

**MEMORANDUM OF UNDERSTANDING**

**Between**

**The County of El Dorado**

**And**

**~~Operating Engineers, Local Union No. 3~~**

**~~Probation Bargaining Unit~~ El Dorado County Probation Officers Association**

**~~July 1, 2013 – June 30, 2016~~ July 1, 2016 – December 31, 2019**



**MEMORANDUM OF UNDERSTANDING**

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## MEMORANDUM OF UNDERSTANDING

### ARTICLE 1. TERMS AND CONDITIONS

~~Operating Engineers Local No. 3~~ El Dorado County Probation Officers Association (herein referenced to as "Union Association") and representatives of the County of El Dorado (herein referenced to as "County") have met and conferred in good faith regarding wages, hours and other terms and conditions of employment of employees in the Probation (PR) Bargaining Unit, have exchanged freely information, opinions and proposals and have reached mutual agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding (MOU) is entered into pursuant to the Meyers-Miliias-Brown Act (Government Code Sections 3500-~~3510~~et seq.), and has been jointly prepared by the parties.

This MOU shall become of full force and effect for the period commencing July 1, ~~2013~~ 2016 through ~~June 30, 2016~~ December 31, 2019. Nothing contained herein is intended to be applied retroactively unless expressly indicated below within this MOU.

The County's Personnel Rules shall remain in force and effect other than where superseded by specific provisions of this MOU. Nothing contained herein shall be applied on a retroactive basis unless specifically stated.

The parties acknowledge that this MOU, together with all referenced documents incorporated herein, set forth the complete, exclusive and integrated understanding of the parties which supersedes all proposals or prior agreements, oral or written, side letters and all other prior communications between the parties relating to the provisions of the Agreement.

### ARTICLE 2. AUTHORIZED AGENTS AND RECOGNITION

#### Section 1. Authorized Agents

For the purpose of administering the terms and provisions of this MOU, the following authorized agents have been designated:

***County of El Dorado***  
Director of Human Resources  
330 Fair Lane  
Placerville, CA 95667

**Operating Engineers Local Union No. 3EDCPOA**  
**Business Representative**  
**3920 Lennane Drive**  
**Sacramento, CA 95834 PO BOX 283**  
**Shingle Springs, CA 95682**

The Union Association shall provide in writing to the County and be responsible for keeping current the name, address and telephone number of the designated representative and a list of persons authorized to act on its behalf or receive service in its name.

## **Section 2. Recognition**

- A. County recognition - The Director of Human Resources or designee is the representative of the County in matters related to employer employee relations.
- B. The Union Association is the exclusively recognized employee organization for the Probation (PR) Unit.

## **Section 3 Labor Management Committee**

The County and the Union Association agree that the Labor Management Committee (LMC) is an ongoing problem solving forum designed to aid in communication between the parties and administer this Agreement.

1. The LMC shall meet on the odd months (January, March, May, July, September, and November) unless the parties mutually agree to have more frequent meetings. Meetings can be postponed by mutual agreement due to business necessity.
2. The parties will mutually prepare an agenda a week in advance. The meeting will be cancelled if there is no agenda.
3. The LMC shall consist of an employee-member representative and a management representative from Placerville – Institution, the Shingle Springs office, South Lake Tahoe – Institution and field, the business agent for the Union Association, and Probation Officer or designee.
4. The county County shall allow the employee-member representative to attend LMC meetings on County time, including travel, but shall not pay for overtime used beyond an employee-member representative's regularly scheduled shift.

## ARTICLE 3. COUNTY RIGHTS

County retains, solely and exclusively, all the rights, powers and authority exercised or held prior to the execution of this MOU, except as expressly limited by a specific provision of this MOU. Without limiting the generality of the foregoing, the rights, powers, and authority retained solely and exclusively by the County and not abridged herein, include, but are not limited to, the following; to manage and direct its business and personnel; to manage, control, and determine the mission of its departments, building facilities, and operations; to create, change, combine or abolish jobs, departments and facilities in whole or in part; to direct the work force; to increase or decrease the work force and determine the number of employees needed; to hire, transfer, promote and maintain the discipline and efficiency of its employees; to establish work standards, schedules of operation and reasonable work load; to specify or assign work requirements and require overtime; to schedule working hours and shifts; to adopt rules of conduct; to determine the type and scope of work to be performed by County employees and the services to be provided; to classify positions, to establish initial salaries of new classifications; to determine the methods, processes, means, and places of providing services and to take whatever action necessary to prepare for and operate in an emergency.

Nothing in this article is intended to alter the post-agreement rights of the respective parties as established by law to meet and confer on changes which would affect the wages, hours, and other terms and conditions of employment, except, however that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

## ARTICLE 4. UNION ASSOCIATION RIGHTS

### Section 1. Payroll Deductions

- A. The Union Association may have the regular dues, insurance plans and credit union deductions of its members deducted from employees' paychecks under procedures prescribed by the County Auditor/Controller. Dues deductions from employees who are in another bargaining unit will be allowed if there is no objection from the exclusive representative of that bargaining unit. Employees desirous of such deductions must sign and submit an Employee Payroll Deduction Authorization (PDA) for each type of deduction. All duly authorized PDA's will be processed promptly. Deductions authorized in the above manner will be accumulated and forwarded on a regular basis to the authorized payees. Nothing herein shall prohibit the County from placing reasonable limits as to the number of payees or deductions per employee for the purpose of efficient administration of the payroll system.
- B. The County will provide to the Union Association a list of new employees hired into regular positions represented by the Union Association on a biweekly basis.

- C. The County shall not be liable to the Union Association, employees, or any other party by reason of the requirements of this Article for the remittance or payment of any sum other than the constituted actual deductions made from an employee's wages earned. The Union Association shall hold and keep the County harmless against any and all claims, demands, suits, orders, judgments or other forms of liability that may arise out of or by reason of action taken by the employer under this Article.

## **Section 2. Communications with Employees**

The Union Association shall be allowed by a County department, in which it represents employees, use of available bulletin board space for communications having to do with official organization business. All material posted shall 1) not be obscene, 2) shall not malign the County or its representatives and shall not constitute harassment, discrimination or retaliation based on a legally protected status. The Human Resources Director or designee reserves the right to remove any material posted in violation of this section if the Union Association refuses to remove the material on its own.

The designated representative of the Union Association shall give notice to the Department Head or designee when contacting departmental employees during the duty period of employees, provided that solicitation for membership or other internal employee organization business shall be conducted only during the non-duty hours of all employees concerned. Non-duty hours are defined as before or after work, lunch periods and rest break periods.

## **Section 3. Use of County Buildings**

County buildings and other facilities shall be made available for use of the Union Association or its representatives during non-duty hours in accordance with such administrative procedures as may be established by the Chief Administrative Officer or Department Heads concerned.

## **Section 4. Duplicating Equipment**

The County agrees to allow the Union Association to use County duplicating equipment and facilities subject only to the following conditions:

- A. The Union Association purchases any required access keys.
- B. The Union Association reimburses the County promptly upon demand for the actual costs of the use of the equipment and material.
- C. The Union Association's use of such equipment and facilities does not interfere with the use by County employees for County business.

## Section 5. Release Time

County employees who are official representatives of the Union Association shall be given reasonable time off with pay to attend formal meet and confer sessions, grievance or discipline meetings with management representatives. The Union Association shall notify the Director of Human Resources or designee of the names and departments of employees who are official representatives of the Union Association. Such representatives shall notify their supervisors in writing on the first business day after a meeting has been scheduled of the dates of excused absences. This advance notice may be waived by the Director of Human Resources or designee in unusual circumstances. Except by agreement with the Director of Human Resources or designee, the number of employees released for meet and confer sessions shall not exceed four (4) in number.

## Section 6. Advance Notice

Except in cases of emergency as provided below in this subsection, the Union Association, if affected, shall be given reasonable advance notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted by the County and shall be given the opportunity to meet with appropriate management representatives. In case of emergency, the County shall notify the Union Association on the first business day after the emergency of its actions.

## ARTICLE 5. WAGES AND OTHER RELATED ISSUES

The current wage scale for all represented classes shall remain the same through the last full pay period inclusive of June 30, 2018.

Each regular employee who is a member of this bargaining unit shall receive, for the 2018 plan year only, in lieu of a credit towards the employee's County-sponsored health, dental, and vision plan premiums, up to \$1,950.00 divided by and paid out in installments in each of the remaining benefit pay periods for the 2018 plan year following Board of Supervisor's approval of this MOU. The payments shall be subject to applicable payroll deductions and will be made in addition the current wage of each regular employee who remains a member of this bargaining unit during the benefit pay period in which it is paid.

Effective the first full pay period in July, 2018, the County will increase base wages for employees in the bargaining unit to ensure that benchmark job classifications within the bargaining unit are approximately 10% (+/- 1%) behind the median market average utilized by the County. The County will increase the base wages of non-benchmark job classifications to maintain current internal ties and percentage wage differences between ranks. Such equity adjustments are based on the October 20, 2017, total compensation survey completed by the County which does not include longevity pay. The base wages for the Union represented classifications will be increased by 18.75%

during the term of the MOU as follows:

~~———— Cost of Living Adjustments~~

~~2014: 2% effective the first full pay period following Union ratification and Board of Supervisors adoption of the MOU.~~

~~2015: 2% effective the pay period including July 1, 2015.~~

~~Equity Adjustments~~

~~2014: 10% effective the first full pay period following Union ratification and Board of Supervisors adoption of the MOU.~~

~~2015: 1% effective the pay period including July 1, 2015.~~

~~CalPERS Liability Transfer~~

~~2014: The employees in Tier 1 and Tier 2 retirement plans shall pay the full 9% employee CalPERS contribution effective the third full pay period following Union ratification and Board of Supervisors adoption of the MOU. As an offset, all employees in the Union shall receive an additional 3.75% base wage increase.~~

**Section 1. Salary Status Upon Reemployment**

A ~~full time~~full-time or ~~part time~~part-time employee who resigns in good standing and is reappointed in the same or closely related class within the same classification series within one year of resignation shall be eligible, with the approval of the appointing authority, to be reappointed at any step up to and including the salary step received prior to resignation. If the appointing authority wishes to rehire the employee at a step which exceeds the step paid at the time of resignation, approval shall be required consistent with the Early Salary Range Step Advancement Policy. For purposes of vacation accrual ~~and longevity pay~~, such an employee shall receive credit for the amount of prior service in effect at the time of resignation and shall be restored to the place on the vacation accrual table ~~and the longevity table~~ in effect at the time of resignation.

**Section 2. ~~Classification Study~~Salary Step Increases**

A. After initial appointment into an allocated classification and completion of thirteen (13) biweekly pay periods of satisfactory service at Step 1 of the salary range, and upon recommendation of the appointing authority, the employee shall be advanced to Step 2. If an employee is appointed above Step 1, the employee's first step increase shall occur after completion of twenty six (26) biweekly pay periods.

B. After completion of twenty six (26) biweekly pay periods of service at each of the

salary steps of step 2 and above, if the employee has completed probation, the employee shall be automatically advanced to the next higher step in the salary range. However, the employee will not automatically advance to the next step of the applicable wage range if the employee's Appointing Authority or designee submits the required paperwork denying the step increase at least one full pay period prior to the employee's salary review date.

C. All increases shall be effective on the first day of the biweekly pay period following completion of the required period of service.

~~The County will initiate a classification structure study during the term of the MOU. After the study is complete, the County will present any negotiable changes to the County's classification structure to the Union. The County and the Union agree to meet and confer over the classification structure.~~

## **ARTICLE 6. DAYS & HOURS OF WORK, PREMIUMS & BONUSES**

### **Section 1. Work Schedule**

- A. The appointing authority shall fix the hours of work with due regard for the convenience of the public, and the laws of the State and the County and as the appointing authority determines best serves the County.
- B. The County agrees to assign employees to a regular work schedule. The County may change that schedule at its discretion. The County agrees to give employees a minimum of a five (5) working day advance notice of work schedule changes.
- C. Employees shall be allowed rest periods of fifteen (15) minutes during each four (4) consecutive hours of work. Such rest periods shall be scheduled in accordance with the requirements of the individual department but shall generally occur near the middle of each four (4) hour shift. Rest periods are not accumulative and if not taken during the four (4) hour shift, are lost. Rest periods if not taken are lost and may not be accumulated to extend lunch hours or to shorten the work day. Neither shall any additional pay accrue to an employee who misses or loses a rest period.
- D. In no case may an employee's work schedule be changed during the work week when the purpose of such change is to avoid overtime compensation unless agreed to by the employee.
- E. In accordance with the County Personnel Rules, employees shall work eight (8) hours per day, five days per week unless a fourteen (14) day work period or an alternative work schedule is approved-assigned in accordance with the procedures set forth herein. (See F and G below.)
- F. The Chief Administrative Officer at his/her discretion and upon recommendation of a Department Head may approve on a trial basis, during the term of this MOU ~~of~~

~~Understanding~~ alternative work schedules. Alternative work schedules proposed by the ~~Union Association~~ shall be submitted to the Department Head and the Chief Administrative Officer. Department initiated alternative work schedules shall be submitted to the ~~Union Association~~. Upon request by the ~~Union Association~~, management shall discuss any proposed alternative work schedules before reaching a decision on implementation. Decisions on implementation and the reasons therefore shall be communicated to the ~~Union Association~~.

- G. The classification of Probation Officer is exempt from the normal seven (7) day work period of the Fair Labor Standards Act (FLSA) ~~pursuant to 29 U.S.C. Section 7(k) of the FLSA when an employee is assigned to an alternative work schedule consisting of eighty (80) hours.~~ At the discretion of the Chief Probation Officer or his designee, based on available staffing employees may be assigned to an ~~alternative~~ work schedule consisting of eighty (80) hours in a fourteen (14) day work period. Employees ~~assigned to work an alternative work schedule shall work hours consistent with a 9/80 type schedule, unless another specific schedule is designated and approved~~ not assigned to such a work schedule shall be assigned to a standard seven (7) day, forty (40) hour work period.
- H. For employees in ~~such alternative a fourteen (14) day work period, work schedules,~~ overtime shall be defined as any authorized time worked beyond eighty (80) hours per biweekly pay period. The definition of "time worked" shall be as defined in the Agreement.
- I. Employees whose regular day off ~~pursuant to the agreed upon alternative work schedule~~ falls on an official observed County holiday shall be compensated eight (8) straight-time hours for each full holiday falling on the scheduled day off. The holiday benefit created by this section shall not be counted as hours worked in the fourteen (14) day period mentioned above for the purposes of overtime.
- J. Employees on a fourteen (14) day work period or an alternative work schedule who are regularly scheduled to work nine (9) hours on the official County holiday and take the holiday off, shall supplement the eight (8) hours of holiday pay for the holiday with accrued floating holiday leave, vacation, or compensatory time off (CTO) in order to earn a total of eighty (80) hours of pay in the work period.
- K. The Chief Probation Officer or his designee reserves the right to discontinue the fourteen (14) day work period or alternative work schedule upon thirty (30) days' notice. Cancellation of the fourteen (14) day work period or alternative work schedule shall not be considered punitive, and is not subject to any administrative review or appeal.

## Section 2. Overtime

- A. Authorization: The Department Head or designee may require and shall authorize the performance of any overtime work in advance of being worked. If prior

authorization is not feasible because of emergency conditions, a confirming authorization must be made on the next regular working day.

- B. Definition: ~~Except as provided in Section 4 below, overtime shall be defined as any authorized time worked beyond forty (40) hours in one work week, or eighty (80) hours in one work period. "Time worked" shall not be defined to include holidays, administrative leave, vacation, authorized compensatory time off, sick leave for work related illness or injury and sick leave.~~ Overtime shall be defined in accordance with the FLSA, except as specified in this MOU for purposes of contract overtime.
- C. Compensation: Overtime required by the FLSA shall be compensated at one and one half (1 ½) times the employee's ~~basic hourly~~regular rate of pay, or at the employee's request and with the department's approval ~~compensating compensatory~~ time off (CTO) accrued may be taken at the rate of one and one half (1 ½) ~~times-hours~~ off for each FLSA overtime hour worked ~~in lieu of overtime pay.~~ Overtime not required by the FLSA, also known as contract overtime, shall be compensated at one and one-half times the employee's base hourly rate of pay.
- D. Accumulation and Use of Compensatory Time Off: The maximum accumulation of Compensating Time Off (CTO) shall be 160 hrs.
1. Use of accumulated CTO shall be a time mutually agreeable to the Department Head and the employee.
  2. Employees may cash out compensatory time off at any time subject to the approval of the Department Head.
  3. Upon termination, any employee with accumulated CTO shall have it paid off.
- E. Other Provisions
1. In no case may an employee's work schedule be changed during the work week when the purpose of such change is to avoid overtime compensation, unless agreed to by the employee.
  2. Time worked as overtime shall not be used to earn fringe benefits or to serve out probation or merit increase periods. Compensatory time off taken may be used as part of the established work week to earn fringe benefits and to serve out probationary and merit step increases.
  3. Employees assigned to positions requiring continuous coverage on a twenty-four (24) hour per day, seven (7) days per week basis who are held over at the conclusion of their shift for more than thirty (30) minutes without twenty-four (24) hours advance notice will be paid time and one half from the time

they are required/ordered to remain at work regardless of the number of hours actually worked during the work week.

4. Overtime shall be paid in accordance with these rules and the provision of the Fair Labor Standards Act.

### **Section 3. On Call Duty Compensation**

- A. When warranted and in the interest of the County's operations, Department Heads or designee may assign employees to "on-call" status.
- B. "On-call Duty" is an assigned duty outside the normal work week assignment during which an employee must remain where the employee can be contacted by telephone and employee is ready for immediate call-back to employee's department to perform an essential service.
- C. An employee assigned on-call duty shall be compensated at the rate of \$1.60 per hour for each hour of such duty.
- D. An employee shall not be placed on the list to be contacted for on-call duty if the employee is on an approved vacation or sick leave.

### **Section 4. Call-Back Compensation**

- A. When an employee returns to work because of a department request made after the employee has completed his/her normal work shift and left the work station, the employee shall be credited with two (2) hours plus any hours of work in excess of two (2) hours in which the employee is continuously engaged in work for which he/she was called back.
- B. An employee in on-call duty shall be entitled to the aforementioned two-hour minimum only once during a single on-call period or twice during a weekend on-call period.
- C. There shall be no duplication or pyramiding of rates paid under this section. No employee shall be compensated for on-call duty and call-back duty simultaneously. Hours worked on call-back duty shall be deducted from the prescribed on-call duty to determine the appropriate on-call pay.
- D. "Call-back" time is overtime and shall be paid in accordance with overtime pay provisions.
- E. The two-hour minimum shall apply only when an employee is required to physically return to work (e.g. leave home or another off duty location) in order to perform required duties. An employee who performs work after regular work

hours, but who is not required to leave home, shall be compensated at time and one half pay or compensatory time as per overtime provisions.

- F. Call-back provisions, including the two-hour minimum, shall not apply if an employee is called to work within one hour of their normal starting time. If an employee is called to work within the one hour prior to their normal starting time, they shall be compensated under normal overtime provisions.

### Section 5. Tahoe Employment Differential

Employees whose primary work location is in the Tahoe Basin, in addition to their regular biweekly salary, shall receive a total of ninety-two dollars and thirty cents (\$92.30) biweekly. Employees working 20 hours or less in a week shall receive half of this amount.

This differential shall only apply when an eligible employee is in paid status for a majority of their allocated hours in a pay period. Employees on leave without pay are not eligible for this differential.

### Section 6. Longevity Pay

~~Effective the beginning of the first full pay period in January 2003, il~~ongevity pay shall be granted for continuous service in an allocated position with the County except as otherwise provided in this MOU or the Personnel Rules, as follows:

After 10 years	5.0% of base <del>salary</del> <u>hourly rate</u>
After 15 years	7.5% of base <del>hourly rates</del> <u>salary</u> *
After 20 years	10.0% of base <del>hourly rates</del> <u>salary</u> *

\* Represents total amount of longevity granted; amounts shown are not cumulative.

~~Longevity pay increases shall be based upon continuous service with the County in an allocated position and shall be effective on the first day of the biweekly pay period following completion of the required period of service.~~

Base ~~salary is defined as the~~ hourly rate is as listed in the Salary Resolution for the employee's classification and step.

Employees hired prior to the day the Board of Supervisors adopts this 2016 through 2019 MOU who have not achieved the first longevity tier (5.0% at 10 years of service) will receive that longevity tier once they reach 10 years of service as provided in this section, above. However, these employees will not be eligible for any further longevity pay at 15 and/or 20 years of service.

Employees hired prior to the day the Board of Supervisors adopts this MOU who are already receiving longevity pay (5.0% at 10 years, 7.5% at 15 years or 10.0% at 20

years) will continue to receive their current longevity pay but will not be eligible for any further longevity pay at 15 and/or 20 years of service. Longevity pay for current employees in this group will therefore be frozen at the 5.0%, 7.5% or 10.0% currently received by the employee.

Employees represented by this bargaining unit who are hired on or after the date the Board of Supervisors adopts the 2016 through 2019 MOU will not be eligible for longevity pay.

Longevity pay for eligible employees shall be effective on the first day of the biweekly pay period following completion of the required period of service.

This differential shall only apply when an eligible employee is in paid status for a majority of their allocated hours in a pay period. Employees on leave without pay are not eligible for this differential.

## **Section 7. Acting Pay Assignment**

When an employee in a permanent position is assigned to work in a higher classification for which the compensation is greater than that to which the employee is regularly assigned, and the employee works in such assignment for more than 15 work days, the employee shall receive compensation for such work retroactive to the first day of the assignment at the rate of pay established for the higher classification pursuant to the County Personnel Rules, under the following conditions:

- A. The employee is assigned to a program, service or activity established by the Board of Supervisors which is reflected in an authorized position which has been classified and assigned to the Salary Schedule and listed in the County Personnel Rules and such authorized position has become vacant due to the temporary or permanent absence of the position's incumbent. A copy of the Department Head's written approval of this assignment must be submitted to the Director of Human Resources or designee at the start of the assignment.

The nature of the departmental assignment is such that the employee in the lower classification becomes fully responsible for the duties of the position of the higher classification.

- B. Notwithstanding Section 7.A above, in an exceptional circumstance when a vacancy does not exist but an employee has been assigned to perform duties which exceed the scope of that employee's classification, and when determined and justified by the Chief Administrative Officer, in his sole discretion, the employee will be entitled to pay for a higher classification in accordance with the other provisions of this Section.
- C. Employees selected for the assignment will normally be expected to meet the minimum qualifications for the higher classification.

- D. Pay for work in a higher classification shall not be utilized as a substitute for regular promotional procedures provided in this agreement.
- E. Higher pay assignments shall not exceed six (6) months except through re-authorization.
- F. If approval is granted for pay for work in a higher classification and the assignment is terminated and later reapproved for the same employee within thirty (30) days, no additional waiting period will be required.
- G. Allowable overtime pay, shift differentials and/or work location differentials will be paid on the basis of the rate of pay for the higher class.

### **Section 8. Shift Differential**

Any regular employee who is assigned to shift work, as defined by the department, and actually works a defined shift shall receive a shift differential for each hour over their regular rate of pay for all hours actually worked within the defined shift.

1. Swing shift shall receive seventy five cents (\$.75) for each hour over their regular rate of pay for all hours actually worked within the defined swing shift.
2. Graveyard shift shall receive an additional one dollar (\$1.00) per hour over their regular rate of pay for all hours actually worked within the defined graveyard shift.

Eligible employees will receive the applicable shift differential for all hours worked in the defined shift. Employees required to work beyond their regularly assigned shift will receive the shift differential, if any, for that defined shift.

Employees may select to work Swing Shift and Night Shift opportunities on the basis of their seniority within their job classification in their particular work unit unless the County determines that certain employees should be assigned to the Swing Shift and/or Night Shift for job related reasons. The County will determine the term of any Swing Shift and/or Night Shift assignments and may periodically call for a new round of shift selection by employees.

### **Section 9. Bilingual Pay**

Pay for use of bilingual skills will be forty dollars (\$40) per pay period. In order to be eligible for bilingual pay the unit member must:

- A. Be certified by the County as possessing the requisite skill in the foreign language required in the assignment; and

- B. Be authorized and required as a regular part of the assignment of duties to converse and/or write in a language other than English. In order to be eligible to receive such differential, an employee must demonstrate language proficiency acceptable to the Department Head, as certified in writing to the Director of Human Resources or designee. The County may adopt a language proficiency testing process to determine employees' qualification to serve as bilingual skill providers. The Human Resources Department shall use a verbal and/or written testing process, depending upon the level of bilingual skill required of the employee, to validate the employee's skills. The County will use existing bilingual employees to assess employees' bilingual capabilities when possible. Written authorizations to receive a bilingual differential shall be reviewed and renewed annually by the Department Head.

This differential shall only apply when an eligible employee is in paid status for a majority of their allocated hours in a pay period. Employees on leave without pay are not eligible for this differential.

## **ARTICLE 7. ALLOWANCES FOR WORK RELATED EXPENDITURES**

### **Section 1. Tuition Reimbursement for Accredited Academic Courses**

#### **A. Employee-Requested Courses**

##### **1. Applicability:**

This Section shall apply only to courses requested by the employee in accordance with the criteria set forth below and submitted on a form to be provided by the County.

##### **2. Requirements for Partial Reimbursement of Tuition:**

- a. The requesting employee must be and have been in a regular full-time position in the County for at least two (2) years prior to the start of the course in question.
- b. The subject matter of the course must be directly related to the employee's present position or to a position within the normal line of promotion within County service for the employee's current classification.
- c. The employee's attendance at the course will not interfere with his/her normal duties, responsibilities or work hours.
- d. The employee agrees in writing to repay the County, upon termination, any tuition reimbursement received from the County within a twelve (12) month period prior to his/her termination.

e. Requests for reimbursement shall be submitted to the County and approved prior to the commencement of the course in question.

3. Limitations

a. In order for requests to be granted, funds for tuition reimbursement must be available for that purpose in the departmental budget.

b. Reimbursement shall be available at the rate of fifty percent (50%) of actual costs of the tuition fee. (Does not include books, documents, other materials, mileage, travel costs, or other incidental expenses incurred by the employee.)

c. The County may limit its reimbursement to the actual amount not reimbursed to the employee by some other source if such amount is less than fifty percent (50%) of the tuition fee.

d. Nothing shall prohibit the County from placing a reasonable dollar limit on tuition reimbursement which may be received by an employee in one fiscal year.

e. To be eligible for reimbursement, the employee must present satisfactory proof of a final grade of "C" or better for the approved course and of the amount of tuition paid by the employee.

B. County-Required Training

Education or training required by the County as a condition of continued employment in the employee's present position shall be reimbursable at one hundred percent (100%) or paid directly by the County and shall take place on County time if possible.

**Section 2. Mileage Reimbursement**

During the term of this MOU, the rate of reimbursement for employees' use of private vehicles on County business shall be the federal rate as determined by the Internal Revenue Service.

**Section 3. Uniform Allowances**

Probation officers whether in the field or in institutions within the Probation Department who are required by the Department to wear and maintain uniform clothing (i.e. clothing with identifying logos) for identification and safety reasons shall receive a uniform allowance of \$240.00 per year, paid ½ in pay period 2 and ½ in pay period fifteen (15). The department may provide work clothes/uniforms as needed for special purposes and/or safety reasons.

## ARTICLE 8. EMPLOYEE BENEFITS & RETIREMENT

### Section 1. Health/Dental

A. A mutual goal of the County and the Union Association is to limit and manage the impacts of health plan costs on both County employees and the County's budget.

1. ~~The County and the Union agree to continue during the terms of the MOU, to meet and work on long term options for payment of health care costs.~~ For the term of this MOU, the parties agree to ~~implement~~ a standardized cost sharing for the health insurance premium contribution rates, with the County paying 80% of the premium for full-time employees and the employee paying 20% of the premium.

2. Health care coverage is on a calendar year basis (January 1 – December 31). Rates for the ensuing calendar year ~~these bargaining units~~ shall be effective upon approval by the Board of Supervisors, but no earlier than the pay period containing December 1. ~~Beginning with the 2014 year r~~ Rates will be unblended.

3. Effective the pay period containing December 1, the contributions shall be per the health plan published rates.

~~4. The OE3 Trust Health Plan currently offers members two health plan options, Plan A and Plan B. For the term of this MOU, the County will sponsor these plans and will work with OE3 Trust Health Plan to explore and potentially add additional plan options.~~

~~The County contribution levels to the OE3 Trust Health Plan will be the same amount as provided to similar County health plans (e.g., Blue Shield 200 to Plan A and Kaiser to Plan B), but will not exceed the OE3 Trust Health Plan actual cost. If additional plans are offered during the term of this MOU, the County and Union will meet and confer over negotiable changes.~~

~~Costs for the OE3 Trust Health Plan are determined solely by the OE3 Trust Health Plan administrator.~~

~~Following the Board of Supervisors approval of the MOU, a one-time double health insurance premium deduction will be deducted from each current employee's pay (or until paid in full) that is enrolled in a Union sponsored health plan and as necessary for future changes related to qualifying events.~~

~~Employees who are hired after the Board of Supervisors have approved the MOU, OE3 Trust Health Plan premium deductions will begin the first pay period~~

~~after enrollment election made within enrollment time period. Payroll may double deduct premiums in consecutive pay periods based on when employee elects coverage. If enrolled, health insurance benefits will go into effect the first day of the month following hire.~~4.

For purposes of this Article, a full-time employee is defined as an employee in an allocated position whose regular work schedule on an ongoing basis is eighty (80) hours of work in each pay period; a part-time employee is defined as an employee who is in an allocated position and whose regular work schedule on an ongoing basis is less than eighty (80) hours of work in a pay period.

~~6.~~ 5. In order to be eligible for County contribution, other than required by law, a full-time employee must be in pay-a paid status, i.e., where the employee is receiving pay from work hours, compensatory time off, vacation or sick leave ~~in accordance with Section 1.A.5.~~ An employee who is receiving Workers' Compensation or temporary disability shall be eligible for continuation of the County's contribution until such time as eligibility for Workers' Compensation or temporary disability ceases.

6. An employee who ceases to be eligible for County contributions must pay directly to Risk Management the full amount of employee and County contribution in order to retain benefit coverage under the County-sponsored health/dental benefit plan.

~~7.~~ 8. The County will not contribute toward the cost of any plan other than those specifically sponsored by the County.

B. County health plan benefits are described in the Specific Health Plan Document. While mention may be made in this MOU of various benefits and provisions of benefit programs, specific details of benefits provided under the County Health/Dental Plan, Life, Workers' Compensation and Long-Term Disability Programs shall be governed solely by the various plan documents or insurance contracts and/or policies maintained by the County.

~~OE3 Trust Health Plans are described in the OE3 Specific Health Plan Document.~~

C. Part-~~t~~Ime Employees

Any part-time employee and dependents who, on September 6, 1991, are being provided with the same benefit contribution as full-time employees, will continue to receive full-time benefit contribution unless and until a successor Agreement is negotiated between the parties, if required. A part-time employee, hired on or after September 7, 1991, whose regular work schedule is more than thirty-two (32) hours per pay period shall be eligible to participate in the health/dental insurance programs on a pro rata basis according to the following schedule.

1. The County shall pay the full County contribution to the health/dental costs as specified in Article 8. Section 1.A.51. for a part-time employee whose regular work schedule as documented on the payroll personnel form is between sixty-four (64) to seventy-nine (79) hours per pay period on an ongoing basis; the Employee Contribution will be automatically deducted from the biweekly pay check.
2. The County shall pay 75% of the County contribution to the health/dental costs for a part-time employee whose regular work schedule as documented on the payroll personnel form is forty (40) to sixty-three (63) hours per pay period on an ongoing basis; the remaining 25% of the County Contribution plus the Employee Contribution will be automatically deducted from the biweekly pay check.
3. The County shall pay 50% of the County contribution to the health/dental costs for a part-time employee whose regular work schedule as documented on the payroll personnel form is thirty-two (32) to thirty-nine (39) hours per pay period on an ongoing basis; the remaining 50% of the County Contribution plus the Employee Contribution will be automatically deducted from the biweekly pay check.
4. Part-time employees whose regular work schedule is less than thirty-two (32) hours per pay period shall not be eligible for participation in the County health/dental insurance program.

A part-time employee may work additional or fewer hours than the employee's "ongoing" work schedule without changing the pro rata contribution. The pro rata contribution level may only be changed by amending the Payroll Personnel Form which documents the change to the ongoing work schedule.

Any part-time employee and dependents who, on or before September 6, 1991, are being provided with the same benefit contribution as full-time employees, will continue to receive full-time benefit contribution throughout the term of this MOU.

#### D. Enrollment

1. ~~Union Unit employees may choose the County sponsored Plan or OE3 Trust Health Plan.~~ Employees may enroll themselves and their eligible dependents in accordance with the provision of the County sponsored health/dental Plan. Employees may opt not to be covered by the County sponsored health/dental plan as allowed/required by law, ~~or the OE3 Trust Health Plan if allowed by law.~~ In such case, neither the County nor the employee shall be required to make the contributions specified in Article 8. Section 1.A or 1.C as allowed/required by law.

2. Open Enrollment Periods will occur once every calendar year in October. During an Open Enrollment Period, eligible employees may enroll themselves and eligible dependents in the County sponsored health plan of their choice.

E. Terms & Conditions

1. County sponsored medical plan coverage starts the first day of the month following employment and ends the last day of the month following termination of employment. Retirees, at their own expense, may continue to be enrolled in the County sponsored or may be eligible for contributions pursuant to Article 8, Section 67.D. Health Plan coverage shall be in accordance with the provisions of the Plan. Employees who retire or who separate from County service may, at their own expense, continue to be enrolled in the County sponsored plan in accordance with provisions of the plan or as provided by law.
2. The parties agree that the County Health/Dental Plan is a Defined Benefit Plan, and that the County is required to provide the specified benefits during the term of this MOU regardless of the level of contribution by the County and its employees.
3. The County will provide a vision care component for employees and their dependents that are enrolled in a County Health/Dental Plan.
4. The County agrees to provide an IRC 125 Plan for employees covered by this MOU who are in a County sponsored health plan for the sole purpose of providing for employee paid health plan contributions to be paid through the IRC 125 account.

F. Continuation of Health/Dental Plan - Military Call-Up

An employee who is a member of the United States Reserve Armed Forces or the National Guard and is called to or volunteers for active military duty in response to a call-up by the President of the United States as provided for by law, shall continue to be eligible for coverage under the applicable health/dental plan, notwithstanding the employee's absence due to the call-up or ineligibility due to such absence. Coverage shall continue for a period up to one (1) year from the date the employee commences an approved military leave of absence, or until the employee returns from active duty, whichever occurs first. Such continuation of coverage is contingent upon being allowed under the respective health care plan of the employee.

The County shall continue the same level of its contributions for the employee absent on military leave and that employee's dependents as would apply to other employees in the same classification and bargaining unit. The employee will be responsible for any contribution toward dependent coverage specified in the MOU.

Pursuant to these provisions, the employee absent on military leave shall not be required to use accumulated paid leave in order to be eligible for continuation of coverage and the county's contribution to the health/dental plan.

Prior to being considered eligible for continued coverage under these provisions an employee shall be required to provide documentary evidence, satisfactory to the County, of the employee's active duty status and shall also be required to notify the County in writing within ten (10) days of the employee's return to inactive duty status. Upon the employee's discharge from active duty status, the standard provisions of Article 8 of this MOU shall apply with full force and effect.

#### G. Patient Protection and Affordable Care Act

The parties acknowledge that the Federal Patient Protection and Affordable Care Act ("PPACA"), its current and future related regulations and California law developed in response to the PPACA may create new requirements for the County during the term of this Agreement. The County will comply with these new statutory and regulatory requirements to the best of its ability. The parties acknowledge that compliance with these requirements is mandatory and therefore not subject to meet and confer.

### Section 2. Life Insurance

The County shall provide a \$20,000 Group Life Insurance Plan for each employee who is regularly scheduled to work at least sixty (60) hours per pay period. Accidental Death and Dismemberment coverage is included in this Plan.

### Section 3. Long Term Disability

The County shall provide a Long Term Disability (LTD) Insurance Plan. ~~Effective January 1998, the County shall increase the with a~~ maximum LTD benefit to \$3,000/month for eligible employees.

### Section 4. State Disability Insurance

The County shall allow employees to integrate their sick leave and/or vacation benefits with their SDI coverage to provide up to one-hundred percent (100%) of the employee gross base salary. The individual employee shall pay the cost of SDI.

### Section 5. Injury or Illness Leave Time

The County and Union Association agree to the following in regard to "leave time" associated with employee injury and illness:

- A. When an employee is off work due to an illness or injury, the County will work with the Union Association to offer a plan that allows for crediting of service time

to the extent possible under the law and CalPERS rules. The parties understand that employee use of their accrued time, i.e., sick leave, vacation, etc., counts as service credits for CalPERS purposes.

- B. Family Medical Leave Act (FMLA) and California Family Medical Rights Act (CFRA) leave shall begin to count towards an employee’s twelve (12) week entitlement from the first day of the FMLA/CFRA qualifying event, with notice to the employee. All terms and conditions of the FMLA/CFRA shall apply.
- C. Employees off work due to a medical leave of absence shall be required to use accumulated sick leave, which may include being integrated with SDI, LTD, Worker’s Compensation, etc., if necessary, before going on any other County paid or unpaid leave. Employees may elect to “bank” up to eighty (80) hours of their sick leave for use upon their return to work.
- D. Employees will be allowed to use accumulated vacation, compensatory time off, etc., during a medical leave. For employees who are off work and eligible for FMLA, the County will continue its health insurance contribution, as defined in Article 8, Section 1, on the employee’s behalf (employees will be responsible for their portion), up to the time of the employee’s separation from County service.

An employee who is receiving less than their scheduled hours as stated above and who ceases to be eligible for County contributions must pay directly to Risk Management the full amount of the employee and County contribution, as prorated below, in order to retain benefit coverage under the County sponsored health/Dental/Vision Benefit Plan.

Hours in Paid Status	Employer Portion Paid by Employee
64-80	No charge to the employee
40-63	25% of Employer Contribution
32-39	50% of Employer Contribution
Less than <u>32</u>	100% of Employer Contribution

- E. The County will conduct periodic assessments of the status of an employee on medical leave. Assessments will be conducted at thirty (30) days of leave (or ninety (90) days of limited duty) and at least every ninety (90) days thereafter. The employee will be provided with the opportunity to provide input into the assessment.
- F. At any point the medical condition of an employee appears to be permanent, long term, of uncertain duration or likely to preclude the employee’s ability to return to work, the County will move to separate the employee and, if appropriate, make application to CalPERS for a disability retirement on behalf of the employee who is eligible for a CalPERS disability retirement. If an employee

is not eligible for CalPERS retirement, then the County will move to refer the employee to LTD. Notwithstanding Article 89, Section 3.F., payment for unused sick leave, employees medically separated under disability retirement shall be paid all of their unused accrued sick leave. If an employee is denied disability under CalPERS or LTD, the employee will return to work.

- G. The County and Union Association agree to encourage employees on medical leaves to return to work as soon as possible in a “light duty or “modified duty” capacity if possible.

## Section 6. Employee Assistance Program

The County agrees to maintain the Employee Assistance Program for employees in the bargaining unit.

## Section 7. Retirement Issues

### A. CalPERS Retirement Plans Formula

A. Determination of each employee’s pension formula will be administered as required by CalPERS.

1. Safety Tier 1 - ~~Safety r~~Retirement benefits for Classic members entering membership for the first time in the safety classification, employees hired prior or after October 5, 2012, shall be calculated using the retirement formula of 3% @ 50 with Single-Highest Year Final Compensation.
2. Safety Tier 2 - ~~Safety r~~Retirement benefits for Classic members entering membership for the first time in the safety classification, employees hired on or after October 5, 2012, shall be calculated using the retirement formula of 2% @ 50, with Average of Three-Year Final Compensation.
3. Safety Tier 3 - ~~New safety members to the CalPERS system hired on or after~~Effective January 1, 2013, New members shall have retirement benefits calculated using the retirement formula of 2.7% at age 57, with Average of Three-Year Final Compensation.

### B. CalPERS Contribution

Calculation of the employee contribution toward normal cost will be administered as required by CalPERS.

1. ~~Effective the third full pay period following adoption of the MOU by the Board of Supervisors, s~~Safety employees subject to Tier 1 Tier 2 will pay 9% of reportable compensation to help fund their pension.

2. Safety employees subject to Tier 3 will pay 50% of the normal cost of their pension.

The County agrees to continue the provisions contained in Section 414(h) (2) of the Internal Revenue Code concerning the tax treatment of employee retirement contributions to CalPERS.

C. 1959 Survivors Benefits

The County shall provide the Level 3 1959 Survivors Benefits, as defined in CalPERS Section 21382.2. Each employee shall contribute .93 cents per pay period as required by CalPERS regulations.

D. Retiree Health Contribution

1. For all employees hired before January 1, 2009, who have attained a cumulative total completed years of service (excluding extra help service and provisional) with the County as specified below, shall be entitled to the percentage monthly contribution of the “employee only” rate (strictly health and not to include dental or vision) at retirement toward a County-Sponsored Health Plan as follows:

Level 3	20 years plus	67%
Level 2	15 – 19 years	50%
Level 1	12 – 14 years	33%

Part-time employees (excluding extra help and provisional) shall be treated in accordance with the Retiree Health Benefits Contribution Plan Document.

County contributions for all bargaining units under this program shall not exceed 1.2% of total County payroll costs during any given fiscal year pursuant to the provisions of the Retiree Health Benefits Contribution Plan Document. The retiree health contribution rates will be calculated annually on a calendar year basis effective January 1 of each calendar year.

In lieu of the above and until July 1, 2003; retiring employees with twenty or more years of service with the County shall have a one-time irrevocable option to elect four years of contributions towards a County Sponsored Health Plan or Alternate County Sponsored Health Plan paid at the medical coverage employee-only rate (strictly health insurance, not to include dental and vision) in which the retiree is otherwise eligible to enroll.

2. Pursuant to the Letter of Agreement dated September 1, 2015, County contributions toward retiree health were discontinued for bargaining unit members hired on or after January 1, 2009. However, members hired into an allocated position (excluding extra help and provisional) on or after January 1, 2009, may continue to participate in the County-sponsored retiree health plan

options at their own cost provided they meet the criteria specified in the plan.

## ARTICLE 9. PAID LEAVES

### Section 1. Holidays

A. The following days shall be the official County holidays:

- \*1. January 1 - New Year's Day
- \*2. January (Third Monday) - Martin Luther King Jr.'s Birthday
- \*3. February (Third Monday) - Washington's Birthday
- \*4. May (Last Monday) - Memorial Day
- \*5. July 4 - Independence Day
- \*6. September (First Monday) - Labor Day
- \*7. November 11 - Veteran's Day
- \*8. November - Thanksgiving Day
- \*9. November - Friday after Thanksgiving
- \*10. December 24 - Christmas Eve
  - \* \_\_\_\_ (When December 25 falls on a Thursday, December 26, the day after Christmas, shall be observed as a County holiday in lieu of Christmas Eve.)
- \*11. December 25 - Christmas Day

~~In addition to which e~~Every day appointed by the President or Governor, upon concurrence by the County Board of Supervisors, for a public fast, Thanksgiving, or holiday shall also be considered as a holiday ~~for purposes herein.~~

B. Floating Holidays

Regular employees shall be entitled to up to sixteen (16) hours of floating holiday time which include Lincoln's Birthday February 12 and Columbus Day, the second Monday in October. This time will be credited in pay period 01 of each year; hours of floating holiday time for newly hired employees will be pro-rated based upon date of hire. Floating holidays shall be taken at a time agreeable to both the employee and the appointing authority. Part-time employees shall receive this holiday time on a pro-rated basis.

Lincoln's Birthday and Columbus Day will not be considered holidays for payroll purposes. Floating holiday time must be used by the last day of pay period 26 of each year and is not subject to the payoff provisions. Any unused floating holiday time will be lost.

C. If a holiday falls on a Sunday, the following Monday shall be observed as the holiday in lieu thereof. If a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday in lieu thereof. In years in which December 24th falls on a Sunday, the County shall also observe December 26th as a holiday (Tuesday). In years in which December 25th falls on a Saturday, the County shall

also observe December 23 as a holiday (Thursday).

1. If an employee works a nonstandard (rather than Monday through Friday) work schedule, their first day off shall be treated as if it was a Saturday and their second day off as if it was a Sunday.

If an employee works a nonstandard (rather than Monday through Friday) work schedule and has three (3) regular days off in a row and a regular day off falls on the official County holiday as identified in Section 1.A. above then their next regularly scheduled work day shall be observed as the holiday in lieu thereof.

2. It is the intent of this section to give all unit employees the same number of days off [thirteen (13) eight (8) hour days] with pay for holidays.

D. If a regular full-time ~~or part-time~~ employee is required to work on an official County holiday or observed holiday in lieu, the employee shall be ~~entitled to be compensated~~ paid premium compensation at the overtime rate double time and one half of their base hourly rate of pay for the first eight hours worked on the holiday and time and one-half of their base hourly rate of pay for all additional hours worked on the holiday. This shall be the full compensation for the holiday and for working on the holiday. Overtime—Hours worked on a holiday shall be compensated in cash or in compensatory time off (CTO)—in accordance with the provisions of Article 6, Section 2.

E. Regular full-time employees shall be entitled to take all authorized holidays at their base pay, including longevity, not to exceed eight (8) hours for any one (1) day, provided they are in a pay-paid status based on both their regularly scheduled work days immediately preceding and following the holiday.

F. Regular part-time employees shall be entitled to holiday pay as described above in proportion to the percentage of hours worked during the biweekly pay period which includes a holiday, not to be compounded and not to exceed eight (8) hours for any one (1) day. The holiday hours paid but not worked will not be used in the calculation of the percentage of hours worked that determines how many holiday hours will be paid. Part time employees shall be entitled to holiday pay in proportion to the percentage of full time hours worked during the biweekly pay period which includes a holiday.

## Section 2. Vacation

Unit employees receive vacation benefits consistent with the provisions of the County Personnel Rules subject to the provisions herein:

A. Accumulation Earned

1. ~~Under four (4) years employment~~First through forty-eight months of employment: .03875 per hour on pay status (3.1 hours earned per full pay period paid.) Maximum accumulation of 240 hours.
2. ~~Between the fourth and eleventh years~~Forty-ninth through one hundred and thirty second months of employment: .05875 per hour on pay status (4.7 hours earned per full pay period paid). Maximum accumulation of 320 hours.
3. ~~Over eleven (11) years~~One hundred and thirty third and higher months of employment: .0775 per hour on pay status (6.2 hours earned per full pay period paid). Maximum accumulation of 320 hours.

B. Conditions

1. ~~Employees may be allowed to take advanced vacation accruals during exceptional circumstances when the employee cannot get to work due to extreme weather conditions~~Use of Vacation shall be limited to those hours that were accrued as of the prior pay period, and Vacation cannot be used in the pay period in which it is earned.
2. Extra-help, or other employment time may not count toward the required continuous service for vacation benefits.

**Section 3. Sick Leave**

A. Accrual

Every regular employee shall accumulate sick leave at the rate of .04625 per hour on a pay status, calculated on the basis of actual service (3.7 hours earned per full pay period paid). There is no maximum accumulation.

B. Eligibility

New employees will be eligible to use sick leave with pay after completion of two (2) full biweekly periods of continuous service with the County.

1. Employees requesting sick leave to use for the purposes of the care of family members will be approved in accordance with applicable Federal and State law.
2. Use of sick leave shall be limited to those hours that were accrued as of the prior pay period. Sick leave cannot be used in the pay period in which it is earned.

### C. Verification

Employees are required to notify their supervisor as soon as possible of their absence due to illness or injury. A department, depending on its internal record keeping, may require an employee to fill-out a sick leave request form or record of sick leave use before or after an absence.

1. If an employee who has taken sick leave is suspected of abuse, the Department may institute an investigation. Based on the results of that investigation, appropriate action will be taken.
2. If an employee is believed to be an excessive user of sick leave or if the employee's sick leave use is suspect, the Department may require a physician's letter or other acceptable substitute before authorizing future sick leave usage. Examples of ~~future excessive~~ sick leave usage include, but are not limited to:
  1. Documented abuse, or;
  2. In excess of six (6) individual uses of sick leave in a twelve (12) month period, or;
  3. More than four (4) uses of sick leave in conjunction with vacation and/or holidays in a twelve (12) month period.

Each use of sick leave may last one or more days. Each day of a multi-day sick leave absence does not continue its own individual use of leave.

### D. Usage

Employees are entitled to be paid for sick leave used, to a maximum of the time accrued, under the following conditions:

1. The employees' illness, injury, disability or exposure to contagious disease which incapacitates the employee from performance of duties.
2. The employees' receipt of required medical, dental or optical care or consultation.
3. The employee may integrate the employee's sick leave with worker's compensation as provided for by State Workers Compensation laws. In addition, employees may integrate this sick leave with their SDI Benefits in accord with Article 8, Section 4.
4. The employees' attendance to care for a member of the immediate family who is ill. (~~Federal and State leave laws~~ family Medical Leave Act)

5. Funeral Leave - Employees may use up to three (3) days of Sick Leave for preparation, travel to and from, and attendance at the funeral of a member of the immediate family as defined below. Employees may be eligible for an additional two (2) days of Sick Leave for reasonable circumstances. For the purpose of this paragraph five (5), immediate family means: parent, spouse, (step) son, (step) daughter, sibling, mother-in-law, father-in-law, grandparents or grandchildren by blood or marriage.

E. Incapacity to Perform Duties

If the appointing authority has been informed through a doctor's report of a medical examination, that an employee is not capable of properly performing the employee's duties, the employer may require the employee to remain absent from work until the incapacity is remedied. During such absence the employee may utilize any accumulated sick leave, vacation, holiday and compensatory time or leave without pay. If the incapacity is not of a temporary nature, the appointing authority may take such actions as appropriate under the County rules on medical retirement, termination or demotion.

F. Payment for Unused Sick Leave

1. In order to receive payment for unused sick leave at the time of retirement only, a County employee must have five (5) or more years of County service.
  - a. Employees with over five (5) years of service:  
Shall receive twenty percent (20%) of their unused sick leave paid.
  - b. Employees with over ten (10) years of service:  
Shall receive forty percent (40%) of their unused sick leave paid.
  - c. Employees with over fifteen (15) years of service:  
Shall receive seventy percent (70%) of their unused sick leave paid.
  - d. Employees with over twenty (20) years of service:  
Shall receive one hundred percent (100%) of their unused sick leave paid.
  - e. In the event an employee dies while in active service with the County their sick leave payoff will be made in accord with the above schedule and the limitation of this article and will paid in the same manner as the final check.
2. Maximum number of hours paid shall not exceed five-hundred (500). Employee's last hourly rate of pay shall be used in computing payment.

#### G. Retirees Conversion of Sick Leave to Health Insurance Premium

An employee who is retiring under the CalPERS system may, at the employee's option, in lieu of Section F. "Payment for Unused Sick Leave", receive the equivalent value of that benefit in paid health plan premiums. Employees shall be responsible for whatever taxes as are appropriate for this benefit.

#### Section 4. Supervisory Leave

Employees in the classifications of Supervising Probation Officer-Institutions and Supervising Probation Officer will receive up to sixteen (16) hours of Supervisory Leave in pay period 01 of each year. ~~Eligible employees will receive up to eight (8) hours of Supervisory Leave the first pay period in July 1999.~~ Part-time supervisory employees shall receive this leave time on a pro-rated basis. Such leave does not accrue from year to year and must be used by the last day of pay period 26 of each year.

#### Section 5. Court Appearances

The provisions of the County Personnel Rules will apply to any employee who shall be called as a witness arising out of and in the course of his/her employment with another governmental agency.

#### Section 6. Catastrophic Leave

Catastrophic leave donation is designed to allow employees to donate vacation leave to other employees in times of exceptional need. Justifications for such transfers may include a catastrophic medical condition, injury or incapacitation of the employee.

- A. To be eligible for this benefit, an employee must have been employed by the County for one continuous year and worked no less than one thousand two hundred fifty (1,250) hours over the immediate preceding twelve (12) months. In addition, this leave may not be used for more than twelve (12) weeks in any twelve (12) month period.
- B. The employee requesting leave donations (requestor) must first exhaust all other forms of accrued paid leave.
- C. Contributions will cease if/when the catastrophic occurrence is resolved, or when twelve (12) weeks from the first transfer has passed.
- D. The amount of donated time paid to the requester will be reported as taxable income.
- E. Hours donated will not qualify the employee for hours worked as it relates to holiday pay, on-call duty compensation, Tahoe employment differential, bilingual differential, overtime, or time in class.

## PROCEDURE

- A. The requestor must provide a signed written request for donations of vacation leave to his/her supervisor. Additionally, a statement from a health professional verifying an injury or incapacity likely to last for at least one month must be forwarded to the supervisor before any action will be taken. The supervisor will forward the written request and verification to Human Resources.
- B. An employee's supervisor may take the initiative to request leave donations for an eligible employee. The recipient must consent, and all necessary documentation must be provided.
- C. Human Resources will ensure the requestor is eligible to receive catastrophic leave donations. Upon approval, Human Resources will post a notice on EDCnet advising employees of a request for donations. No additional notices will be sent.
- D. An employee wishing to donate vacation (contributor) will complete and submit to Human Resources a Catastrophic Leave – Vacation Donation form indicating the number of vacation hours being donated. The contributor must have at least 40 hours remaining after the donation. Once submitted, transfers of leave may not be revoked by the contributor. The requestor will not be made aware of who has donated leave.
- E. Donations will be made in one hour increments. Employees may donate up to an annual maximum donation of sixteen (16) hours to any employee. All donations will be deducted from the contributor's balance and held in queue until such time as they are needed by requestor. Donated hours will be drawn on by the requestor, as the need arises, from the pool of donated hours on an hour for hour basis. All unused pledges remaining in the pool will be credited back to the original contributors on a last donated, last used basis.

Donations will be charged hour for hour at the pay rate of the contributor to the department in which the requestor is employed.

## **ARTICLE 10. PERSONNEL PRACTICES**

### **Section 1. Probationary Periods**

#### A. Duration

Probationary periods are considered as a continuation of the selection process and apply to all initial appointments, promotions, employee initiated lateral transfers to a different position and as provided in Article ~~11-10~~, Section 1.B.1., below. Nothing herein is intended to create a "For Cause Standard" for release during a probationary period. Civil Service Status (permanent status) shall attach

only when a regular employee successfully completes the probationary period for the specific classification during their initial appointment. Nothing herein is intended to prevent the County from extending a probationary period one time for six (6) additional months to ensure an employee has demonstrated all of the necessary skills and traits to successfully pass probation for the job classification. The County must provide the employee written notice that the employee's probationary period will be extended at least seven calendar days before the employee's probationary period expires.

1. Employees in the Association's bargaining unit~~Union~~ shall have an initial new-hire probationary period of twenty-six (26) biweekly pay periods.
2. Employees ~~initially hired into or~~ promoted into classifications in the Association's bargaining unit shall have a probationary period of twenty-six (26) biweekly pay periods.
3. Leaves of absences, paid or unpaid, leaves granted under the Family Medical Leave Act, California Family Rights Act, Pregnancy Disability Leave, Americans with Disabilities Act, Workers' Compensation Laws, or other legally mandated leaves, and light duty, transitional duty or modified duty assignments that are not considered significantly within the job functions of the job classification or job assignment shall not count towards completion of the probationary period, as provided by law. Individual probationary periods shall be extended commensurately by each hour under these circumstances.
4. Time worked by an employee in a temporary, provisional, extra-help, or other employment shall not count toward completion of any probationary period.
5. An employee who is not rejected prior to completion of the prescribed probationary period, unless extended per the provision herein shall acquire permanent status automatically.

## B. Status of Employee

### 1. Probationary Period Required

A probationary period is required in the following circumstances: upon initial appointment to a position in a class in the classified service; upon promotion to a position in a class in the classified service; upon voluntary demotion or transfer to a position in a different class series in which the employee has not previously achieved civil service status unless a Department Head and employee agree to waiver or reduce the probationary period; upon displacement to a classification in a different class series where the employee has not completed probation at the lower level; upon displacement resulting from layoff or release from probation after promotion where total time in the higher and lower level classes is less than the required probationary period at the lower level; upon transfer to a position in the

same classification in a different department when the employee has not attained permanent status in the class, except that the total time in the probationary period in the class shall not exceed one year; upon reclassification to a class at the same or higher salary range unless waived by the appointing authority; in any other circumstance not specifically excluded in B.2.

## 2. Probationary Period Not Required

A probationary period shall not be required upon involuntary demotion; upon displacement resulting from layoff or release from probation after promotion where time in higher and lower level classes satisfies the required probationary period at the lower level; upon voluntary demotion to a position in a class in the same class series when the employee has completed the required probationary period in a higher level class; upon transfer to a position in the same class in the same department; upon transfer of the employee to a position in the same class in a different department when the employee has previously achieved permanent status in the class except where the Department Head and employee concur on a probationary period not to exceed thirteen (13) pay periods; upon restoration resulting from a layoff to their former position or lower position in their class series where the employee had completed a probationary period; upon reclassification to a classification in which the incumbent is Y-rated.

### C. Laid-Off Employees

An employee with permanent status who is laid off and subsequently reinstated to their former position or lower position in their class series shall not serve a new probationary period. Laid off employees hired into other County position from which they were not specifically laid off shall serve a new probationary period. Former probationary employees who were laid off and subsequently reemployed shall serve a complete new probationary period upon rehire.

### D. Rejection During Initial Probation

The appointing authority may terminate (reject) a probationary employee at any time during the probationary period without the right of appeal in any manner and without recourse to either the Grievance or Appeal Procedure; except when the employee alleges and substantiates in writing that the termination was due to political or religious or Union Association activities, race, color, national origin, sex, age, handicap or sexual orientation, or otherwise provided by law. Appeals on this basis shall be processed through the County's Discrimination Complaint Procedure. The appointing authority shall notify the employee in writing that he/she is rejected during probation. No reasons for the action are necessary.

### E. Rejection During Secondary Probation

Should an employee who has been promoted fail to satisfactorily complete his/her probationary period, such employee may elect to return to a position in the classification in the department from which the employee was promoted. If the employee held permanent status in such former classification, the employee shall not be required to serve a new probationary period. The employee's step and anniversary date shall be restored to their pre-promotion status.

Notwithstanding any other provisions, an employee rejected during the probationary period from a position in the County service to which the employee had been promoted, shall be restored to a position in the classification in the department from which the employee was promoted.

- F. ~~For employees hired after September 1, 1999, a~~At the beginning of all probationary periods, the employee will receive a written statement of expectations signed by the supervisor and the employee. The supervisor shall retain the copy signed by the employee and provide a copy to the employee.

Not less than monthly the supervisor shall meet with the employee to review the employee's progress toward meeting the supervisor's expectations. The supervisor shall provide the employee with a written summary of the meeting.

The employee will acknowledge receipt of the summary of his/her progress by signing a copy of the summary. The supervisor will retain the copy signed by the employee.

The employee shall be considered to have met expectations in any month in which the supervisor does not meet with the employee and provide the employee with a written summary of his/her progress.

All written summaries, containing the employee's acknowledgment of receipt, shall be submitted to Human Resources with the appropriate forms for successful completion of probation or of the employee's failure to complete the probationary period.

## **Section 2. Documentation of Performance Evaluation**

Non-probationary employees who have not yet reached the top step of their salary range shall be evaluated approximately thirty (30) days prior to the date that their next merit increase is due. Non-probationary employees who are at the top step of their salary range shall be evaluated annually on or about the anniversary date of their appointment to their current position. Nothing in this Section is intended to preclude the County from evaluating employees on a more frequent basis.

Good performance is to be acknowledged by use of letters of commendation and/or recognition which are submitted to Human Resources for inclusion in employees' personnel files. Letters of commendation and/or recognition from outside the

department are to be forwarded to Human Resources with a copy to the department for inclusion in the employee's personnel file. Neither the contents of an employees' performance evaluation nor failure to provide letters of commendation and/or recognition are grievable or appealable. However, an employee may submit a written response to a performance evaluation which shall be attached to and permanently filed with the performance evaluation.

Performance or issues which need improvement are to be documented by memorandum, e.g., letters of warning or counseling, reprimands, etc.

The Union Association agrees to adopt the current electronic Employee Performance Evaluation forms and process for documenting performance as noted in the MOU.

### **Section 3. Safety Reporting Procedure**

#### **A. Purpose**

The purpose of this section is to encourage employees to observe and report unsafe working conditions or equipment to the supervisors and for the supervisor to give immediate attention to such reports.

#### **B. Procedure**

Step 1: When an employee believes that an unsafe condition exists, the employee shall immediately bring the matter to the attention of the supervisor. If the supervisor does not take immediate steps to remedy the unsafe condition, the employee may file a written "safety" complaint with the supervisor.

Step 2: The supervisor will respond in writing to the complainant within two (2) working days of the time the written complaint is filed.

Step 3: If the written response of the supervisor is unsatisfactory, the employee may present the complaint to the Department Head or designee within two (2) working days. The Department Head or designee will review the alleged unsafe condition and will make the final decision on the complaint within two (2) working days of receiving the complaint. Copies of the safety complaint and the responses at all levels will be provided to the appropriate Safety Committee. The substantive decision of the supervisor or the Department Head is not grievable under Article ~~13-12~~ of the MOU. However, failure to adhere to this procedure is grievable under Article ~~13-12~~ of the MOU.

### **Section 4. Drug Free Work Place**

The County and the Union Association agree that they are committed to providing and maintaining a drug free work place in accordance with the Drug Free Work Place Act of 1988. It is understood that the unlawful manufacture, distribution, dispensing,

possession or use of drugs and/or alcohol is prohibited in the work place and that violation of this provision would subject the employee to disciplinary action. An employee may possess a prescription medication lawfully obtained via a prescription from a licensed medical doctor. The County has a zero tolerance standard for employees being under the influence of or in possession of alcohol and/or drugs while at work. Reasonable effort will be made to inform employees about the dangers of drug abuse in the work place, the availability of any counseling or rehabilitation, as well as the Employee Assistance Program, and that disciplinary action may be imposed upon employees for drug abuse violations occurring in the work place or affecting work performance. The Parties shall discuss the adoption of a reasonable suspicion drug testing policy during the term of this MOU.

### **Section 5. Closure of County Buildings Policy**

The County Administrative Officer or designee shall determine when County facilities shall be temporarily closed in an emergency as determined by the Chief Administrative Officer.

- A. Any and all twenty-four (24) hour, seven (7) days a week facilities and/or operations are exempt from Article 10, Section 5.
- B. Employees whose buildings have been temporarily closed may be reassigned to work sites in the same geographic area.
- C. Regular County employees scheduled to work, but who are directed not report to work or who are sent home from work due to the closure of their work site due to an emergency, shall receive their regular pay for that scheduled shift. An employee shall not receive regular pay if the employee does not report to work due to circumstances when there has not been a County directive closing the employee's work site.
- D. After the first day of closure of a County building, if the County is unable to reopen a work site, or is unable to obtain an alternative work site in the same geographical area, an employee will be compensated for that day(s) as if it were a holiday.
- E. Notwithstanding Article 6, Section 2, during a temporary closure of County buildings, those regular employees who are still required to work as part of our essential services, as defined by the Chief Administrative Officer, would receive overtime compensation at time and one-half for those hours actually worked during designated closure.
- F. Those employees who are on scheduled vacation, compensatory time off, sick leave or any other paid leave during a designated closure would not be affected by the closure.
- G. Should the closure of a County facility last longer than five (5) working days the

County reserves the right to reassign employees outside their geographical area. In the event of reassignment outside the employee's geographical area, the employee may at the employee's request utilize accumulated vacation and/or compensatory time off in lieu of reassignment unless the Chief Administrative Officer makes a finding that the employee's services are essential to the continued operation of the County.

H. Geographical area is generally defined as:

1. Tahoe Basin
2. Western Slope

### **Section 6. Appeals of Disciplinary Actions**

An employee in this unit, having obtained permanent status in the County's Civil Service System, shall have the right to appeal a termination, demotion in class or salary step or suspension without pay. Such appeal shall be in accordance with the provisions of the County Personnel Rules.

### **Section 7. Hepatitis B Inoculations**

The County shall provide Hepatitis B inoculations to all members of the bargaining unit.

## **ARTICLE 11. REDUCTION IN FORCE**

The following Reduction in Force policy is hereby included as a part of this MOU. Such inclusion, however, shall not provide avenues of appeal beyond those contained in this Article. This reduction in Force policy does not apply to employees who are covered by the Reduction in Force procedure defined in the California Administrative Code, Title 2, Division 5, Local Agency Personnel Standards.

### **Section 1. Policy**

When necessary, and directed by the Board of Supervisors, a reduction in the County's work force may be initiated by (1) lack of work, (2) lack of funds, (3) program or organizational changes resulting in a surplus of employees, or (4) elimination of a specific program or service. Insofar as possible, a reduction in force shall be accomplished by attrition. When it is determined by the Board of Supervisors that attrition will not provide relief for the condition warranting a reduction in the number of County employees, the Board may direct (1) a temporary layoff of up to ten (10) working days of specific employees or classifications without invoking the provisions of this policy, or (2) a specific layoff by classification, number of employees and department(s) pursuant to this policy.

## **Section 2. Procedure for Permanent Layoffs**

Reduction in Force occurs when the Board of Supervisors by Resolution amends the Authorized Personnel Allocation Resolution and/or adopts a Proposed or Final Budget that deletes specific positions by classification from a department.

- A. The Department of Human Resources, with the assistance of the affected department, determines the individuals to be laid off for the initial classification in which a layoff is to occur and for succeeding lower level classification(s) if displacement by demoting in lieu of layoff is anticipated in accordance with this Article based on employee retention points. A list of the classifications in which positions have been deleted along with the names and total retention points of employees in those classes shall be posted in the affected department and a copy mailed to the Union Association's current address. It is the Department Head's responsibility to insure posting.
- B. Layoffs and displacements are made within the department involved and are not Countywide.
- C. Written notice of layoff shall be served on affected employees in person or by USPS Priority mail sent to the last address on file with the Department of Human Resources. Notice will be served or mailed no later than thirty (30) calendar days prior to the effective date of separation. The thirty (30) calendar days shall include the effective date and the date served. Notice shall be deemed served upon the proof of service.
- D. The written layoff notice shall include the effective date of the separation (layoff), the reasons for the layoff, displacement rights, if any, rehire or restoration rights and the appeal rights. Such notice shall also set a specific deadline of not less than five (5) working days for when the affected employee must notify the Department of Human Resources that they will be exercising their displacement rights.

## **Section 3. Order of Layoffs**

Layoffs will be determined based on an inverse order of retention points computed as per provisions listed below by the classification within the individual department. Any required reduction in the number of employees shall be in the following order within the same classification:

- (1) Extra-help and provisional,
- (2) Probationary employees serving an initial probation period,
- (3) Regular (civil service status) part-time,

(4) Regular (civil service status) full-time employees.

A. Longevity

A full-time employee shall receive one (1) point for each full month of continuous service as a regular County employee in the employee's classification. Time spent in other classifications which the employee occupied within the prior three (3) years and which are at the same or higher rate of pay based upon the current salary plan applicable at the time of the layoff shall be included in the service time in the affected class. This includes probationary time.

Part-time employees shall receive a proportional amount of retention points based upon the number of hours worked. Less than a full month of service shall be prorated. It does not include service prior to employment, interruptions caused by resignation, dismissal, or transfer to extra-help status or disciplinary actions as defined in 2 below. It does include periods covered by authorized leaves of absences and such service accrued before a previous layoff.

B. Performance/Disciplinary Actions

1. An employee who receives an involuntary demotion as a disciplinary action will have twelve (12) points deducted from that employee's retention points if the administrative disciplinary appeal is completed or waived.
2. An employee who receives a suspension will have one (1) point per day of suspension deducted from the employee's retention points, with a maximum deduction of twelve (12) points if the administrative disciplinary appeal is completed or waived.

C. Alternate Classes - Classes which are budgeted as alternate classes (e.g. Office Assistant II/I), as stated in the Personnel Allocation Resolution, shall be treated as one class for purposes of determining retention points.

D. Out of Class Assignments - Out-of-class time will not be credited towards the out-of-class position in which the employee served. Out-of-class time will be considered as continuous service in the employee's regular classification.

E. Ties - In cases where two or more employees are tied with the same number of retention points, the following factors shall be considered in order for the purpose of breaking the tie: total County service (including County service prior to the most current period of employment); discipline actions; Department Head or designee determination. Letters of reprimand will be considered as a tie breaking criteria for up to three (3) years from the date of issuance.

F. Volunteers for Layoff - An employee who occupies a position within a class within a

department affected by a layoff and/or displacement may volunteer to be laid off in place of another employee who has fewer retention points and who would otherwise be laid off. Such employee shall be entitled to the same rights and restoration privileges as other employees in accordance with this Article.

#### **Section 4. Layoff Privileges**

The following are the options open to affected individuals in each layoff instance:

##### **A. Displacing in a Lower Class**

An employee affected by layoff may, at the employee's discretion, in lieu of layoff, displace an employee in a class previously held by the employee or in succeeding lower classes in the class series who has less retention points. Retention point computation for displacement purposes are made as determined for the original layoff. This is considered a voluntary demotion.

##### **B. Restoration**

Restoration shall be in inverse order of layoff. Names of employees with regular civil service status who have been laid off will be placed on an appropriate restoration list for their classification and department in order of Retention Points. The list will extend for a period of two (2) years. Employees shall also have restoration rights to a classification which has been replaced by a reclassification of the classification which the person previously had permanent status, provided that the duties have remained essentially the same. This list shall be maintained in the Department of Human Resources.

1. Three refusals to accept restoration from a departmental layoff list will remove the eligible individual's name from that list unless the offer of restoration is in excess of twenty five (25) miles from the geographical location of the position from which the employee was laid off.
2. A person notified of an offer of restoration must respond within ten (10) working days from the proof of service date. Offers of reemployment shall be sent by USPS Priority mail to the last address on file in the Department of Human Resources. It is the employee's responsibility to insure that a current address is provided to Human Resources.

##### **C. Transfer and Demotion**

Employees to be laid off may be permitted to transfer or demote at the discretion of the appropriate Department Head(s) prior to the layoff effective date. Transfer or demotion may be made to any funded vacant position where the employee meets the minimum qualifications. However, transfer will not be permitted to a position in another County department if a departmental layoff list exists for that

class. When an employee transfers or demotes in accord with provisions of this Article and is required by the Department Head to complete a new probationary period, which results in his rejection during probation, he shall not be required to forfeit his status on any layoff list.

D. Placement in Other Departments

In accordance with rules on order of layoff, an employee who shall be laid off shall have a right to be placed in a vacant position in the same class in another department which the department has determined to fill. Referral to vacant positions shall be offered based upon the inverse order of layoff. The new appointing authority shall have up to six (6) months to evaluate the employee's performance. If the appointing authority determines that the employee's performance does not meet job standards, the employee will be returned to the layoff list. The employee will, in accordance with the rules on restoration, be eligible for placement in another vacant position in the same class which a department has determined to fill, according to the provisions above.

E. Separation from County Service

Employees who are to be laid off have the option of leaving County service rather than displacing in a lower class, transferring or demoting. In the event an employee is laid off for an indefinite period, the employee may, upon request, receive payment for those benefits normally given to terminated employees.

F. Employment Interviews

Department Heads that are referred the names of individuals designated for layoff and who have requested transfers shall ensure that such persons are provided an employment interview.

G. Status on Restoration

An employee who has been laid off or voluntarily reduced under the provisions of this Article and subsequently restored in their former classification within a two (2) year period from the date of his/her layoff or voluntary reduction shall receive the following considerations and benefits:

1. All sick leave credited to the employee's account when laid off shall be restored, unless the employee received compensation for such sick leave at the time of the layoff.
2. All Retention Points held upon layoff shall be restored.
3. All prior service shall be credited for the purpose of determining sick leave and vacation earning rates, longevity pay increases, and time in step.

4. The employee shall be placed on the step of the salary range that was held at the time of the layoff.
- H. Meet and Confer - Prior to the actual layoffs, the County's representatives and the Union Association shall, at the request of the Union Association, meet and confer over the practical effects of the proposed layoffs.

### **Section 5. Deviation from Retention Points**

The Board of Supervisors may approve deviations from the order of layoff by retention points or demotions in lieu of layoff (bumping) when retention points order alone would result in retaining employees unable to maintain a satisfactory level of performance in the department affected. In such cases, the Department Head or shall fully justify and document in writing no later than two (2) weeks prior to submittal to the Board with the reasons therefore. The affected employees shall be provided a written notice of the department's request, reasons therefore and the date the Board of Supervisors shall consider the department's request.

### **Section 6. Appeal of Layoff**

#### **A. Right of Appeal**

1. Regular civil service employees receiving a notice of layoff shall have the right to appeal only whether or not there was compliance with the procedures prescribed in this Article.
2. The right of appeal is limited to the scope and process provided in this section, "Appeal of Layoff".
3. The scope of any appeal shall not include such issues as the need for layoff, the reasons for layoff, or the exercise of other County prerogatives involved in layoff.
4. Probationary, Temporary and extra help appointment have no right of appeal of a notice of layoff. Questions and disputes regarding regular civil service status shall be determined by the Civil Service Commission in accordance with their rules, regulations and procedures.

#### **B. Notice and Timing of Appeal**

1. Appeals shall be filed in writing with the Director of Human Resources or designee. An email shall be accepted as a written appeal.-
2. Appeals shall be filed within five (5) working days after the date of service of the notice of layoff as provided in this section, "Appeal of Layoff".

3. The notice of appeal shall state the employee's reasons for the appeal consistent with this Article.

C. Responsibilities of the Director of Human Resources

1. The Director of Human Resources or designee shall within three (3) working days of receipt of an appeal forward a copy of the appeal to the Union Association.
2. The Director of Human Resources or designee shall within three (3) working days of receipt of an appeal, determine which employees, if any, will be adversely affected if the appeal is successful. Human Resources will notify all employees potentially adversely affected of the appeal within five (5) working days of receipt of the successful appeal.-

D. Layoff Arbitration Panel

A tripartite Layoff Arbitration Panel shall be appointed to hear all appeals having the same effective date for layoff.

1. Appeals shall be heard by a tripartite panel consisting of:
  - a. A representative designated by the Director of Human Resources or designee.
  - b. A representative designated by the Union Association.
  - c. A neutral member selected in accordance with paragraph F.4.BD.2.
2. The neutral Layoff Arbitration Panel member shall be chosen by:
  - a. Mutual agreement between the County and Union Association or their designated representatives within five (5) working days of notification to the Union Association of an appeal.
  - b. If the County and the Union Association fail to name a neutral arbitration panel member within five (5) working days of notification to the Union Association of the appeal, a member of the Civil Service Commission (CSC) shall serve as the neutral third member of the arbitration panel.
    - i). The Department of Human Resources will notify the Chair of the CSC of the inability to agree on a neutral;
    - ii). The Department of Human Resources will notify the Chair of the

CSC of the desire that a member of the CSC serve as the neutral member of the Layoff Arbitration Panel in lieu of agreement on a third party.

- iii). The Chair of the CSC shall name a member of the CSC to serve as the neutral member of the Layoff Arbitration Panel and an alternate.
3. The Layoff Arbitration Panel shall convene and open the hearing within fifteen (15) working days of the initial filing of the appeal. Representatives to the arbitration panel shall be named with primary consideration being given to their availability to meet within the fifteen (15) working day time limit.
    - a. If either or both party fails to name a representative who can meet within the time limit the CSC Chair shall name a member(s) of the CSC to serve as a second and if necessary third neutral in lieu of the failure of either or both parties to provide an available representative.
    - b. If the Civil Service Commissioner(s) designated, or the alternate, cannot serve within the time limit, the Chair shall designate another Civil Service Commissioner(s) who can serve within the time limit.

#### E. Hearing Process

1. The employee filing the appeal and all other potentially affected employees will be notified of the date, time and place of the hearing not less than two (2) working days in advance of the hearing.
2. The neutral member shall serve as Chair of the Layoff Arbitration Panel.
3. The hearing shall be conducted in accordance with standard administrative hearing procedures used by the Civil Service Commission.
4. In addition to hearing such evidence and witnesses of the parties including any employees potentially affected by the appeal, the Layoff Arbitration Panel may question witnesses and call such witnesses as they deem appropriate.

#### F. Decision

1. The Layoff Arbitration Panel shall issue their written decision within two (2) working days of closing the hearing.
2. The decision of the Layoff Arbitration Panel shall be final and binding on all parties.

## **ARTICLE 12. GRIEVANCE PROCEDURE**

### **Section 1. Intent**

It is the intent of this procedure to provide for an orderly and equitable procedure for the resolution of misunderstanding and disputes between the County and its employees.

### **Section 2. Scope of Grievance**

- A. A grievance is a claimed violation, misapplication or misinterpretation of the provisions of a Resolution or employee protections contained in ordinances, resolutions, personnel rules or written policies, adversely affecting an employee's wages, hours or conditions of employment.
- B. Specifically, excluded from the scope of grievances are:
  - 1. Subjects involving the amendment or change of Board of Supervisor's resolutions and ordinances, which do not incorporate the provisions of this MOU or other employee protections contained in ordinances, resolutions, personnel rules or written policies.
  - 2. Discrimination complaints that allege violations of equal employment opportunity laws or employment discrimination which shall be processed under the County's Discrimination Complaint Procedure.
  - 3. Appeals of the "Reduction in Force" articles and policies which fall under the appeal process contained within that policy.
  - 4. Appeals of disciplinary actions resulting in termination, demotion, suspensions without pay which fall under the County's Civil Service Appeal Procedure.

### **Section 3. Definitions**

- A. Grievant - A grievant is (1) an employee in the unit who is filing a grievance as defined herein or (2) if two or more employees have essentially the same grievance, they may, if approved by the Director of Human Resources or designee, submit their combined grievances as one grievant, or by Union Association as the grieving party.
- B. Day - Shall mean day(s) in which the County's main administration office is open for business.

### **Section 4. Grievance Procedure Steps**

- A. Informal Discussion - Every effort should be made to settle grievances at the lowest level of supervision possible. If an employee has a complaint relating to a work situation, the grievant is encouraged to request a meeting with the grievant's

immediate supervisor to discuss the problem in an effort to clarify the issue and to work cooperatively toward settlement. Such discussion shall occur within fifteen (15) working days of the incident or occurrence giving rise to the complaint. The immediate supervisor shall respond informally within seven (7) working days.

B. Formal Grievance Steps - The formal grievance procedure shall consist of the following steps, each of which must be completed prior to any request for further consideration of the matter unless waived by mutual consent or as otherwise provided herein.

1. Immediate Supervisor - A grievant and representative may formally submit a grievance to the immediate supervisor within seven (7) working days from the date of the immediate supervisor's informal decision or if the informal discussion has not taken place fifteen (15) working days from the date of the incident or occurrence giving rise to the complaint. An email may serve as a formal submission. Such a written grievance shall set forth the facts at issue, the relief sought and the time of the occurrence of any alleged incident or violations precipitating the grievance. The immediate supervisor shall respond in writing within seven (7) working days after receiving the grievance. If the grievance is denied, the reasons for denial shall be given in the supervisor's response. This response shall contain the position to which the next level of employee grievance should be addressed such as an intermediate supervisor or Department Head.
2. Intermediate Supervisor - If the grievance is not resolved by the written decision of the immediate supervisor and if there is an intermediate level of supervision, the grievant and representative may, within five (5) working days after the date of the immediate supervisor's decision, file a written appeal to the intermediate supervisor designed in the decision being appeal. Such intermediate supervisor shall respond in writing within ten (10) working days. If the grievance is denied, the reasons for denial shall be given in the supervisor's response. This response shall contain the position to which the next level of employee grievance should be addressed.
3. Department Head - If the grievance is not resolved by the written decision of the immediate/intermediate supervisor, the grievant may submit in writing within five (5) working days after the date of the immediate/intermediate supervisor's written decision the grievance to the Department Head. The Department Head shall conduct such meeting(s) with the grievant; informal hearings and investigations as are appropriate in the Department Head's judgment and deliver to the grievant a written decision within ten (10) working days. If the grievance is denied, the reasons for denial shall be included in the response.
4. Director of Human Resources or Designee - If the grievant wishes to appeal the Department Head's decision, the grievant and representative may do so

in writing to the Director of Human Resources or designee within five (5) working days after the date of the Department Head's decision. The Director of Human Resources or designee shall conduct such meeting(s), informal hearings and/or investigations as are appropriate in their judgment and deliver to the grievant a written decision within fifteen (15) working days. If the grievance is denied, the reasons for the denial shall be included in the response.

- C. Final Resolution - Should the grievant and representative be unsatisfied with the decision of the Director of Human Resources or designee, the grievant and representative may within ten (10) working days notify the Director of Human Resources or designee that the grievant is appealing the Director of Human Resource's or designee's decision to arbitration, for final resolution of the grievance, subject to ratification by the Board of Supervisors if the decision required an unbudgeted expenditure.

Grievances that involve an interpretation of a personnel resolution, personnel rule or MOU shall be appealed through the arbitration method as it is described in this paragraph.

If Arbitration is chosen, the grievant and representative and the County's Management representative shall attempt to mutually agree on an acceptable arbitrator. If no agreement can be reached on an arbitrator within five (5) working days, a list of seven (7) names from the California State Conciliation & Mediation Service shall be obtained. The parties shall alternately strike names until only one name remains, which name shall be the arbitrator in the dispute. The party to strike the first name shall be chosen by lot. The arbitrator shall have no power to add to, subtract from, alter, modify or go beyond the applicable provisions of the MOU or Resolution.

## **Section 5. Basic Rules**

- A. Costs - All costs incurred jointly by both parties to the final resolution process shall be borne equally by the parties. Costs incurred separately shall be borne by the party incurring them.
- B. Time Limits - If the grievant and representative fail to carry the grievance forward to the next level within the prescribed time period, the grievance shall be considered settled based upon the decision rendered at the most recent step utilized. If a supervisor or manager fails to respond with an answer within the given time period, the grievant may appeal the grievance to the next higher level. Time limits may be waived by mutual written consent of the parties.
- C. Representation - The grievant may be represented by a person of the grievant's choice at any formal level of this procedure. The grievant may take reasonable County time without loss of pay to prepare the grievance and meet with

management representatives regarding the grievance. Other employees assisting or representing the grievant shall do so on their own time.

### **ARTICLE 13. PEACEFUL PERFORMANCE CLAUSE**

The parties to this MOU recognize and acknowledge that the services performed by the County employees covered by this Agreement are essential to the public health, safety, and general welfare of the residents of the County of El Dorado. The Union Association agrees that under no circumstances will the Union Association recommend, encourage, cause or permit its members to initiate, participate in, nor will any member of the bargaining unit take part in any strike, sit-down, stay-in, sick-out, slowdown or picketing (hereinafter collectively referred to as work stoppage) in any office or department of the County, nor to curtail any work or restrict any production, or interfere with any operation of the County. Nor will this organization recognize the strike or job action of any organization or engage in any sympathy strike by recognizing the strike, job action or picket lines of any other organization. In the event of any such work stoppage by any member of the bargaining unit, the County shall not be required to negotiate on the merits of any dispute which may have given rise to such work stoppage until said work stoppage has ceased.

In the event of any work stoppage, during the term of this MOU, whether by the Union Association or by any member of the bargaining unit, the Union Association by its officers, shall immediately declare in writing and publicize that such work stoppage is illegal and unauthorized, and further direct its members in writing to cease the said conduct and resume work. Copies of such written notice shall be served upon the County. In the event of any work stoppage the Union Association had not otherwise authorized, permitted or encouraged such work stoppage, the Union Association shall not be liable for any damages caused by the violation of this provision. However, the County shall have the right to discipline, to include discharge, any employee who instigates, participates in, or gives leadership to, any work stoppage activity herein prohibited, and the County shall have the right to seek full legal redress, including damages, as against any such employee.

#### **Section 1. Job Sick-Outs – Variance from Personnel Rule 1404**

Whenever the CAO or designee determines that an increase in absenteeism due to a job action or sick out is significantly and detrimentally affecting the ability of one or more departments to carry out their functions he/she may declare that this Section shall be in force and the following rules shall apply. These requirements shall stay in effect for all purposes until after the CAO determines that the increased incidence of absenteeism and the threat of such increased incidence of absenteeism have abated.

- A. The Department Heads of the departments specified in the CAO declaration shall require that each employee who is unable to report for duty due to illness or injury that is requesting sick leave shall provide a certificate completed and signed by a licensed physician or other qualified medical professional. This certificate shall show

that the physician examined the employee during the period of absence from work, state the date of each examination, describe the physician's diagnosis of the employee's illness or nature and extent of the employee's injury and certify that the physician has recommended that the employee be excused from work for medical reasons, and the specific number of days of the recommended excuse. Such medical verification shall be provided to the Department Head within three (3) working days of the employee's return to work.

- B. The employee shall also provide a sworn affidavit justifying their claim of sick leave. Such affidavit shall be provided to the employee by the Department Head upon their return to work. Each request for sick leave time will be evaluated individually at the time the required documentation is received.
- C. An employee shall not be allowed sick leave credit and shall not be compensated for any period of absence unless ~~it~~ has complied with the requirements of this policy and unless the information provided therein and otherwise required of or provided by the employee is deemed to substantiate the claimed illness or injury. The employee may appeal a denial of sick leave through the County's Grievance Procedure.
- D. It is recognized that the facts which constitute the basis for use of sick leave may vary considerably from employee to employee and that in rare instances, the specific requirements of this rule may not be appropriate or feasible. Accordingly, discretionary variances, (but not waivers from the requirements of these rules) may be considered and allowed by the CAO or designee. Any such variance shall, if feasible, provide for an acceptable alternative means by which the employee involved shall provide assurance of the existence of facts which are adequate as a basis for proper use of sick leave.

#### **ARTICLE 14. FULL UNDERSTANDING, MODIFICATION, WAIVER**

This MOU sets forth the full and entire understanding regarding the matters set forth herein, and any other prior or existing understandings or agreements relating to such matters are hereby superseded or terminated as appropriate. It is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right to negotiate, and agrees that the other party shall not be required to negotiate, with respect to any matter covered herein during the term of this MOU.

No agreement, alteration, understanding, variation, waiver or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties, unless made and executed in writing by all the parties hereto, and if required, approved and implemented by the County.

#### **ARTICLE 15. SEVERABILITY**

If any provisions of this MOU are held to be contrary to law by a court of competent jurisdiction, such provisions will not be deemed valid and subsisting except to the extent

permitted by law, but all other provisions will continue in full force and effect.

#### **ARTICLE 16. ECONOMIC HARDSHIP REOPENER**

At any time after the effective date of this MOU upon 30 calendar days written notice to the Union Association, the County may reopen this agreement for renegotiation of economic issues if a financial shortfall in the County budget has occurred that caused the Board of Supervisors to actually reopen negotiations with other employee groups with negotiated MOUs or adopted Salary and Benefit Resolution, except with respect to any salaries governed by Section 504 of the County Charter. Any notice provided subject to this section must include evidence demonstrating the basis for the claim of financial hardship.

At any time after July 1, 2015 the effective date of this MOU, either party may request to meet and confer over the economic status of the County and the impact on the members of the bargaining unit.

In witness whereof, the parties hereto have caused this Memorandum of Understanding to be executed by affixing their signatures below.

COUNTY OF EL DORADO

EL DORADO COUNTY  
OFFICERS ASSOCIATION

PROBATION

\_\_\_\_\_  
Jack Hughes  
Liebert, Cassidy, Whitmore  
Lead Negotiator for the County

\_\_\_\_\_  
Daniel L. Koontz  
Mastagni Holstedt, A.P.C.  
Labor Consultant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tameka Usher  
Human Resources Director

\_\_\_\_\_  
Date

BOARD OF SUPERVISORS

\_\_\_\_\_  
Michael Ranali, Chair

\_\_\_\_\_  
Date

ATTEST: James S. Mitrison,  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Date