



## RESOLUTION NO.

### OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

**WHEREAS**, on May 7, 2013, the Board of Supervisors adopted the County of El Dorado Personnel Rules by way of Resolution 048-2013; and

**WHEREAS**, on March 4, 2014, the Board of Supervisors adopted revisions made to the County of El Dorado Personnel Rules by way of Resolution 015-2014, superseding Resolution 048-2013; and

**WHEREAS**, on May 9, 2006 the Board of Supervisors adopted, and subsequently adopted revisions on September 18, 2007, Board of Supervisors Policy E-6, Relocation Reimbursement; and

**WHEREAS**, on May 9, 2006 the Board of Supervisors adopted, and subsequently adopted revisions on September 25, 2007, Board of Supervisors Policy E-7, Recruitment Signing Bonus; and

**WHEREAS**, on December 9, 2008 the Board of Supervisors adopted Board of Supervisors Policy E-8, Tuition Reimbursement; and

**WHEREAS**, on November 22, 1998 the Board of Supervisors adopted Personnel Policy Number 2, Early Salary Range Step Advancement Policy; and

**WHEREAS**, on February 2, 1988 the Board of Supervisors adopted, and subsequently adopted revisions on February 8, 1994, Personnel Policy Number 3, Management Evaluation Program; and

**WHEREAS**, on April 30, 1991 the Board of Supervisors adopted, and subsequently adopted revisions on May 8, 1991, Personnel Policy Number 4, Payoff of Compensatory Time Off for Employees Promoted to a Management Position; and

**WHEREAS**, the Board of Supervisors has determined that to the greatest extent possible, the rules concerning the personnel practices of the County should be incorporated into a single document; and

**WHEREAS**, it is necessary to update, revise, and clarify language in the County of El Dorado Personnel Rules consistent with laws, regulations, and industry standard practices; and

**WHEREAS**, the Department of Human Resources has drafted revisions to the County of El Dorado Personnel Rules as a successor policy document, and these revisions also incorporate and update Board of Supervisors Policies E-6, E-7, and E-8, and Personnel Policy Numbers 2, 3, and 4.

**NOW, THEREFORE, BE IT RESOLVED**, the Board of Supervisors of the County of El Dorado authorizes the Director of Human Resources to make any technical corrections if needed.

**BE IT FURTHER RESOLVED**, that the Board of Supervisors of the County of El Dorado does hereby adopt the revised County of El Dorado Personnel Rules, attached hereto as Exhibit A, superseding the County of El Dorado Personnel Rules Resolution 015-2014.

**BE IT FURTHER RESOLVED**, that the Board of Supervisors Policy E-6, Relocation Reimbursement; Board of Supervisors Policy E-7, Recruitment Signing Bonus; Board of Supervisors Policy E-8, Tuition Reimbursement; Personnel Policy Number 2, Early Salary Range Step Advancement Policy; Personnel Policy

Number 3, Management Evaluation Program; and Personnel Policy Number 4, Payoff of Compensatory Time Off for Employees Promoted to a Management Position are hereby withdrawn and of no further force or effect.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the \_\_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote of said Board:

Ayes:

Attest:

James S. Mitrisin  
Clerk of the Board of Supervisors

Noes:

Absent :

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

\_\_\_\_\_  
Sue Novasel, Chair, Board of Supervisors

## Exhibit A



# COUNTY OF EL DORADO PERSONNEL RULES

Adopted February 26, 2019 Resolution XXX-2019

### Successor policy document combining and replacing:

- County of El Dorado Personnel Rules, Resolution 015-2014
- Board of Supervisors Policy E-6, Relocation Reimbursement
- Board of Supervisors Policy E-7, Recruitment Signing Bonus
- Board of Supervisors Policy E-8, Tuition Reimbursement
- Personnel Policy Number 2, Early Salary Range Step Advancement Policy
- Personnel Policy Number 3, Management Evaluation Program
- Personnel Policy Number 4, Payoff of Compensatory Time Off for Employees Promoted to a Management Position

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## **PART 1 : GENERAL PROVISIONS**

### **101. AUTHORITY**

The County of El Dorado (County) Personnel Rules (Rules) are adopted pursuant to the El Dorado County Charter (Charter), Article V, as ratified by majority vote at the election of November 8, 1994 and became effective when accepted and filed by the Secretary of State on December 27, 1994.

### **102. PURPOSE**

In accordance with Article V of the Charter, these Rules are adopted by the Board of Supervisors in order to implement the following principles:

- (a) The County shall recruit, select, and retain the best qualified officers and employees available.
- (b) The County shall provide equal opportunity for all persons at all levels of County employment in accordance with provisions of the Charter and pursuant to state and/or federal law.
- (c) The County shall appoint, evaluate, transfer, promote, compensate, discipline, and dismiss employees on the basis of job-related qualifications, performance, merit, and equal employment opportunity.
- (d) No person shall be favored or discriminated against with respect to either employment with or appointment to the County service on the basis of any non-job related factor protected by state or federal law.

These standards are intended to strengthen public service and to maintain and promote faith and confidence of the people in their government.

### **103. PERSONNEL RULES; MOU**

- (a) Article V, Section 501 of the Charter, reads in part as follows:  
The Board of Supervisors shall establish and amend, by Resolution, Personnel Rules in accordance with this Charter to implement the foregoing policies and other provisions of this Charter.
- (b) In any case where by reason of unusual circumstances rigid adherence to the principles relating to salary adjustments or appointments set forth in the Personnel Rules and regulations would be discriminatory, unfair or detrimental to the best interest of the County; the Board by four-fifth (4/5) vote, after having received the recommendation of the Chair of the Board of Supervisors and the Chief Administrative Officer thereon, may make such order relating thereto as in its opinion is not contrary to the general intent of such Rules and regulations and under all the circumstances is just and proper.
- (c) If a provision of these Rules conflicts with any provision of an applicable MOU, to the extent of such conflict the provision of the MOU shall be deemed controlling with regard to the employees covered by that MOU.

### **104. PERSONNEL RULES; LOCAL AGENCY PERSONNEL STANDARDS**

In the event any provision of these Rules is determined by the Executive Officer of the California Department of Human Resources to be in conflict with the Local Agency

Personnel Standards (LAPS), that provision shall be deemed to be null and void with regard to employees covered by California Government Code Section 19800 et seq., in which case LAPS shall prevail.

#### **105. INTERPRETATION OF PERSONNEL RULES**

The Board of Supervisors, on its own initiative, or at the request of (i) the Chief Administrative Officer, (ii) an appointing authority, or (iii) the Director of Human Resources (Director), may interpret any provision of these Rules and resolve conflicts between County officials concerning the interpretation or implementation of these Rules. Nothing in this Rule 105 shall give any individual employee or employee organization the right to appeal a matter to the Board of Supervisors under this Rule 105.

It is intended that these Rules shall be interpreted broadly consistent with the meaning of the Charter, with principles of good personnel practice and the spirit of the merit principles.

#### **106. AMENDMENT OF PERSONNEL RULES**

It is the intent of the Board of Supervisors that these Rules shall be a "living" document which will effectively guide interactions between the County, its officers, and employees. To achieve this goal, the Board of Supervisors intends that these Rules shall be reviewed frequently and revised or amended by the Board of Supervisors as necessary.

## **PART 2 : DEFINITION OF TERMS**

The terms used in these Rules shall have the meaning indicated below unless the context indicates otherwise.

### **201. ACTUAL SERVICE**

For the purpose of determining the amount of sick leave and vacation earned by a regular employee means the number of regular hours worked within a biweekly pay period and absence from work with pay due to sick leave, vacation, injury, or illness incurred in County service, absence on protected leave, and compensatory time off taken. Actual service does not include compensatory time off earned or overtime.

### **202. ALLOCATED POSITION**

A position within a classification established by the County's Authorized Personnel Allocation Resolution adopted by the Board of Supervisors and funded through the County's budget process.

### **203. ALTERNATELY ALLOCATED POSITION**

A position in the County's Authorized Personnel Allocation Resolution that has been approved for appointment at two or more levels within a class series. Alternately allocated positions are approved in the County budget in order to provide flexibility in filling positions at different levels, based on departmental need and the qualifications of the eligible candidates.

### **204. ANNIVERSARY DATE**

For all regular employees means the first day of the biweekly pay period following their accession to step 2 of the salary range in their current classification, and each annual anniversary date thereafter. For employees hired at an advanced step, the anniversary date is the date of hire or promotion to the advanced step.

### **205. APPLICANT**

A person who under these Rules, has made formal application for employment.

### **206. APPOINTING AUTHORITY**

Except as otherwise provided by law, the Board of Supervisors is the appointing authority for all appointed department heads. The appointing authority has, and may delegate, the authority to appoint, supervise, suspend, and remove all employees in their respective departments, subject to applicable law and these Rules.

### **207. AT-WILL EMPLOYEE**

Any County employee who: (i) is in the unclassified service and does not hold regular status, (ii) serves at the pleasure of the Board of Supervisors or another County employee or appointee, and (iii) can be terminated at any time without cause and without the opportunity to appeal.

### **208. AUDITOR-CONTROLLER**

The Auditor-Controller of El Dorado County or designee.

**209. BASE HOURLY RATE**

The hourly rate corresponding to the salary step in the salary range of the classification to which the employee is appointed.

**210. BIWEEKLY PAY PERIOD**

Unless otherwise indicated, the eighty (80) hour biweekly period is utilized by the Auditor-Controller for payment to County employees.

**211. BOARD**

When used alone, means the Board of Supervisors of the County of El Dorado.

**212. CalPERS**

The California Public Employees' Retirement System.

**213. CANDIDATE**

A person who, under these Rules, has made formal application for employment and has been determined to meet the minimum qualifications for the classification to which he/she has applied.

**214. CHIEF ADMINISTRATIVE OFFICER**

The Chief Administrative Officer of the County of El Dorado or designee.

**215. CHARTER**

The El Dorado County Charter approved by a majority vote of the electors on November 8, 1994, as such the Charter may be amended from time to time.

**216. CIVIL SERVICE COMMISSION**

The duly appointed Civil Service Commission of El Dorado County established pursuant to Section 502.2 of the Charter.

**217. CIVIL SERVICE STATUS**

The status achieved by a regular employee who has successfully completed the probationary period specified for a classification in the classified service. Civil service status is also referred to as "post-probationary status".

**218. CLASSIFICATION**

A position or group of positions having duties and responsibilities sufficiently similar that (i) the same title may be used, (ii) the same qualifications and selection procedures may be used, and (iii) the same schedule of compensation may be used to apply with equity. Classification is also referred to as "class".

**219. CLASS SERIES**

A group of classes that is comparable in the type of duties assigned and the nature of the work, with consistent titling, where the level of independence and responsibility is progressive in nature. Within each class series there may be classifications at every level or only at selected levels. A class series typically may include an entry-level, journey-



level, advanced journey/lead-level, supervisory-level, and manager-level.

**220. CLASSIFIED SERVICE**

All allocated and classified positions to which appointments are made through a competitive recruitment and selection process and in which an employee can achieve post-probationary (civil service) status in the classification. Positions in the classified service are subject to the provisions of the El Dorado County Civil Service Ordinance, Chapter 2.60 of the El Dorado County Code.

**221. CLASS TITLE**

The designation given to a class, to each position allocated to the class, and to the position which an employee is allocated.

**222. COMPENSATORY TIME OFF**

With appointing authority approval, a non-exempt employee can accrue time off with pay in lieu of receiving overtime compensation.

**223. COMPETITIVE RECRUITMENT AND SELECTION PROCESS**

Through an open or promotional recruitment, candidates participate in one or more selection procedures. Candidates that pass all applicable selection procedures are placed on an eligible list and may be considered for appointment.

**224. CONFIDENTIAL EMPLOYEE**

An employee, as designated by the County, who in the course of his/her duties, has access to information relating to the County's administration of employer-employee relations. Confidential Employees<sup>1</sup> are non-managerial employees who have access to confidential information to which a manager has access as well as information that relates to employee relations issues such as policy making, discipline, grievance handling, settlement agreements, bargaining proposals, or bargaining strategy. Qualifying job duties involve aiding and assisting an appointing authority or manager in employee investigations, processing discipline or grievances, or preparing bargaining strategy or policy formation, which includes but is not limited to typing and processing related documents. In most cases, that would call for an appointing authority or manager to have one (1) support person designated as confidential.

**225. CONTINUOUS SERVICE**

The period of actual service commencing with the employee's hire date and continuing until broken by resignation or dismissal.

**226. COUNTY**

The County of El Dorado as the employing entity.

**227. COUNTY OFFICER**

Those officers enumerated in California Government Code Section 24000 and following.

<sup>1</sup>Pursuant to Arbitrator Case No. 58100-U-a

**228. COUNTY SERVICE**

All positions in all departments subject to control and regulation of the Board of Supervisors.

**229. COVERED SERVICEMEMBER**

A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

**230. DEMOTION**

The movement of a regular employee to another position in a class having a salary range that is five percent (5%) or more below the salary range of the class previously occupied by the employee, or to a lower compensation level within the employee's salary range.

**231. DEPARTMENT**

The agency or organizational unit of County government.

**232. DEPARTMENT HEAD**

The administrative head of a department, including elected officials who oversee departments. Department head is also referred to as "appointing authority".

**233. DIRECTOR OF HUMAN RESOURCES**

The position with direct oversight and management of the functions of the Human Resources Department, however that position is titled. The Director of Human Resources is also referred to as "Director" or designee.

**234. DISCIPLINARY ACTION**

An action taken in response to employee misconduct, including but not limited to a letter of reprimand or a monetary loss to the employee (e.g., suspension, demotion).

**235. ELIGIBLE CANDIDATE**

Any person whose name is on an eligibility list for a given class.

**236. ELIGIBILITY LIST**

A list of names of persons who have been found qualified for employment in a specified class.

**237. EMERGENCY APPOINTMENT**

An at-will appointment to the unclassified service for emergency purposes, as further defined in Rule 1104.

**238. EMPLOYEE**

A person other than an elected official who has been appointed to an allocated County position and is employed on either a regular full-time or regular part-time basis.

**239. EXEMPT EMPLOYEE**

Under the Fair Labor Standards Act (FLSA), an employee who meets one (1) or more of the duties test exemptions from overtime and who is paid on a salary basis. (e.g., executive, administrative, professional, computer)

**240. EXTRA HELP APPOINTMENT**

An at-will appointment to the unclassified service for temporary purposes, as further defined in Rule 1103, Extra Help Appointments.

**241. EXTRA HELP EMPLOYEE**

A person serving under an at-will extra help appointment in the unclassified service as provided in these Rules. Extra help employees are not considered regular employees, therefore do not attain civil service status, and do not receive benefits or paid leaves; however, they do accrue sick leave consistent with the law.

**242. FLEXIBLY STAFFED CLASSIFICATION**

A classification that has two (2) or more levels where an employee can be initially appointed to any level (for which they are qualified) and can be promoted from one level to another without further/competitive testing. The most common flexibly staffed classifications consist of an entry- and a journey-level. However, some classifications may be structured differently given the body of work assigned.

**243. FULL-TIME EMPLOYEE**

A regular employee appointed to an allocated position that requires full-time work as specified by the Board of Supervisors.

**244. FULL-TIME POSITION**

Any position which requires the full-time services of an employee. All positions are full-time unless designated or allocated otherwise.

**245. FULL-TIME WORK**

Eighty (80) hours per biweekly pay period.

**246. HIRE DATE**

The beginning date of the employee's current employment with the County during which the employee has been eligible for compensation.

**247. HOLIDAYS**

Those days so enumerated in a memorandum of understanding (MOU).

**248. INTERN**

In association with an accredited high school, college, university, or academic program, a person appointed to a position for a temporary duration in the unclassified service for the purpose of receiving training and for the benefit of the student.

**249. JOB FAMILY**

Positions grouped according to the broad occupational nature of their overall functions, responsibilities, and the purposes for which they exist (e.g., clerical, technician, professional, supervisory, and managerial).

**250. LAPS**

Local Agency Personnel Standards found in Title 2, Division 5 of the California Code of Regulations, which applies to State Merit System employees.

**251. LAYOFF LIST**

A list of persons who have occupied a position allocated to a class and who have been involuntarily separated by layoff.

**252. LEAVE OF ABSENCE**

An officially excused period of time off from work.

**253. LIMITED TERM APPOINTMENT**

An at-will appointment to the unclassified service to accomplish a specific project of limited duration, as further defined in Rule 1105.

**254. LIMITED TERM EMPLOYEE**

A person serving under an at-will limited term appointment to a position allocated as limited term. Limited term employees receive benefits and paid leaves; however, they are not considered regular employees and therefore do not attain civil service status.

**255. MOU**

Individually, either (i) a memorandum of understanding with a recognized employee bargaining unit pursuant to the Meyers-Milias-Brown Act, California Government Code Section 3500 and following, or (ii) the County's Salary and Benefits Resolution for Unrepresented Employees.

**256. NEXT OF KIN**

With respect to an individual, the nearest blood relative of that individual.

**257. NON-EXEMPT EMPLOYEE**

An employee who is entitled to FLSA overtime compensation regardless of whether paid on a salary or hourly basis. An employee assigned to an exempt position only on an acting or temporary basis will remain eligible for overtime compensation.

**258. OUTPATIENT STATUS**

With respect to a covered servicemember, means the status of a member of the Armed Forces assigned to (i) a military medical treatment facility as an outpatient; or (ii) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

**259. PART-TIME EMPLOYEE**

A regular employee appointed to an allocated position that requires less than full-time work.

**260. PART-TIME POSITION**

Any position that requires the services of an employee on a regularly scheduled basis less than full-time.

**261. PAY PERIOD**

Fourteen (14) calendar days from 12:00 a.m. Saturday to 11:59 p.m. the second Friday thereafter.

**262. PAID STATUS**

Whenever an employee is at work, absent on a paid holiday, absent on leave with pay, or absent on authorized compensatory time off.

**263. PERSONNEL REVIEW COMMITTEE**

A committee comprised of representatives from the Human Resources Department, County Counsel's Office, and the impacted department for the purpose of reviewing personnel matters and providing guidance to the appointing authority or resolving or settling such matters.

**264. POST-PROBATIONARY EMPLOYEE**

A regular employee who has successfully completed the probationary period prescribed for his/her position in the classified service.

**265. POST-PROBATIONARY STATUS**

The status achieved by a regular employee who has successfully completed the probationary period specified for a class in the classified service. Post-probationary status is also referred to as "civil service status".

**266. POSITION**

The duties and responsibilities calling for the regular full-time or part-time employment of a person.

**267. PROBATIONARY PERIOD**

The probationary period is the final phase of the selection process.

**268. PROMOTION**

The change of a regular employee to a position in a class allocated to a salary range where the top step is at least five percent (5%) greater than the top step of the class that the employee formerly occupied.

**269. PRORATE**

To calculate or distribute proportionally, usually based on number of pay periods and/or full-time work equivalency.

**270. REALLOCATION**

The act of reassigning a vacant position from one class to another class with the approval of the Board of Supervisors.

**271. RECLASSIFICATION**

The act of changing a position from its current classification to a different classification by raising it to a higher class or reducing it to a lower class on the basis of significant changes in the nature, difficulty, or responsibility of the duties performed in the position.

**272. RECOGNIZED REGIONAL ACCREDITING BODIES**

Those agencies recognized by the Council for Higher Education Accreditation or the United States Department of Education as reliable authorities concerning the quality of education or training offered by the institutions of higher education or higher education programs they accredit (Western Association of Schools and Colleges, North Central Association of Colleges and Schools/The Higher Learning Commission, Northwest Commission of Colleges and Universities, Middle States Commission on Higher Education, Southern Association of Schools and Colleges, and New England Association of Schools and Colleges). If one of the enumerated agencies no longer exists, the body that assumes its essential functions shall be substituted in its place.

**273. REEMPLOYMENT LIST**

A list of persons who have occupied positions allocated to a class who have voluntarily separated and are qualified for consideration for reemployment under these Rules.

**274. REGULAR APPOINTMENT**

Appointment by the appointing authority to an allocated position in the classified service as a result of a competitive recruitment and selection process.

**275. REGULAR EMPLOYEE**

A person who receives a regular appointment to a position in the classified service, and includes both probationary and post-probationary employees. Contract employees and employees serving under limited term, extra help, and emergency appointments are not regular employees.

**276. RESIGNATION**

The voluntary separation from County employment.

**277. RESTORATION LIST**

A list of persons who attained post-probationary status, and within the preceding twelve (12) month period, have been laid off, displaced, demoted by displacement, or have voluntarily demoted in lieu of layoff or displacement.

**278. RETALIATION**

Adverse actions, decisions, or other treatment including, but not limited to, threats or coercion affecting an employee and motivated by or directed toward the employee on the

basis of an employee bringing a complaint under these Rules or County Policy, federal law, or state law; and/or the employee's participation in the investigation, hearing, or proceeding arising out of such complaint including, but not limited to, an adverse action, decision, or other treatment affecting hiring, placement, compensation, assignments, leave, promotion, training, disciplinary action, layoff, recall, transfer, leave of absence, termination, and reemployment.

**279. ROUNDING**

Rounding to the nearest whole number; five (5) and greater rounds up, and when less than five (5) rounds down.

**280. SATISFACTORY SERVICE**

Meeting the work performance and conduct standards established by the employing department. Eligibility as to periods of service required for performance salary step advancements shall be verified by the Human Resources Department.

**281. SECONDARY PROBATION**

Any probationary period that an employee is required to complete after he/she has successfully completed probation and attained post-probationary status in another County class.

**282. SEPARATED EMPLOYEE**

An employee who is no longer employed by the County.

**283. SERIOUS INJURY OR ILLNESS**

In the case of a member of the Armed Forces, including a member of the National Guard or Reserves, an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

**284. SKELLY OFFICER**

An individual who is reasonably impartial and uninvolved in the matters giving rise to the proposed disciplinary action of an employee, including the investigation and recommendation of disciplinary action, who is responsible for evaluating whether there are reasonable grounds for believing that the employee engaged in the alleged misconduct and that the misconduct supports the proposed sanction.

**285. STATE MERIT SYSTEM EMPLOYEES**

Employees covered by California Government Code Section 19800 *et seq.*

**286. TERMINATION**

The involuntary separation of an employee from County employment.

**287. TRANSFER: LATERAL**

The move or change of an employee from one position in a department to another position

in a different department while maintaining the same classification and salary step at the time of appointment.

**288. TRANSFER: NON-LATERAL**

The move or change of an employee to another position in a different class in which the top step of the salary schedule is the same as or up to 4.99% more than the top step of the class previously occupied in the same or a different department.

**289. UNCLASSIFIED SERVICE**

Positions in County service identified in Section 502.1 of the Charter as part of the unclassified service; persons serving under an extra help appointment; persons serving under a limited term appointment; and any other position placed in the unclassified service by the Board of Supervisors in accordance with the Charter.

**290. VETERAN**

A person satisfying the definition specified in the Military and Veterans Code.

**291. "Y" RATE**

The act of maintaining an incumbent's current rate of pay despite either (i) the incumbent's position being reallocated to a classification with a lower salary range, or (ii) the salary range for the incumbent's classification being revised downward in response to external equity market data. .



**PART 3 : CODE OF ETHICS, COMMITMENT TO COUNTY PUBLIC SERVICE, AND RESPECTFUL WORKPLACE**

**301. CODE OF ETHICS**

The County has adopted a Code of Ethics to guide County officers and employees in the performance of their duties. The Code of Ethics, in effect as of the date of adoption of these Rules, reads as follows:

- (a) In the performance of your governmental duties, be sensitive to circumstances that could be misconstrued as a special favor, something to be gained personally, acceptance of a favor, or as an influence in the outcome of your duties.
- (b) Be cognizant that promises of any kind may conflict with one's public duty and responsibilities.
- (c) Always perform your governmental duties conscientiously.
- (d) Always act responsibly with confidential information received in the performance of your governmental duties.
- (e) Outside activities should be compatible with the objective performance of your duties or delivery of government service.
- (f) Treat all individuals encountered in the performance of your duties in a respectful, courteous, and professional manner.
- (g) Promote decisions that benefit the public interest.
- (h) Conduct and perform job duties diligently and promptly.
- (i) Faithfully comply with all laws and regulations applicable to the County and impartially apply them to everyone.
- (j) Promote the public interest through a responsive application of public duties.
- (k) Demonstrate the highest standards of personal integrity, truthfulness, and honesty in all public activities.
- (l) Uphold these principles being ever conscious that public office is a public trust.

**302. RESPONSIBILITIES OF PUBLIC SERVICE**

County officers and employees serve for the benefit of the public. They shall uphold and adhere to the Constitution of the United States, the Constitution of the State of California, and the El Dorado County Charter, as well as all County rules, regulations, and policies, and shall carry out impartially the laws of the nation, state, and County. In their official acts, they shall faithfully discharge their duties, recognizing that the public interest is paramount. All County officers and employees must demonstrate the highest standards of morality and ethics consistent with the requirements of their positions and consistent with the law.

**303. DEDICATED SERVICE**

County officers and employees shall adhere to work rules and performance standards established for their positions. The County requires all County officers and employees to be courteous and considerate, to be accurate and truthful in statement, and to exercise sound judgment in the performance of their work. County officers and employees shall

neither exceed their authority nor breach the law, nor shall they ask others to do so. They shall work in full cooperation with other County officers and employees unless prohibited from so doing by law or by officially recognized confidentiality of the work.

### **304. CONFLICT OF INTEREST**

During their assigned work hours, County officers and employees shall devote all their time and efforts to their assigned duties. No County officer or employee shall:

- (a) Engage in any business or transaction or have a financial or other personal interest or association that is inconsistent, incompatible, in conflict with, or adverse to the proper discharge of official duties, or would tend to impair their independence of judgment or the performance of their official duties. "Personal" (as distinguished from "financial") interest includes an interest arising from blood or marriage relationships or close business, personal, or political association.
- (b) Use County time, facilities, and equipment, or their badge or uniform for private gain or advantage, private gain, or advantage of another.
- (c) Use confidential information acquired by virtue of County employment for his/her private gain or advantage or the advantage of another.
- (d) Accept money or other consideration from any person except the County for the performance of an act which he/she would be required or expected to render in the regular course of his/her County employment or as a part of his/her duties as a County employee or officer.
- (e) For profit represent or assist in the representation of private interests before any board or commission of the County or in court when the County is a party.
- (f) Solicit for future employment with an agency or organization doing business with the County over which he/she has some control or influence in his/her official capacity at the time of transaction.

County officers and employees are also subject to applicable provisions of the California Government Code including, but not limited to, Sections 1090 et seq. (prohibiting the making of contracts in which an officer or employee has a financial interest), 1126 et seq. (prohibiting outside employment that is incompatible with the official duties of an officer or employee), 87100 et seq. (prohibiting an officer or employee from using his or her official position to influence a governmental decision in which the officer or employee has a financial interest), or any other conflict of interest code, policy, or rule applicable to County employment.

#### **304.1 Outside Employment**

No employee of the County shall engage in any occupation or outside activity which is incompatible with County employment. During the hours covered by active County employment, no County officer or employee shall work for any other employer or agency, nor shall they conduct or pursue any unauthorized activity for remuneration, gifts, or favors. Any employee who proposes to engage in outside employment, which must be outside of the hours covered by active County employment, for compensation shall inform the appointing authority via the prescribed Human Resources Department form and in advance of the nature of such employment. The appointing authority, after making a determination whether or not such employment is in conflict with County employment, may approve or disapprove the employee's request for outside employment. A copy of the

appointing authority's approval or disapproval shall be forwarded to the Director to be included in the employee's personnel file in the following circumstances: 1) Upon appointment or reassignment to a position, 2) Upon a change to an employee's outside employment, and 3) Annually, as documented on the employee's performance evaluation.

### **305. NON-DISCRIMINATION IN DELIVERY OF SERVICES**

In the course of their employment, no County officer or employee shall grant any special consideration, treatment, or advantage to any person beyond what is available to every other person in similar circumstances.

### **306. CONFIDENTIAL INFORMATION**

Every appointing authority shall instruct subordinates as to County information that is regarded as confidential. No County officer or employee shall disclose such confidential information (except as authorized or required by law). No County officer or employee shall use such confidential information for personal gain or benefit. All personnel records shall be confidential except when disclosure is required by law.

### **307. USE OF PUBLIC PROPERTY**

County officers and employees are prohibited from using County-owned equipment, materials, or property for personal benefit, profit, or political purposes. County officers and employees are required to comply with all County policies related to the use of County-owned equipment, materials, and property such as information technology and vehicle use policies.

### **308. POLITICAL ACTIVITY**

In the performance of official duties, all County officers and employees shall support County governmental policies and objectives established by the Board of Supervisors or by an appointing authority, as well as County programs developed to attain these policies and objectives. Outside of official duties, County officers and employees may express otherwise lawful opinions on all political subjects while off duty, without recourse against them, unless the employee is in a sensitive or policy-making position in a department where speech and political activities may have an adverse effect on working relationships or the efficient operation of the department. Under these unique circumstances, the law authorizes limiting First Amendment rights as a requirement for the job, and employees may be subject to adverse consequences for engaging in such activities.

The provisions of California Government Code sections 3201-3209, 3302, and any future amendments thereto are hereby incorporated into this Part 3. Under the provisions of these codes, the County specifically prohibits employees from engaging in political activity during working hours or such hours as they are on duty for the County, or while they are in uniform. Such prohibited activity shall include, but is not limited to, soliciting money, influence, service, or any other valuable thing to aid, promote, or defeat any political committee or the nomination or election of any person to public office; or to aid, promote, or defeat any ballot measure. No person shall attempt to coerce, command, or require a person holding, or applying for, any position, office, or employment with the County to influence or give money, service, or other valuable thing to aid, promote, or defeat any political committee; or to aid, promote, or defeat the nomination or election of any person to public office; or to aid, promote, or defeat any ballot measure. Appointing authorities seeking election to office are admonished to refrain from attempting to influence County

employees' political attitudes while those employees are engaged in their duties for the County.

No County officer or employee in the classified service in any department engaged in the administration of federal grant-in-aid programs shall (i) use their official authority or influence to interfere with or affect the results of an election or nomination; (ii) directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or (iii) if the employee's salary is paid entirely by federal funds, be a candidate for public office in a partisan election. Such prohibited political activity includes, in substance, the activities prohibited to state and local employees in federally aided agencies under the Federal Hatch Political Activities Act (5 U.S.C. §§1501-1508, as amended from time to time).

### **309. ABUSIVE CONDUCT IN THE WORKPLACE**

The County is committed to maintaining a work environment in which all individuals are treated with respect and dignity. The County is committed to providing a work environment that is free of abusive conduct and will take reasonable steps to promptly correct abusive conduct. As a general guideline, abusive conduct can be avoided if employees act professionally and treat each other with respect. The following further defines the County's policy and complaint procedures related to abusive conduct in the workplace. The County has zero tolerance for any conduct that violates this policy. Therefore, any violation of this policy may lead to disciplinary action, up to and including termination from County employment. The County encourages all employees, applicants, candidates, elected or appointed department heads, volunteers, and members of the public to report any conduct that they believe violates this policy as soon as possible.

#### **309.1 Abusive Conduct Defined**

As used herein, abusive conduct is defined as conduct, with malice, of an employee in the workplace that a reasonable person would find hostile, offensive, and unrelated to the County's legitimate business interests. Abusive conduct may include, but is not limited to:

- (a) Repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and/or epithets;
- (b) Verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; or
- (c) Sabotaging or undermining another person's work performance.

A single act shall not constitute abusive conduct, unless especially severe and egregious.

Abusive conduct may be referred to as "bullying", "cyber bullying", and/or "hazing". Unlike harassment or discrimination, abusive conduct need not be motivated by an employee's legally protected characteristic(s).

Abusive conduct can be committed by any employee(s) including, but not limited to, a group, an individual, a supervisor, a peer, and/or a subordinate.

#### **309.2 Examples of Abusive Conduct**

The County considers the following types of behavior examples of abusive conduct:

- (a) Use of disrespectful and devaluing language.
- (b) Persistent name calling or taunting that is hurtful, insulting, or humiliating.
- (c) Persistent or constant criticism of an employee in front of other persons for the purpose of humiliating the employee.
- (d) Invasions of privacy, such as spying, stalking, and/or rummaging through one's personal belongings without a valid work-related reason.
- (e) Behavior that frightens, humiliates, belittles, or degrades, including criticism that is delivered with yelling or screaming.
- (f) Using confidential information to humiliate an employee publicly or privately.
- (g) Withholding information that affects an employee's performance.
- (h) Isolating an employee from other co-workers.
- (i) Purposely excluding an employee from essential meeting(s).
- (j) Acts of intimidation, such as pushing, shoving, kicking, or tripping an employee; throwing any object at them; or making threats against an employee or intimidating an employee through inappropriate personal comments, disparaging opinions, or criticism with no basis in fact.
- (k) Sabotaging, or deliberately subverting, obstructing, or disrupting another person's work performance.
- (l) Spreading malicious rumors, gossip, or innuendo that is untrue.

Such conduct can also occur via use of electronic or telephonic communications, such as the internet/social media, email, chat room, a threatening text message or telephone call, or cameras or video equipment.

### **309.3 Making Complaints of Abusive Conduct**

The County cannot resolve abusive conduct unless it is made aware of the situation. Any employee who believes he/she has been subjected to abusive conduct must promptly report the incident(s), the name(s) of the individual(s) involved, and the name(s) of any witnesses within fifteen (15) working days of any behavior banned by this policy, in accordance with the following procedures:

**309.3.1** Any individual who believes that he/she has been subjected to any form of abusive conduct as defined by this policy shall report the incident directly to the Human Resources Department using the Human Resources Department's prescribed form.

The Human Resources Department may conduct an investigation of the complaint as it deems necessary to determine whether there has been a violation of this Rule 309 and, if so, the steps necessary to address the Rule violation. The Director may refer the matter to the Personnel Review Committee for discussion and recommendations.

If a complaint involves the Director, other than as a witness, the matter shall be referred to the Chief Administrative Officer.

## **309.4 The County's Response to Reports of Complaints**

### **309.4.1 Investigation of Complaints**

The appointing authority, Director, and/or the Personnel Review Committee will be responsible for determining whether a complaint of abusive conduct should be addressed under this Rule 309 or the Board of Supervisors Policy E-5, Policy Prohibiting Discrimination, Harassment, and Retaliation, and Reporting and Complaint Procedures. The results of the investigation (i.e., whether the evidence establishes a violation of this Rule 309, but not the nature of any discipline) shall be disclosed to the complainant and the accused employee(s).

If, in its sole discretion, the County determines that abusive conduct occurred, the appointing authority shall take prompt and effective remedial action commensurate with the severity of the offense(s) which may include coaching, mediation, counseling intervention, other required training for the employee(s) determined to have violated this Rule 309, and/or disciplinary action up to and including employment termination.

### **309.4.2 Cooperation with the Investigation**

All employees involved in a workplace investigation into alleged abusive conduct are required to fully and truthfully cooperate with the investigation. Failure to do so may constitute grounds for disciplinary action, up to and including termination.

Whenever an employee accused of engaging in abusive conduct is interviewed as part of any investigation under this Rule 309, the employee is entitled to union or legal representation during his/her interview if he/she reasonably believes the investigation could result in the imposition of disciplinary action against them. If the accused employee is a public safety officer, the investigation will be conducted in accordance with the Public Safety Officers Bill of Rights Act.

## **309.5 Prohibition Against Retaliation for Good Faith Complaints and the Filing of Intentionally False Complaints**

The County prohibits retaliation against any employee because of the employee's complaint of abusive conduct or because of their good faith participation in any related investigation proceeding, or hearing. However, repeated unfounded complaints may be determined to be a violation of this Rule 309. While the County protects employees' rights to work in an environment free from abusive conduct, it also recognizes that false accusations of abusive conduct have serious consequences. Accordingly, any employee who is found, through the County's investigation, to have deliberately made false accusations of abusive conduct will be subject to appropriate disciplinary action, up to and including employment termination.

## **PART 4 : ORGANIZATION AND ADMINISTRATION**

### **401. CIVIL SERVICE COMMISSION**

The Board of Supervisors shall appoint a Civil Service Commission pursuant to the authority contained in Section 502.2 of the Charter.

#### **401.1 Governance**

The Civil Service Commission shall be governed in all respects by the Charter, the Civil Service Ordinance enacted by the Board of Supervisors (Chapter 2.16 of the El Dorado Code, as such chapter is amended from time to time), Civil Service Commission procedures that are prescribed by the Civil Service Commission and adopted by the Board of Supervisors, and such other resolutions and actions as may be adopted from time to time by the Board of Supervisors.

#### **401.2 Scope**

The Civil Service Commission shall have jurisdiction over those matters set forth in section 502.3 of the Charter.

### **402. COUNTY DIRECTOR OF HUMAN RESOURCES**

The Director shall:

- (a) Carry out all procedures in the administration of the County personnel system, including, without limitation, conducting recruitment and examinations, preparing employment lists, and certifying the names of candidates for employment.
- (b) Act as staff for the Civil Service Commission by maintaining various personnel records and other records of the Civil Service Commission, and preparing minutes of each meeting of the Civil Service Commission.
- (c) Act as the appointing authority for the Human Resources Department.
- (d) Administer, maintain, and adjust the County's classification plan and recommend rates of pay for each classification.
- (e) Maintain a central roster of employees and positions.
- (f) Maintain an official record of all actions taken by the Civil Service Commission, and submit an annual report to the Board of Supervisors.
- (g) Serve as the custodian of records and maintain the official personnel file for each employee in the County service.
- (h) Respond to grievances brought forward by, or on behalf of, an employee(s), as provided for by the applicable MOU.

### **403. RECORD OF EMPLOYEES AND POSITIONS**

The Human Resources Department shall maintain the record of employment for each employee, including each employee's dates of service, positions held, salaries received, and such other information as the Director shall deem appropriate.

The Human Resources Department shall provide recognized employee associations with a roster of employees including such information and frequency as prescribed by law and/or set forth in the applicable MOU.

**404. REPORTS BY APPOINTING AUTHORITIES**

Each appointing authority shall promptly report the following matters to the Director:

- (a) Requests for certification of eligible candidates for employment.
- (b) All recruitment documentation.
- (c) Appointments of all employees.
- (d) Separations of all employees.
- (e) Promotion, demotion, and transfer of employees.
- (f) Leaves of absence, whether with or without pay.
- (g) Proposed disciplinary actions, together with reasons therefor.
- (h) Refusal or failure of certified eligible candidates to accept employment.
- (i) Other matters deemed necessary by the Director for the effective administration of the County's personnel system.

Nothing in this Rule 404 shall affect the ability of constitutional officers from operating their departments in accordance with California law.



## **PART 5 : POSITION CLASSIFICATION**

### **501. GENERAL**

A classification plan is a systematic process for grouping jobs into common classifications, based upon similarities in duties, responsibilities, and requirements. All positions having substantially similar duties and responsibilities, requiring substantially the same qualifications, to which the same descriptive title can fairly be applied, and which can properly be subject to the same salary schedule are included in a single class. The Human Resources Department is responsible for classifying each position in the County service and developing class specifications for each class. Upon the recommendation of the Human Resources Department, the Board of Supervisors is required to review and approve all new classes and class specifications, and abolish classes. In accordance with the County's Employer-Employee Relations Resolution 10-83, the Human Resources Department determines the representation unit(s) to which each class is assigned with the Board of Supervisors having final approval over such assignment. The Board of Supervisors hereby delegates to the Director, after consultation with the appointing authorities where the class is utilized, the authority to make revisions to existing class specifications that do not materially change the totality of the essential functions or nature of the class.

### **502. CLASSIFICATION PLAN**

The Human Resources Department shall prepare and maintain a classification plan based on the needs of the County service. The classification plan will assign all positions in the classified service to a class and develop class specifications for each class, which shall include:

- (a) The class title.
- (b) A brief definition or description of the scope and nature of the class.
- (c) Supervision received and exercised.
- (d) A detailed statement of essential functions or tasks assigned to positions that are allocated to the class, of which are for illustrative purposes only and are not to be regarded as inclusive or exclusive lists of functions or tasks to be performed by positions allocated to the class.
- (e) Required education and/or experience, as well as knowledge and abilities that are required and/or deemed desirable.
- (f) Physical demands, environmental conditions, and when appropriate, working conditions.

### **503. ASSIGNMENT OF POSITIONS TO CLASSES**

As determined by the Human Resources Department, each position shall be assigned to a class in which the duties and responsibilities of the position most closely align.

- (a) In determining the class to which any position should be allocated, the class specification for each class shall be considered as a whole. Consideration shall be given to the essential duties, the specific tasks, the responsibilities, the minimum qualifications, and the relationships to other classes.

- (b) The description of essential functions or tasks shall be construed as a general description of a kind of work usually performed by the incumbent of a position that is properly allocated to the class, and not as prescribing what the specific tasks of any position shall be, nor as limiting the expressed or implied power of the County to prescribe or alter the duties of any position.

#### **504. REALLOCATION OF POSITIONS - ADD/DELETE**

In the event that a department desires to either (i) change the duties assigned to a vacant position to the extent that the position does not fit into the class to which the position is allocated, or (ii) utilize a vacant position in a different capacity requiring a different class, the department shall submit an add/delete request to reallocate the position for review by the Human Resources Department and by the Chief Administrative Office. Add/delete requests shall include a written description of the duties to be assigned to the subject position, information regarding the budget impact of the request, and the source of funding if the request will result in an increase to the budget. In determining if the class proposed by the requesting department is appropriate, the Human Resources Department will conduct a classification study as described in Rule 506.2. The proposed reallocation of a position shall be approved by the Board of Supervisors.

#### **505. UNDERFILL OR OVERFILL OF FULL/PART TIME POSITIONS**

##### **505.1 Underfill**

The appointing authority is authorized to fill vacant positions using the specific classifications allocated in the department. An appointing authority may request to underfill an authorized position with a related classification that has a lower salary range and that contains a substantial portion of the duties listed in the class specifications for the authorized position. Requests for underfills shall be made in accordance with Rule 701(c). The classification used for the underfill appointment must be approved by the Director. A position may be underfilled for any of the following reasons: the department's internal promotional program would be enhanced, there are no qualified candidates to fill the vacant position at the higher level, or a critical departmental reason exists. When an underfill is approved, it must be filled with a candidate who has been selected from an eligible list. An appointment to underfill a position may last until the next budget cycle, but in no event longer than one (1) year.

##### **505.2 Overfill**

In order to maximize flexibility of the department to meet unusual and/or unique staffing needs requiring longer term temporary "overfills", the Chief Administrative Officer may authorize an allocation to be temporarily overfilled with an authorized position in a related classification that has a higher salary range. The appointing authority must submit the request to the Director and the Chief Administrative Officer for approval. Requests for overfills shall be made in accordance with Rule 701(c). The request must describe the unique need, change in body of work, the amount of additional salary benefit cost above the amount allocated, and that the amount is available in the department's budget. When an overfill is approved, it must be filled with a candidate that has been selected or promoted through a competitive recruitment and selection process. An appointment to an overfilled position may last until the next budget cycle, but in no event longer than one (1) year.

## **506. RECLASSIFICATION OF POSITIONS**

In the event that the preponderance of assigned duties and/or scope of responsibilities of a filled or vacant position become so altered the position no longer fits into the classification to which it was originally allocated, the Human Resources Department may recommend a reclassification of the position to the Board of Supervisors. The decision of the Board of Supervisors is final.

**506.1** Requests for a classification study shall be submitted to the Human Resources Department by an appointing authority or the relevant union. Unrepresented employees may submit a request for a classification study directly to the Human Resources Department. Such requests shall include a written justification identifying the factors supporting a need for a classification review, such as those identified in Rule 506.2, as well as an explanation of what occurred that precipitated the change(s) in responsibilities.

**506.2** In determining whether the position continues to fit within the classification to which it was originally allocated, the Human Resources Department shall conduct a classification study and consider the following factors:

- (a) Significant and permanent changes in the assigned responsibilities.
- (b) Changes in the level of complexity.
- (c) Changes in the organizational impact of the position and/or consequence of error.
- (d) Changes in the level of supervision received and/or exercised.
- (e) Changes in the knowledge and abilities required to successfully perform in the position.
- (f) Percentage of workload accounted for by assigned duties.

**506.3** Prior to making a recommendation to the Board of Supervisors, the Director will consult with the appointing authority and Chief Administrative Office to discuss budget implications and determine whether the duties determined to be outside the scope of a classification are:

- (a) Temporary or permanent in nature.
- (b) Necessary for ongoing operations or service delivery.
- (c) Able to be reassigned to other department employee(s) for whom the duties would not be outside the scope of their classification(s).

## **507. STATUS OF EMPLOYEES IN RECLASSIFIED POSITIONS**

When a position is reclassified to a different class, the salary step and anniversary date of the employee shall be governed by Rule 612, Salary on Reclassification. The status of the employee in the reclassified position may be changed in accordance with the reallocation or reclassification as follows:

### **507.1 Upward Reclassification**

An assignment of a position to a different classification at a higher salary range constitutes an upward reclassification. Incumbents are not automatically moved to the higher class when their positions are reclassified upward, but must compete

through competitive recruitment and selection process in accordance with these Rules, unless:

1. The reclassification resulted from a class study which affects all employees in a department, a major division of a department, or an occupational field, and the following conditions are met:
  - (a) The competitive recruitment and selection process is waived by the Director at the request of the appointing authority; and
  - (b) The incumbent meets the minimum qualifications of the new class.

OR

2. The position reclassification resulted from a class study and the retention of the incumbent in such position is approved by the appointing authority and the following conditions are met:
  - (a) The incumbent has been in the position for a minimum of twenty-six (26) pay periods; and
  - (b) The duties of the position have continually evolved over a minimum of the twenty-six (26) pay periods immediately preceding the reclassification and have become significantly broader in scope or more difficult and complex, thereby providing the basis for reclassification to the new class; and
  - (c) The incumbent meets the minimum qualifications of the new class; and
  - (d) The competitive recruitment and selection process is waived by the Board of Supervisors.

Employees with post-probationary status who are moved to a classification with a higher salary range when their position is reclassified shall be required to serve a probationary period in the new classification consistent with rules governing probation, unless a waiver is granted by the appointing authority with approval from the Director on the grounds that the employee has already satisfactorily performed the duties of the new classification for the length of the probationary period of the new class. Incumbents not appointed to the positions that have been reclassified upward retain status in their current classification and may request a transfer to a vacant position in their current or equivalent classification, be retained in the position as an underfill or trainee in accordance with these Rules, or be laid off according to the provisions of the applicable MOU. Where vacant positions are not available to accommodate a transfer request, employees may request a voluntary demotion and shall have rights governed by the provisions of these Rules for voluntary demotions.

#### **507.2 Downward Reclassification**

An assignment of a position to a different classification with a lower salary range shall constitute a downward reclassification.

- (a) An employee with post-probationary status occupying a position that has been reclassified downward may, within a period of two (2) years of the effective date of the downward reclassification, apply to be on the lateral transfer list under Rule 904.6, Lateral Transfer Lists, for the employee's former classification.

- (b) Employees underfilling positions that are reclassified downward may be eligible for appointment to the newly allocated position. The criteria and process indicated under Rule 507.1, Upward Reclassification, shall apply. Employees appointed from the eligibility list shall retain the same status they held in their classification at the time of the downward reclassification. Employees with probationary status when reclassified downward shall be credited for time completed in their probationary period. If no vacancy is immediately available, the employee shall remain on the eligibility list.

### **507.3 Lateral Reclassification**

Class study recommendations may result in the reclassification of a position, though the salary range remains unchanged. Employees may be appointed to the newly allocated classification in accordance with the criteria and process indicated under Rule 507.1, Upward Reclassification.

### **507.4 Title Change**

A change in the title of a classification without any change in salary range or substantial change in the relevant duties, responsibilities, or requirements shall constitute a title change; this shall include changing of the titles of positions covered by the State Merit System to County titles, where the essential functions do not change. There is no fiscal impact to the incumbent or the County as a result of a title change.

## **508. UNCLASSIFIED SERVICE**

Persons employed in positions in the unclassified service do not have, and cannot obtain, post-probationary status. Persons appointed to positions in the unclassified service are hired and terminated at the discretion of the appointing authority, except as otherwise provided by law or these Rules. Persons employed in positions in the unclassified service must meet the minimum qualifications of the position. Working conditions and benefits of positions in the unclassified service will be determined by the Board of Supervisors.

## **PART 6 : COMPENSATION ADMINISTRATION**

### **601. FEES AND COMMISSIONS**

Except for regular County salaries or wages, all fees and commissions or other remuneration or compensation of any kind or character received by any County officer or employee, including elected County officers, shall be paid into the County treasury; provided, however, that this requirement shall not apply to the fees and commissions paid to any County officer who does not receive a salary or wage (refer to Rule 603, Standard Salary Ranges) for his/her services from the County, nor to that portion of any fees collected that is (i) authorized by statute to be paid to other persons, or (ii) necessarily diverted to other persons for the purpose of carrying out the objects of the statute. All funds received by the Sheriff from the state as reimbursements for expenses incurred in the transportation of prisoners and patients to state institutions shall be paid into the County treasury. Each County officer shall file monthly forms reporting the collection of fees with the Auditor-Controller as required by Government Code Section 24353.

### **602. AUTHORIZED PERSONNEL**

- (a) The Board of Supervisors shall from time to time, by resolution, specify the number and classification of all regular and limited term employees authorized for each department of the County. Such resolution shall be known as and may be referred to for all purposes as the Authorized Personnel Allocation Resolution. All additions, deletions, or modifications to the County's Authorized Personnel Allocation Resolution shall be made by amending resolution. No person shall receive any compensation from County funds for his/her services unless his or her employment is authorized by (i) the County's Authorized Personnel Allocation Resolution, or (ii) an extra help appointment made in accordance with these Rules.
- (b) Promptly upon adoption by the Board of Supervisors, the Clerk of the Board of Supervisors shall forward to the Human Resources Department, the Auditor-Controller, and the Chief Administrative Officer a copy of the Authorized Personnel Resolution, and any and all resolutions making additions, deletions, or modifications thereto.
- (c) The County may also utilize the services of volunteers who shall serve without compensation for their services. Recruitment, selection, and deployment of volunteers shall be performed in accordance with County policies and procedures.

### **603. STANDARD SALARY RANGES**

A standard salary schedule consisting of ranges of hourly and monthly salary rates in dollars and cents for employment in paid positions shall be established and amended by resolution of the Board of Supervisors. The schedule of monthly salary rates established by Board of Supervisors resolution is for the purpose of convenience; computations for purposes of paying employees shall be on the basis of hourly rates.

### **604. COMPENSATION PLAN**

Except as otherwise provided by law or ordinance, officers and employees shall receive the hourly rate compensation provided in the salary schedule that has been adopted by the Board of Supervisors by resolution or ordinance for their respective classifications of positions. Classifications shall be allocated to specific ranges of the salary schedule in accordance with the terms of employment hereinafter set forth.

#### **604.1 Initial Step Placement**

Except as specified in Rule 604.2, Advanced Step Hiring, the entrance salary for a new employee entering County service shall be at step 1 of the salary range for the class to which the employee is appointed.

#### **604.2 Advanced Step Hiring**

An appointing authority may recommend to the Director or to the Chief Administrative Officer that a new or current employee who has competed in the recruitment process be hired at an advanced step of the salary range of the employee's classification, if (i) the candidate possesses extensive job related training or experience that exceeds minimum qualifications, or (ii) due to the difficult nature of the recruitment, few qualified candidates were available and it is necessary to hire at an advanced step in order to obtain a person to fill the vacancy. Any request to hire at step 2 or step 3 of the salary range shall be approved by the Director. Any request to hire at step 4 or step 5 of the salary range shall be approved by the Chief Administrative Officer.

Approval for an advanced step hire must be obtained prior to making any offer of employment above step 1 to the intended eligible candidate.

The appointing authority shall file a written justification for any advance step hiring at step 2 or step 3 of the salary range with the Director; and step 4 or step 5 of the salary range with the Chief Administrative Officer. Upon determination by the Director or Chief Administrative Officer that the department's request complies with the above criteria, the Human Resources Department shall process the necessary paperwork granting the advanced step hiring.

The Human Resources Department shall report all advanced step hires to the Board of Supervisors annually.

#### **604.3 Salary Compensation - Extra Help**

Extra help employees shall receive the step 1 hourly rate listed in the salary schedule for the classification to which they are assigned, unless the individual meets the requirements for advanced step hiring set forth in Rule 604.2, Advanced Step Hiring. Extra help employees shall be paid the designated hourly rate for all time worked, but shall not be entitled to vacation, absence for temporary military duty, or holiday pay, except for such benefits, as otherwise provided by federal or state law.

#### **604.4 Salary Compensation - Board of Supervisors**

Salary compensation and benefits for members of the Board of Supervisors shall be established by ordinance adopted by the Board of Supervisors from time to time.

### **605. SALARY STEP PLAN**

Eligibility for salary step movement shall be based upon demonstrated satisfactory service as determined by (i) the appointing authority, and (ii) time in class. Employees (regular and limited term) are eligible for a performance salary advancement step for satisfactory service after twenty-six (26) pay periods of service within a salary step, unless the employee is eligible for an early step advancement as specified below.

### **605.1 Early Salary Step Movement – First to Second Step**

Eligible employees hired at step 1 may be eligible for advancement to step 2 after completion of thirteen (13) full pay periods of satisfactory performance at step 1, and upon the approval of the appointing authority.

### **605.2 Early Step Advancement – Third Step**

An appointing authority may recommend to the Chief Administrative Officer for his/her approval that an eligible employee be advanced from step 2 to step 3 of the salary range of the employee's classification after the employee has completed at least six (6) months of service in the prior step of the salary range of that classification. The appointing authority shall submit written justification to the Chief Administrative Officer demonstrating the following:

- (a) The employee's performance and abilities are outstanding and clearly above the level of employees in the same job class, assigned similar duties, as documented in an attached performance evaluation;
- (b) The employee is functioning as a fully qualified and advanced level employee;
- (c) The amount of the additional salary and benefit costs are available in the department's budget for the balance of the fiscal year (department's calculations to accompany the estimate); and
- (d) Should the County's financial condition require reductions in departmental appropriations during the fiscal year, the department agrees to identify departmental savings that will offset the added cost of the early step advancement.

### **605.3 Early Step Advancement – Fourth and Fifth Steps**

An appointing authority may recommend to the Chief Administrative Office for his/her approval that an eligible employee be advanced from step 3 to step 4 of the salary range or from step 4 to step 5 of the salary range after the employee has completed at least six (6) months of service in the prior step of the salary range of that classification. The appointing authority shall submit written justification to the Chief Administrative Officer demonstrating the following:

- (a) The employee has made significant achievements of County-wide importance, or
- (b) The continuing outstanding performance of the employee is such that it places them clearly above the level of employees in the same job class, assigned similar duties; and
- (c) The amount of the additional salary and benefit costs are available in the department's budget for the balance of the fiscal year (department's calculations to accompany the estimate); and
- (d) Should the County's financial condition require reductions in departmental appropriations during the fiscal year, the department agrees to identify departmental savings that will offset the added cost of the early step advancement.



## **606. PROCEDURE**

All salary step advancements must be initiated by the appointing authority on the prescribed personnel form, accompanied by an employee performance evaluation filed with the Director prior to the proposed effective date of the performance salary step advancement. Approved performance salary step advancements, pursuant to Rule 605, Salary Step Plan, shall be effective on the first day of the biweekly pay period following completion of the required period of service. The Director shall notify the Auditor-Controller of the approved performance salary step advancement.

### **606.1 Early Step Advancement**

Salary step movement under Rule 605.2, Early Step Advancement – Third Step, and Rule 605.3, Early Step Advancement – Fourth and Fifth Steps, requires written acknowledgement by the Chief Administrative Officer that the provisions of these Rules have been met and is so authorized by the Chief Administrative Officer. Such early step advancements shall only be effective the first pay period following the date of the Chief Administrative Officer's approval.

## **607. APPEAL OF WITHHELD PERFORMANCE SALARY STEP ADVANCEMENT**

Unless otherwise specified in the MOU governing the employee, in the event any eligible employee with post-probationary status in the employee's class who would otherwise be eligible for performance salary step advancement is withheld such an advancement by the appointing authority, the employee has the right to appeal the withholding in writing to the Civil Service Commission following procedures established by the Civil Service Commission and by ordinance. Any such appeal must be brought within any timelines for filing grievances established by the MOU covering the employee. The appeal must contain specific allegations of fact, citing the exact basis for the appeal and the relief requested. Employees without post-probationary status in the class shall have no right of appeal. When an appeal is taken, there shall be a presumption that the action of the appointing authority was proper. Failure to receive an early salary step advancement shall not be subject to appeal.

## **608. SALARY ON PROMOTION**

Except as provided under Rule 604.2, Advanced Step Hiring, an employee who is promoted shall receive the nearest step within the new salary range that is not less than five percent (5%) more than his/her former step; provided, however, that in no case shall the increased salary be more than the top step in the new salary range. The effective date of a promotional appointment shall coincide with the first day of a pay period. Increases in salary shall be made effective on the effective date of the promotion. For purposes of further annual increases within the salary range, the employee's anniversary date shall be changed to the effective date of the promotion.

## **609. SALARY ON DEMOTION**

The salary of an employee who demotes shall be determined as follows:

### **609.1 Voluntary Demotion to another Class**

Except as otherwise provided in these Rules, an employee who voluntarily demotes shall have his/her base hourly rate reduced to the nearest step in the salary range that is no less than five percent (5%) lower than the base hourly rate received before the demotion; provided, however, that in no case shall the decreased salary be less than the bottom step in the new salary range.

### **609.2 Demotion as a Disciplinary Action**

An employee may be involuntarily demoted to a lower class or to a lower compensation level within a salary range as a disciplinary action only, in accordance with Rule 1503, Disciplinary Action.

### **609.3 Demotion through a Competitive Recruitment and Selection Process**

An employee who demotes through a competitive recruitment and selection process shall be placed at the salary step provided under Rule 609.1, Voluntary Demotion to another Class, unless recommended and approved for an advanced step hire, pursuant to Rule 604.2, Advanced Step Hiring.

## **610. SALARY ON LATERAL TRANSFER**

An employee who is appointed via a lateral transfer in accordance with Rule 904.6, Lateral Transfer Lists, shall be compensated at the same step in the salary range as he/she previously received. For purposes of further annual increases within the salary range, his/her anniversary date shall remain the same as it was before the lateral transfer. The effective date of all lateral transfers shall be the first working day of the pay period.

## **611. SALARY IN RANGE CHANGE**

Whenever the salary range for a class is revised, each incumbent in a position to which the revised salary schedule applies shall remain at the step held in the previous range, unless otherwise specifically provided by the Board of Supervisors.

## **612. SALARY ON RECLASSIFICATION**

The salary of an incumbent in a position that is reclassified shall be determined as follows:

### **612.1 Lateral Reclassification**

If the position is reclassified to a class that is allocated to the same salary range as the class of the position before it was reclassified, the salary and anniversary date of the employee shall not change.

### **612.2 Upward Reclassification**

If the position is reclassified to a class that is allocated to a higher salary range than the class of the position before it was reclassified, the salary of the employee shall be governed by Rule 608, Salary on Promotion.

### **612.3 Downward Reclassification**

If the position is reclassified to a class that is allocated to a lower salary range than the class of the position before it was reclassified, the employee shall receive the

step in the new range that is the same or greater than the salary he/she was receiving prior to reclassification and his/her anniversary date shall not change. If the salary of the employee is greater than the maximum step of the new range, the salary of the employee shall be designated as a "Y" rate and the salary will be frozen until the top step salary of the new classification equals or exceeds the present salary.

Any such "Y" rate shall be indicated with a capital "Y" following the salary on all personnel and payroll records and transactions. No salary increases, including cost of living adjustments or equity increases, shall be given to incumbents occupying "Y" rated positions until such time as the top step salary of the new classification salary range equals or exceeds the employees "Y" rated salary. "Y" rates are removed by adjustments to the compensation plan. "Y" rates shall also be cancelled upon the separation of an employee in the "Y" rated position. The anniversary date of an employee reallocated to a lower salary range pursuant to this section shall not change.

### **613. BOARD OF SUPERVISORS AUTHORITY TO SPECIFY SALARY**

Notwithstanding anything in these Rules to the contrary, the Board of Supervisors may, by resolution, and upon recommendation of the Chief Administrative Officer, specify that the incumbent of a particular position shall occupy a step on the salary range for that class that is either higher or lower than that provided for in these Rules.

### **614. ADDITIONAL COMPENSATION**

Notwithstanding anything in these Rules to the contrary, when, in the judgment of the Board of Supervisors, it becomes necessary or desirable to utilize the service of County employees in capacities other than those for which they are regularly employed, the Board of Supervisors may so authorize and fix an additional rate of compensation for such employees, who shall be paid such additional compensation as may be specified by the Board of Supervisors.

### **615. PAYROLL RECORDS**

The Auditor-Controller's Office shall be the office of record with respect to maintenance of payroll records to implement the payroll provisions of all ordinances and resolutions. Each employee is responsible for reviewing each pay stub for accuracy, and promptly notifying their supervisor or the Auditor-Controller of any errors. The County shall pay the employee the amount of any underpayment; the employee shall reimburse the County for any overpayment.

### **616. PAY DATE**

The date of payment shall be the first Friday following the close of the biweekly pay period, except that when such following Friday falls on a legal holiday, the date of payment shall be the first Thursday (or first Wednesday if Thursday is a holiday) following the close of the biweekly pay period.

### **617. TUITION REIMBURSEMENT**

Appointing authorities may approve reimbursement of tuition expenses for their employees. The appointing authority shall be responsible for ensuring that funding is available within the department's budget prior to authorizing any tuition expense

reimbursement. (This Rule does not apply to County required training, which is reimbursable at one hundred percent [100%] or paid directly by the County.)

Tuition expense reimbursement for employee-requested academic courses shall be subject to the following provisions:

- (a) The employee must have been employed in a full-time or part-time regular appointment in the County for at least twelve (12) months prior to the start of the course or in accordance with the MOU applicable to the employee.
- (b) The employee must request and obtain written approval for tuition reimbursement from the appointing authority prior to the start of the course.
- (c) The subject matter of the course must be directly related to the employee's present position or the employee shall demonstrate to the appointing authority how the course relates to the business of the department. Courses that are not directly related, but are required for an approved degree program, shall also be eligible for reimbursement.
- (d) In accordance with Definition 272, the course must be provided by a regionally accredited institution.
- (e) Courses eligible for reimbursement may be offered online or at a physical campus.
- (f) The employee's attendance at the course shall not interfere with his/her normal County duties, responsibilities, or work hours.
- (g) To be eligible for reimbursement, the employee must present satisfactory proof of a final grade of "C" or better (or "pass" for a "pass/fail" course) for the approved course, and documentation of the amount of tuition paid by the employee.
- (h) The employee shall agree in writing to repay the County, upon separation from County employment, any tuition reimbursement received from the County within the twelve (12) month period immediately preceding separation from employment. The appointing authority shall be responsible for administering this provision.
- (i) Reimbursement shall be made at fifty percent (50%) of actual tuition costs for institutions that meet the accreditation requirements specified herein.
- (j) Tuition reimbursement shall not exceed four thousand dollars and zero cents (\$4,000) per fiscal year for any single employee. Reimbursement shall not be made for books, documents, materials, mileage, travel costs, or other incidental expenses incurred by the employee, or for any amount reimbursed by another source or entity.

#### **618. BILINGUAL PAY DIFFERENTIAL**

Bilingual pay shall only apply to those positions that meet the following conditions:

- (a) The ability to speak a second language is considered a critical business need in order to provide primary services to the public; and
- (b) Written justification is provided by the appointing authority to the Human Resources Department, which identifies the second language, and the purpose, nature, and frequency of its use; and
- (c) The Human Resources Department has administered a second language fluency examination for the identified language to assess the employee's skill in a conversational, interpretation, or translation setting, and the employee has received a passing score.

The employee shall receive a bilingual pay differential consistent with the MOU covering the employee's position.

The critical business need for bilingual skills shall be reviewed annually by the appointing authority. Using a County prescribed form, the appointing authority shall either (i) renew the bilingual pay differential, or (ii) discontinue the bilingual pay differential.

The appointing authority shall discontinue a bilingual pay differential at any time should it be determined there is no longer a critical business need in order to provide primary services to the public.

## **PART 7 : RECRUITMENT**

### **701. GENERAL**

- (a) The purpose of this Part is to ensure that vacancies in County service are filled with the most qualified persons.
- (b) All positions in the classified service and all limited term appointments, except for emergency, extra help, and paid intern appointments, shall be filled by persons who have participated in a competitive recruitment and selection process, except as otherwise provided by these Rules or waived by the Director.
- (c) The appointing authority has the responsibility to notify the Human Resources Department as soon as a vacant position is anticipated and to advise the Human Resources Department as to its plans for filling the position, leaving it vacant, or taking any other action with respect to the position.
- (d) The Human Resources Department shall conduct recruitments to fill vacancies or to provide eligibility lists for classes of positions where vacancies are likely to occur. For classes for which it is difficult to maintain an eligibility list with the number of qualified candidates necessary for certification under Rule 1006.2, Open and Promotional Eligibility Lists, the Director may conduct recruitments on a continuous basis, without an approved personnel requisition.

### **702. RECRUITMENT ANNOUNCEMENTS**

The Human Resources Department shall make public announcements of all recruitments and will administer a competitive recruitment and selection process that will attract qualified persons to County employment. The recruitment process will be commensurate with factors such as the availability of qualified candidates, the number of projected positions to be filled, the County's Equal Employment Opportunity Plan, the type of examination(s) to be administered (where applicable), and similar considerations. All recruitment announcements will be posted on the County's website for a minimum of five (5) calendar days. The Director, in consultation with the appointing authority, will determine the length of time that the Human Resources Department will accept applications. Recruitment announcements shall include:

- (a) The class title, or class title and working title;
- (b) Compensation;
- (c) Geographical location(s);
- (d) A description of the class, including class characteristics;
- (e) Minimum education and experience qualifications, and any additional desirable qualifications;
- (f) The method of filing applications and the application deadline; and
- (g) A general description of the conditions of competition, which may include the method of examination and the relative weight(s) assigned.

### **703. TYPES OF RECRUITMENTS**

The Human Resources Department may use promotional, open, or open continuous recruitments to establish eligibility lists for classes in the civil service. The Director, after

consultation with the appointing authority, has the authority to decide which type of recruitment is most appropriate based upon these Rules and the existing situation at any given time. Considerations for selection of a particular type of recruitment include, without limitation, the following: (i) upward mobility and career advancement of County employees; (ii) availability of an adequate number of qualified applicants within the County workforce; (iii) workforce diversity and equal employment opportunity, and (iv) layoff considerations.

### **703.1 County Promotional Recruitments**

Except as set forth in the MOU governing the position, candidates for County promotional recruitments must be regular employees in the classified service.

### **703.2 Department Promotional Recruitments**

Department promotional recruitments will be permitted for classifications that exist only in the requesting department. If the classification is used in more than one (1) County department, a County promotional or open recruitment must be conducted. Candidates for departmental promotional recruitments must be regular employees in the classified service.

### **703.3 Open Recruitments**

Open recruitments shall be open to the public.

### **703.4 Open Continuous Recruitments**

Open continuous recruitments for a given class may be announced by publishing a recruitment announcement that will remain in effect until modified, closed, or cancelled.

## **704. APPLICATIONS**

Every individual seeking employment in the County service shall submit an application in accordance with the following:

### **704.1 Filing Applications**

All applications shall be made upon forms furnished by the Human Resources Department, filled out as directed, and filed on or before the application deadline or as specified in the recruitment announcement. Résumés will not be considered as substitutes for the application. It is the responsibility of the applicants to show that they meet the minimum qualifications for the class by the application deadline. All applicants shall certify the truth and correctness of all information contained in their application. After filing, information on the application may be amended only with the permission of the Director. The Director shall not in any event waive the minimum qualifications established for a class in order to accept an application, except as permitted under Rule 704.2, General Qualifications. All applications, whether accepted or rejected, are confidential records of the County and will not be returned to the applicant or candidate.

### **704.2 General Qualifications**

To be considered a candidate, applicants must:

- (a) Possess legal authorization to work in the United States;

- (b) Possess all the minimum qualifications established for the class by the application deadline; and
- (c) Be capable of performing the essential functions and meet the physical demands of the position, with or without reasonable accommodation.

As approved by the Director, exceptions may be allowed to accept applications from applicants who are within a maximum of six (6) months of meeting the required education or certification/licensure. In such cases, eligible candidates may be placed on the eligibility list; however, said eligible candidates must meet the minimum qualifications prior to being certified to the appointing authority.

#### **704.3 Modification, Suspension, or Cancellation of Recruitment**

The Director may modify the recruitment process as listed on the recruitment announcement by notifying eligible applicants of the modification. The Director may suspend or cancel a recruitment at any time for business reasons.

### **705. VETERAN'S PREFERENCE POINTS**

#### **705.1 Qualifications for Veteran's Preference Points**

In order to qualify for Veteran's Preference Points described in 705.3, Veteran's Preference Points, a person shall either be:

- (a) A veteran having served on active duty in any branch of the United States Armed Forces and having been discharged under other than dishonorable conditions; or
- (b) A qualified spouse (i.e., the spouse of a veteran who is rated totally and permanently disabled due to military service, or a surviving un-remarried spouse of a veteran who died on active duty or as a result of disabilities incurred while on active duty).

#### **705.2 Verification of Eligibility for Veteran's Preference Points**

An applicant must provide either:

- (a) Verification of member's military service and disability rating, if applicable (DD 214, Certificate of Release or Discharge from Active Duty, and Veterans Affairs Disability Award Letter); or
- (b) Verification of eligibility for surviving spouse benefits (Veterans Affairs Dependent Indemnity Compensation Award Letter).

Proof of eligibility must be submitted with the employment application.

#### **705.3 Veteran's Preference Points**

In an examination held open to the public, and from which an open list is established in accordance with Rule 703.3, Open Recruitments, and Rule 703.4, Open Continuous Recruitments, an individual who has qualified for veteran's preference points as provided in Rule 705.1, Qualifications for Veteran's Preference Points, and who has received a passing score in each and all parts of the recruitment process, shall receive five percentage (5%) points, to be added to the candidate's final score. A disabled veteran with ten percent (10%) or greater service-connected disability or a qualified spouse shall receive ten percentage



(10%) points to be added to their final score. Spouses of veterans who are rated totally and permanently disabled due to military service, and surviving un-remarried spouses of veterans who die on active duty or as a result of disabilities incurred while on active duty, shall receive a ten percentage (10%) point disabled veteran's preference upon submitting verification in accordance with Rule 705.2(b).

Veteran's preference points shall not apply to promotional recruitments from which promotional eligibility lists are established in accordance with Rule 904.2.

## **706. DISQUALIFICATION OF APPLICANTS AND CANDIDATES**

The Human Resources Department may disqualify an applicant or candidate, remove a eligible candidate's name from an eligibility list, or refuse to certify a candidate for failure to meet the conditions set forth in these Rules.

### **706.1 Causes for Disqualification**

The Human Resources Department may disqualify an applicant or candidate for any reason expressed in Rule 1503, Disciplinary Action, or if the person:

- (a) Is lacking the requirements established for the class;
- (b) Is not capable of performing the essential functions or meeting the physical demands of the class, with or without reasonable accommodation;
- (c) Has been convicted of (i) any crimes involving moral turpitude; or (ii) any other offenses, including felonies, that have been determined by the Director to indicate unfitness for performing the duties and responsibilities of the class or position;
- (d) Has made a false statement of material fact in the application, or has practiced or attempted to practice any deception, fraud, or misconduct in any portion of the recruitment and selection process;
- (e) Has used or attempted to use political pressure or bribery to secure an advantage in the recruitment and selection process;
- (f) Has directly or indirectly obtained information regarding the recruitment process to which the applicant was not entitled or has otherwise defrauded the recruitment and selection process;
- (g) Has failed to submit an application correctly or comply with the time limits for any portion of the recruitment and selection process;
- (h) Has taken part in the compilation, administration, or scoring of any portion of the recruitment and selection process;
- (i) Has a history of dismissal from public or private employment, or resignation in lieu of termination, which the Director determines is of such a nature as to have a clearly adverse effect on the candidate's ability to perform the essential functions of the class;
- (j) Is illegally using or under the influence of a narcotic or controlled substance;
- (k) Is an applicant for a public safety position subject to the Peace Officer Standards and Training (POST) who does not meet the POST background requirements, pursuant to Government Code 1031, pre-employment

background checks for peace officers, and Penal Code 13510 et seq., field services and standards for recruitment and training; or

(l) Has otherwise violated provisions of these Rules.

In addition to the above, the Human Resources Department may disqualify an applicant or candidate for any material cause that, in the opinion of the Director, would render the applicant or candidate unsuitable for the position, including a prior resignation from the County; termination from the County; a significant disciplinary action; or failure to pass a reference check, criminal background check, background investigation, or other job-related examination within the last twelve (12) month period.

Subject to Government Code Section 1295.2, candidates shall be provided with a conditional offer of employment prior to being asked about their criminal background.

### **706.2 Verification of Application**

The Human Resources Department may conduct (or cause to be conducted) such investigation of the applicant's or candidate's training, education, and experience as may be necessary to verify and clarify statements contained in the application.

### **706.3 Notification of Disqualification**

The Human Resources Department shall notify the applicant or candidate by electronic mail to the last email address supplied to the Human Resources Department whenever he/she is disqualified, removed from an eligibility list, or has been refused for certification to the appointing authority.

### **706.4 Appeal of Disqualification**

A disqualified applicant or candidate may appeal the disqualification by filing a written appeal to Director within three (3) working days from the date of electronic notification of disqualification. The appeal must contain specific allegations of fact, citing the exact basis for the appeal and the relief requested. The information provided by the applicant or candidate must be for clarification purposes only, as the Director cannot accept any new information that is not already noted in the application. The burden of proof shall be on the disqualified applicant or candidate. The decision of the Director on the appeal shall be final, except as otherwise required by law.

## **707. EMPLOYEE TIME OFF TO PARTICIPATE IN SELECTION PROCESS**

All regular employees in County service will be allowed to take time off for the purpose of participating in testing, medical and/or background checks, and/or interviews for open or promotional County recruitments which are only scheduled during normal hours of work by providing advance notice for the need for the time off in accordance with department procedures. Any of the above occurring at a time outside of the employee's regularly scheduled work hours will not be compensated. Employees will not be compensated for travel expenses (e.g., mileage/parking).

## **708. RECRUITING INCENTIVES**

The County may offer recruitment incentives for positions that have been designated as “hard to fill” by the Chief Administrative Officer based on sufficient written justification provided by the requesting department to the Human Resources Department. The incentives may be offered individually or together. The Board of Supervisors may consider exceptions to this rule on a case-by-case basis due to special circumstances.

### **708.1 “Hard to Fill” Designation**

In order for the Chief Administrative Officer to designate a position as “hard to fill”, a recruitment must have been advertised in at least five (5) venues approved by the Human Resources Department. In addition, the Human Resources Department must demonstrate that at least one (1) of the following conditions exists:

- (a) Two (2) or more consecutive failed recruitments have occurred for that position (less than five [5] applications were received from applicants meeting the minimum qualifications in each recruitment).
- (b) A recruitment for a position was open for at least three (3) months without receiving applications from at least five (5) applicants meeting the minimum qualifications.
- (c) The department has experienced at least a twenty-five percent (25%) vacancy rate for at least six (6) months for a classification with multiple allocated positions (excluding new allocations added within that six-month period) despite recruitments conducted during that time frame. At least seventy-five percent (75%) of applicants for a position do not meet the minimum qualifications established for the class.
- (d) The position is considered critical to the operation of a program or facility and the need to fill the position is immediate.

### **708.2 Recruitment Advertising**

Upon the Chief Administrative Officer’s determination that a position is hard to fill, the Human Resources Department will include the potential availability of recruitment incentives in any recruitment advertising for that position.

### **708.3 Incentive Offers**

No incentive shall be offered to a candidate without advance written approval from the Chief Administrative Officer, or from the Board of Supervisors for Board-appointed positions. An appointing authority desiring to offer any incentive to an individual candidate shall make a written request to the Director to obtain Chief Administrative Officer approval of the offer. The request shall state the full terms of the proposed offer and the benefits to be realized by the County. The appointing authority shall demonstrate that sufficient funding is available within the department’s budget.

### **708.4 Available Recruitment Incentives**

- (a) A cash amount not to exceed six thousand dollars and zero cents (\$6,000.00). The incentive shall be paid in equal installments in each of the first twenty-six (26) consecutive biweekly pay periods of employment in the designated hard to fill position, beginning the first pay period of employment. Should the

employee sever from County service for any reason, any remaining cash incentive payments shall be forfeited.

- (b) A fixed amount of additional vacation leave. The incentive shall be accrued in equal installments in each of the first twenty-six (26) consecutive biweekly pay periods of employment in the designated hard to fill position, beginning the first pay period of employment. Should the employee sever from County service for any reason, any remaining additional vacation leave not yet accrued shall be forfeited.

#### **709. RELOCATION EXPENSE REIMBURSEMENT**

The County may offer to reimburse relocation expenses to candidates for “hard to fill” positions. The relocation expense reimbursement shall not exceed six thousand dollars and zero cents (\$6,000.00). Reimbursement will be made only when the candidate’s primary residence is more than one hundred (100) miles from the assigned work location using the shortest commonly traveled route. Expenses may include, but are not limited to, personal transportation for the candidate’s family and moving expenses for the candidate’s family’s belongings, including pets. Receipts must be provided for reimbursement and are subject to review.

Prior to receiving reimbursement, the employee shall sign a promissory note obligating the employee to repay the full amount should their employment with the County be severed prior to completion of two (2) full years of service. The promissory note shall be prepared by County Counsel.

## **PART 8 : SELECTION PROCEDURES**

### **801. GENERAL**

It is the policy of the County to seek the best-qualified persons available for each job in County service, and to encourage all persons to compete for the best jobs for which they are qualified.

The County desires to encourage career service among its employees and to provide incentives that will enhance promotional opportunities for employees without unduly restricting competition.

### **802. PROMOTION WITHIN FLEXIBLY STAFFED CLASSES**

Except as may be set forth in a MOU governing a position, upon request of the appointing authority and approval by the Director, an employee in a flexibly staffed class who (i) meets the minimum qualifications for the next higher level in the flexibly staffed class, and (ii) has demonstrated satisfactory performance in all competency areas may be promoted to the next higher level without going through a competitive recruitment and selection process. Before approving such requests, the Human Resources Department shall require evidence that (i) the employee possesses the minimum qualifications for the higher class, and (ii) has demonstrated satisfactory performance in all competency areas. An employee in a limited term appointment within a flexibly staffed class may also promote to the next higher level in the flexibly staffed class under this Rule 802, provided that all requirements herein are met; such a promotion will not otherwise alter the duration of the limited term appointment.

### **803. PROMOTION WITHIN ALTERNATELY ALLOCATED POSITIONS**

Alternately allocated positions may be filled at any level approved within the County's Authorized Personnel Allocation Resolution. Classifications used to fill such positions may or may not be flexibly staffed classes. If an alternately allocated position is not filled with a flexibly staffed class, the incumbent can only be promoted to the higher level within the allocation through a competitive recruitment and selection process. (E.g., a position is allocated and may be filled via the competitive recruitment and selection process at a level between I – IV; however, if the class series consists of a I/II flexibly staffed class, a III-level, and a IV level, then a competitive recruitment and selection process is not required for advancement from the I to the II level, but is required from the II to the III level, and from the III to the IV level.)

### **804. COMPETITIVE SELECTION PROCEDURES**

The Human Resources Department, after consultation with the appointing authority, shall designate selection procedures for each position to be filled. The selection procedures may include one (1) or any combination of the following: application evaluation, written exams, structured oral exams, performance tests, physical ability tests, assessment centers, training and experience evaluations, or any other selection procedures. Selection procedures shall be job related and constructed to assess the knowledge, skills, abilities, and/or attributes deemed essential for successful job performance.

### **805. SELECTION PROCEDURE FOR EXTRA HELP POSITIONS**

Where there is (i) no eligibility list for a class, (ii) there are no eligible candidates on an eligibility list who are willing to accept an extra help appointment, and/or (iii) all eligible

candidates on an eligibility list who are willing to accept an extra help appointment have been interviewed and not selected, the following selection procedure may be used: (i) the posting of an extra help recruitment announcement for a minimum of five (5) calendar days, and (ii) verification by the Human Resources Department that the applicant(s) meet the minimum qualifications for the relevant class. Refer to Personnel Rule 1006.2.1 regarding the certification of eligible candidates for extra help positions only.

If an extra help recruitment is not conducted, all applications shall be made upon forms furnished by the Human Resources Department and the Human Resources Department must verify the identified applicant meets the minimum qualifications for the relevant class.

#### **806. ASSIGNMENT OF WEIGHTS**

The Human Resources Department may assign relative weights to each part of the selection process. If weights are assigned, applicable applicants and candidates will be notified of those weights prior to commencement of the selection process. If no weights are assigned, all parts of the selection process will have equal weights. If weights are revised, such as in the case that a part of the selection process is waived, applicable applicants and candidates will be notified of the change.

#### **807. PROHIBITED QUESTIONS**

There will be no inquiries of any applicant, either orally or through use of an application form, that attempt to identify (directly or indirectly) protected characteristics such as race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or any other questions that are unlawfully discriminatory. In addition, there will be no inquiries regarding political views, labor affiliations, religious beliefs, arrest or conviction records (unless permitted by law), or information concerning a referral to or participation in a pretrial or post-trial diversion program (unless permitted by law), pregnancy and child-bearing, birth control, or familial responsibilities. Nothing in this Rule 807 shall prohibit the use of optional questionnaires to track and fulfill the Equal Employment Opportunity guidelines and/or requirements.

#### **808. WAIVER OF SELECTION PROCEDURES**

When, after posting a recruitment announcement, there are ten (10) or fewer candidates OR fewer than four (4) qualified candidates plus the number of vacancies (e.g., with 10 vacancies - fewer than 14 candidates), whichever is greater, at any stage of the recruitment or selection process, after consultation with the appointing authority, the Director may waive competitive testing and place the approved candidates on the eligibility list and forward the certification to the department without score or rank. All candidates certified to the department shall be interviewed by the department, before a final selection is made, except as provided for in Rule 908, Removal of Names from Lists. The certification shall indicate that candidates are not in rank order. Competitive testing will not be waived if the appointing authority requests that it be conducted, regardless of the number of approved candidates.

Whenever a part of the selection process is waived, departments receiving a certification for the resulting eligibility list shall (i) be required to submit the draft interview questions to the Human Resources Department for review, prior to the certification being forwarded to the department; and (ii) be required to submit to the Human Resources Department interview notes and rankings of eligible candidates.

## **809. CONDUCT OF SELECTION PROCESS**

The Human Resources Department has the right to approve the locations and the conditions under which selection procedures are to be administered. All methods and procedures for administering selection procedures shall comply with reasonable standards of fairness, confidentiality, standardization, and reliability.

## **810. SCORING**

Final scores resulting from the selection process will be determined as follows:

### **810.1 Minimum Passing Scores**

The Human Resources Department may establish a minimum passing score for the selection process and/or any portion thereof, giving consideration to test difficulty, quality of competition, needs of the County, identification of a score predictive of minimum acceptable job performance, number of vacancies, adverse impact, equal employment opportunity identified underutilization, number of candidates, and other relevant factors. Failure by a candidate to attain a passing score or to be selected in any portion of the selection process shall eliminate the candidate from further competition.

### **810.2 Structured Oral Exam Panels**

Where a structured oral exam is part of the selection process, a candidate who receives a passing score from a majority of the panel members shall be deemed to have passed this part of the selection process, regardless of the numerical average of the scores. The candidate's score shall be equal to the numerical average of all raters' final scores. If the candidate receives a failing score from a majority of the oral panel members, the candidate shall be considered to have failed this portion of the selection process. All figures used will be rounded to the nearest whole number.

### **810.3 Requirement and Option to Transfer Written Exam Scores**

When a written exam is part of the selection process and a candidate took the same exam form within six (6) months prior to the date of the current exam administration, the candidate's score from the previous exam administration shall be transferred to the applicable selection process.

A candidate who took the same exam form greater than six (6) months but within twelve (12) months prior to the date of the current exam administration, the candidate may elect to transfer that exam score or sit for the exam again. If the candidate chooses to sit for the exam again, the new score will be used regardless of the value of the previous score. Law enforcement written exams may be excluded from this Rule based on certifying agency standards.

## **811. REVIEW AND APPEAL PROCEDURES**

Candidates shall be notified as to the results of each selection procedure. Candidates may review their individual exam materials or appeal their individual score as provided in these Rules.

### 811.1. Review of Exam Materials

For a period of three (3) working days immediately following notification to candidates of exam results, candidates or their representatives (as authorized by the candidate in writing) may:

**Written Exam Only:** Inspect their own answer sheet and a keyed copy of the examination in the Human Resources Department by making an appointment during regular business hours.

If the exam that was administered is copyrighted, or if the County used materials from outside consultants, other jurisdictions, or other publishers that prohibit the disclosure of a keyed copy of the examination, such information shall not be provided to candidates.

**All Other Exams:** Inspect their own application or examination papers. All exam records containing statements made by raters in (i) application evaluation panels, (ii) structured oral examination panels, and (iii) assessment centers are confidential and shall not be reviewed by candidates. However, upon request of the candidate, the Human Resources Department will provide summarized feedback on notes provided by raters regarding the individual candidate's (i) responses/information provided related to an application evaluation panel, or (ii) performance/responses during a structured oral examination panel or assessment.

### 811.2 Appeal of Selection Procedures

**Written Exam Only:** At any time following notification to candidates of exam results, a candidate may request, in writing, to receive their score and/or a breakdown of their score. The candidate shall receive their score and/or a breakdown of their score so long as the exam materials are still in the possession of the Human Resources Department and have not been disposed of in accordance with the Human Resources Department's record retention schedule.

**All Other Exams:** For a period of three (3) working days immediately following notification to candidates of exam results, a candidate may appeal (i) his/her exam score and/or (ii) the selection procedures.

- (a) Any such appeal must be in writing to the Director on one (1) or more of the following bases: unlawful discrimination, fraud, bias, or error in the scoring of the exam.
- (b) No such appeal may be considered unless it contains specific allegations of fact, citing the exact basis for the appeal and the relief requested.
- (c) The Director shall rule upon such appeals and notify the candidate of the decision on appeal. The decision of the Director is final except for appeals on the basis of unlawful discrimination.
- (d) In cases alleging unlawful discrimination, a candidate who is dissatisfied with the ruling of the Director may appeal to the Civil Service Commission by filing an appeal with the Human Resources Department in accordance with the timelines prescribed in the Board of Supervisors Policy E-5, Policy Prohibiting Discrimination, Harassment, and Retaliation, and Reporting and Complaint Procedures. Such an appeal must contain specific facts by which it is alleged that the unlawful discrimination took place. If the Civil Service Commission grants the appeal, the Civil Service Commission may determine either that (i)



the appellant be awarded a score sufficient to place them on the eligibility list, or (ii) that the appellant be allowed to retake that component of the selection process.

- (e) The pendency of an appeal under this Rule 811.2 shall not postpone or delay the recruitment process.

#### **812. CONFIDENTIALITY**

Names of persons applying for County positions, the ranking or placement on eligibility lists, or the evaluation of their participation in any selection process, shall not be made public except as required by applicable law.

#### **813. FINAL SCORES**

After compiling scores on separate parts of the selection process, weighing the scores, adding veteran's preference points on open examinations, and adding seniority credits on promotional examinations, if so specified in the MOU covering the position, the final score shall be rounded to the nearest hundredth of a point.

#### **814. RANK ORDER IN CASE OF IDENTICAL SCORES**

If two (2) or more successful examinees have identical final scores, they shall be placed in the same ranking on the eligibility list.

#### **815. DISPOSITION OF RECRUITMENT AND SELECTION RECORDS**

All recruitment and selection records and backup documentation to those records are the property of the County, are confidential, and may be inspected or copied only under conditions specified by the Director, the Board of Supervisors, or competent judicial authority. All such records are official County records that will be sent to the Human Resources Department to be maintained and disposed of in accordance with the Human Resources Department record retention schedule.

## **PART 9 : ELIGIBILITY LISTS**

### **901. GENERAL**

An eligibility list is an arrangement of eligible candidates for County employment or promotion who are qualified as a result of the recruitment and selection process or are eligible to be restored to County employment in accordance with these Rules.

### **902. ESTABLISHMENT AND MAINTENANCE OF ELIGIBILITY LISTS**

The Human Resources Department shall establish and maintain eligibility lists of qualified candidates. Lists are maintained in accordance with the County's classification of jobs and procedures established by the Human Resources Department. Nothing herein shall preclude multiple recruitments or eligibility lists to be maintained for a single classification due to operational needs of the County as determined by the Director.

The Director may approve the establishment of separate eligibility lists for positions in the same classification as defined below:

- (a) Western Slope and/or the Tahoe Basin;
- (b) Regular full-time or part-time, limited term full-time or part-time, or extra help;
- (c) Different specialized functional areas for the same class as defined in the relevant County-wide class specification;
- (d) Different genders within the same class based on a Bona Fide Occupational Qualification; or
- (e) Other County operational needs as deemed appropriate by the Director.

### **903. SUBDIVISION OF LISTS**

The Director may subdivide an eligibility list according to any one (1) or more of the following factors:

- (a) Geographical area (Western Slope or Tahoe Basin);
- (b) Persons who will work a shift other than a Monday through Friday day shift.
- (c) Persons who will serve on a temporary extra help basis.
- (d) Any other special or objective factor applicable to a position.

### **904. DESIGNATION OF ELIGIBILITY LISTS**

The Human Resources Department will prepare eligibility lists as provided below:

#### **904.1 Restoration Lists**

Lists comprised of employees with post-probationary status in the relevant class who, within the preceding twelve (12) month period, have been laid off, displaced, demoted by displacement, or have voluntarily demoted in lieu of layoff or displacement. The employees will be listed in order of retention points if so specified in the MOU covering the position. Such employees shall have the right to be restored to the classification in the department that they previously occupied for a period of one (1) year following the date of layoff, displacement, demotion by displacement, or voluntary demotion in lieu of layoff or displacement, unless

otherwise specified in the MOU covering the position. Provided, however, that three (3) refusals to accept restoration will remove the eligible employee's name from further consideration unless the offer of restoration is for a position in a different geographical location from the position from which the employee was laid off or voluntarily demoted in lieu of layoff (Western Slope or Tahoe Basin). Names will be added to restoration lists in accordance with Rule 1006.1 Restoration Lists.

#### **904.2 Promotional Lists**

Eligibility lists prepared from promotional-only recruitments as described in Rule 703.1, County Promotional Recruitments, and Rule 703.2, Department Promotional Recruitments.

#### **904.3 Open Lists**

Eligibility lists prepared from recruitments designated as "open" as described in Rule 703.3, Open Recruitments, or "open continuous" as described in Rule 703.4, Continuous Recruitments.

#### **904.4 Merged Lists**

Eligibility lists prepared from recruitments designated as "open" as described in Rule 703.3, Open Recruitments, or "open continuous" as described in Rule 703.4, Continuous Recruitments, or "county promotional," as described in Rule 703.1, County Promotional Recruitments, or "department promotional" as described in Rule 703.2 Department Promotional Recruitments. Eligibility lists shall only be merged if the same recruitment and selection process was used and the weights of the selection process were the same. Names shall be placed on a merged list in order of their scores on the original lists, starting with the highest.

#### **904.5 Reemployment Lists**

Lists composed of persons who retired in good standing due to disability, resigned in good standing from County employment, promoted or voluntarily demoted to another County class, or were displaced during their initial probationary period due to layoff or right of return by the prior incumbent.

In order to be placed on a reemployment list, the individual must submit an application to the Human Resources Department for reemployment within the applicable prescribed time limit below:

- (a) Disability Retirement - Within one (1) year of the effective date of his/her disability retirement.
- (b) Resignation – Within one (1) year of the separation date.
- (c) Promoted or Voluntarily Demoted – No time limit.
- (d) Displaced During Initial Probationary Period Due to Layoff or Right of Return by Prior Incumbent – No time limit.

Any individual seeking reemployment must have (i) been in good standing at the time of separation, and (ii) performed satisfactorily in the applicable class.

An individual may be considered for reemployment to any of the following classes, provided that the person meets the minimum qualifications for any class:

- (a) The individual formerly occupied.
- (b) Of equal or lesser rank within a class series in which the individual was employed.
- (c) That has replaced the class in which the individual previously had been employed.

Individuals eligible for reemployment as described above may be considered for vacancies in all departments.

Candidates will be placed on the reemployment list(s) for any class for which they are qualified, without ranking or priority when determining the order of certification. The names from the reemployment list may be considered by the appointing authority separate from or in addition to any open, promotional, or transfer list. "Resignation in good standing" does not include employees who resigned while on suspension or while charges of disciplinary action were pending, or who resigned to avoid dismissal.

For an individual requesting consideration for reemployment after a disability retirement, the individual must provide satisfactory evidence that he/she (i) is no longer incapacitated, and (ii) is able to perform the essential functions and meet the physical demands of the job.

Departments seeking to fill vacant positions may interview candidates on a reemployment list but are not obligated to hire from this list. Individuals will remain on reemployment lists for a period of one (1) year, unless an individual is rehired or an individual requests their name be removed prior to the one (1) year limit.

An appointing authority may hire a candidate from a reemployment list without the necessity of the candidate competing in a competitive recruitment and selection process.

#### **904.6 Lateral Transfer Lists**

Lists composed of current employees who have (i) achieved post-probationary status, (ii) performed satisfactorily, and (iii) meet the requirements as defined in this Rule 904.6; who wish to be considered for transfer to positions in the same class in another department. Employees may request to be placed on a lateral transfer list by submitting an application for transfer to another position in the same class in a different department.

The employee will be placed on the lateral transfer list without ranking or priority when determining the order of certification. The names from this list may be considered by the appointing authority separate from or in addition to an open, promotional, or reemployment list, so long as there is an approved personnel requisition.

Individuals will remain on the lateral transfer list for a period of one (1) year, unless the individual is hired from the list or requests their name be removed prior to the one (1) year limit.

Appointments from lateral transfer lists are permissive (i.e., the appointing authority is not required to make a hire from a lateral transfer list). An appointing authority may hire a candidate from a lateral transfer list without (i) the necessity of the candidate competing in a recruitment and selection process, and (ii) conducting a hiring interview.

Positions in classes where a competitive recruitment and selection process is required by law shall not be filled from a lateral transfer list.

**905. ELIGIBILITY LIST RECORDS**

Except as otherwise provided in these Rules, the Human Resources Department shall prepare records of the results of each portion of the recruitment and selection process showing the names of the applicants, applications rejected, the rating of each applicant for each portion of the recruitment process, and the final score and rank of each applicant who passed.

**906. DURATION OF ELIGIBILITY LISTS**

Eligibility lists or any remaining portions of eligibility lists shall remain in effect for three (3) months or until (i) cancelled at the discretion of the Director, upon the request of the appointing authority, or (ii) replaced by a newer eligibility list. The Director may cancel an eligibility list prior to the required three (3) months if there are less than five (5) active candidates, or for good cause upon the request of the appointing authority. Where a certification request is active, the list shall not be cancelled until the active certification has been completed or cancelled.

Whenever an eligibility list is cancelled before the required three (3) months the Human Resources Department shall notify the affected eligible candidate.

Eligibility lists may be extended beyond the required three (3) months at the request of an appointing authority and with approval of the Director. Once an eligibility list has expired, it shall not be extended.

**907. REVISION OF ELIGIBILITY LISTS**

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

**908. REMOVAL OF NAMES FROM LISTS**

An eligible candidate's name shall be removed from the eligibility list from which they are appointed or at the end of the eligibility period. Names of persons who separate from regular County employment, except by layoff, shall be removed from all active promotional eligibility lists. The acceptance of a regular part-time, limited term, or extra help appointment by persons on eligibility lists for regular full-time appointments shall not affect their certification for regular appointments. Names of eligible candidates may be removed from an eligibility list for any of the following reasons, provided that notice of the action and the reason therefor shall be sent to the eligible candidate:

- (a) Any cause stipulated in Rule 706, Disqualification of Applicants and Candidates.
- (b) On evidence that the eligible candidate cannot be located.
- (c) Upon receipt of a written request (provided to the Human Resources Department) from the eligible candidate to remove his/her name.

- (d) On receipt of a statement from the appointing authority or eligible candidate that the eligible candidate declines certification or indicates no further desire for appointment in the class.
- (e) After the third instance of the failure of the eligible candidate to accept, respond, or report to a department's documented invitation to a hiring interview or other department selection procedure.
- (f) If three (3) certifications of the eligible candidate for regular appointment from an open employment list have failed to result in selection and appointment. Removal for this reason requires the review and approval of the Director.
- (g) If the eligible candidate fails to respond to the Human Resources Department or the appointing authority within three (3) working days following notification using the eligible candidates last known contact information.
- (h) If the eligible candidate fails to pass, or has failed to pass within the last twelve (12) month period, a reference check, background check/investigation, or other pre-employment related examination.
- (i) On loss of licensure/certification required to perform the essential functions of the job.
- (j) Upon determination that the eligible candidate for a law enforcement position does not meet the POST background requirements.

Any candidate removed from an eligibility list or withheld from certification may appeal for restoration to the eligibility list or certification after withhold or removal by filing an appeal in writing with the Director within three (3) working days of the date notification was sent to the individual. The appeal must contain specific allegations of fact, citing the exact basis for the appeal and the relief requested. The decision of the Director shall be final.

#### **909. INACTIVE STATUS**

Applicants whose names are on an eligibility list may request inactive status and their names shall be removed from the active eligibility list. Upon notification, such names may be restored to the eligibility list for the remaining period of the eligibility list. Eligibility shall not be extended by reason of such inactivity.

#### **910. CONFIDENTIALITY**

Eligibility lists are confidential, and the relative position of an eligible candidate on a list, or their scores on any part of the selection process, shall not be made available except to the eligible candidate independently, the eligible candidate's designated representative, or an authorized representative of a department in which the eligible candidate may be considered for appointment.

#### **911. SUBSTITUTION OF ELIGIBILITY LIST**

If an open or promotional eligibility list is not available for the class to which an appointment to a vacancy is required, appointment may be made from an open or promotional eligibility list for a different class that is a higher level within the same class series or is at a comparable level, requiring comparable knowledge and abilities, and is considered by the Director to be appropriate.

## **PART 10 : CERTIFICATION**

### **1001. GENERAL**

Certification is the process whereby available candidates are referred by the Human Resources Department to the appointing authority for selection. The Director shall establish standard procedures for list certification.

### **1002. REQUEST FOR PERSONNEL**

Whenever a vacancy is to be filled, the appointing authority shall submit a personnel requisition to the Human Resources Department. The names of persons eligible for appointment to positions in a class to which a vacant position is allocated shall be certified by the Human Resources Department, subject to such transfers, demotions, or other alternate provisions as may be applicable.

### **1003. CONTENT OF PERSONNEL REQUISITION**

The appointing authority shall make personnel requests in the format prescribed by the Human Resources Department and provide such information as may be required. Any requests for special skills or qualifications should be noted in the personnel requisition.

### **1004. CERTIFICATION OF NAMES**

Upon receipt of an appointing authority's personnel requisition, the Human Resources Department shall, as soon as practicable, certify to the appointing authority the names, contact information, and applications of the persons entitled to certification in accordance with these Rules. The Director shall determine the appropriate certification list to be used, based upon the classification of the position, special qualifications required to perform the duties of the position, and subdivisions of the eligibility list pursuant to Rule 903, Subdivision of Lists.

### **1005. ORDER OF CERTIFICATION FROM LISTS**

The order of certification from valid eligibility lists for any class shall be (i) restoration lists; (ii) promotional lists; and (iii) open lists. The Director shall certify names from reemployment lists as described in Rule 904.5, Reemployment Lists, and transfer lists as described in Rule 904.6, Lateral Transfer Lists, separate from or along with any applicable open or promotional eligibility list.

Where an eligibility list has been created for a designated location, type of appointment (e.g., extra help or limited term), area of specialty, or other specified criteria, certifications from the eligibility list will be limited to positions fitting that designation.

### **1006. NUMBER TO BE CERTIFIED**

Except as otherwise provided in these Rules, the Director shall certify the appropriate number of highest standings as follows:

#### **1006.1 Restoration Lists**

Restoration lists contain the name(s) of employees with post-probationary status in the relevant class who, within the preceding twelve (12) month period, have been laid off, displaced, demoted by displacement, or have voluntarily demoted in lieu of layoff or displacement. When a personnel requisition is

received from the appointing authority of a department from which an eligible was laid off, the appointing authority shall receive and appoint the eligible highest on the restoration list from the department. When a personnel requisition is received from a department from which an eligible(s) was not laid off, the appointing authority shall receive a restoration list of eligibles who were laid off, displaced, demoted by displacement, or voluntarily demoted in lieu of layoff. While not required to appoint from this list, departments are encouraged to give consideration to such eligibles. All eligibles on a restoration list for the classification shall be certified. (Refer also to Rule 904.1, Restoration Lists.)

## **1006.2 Open and Promotional Eligibility Lists**

The Director shall certify, in alphabetical order, a minimum of four names, plus the number of vacancies to be filled. When requested in advance, the appointing authority may request names to be certified in bands of five (5). When the score for the last certifiable name is the same as one (1) or more scores following it, all names having that score shall be certified.

The appointing authority shall contact and interview all of the eligible candidates before a final selection is made, except as provided for in Rule 908, Removal of Names from Lists. Appointing authorities are required to provide hiring interview notes and notes on additional assessments conducted for all eligible candidates interviewed to the Human Resources Department prior to (i) an appointment being made or (ii) the certification of additional eligible candidates.

When a certification is referred to a department and hiring interviews have been conducted, subsequent vacancies in the department for the same class may be filled from the same certification. An eligible candidate is not required to be re-interviewed within three (3) months after the date of the last hiring interview, provided that the hiring interview questions have not changed. Should an eligibility list be extended in accordance with Rule 906, Duration of Eligibility Lists, the appointing authority may request that the Director approve a time period longer than three (3) months in which eligible candidates do not need to be re-interviewed.

**1006.2.1** For eligibility lists established for extra help positions only, where the selection process consists only of an application evaluation, names of all candidates meeting the minimum qualifications may be certified to the department prior to the application deadline as they are received and approved. In the case where an offer of employment is made and the vacancy for which names were certified is filled, interviews of eligible candidates subsequently certified will not be required.

## **1006.3 Referral of Entire Eligibility List**

An entire eligibility list may be certified, in alphabetical order, at the request of the appointing authority. The appointing authority shall contact and interview all of the eligible candidates before a final selection is made, except as provided for in Rule 908, Removal of Names from Lists.



**1006.4 Reemployment and Lateral Transfer Eligibility Lists**

Upon a department's request to fill a vacant position, Human Resources will provide the department with all names on both the lateral transfer list and reemployment list prior to initiating a new recruitment. The appointing authority is not required to contact or interview any or all eligible candidates certified. Should the appointing authority have no interest in utilizing either of these lists at that time, a new recruitment may be initiated.

**1007. CERTIFICATION OF ELIGIBLES WITH SPECIAL QUALIFICATIONS**

Whenever a vacant position requires an employee of a particular sex; or with residence in a certain locality; or who is willing and able to work certain unusual hours; or who is able to speak, read, or write a language other than English; or who possesses other special qualifications, the Director may, upon written request by the appointing authority justifying a legitimate business necessity based on Bona Fide Occupation Qualification certify only those candidates who meet the conditions requested. A record of special qualification certifications will be maintained by the Human Resources Department.

**1008. WAIVERS OF CERTIFICATION**

Certification or appointment may be waived by an eligible candidate as follows:

**1008.1 Temporary Withdrawal from List**

Upon written request, an eligible candidate may withdraw from any active eligibility list for a specified period of time, provided, however, that upon again becoming an active eligible candidate the person may not claim eligibility for any appointment to which certification has been made during the period when the person's name was inactive.

**1008.2 Waiver of Particular Certifications**

An eligible candidate may, by written statement to the Human Resources Department or appointing authority, (i) waive an invitation to a hiring interview, or (ii) waive a conditional employment offer. After three (3) such waivers, the eligible candidate shall be removed from the eligibility list. No person shall cause or attempt to cause an eligible candidate to waive either opportunity. Waivers made to an appointing authority must be reported by the appointing authority to the Human Resources Department.

**1008.4 Failure to Respond to Certification**

Failure of an eligible candidate to respond to a written notice by the appointing authority within five (5) calendar days is an automatic waiver of certification. The appointing authority may request an additional name in lieu of the eligible candidate. An eligible candidate who fails to keep the Human Resources Department advised of correct contact information may be removed from both the eligibility list and any applicable certifications. A person may be restored when so removed upon receipt of a satisfactory reason as determined by the Director for failure to respond.

**1009. DISPOSITION**

- (a) Upon conditional offer of employment or upon exhaustion of an eligibility list without issuing a conditional offer of employment, the appointing authority shall promptly notify the Human Resources Department, indicating each eligible candidate's status. The Human Resources Department shall maintain all such information in the official recruitment file in accordance with policy set forth by the Director.
- (b) The appointing authority shall inform each eligible candidate, other than the appointee, that the eligible candidate has not been selected.

## **PART 11 : APPOINTMENTS**

### **1101. GENERAL**

An appointment is the official offer and acceptance of a job made in accordance with these Rules and the laws governing these Rules. The offer must be made by the appointing authority, or authorized representative of the appointing authority, and only to a person eligible under these Rules for the type of appointment offered.

### **1102. APPOINTMENT AFTER CERTIFICATION**

After all selection procedures have been conducted and a certification provided to the department, the appointing authority shall initiate the hiring process. Prior to appointment, the appointing authority shall confirm that (i) a vacant, allocated, and funded position still exists in the affected department, and (ii) that the proposed offer is at the appropriate salary range and step of the salary schedule, in accordance with Rule 604, Compensation Plan.

**1102.1** The date employment and salary commence shall be specified and approved in the format prescribed by the Human Resources Department.

**1102.2** The appointing authority shall promptly report all appointments in the County service to the Human Resources Department.

### **1103. EXTRA HELP APPOINTMENT**

An extra help appointment is an at-will appointment in the unclassified service to meet a temporary staffing need (e.g., existing vacancy, project, heavy workload, etc.) to maintain adequate coverage of work for short periods of time at frequent intervals, or where work is of a seasonal/recurring nature. In the County's interest, extra help appointments are made where funds are provided or available.

(a) Any person employed for extra help shall meet the minimum qualifications for the corresponding class.

Extra help appointments shall not exceed nine hundred sixty (960) hours in any fiscal year unless the extra help employee is a CalPERS annuitant, in which case the appointment may not exceed limitations established by Public Employees' Retirement Law Government Code. The limit of nine hundred sixty (960) hours may only be exceeded under extenuating circumstances when pre-approved in writing by the Chief Administrative Officer and does not relieve the appointing department from compliance with applicable state laws, including those pertinent to the enrollment of extra help employees into the CalPERS system.

- 1) The Human Resources Department will send monthly extra help appointment reports to departments so appointment timeframes can be tracked.
- (b) Prior to reaching the maximum nine hundred sixty (960) hours, the appointing authority must either (i) move to separate the employee using the method prescribed by the Human Resources Department, or (ii) as applicable, obtain and provide the Director with written authorization from the Chief Administrative Officer to exceed the nine hundred sixty (960) hours in any fiscal year.
- (c) In consideration of the Affordable Care Act, extra help appointments shall not exceed an average of twenty-eight (28) hours per week in any given month without the prior authorization of the Chief Administrative Officer.

- (d) It is not the intent of the County to use extra help appointments to circumvent the civil service career hiring process.
- (e) Extra help appointments shall not be made to vacant regular positions.

#### **1103.1 Transition of Extra Help Employees**

An extra help employee may be transitioned into a regular employee if all of the following conditions exist:

- (a) The request was initiated by the appointing authority and approved by the Director.
- (b) The department in which the extra help employee works has a vacant allocated position for the same classification as held by the extra help employee.
- (c) The extra help appointment was made from an open eligibility list where the recruitment announcement indicated the extra help appointment could result in a regular appointment.

Upon the transition from extra help to regular, the salary for such regular appointment shall be in accordance with Rule 604, Compensation Plan, and the employee will serve a probationary period in accordance with Part 12, Probationary Period.

An extra help employee shall not be transitioned to a regular employee if said employee was hired from an extra help only eligibility list.

#### **1104. EMERGENCY APPOINTMENT**

An emergency appointment is an appointment made to meet immediate requirements caused by an emergency condition where there is a threatened interruption of essential County services and immediate action is necessary. After consulting with the Director, emergency appointments are made by the appointing authority for the duration of the emergency, but may not exceed twenty (20) working days without approval by the Board of Supervisors. All emergency appointments, and the expected duration of each appointment, must be submitted by the appointing authority for Board of Supervisors review and approval no later than the adjournment of its next regular meeting. All emergency appointments are made at step 1 of the salary range for the appropriate classification.

#### **1105. LIMITED TERM APPOINTMENT**

A limited term appointment is an at-will appointment in the unclassified service made to an approved limited term allocation which has a fixed expiration date. A limited term appointment made to maintain adequate coverage of work, such as coverage for a leave of absence, or to accomplish a specific project that is limited in a finite duration and will continue for a period of one hundred twenty five (125) working days or more. Limited term appointments are made by the appointing authority after authorization by the Chief Administrative Officer. Limited term appointments, unless earlier terminated, terminate automatically at the end of the specific project for which the appointment is made. Limited term appointments are made from eligibility lists, unless waived by the Director. Employees serving under a limited term appointment receive benefits (health, retirement, and paid leave benefits) but are not considered regular employees. The expiration date for a limited term allocation can be extended at the request of the

appointing authority based on a continued need in the department with approval by the Board of Supervisors.

**1106. TRAINING/TRANSITION OVERLAP**

In order to provide for a transition and/or training period between an outgoing employee and an incoming employee, a new employee or a promoted employee may be appointed to a position not more than thirty (30) working days before the employee being replaced is separated from County employment. The appointing authority must submit to the Director and Chief Administrative Officer for approval the request that includes the employee's specific signed resignation/retirement date and available cost savings to cover the overlap.

**1107. CONDITIONS OF APPOINTMENT**

Candidates who have been offered regular, limited term, or extra help appointments must meet the conditions of employment specified by the Human Resources Department for a particular position. Failure of such pre-employment tests or examinations may be cause for the Director to cancel the eligible candidate's name from a certification or remove the name entirely from an eligibility list. Conditions of employment may include:

**1107.1 Criminal and Other Background Check/Investigation**

Subsequent to a conditional offer of employment and prior to appointment or reemployment, an eligible candidate shall be required to undergo a criminal background check/investigation, as well as other such work-related reference checks and verification of education, certifications, or prior work experience as may be prescribed by the Director after consultation with the appointing authority or required by applicable law.

**1107.2 Pre-Employment Physical Examination**

Subsequent to a conditional offer of employment and successful completion of a background check/investigation, but prior to initial appointment, reemployment, or appointment to a classification with different physical demands, an eligible candidate may be required to undergo medical screening and/or a physical examination as prescribed by the Director.

**1107.3 Other Job-Related Examinations**

For job-related reasons determined by the Director, candidates may be required to submit to other examinations or tests prescribed by the Human Resources Department after consultation with the appointing authority or required by applicable law.

**1107.4 Oath of Allegiance**

No appointment shall be completed until the candidate has subscribed to an oath of allegiance or affirmation as required by Government Code.

**1108. NEPOTISM**

It is the policy of the County to regulate, restrict, or prohibit the employment of relatives or when two (2) existing employees enter into a relationship when it may have a

detrimental effect on supervision and morale, and is necessary for proper and efficient operation and delivery of County services.

**1108.1** No relative of a County employee may serve in or be appointed, promoted, demoted, or transferred to a position which involves a direct supervisor-subordinate relationship. For purposes of this Rule 1108, the appointing authority is considered in the direct line of supervision in that department. In addition, the employment of relatives within the same supervisory unit of a County department or agency is prohibited.

- (a) Direct line of supervision, as defined for purposes of this Rule 1108, includes any situation in which the employee would be in a position to affect the terms and conditions of another's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation.
- (b) A relative is defined as an individual who is related by blood, marriage, domestic partnership, or adoption in any of the following ways: spouse, child, step-child, parent, step-parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, daughter-in-law, son-in-law, brother-in-law, and sister-in-law, or any other situation that the Human Resources Director determines creates the possibility of a conflict of interest as described in Rule 304. A spouse is a person who is a husband or wife in a valid marriage or who is a registered domestic partner as those terms are defined by California law. In implementing this Rule 1108, it is lawful to ask an applicant to state whether he/she has a spouse or relative as defined in this Rule 1108 who is presently employed by the County, but such information may not be used as a basis for an employment decision except as stated in this Rule.
- (c) This Rule 1108 shall apply to all appointments to positions in the County service.

**1108.2** Employees who become relatives or when two (2) existing employees enter into a relationship and work in a direct supervisor-subordinate relationship and/or who work in the same supervisory unit of a County department shall be subject to this Rule 1108 and must notify their supervisor or manager within thirty (30) days.

- (a) The County shall initially allow the affected employees to determine which employee will remain in his/her current position. If the affected employees have no preference, the Director, in consultation with the appointing authority and Chief Administrative Officer shall determine which of the employees will remain in his/her current position, giving consideration to the work history and seniority of the affected employees.
- (b) As to the other employee, the Director, in consultation with the appointing authority and Chief Administrative Officer, will attempt to make a mutually acceptable transfer to a similar position in another supervisory unit or department. If a mutually acceptable transfer cannot be made, that employee shall be subject to layoff as defined in Rule 1305, Layoff, and Rule 1306, Procedures for Layoffs.

**1108.3** The Board of Supervisors may waive this Rule 1108 with an acceptable showing of unusual or exceptional circumstances when this Rule 1108 would

otherwise prohibit the promotion, transfer, or demotion of a regular employee. To be considered by the Board of Supervisors, such action must be initiated by the appointing authority or by the employee and recommended by the appointing authority.

Employees in supervisory positions are prohibited from entering into romantic relationships with subordinates.

### **1109. ACTING STATUS**

An acting assignment is defined as the assignment of a regular employee to work in a classification for which the top salary step is greater than the top salary step of the employee's regularly assigned classification. If the employee works in the acting assignment for more than fifteen (15) working 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 Rule 608, Salary on Promotion.

An acting assignment may occur in the following circumstances:

- 1109.1** Where there is a temporary absence of the position's incumbent; or
- 1109.2** Where there is a permanent separation of the position's incumbent, and a recruitment and/or selection process has not been completed, or the appointing authority finds the need to hold the position vacant for a period of time. In the case where a recruitment and/or selection process is in progress, the acting assignment shall not exceed nine hundred sixty (960) hours in a fiscal year; or
- 1109.3** Where the position's incumbent is on light duty, transitional duty, or on a modified duty assignment that is not considered significantly within the functions of the job classification.

All acting assignments are subject to the following provisions:

- (a) Requests for acting assignments shall be made in accordance with Rule 1002, Request for Personnel, and approved by the Director prior to the employee's fifteenth working day in the acting assignment; should approval not be obtained by the fifteenth working day, the acting assignment shall immediately end.
- (b) The nature of the assignment shall be such that the employee in the lower classification becomes fully responsible for the duties of the position of the higher classification.
- (c) An employee selected for an acting assignment must meet the minimum qualifications for the higher classification. This determination shall be made by the Director prior to the commencement of the acting assignment.
- (d) Acting assignments shall not be utilized as a substitute for regular promotional procedures.
- (e) The appointing authority shall be responsible for monitoring and ensuring acting assignments do not exceed the designated time limit.
- (f) Acting status may be terminated by the appointing authority at any time using the appropriate process prescribed by the Human Resources Department.
- (g) If an employee's acting assignment is terminated and subsequently reinstated within twenty (20) working days, and the employee has been receiving compensation at the rate of pay for the higher classification, the employee shall

receive the higher rate of pay effective the first day of reinstatement of the acting assignment.

- (h) If the acting assignment classification is FLSA overtime eligible, overtime pay will be paid based upon the regular rate of pay for the higher acting class.
- (i) If an employee's acting assignment is in a different bargaining unit than the employee's original classification, the employee will continue to have benefits determined by the bargaining unit agreement applicable to the original classification.
- (j) An employee who would otherwise become eligible and is recommended for a merit increase in the original classification shall be awarded that increase while in acting status. The acting assignment salary step shall, if necessary, be adjusted to maintain at least a five percent (5%) spread between the original classification and the acting classification; however, in no case shall the adjusted salary exceed the top step of the acting assignment classification.
- (k) In the event that salary schedule increases go into effect while an employee is in an acting assignment, the acting step may be adjusted to maintain at least a five percent (5%) spread between the original classification and the acting classification; however, in no case shall the adjusted salary exceed the top step of the acting assignment classification.
- (l) When the acting assignment ends, the employee will return to the original classification at the salary step the employee was at previously, unless a merit increase was awarded during the assignment as described in paragraph (j) above, then the employee will be placed at the higher salary step.



## **PART 12 : PROBATIONARY PERIOD**

### **1201. GENERAL**

The probationary period is the final phase of the selection process. It is utilized by the appointing authority to determine the employee's fitness for post-probationary status, for the effective adjustment of employees to new jobs, and for the separation of any probationary employee whose performance does not meet the required standards of performance.

### **1202. DURATION**

Regular appointments, whether for entrance, promotion, transfer, or voluntary demotion, shall be subject to a probationary period as set forth in this Rule 1202. The length of the probationary period for the individual employee's classification is provided in the applicable MOU.

**1202.1** Probationary periods are required in the following instances:

- (a) Upon initial appointment to a position in a class in the classified service.
- (b) Upon promotion to a position in a class in the classified service, except for promotion of an employee who has completed probation in the lower class to the next higher class in a flexibly staffed position.
- (c) Upon voluntary demotion or transfer to a position in a different class series in which the employee has not previously achieved post-probationary status, unless an appointing authority and employee agree to waive or reduce the probationary period with the approval of the Director.
- (d) Upon displacement to a class in a different class series where the employee has not completed probation at the lower level.
- (e) 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.
- (f) Upon lateral transfer to a position in the same class in a different department when the employee has not attained post-probationary status in the class, except that the total time in the probationary period in the class shall not exceed the normal probationary period for that class.
- (g) Upon reclassification to a class at the same or higher salary range, unless waived by the appointing authority with the approval of the Director.
- (h) Upon reemployment when the employee has not previously achieved post-probationary status in the class.
- (i) In any other circumstance not specifically excluded in Rule 1202.2.

**1202.2** Probationary periods are not required in the following instances:

- (a) Upon involuntary demotion of a post-probationary employee.
- (b) Upon promotion of an employee who has completed probation in the lower class to the next higher class in a flexibly staffed position.

- (c) 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.
- (d) 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.
- (e) Upon reassignment to a position in the same class in the same department.
- (f) Upon lateral transfer of the employee to a position in the same class in a different department when the employee has previously achieved post-probationary status in the class, except where the appointing authority and employee concur on a probationary period not to exceed thirteen (13) pay periods.
- (g) Upon restoration resulting from a layoff to the employee's former class or a lower class in the class series where the employee had completed a probationary period.
- (h) Upon reclassification to a class in which the incumbent is "Y" rated.
- (i) Upon reemployment when the employee has previously achieved post-probationary status in the class except where the appointing authority and employee concur on a probationary period not to exceed thirteen (13) pay periods.

**1203. TIME INCLUDED**

The probationary period shall commence on the date of appointment to the position in a class. Unless otherwise specified in the MOU applicable to the employee, it shall not include time served in extra help appointments or time spent in acting status. Probationary periods may be extended in accordance with the provisions of the MOU applicable to the employee.

**1204. STATUS DURING PROMOTIONAL, VOLUNTARY DEMOTION, OR LATERAL TRANSFER PROBATION PERIOD**

An employee who has attained post-probationary status who fails to satisfactorily complete a secondary probationary period as a result of a promotion shall have the right of return to a position in the class and department that the employee previously occupied, and an incumbent in such position shall be subject to layoff. The right must be exercised within three (3) working days of notification of the failure to complete probation. If the right of return is not exercised within three (3) working days of notification, the employee shall be deemed to have constructively resigned. If the employee held post-probationary status in the former classification, the employee will not be required to serve a new probationary period, and the employee's salary step and anniversary date shall be restored to the pre-promotion salary step and anniversary date.

An employee who has attained post-probationary status who fails to satisfactorily complete a probationary period in a new class as a result of a voluntary demotion to a class in a new class series or transfer to a class in a new class series, or lateral transfer in the same class in a different department where the parties have agreed upon a probationary period, shall have the right of return to a position in the class and

department that the employee previously occupied if the employee had attained post-probationary status in the class, provided such right of return shall be exercised within ninety (90) days of the effective date of the transfer or voluntary demotion. After ninety (90) days, an employee who does not satisfactorily complete the new probationary period shall have a right of return to any vacant position in the former class and department for a period not to exceed six (6) months.

**1205. REJECTION DURING PROBATION**

- (a) An appointing authority may reject a probationary employee who has not achieved post-probationary status at any time during the probationary period without the right of appeal in any manner and without recourse to either the grievance or appeal procedures. The appointing authority shall notify the employee in writing that he/she is rejected; no reasons for the action are required.
- (b) Notwithstanding paragraph (a) above, a probationary employee may appeal the action when the employee alleges and substantiates in writing that the rejection was due to political, religious, or union activities; or on the basis of race, color, national origin, sex, age, disability, sexual orientation, or any other basis protected by law. Appeals shall be processed using the County's discrimination complaint procedure. Any such appeal must be made no later than ten (10) calendar days after the date of delivery to the employee of notice of rejection or three (3) calendar days after the mailing of such notice, whichever is earlier. Employees covered under the State Merit System may also appeal to the California Department of Human Resources as set forth in LAPS.

**1206. CONDITIONS PRELIMINARY TO POST-PROBATIONARY STATUS**

Post-probationary status for an employee shall begin on the day following the end of the probationary period. An employee, who is not rejected from probation prior to completion of the probationary period, unless extended in accordance with the provisions of the MOU applicable to the employee, shall automatically acquire post-probationary status.

**1207. TIME OF PROBATION EMPLOYEE PERFORMANCE EVALUATION REPORT**

The appointing authority is responsible for conducting a performance evaluation of a probationary employee (i) at the mid-point of the probationary period, and (ii) two (2) weeks prior to the end of the probationary period, or at time intervals specified in the MOU applicable to the employee. The appointing authority shall return all employee evaluation reports to the Human Resources Department. The appointing authority is responsible for notifying the employee prior to completion of the probationary period whether the employee's services are to be continued under civil service status or are to be rejected during probation.

**1208. RESTORATION OF ELIGIBILITY**

The Director shall restore the name of a probationary employee who has been displaced during probation due to a layoff or right of return (refer to Rule 1204) by the prior incumbent to an open or promotional eligibility list, if such eligibility list for the classification held by the probationary employee is in effect.

**1209. CIVIL SERVICE STATUS**

Refer to Ordinance Code Section 2.16.050 and Definition 217, Civil Service Status. This Rule 1209 shall not apply to positions designated as "at-will" or positions in the unclassified service.

## **PART 13 : PROMOTION, REASSIGNMENT, AND VOLUNTARY DEMOTION**

### **1301. GENERAL**

This Part provides definitions of different types of employment transactions; however, it does not deal with the salary implications, which are found in Part 6, Compensation Administration.

### **1302. PROMOTION**

Promotion is the move of a regular employee to another position in a class allocated to a salary range for which the top step is at least five percent (5%) higher than the top step of the class the employee formerly occupied, except as otherwise provided for in these Rules. Promotions shall be by a competitive recruitment and selection process, except as allowed under Rule 802, Promotion within Flexibly Staffed Classes. Upon request of an appointing authority, the Human Resources Department shall determine whether a competitive recruitment and selection process is to be conducted on an open or promotional-only basis. To qualify for a promotional examination, a person must be a regular employee in the classified service holding probationary or post-probationary status, and must possess the minimum qualifications for the class on or before the application deadline. Names of persons who separate from regular County employment, except by layoff, shall be removed from all active promotional eligibility lists.

**1302.1** When an employee is promoted from a non-exempt to an exempt position, the employee must:

- (a) Be paid for any accumulated compensatory time off at the time of promotion, or
- (b) Use the accumulated compensatory time off within six (6) months of the date of promotion. If the employee does not use the compensatory time off within this six (6) month period, the remaining compensatory time off will be paid in cash at the rate of pay that was in effect immediately prior to the date of promotion. The employing department is responsible for ensuring correct utilization of accrued compensatory time off, and initiating payment for any remaining compensatory time off at the end of the six (6) month period.

Once the employee is promoted to the exempt position, the employee no longer accrues compensatory time off.

### **1303. ASSIGNMENT AND REASSIGNMENT**

The appointing authority may assign or reassign an employee from one position to another position in the same class within the department.

### **1304. DEMOTION**

With the approval of the appointing authority and the Director, an employee may voluntarily demote to a position in another class within the department for which the employee possesses the minimum qualifications. The appointing authority shall report all voluntary demotions in writing to the Human Resources Department indicating the effective date, accompanied by a signed statement of agreement by the employee. Voluntary demotions may also be accomplished through regular recruitment and selection procedures.

An employee may be involuntarily demoted for cause by an appointing authority in accordance with Rule 1503, Disciplinary Action. (Also refer to Part 12, Probationary Period, and Rule 609, Salary on Demotion.)

**PART 14 : RESIGNATION, MEDICAL SEPARATION, NON-DISCIPLINARY SEPARATION,  
AND LAYOFF**

**1401. GENERAL**

Separation from County employment of any employee within the classified service shall comply with these Rules and shall be reported to the Human Resources Department in the manner prescribed. The Human Resources Department will send an exit interview survey upon notification of the separation.

**1402. RESIGNATION**

An employee's voluntary separation from County employment is a resignation. An employee may resign from County service either orally or by submitting a signed written resignation to the employee's appointing authority; both shall be effective and binding upon submission to the appointing authority without further action by any person. An employee wishing to resign from the County in good standing shall submit their resignation to their appointing authority at least two (2) weeks prior to their last day of actual work, unless such two (2) weeks' notice is waived by the appointing authority in writing. The appointing authority shall promptly accept all resignations in writing. Written resignations and acceptance of such shall be forwarded to the Human Resources Department by the appointing authority immediately upon receipt for inclusion in the employee's personnel file, indicating the effective date. Oral resignations shall be immediately confirmed by the appointing authority in writing, indicating the effective date, to the employee and shall be forwarded to the Human Resources Department by the appointing authority immediately for inclusion in the employee's personnel file.

**1402.1 Effective and Operative Dates of Resignations**

An expressed resignation is effective when delivered or spoken to the employee's supervisor or appointing authority, operative either on that date or the date specified by the employee.

**1402.2 Job Abandonment**

A constructive resignation occurs when an employee has been absent from duty for three (3) consecutive working days without supervisory approval. The department may consider that a constructive resignation has occurred when there is a reasonable basis supporting the conclusion that the employee failed to (i) report to work for (3) three consecutive working days, (ii) notify the department of the absence, and (iii) respond to department inquiries, if any, during the absence. The constructive resignation shall be effective on the third day that the employee fails to report to work. When job abandonment is suspected, the department shall document all attempts to contact the employee and notify the Human Resources Department.

**1402.3 Revocation**

After acceptance, a resignation is revocable only by written concurrence of the employee and the appointing authority.

#### **1402.4 Resignation in Lieu of Disciplinary Action**

An employee who resigns while charges or disciplinary action is pending, or who resigns while on suspension to avoid dismissal is (i) not considered to have resigned in good standing, and (ii) upon approval from the Director, may be excluded from future County recruitment and selection processes.

#### **1403. MEDICALSEPARATION**

- (a) An appointing authority, in consultation with the Human Resources Department, may separate a post-probationary employee from County employment for demonstrated incapacity to perform the essential functions of the position when reasonable accommodation is not available or will not permit the employee to perform the essential functions. Other options for changing an employee's status such as demotion, transfer, reassignment, etc. may be considered prior to separating the employee. Separation under this Rule 1403 shall be considered non-disciplinary and without prejudice and shall not be subject to the provisions of Rule 1503, Disciplinary Action.
- (b) Prior to implementing any such separation, the appointing authority, in consultation with the Director, shall consider all relevant medical information provided and shall follow all legal and procedural requirements including adherence to all applicable federal and state laws. The appointing authority shall inform the employee, in writing, of the right of appeal to the Director, whose decision shall be final, except as otherwise required by law.
- (c) Post-probationary employees who are found to be disabled shall, if eligible, be retired under CalPERS; provided, however, that a medical separation may not be initiated until the County or the employee has filed a CalPERS disability retirement application and CalPERS has rendered a decision or cancelled the application on the grounds that the employee has failed to cooperate. If the post-probationary employee is a "peace officer" as defined by Government Code Section 3301, then any action pursuant to this Rule must also comply with Government Code 3300 *et seq.*, commonly referred to as the "Peace Officer Bill of Rights."
- (d) A written notice of intent to separate shall be provided to the employee and include the following:
  - (i) The proposed effective date of separation;
  - (ii) The particular facts and specific grounds for the proposed separation in sufficient detail to permit the employee to understand and to respond to them;
  - (iii) Copies of any materials upon which the proposed separation is based; and
  - (iv) The right to respond, either orally or in writing, to the appointing authority within a specified time frame, but not less than ten (10) working days.
- (e) When the appointing authority has considered the employee's response and/or the specified time frame has elapsed, the appointing authority may separate the employee. A written notice provided to the employee shall include the following:
  - (i) The effective date of the action;
  - (ii) A copy of the notice of proposed action which explained the particular facts and specific grounds for separation; and
  - (iii) Notice of the availability of any appeals procedure.



Copies of any notices under this Rule 1403 and any other materials provided to the employee shall be filed with the Director. Service of the notices shall be made as provided in Rule 1504.1, Notice of Intent to Discipline (Skelly Notice).

**1404. NON-DISCIPLINARY SEPARATION**

A post-probationary employee who has access to Federal Tax Information (FTI), (refer to Board of Supervisors Policy E-9, Background Investigation Requirements for Individuals with Access to Federal Tax Information) may be non-punitively separated from County employment if the employee is no longer able to meet the requirements of the position as required by law and if none of the following alternatives exist:

- a) Reassignment to the same classification within the department where access to FTI is not required.
- b) Voluntary demotion to a similar vacant position within the department where the employee meets the minimum qualifications and access to FTI is not required.

**1405. LAYOFF**

An employee shall be subject to layoff whenever:

- (a) The employee's position is abolished.
- (b) Necessary because of curtailment or lack of work or funds.
- (c) Advisable in the interest of economy to reduce staff.
- (d) Necessary due to a modification of service requirements.
- (e) Another employee with greater seniority displaces the employee under the provisions of these Rules.

**1406. PROCEDURES FOR LAYOFFS**

Procedures for any layoffs shall be as set forth in the MOU, resolution, or policy applicable to the position.

## **PART 15 : PERFORMANCE MANAGEMENT**

### **1501. POST-PROBATIONARY ANNUAL EVALUATION**

Except as provided herein, employees who have successfully completed the probationary period within their current class shall be evaluated at least once each calendar year. Such evaluations shall be in writing on forms furnished by the Human Resources Department and shall be due on the anniversary date of the employee's most recent performance salary step increase.

Supervisors shall provide regular and comprehensive feedback to employees on their performance and maintain a record of feedback given to employees. Employees receiving a less than satisfactory evaluation shall be reevaluated not later than ninety (90) calendar days from the date of the last evaluation.

Good performance is to be acknowledged by use of letters of commendation and/or recognition which are submitted to the Human Resources Department for inclusion in employee's personnel file. Letters of commendation and/or recognition from outside the department are to be forwarded to the Human Resources Department for inclusion in the employee's personnel file, with a copy to the department. Neither the contents of an employee's performance evaluation nor failure to provide letters of commendation and/or recognition are grievable or appealable.

An employee may review a performance evaluation with the employee's appointing authority before the evaluation is placed in the employee's personnel file. The employee must request the review within ten (10) working days of receiving the evaluation. An employee may also submit a written response to a performance evaluation, which shall be attached to and permanently filed with the performance evaluation in the employee's personnel file. The employee must submit a written response within ten (10) working days of receiving the evaluation.

### **1502. CONDUCT**

All County employees are expected to render the best possible service that will reflect credit upon the County. The highest standard of conduct is essential to the proper operation of the County service. The County has the right and authority to establish work standards for all officers and employees. Any officer or employee may be dismissed, suspended, or reduced in rank or compensation for cause.

### **1503. DISCIPLINARY ACTION**

Disciplinary action with respect to any employee with post-probationary status in the classified service shall comply with these Rules and shall be reported to the Human Resources Department in the manner and on the forms furnished by the Human Resources Department.

#### **1503.1 Discipline**

The appointing authority may suspend without pay, reduce in pay, demote, or dismiss any employee who has attained post-probationary status for reasonable cause, including but not limited to:

- (a) Absence without authorized leave;

- (b) Excessive or unexcused absenteeism and/or tardiness, or sick leave abuse;
- (c) Conviction of any felony or criminal act involving moral turpitude, or accepting a plea of *nolo contendere* to any felony or criminal act involving moral turpitude;
- (d) On-duty or off-duty conduct, including, without limitation, crimes that do not fall within paragraph (c) above, that (i) tends to bring the County service into disrepute, or (ii) is a direct hindrance to the effective performance of County functions;
- (e) Disorderly or immoral conduct;
- (f) Repeated failure to meet established performance standards;
- (g) Insubordination or willful disobedience; or violation of any order given by a supervisor or appointing authority;
- (h) Being at work under the influence of intoxicating beverages, cannabis, non-prescribed narcotics or drugs; carrying onto County premises any such substance; unlawfully manufacturing, distributing, dispensing, or possessing controlled substances; consuming or using any such substance; or misusing any prescribed drugs during work hours and/or on County premises;
- (i) Being under the influence of intoxicating beverages, cannabis, or non-prescribed narcotics or drugs in any public place while wearing or displaying clothing, badges, or insignia identifying the employee as a County employee;
- (j) Neglect of duty;
- (k) Violation of any of the provisions of applicable law, regulation, these Rules, or County policies;
- (l) Material and intentional misrepresentation or concealment of any fact in connection with obtaining employment;
- (m) Failure to obtain or maintain a current license or certification required as a condition of employment;
- (n) Misappropriation of County funds;
- (o) Unreasonable failure or refusal to undergo any physical, medical, and/or psychiatric exam and/or treatment authorized by these Rules;
- (p) Dishonesty or theft;
- (q) Violation of the County's Code of Ethics;
- (r) Acceptance of any bribe, gratuity, kickback, or other item of value when the item is given in the hope or expectation of receiving preferential treatment;
- (s) Repeated and/or egregious discourteous or disrespectful treatment of fellow employees;
- (t) Discourteous treatment of the public;

- (u) Disregard of a departmental or County policy or statutes regarding the confidentiality of records;
- (v) Negligence or willful damage to public property; or waste, theft, or unauthorized use of County or other public resources, supplies, or equipment;
- (w) Unlawful harassment, unlawful discrimination, or retaliation against another employee, an applicant for employment, or anyone using County services; and
- (x) Any other conduct of equal gravity with the above.

#### **1504. PRE-DISCIPLINE (SKELLY) REQUIREMENTS**

##### **1504.1 Notice of Intent to Discipline (Skelly Notice)**

Except as otherwise expressly provided in these Rules, before taking action to suspend without pay, reduce in pay, demote, or dismiss an employee, the appointing authority shall (i) consult with the Human Resources Department on the nature of the proposed discipline, and (ii) cause to be served on the employee by personal service or deposit with the U.S. Postal Service via certified mail to the employee's last known address a Notice of Intent to Discipline (NOI). The NOI shall contain the following:

- (a) The name and title of the initiator;
- (b) A statement of the action proposed to be taken;
- (c) A statement of the reason for the proposed action, including the acts or omissions alleged and grounds upon which the action is based and any rule or regulation claimed to be violated;
- (d) A copy of any written materials upon which the proposed action is based;
- (e) The date upon which the proposed action is to become effective;
- (f) A statement of the employee's right, prior to the effective date of the proposed action, to a meeting with a designated Skelly Officer (refer to Definition 284), at which time the employee will be afforded a reasonable opportunity to respond orally or in writing to the proposed action;
- (g) A statement of the employee's right to be accompanied by a representative of the employee's choice during the meeting;
- (h) A statement of the employee's rights to a hearing and appeal process; and
- (i) A statement that the employee has ten (10) working days to respond to the appointing authority either orally or in writing.

Service to the employee shall be deemed complete upon personal service or five (5) calendar days after deposit with the U.S. Postal Service.

The initiator shall also serve a complete copy of the NOI, including all accompanying documentation and proof of deposit with the U.S. Postal Service if applicable, upon the Human Resources Department on the date on which service of the NOI is made upon the employee.

Nothing in this Rule shall affect the ability of constitutional officers from operating their departments in accordance with California law.

**1504.2 Employee Response**

The employee upon whom a NOI has been served shall have at least ten (10) working days to respond to the Skelly Officer (refer to Definition 284) either orally or in writing before the proposed action may be taken. Upon application and for good cause, the appointing authority may extend in writing the period to respond; responses, if made, may be oral or in writing and shall be communicated to the Skelly Officer at a reasonable time and place designated by the County. Any meeting pursuant to this Rule is not an evidentiary hearing.

If the employee's response is not communicated to the Skelly Officer within ten (10) working days or at the time and place designated by the County, the right to respond will be deemed waived.

The Skelly Officer shall consider the content of the NOI and the response, if any, of the employee in evaluating the propriety and nature of the proposed disciplinary action.

**1505. SERVICE OF ORDER**

Following any meeting held in accordance with Rule 1504, Pre-Discipline (Skelly) Requirements, or presentation of the employee's written response to the Skelly Officer, or any waiver of such response by the employee, the appointing authority may uphold, modify, or revoke the proposed action. The appointing authority shall give written notice of the decision (NOD) to the employee, with a copy to the Human Resources Department. For post-probationary employees, the NOD shall contain a statement of the employee's hearing and appeal rights under Rule 1506, Employee Appeals from Notice of Decision. The NOD shall be effective either upon personal service or deposit with the U.S. Postal Service via certified mail to the employee's last known address.

**1506. EMPLOYEE APPEALS FROM NOTICE OF DECISION**

A post-probationary employee may, within ten (10) working days after personal service or deposit with the U.S. Postal Service via certified mail of the NOD, appeal in writing through the Director to the Civil Service Commission. State Merit System employees may also appeal the NOD as outlined in LAPS. Implementation of the action described in the NOD will not be stayed pending the outcome of this appeal. Employees who do not wish to appeal but who wish to make a statement regarding the NOD may have a written response or statement entered into their personnel file.

## **PART 16 : TERMS OF EMPLOYMENT**

### **1601. HOLIDAYS**

The County shall designate specific days as County holidays, as enumerated in the various MOUs applicable to employees. The following provisions for administration of holidays shall apply to all employees:

- (a) A new employee whose first working day is the day after a paid holiday shall not be paid for that holiday;
- (b) An employee who is terminating his/her employment and whose last day as a paid employee is the day before a holiday shall not be paid for that holiday.
- (c) An employee who is on leave of absence without pay shall not be paid for that holiday.
- (d) Extra help and contractual employees are not covered by holiday provisions herein or in any MOU.
- (e) Regular employees on an irregular work week schedule shall be entitled to the same number of paid holiday hours as regular employees on a regular work week schedule.

### **1602. VACATION LEAVE**

For purposes of this this Rule 1602, one (1) year shall be equivalent to twenty-six (26) biweekly pay periods. Elected officials are not subject to vacation leave provisions.

#### **1602.1 Accrual**

Every regular employee and limited term employee shall accrue vacation leave with pay as set forth in the MOU covering the employee. New employees shall be eligible to use accrued vacation leave as specified in the MOU covering the employee and upon approval of the appointing authority. Accrued vacation leave may not be used until the pay period following the one in which the time was accrued.

#### **1602.2 Maximum Vacation Leave Accrual**

The maximum vacation leave accrual for employees with forty-eight (48) months or fewer of continuous service is two hundred forty (240) hours. The maximum accrual for employees with more than forty-eight (48) months of continuous service is three hundred twenty (320) hours. When an employee accrues the maximum number of hours set forth above, the employee shall cease accruing vacation until such time as the employee has utilized vacation hours to bring the total hours below the maximum stated.

The employee is responsible for taking vacation leave prior to meeting the maximum accrual limits. At no time may an employee have a total balance of vacation hours in excess of the maximum leave accrual.

#### **1602.3 Provisions**

Vacation leave shall be accrued from each employee's hire date. Upon termination of an employee's employment for any cause, he/she shall be paid

for any unused vacation hours accumulated, up to the maximum amount permitted to be accumulated.

#### **1602.4 Vacation Scheduling**

The County recommends that employees use their accrued vacation each year. All vacations shall be taken at times approved by the appointing authority which is responsible for ensuring that the employee is eligible for the vacation requested. No employee shall be allowed vacation in excess of that actually accrued at the time taken.

### **1603. ATTENDANCE**

Attendance is an essential function of each position. Employees of the County are expected to report to their work site and perform their assigned duties on a sustained, regular, and punctual basis. The only exceptions to this requirement shall be those leaves authorized by these Rules and approved by the appointing authority.

### **1604. SICK LEAVE**

Sick leave is provided by the County to regular employees, limited term employees, and extra help employees (not including CalPERS retired annuitant employees) who, due to illness or injury, are unable to report and perform their assigned duties. Eligible employees are encouraged to accrue a sufficient amount of sick leave to avoid undue economic hardship in the event of catastrophic or major illness or injury.

The minimum amount of sick leave that can be charged to the employee's sick leave account is six (6) minutes.

#### **1604.1 Accrual**

Regular employees and limited term employees shall accrue sick leave at the rate of .04625 hour per hour worked plus vacation taken, sick leave taken, workers' compensation taken, and compensatory time off taken. No maximum accrual is imposed. Accrued sick leave may not be used until the pay period following the one in which the time was accrued.

Sick leave is provided by the County to qualifying extra help employees in accordance with state and/or federal law.

No covered employee shall be entitled to use sick leave with pay until the employee has completed at least two (2) biweekly pay periods of continuous service with the County.

Elected officials and contractual employees do not accrue and cannot claim sick leave.

#### **1604.2 Usage**

Employees may use accrued sick leave, with the approval of the appointing authority, for the following circumstances:

- (a) The employee's illness, injury, disability, or exposure to contagious disease, any of which may incapacitate the employee from the performance of the duties of the position.

- (b) The employee's medical, dental, chiropractic, or optical appointments cannot be scheduled outside the work day.
- (c) The employee's care of a member of the family who is ill or disabled. Family for the purposes of this paragraph (c) is defined by law (i.e., the Family Medical Leave Act, California Family Rights Act, and California Kin Care Leave Act).
- (d) To obtain any relief or services related to being a victim of domestic violence, sexual assault, or stalking with appropriate certification of the need for such services.
- (e) The employee's preparation for or attendance at the funeral of a member of the employee's immediate family (up to a maximum of forty [40] hours). Immediate family for the purposes of this this paragraph (e) means parent, spouse, registered domestic partner, son, daughter, sibling, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparents or grandchildren by blood or marriage, or a person for whom the employee has been designated legal guardian.

#### **1604.3 Exception to Use of Sick Leave**

No County employee shall be entitled to sick leave when absent from duty for a disability arising from any sickness or injury purposely self-inflicted or caused by the employee's willful misconduct.

#### **1604.4 Integration with Other Benefits**

**Workers' Compensation:** A covered employee who is entitled to receive temporary disability indemnity under the California Labor Code (workers' compensation) may elect to take only that portion of accumulated sick leave or earned vacation that, when added to the employee's disability indemnity, will total the employee's full pay. The election must be made by filing a request to the Human Resources Department to integrate these benefits prior to the end of the biweekly pay period.

**State Disability Insurance (SDI):** A covered employee who is entitled to receive SDI may elect to use only that portion of accumulated sick leave or earned vacation that, when added to SDI, will total the employee's full pay. The employee is responsible for filing for SDI and making all arrangements with the Auditor-Controller's Office for sick leave and vacation integration.

#### **1604.5 Administration of Sick Leave**

The appointing authority is charged with the responsibility of administering sick leave within their departments in a manner consistent with applicable practices and policies adopted by the County. The employee is required to notify their appointing authority as soon as possible of their absence due to illness or injury. A department may require an employee to complete a sick leave request form or record of sick leave use upon return from an absence due to illness or injury.

- (a) Departments may request information in order to aid in the determination of whether the sick leave use is appropriate. For an absence longer than three (3) days, a department may require an employee to provide a



physician's statement or other documentation supporting the use of sick leave. If such documentation is to be required, the department shall notify the employee prior to the employee's return to work.

- (b) When an employee is absent for longer than ten (10) consecutive working days, the employee shall submit a statement from the employee's physician releasing the employee for normal duty.
- (c) If a department suspects inappropriate use of sick leave by an employee, the appointing authority may make whatever reasonable investigation that is warranted and permissible under applicable law, and shall take appropriate action based on the results of the investigation.
- (d) If an employee has a record of excessive sick leave use or documented sick leave abuse, the County may require a physician's letter or other documentation before authorizing future or retroactively approving leave usage. Examples of excessive sick leave usage may include, but are not limited to:
  - (i) In excess of six (6) individual unexcused absences in a twelve (12) month period; or
  - (ii) 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 (1) or more days. Each day of a multi-sick leave absence does not constitute its own individual use of leave.

It is important to note that use of leave identified under 1604.5 (d)(i) and (ii) above does not automatically indicate abuse as there may be legitimate reasons why an employee is using leave under these circumstances. The primary goal of identifying leave use thresholds is to initiate communication between the County and the employee to determine why an employee is using so much leave and determine if the leave is being abused.

- (e) Protected leave cannot be tracked for performance evaluation and/or disciplinary reasons unless an employee is using protected leave in an unlawful manner.
- (f) When an employee has been determined to have used sick leave for illegitimate purposes, the County may recover such funds.
- (g) Each department shall maintain complete and current records of sick leave and vacation time accumulated and taken by each employee.
- (h) The appointing authority shall have the discretion to place employees on sick leave when the presence of the employee at work would endanger the health and welfare of other employees or where the illness or injury of the employee interferes with the performance of the employee's duties. In such cases, the employee's sick leave accrual balance will be reduced by the time away from work.

**1604.6 Recovery of Sick Leave**

If benefits are payable under this Rule 1604 because of an injury to the employee that is the proximate consequence of the wrongful act of another, and the employee recovers damages for the time lost, the employee shall not receive sick leave pay under this Rule 1604 for the same time, or shall repay the County for any amount already paid. The repaid sick leave shall be credited back to the employee's sick leave accumulation account.

**1604.7 Payment for Unused Sick Leave**

The County may pay regular and limited term employees for a portion of their annual sick leave accruals according to requirements, provisions, and limitations in the MOU applicable to the individual employee.

**1605 FITNESS FOR DUTY EXAMINATION**

An appointing authority who has reasonable cause to believe that an employee cannot perform the duties of the position may require the employee to submit to a fitness-for-duty examination. The appointing authority must obtain approval from the Human Resources Department prior to taking action.

**1606 RETURN TO WORK**

- (a) Employees unable to perform the essential functions of the position, with or without reasonable accommodation, as a result of a physical or psychological illness or injury for a period expected to be permanent or last at least twelve (12) consecutive months from the first date of the absence shall be subject to one (1) or more of the following actions:
  - (i) Be separated from employment. Employees who are separated pursuant to this Rule 1606 shall be given notice and an opportunity to respond to the separation in accordance with Rule 1403, Medical Separation; or
  - (ii) If disabled, be retired under CalPERS in the circumstances described in Rule 1403(c); or
  - (iii) Be offered the opportunity to resign from the position and submit an application to be placed on the appropriate eligibility lists as determined by the Director, for a period not to exceed one (1) year. Any employee returning to work under this Rule 1606 shall provide to the Human Resources Department verification from a medical practitioner of the employee's ability to return to work and perform the essential functions of the position, with or without accommodation, and may be required to undergo a fitness-for-duty examination prior to their return.
  - (iv) Pursuant to state law, sworn employees are entitled to regular pay for temporary disability caused by an injury or disease arising out of or during the course of employment.
  - (v) Employees on family and medical care leave, pregnancy disability leave, or other statutory leaves will not be separated if separation during such leave would be precluded by law.
- (b) Whenever an employee receives a permanent and stationary rating, return to the job must be based on the same medical information upon which the rating was

based. It is the policy of the County that employees return to duties they can perform safely without undue risk or further injury to other employees. It is also the policy of the County that, if employees cannot safely perform such duties without undue risk or if the employee is unable or unwilling to accept some other vacant position that the employee is qualified to perform, employment will be separated.

The medical information presented by the employee shall be utilized by the County and interpreted in terms of specific job restrictions and limitations. The Director, in consultation with the appointing authority, will apply such job restrictions and limitations to the requirements of the employee's position. The Director will then determine whether the employee will (i) return to the job, (ii) transfer to some other vacant position for which the employee is qualified, or (iii) separate from the County service.

## **1607. HEALTH/DENTAL INSURANCE BENEFITS**

Health/dental insurance benefits are provided to regular employees and limited term employees. Except as required by applicable federal law, extra help employees are not entitled to participate in health/dental insurance plans offered by the County.

### **1607.1 County Premium Contribution – Full-Time Employees**

The County contribution towards payment for health/dental insurance premiums for covered full-time employees (eighty [80] hours per biweekly pay period) shall be as set forth in the MOU covering each employee.

### **1607.2 County Premium Contribution – Part-Time Employees**

The County contribution specified in each MOU towards payment for health/dental insurance premiums for covered part-time employees hired on or after September 7, 1991 shall be as follows:

| <b>Hours Scheduled</b>                 | <b>Percentage of County Portion paid by County</b> |
|--|--|
| 64 to 79 hours/biweekly pay period     | 100%   |
| 40 to 63 hours/biweekly pay period     | 75%  |
| 32 to 39 hours/biweekly pay period     | 50%  |
| Less than 32 hours/biweekly pay period | 0% (employee ineligible to participate)            |

The County percentage is based upon scheduled hours as reflected in the County payroll system, and can be changed only by updating that record. Any such changes are effective on the next full biweekly pay period following update; provided, however, that employee eligibility to participate in the County's health/dental program may be postponed until the next open enrollment period if required by plan documents and/or Internal Revenue Service requirements.

**1607.3 County Premium Contribution – Pay Status Requirement**

Pay status requirements for payment by the County of its portion of an employee's health insurance premium shall be as set forth in the applicable MOU.

**1608. LEAVE OF ABSENCE WITHOUT PAY**

Any regular employee or limited term employee may be granted a leave of absence without pay upon written request approved by the appointing authority; provided, however, that leaves for conditions of pregnancy; pregnancy-related disability; serious health condition of the employee; leave to care for a close family member with serious health condition; parental leave to bond with a newborn, adoptive, or foster-care child; military service, military caregiver, or military exigency leave; or any other leave required by law shall be granted in accordance with applicable state and federal laws.

**1608.1 Administration**

- (a) Requests for leave of absence without pay shall be made upon forms set forth by the Director and shall specifically state the reason for the request (without disclosing medical details), the desired beginning date, and the probable date of return. Leaves in excess of five (5) working days must be reported by the department to the Human Resources Department.
- (b) Whenever an employee who has been granted a leave without pay desires to return before the expiration of such approved leave, the employee shall submit a request to the appointing authority in writing at least three (3) calendar days in advance of the proposed return. Early return is subject to prior approval by the appointing authority, and the appointing authority shall promptly notify the Human Resources Department of such return. The decision of the appointing authority granting or denying leave or early return from leave shall be subject to appeal to the Director and not subject to appeal through the grievance procedure set forth in the applicable MOU.
- (c) An employee who is on an approved leave without pay, or who is otherwise absent without pay, shall not accrue vacation or sick leave during such time, except as otherwise required by applicable state or federal laws.
- (d) Except as otherwise required by law, the County shall not continue to pay its portion of any group health, dental, and vision insurance to employees on unpaid leave of absence or suspension. Employees may, at their own expense, continue to participate in the County health, dental, and vision insurance programs. Amounts owed due to unpaid leaves of absence will be billed, and payments shall be remitted to the Human Resources Department within thirty (30) days. The County may recover any portion of the premiums paid by the County if the employee fails to return from leave under the circumstances described in Government Code Section 12945(a)(2)(A).

**1608.2 Family Medical Leave**

- (a) Any employee who has worked at least (i) twelve (12) months or (ii) one thousand two hundred fifty (1,250) hours during the immediately preceding twelve (12) month period prior to the commencement of the

leave, may be eligible for up to twelve (12) weeks leave per twelve (12) month period for (i) medical leave of absence for the employee's own serious health condition that makes the employee unable to perform the essential functions of the employee's position; (ii) family care leave of absence without pay for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee, or the serious illness or health condition of a child, parent, spouse, or domestic partner of the employee; or (iii) any other condition or circumstance authorized by law.

- (b) An employee must request leave at least thirty (30) calendar days before the leave is to begin if the need for the leave is foreseeable. If the need is not foreseeable, the employee must provide written notice to the employee's supervisor within five (5) calendar days of learning of the qualifying event. Consistent with the applicable laws, an exception for emergency or extraordinary circumstances may be provided. Upon request by the Human Resources Department, the employee shall provide certification of the need for family care leave or medical leave.

Employees granted a leave of absence under this Rule shall use any accumulated sick leave concurrently with the approved leave where allowed by federal and state statutes. Employees may, but are not required to, use any accumulated vacation time. An employee may be allowed to bank up to eighty (80) hours of sick leave for use upon return to work if allowed under the MOU covering the employee. Consistent with CFRA if the employee is receiving third party wage replacement, the use of sick leave shall not be required, but can be used at the employee's discretion.

- (c) The twelve (12) weeks' leave need not be a continuous block of leave. Leave may be in broken periods, intermittently on a regular or irregular basis, or may include reduced work schedules depending on the specific circumstances and situations surrounding the request for leave and the terms of the certification by the employee or family member's health care provider. When used intermittently, the twelve (12) weeks is applied as 60 work days; or when necessary for partial days, is applied in increments of one (1) hour or more, up to the maximum of twelve (12) weeks of the employee's regularly scheduled hours.
- (d) In the situation where parents are both employed by the County, the following applies:
  1. **Child Bonding:** If both parents of a child are employees of the County, the County shall not be required to grant leave in connection with the birth, adoption, or foster care of a child that would allow the parents' child bonding leave to an excess of an aggregate twelve (12) weeks. Both parents are required to share the bonding leave on terms they mutually decide upon and shall inform the Human Resources Department of their elected aggregate leave for child bonding. Pursuant to FMLA and CFRA, the use of paid leaves (excluding sick leave accrual) can be applied concurrently.
  2. **Leave to Care for a Close Family Member with a Serious Health Condition:** If both employees of the County are parents to, or children

of the same close family member, and otherwise eligible for FMLA or CFRA leave, they are each entitled to up to twelve (12) weeks of leave to perform caregiver duties.

- (e) For leaves of absence under this Rule 1608, the terms “child”, “parent”, “serious health condition”, “certification for medical leave”, “certification for family care leave”, and “comparable position” shall be as defined in applicable state and federal leave laws. The term “spouse” shall mean a person who is a husband or wife in a valid marriage or who is a registered domestic partner, as those terms are defined by California law.
- (f) The County shall continue to pay its customary portion of any group health, dental, and vision insurance during a leave of absence under this Rule 1608.2. In order to maintain such coverage, employees are required to pay timely the full employee contribution, either through payroll deduction or by paying the County directly. Employees may also make arrangements with the Auditor-Controller’s Office for payment of any other payroll deductions. Any payments made by the County for the employee contribution shall be collected from the employee by the County. The County may recover its portion of any group health, dental, and vision insurance premiums paid if the employee fails to return from leave under the circumstances described in applicable state or federal leave laws.
- (g) An employee on leave of absence without pay due to the employee’s own illness or injury will be required by their appointing authority to present a fitness for duty statement by the employee’s treating health care provider releasing the employee with or without restrictions prior to returning to work. In appropriate objective circumstances, an employee may be restored to work, placed on administrative leave, and then required to undergo a fitness-for-duty examination.
- (h) Under most circumstances, upon submission of a fitness for duty certification from the employee’s health care provider that the employee is able to return to work from leave for the employee’s own serious health condition, the employee will be reinstated to the same position held at the time the leave began or to an equivalent position. An employee returning from a California Family Rights Act (CFRA) leave has no greater right to reinstatement than if the employee had been continuously employed.
- (i) If at any time the medical condition of the employee appears to be permanent or following an interactive process the County determines that will require an indefinite or unreasonably lengthy further unpaid leave last for an unreasonable time period, 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 long-term disability (LTD).

### **1608.3 California Family Rights Act**

- (a) The CFRA amended the 1991 California Family and Medical Leave law and is very similar to the federal Family and Medical Leave Act (FMLA).

The CFRA allows eligible employees up to twelve (12) weeks of leave within a rolling twelve (12) month period measured backwards to bond with a child; whether that child is a newborn, recently adopted, or placed in foster care. The law also makes it legal for eligible employees to care for themselves if they have serious health conditions, (other than pregnancy-related conditions) or to care for an eligible close family member (child, parent, spouse, domestic partner) with a serious health condition.

- (b) Under the CFRA, a California employer does not have to pay an employee during CFRA leave. However, if an employer requires the employee to use accrued vacation time or another type of paid leave that is not accrued sick leave, then they will have to pay the eligible employee. Similarly, if the eligible California employee elects to use accrued vacation or paid leave time, then the employer must pay for the employee's time off, up to the maximum of twelve (12) weeks in a twelve (12) month period.
- (c) During an employee's CFRA leave, a California employer is also required to continue health coverage and other benefits by making its customary premium payments during the period of leave. If an employee elects to continue all applicable benefits in effect and customarily pays a personal contribution toward that coverage, the employee shall submit the amount of the personal premium contribution during the leave period not less than 15 days in advance of when such contributions are due.
- (d) Under most circumstances, upon submission of a fitness for duty certification from the employee's health care provider that the employee is able to return to work from leave for the employee's own serious health condition, the employee will be reinstated to the same position held at the time the leave began or to an equivalent position. An employee returning from a CFRA leave has no greater right to reinstatement than if the employee had been continuously employed.
- (e) An employee cannot use CFRA leave in place of pregnancy disability leave (PDL) if they are eligible for CFRA leave, but can request CFRA leave of up to twelve (12) weeks to bond with the new child. CFRA leave for child bonding runs consecutively after the conclusion of the pregnancy disability leave for childbirth and recovery. Under law, there is no need for the employee or the child to have a serious health condition in order to use CFRA leave for this purpose. Also, there is no requirement that the employee must be disabled by the pregnancy, childbirth, or related medical conditions before taking CFRA leave to care for a newborn. An employee may take CFRA leave to bond with a child placed in the home by adoption or foster care for up to twelve (12) weeks, with the exception that two parents who are employed by the County must share the twelve (12) week period. Pursuant to FMLA and CFRA, the use of paid leaves (excluding sick leave accrual) can be applied concurrently.

#### **1608.4 Pregnancy Disability Leave**

- (a) Regular employees and limited term employees shall be entitled to at least four (4) months of PDL rights as set forth in applicable state law. When used intermittently or on a reduced schedule basis, the four (4)

months is applied as up to 17.3 weeks, or 88 work days, or the weekly number of hours in the employee's regular schedule multiplied by 17.3 weeks.

- (b) Employees planning to take PDL must give the employer reasonable notice of the date the leave is expected to commence and the estimated duration of the leave. When the start of the leave due to conditions of pregnancy, childbirth, or recovery is unforeseeable, the employee must give as much notice as practicable.
- (c) Employees granted a leave of absence under this Rule 1608.4 shall use any accumulated sick leave concurrently with the requested leave. If the employee is receiving disability or wage replacement from a third party source, the employee may, but is not required to, apply sick leave accruals to coordinate with the disability wage replacement. Employees may, but are not required to, use any accumulated vacation time.
- (e) The County shall continue to pay its customary portion of any group health, dental, and vision insurance during a leave of absence under this Rule 1608.4, so long as the employee pays the portion for which he/she is personally responsible. In order to maintain such coverage, employees are required to pay timely the full employee contribution to maintain their group health plan coverage, either through payroll deduction or by paying the County directly. Employees may also make arrangements with the Auditor-Controller's office for payment of any other payroll deductions. Except as otherwise required by law, the County shall not continue to pay its portion of any group health, dental, and vision insurance to employees on unpaid leave of absence or suspension. Employees may, at their own expense, continue to participate in the County health, dental, and vision insurance programs. Amounts owed due to unpaid leaves of absence will be billed, and payments shall be remitted to the Human Resources Department within thirty (30) days. The County may recover any portion of the premiums paid by the County if the employee fails to return from leave under the circumstances described in Government Code Section 12945(a)(2)(A).
- (d) Under most circumstances, upon submission of a medical certification that an employee is able to return to work from a PDL, an employee will be reinstated to her same position held at the time the leave began or to an equivalent position, if available. An employee returning from a PDL has no greater right to reinstatement than if the employee had been continuously employed.

#### **1608.5 Military Caregiver Leave under FMLA**

- (a) The federal FMLA entitles eligible employees to take *unpaid leave* for a covered family member's service in the Armed Forces ("Servicemember FMLA"). This policy supplements the FMLA policy and provides general notice of employee rights to such leave. Except as mentioned below, an employee's rights and obligations to Servicemember FMLA Leave are governed by our existing FMLA policy.
- (b) An employee may take Military Caregiver Leave to care for a spouse, child of any age, parent, or next of kin who is a current member of the



Armed Forces (including a member of the National Guard or the Reserves) and incurs a serious illness or injury in the line of duty or active duty that may render the servicemember medically unable to perform his or her duties, if the illness or injury is one for which the servicemember is:

1. Undergoing medical treatment, recuperation or therapy;
2. In outpatient status; or
3. On the temporary disability retired list. If Military Caregiver Leave also qualifies as Family Illness Leave, the leave will be designated as Military Caregiver Leave.

(c) Servicemember FMLA provides eligible employees – defined as the *spouse, son, daughter, parent, or next of kin* of a covered servicemember, shall be entitled to a total of twenty-six (26) work weeks of leave during a twelve (12) month period to care for the covered servicemember. The leave described in this paragraph shall only be available during a single twelve (12) month period beginning on the first day the employee takes leave for this reason and ending twelve (12) months later. Unpaid leave will be for any one (1), or for a combination, of the following reasons:

1. A **“qualifying exigency”** arising out of a covered family member’s active duty or call to active duty in the Armed Forces in support of a contingency plan; and/or
2. To care for a covered family member who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces provided that such injury or illness may render the family member medically unfit to perform duties of the member’s office, grade, rank, or rating.

(d) Duration of Servicemember FMLA

1. When Leave Is Due To A “Qualifying Exigency”: An eligible employee may take up to twelve (12) work weeks of leave during any twelve (12) month period.
2. When Leave Is To Care for an Injured or Ill Servicemember: An eligible employee may take up to twenty-six (26) work weeks of leave during a single twelve (12) month period to care for the servicemember. Leave to care for an injured or ill servicemember, when combined with other FMLA-qualifying leave, may not exceed twenty-six (26) weeks in a single twelve (12) month period. Servicemember FMLA, to care for an injured or ill servicemember, is available once per servicemember, per serious injury or illness.
3. Servicemember FMLA runs concurrent with other leave entitlements provided under federal, state, and local law.

(e) Substitution of Paid Leave Accruals: An employee may elect to substitute paid vacation leave during all or a portion of the military servicemember caregiver leave. Under the CFRA, a California employer does not have to pay an employee during CFRA leave. However, if an employer requires the employee to use accrued vacation time or another type of paid leave that is not accrued sick leave, then they will have to pay the eligible

employee. Similarly, if the eligible California employee elects to use accrued vacation or paid leave time, then the employer must pay for the employee's time off, up to the maximum of twelve (12) weeks in a twelve (12) month period.

- (f) During an employee's CFRA leave, the County is also required to continue health coverage and other benefits by making its customary premium payments during the period of leave. If an employee elects to continue all applicable benefits in effect and customarily pays a personal contribution toward that coverage, the County shall require the employee on unpaid CFRA leave to submit the amount of the personal premium contribution during the leave period not less than 15 days in advance of when they are due.
- (g) An employee who is on an approved leave without pay, or who is otherwise absent without pay, shall not accrue vacation or sick leave during such time, except as otherwise required by applicable state or federal laws.

#### **1608.6 School Appearance Leave**

- (a) Employees may need to appear at his/her child's school in connection with disciplinary action by the school. This is an unpaid leave; employees can choose to use available vacation leave. Documentation from the school noting the date and time of the employee's visit is required.
- (b) Authorized leave is job protected and benefit protected, and the County will not tolerate retaliation against any employee who requests, uses, or returns from this leave.

#### **1608.7 School and Child Care Activities Leave**

- (a) Parents, guardians, or grandparents of a child in kindergarten, grades 1-12, or a licensed day care center may wish to take time off without pay to visit his/her child's school or day care center for a school activity.
- (b) The time off must not be more than eight (8) hours each calendar month (up to a maximum of forty [40] hours each calendar year), provided reasonable notice is given for the planned absence.
- (c) This is an unpaid leave; employees may elect to use available vacation leave. For scheduled events, employees should provide reasonable advance notice. The County asks that employees provide at least one (1) day notice or call before the beginning of the work day.
- (d) Authorized leave is job protected and benefit protected, and the County will not tolerate retaliation against any employee who requests, uses, or returns from this leave.

#### **1608.8 Child Care Emergencies**

- (a) An employee (parent, step parent, legal guardian, or person who stands in loco parentis to a child) may use unpaid time off for a "child care emergency," which is defined as:
  - 1. The school or child care provider has requested that the child be picked up or has an attendance policy excluding planned holidays, that prohibits the child from attending or requires the child to be

- picked up from the school or child care provider;
2. Behavior or discipline problems;
  3. Closure or unexpected unavailability of the school or child care provider, excluding planned holidays; or
  4. Natural disaster, including but not limited to fire, earthquake, or flood.
- (b) This is an unpaid leave; employees may elect to use available vacation leave.
- (c) Authorized leave is job protected and benefit protected, and the County will not tolerate retaliation against any employee who requests, uses, or returns from this leave.
- (d) The eight (8) hour limitation per month does not apply to emergencies. The annual entitlement, however, is still limited to forty (40) hours.

### **1609. PERSONAL LEAVE OF ABSENCE**

An employee may request to take time off to take a course of study that will increase the employee's usefulness on return to the position, or for other reasons or circumstances (not addressed in Rule 1608.2, Family Medical Leave; Rule 1608.3, California Family Rights Act; and Rule 1608.4, Pregnancy Disability Leave), acceptable to the appointing authority.

Personal leave requests shall be submitted by the employee and approved by the appointing authority in advance.

The appointing authority may grant a personal leave for a period not to exceed six (6) months.

Employees who are granted a personal leave of absence shall first exhaust any accumulated leave balances (excluding sick leave) prior to unpaid leave.

### **1610. MILITARY LEAVE**

- (a) Any employee in the classified service who is ordered to serve as a member of the state militia or the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or any division thereof shall be granted a military leave in accordance with the California Military and Veterans Code Section 395. The employee shall provide copies of military orders to the Human Resources Department. Any employee who volunteers for such service during a mobilization under Executive Order of the President or the Congress of the United States and/or the California State Governor in time of emergency, shall be granted a leave of absence, if necessary, in accordance with applicable state or federal laws upon providing the Human Resources Department with a copy of the military orders. Upon the termination of such service or upon honorable discharge, the employee shall be entitled to return to the employee's position, provided the position still exists, the employee requests reinstatement within the required time frame, and the employee is otherwise qualified to perform the duties of the position, without any loss of standing of any kind whatsoever.

If the individual has been employed in a public agency for at least one (1) year at the time of deployment, the County shall pay the employee's regular compensation while on military leave (including active duty training) for those days of the week

that they are regularly scheduled to work, up to a maximum of the number of hours an employee would work in a thirty (30) day period.

In addition, in the event an employee described in this Rule 1610 is called up for active duty for other than training purposes, the County shall pay the difference between the military compensation and the employee's regular salary beginning the point where the number of hours an employee would work in a thirty (30) day period is exceeded and up to an additional eighteen (18) months, for a period not to exceed eighteen (18) months and thirty (30) days. Other County employees may donate vacation time to further extend the salary augmentation period beyond the three hundred ninety five (395) days prescribed by this Rule 1610.

- (b) Any public employee who has been in the service of the public agency from which the leave is taken for a period of not less than one (1) year immediately prior to the date upon which a temporary military leave of absence begins, shall receive the same rights and privileges to promotion, continuance in office, employment, reappointment to office, or reemployment that the employee would have enjoyed had he/she not been absent therefrom; excepting that an uncompleted probationary period, if any, in the public agency, must be completed upon reinstatement as provided by law or rule of the agency. For the purposes of this Rule 1610, in determining the one (1) year of service in a public agency, all full-time service of the employee in recognized military service shall be counted as public agency service.
- (c) An employee who has been granted a military leave shall not suffer loss of previously accrued vacation, holiday, or sick leave, or increases in accrual rates based on months or years of employment with the County, as set forth in the MOU covering the employee. However, an employee on military leave shall not accrue vacation or sick leave while on unpaid status.
- (d) For purposes of determining eligibility for salary adjustments or seniority in case of layoff or promotional examination, military leave shall be considered as time in County service.
- (e) An employee who has been granted a military leave may, upon return, be required to furnish proof of performance of military service or of honorable discharge.

#### **1611. LEAVE OF ABSENCE WITH PAY**

The appointing authority, with the approval of the Chief Administrative Officer, may place an employee on a leave of absence with pay (also referred to as "administrative leave with pay") for a period not to exceed thirty (30) working days. A copy of the approved notice will be forwarded to the Director. The Chief Administrative Officer may approve any extensions. This leave of absence with pay shall be used when (i) an employee is under investigation, or (ii) for other necessary or emergent need such as when the employee's continued presence at the work site may be hazardous or disruptive to the employee or to his /her co-workers or customers.

#### **1612. UNAUTHORIZED ABSENCE**

An unauthorized absence from the work site or failure to report for duty after a leave request has been disapproved, revoked, or cancelled by the appointing authority, or at the expiration of a leave, shall be without pay. Such absence may also be grounds for disciplinary action.

**1613. JURY DUTY**

Any employee who is summoned for attendance to any court for jury duty during normal working hours shall be deemed to be on duty. There shall be no loss of salary, but any jury fees received shall be paid forthwith to the Auditor-Controller's Office to be deposited in the General Fund of the County, together with any mileage allowed. Employees released from jury duty during their normal duty hours shall report back to their departments. Employees scheduled to work the evening or late night shift, and who serve four (4) or more hours on jury duty, will not be required to report for duty on the evening or late night shift and shall be deemed to be on duty. There shall be no loss in salary, but any fees received shall be paid forthwith to the Auditor-Controller's Office to be deposited in the General Fund of the County, together with any mileage allowed. The employee shall provide to the employee's supervisor evidence of jury service, such as notice for jury duty and any time cards or similar appearance documents issued by the court.

**1614. COURT APPEARANCES**

**1614.1 On Duty Time**

Any employee called as a witness arising out of and in the course of County employment shall be deemed to be on duty. There shall be no loss of salary, but any witness fees received by the employee shall be paid to the Auditor-Controller's Office to be deposited in the General Fund of the County, together with any mileage allowed. Employees released from witness duty during their normal duty hours shall report back to their department.

**1614.2 Off Duty Time**

Any employee called as a witness arising out of and in the course of County employment during off duty hours shall be compensated for the time spent or for two (2) hours, whichever is greater.

**1614.3 Private Litigation**

Any employee called as a witness in a private or civil matter unconnected with the course of their County employment shall not be compensated by the County. Earned vacation or compensatory time off may be utilized.

**1615. TIME OFF TO VOTE**

If an employee does not have sufficient time outside of working hours to travel to the employee's designated voting location to vote at a statewide election, the employee may take up to two (2) hours off without loss of pay at the beginning or end of the work day. Prior approval by the employee's supervisor is required.

**1616. TIME OFF FOR VICTIMS OF VIOLENT CRIMES OR DOMESTIC ABUSE**

**1616.1 Domestic Violence, Sexual Assault, and Stalking Leave**

(a) Employees who are victims of domestic violence, sexual assault, or stalking are eligible for unpaid leave. Leave may be requested for judicial action, such as obtaining restraining orders; appearing in court to obtain relief to ensure their health, safety, or welfare, or that of their child; or for

medical treatment or psychological counseling related to an experience covered by this Rule. The County will, to the extent allowed by law, maintain the confidentiality of an employee requesting leave under this provision.

- (b) This is an unpaid leave; employees can choose to use available sick leave (if for medical services) or vacation leave. Domestic violence, sexual assault, and stalking victims' leave for medical treatment or counseling services will run concurrently with FMLA-CFRA, allowing for twelve (12) weeks in a twelve (12) month period, less any previous FMLA-CFRA time taken.
- (c) The County provides reasonable accommodations, to the extent required by law, for employees under circumstances where domestic violence or stalking requires security measures or time off to obtain resources or services. Reasonable accommodations may include a temporary transfer, modified schedule, changed work telephone or email, installed lock, assistance in documenting domestic violence or stalking that occurs in the workplace, or other safety procedures.
- (d) The County will implement reasonable accommodations that do not create an undue hardship. The County will also take all necessary and appropriate steps to prevent any form of actual or threatened retaliation against an employee who takes time off or requests other reasonable accommodations under this Rule. Any employee who believes that reasonable accommodations are required should contact the Human Resources Department.
- (e) Authorized leave is job protected and benefit protected, and the County will not tolerate retaliation against any employee who requests, uses, or returns from this leave.

#### **1616.2 Crime Victims' Leave**

- (a) An employee who is themselves a victim or who is the immediate family member (spouse, registered domestic partner, child/step child, child of a registered domestic partner, parent/step parent, or sibling/step sibling) of a victim of a violent felony or serious felony, as defined in the California Labor Code and Penal Code, may take time off to appear in court to attend judicial proceedings related to the crime.
- (b) For the purposes of this Rule, judicial proceeding includes any court proceeding where the crime victim's rights are in issue, including a delinquency proceeding involving a post-arrest release decision, plea, sentencing, or post-conviction release decision.
- (c) This is an unpaid leave; employees can use available vacation leave, otherwise any absence from work to attend judicial proceedings will be unpaid.
- (d) Authorized leave is job protected and benefit protected, and the County will not tolerate retaliation against any employee who requests, uses, or returns from this leave.

**1617. OVERTIME AND COMPENSATORY TIME OFF**

The County shall compensate non-exempt employees for overtime worked subject to provisions, requirements, and limitations of the employee's MOU and applicable law. The following shall apply to all employees:

**1617.1 Reporting**

All work of a non-exempt employee required by the employee's appointing authority beyond the regularly scheduled work period shall be designated as overtime and shall be reported in increments of not less than one-tenth (1/10<sup>th</sup>) of an hour. All overtime must be expressly approved by the employee's supervisor in advance. No non-exempt employee shall engage in overtime work without authorization. Working overtime without advance approval is grounds for discipline.

**1617.2 Scheduling**

Each appointing authority shall schedule and arrange the work of the department so that overtime is avoided and held to a minimum, consistent with efficient performance of required functions.

**1617.3 Attendance Sheet**

Total hours of overtime authorized and earned as well as all compensatory time off used shall be reported on the County's prescribed form. Any overtime hours for which payment is to be made shall be specified on the attendance sheet.

**1617.4 Compensatory Time Off**

Compensatory time off may be accumulated to the maximum set forth in the MOU applicable to the employee. Compensatory time off shall be administered in the same manner as vacation.

**1617.5 Benefit Accumulations**

Overtime shall not be considered or be a basis for increasing vacation, sick leave, or advancement of completion of probationary periods or salary step increases.

**1617.6 Exemption**

Exempt employees are not entitled to overtime and are therefore not subject to this Rule 1617.

**1618. REST PERIODS**

If required by an MOU, non-exempt employees may be allowed compensated rest periods of fifteen (15) minutes during each four (4) consecutive hours of work. 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 period insofar as is practicable. All eligible employees are instructed to take allowed rest periods; any rest periods not taken are lost. Rest periods may not be accumulated to extend lunch

hours or to shorten the work day, nor shall any additional pay accrue to an employee who fails to take a rest period.

**1619. MEAL PERIOD**

Full-time employees will be allowed an uncompensated meal period of not less than thirty (30) minutes, nor more than one (1) hour, scheduled approximately at the midpoint of a full work shift. Employees required to be at work stations for eight (8) or more consecutive hours shall have their meal period during the work period, consistent with the requirements of the FLSA. Employees directed by their supervisors to work during the meal period shall be compensated consistent with the FLSA. Combining meal periods, "banking" meal periods from day to day, or saving meal periods to shorten work days is not permitted.

**1620. EXEMPT EMPLOYEE RECORDING OF TIME OFF**

Some County classifications, including, but not limited to, appointing authorities, represented and unrepresented management employees, sworn management employees, board of supervisors' assistants, the executive assistant to the chief administrative officer, criminal attorneys, deputy county counsels, and unrepresented confidential supervising employees have been designated by the County to be salaried, exempt employees within the meaning of the FLSA.

The County believes that attendance is an essential function of each position within the County, including all exempt, salaried positions. Exempt employees are expected to report to their work site and perform their assigned duties on a sustained, regular, and punctual basis. Exempt, salaried employees have established work schedules as determined by their appointing authority and are expected to work that schedule, and to work the hours necessary to perform their duties responsibly as set forth by the appointing authority. Exempt, salaried employees shall not be entitled to receive overtime compensation or compensatory time off for hours worked in excess of the forty (40) hour work week; these employees receive additional compensation and benefits, including management leave, in recognition of the extra hours they may be called upon to work in order to adequately perform their job duties.

1. Salaried, exempt employees' absences are subject to the following provisions, in addition to the provisions in Part 14, Performance Management, that address vacation and sick leave.
2. Salaried, exempt employees will be paid a weekly salary, which is payable biweekly. However, proper documentation of time is an important responsibility of all public sector employees to ensure accountability. All salaried, exempt employees are expected to work the regularly scheduled hours set by the appointing authority, accurately document the actual time worked, and, if required by their appointing authority, shall document the duties performed during those hours.
  - (a) Salaried, exempt employees shall receive approval from their appointing authority in advance when they intend to be absent during their regularly scheduled work hours.
  - (b) An approved absence of less than four (4) hours in one (1) day will not be deducted from an employee's weekly salary or appropriate accrued leave balances unless the County has determined the employee has an attendance problem.



- (c) Time off of more than four (4) hours in one (1) day for illness, injury, and medical appointments or the care of an immediate family member as defined by law will be charged to sick leave. If the employee does not have adequate sick leave, the employee may use other available leave balances. If the employee has no adequate leave balances, approved time shall be taken as unpaid leave.
- (d) Time off of more than four (4) hours for any other reason will be deducted from an exempt salaried employee's other accrued leave balances as appropriate. If the employee does not have adequate leave balances, approved time shall be taken as unpaid leave.
- (e) Ongoing, repeated absences of less than four (4) hours per day which result in the employee working less than eighty (80) hours for more than one (1) consecutive pay period shall, depending on the duration of, and reason for, the absence, be deducted from the appropriate leave balances or result in a change to the employee's standard schedule. (Example: Employee requests to leave every Thursday at 3:00 p.m. for a familial obligation. The appointing authority can deny the request, modify the employee's work schedule so employee still works eighty [80] hours in the pay period, or require the employee to use leave balances.)

#### **1621. DONATION OF VACATION LEAVE**

Vacation leave donation is designed to allow an employee to transfer vacation leave to a co-worker in times of exceptional need due to a catastrophic medical condition, injury, or incapacitation anticipated to last at least thirty (30) calendar days.

To be eligible to request and receive donations of vacation leave, an employee must have been employed by the County for one (1) 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.

- (a) The employee requesting leave donations (requestor) must first exhaust all other forms of accrued paid leave.
- (b) Contributions will cease if/when the catastrophic occurrence is resolved, or when twelve (12) weeks from the first transfer has elapsed.
- (c) The amount of donated time paid to the requestor will be reported as taxable income.
- (d) Hours received shall not be considered hours worked for purposes of determining the recipient's eligibility for holiday pay, on-call duty compensation, Tahoe Basin employment pay differential, bilingual pay differential, overtime, or time in class.

#### **1622. CLOSURE OF COUNTY BUILDINGS**

- (a) The County Administrative Officer shall determine when an emergency exists and when County facilities will be temporarily closed.
- (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 who are directed to not report to work or who are sent home from work due to the closure of their work site shall receive their regular pay for that scheduled shift.
- (d) After the first day of closure of a County building, if the County is unable to re-open 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) 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 of the geographical area, the employee may at his/her 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. In the event the Chief Administrative Officer finds the employee's services are essential, the employee will be provided time and compensation for their commute.
- (f) Geographical area is generally defined as (i) Western Slope and (ii) Tahoe Basin.

## **PART 17 : EMPLOYEE RECORDS AND RIGHT TO PRIVACY**

### **1701. GENERAL**

It is the policy of the Board of Supervisors to prohibit access to or disclosure of any information collected by the County relative to any employee for personnel administration purposes except as provided by law and these Rules.

### **1702. PERSONNEL RECORDS**

- (a) Personnel records shall mean all information, data, and documents collected by the County relative to an employee for personnel administration purposes. Such records shall include the official personnel file maintained on each employee in the Human Resources Department, personnel forms, medical reports relative to an employee, individual payroll record information, employee performance evaluation reports, personnel data stored and produced by data processing, and any other material relating to and used in making employment decisions about an employee. An official personnel file shall be established and maintained in the Human Resources Department for each employee.
- (b) A departmental personnel file may be established by a department when necessary for the proper functioning of the department. Departmental personnel files shall be subject to the rights and restrictions contained in this Rule 1702.

### **1703. DISCLOSURE OF EMPLOYEE RECORD INFORMATION**

No employee record information shall be disclosed by any person to a third party except as provided by law and the following procedures:

- (a) The names, classifications, gross salary, and assigned department may be disclosed to the public upon request. Additionally, the contents of a written employment contract may be provided.
- (b) Employees shall be permitted to inspect their own personnel records during normal working hours and under conditions established by the Director to ensure the security of personnel records. The inspection shall be done in the presence of a Human Resources Department staff member. On request, the employee may receive a copy of any employment-related documents. The County may charge a reasonable fee for the copies.
- (c) Information from an employee's personnel record may be disclosed to a third party upon the written authorization of the employee.
- (d) Disclosure of employee record information shall be made pursuant to legal process and to authorized enforcement authorities for the purposes of law enforcement, including investigations.
- (e) As determined by the Chief Administrative Officer or the Director, employee record information may be disclosed as necessary for the proper operation and management of the County and its departments.
- (f) The disclosure of addresses and telephone numbers of peace officers and spouses of peace officers is specifically prohibited.
- (g) In case of emergency when (i) disclosure of employee information is reasonably necessary to protect an employee's health or welfare, and (ii) permission of the

employee cannot be timely obtained, necessary employee information may be disclosed by the Human Resources Department.

**1704. NOTIFICATION OF CHANGE IN PERSONAL INFORMATION**

Each employee is responsible for promptly notifying the Human Resources Department of any changes in relevant personal information, including residence and mailing addresses, telephone number(s), person(s) to contact in an emergency, and the number and names of dependents.

**1705. MEDICAL INFORMATION**

All medical information concerning an employee or applicant shall be kept separately and is treated as confidential, in accordance with the Americans with Disabilities Act, the California Confidentiality of Medical Information Act (CCMIA), and any amendments thereto, as well as any successor statutes and any other applicable state or federal laws.

**1705.1 Information in Medical Files**

The County will not obtain medical information about an employee, applicant, or candidate except in compliance with the CCMIA. To enable the County to obtain certain medical information, the employee, applicant, or candidate may need to sign an authorization for release of medical information.

**1705.2 Access to Medical Information**

Access to employee, applicant, or candidate medical information shall be strictly limited to only those with a legitimate need to have such information for County purposes, or if access is required by law, pursuant to subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

The County will not provide employee, applicant, or candidate medical information to a third party (except as permitted under the CCMIA) unless the employee signs an authorization for release of medical information in the form prescribed by the Human Resources Department. The County will release only the medical information that is identified in the employee's authorization. If the employee's authorization indicates any limitations regarding the use of the medical information, the County will communicate those limitations to the person or entity to which it discloses the medical information.

**1706. REQUESTS FOR VERIFICATION OF EMPLOYMENT**

All requests from outside the County for verification of employment concerning any current or former employee must be submitted to the Human Resources Department. Information will be released only if the employee signs an authorization for release of employment information, except that without such authorization the following limited information will be provided: dates of employment and salary upon departure. Appointing authorities and supervisors should not provide information in response to requests for or verification of employment unless (i) required by law, (ii) specifically approved by the Director on a case-by-case basis, or (iii) made by an appointing authority to whom the Director has delegated such responsibility.

**1707. REFERENCES**

A County employee may respond to a request for a reference from an employer regarding another current or prior County employee, provided that the subject current or prior employee has provided written authorization to release information regarding their employment with the County. Information provided in response to reference requests must be limited to the subject employee's job title, assigned duties, and job-related skills and abilities. Any other comments and information regarding the subject employee are prohibited. If the subject employee was terminated for disciplinary reasons or resigned in lieu of termination, requests for references must be directed to the Human Resources Department.