employee. An employee will be considered to have obtained regular status upon completion of the probationary period designated for the job classification.

- a) Transfer A transfer assumes the employee is moving to the same or similar classification and therefore does not trigger a probationary period.
- b) Initial Probationary Period an employee's first full probationary period with the County is that employee's initial County probationary period.
 - i. An employee rejected from an Initial Probationary Period has no rights to any other position.
 - ii. Leave with pay during an Initial Probationary period may only be used as follows:
 - 1. Vacation may not be used except as an addition to holiday pay to fill out an extended day schedule such as a 4/10 or 4/9/4 schedule.
 - 2. CTO is treated in the same manner as vacation to fill out an extended day schedule and may also be used for other time off upon the supervisor's approval.
 - 3. Sick Leave may not be used (except in accordance with with the HWA cited in Personnel Rule 6.7.4).
 - 4. Personal Holiday may not be used.
- c) Subsequent Probationary Periods Once the employee has successfully served an Initial Probationary Period, any subsequent probationary periods

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have no probationary restrictions on leave usage. Normal usage restrictions and approval requirements apply.

- d) Actual Service Any pay period in which an employee has worked greater than 50% of their assigned hours in a pay period.

18.1.2 Objective of Probationary Period

The probationary period is part of the examination process and shall be regarded as the final step in the selection process and shall be utilized for closely observing the employee's work performance and adjustment to his position.

18.1.3 Rejection of Probationer

During the probationary period, an employee may be rejected at any time when, in the opinion of the Appointing Authority, the employee's performance is at a level that is not reasonable and consistent with the knowledge, skills, abilities and other characteristics necessary for fully satisfactory performance in the employee's position. Said rejection shall be without the right of appeal or grievance except, however, that such employee may request an informal review by the Human Resources Director or designee. Notification of rejection in writing shall be served on the probationer and a copy filed with the Human Resources Director.

The department shall confidentially document the work related reasons why the employee's performance was not reasonable and consistent with the knowledge, skills, abilities and other characteristics necessary for fully satisfactory performance in the employee's position. This documentation is for the purpose of auditing by the Human Resources & Development Department to ensure the rejection was for a legitimate work related reason and not for an illegal reason such as discrimination as is proscribed in current law.

Said documentation, including drop files, shall be placed in the employee's official personnel file once the employee has been notified that they have failed probation and shall be retained until any applicable statute of limitations has expired.

18.1.4 Rejection Following Promotion

Any employee rejected during the probationary period following a promotional appointment shall be placed in another County position in accord with the following order of priority:

- a) To the same or similar class from which promoted in the employee's current department if a vacancy in such class exists.
- b) To the same or similar class from which promoted in the employee's department of origin if a vacancy in such class exists.

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c) To the same or similar class from which promoted in a department other than the employee's department of origin if a vacancy in such class exists.

d) If no vacancies as described above exist the employee will be returned to the position from which the employee was promoted and the incumbent in that position will be laid off, if hired from outside the County, or placed in another County position in accord with the above procedure.

e) For purposes of this rule, a similar class is a classification with similar minimum qualifications and salary within one percent (1%) of the employee's current classification.

Employees in the project service must have been hired through a competitive process in order to transfer or demote into positions in the competitive service.

An employee promoted from a designated, entry-level trainee position in a flexibly allocated class shall not be restored to the position from which promoted. Employees promoted from the project service to the competitive service shall be restored to the position from which promoted only if at that time they meet all special requirements of the project service position.

18.2 **REJECTION FOLLOWING VOLUNTARY DEMOTION**

a) When an employee who has not yet completed his Initial Probationary Period voluntarily demotes to a lower classification, the employee shall remain on the Initial Probationary Period. This probationary period shall not be extended.

b) Any employee rejected from probation during this continuing Initial Probationary Period following a voluntary demotion shall be separated from County service.

c) Should this employee reapply for either classification he will serve a new Initial Probationary Period

18.3 **PROBATIONARY PERIOD UPON REINSTATEMENT**

When a former employee is reinstated after a separation of less than two years from County service, he will not be required to serve a probationary period, unless a probationary period was not completed during the first period of employment with the county.

If a former employee is reinstated after a separation from County service of greater than two (2) years but less than five (5) years, a new probation period will be required.

If a former employee seeks reinstatement after a separation of more than five (5) years, reinstatement will be denied. This denial will not prohibit the former employee from seeking employment through the competitive process and, if appointed, will be treated as though a new hire with the expectation of serving a new probationary period.

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Rule 19 - PERFORMANCE EVALUATION

19.1 PERFORMANCE EVALUATION

The purpose of employee performance evaluations shall be to achieve the following:

- 1) assist individual employees in achieving maximum work performance by establishing work standards and objectives, reviewing progress towards achieving designated results, and planning the employee's future development in the position.
- 2) provide a basis for employee selection and advancement, and to identify those employees whose performance is outstanding, satisfactory, needs improvement, or is marginal or unsatisfactory.

19.2 FREQUENCY OF EVALUATIONS

Each employee holding regular status will have his job performance evaluated at least once annually.

It is the County's intent that each employee holding probationary status will have his job performance evaluated during the probationary period, where practicable. The Appointing Authority however, is not required to complete a performance evaluation prior to rejecting a probationer.

For employees serving a 13 pay period probationary period the recommended evaluations will occur during the 7th and 11th pay period of service.

For employees serving a 26 pay period of probationary period the recommended evaluation will occur during the 13th and 24th pay periods of service.

19.3 EVALUATION CRITERIA

The performance appraisal shall rate the employee's knowledge, skills, and other characteristics as exhibited during the rating period in relation to the duties described in the Classification Specification for the employee's position. The performance appraisal shall be in a format provided by the Human Resources Director. It shall be discussed with the employee, and shall contain the following:

- a) A numerical rating on the following scale:
 - 1 - 2 is not reasonable and consistent with normal expectations of proficiency.
 - 3 - 4 is not quite reasonable and consistent with normal expectations of proficiency.
 - 5 - 6 is reasonable and consistent with normal expectations of proficiency.

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7 - 8 exceeds normal expectations of proficiency.

9 - 10 clearly exceeds normal expectations of proficiency.

- b) A summary of the employee's greatest strengths as exhibited during the rating period.
- c) A detailed listing of performance areas that must be improved during the next rating period. These are any performance deficiencies that, if not immediately improved, will result in disciplinary action or dismissal from a probationary period.
- d) Goals for improvement and/or job growth during the next rating period.
- e) The results of a review of the employee's use of Sick Leave in accord with Rule 6.7.7.
- f) The results of a review of the employee's compliance with County safety standards and practices.
- g) The signatures of the rater(s), the Department Head, and the employee confirming that these parties have reviewed and discussed the employee's performance and that the employee has received a copy of the appraisal.

19.3.1 Complaints Alleging Harassment/Discrimination

Performance Appraisal disputes alleging sexual harassment or discrimination shall be adjudicated under Sexual Harassment/Discrimination complaint procedure.

19.3.2 Training

Guidelines and training will be provided to key department personnel to ensure adequate information for consistent application of this rule.

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Rule 20 - DRESS CODE

20.1 DRESS CODE ACCOMMODATION

Regardless of any departmental mandated minimum standards or recommended guidelines, an employee with a medical condition, a religious belief or a safety issue which would be affected by this dress code, may contact the Human Resources Department to discuss an appropriate accommodation.

20.2 APPLICABILITY

All Tulare County employees are required to maintain reasonable grooming standards and dress appropriately for work each day based upon their positions and assignments. The requirements set forth herein are minimum recommendations. Individual Department Heads may establish alternate standards for all or part of their staff, if desired, which may require a higher standard than that indicated herein, and may designate such standards as either recommended guidelines or minimum requirements.

20.2.1 Alternate Dress Code Standards

Alternate standards shall be submitted to the County Administrative Officer (CAO) who will review them for compliance with this Regulation. Alternate standards will take effect immediately upon approval of the CAO for all unrepresented employees of the department and upon completion of meet and confer for represented employees.

Any individual Department standards regarding acceptable dress shall be in writing and communicated to all staff within the Department as a formal policy. That policy shall state whether that dress code is a minimum standard or recommended guideline. In departments which permit a casual day or days for all or portions of its staff, the guidelines may address standards for both professional days and casual days.

This policy shall not apply to personnel required to wear uniforms.

20.2.2 Exceptions Based On Work Assignment

Individual exceptions may be approved on a day to day basis by supervisors based upon particular assignments, for example requiring professional dress on an otherwise casual day when appropriate, or permitting jeans on days when it is expected that the work will be such that clothes may be soiled.

20.2.3 Identification

The County may require employees to include with their attire identification cards and/or emergency worker identification cards or documents.

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20.3 DRESS CODE GUIDELINES

The following general guidelines shall pertain County-wide:

- a. Clothes shall be neat, clean, tidy, and fit appropriately (i.e., shall not be too tight or too baggy).
- b. Clothes shall not contain any political statements or symbols, pornography, offensive language, advertising or promotion of alcohol or drugs.
- c. Clothes shall not be ripped, torn, or frayed.
- d. No clothes shall be worn which exposes undergarments or midriffs.
- e. Employees shall not be permitted to work barefoot.
- f. No hats shall be worn (exceptions may pertain for outside work or for religious, medical, or safety reasons).
- g. In addition to the above restrictions, the following are specifically not permitted:
 - flip flops or thong style sandals and/or shoes
 - tank tops
 - T-shirts (Henley style shirts are permitted)
 - sweat pants / jogging suits / workout clothes
 - sheer or risqué blouses
 - leggings
 - tube tops
 - biking shorts
 - body piercing (except for the ears)
- h. Tattoos will be concealed by clothing for employees who work in air conditioned buildings. Individuals with visible tattoos on body parts that cannot easily be covered, such as the neck or hands, will be permitted to leave those body parts uncovered.

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20.4 **DRESS CODE VIOLATIONS**

For violations of this dress code or such other dress code as the individual departments might establish, the following is recommended:

Issues of dress or personal grooming, which are presented, should be first discussed with the individual's supervisor and the department head or designee before discussing the matter with the employee. If it is then determined that an issue is presented which requires further attention, then:

- a) The employee should be interviewed by a supervisor or manager to determine if any medical, religious or safety issue is presented.
- b) If no medical, religious or safety issue is presented, the employee should be counseled regarding the inappropriate clothing, and
- c) The employee should be directed to not wear the inappropriate clothing to work again, and
- d) The employee may be sent home on their own time to change the inappropriate attire, and
- e) The employee should be advised that further violation could lead to disciplinary action, and
- f) The counseling should be documented.

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Rule 21 – DRUG FREE WORKPLACE

This Rule sets forth the policy of Tulare County under the Federal Drug-Free Workplace Act and the California Drug-Free Workplace Act.

It is the intention of this policy to eliminate drug abuse and the effects of such abuse in the workplace and to thus provide and maintain an efficient and safe workplace for all employees. Drug abuse increases the potential for accidents, absenteeism, substandard performance, poor employee morale and damages the public service and Tulare County.

21.1 **DRUG FREE WORKPLACE**

- 21.1.1 While any employee is on duty, on Tulare County property, at work locations or on "on-call" time (see Rule 4.4), such employee shall not:
- a) be under the influence of, or in possession of controlled substance;
 - b) shall not sell or provide drugs to any other employee or any other person;
 - c) shall not engage in the unlawful manufacture of drugs; and
 - d) shall not utilize or otherwise have his or her ability to work impaired as a result of the use of drugs.
- 21.1.2 Tulare County will act to eliminate any drug abuse which could impair an employee's ability to safely and effectively perform the functions of his or her job. Accordingly, supervisors within the affected departments will be trained to recognize drug abusers and to become involved in the control of drug abuse in the workplace.
- 21.1.3 Employees who believe that they may have a drug problem are encouraged to voluntarily seek confidential assistance through the Employee Assistance Program. While it is Tulare County Policy to be supportive of those who seek help voluntarily, it is also policy that abuse of drugs will not be tolerated and disciplinary action, up to and including termination will be used as necessary to implement this policy and assure a drug free workplace.
- 21.1.4 The term "controlled substance" is defined by the Drug Free Workplace Act of 1988 as one set forth in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812). The term "drug", when used in this policy, shall mean a "controlled substance."
- 21.1.5 All employees shall be made aware of the dangers of abusing drugs, of guidelines for the detection and deterrence of drug abuse, of their responsibilities under this rule, and of resources available for treatment of drug abuse.

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21.1.6 Each department shall make copies of the Federal Drug-Free Workplace Act of 1988 and the California Drug-Free Workplace Act of 1990 available to employees for review.

21.2 **EMPLOYEE RESPONSIBILITIES**

21.2.1 An employee shall not:

- A. Report to work while his or her ability to perform job duties is impaired due to any on or off duty legal or illegal drug use;
- B. Have his or her ability to perform job duties impaired due to legal or illegal drug use while on "on-call" time.
- C. Possess or use impairing legal or illegal drugs during working hours or while on "on-call" time, on breaks, during work day or shift meal periods or at any time while on Tulare County property;
- D. Sell or provide, directly or through any third person, any illegal drugs to any person, including any employee while either employee or both employees are on duty or on "on-call" time;
- E. Manufacture any drugs during working hours or "on-call" time, during work day or shift meal periods, during breaks or at any time while on Tulare County property.

21.2.2 An employee shall:

- A. Provide notice to his Appointing Authority of any prescription medication that is used during the work day if such prescribed medication may affect the employee's ability to perform the essential duties of his position. Where appropriate the Appointing Authority shall cause an interactive accommodation meeting to assure said employee can safely perform the essential functions of his position
- B. Notify the Department Head of any criminal drug statute conviction, including a plea of guilty or nolo contendere, for an offense which occurred in the workplace or while on duty, no later than five days after such a conviction or plea.
- C. Attend such programs as Tulare County may designate for the purposes of instructing employees generally of the dangers of drug abuse, which will be scheduled as work time.
- D. Read this policy, agree to its terms and provide written acknowledgment of receipt of a copy of this policy.

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21.3 **MANAGEMENT RESPONSIBILITIES**

21.3.1 Management shall:

- A. Provide each employee with a copy of this policy, of the Federal and State Drug-Free Workplace Acts, and of a list of available drug abuse treatment resources.
- B. Establish a Drug-Free Workplace awareness program to inform employees about the dangers of drug abuse in the workplace, of the County's policy of maintaining a drug-free workplace, of available counseling, rehabilitation and employee assistance programs, and of the penalties that may be imposed upon employees for violations of this policy and for drug abuse violations. This program shall be distributed to all employees on an annual basis and employees are expected to sign and return the form stating they agree to comply with its terms.
- C. Notify the Federal sponsoring agency within ten days after receiving notice from a covered employee of a conviction for a criminal drug statute violation occurring in the workplace.
- D. Take one of the following actions within 30 days of receipt of notice from an employee of any conviction for a drug statute violation occurring in the workplace:
 - (1) Take appropriate personnel action against such employee, up to and including termination; or
 - (2) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state or local health, law enforcement, or other appropriate agency. (Failure to participate satisfactorily in such program may result in personnel action as set forth in paragraph D. (1) above).
- E. Make a good faith effort to continue to maintain a drug-free workplace.

21.4 **ABUSE IDENTIFICATION**

21.4.1 Accommodation

Tulare County is committed to providing reasonable accommodation to employees whose drug problem classifies them as handicapped under federal or state law. Where appropriate, the employees will be referred to the Employee Assistance Program.

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21.4.2 Reasonable Suspicion

- A. For purposes of this policy, "reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his or her job safely is reduced.
- B. Reasonable suspicion may, without limitation, include any of the following, singly or in combination:
 - 1. Slurred speech
 - 2. Unsteady walking or movements
 - 3. An accident
 - 4. A pattern of unusual mood swings
 - 5. Physical or verbal altercations
 - 6. Possession of drugs
 - 7. Information obtained from a reliable source with personal knowledge.
 - 8. Dilated or restricted pupils or other demeanor unusual for the particular employee, or consistent with impairment of ability to perform normal duties.

21.4.3 Any manager or supervisor who has a reasonable suspicion that an employee is under the influence of illegal drugs should document the facts constituting reasonable suspicion in writing.

21.4.4 If a manager or supervisor has a reasonable suspicion that an employee may have illegal drugs in his or her possession or stored at or in any County property, they shall notify their Department Head. If the Department Head agrees that there is a reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement agency.

21.4.5 Employees reasonably believed to be under the influence of drugs shall be prevented from engaging in further work and shall be detained for a reasonable time to assure he or she can be safely transported from the work site.

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21.5 **PRE-EMPLOYMENT TESTING**

All candidates for positions shall be subject to a pre-employment drug screening as part of a contingent offer of employment.

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Rule 22 – BILINGUAL SERVICES

22.1 BI-LINGUAL SERVICES PROGRAM

The Bi-Lingual Services Program establishes a matrix of positions recognizing the need for translation services in the provision of County services to members of the public who can best transact County business in a language other than English. Bilingual job requirements and compensation shall be specified in Memoranda of Understanding (MOU) or resolutions of the Board of Supervisors (BOS) for unrepresented employees.

The County will cease bilingual pay for any employee who refuses to use bilingual skills when requested to do so by the County. Following are the bilingual skill use designations in use in the County:

Employees qualified and currently in positions designated Full Use Bi-lingual positions and Moderate Use Bi-lingual positions shall continue to be eligible for the specified percentage special pays listed below. All employees newly hired or applying for bilingual status on or after July 1, 2008 shall only be eligible for the flat rate bilingual pay as described below.

22.1.1 Full Use Bi-lingual Positions

Translation is a regular, ongoing, critical function of the job. Incumbent frequently spends over approximately 60% of his time translating.

- a) The primary translation class(es) for the department. Each department would be assigned enough to cover areas of regular public contact with persons who need to transact County business in a language other than English.
- b) Special bi-lingual classifications (e.g. Clerk II-Bilingual).
- c) Bi-lingual designated classifications are protected in layoff.
- d) 5% added compensation.
- e) Must pass test of proficiency in speaking, and reading and/or writing.

22.1.2 Moderate Use Bi-lingual Positions

Translation is a frequent need but is not the primary function of the job. Incumbent can spend approximately 40% to 60% of his time translating.

- a) The secondary translation class(es) for the department. Each department assigned enough to provide back-up for the primary translation class(es) for vacation and sick leave coverage and to provide an entry level incentive for bi-lingual employees to preserve and enhance their skills and prepare for future openings in bi-lingual positions.

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- b) Regular classifications.
- c) Classes not protected in layoff
- d) 2.5% added compensation
- e) Must pass test of proficiency in speaking, and reading and/or writing

22.1.3 Flat Rate Bi-lingual Positions

Employees who provide translation services for the County shall receive a flat amount of compensation each pay period for such services. The bi-weekly compensation for this skill will be \$0.50 per hour multiplied by the number of assigned hours in a pay period. The employee must pass a proficiency test in speaking, and reading and/or writing.

22.2 **PRIMARY LANGUAGES**

The primary languages for this program are Spanish and Southeast Asian. Other languages can added to meet a demonstrated need.

22.2.1 Other Languages: Other languages should be handled by:

- 1) Identifying bilingual employees within our employee group, testing their proficiency, and making those who qualify available on an inter-departmental basis throughout the County. Depending on the time they spend translating, they should be compensated as outlined above.
- 2) Identifying community resources who can and will provide occasional translation.
- 3) Using the AT&T long distance translation service or equivalent.

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Rule 23 – DISASTER SERVICE WORKER

The California Government Code and Tulare County Ordinance provide that all County employees are considered Disaster Service Workers and may be called to duty in the event of a disaster. Any employee performing duties as a Disaster Service Worker shall be considered to be acting within the scope of disaster service duties while assisting any unit of the organization or performing any act contribution to the protection of life or property or mitigating the effects of an emergency. County employees are assigned disaster service activities by their superiors or by law to assist the agency in carrying out its responsibilities during times of disaster. If an employee is required to work as a Disaster Services Worker during a declared emergency such work time shall be compensable.

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ADDENDUM INFORMATIONAL ONLY

Emergency Policy

1. If a formal emergency is declared by the CAO or the Board of Supervisors resulting in closure of County Offices in all or part of Tulare County it will be announced over the radio through the Emergency Broadcast System.
2. Unless a formal closure is declared employees are expected to report for work at their regularly scheduled time.
3. Employees are expected to exercise reasonable caution during their commute. If an employee determines that he/she cannot report for work for safety reasons he/she should immediately notify his/her supervisor. The employees time off will be charged to vacation leave unless the CAO or Board of Supervisors has declared a formal emergency closing the employees work location. Whenever a worker or group of workers is unable to appear due to the emergency that matter will be brought to the Board of Supervisors at their earliest meeting to consider if the situation qualifies for paid leave not charged to vacation.

County employees, in the event of an emergency, who are called in to provide emergency services to the public in their capacity as a disaster service worker are expected to report as directed to whatever location they are directed even if their regular work location is designated as closed. Employees are expected to exercise reasonable caution during such commute but do understand that as an emergency service worker per the laws of the State of California they must diligently make every effort to report as directed.

4. If the CAO or Board of Supervisors formally closes a work location the employees scheduled to work during the closure will be on paid leave (not vacation leave).