

County of San Benito



Personnel Policies and Procedures Handbook



HUMAN RESOURCES

— Work Here Thrive Here —

PERSONNEL RULES

As of November 3, 2020

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CHAPTER 6 PERSONNEL POLICIES AND PROCEDURES

6.1. GENERAL PROVISIONS

6.1.1. PERSONNEL RULES

a. Scope of Personnel Rules

The San Benito County Personnel Rules contains personnel policies and regulations adopted by resolution of the Board of Supervisors. These Rules apply to all employees except those specifically excluded from coverage by the County's Personnel Ordinance. These Personnel Rules do not constitute an offer of employment or a promise of indefinite employment to any employee.

b. Access to Personnel Rules

The County maintains the most recent version approved by the Board of Supervisors on the County's website under the Department Section for Human Resources.

c. Implementation and Interpretation of Personnel Rules

The Personnel Officer shall issue such additional administrative memoranda as the Personnel Officer deems necessary to implement these Policies and Procedures. Such additional administrative memoranda shall be in writing and be made available to employees and employee organizations. Departmental rules and regulations implementing these Policies and Procedures shall become effective upon approval of the Personnel Officer if not in conflict with these Policies and Procedures or applicable laws, ordinances, resolutions or relevant Memoranda of Understanding.

Employees and recognized employee organizations shall be advised of and have an opportunity to meet regarding such proposed administrative memoranda or rules and regulations which are within the scope of representation as defined by the Meyer-Milias Brown Act, Government Code Sec. 3500, et seq., within a reasonable time prior to the proposed effective date, unless an emergency or urgency situation requires enactment without prior notice. In that event, organizations still shall be advised and may meet within a reasonable time thereafter.

Questions regarding the interpretation of policies and procedures contained in the Personnel Rules should be referred to the Personnel Officer or County Counsel.

d. Updating, Amending or Revising Personnel Rules

The Personnel Officer shall prepare and present any proposed amendments or revisions to these Policies and Procedures to the Board of Supervisors for consideration. Employees and recognized employee organizations shall be advised of and have an opportunity to meet regarding such proposed amendments and revisions which are within the scope of representation as defined by the Meyer-Milias Brown Act, Government Code Sec. 3500, et seq., within a reasonable time prior to the proposed effective date, unless an emergency or urgent situation requires enactment without prior notice. In that event, organizations still shall be advised and may meet within a reasonable time thereafter. Amendments or revisions shall become effective upon approval by resolution of Board of Supervisors. At the time of Board's consideration, any interested party may appear and be heard.

e. Severability of Personnel Rules

If any provision of these Policies and Procedures, or the application of such provision to any person or circumstances shall be held invalid, the remainder of these rules, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

f. Conflict with Memorandum of Understanding

In the event of a conflict between these Policies and Procedures and Memoranda of Understanding in effect, the Memoranda of Understanding shall prevail.

6.1.2. DEFINITIONS

- a.** Absence without leave (AWOL): Any unscheduled absence from work which has not been approved by an employee's Department Head.
- b.** Absence without Pay: Any scheduled work period during which an employee is off pay status and is either not eligible for an approved leave with pay or is eligible for an approved leave without pay, but no leave has been authorized.
- c.** Allocation: The assignment of an individual position to an appropriate class.
- d.** Anniversary Date: The first day of employment or the first day of a promotion to a new job class. The anniversary date is used to determine evaluation periods and compute various other conditions and benefits described in these Policies and Procedures or applicable MOU's.
- e.** Applicant: A person who has made formal application for a County position on forms provided by the County.
- f.** At-will: Employment status within the County, which is terminable at any time by either party, as provided in California Labor Code sections 2920-2929.
- g.** Board: The Board of Supervisors of the County of San Benito.
- h.** Classification (Class): a single position or group of positions which are sufficiently similar in their duties, functions, and responsibilities that they may be identified by the same job title, job specification, and pay range.

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- i. Class Specification: The written description of the characteristics of a class of positions setting forth the definition, typical tasks, minimum qualifications and other relevant standards and information.
- j. Compensation: The salary, wage, fee, allowances and all other forms of valuable consideration earned by, or paid to, any employees by reason of service in any position.
- k. Class Title and Pay Plan: A schedule of salaries or salary ranges established by resolution or ordinance for each classification in the County, and the provisions of the Personnel Rules pertaining to fixing and changing compensation.
- l. Competitive Service: All regular full-time and regular part-time positions in the County as set forth in the classification plan. Excluded from the competitive service are all positions of elective officials, extra help or temporary, emergency, contracted fee-for-services or hourly flat-rate positions and those employee positions listed and designated by the board to be exempt from classification. Those County positions not included in the competitive service shall constitute the exempt- service.
- m. Continuous Service: Service without break or interruption during which the employee has been employed by the County. In computing continuous service, approved leaves of absence, without pay in excess of fifteen continuous days (15) days, shall be construed as a break in employment service. Other absences aggregating in excess of fifteen (15) days in any period of twelve (12) months, including layoffs for lack of work, lack of funds, or abolishment of positions, shall be construed as breaking continuous service.
- n. County: The County of San Benito, California.
- o. County service: All departments, bureaus and offices that are subject to control and regulation by the Board of Supervisors.
- p. Demotion: The voluntary or involuntary movement of an employee from the employee's current position to a position in which the top step of the new class is 5% or more below the top step of the employee's current position.
- q. Department: One of the officially constituted administrative units of County government.

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- r. Department head: An individual designated as the administrative head of an established department.
- s. Employee: A person legally occupying a position with the County whether employed in regular, limited term, probationary, or temporary status.
- t. Exempt employee: An employee who is exempt from minimum wage and overtime requirements of the Fair Labor Standards Act.
- u. Flexibly Staffed Position: The process of moving an employee from one level of a classification (generally entry level, e.g. Office Assistant I) to the next level of the same classification (generally journey level, e.g. Office Assistant II) without a competitive process. Authorization for such a process is provided for within the individual class specifications.
- v. Full-Time Employee: An employee who is appointed one hundred percent (100%) of normal full-time working hours of the month for the position on a fixed-time basis.
- w. Hire Date: The most recent date employment began with the County.
- x. Immediate Family: A spouse, domestic partner, mother, father, grandmother, grandfather, daughter, son, granddaughter, grandson, sister, or brother, or spouses thereof, and step-relatives and in-laws in those relationships, or other close association with the employee that is the equivalent to a family relationship (including but not limited to parents and domestic partners of the above relatives).
- y. Layoff: The elimination of a filled position because of lack of funds or work, because of organizational changes, or in order to permit the exercise of rights established by ordinance, resolution, or memorandum of understanding.
- z. Limited Term Employee: An employee who is employed for a predetermined and specified period of time. Limited term employees shall accrue the same benefits as those of similarly situated regular employees during their period of employment, but do not accrue seniority nor have bumping rights in the event of a layoff.
- aa. Limited Term Position: A position established on a full-time or part-time basis, but with a pre-determined end date to the position.

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- bb.** Local Agency Personnel Standards (LAPS): Title 2. Administration, Division 5 of the California Government Code. LAPS is applicable to any employee of the County subject to Section 19800 et seq. of the California Government Code as determined by the State Personnel Board.

- cc.** Non-Exempt employee: An employee who is entitled to minimum wage and overtime requirements of the Fair Labor Standards Act.

- dd.** Officers: All County elective or appointive officers established by state law or County ordinance. If, for the purpose of the classification plan, the Board by ordinance or resolution should give a title to the position held by an officer, which title is different from the name of the office as established by state law, such title shall not affect any powers or duties vested in or imposed upon such officer by law.

- ee.** Part-Time Employee: An employee who is in a position in which the employee is authorized to work less than the standard workday, work week or work month, but which normally follows a predetermined schedule or seasonal recurring pattern of hours.

- ff.** Pay Status: Any period of time for which an employee receives pay for time worked, including compensatory time off, or for time on paid leave. Paid leave time includes sick leave, bereavement leave, vacation, holidays, or military leave with pay.

- gg.** Personnel Officer: The County Administrative Officer or designee. Responsibilities of the Personnel Officer specified in the Personnel Rules may be delegated by the Personnel Officer to an appropriate assistant.

- hh.** Position: A specific office or employment provided by the budget, whether occupied or vacant, regular or temporary, calling for the performance of certain duties.

- ii.** Probationary Employee: An employee who is serving a probation period and is employed in either a regular full-time or regular part-time position.

- jj.** Promotion: The advancement of an employee from the employee's current position to a position in which the top step of the new class is 5% or more above the top step of the employee's current position.

- kk.** Public Safety Officer Procedural Bill of Rights Act: Govt. Code Secs. 3300-3311 spells out certain limitations and requirements with respect to the manner and

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means of conducting disciplinary investigations of sworn officers. The Act is also known as the "Peace Officers' Bill of Rights."

- ll.** Reclassification: A change in the class or classification of an employee's current position to a title of a different class having a lower salary range maximum (downward reclassification), the same salary range maximum (lateral reclassification) or a higher salary range maximum (upward reclassification)
- mm.** Reemployment: The appointment of an individual who has been laid off from County Service. Such appointment is made from a Reemployment List established at the time of the layoff.
- nn.** Regular status employee. An employee who occupies a position authorized by the budget who has completed the probationary period or is an at will employee.
- oo.** Reinstatement: The appointment of a former regular employee that previously resigned with a good record. Such appointment may occur within two years of the effective date of resignation to a vacant position in the same or comparable class.
- pp.** Seniority: Seniority status shall be determined by applying continuity of service requirements of these Rules.
- qq.** Series: one or more occupational groups having classes of positions with duties substantially similar in nature and character, such classes arranged to aid in the process of classification, in determining and fixing compensation and in administering the County classification and compensation plan.
- rr.** Skelly pre-disciplinary procedure: As a result of Court decisions, most notably in the California Supreme Court with *Skelly v. State Personnel Board*, (1975) 15 Cal. 3d 194, public agencies must comply with certain due process procedures before taking serious disciplinary action against their "tenured" employees.

"Serious" disciplinary action means suspension without pay of more than five (5) days, termination or demotion. These procedures require that:

- a) The employee receives a preliminary written notice of the proposed action stating the date it is intended to become effective and the specific grounds and particular facts upon which the action will be taken.
- b) The employee be provided with any known written materials, reports or documents upon which the action is based; and

- c) The employee be accorded the right to respond either orally, in writing or both to the proposed charges;
- a. Step reduction: The involuntary movement from one step in an employee's class to a lower step in the employee's class through a disciplinary process.
- ss. Suspension: The involuntary temporary removal of an employee from employment without pay.
- tt. Temporary/Seasonal Employee: Any employee who is employed for a period of short duration. Temporary employees are not eligible for insurance coverage, paid vacation, paid holidays or paid sick leave unless otherwise required by state or federal law.
- uu. Title or title of class. Title or title of class means the designation or name given to a class, or to each position allocated to such class. It shall have the meaning set forth in the definition of each position of a class as set forth in the class specifications.
- vv. Transfer: The movement of an employee from the employee's current position to a position in a comparable class which the top step of the new class is within 5% of the top step of the employee's current position.

6.2. HIRING AND EMPLOYMENT

6.2.1. AT-WILL SERVICE

For those positions designated in the Personnel Ordinance, by written contract executed, or Memorandum of Understanding by the Board, all terms of employment with the County are "at will" in accordance with California Labor Code sections 2920-2929. This means that an employee can be terminated with or without cause, and with or without notice, at any time, at the option of either the County or the employee, except as otherwise provided by law.

6.2.2. CLASSIFIED SERVICE

a. Purpose of Classification plan

The classification plan provides a complete inventory of all positions in the competitive service and an accurate description and specification for each class of employment. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities, and has the same meaning throughout the service.

b. Preparation of Classification Plan

The Personnel Officer, or designee, shall ascertain and record the duties and responsibilities of all positions in the competitive service and shall recommend a classification plan for such positions.

c. Administration of Classification Plan

The Personnel Officer shall administer the Classification Plan and review and allocate each position to its proper class and salary range in accordance with these Policies and Procedures. The Personnel Officer may recommend amendments or revisions to the Classification Plan, including the creation and placement of new positions and changes to the classification of existing positions, deletion of classes, which shall be submitted to the Board of Supervisors for consideration. Prior to the presentation to the Board of Supervisors, any affected recognized employee organization shall be given reasonable notice, but not less than five (5) days and have an opportunity to meet on matters directly relating to the scope of representation. If the employee organization does not request to meet prior to the presentation, the Board of Supervisors may act on any amendments or revisions. Allocation of a position to a classification shall be based on the principles that positions should be included in the same classification if:

1. They are sufficiently similar with respect to duties and responsibilities so that the same descriptive title may be used;
2. They require substantially similar minimum qualifications as to education, experience, knowledge, skills and abilities required by incumbents;
3. Applications may be selected by substantially similar procedures;
4. The same compensation may be equitably applied.

When a new position is established and is classified before it is occupied, such position shall be subject to investigation by the Personnel Officer after it is occupied to determine if the incumbent is performing the duties of the class.

d. Requests for New Classifications

Requests for creation of a new class shall be made to the Personnel Officer by the department head, or may be initiated by the Personnel Officer, and shall include the following information:

1. A full description of the proposed duties, essential functions and responsibilities of the position(s);
2. Suggested qualifications;
3. Suggested title;
4. Suggested salary range;
5. A statement, where pertinent, regarding the effect that the newly created class will have on existing classes; and
6. Such other information as may be necessary to determine the need for the new

class.

The Personnel Officer shall conduct any studies the Personnel Officer deems required to consider such request and shall approve or disapprove the request. In the event of approval, the Personnel Officer shall submit the new job specification, class title, and salary range to the Board of Supervisors to be considered for addition to the Classification Plan. The new class shall become officially established upon adoption by the Board of Supervisors after the County has appropriately made a unit determination.

e. Reclassification

If there is evidence to indicate that a position is not assigned to an appropriate class, a request may be made through the department head to the Personnel Officer in writing that a classification study be performed on the position. The Personnel Officer, with approval by the Chief Administrative Officer, will determine whether a study will proceed and acknowledge the request accordingly as soon as administratively feasible. If deemed appropriate, a study will be concluded as soon as administratively possible unless it involves more than one classification or the services of an outside consultant are required. If an employee is reclassified, out of class pay will only be retroactive thirty (30) days from the date of reclassification.

The Personnel Officer, with approval by the Chief Administrative Officer, may initiate and conduct studies of any position at any time to determine if such position is properly classified. Said studies may include investigation of pertinent departmental records, consultation with employees regarding duties, functions and responsibilities of a position, and the collection of any other relevant information the Personnel Officer deems necessary.

Recommended reclassifications shall be submitted by the Personnel Officer for consideration to the Chief Administrative Officer and the Board of Supervisors, and shall become effective upon approval by the Board of Supervisors.

f. Flexibly Staffed Positions

Flexible staffing refers to positions where the department head has the ability to promote employees from the entry level of a classification to the journey level based on the employee gaining the required experience and knowledge to perform journey level duties and enabling language in a class specification. Flexible staffing is to be used in a class series in which both entry and working level classes are assigned the same kinds of duties with the difference being scope of duties performed, the level of skills required, and the amount of supervision received (e.g. Office Assistant I and Office Assistant II). The authority for flexibly staffed positions is contained within individual job descriptions. Flexibly staffed positions not budgeted may not be filled unless budget appropriations have been approved prior to the employee's advancement from one level to the next.

6.2.3. HIRING PROCESS

a. Job Vacancies

The Department Head shall submit a request to the Personnel Officer to fill a budgeted position which is either vacant or when there is an expectation of an upcoming vacancy. The Personnel

Officer is responsible for conducting recruitments to find qualified applicants for County positions and referring these applicants to departments for selection interviews.

b. Preparation for Recruitment

The Department Head or designee shall follow proper procedure in preparation for recruitment. This procedure is as follows:

1. When a Department Head wishes to fill an authorized budgeted position, the Department Head shall submit a “Hiring Approval Request” to the Personnel Officer for review and approval.
2. If necessary, the Department Head, or designee, assisted by the Personnel Officer, shall analyze and identify the critical job duties and tasks, as well as the knowledge, skills, abilities, and other qualifications required for successful performance of the position.
3. The Personnel Officer shall review the current class specification for the position and ensure that the duties and required knowledge, skills, abilities, and other qualifications for the position are current and appropriate. If funding is available, the Personnel Officer shall then open a recruitment.

c. Job Announcement

All recruitments shall be publicized by the posting of a “job announcement” on the County website.

The job announcement shall specify, but is not limited to the following information:

1. The exact title of the position;
2. The salary range for the position;
3. The period during which applications will be accepted;
4. The examination process and approximate timeline of examinations;
5. A brief statement of the duties of the position and the selection process.
6. The knowledge, skills, abilities, and other requirements for the position;
7. Special conditions of employment.

A recruitment that is postponed, extended, or cancelled shall also be publicized on the County website.

Job announcements for civil service and merit system positions shall be posted for a minimum of seven (7) calendar days.

d. Application

Each person participating in a scheduled selection process shall complete and file an official County application online through the County website unless otherwise specified in the job announcement.

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The official application form must be received by the Personnel Officer no later than 5:00 p.m. on the last filing date published in the announcements.

Application forms shall include information about training, experience, education, and other pertinent information, and may include a request for references, copies of licenses, certifications, and/or other pertinent information.

Persons applying for positions must meet the minimum qualifications and general conditions for filing applications for positions according to these rules and also meet specific requirements as shown on the job announcement for a particular position. Applicants must be able to provide documentation of identity and eligibility for employment in the United States.

Completed application forms will become the property of the County and may be destroyed in conformance with the County's record retention schedule.

The Personnel Officer is responsible for record-keeping and information relating to the selection and recruitment process must be kept consistent with the County's record retention schedule.

The County shall not make public the names of any persons applying for positions or any evaluation of their participation in the selection process unless otherwise required by law.

e. Acceptance of Applications for Future Vacancies

Applications are accepted only if a recruitment is being conducted. All other interests will be filed on an official electronic interest card as provided on the County's website. A completed electronic card shall remain on file for a six month period or until the next applicable recruitment. When a vacancy occurs, notice(s) are systematically emailed to the address provided by an employee or applicant.

f. Selection Process/Type of Recruitment Selection

Applicants may be recruited internally or externally as determined by the Personnel Officer. However, recruitment(s) may be limited to employees within the County service if the Personnel Officer determines that the applicant pool within the County service or a specific department provides sufficient qualified and diverse applicants.

The Personnel Officer shall schedule open recruitments, promotional recruitments, and departmental promotional recruitments to meet the need in the County service.

1. Open Recruitments: Open recruitments shall be open to all.
2. Promotional Recruitments: Promotional recruitments are open to County employees with regular status.
3. Departmental Promotional Recruitments: Departmental promotional recruitments are open to County employees with regular status within the Department.

The Department Head is the hiring authority and shall make all hiring decisions for department positions and shall select the applicant who possesses the qualifications to perform the duties of

the position most effectively. In making this judgment, the Department Head may compare the knowledge, skills, abilities, and other qualifications of the applicants with those required for successful performance of the duties of the position. If two or more applicants are equally qualified, the Department head shall give consideration to the objective of providing promotional opportunities to County employees.

Vacant positions may be filled by promotion, transfer, demotion, reemployment, or from an eligible list, if available.

g. Conduct of Examinations

The goal of the examination process is to fairly measure the capacity of the applicant to execute the duties and responsibilities of the job position to which the applicant seeks to be appointed. The County may contract with any competent agency or individual to prepare and/or administer examinations. In the absence of a contract, the Personnel Officer shall arrange for the use of public buildings and equipment for examinations.

Examinations shall consist of examination testing that will fairly test the qualifications of candidates. Examinations may consist of, but are not limited to the following:

1. Achievement and aptitude tests;
2. Written tests;
3. Performance tests;
4. Physical agility tests;
5. Psychological tests;
6. Personal interviews;
7. Evaluation of daily work performance, training, or experience;
8. Work samples; or
9. Any combination of these or other appropriate tests.

Tests must conform to federal and state applicant testing guidelines where appropriate. The Personnel Officer is responsible for reviewing and approving all examination testing.

h. Review and Appeal of Examination Results

Each candidate in an examination shall be given notice of the examination results.

All candidates shall have the right to inspect their written examination answer sheet within five (5) working days after the notification of examination results. Any error in computation shall be called to the attention of the Personnel Officer in this five (5) working day period. The Personnel Officer shall correct these errors but corrections shall not require invalidation of previously made appointments.

i. Applicant Rating

Departments are to use objective applicant rating forms to aid them in evaluating an applicant's qualifications. Rating forms used by departments must be reviewed and approved by the Personnel Officer prior to their use.

j. Screening Applicants

Upon the recommendation of Department Heads, the Personnel Officer shall designate certain positions as sensitive and require job-related background checks for these positions in accordance with the County background check policy. Sensitive positions may include those involving the security of buildings, the handling of money or inventory, law enforcement and corrections, positions that serve minors, IT positions, or positions having access to records and reports of a highly confidential nature.

Job related background checks may include fingerprinting of applicants and a criminal background investigation.

k. Pre-employment Conditional Job Offer Verification Process

The goal of the verification process is to verify information about an applicant's knowledge, skills, abilities, and other qualifications that will be important to successful performance in the applied-for position. Upon selection of an applicant for hire, the Department Head or Personnel Officer shall verify the following information:

1. All relevant prior employment;
2. All required professional credentials;
3. All required academic credentials;
4. For those positions which require the use of an automobile: a current driver's license and acceptable driving record
5. Job related inquiries made to current and former employers.

l. Criminal Background Investigation

Except for applicants to positions in the Sheriff's department or to any position required by state and federal law for which the County is required to conduct a criminal conviction background check, the County shall not require an applicant to disclose on any application for employment, information concerning the applicant's criminal conviction history until the County made a conditional offer of employment.

As a prerequisite to employment for certain positions, when legally permissible, the County may require a County-selected applicant to complete a questionnaire regarding criminal history, and to successfully pass a criminal background check in accordance with County policy, which may include a live scan fingerprint examination and other job-related criminal background investigation procedures. The County shall pay the cost of the criminal background check. In accordance with California Labor Code §§ 432.7 and 432.8, the County will not require an applicant to disclose information concerning an arrest or detention that did not result in a conviction, information concerning a referral to, and participation in, any pretrial or posttrial diversion program, or

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concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law. The County will not require an applicant to disclose information regarding a conviction related to the possession of marijuana where the conviction is more than two years old. Except for applicants to positions in the Sheriff's department or to any position required by state and federal law for which the County is required to conduct a conviction history background check, the County shall not require an applicant to disclose information concerning a conviction that has been judicially expunged, sealed or dismissed.

The County may obtain criminal background information on prospective full time and hourly employees once the County has made a conditional offer. If a criminal background check of an applicant reveals any conviction for a crime(s), the County shall make an individualize assessment of whether a particular conviction has a direct and adverse relationship to the specific duties of the position that justify denying the applicant the position. If the County makes a preliminary decision that the conviction history disqualifies the applicant, the County will notify the applicant of the preliminary decision in writing and provide the applicant an opportunity to respond before making a final decision. These above provisions do not apply for those positions in the Sheriff's department or to any position required by state and federal law for which the County is required to conduct a conviction history background check.

Any information obtained from the Department of Justice shall be used, in part, to determine whether the selected applicant shall be offered a position with the County. This criminal history information is confidential and shall not be disclosed, except to those individuals designated to make employment decisions at the County.

Pursuant to California Penal Code Section 11077, the Attorney General is responsible for the security of Criminal Offender Record Information (CORI) and has the authority to establish regulations to assure the security of CORI against unauthorized access and disclosures by individuals and/or public and private agencies at all levels of operation in this State. Misuse of CORI is a criminal offense. Violation of this policy regarding CORI may result in suspension, dismissal, and/or criminal or civil prosecution.

If a criminal background investigation reveals any criminal conviction, the County shall have the discretion to disregard such conviction if the Department Head with prior consultation with the Human Resources Representative determines that mitigating circumstances exist.

In making this determination, the Department Head shall consider the following factors:

1. The job title, including the sensitivity of the position and whether the position

is unrelated to the conviction;

2. The nature and seriousness of the criminal offense;
3. The circumstances surrounding the criminal conviction;
4. The length of time elapsed since the criminal conviction;
5. The age of the person at the time of conviction;
6. The presence or absence of rehabilitation; and
7. Any contributing social or environmental conditions.

m. Disqualification

The Personnel Officer may eliminate an applicant from the selection process, remove an applicant from the eligible list, or refuse to certify an individual for a personnel transaction, if the applicant:

1. Does not meet the minimum qualifications established for the position applied for;
2. Has made a false statement or misrepresentation of material fact, or has practiced or has attempted to practice deception, fraud, or misconduct in connection with the applicant's application;
3. Has attempted to use or used political pressure or bribery to secure an advantage in examination or employment;
4. Has failed to submit an application correctly/completely and within the prescribed time limit;
5. Has made themselves unavailable for employment;
6. Has directly or indirectly obtained information regarding examinations;
7. Has failed to reply within a reasonable time to communications concerning the applicant's availability for employment;
8. Is psychologically or physically unfit for the satisfactory and safe performance of job duties, and cannot be reasonably accommodated, due to impairments caused by current abuse of alcohol, narcotics, or drugs;
9. Is engaged in and would refuse to discontinue other employment, activity, or enterprise which, if continued, would be incompatible and conflicting with County duties;
10. Has been dismissed for good cause, released during probationary period, or otherwise resigned during unfavorable circumstances from County service; or
11. Has otherwise violated provisions of these Rules.

n. Additional Employment Requirements

The County utilizes the following additional employment considerations in the selection and appointment of County employees:

1. Resident Aliens must be employed in accordance with Federal law, such as the

Immigration Reform and Control Act of 1986 and the regulations of the Immigration and Naturalization Service.

2. No employee may be appointed to a position where the employee would be in a supervisory relationship with an immediate family member, have the same immediate supervisor as an immediate family member, or have a close working relationship with an immediate family member. Refer to 6.1.2 (x) for definition of Immediate Family Member.

o. Notification to Applicants

Before an applicant is appointed to a position, the Department Head shall notify the applicant in writing in accordance with established County procedures. Applicants who were interviewed but not selected for the position for a position will be notified in writing.

6.2.4. EMPLOYMENT LISTS

a. Establishment of Employment Lists

After completion of an open or promotional examination, the Personnel Officer shall prepare an eligible list consisting of the names of candidates who passed the examination, arranged in order of final score, from the highest to the lowest. Notwithstanding any other provision of these rules, if there are less than three (3) names on an eligible list, the Personnel Officer or designee may declare such list void and fill the position (s) by any method permitted by these Personnel Rules, including, but not limited to, undertaking new recruiting and testing procedures. Eligible lists shall become effective upon the certification by the Personnel Officer or designee.

a. Types of Employment Lists

- (1) Open-Competitive Employment List: Shall mean a list of names of persons who have been recruited on an open-competitive basis for a position in the County Service and have qualified.
- (2) Promotional Employment List: Shall mean a list of names of qualified current employees who have taken a promotional examination for a position in the County Service and have qualified.
- (3) Reemployment List: Shall mean a list of employees laid off from the County Service who are entitled to reemployment in vacancies in the class from which they were laid off.

b. Duration of Employment Lists

Eligible lists shall remain in effect twelve (12) months, unless the Personnel Officer abolishes the list, the list is exhausted or extended by the Personnel Officer. The Personnel Officer may abolish or extend the list at any time prior to the expiration of the list if the Personnel Officer determines that it is in the best interest of the County to do so.

- (1) Open-competitive lists shall remain in effect for a period of one (1) year from the date approved by the Personnel Officer or until the Personnel Officer terminates the list.
- (2) Promotional lists shall remain in effect for a period of (1) year from the date approved by the Personnel Officer or until the Personnel Officer terminates the list.
- (3) The Personnel Officer may extend the effective date of an open-competitive or promotional list for up to one (1) additional year beyond the original expiration date.
- (4) Reemployment lists shall remain in effect for a period of two (2) years from date of establishment unless such list has been exhausted. The establishment of reemployment lists is set forth in Section 6.2.4(a) and 6.4.2(g).

c. Termination of Employment Lists

The Personnel Officer may terminate employment lists for the following reasons, except reemployment lists which are governed by layoff reemployment lists in Section 6.4.2(g).

- (1) Insufficient candidates;
- (2) Insufficient candidates willing to be considered for vacant positions or to accept offers of employment; or
- (3) Minimum qualifications of a position are revised.

In the event that the Personnel Officer terminates an employment list, if fewer than three (3) candidates remain on the list, these candidates will be notified in writing and advised of the process to reapply.

d. Removal of Names from Employment List

Except as otherwise provided, the Personnel Officer may remove the name of any person appearing on an employment list:

- (1) If the eligible person requests in writing that the person's name be removed;
- (2) If the eligible person waives an interview three or more times during the life of the eligible list for the same classification;
- (3) If the eligible person fails to reply within five (5) working days to a written notice;
- (4) If the eligible person fails to appear for a scheduled interview;
- (5) If the eligible person accepts an offer of employment and subsequently declines employment;
- (6) If the eligible person fails to appear at work on the scheduled hire date;
- (7) If eligible persons on a promotional or transfer list are separated from County service; or

- (8) For any cause in these Rules deemed sufficient for disqualification of application or dismissal from County service;

6.2.5. APPOINTMENT AND PROBATION

a. Type of Appointments

Appointments to vacant positions shall be based on merit and fitness as ascertained by the examination process.

b. Rule of the List Defined

The Personnel Officer shall certify the top highest-rated eligible candidates from the appropriate employment list to the department head to interview to fill available positions in a class. In the event no one is selected and appointed, or a candidate is selected and fails a required pre-employment exam, the Personnel Officer shall certify the next highest rated candidate until such list is exhausted. In case of reemployment lists, seniority provisions of these policies and procedures shall govern.

c. Certification

The Personnel Officer shall certify employment lists in the following order to department heads to fill vacant positions:

- (1) Reemployment list
- (2) Promotional list
- (3) Open-competitive List

Where both open-competitive and promotional lists exist, the promotional list shall be certified first. If a list consists of fewer than seven (7) names, these candidates shall be certified to the requesting Department Head, who shall interview them. After such consideration, the Department Head may request that the Personnel Officer certify additional names or establish a new list as appropriate.

d. Alternate Certification Method

In the absence of an open-competitive, promotional employment or reemployment list for a classification in which a vacancy exists, the Personnel Officer may certify an employment list for another classification having similar duties or higher qualifications and employment standards. Appointments made in this manner shall be as valid in all respects as an appointment from a list for the classification in which the vacancy occurred.

e. Appointments

The Department Head shall make final appointments. When a position is to be filled from a promotional or open eligible list, the Department Head or the Department Head's individual department designee shall choose from the specified list any of the candidates on the eligible list. If no person among the candidates indicates a willingness to accept the appointment, the Department Head may request a new examination to establish a new eligible list, or may fill the position by any other method authorized by these Personnel Rules.

The person accepting appointment shall report to the Personnel Officer or designee on the date designated by the Personnel Officer or designee; otherwise, the applicant shall be deemed to have declined the appointment.

f. Provisional Appointments

In the absence of appropriate eligibility lists, a provisional appointment may be made by the Department Head, with the approval of the Personnel Officer, of a person meeting the minimum training and experience qualifications for the position. An employment list shall be established within six (6) months for any regular position filled by provisional appointment.

The Department Head, with the Personnel Director's approval, may extend the period for any provisional appointment for not more than thirty (30) days by any one action.

g. Conditional Offer

Upon approval from the Personnel Officer, the prospective employee will be given a conditional offer of employment contingent upon the successful completion of a background check, pre-employment drug and alcohol test and medical exam (if applicable to the position), employment verification, fingerprint or any other job related pre-employment process. The prospective employee will be required to sign an Authorization to Conduct a Background Check, Medical Exam and Drug & Alcohol Testing.

If the prospective employee passes the background check, the employee will proceed to the drug and alcohol test and medical exam (if applicable). If the prospective employee passes both of these tests, if applicable, the Personnel Officer will send an offer letter to the prospective employee, which must be signed and returned. A start date is then coordinated between the Department, the candidate and Human Resources.

Only after all elements are satisfied will the conditional job offer be approved.

h. Probationary Period

Except for at-will employees as defined in section 6.1.2, appointment to a full-time or part-time position on initial employment or promotion shall be subject to successful completion of the probationary period designated for the class. The probationary period shall be regarded as the final stage of the selection process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to the position through counseling and evaluation.

The length of the probationary period shall be six (6) months of continuous service for all employees, except sworn peace officers and correctional officers, which shall be twelve (12) months of continuous service.

The probationary period after a promotion shall begin on the date the employee is appointed to the new class. The need for probation or an evaluation period following transfer, reinstatement, or demotion shall be at the discretion of the department head and approved by the Personnel Officer.

During this period, the probationary employee's performance shall be closely monitored by the employee's supervisor.

i. Extension of Probationary Period

The Personnel Officer may, on the written recommendation of a department head, extend the probationary period up to, and not to exceed, an additional six (6) months. The employee shall receive a copy of such request. An employee shall not compete in any promotional recruitment process while on extended probation. An employee whose probation has been extended, may request vacation in accordance with applicable MOU or County Policy.

j. Successful Completion of Probationary Period

If the probationary employee's performance has been satisfactory and advancement to regular status is warranted, the Department Head shall recommend the probationary employee's advancement to regular status in the employee's final probationary performance evaluation report.

The employee shall be advanced to regular status on the first day following the probationary period.

k. Rejection During Probationary Period

During the probationary period, the Department Head may reject an employee at any time with or without cause and without right of appeal. The Department Head shall consult with the Personnel Officer and the County Counsel to determine proper procedures before rejecting a probationary employee. The Department Head shall serve notice of the rejection on the probationary employee personally or by first class mail if employee is not available for personal service.

An employee rejected during a promotional or transfer probationary period shall be reinstated to a vacant position within the immediate former department, if available, in the class from which the employee was promoted or transferred, unless the employee is rejected on the basis of charges leading to discharge. A probationary rejection shall not be subject to appeal.

l. Demotion and Transfer Probationary Period

A new probationary period is not required if an employee is demoted or transferred to a position in the same department where the employee previously served a probationary period for that same class. If the employee has not previously completed a probationary period in the position, a new probationary period is required.

When an employee is transferred or demoted to a new department, a new probationary period is required in the new department.

m. Reemployment and Reinstatement Probationary Period

Employees appointed to positions by reemployment or reinstatement must serve a new probationary period unless the appointment is to the same position in the same department where the employee has previously completed a probationary period.

n. Interrupted Probationary Period

When the probationary period of an employee is interrupted because of an appointment to another position and the employee later returns to the former position in the same or a different department, the employee shall serve a new probationary period. The Department Head or the Personnel Officer may recommend the employee be given credit for all or part of the previous probationary period. The Administrative Officer has the authority to approve this recommendation.

o. Effect of Leaves of Absence on Probationary Period

Any leave of absence exceeding five (5) working days shall extend the probationary period equal to the corresponding amount of leave.

6.3. NEW EMPLOYEE REQUIREMENTS

6.3.1. PHOTOGRAPHS

Employees may be photographed for identification purposes.

6.3.2. EMPLOYMENT VERIFICATION REQUIREMENT

Federal regulations require that: 1) all applicants must complete and sign Federal Form 1-9, Employment Eligibility Verification Form before being employed; and 2) all applicants who are hired need to present documents of identity and eligibility to work in the U. S.

6.3.3. RESIDENCY REQUIREMENTS

County employees may be required to live within a reasonable distance from the County's boundaries to the extent that such a requirement would be lawful.

6.3.4. PROCESSING OF NEW EMPLOYEES

On or before the first day of employment, the employee shall meet with Human Resources to complete documents as prescribed by the Personnel Officer. Employees will be scheduled for formal New Employee Orientation at dates and times prescribed by the Personnel Officer.

6.4. EMPLOYMENT

6.4.1. CHANGES IN EMPLOYMENT

a. Promotion

Employees may be promoted through a competitive process as provided for in Section 6.2.3 or as the result of a non-competitive process if the move is considered a Levels Change (the movement from an entry level to a journey level position in the same class).

b. Transfer

At the request of a Department Head and with notice to the Personnel Officer, a permanent employee in good standing may be transferred from one position to another position in a comparable class within the department or in another department. In the case of a transfer to another department, both Department Heads shall agree to the movement of the employee.

For transfer purposes, a comparable class is one that involves the performance of similar duties, and requires substantially the same minimum qualifications. If the class is not comparable, the Personnel Officer shall determine if it is appropriate to transfer the employee.

An employee who is transferred from one position to another position in the same or similar class shall be compensated at the same step and salary range the employee received in the previous position and the salary anniversary date shall not change.

c. Demotion

There are two types of demotions:

1. Voluntary demotions are not considered disciplinary in nature. An employee holding a permanent status in a class may request a voluntary demotion to a lower class if there is a vacant position that the department does not intend to conduct a recruitment for. An employee must possess the minimum qualifications for the demoted class. Voluntary demotions are at the sole discretion of the Department Head.
2. Involuntary demotions may be considered disciplinary in nature. An employee may be demoted including but not limited to the following reasons:
 - i. If the employee's job-related performance is not in accordance with the standards of the employee's position.
 - ii. If the employee fails to meet the job-related standards of a promotional probationary period.
 - iii. As a result of other disciplinary actions.
 - iv. For reduction in force.

d. Reinstatement

A regular employee who has voluntarily resigned in good standing, upon written request, may be considered for reinstatement to a vacant position in the same or comparable class in the County Service without examination within two years of the effective date of such resignation. The decision of whether or not to grant reinstatement lies solely with the Department Head.

The reinstatement may be initiated by the Department Head. The reinstatement must be processed by the Personnel Officer and have the written approval of the Administrative Officer.

The Department Head shall require a reinstated employee to serve a probationary period as a condition of reinstatement. No credit for former employment shall be granted in computing salary, vacation, sick leave, or other benefits except on the specific recommendation of the Department Head and with the approval of the County Administrative Officer.

Benefits at the time of reinstatement shall be the current benefits for the position. No prior benefits, accruals or seniority will be granted at the time of reinstatement.

e. Suspension

The Department Head may suspend an employee from the employee's position, without pay, for disciplinary reasons.

Employees suspended without pay shall forfeit all rights, privileges, and benefits which would have been earned during the suspension period.

f. Administrative Leave

In extraordinary circumstances, where an employee's continued presence constitutes a clear and present threat to the safety of other employees or to the public, the County may require the immediate removal of the employee. The County may also place an employee on paid leave pending investigation of whether disciplinary action should be taken against an employee.

g. Termination

An employee may be terminated from a position in accordance with these policies in section 6.12.15. The Department Head shall initiate disciplinary action to terminate an employee and follow the intended disciplinary action procedures. The Department Head shall consult with the Personnel Officer and the County Counsel to determine proper procedures before dismissing an employee who has attained regular or permanent status. Terminated employees shall be paid salary, vacation or paid days in lieu of holidays accumulated, up to the effective date of termination.

h. Resignation

An employee who voluntarily separates from County Service is considered to have resigned the employee's employment with the County.

An employee wishing to leave the service of the County in good standing by resignation shall give the Department Head at least ten (10) working days written notice

Before the effective date of the resignation, an employee may rescind the resignation with the approval of the Department Head, unless the resignation has been formally accepted by the County.

i. Retirement

An employee who meets the conditions set forth in the County's retirement plan regulations may elect to retire and receive benefits earned under the retirement plan. Retirement from County Service shall be subject to the terms and conditions of the County's retirement system.

6.4.2. LAYOFF Policy (For Employees Without An Applicable MOU Layoff Policy)

The Board of Supervisors, through the Administrative Officer, shall determine the class and number of positions to be affected within the County service, the layoff date, and shall notify the affected Department Head in writing of layoffs. The layoff procedure is intended to give primary

consideration to seniority and job performance. This layoff policy applies for employees without an applicable MOU layoff policy.

a. Right to Representation

Recognized employee associations will have the right to represent their members in all aspects of this policy and procedure pursuant to Government Code Section 3500 et seq.

b. Notice to Employees

Employees to be laid off shall be given at least fourteen (14) calendar day's prior notice.

c. Order of Layoffs

1. Temporary/Seasonal employee(s)
2. Probationary employee(s)
3. Limited Term employee(s)
4. Regular employee(s)

d. Abolition of Position

When a position within a department is abolished, all employees in that department in the classification shall be listed in order of length of service with the County. The least senior employee shall be laid off for each position to be abolished.

If there is a tie in the length of service, the tie shall be broken for the purpose of layoff procedure in the following order, in favor of the:

1. Employee(s) who have the greatest length of time employed within the class identified for layoff during the current period of continuous service.
2. Employee(s) who have the greatest length of time employed with the department during the current period of continuous service.
3. If a tie remains after 1-2 above, the tie shall be broken by drawing by lots.

e. Displacement

A full-time regular or probationary employee who is laid off from the employee's classification shall be entitled to displace another employee with less seniority in an equal or lower paying classification within the County in which the employee has held prior regular status. The employee must submit a written request exercising the employee's intent to displace another employee to the employee's Department Head within ten (10) days of receiving notice of layoff.

f. Pay Following Exercise of Displacement Rights

An employee who is displaced to a lower classification shall be assigned to a pay step in accordance with Section 6.7.8. An employee displaced to a position in the same classification in another department shall retain the same base pay.

g. Reemployment Lists

The Personnel Officer shall establish a reemployment list in the inverse order of layoff within the classification within each department. Persons on this list will be afforded first opportunity for appointment to any future employment in said class. Layoff reemployment lists remain in effect for two (2) years. If recalled within that period, an employee will resume employment on the same basis as returning from an unpaid leave of absence and will retain the same salary step of the same salary range assigned to the employee's classification and have all other rights and benefits as set forth in these Rules. A person declining offered appointment will be stricken from the reemployment list after one (1) refusal.

h. Exception

The Personnel Officer may approve deviations from seniority in layoffs, or demotion in lieu of layoff, in those cases where, because of the specifics or unusual demands of a given position, the application of seniority alone would result in the assignment and retention of employees without special skills and/or training to maintain a satisfactory level of performance within a reasonable training time. In such cases, the affected employees shall be given written notice of the determination and the reasons therefor.

6.5. PERSONNEL RECORDS

6.5.1. PERSONNEL FILE

The County shall maintain a personnel file for each employee in the County service. A personnel file contains the employment related documentation that is accumulated for each employee. This file shall include the name of the employee, job title of the position held, the department to which the employee is assigned, salary information, changes in employment status, residence data, written performance evaluations, written notices of disciplinary action taken, letters of commendation or recognition, and other pertinent information. This file is maintained in Human Resources and is the employee's official personnel file.

6.5.2. CONFIDENTIALITY

All personnel records shall be maintained in a manner which will insure maximum security and preserve their confidentiality. Personnel files shall be confidential and access to an employee's file or specific information therein shall not be available to the public or unauthorized employees without the written authorization of the employee or as required by law. Responses to credit or employment references shall be limited to verification of name, position, title, dates of employment, and salary range unless the employee authorizes otherwise in writing.

Requests for information regarding official status will be released. This type of information includes an employee's name, class title, current salary range and actual salary, date of employment, and length of employment.

6.5.3. ACCESS TO PERSONNEL FILES

The County Counsel, the Administrative Officer, and the Personnel Officer shall have access to departmental records, documents, and papers pertaining to employees, if the examination of these records is necessary in the discharge of their duties.

A Department Head shall have access to all records, documents, and papers pertaining to employees in the Department Head's department, if the examination of these records is necessary for the discharge of the Department Head's duties.

An employee may request to inspect any materials or records in the employee's personnel file at a time which is reasonable to the Department Head and the employee. An employee may not inspect letters of reference or records relating to investigation of a possible criminal offense. In a case involving a grievance or disciplinary action, the employee may also, by the employee's written authorization, permit the employee's designated representative to review the employee's personnel file.

6.5.4. CHANGE OF STATUS REPORT

Every appointment, transfer, promotion, demotion, change of salary rate, and other temporary and permanent changes in status of employees shall be reported to the Personnel Officer and County Auditor on forms prescribed by the County.

6.5.5. PURGING OF EMPLOYEE DISCIPLINE RECORDS

Written reprimands and suspension records may be expunged upon sustained corrective behavior after three (3) years.

The employee wishing to have records purged shall make a written request to the Personnel Officer. The Personnel Officer shall consult with the employee's Department Head to substantiate that corrective behavior has been sustained for the three-year period. The Administrative Officer and the County Counsel shall approve, at their discretion, the request before records are expunged.

6.6. PERFORMANCE EVALUATIONS

6.6.1. PERFORMANCE EVALUATIONS

The performance of each employee shall be evaluated periodically and written evaluations used as a basis for appropriate personnel actions.

Employee evaluations will be made on forms as prescribed by the Personnel Officer. Performance evaluations shall be prepared by the employee's immediate supervisor. If an employee reports to two or more supervisors, a joint evaluation shall be completed.

Performance evaluations shall include the following:

1. Discussions to reach understanding on duties, responsibilities, and objectives;
2. Review of progress and performance to date and as appropriate, planning for more effective performance;
3. The opportunity for the employee to ask questions about work assignments and to review interest in upgrading present skills and in future development; and
4. Written performance reviews sufficiently specific to inform and guide the

employee and to provide direction for management in personnel decisions.

6.6.2. RATING PERIOD

The County shall make evaluate employees as follows:

1. Probationary Status Employees serving a six (6) month probationary period shall be evaluated at the end of the three (3) month and six (6) month period of employment.
2. Probationary status employees serving a twelve (12) month probationary period shall be evaluated at the end of the sixth and twelfth month of employment.
3. Promotional probationary status employees shall be evaluated at the end of the sixth month following appointment.
4. Regular status employees shall be evaluated at least once each year.
5. Supervisors may evaluate employees between scheduled evaluations as needed to report significant changes in performance.

6.6.3. PROCEDURES AND APPEAL

An employee disagreeing with the employee's performance evaluation may submit a written rebuttal within thirty (30) days of receiving the performance evaluation, for inclusion in the employee's personnel file. Performance evaluations are not subject to the grievance procedure.

6.6.4. PERFORMANCE IMPROVEMENT PERIOD

Employees may be placed on a three-month performance improvement period at any time when performance problems exist. Supervisors must document specific examples where the employee has not satisfactorily performed the employee's required duties, develop an expectation plan for improvement that includes measurable goals and objectives tailored to the specific facts and areas of concern for the employee, and then maintain communication with the employee and offer assistance and feedback to help the employee improve. This period may be continued for another three-month interval until the employee has attained satisfactory performance. During or after a performance improvement period, if an employee has not yet attained overall satisfactory performance, supervisors shall work with the Personnel Officer to determine next steps. If an employee has attained overall satisfactory performance, the employee shall receive written confirmation that the PIP is terminated. Commencement of a performance improvement period is not considered discipline. Nothing in this section changes the discipline process as described in applicable MOU and these personnel policies.

All supervisors shall inform the Personnel Officer in writing of all cases in which an employee is placed on a Performance Improvement Period.

6.7. COMPENSATION

6.7.1. CLASS TITLE AND PAY PLAN (CTPP)

All persons employed by the County shall be compensated in accordance with the Class Title and Pay Plan in effect. The Class Title and Pay Plan shall provide the salary range and steps assigned to each classification in the County service. Salary for each class shall be consistent with the work

as outlined in the class specification and shall be based on the principle that comparable salaries shall be paid for comparable duties and responsibilities.

6.7.2. SALARY SETTING

Salary ranges for unrepresented classifications shall be determined by the Board of Supervisors. At the discretion of the County Administrative Officer, the County Administrator may initiate a total compensation review for classifications when there are clear recruitment retention issues, or changes to state, federal or local rules. The County Administrative Officer may recommend salary changes to current unrepresented classifications as needed.

In recommending salary ranges for new classes, the County Administrative Officer or designee shall consider the following guidelines:

1. Payment of salaries within appropriate labor markets;
2. Provisions of any differentials that effectively recognize differences among related classes and occupational groups with regard to skills required, difficulty of duties, and levels of responsibility;
3. The County's financial condition and policies; and
4. Any other relevant factors.

6.7.3. RANGE STRUCTURE

The salary schedule shall consist of hourly, bi-weekly, monthly, or annual salary ranges for various classes with up to seven steps in each salary range.

6.7.4. ADMINISTRATION OF RANGE STRUCTURE AND STEP INCREASES

Salary increases are granted to regular employees on the basis of individual performance and improvement in performance, according to the following plan.

The Letters A, B, C, D, E, F and G, respectively, denote the possible progressive steps within the salary range.¹

1. Designation of Salary Step "A" shall be made upon initial employment, for a period of one year from the employee's date of hire.
2. Designation of Salary Step "B" shall be made upon completion of one year of employment where the employee has demonstrated at least satisfactory job progress and normally increasing productivity. The recommendation of the Department Head and approval of the Administrative Officer is necessary for designation to Step "B."
3. Designation of Salary Step "C" shall be made upon completion of one year of employment in Step "B" where the employee has demonstrated satisfactory job progress and normally increasing productivity. The recommendation of the Department Head and approval of the Administrative Officer is necessary for

¹ Not all employees are currently eligible for Step G. Step G may depending on applicable MOU's or for unrepresented employees, the terms or contract under which the employee was appointed.

designation to Step “C.”

4. Designation of Salary Step “D” shall be made upon completion of one year of employment in Step “C” where the employee has demonstrated satisfactory job progress and normally increasing productivity. The recommendation of the Department Head and approval of the Administrative Officer is necessary for designation to Step “D.”
5. Designation of Salary Step “E” shall be made upon completion of one year of employment in Step “D” where the employee has demonstrated satisfactory job progress and normally increasing productivity. The recommendation of the Department Head and approval of the Administrative Officer is necessary for designation to Step “E.”
6. Designation of Salary Step “F” shall be made upon completion of one year of employment in Step “E” where the employee has demonstrated satisfactory job progress and normally increasing productivity. The recommendation of the Department Head and approval of the Administrative Officer is necessary for designation to Step “F.”
7. Designation of Salary Step “G” for eligible employees shall be made upon completion of one year of employment in Step “F” where the employee has demonstrated satisfactory job progress and normally increasing productivity. The recommendation of the Department Head and approval of the Administrative Officer is necessary for designation to Step “G.”

The Department Head shall ensure that a written performance evaluation has been completed and that the evaluation justifies a salary increase based on performance. After evaluating performance, the Department Head may also decide not to grant any salary increase.

Salary adjustments shall be made on the first day of the pay period following the required accumulation of months of satisfactory job performance. An accelerated step increase may be granted in extraordinary circumstances following established procedure.

The Personnel Officer shall advise the County Auditor, in writing, of all salary increases and this notification shall constitute authorization for the Auditor to make payments to the employee at the higher rate.

If an employee’s anniversary date is overlooked through error or oversight, upon discovery of the error or oversight, when feasible, upon the recommendation of the Department Head and approval of the County Administrative Officer, the County Auditor shall honor a supplemental payroll compensating the employee for the additional salary the employee would have received from the anniversary date. In the event that the supplemental payroll is not feasible, the amount of the underpayment shall be included in the following pay period.

When a salary increase is not granted because it was not justified on the basis of the employee’s performance, the employee starts a new period of eligibility and shall not be considered for a salary increase prior to twelve (12) months later on the employee’s next regular review date.

6.7.5. PAY UPON INITIAL APPOINTMENT

Initial pay for an employee shall be at the minimum of the salary range (Step A) for the class. Appointments may be made at a higher step, not to exceed the maximum of the range, when it is exceedingly difficult to obtain qualified personnel at the starting salary or when it appears that the education or experience of proposed employees is substantially superior to that required of the class and justifies a beginning salary in excess of Step A.

Department Heads must get prior written approval by the County Administrative officer for a proposed appointment rate at Step D and Step E, subject to the availability of funds in the hiring department's budget, before the Department Head may make a hiring commitment to the applicant. For appointments at Step F and Step G, the Department Head must obtain written approval by the Board of Supervisors.

6.7.6. WORK IN A HIGHER CLASS

An employee who is designated officially by management, in writing, to perform all or substantially all of the duties of a vacant position or an absent employee in a classification receiving five percent (5%) or more above the top step of the employee's current position shall be paid five percent (5%) more than the employee's current base pay rate. This 5% payment shall become effective the first day of the pay period following fourteen (14) consecutive full workdays where all or substantially all of the duties of the higher-paid class are performed.

6.7.6.5 SPECIAL ASSIGNMENT PAY

An employee in a budgeted or extra-help position may be assigned as the assistant department head or assigned to a special assignment for a limited duration may receive a differential up to 10% when so assigned, with the prior approval of the County Administrative Officer. To be eligible for this differential as a special assignment, the employee must have full responsibility for the overall management of a specialized and complex assignment, or perform a highly skilled function. This differential shall be effective on the first day of the first full pay period of assignment. This differential shall cease at the end of the last pay period of assignment, unless the employee separates prior to the end of the pay period. The Special Assignment Differential is intended to be considered "Temporary Upgrade Pay" and it is not reportable as "pensionable compensation" for PEPRAs members.

6.7.7. PAY FOLLOWING PROMOTION

An employee promoted to a higher-paid classification shall be assigned to the first step in the new pay range or at the step which equals a ten percent (10%) increase over the employee's current base pay rate, whichever is more, provided the maximum pay step for the new range is not exceeded. A new salary anniversary date shall be assigned to the promoted employee to be effective on the date of promotion.

6.7.8. PAY FOLLOWING DEMOTION

An employee demoted involuntarily to a lower-paid classification shall be assigned to a step in the new pay range, not to exceed the maximum of the new class. The new pay rate shall depend on the circumstances related to the demotion and the employee's employment record.

An employee demoted voluntarily shall be paid at the step of the new pay range closest to the employee's base pay in the higher-paid classification but not exceeding the salary received in the former class. A new salary anniversary date shall be assigned to the demoted employee to be effective on the date of demotion.

6.7.9. PAY FOLLOWING TRANSFER

An employee who is transferred from one position to another in the same class shall be compensated at the same step in the salary range as the employee previously received. The employee's salary anniversary date shall remain the same as it was before the transfer.

6.7.10. PAY FOLLOWING RECLASSIFICATION

Pay following reclassification shall follow the rules of promotion, transfer or demotion as applicable.

6.7.11. PAY ON REINSTATEMENT

Employees who are reinstated in accordance with Section 6.4.1. (c) may be compensated up to the salary step held at separation.

6.7.12. PAY OF TEMPORARY EMPLOYEES

Employees who are hired as temporary employees shall be established on an hourly rate in accordance with the County's compensation schedule. Temporary employees shall not be eligible for participation in group insurance benefits, the County retirement system, paid vacation, paid holiday, or any other benefit accorded regular employees unless specifically authorized by law.

6.7.13. PAY PERIODS AND PAY DAYS

The periods on which pay checks shall be based are the twenty-six bi-weekly fiscal accounting periods. Pay days shall normally be the Friday after the ending date of the most recent pay period, unless, due to holidays and other circumstances the County determines a different pay day is necessary.

6.7.14. DEDUCTIONS

Deductions from employees' paychecks shall be made in accordance with prevailing laws, contracts, and administrative rules and regulations.

The County is required by law to make certain deductions from an employee's paycheck, including but not limited to Federal, State and local income taxes, a contribution to Medicare, Social Security and CalPERS retirement. These deductions are itemized on the employee's pay advice. The amount of the deductions may depend on the employee's earnings and the information furnished by the employee on the W-4 form. Any change in name, address, telephone number, marital status or number of exemptions must be reported to the Personnel Officer. The County may make other

mandatory deductions from an employee's paycheck, such as a court-ordered attachment or garnishment. The County shall also make deductions for the employee share of benefits including but not limited to healthcare, dental, vision, optional insurance plans, deferred compensation and other miscellaneous deductions.

a. **Overpayments and Underpayments**

This provision applies when the Auditor-Controller determines that an error has been made to either the employee's earnings, taxes, deductions or accrued leaves. In such cases, the County, for purposes of future compensation, shall adjust such earnings, taxes, deductions, or accrued leaves to the correct rate. The Auditor shall give written notice to the employee of the error, which shall include the option to meet with the Auditor to discuss the over/underpayment. The employee may be accompanied by a Union representative to any such meeting. As used in this section:

1. "Earnings" means the biweekly rate of pay including additional pays, differentials, and overtime.
2. "Taxes" means payment of Social Security, Medicare or State Disability taxes; excluding federal and state withholding taxes.
3. "Deductions" means employee paid deductions, including but not limited to medical premiums and retirement deductions.
4. "Accrued Leave" means vacation, sick leave, compensatory time off and all other types of authorized leave with pay.
5. "Overpayment" means any compensation or accrued leave that has been overpaid or over-credited to an employee regardless of the reason, including but not limited to, administrative, clerical or system errors.
6. "Underpayment" means any compensation or accrued leave that has been underpaid or under-credited to an employee regardless of the reason, including but not limited to, administrative, clerical or system errors.

In the case of an overpayment of earnings or under withheld taxes or deductions, the parties may enter into a written mutual agreement with the following options for reimbursement:

1. Full payment through a single payroll adjustment if total amount of reimbursement is less than 10% of employee's biweekly earnings.
2. Full payment by personal check, money order, or cashier's check.
3. An alternate method mutually agreed upon by the employee and the Auditor-Controller.

If no mutual written agreement is reached, the County retains the right to exercise other legal means to recover the amount owed and recover costs associated with such legal action.

In the case of a leave accrual error which results in an overpayment, reimbursement may be made through one (1) of the following methods as mutually agreed to by the employee and the Auditor-Controller:

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1. Full payment through a single payroll adjustment if total amount of reimbursement is less than 10% of employee's biweekly earnings.
2. Full payment by personal check, money order, or cashier's check.
3. Installments made through payroll, the number of installments shall not exceed the number of pay periods over which the error occurred, unless mutually agreed upon by the employee and the Auditor-Controller.
4. An alternate method mutually agreed upon by the employee and the Auditor-Controller.

Absent mutual agreement any reduction through payroll adjustment shall not reduce employee's wages below the state minimum wage.

In the case of a leave accrual error, which results in an incorrect accrued leave balance, a one-time reduction to the leave accrual balance will be processed through payroll.

In the case of an underpayment, the County will pay the employee a one-time adjustment through payroll unless the employee and the Auditor-Controller agree to an alternate method.

Any amount of payment errors for a period earlier than three (3) years prior to the date of the Auditor's initial written notice to the employee shall be deemed waived and not reimbursable.

The provisions of this section do not apply to grievance disputes which contend that the County has underpaid by misapplying or incorrectly interpreting the terms of this or any previous agreement. The time limits for the filing and processing of any grievance shall not be deemed to be excused, extended, or otherwise modified by the provisions of this section. Nor shall the relief available through the grievance procedure be enlarged by or as a result of the provisions of this section.

The provisions of this section apply only to errors involving earnings, taxes, deductions, and accrued leave. No provision of this section shall preclude the correction or recovery of past errors (overpayments or other losses) which were the result of other matters.

Any disagreement concerning actions taken under this sub-section may be filed at Step 3 of the grievance procedure as a compensation grievance. Participation in the process outlined above, including making options as to methods of repayment, shall not preclude the employee from pursuing a grievance regarding the overpayment.

6.8. HOURS OF WORK

6.8.1. WORK WEEK

In general, the established work week shall be forty (40) hours and seven (7) days beginning 12:01 a.m. Sunday and ending at 12:00 midnight the following Saturday, consisting of five (5) eight (8) hour days. The standard work schedule for employees shall be from 8:00 a.m. to 5:00 p.m. Monday through Friday with a one (1) hour unpaid lunch break. The working hours of employees shall be subject to applicable state and/or federal laws and regulations.

When the operational requirements of a department require deviations from the standard work schedule, an employee's work hours may be scheduled by the Department Head to meet these requirements. The Department Head shall prepare written schedules in advance to support all deviations, but in no case may the Department Head schedule an employee to work more than 40 regular hours in a work week without an established 7K exemption as provided by law.

The Sheriff's Department and County Corrections shall operate on a 24-hour basis. Employees of these departments shall work weekly hours as determined and scheduled by the Department Head.

6.8.2. ATTENDANCE RECORDS

Each Department Head shall keep complete and accurate time and attendance records for each employee in the Department Head's department. These records shall be prepared and maintained in the form and manner as prescribed by the County Auditor.

The time sheet for each employee shall be certified by the Department Head or the Department Head's Designated Representative. This certification shall state that the employee has actually been employed in the office and that the employee's attendance is correctly reported.

An employee shall be in attendance during work hours in accordance with these Rules. Employees are expected to report for work on time, ready for duty, at the time prescribed for the start of their shift or according to Department policy. Employees may not leave work without prior supervisory approval during working hours or prior to the end of the scheduled work time. Employees who foresee the need to be absent, tardy or leave early from work should notify their supervisor of the anticipated absence as far in advance as practicable and obtain approval for such absence.

An employee who will be absent or late to work must notify the employee's supervisor at least thirty (30) minutes prior to the start of the employee's shift. This process must be repeated daily unless the employee is on an approved leave of absence. Failure to do so may result in the period of absence being considered as AWOL. An employee who does not talk directly to the employee's supervisor must provide contact information to the employee's supervisor in the event follow-up is needed.

An employee's absence without leave for more than three (3) consecutive work shifts may be deemed to be a resignation and may result in termination of employment. An absence without leave for sworn peace officers or correctional officers who are absent for more than two (2) consecutive work shifts may be deemed to be a resignation and may result in termination of employment.

An employee may be separated from County service if the employee fails to report for duty within three (3) work shifts or, in the case of sworn peace officers or correctional officers, within two (2) work shifts, following the expiration of an approved leave of absence or approved vacation.

The Department Head shall provide written notice to the employee of the proposed action to be taken due to abandonment. This notice shall provide the Skelly pre-action due process procedure and be mailed to the employee's last known address or personally delivered if practicable.

6.8.3. ALTERNATIVE AND FLEXIBLE WORK SCHEDULES

Alternative work schedules may be initiated due to operational needs and in accordance with the Fair Labor Standards Act. Alternative work schedules must be recommended by the Department Head and approved by the Personnel Officer, with the needs of the County, service to the public, and the needs of the employee(s) being considered.

6.8.4. MEAL AND REST PERIODS

When an employee works a shift of six (6) or more continuous hours, the employee shall be entitled to a meal period of no less than thirty (30) minutes or more than one (1) hour. Meal periods are neither time worked nor time on pay status unless an employee is required by their Department Head to remain on the job at a work station. The Department Head must approve such arrangements in advance.

Employees will normally be granted and take a rest period of fifteen (15) minutes during each four (4) consecutive hours worked to be taken at the employee's work location. Employees who work eight (8) hours on any day are entitled to two rest periods of fifteen (15) minutes each. Employees who work a twelve (12) hour shift may be entitled to a third fifteen (15) minute rest period at the discretion of the Department Head.

The Department Head shall establish reasonable rules governing the taking of rest periods. Rest periods shall be taken in an area away from the employee's immediate work area when the employee works in a public contact office and the Department Head is able to provide a separate area. Rest periods may not be taken at the beginning or end of an employee's shift, combined with the employee's meal period, or accumulated for use at a later time. These rest periods are considered time worked for pay purposes.

In such situations where operational requirements, work station or coverage requirements, workloads, staffing levels, leave schedules, vacation schedules, and/or the provision of services to the public or County employees may require the uninterrupted presence of the employee, the Department Head has discretion to deny rest periods.

It is the responsibility of each employee to take this rest period. Employees should report to the supervisor if, for any reason, an employee believes that they are unable to take a rest period.

6.9. OVERTIME

6.9.1. EXEMPT VERSUS NON-EXEMPT EMPLOYEE

All job classifications are designated as either "exempt" or "non-exempt."

Exempt employees are generally managers, executives, supervisors, professional staff, and technical staff whose salary, duties and responsibilities allow them to be classified as "exempt" from overtime pay provisions as provided by the Federal Fair Labor Standards Act (FLSA) and applicable State law. Exempt employees will be advised that they are in an exempt status when hired, transferred or promoted.

6.9.2. OVERTIME DEFINITION

Overtime is defined as time worked beyond the employee’s normally assigned work hours which exceeds forty (40) hours of paid status in a workweek unless a 7k exemption applies as provided by law. Paid status includes time worked and vacation leave, holidays, and compensatory time off. Overtime hours worked do not count toward the accumulation of sick leave, vacation, holiday, or retirement system credit.

6.9.3. OVERTIME POLICY

It is the policy of the County that overtime shall be assigned only in emergency situations or where the overtime is determined by the Department Head to be necessary to meet essential operating needs of the County.

Overtime must be approved in advance by the Department Head or the Department Head’s designee.

6.9.4. NOTIFICATION TO WORK OVERTIME

The Department Head shall notify the employee that overtime is needed as soon as possible after the need for overtime is determined. Employees shall work overtime when overtime work is assigned. In assigning overtime, the Department Head shall take into account employee preference for overtime assignments, if operationally possible.

6.9.5. OVERTIME RATE

Non-exempt employees shall be compensated for overtime at one and one-half (1.5) times their regular rate of pay only for those overtime hours which exceed forty (40) hours per week as defined in Section 6.9.2 per week.

All overtime worked over forty (40) hours per work week shall be rounded up to the nearest one-tenth (1/10) of an hour and compensated with compensatory time off or overtime pay.

6.9.6. COMPENSATORY TIME ACCRUAL LIMITS

Eligible County employees shall be allowed to accrue a maximum of sixty (60) hours compensatory time off.

6.9.7. PAYMENT OF COMPENSATORY TIME UPON TRANSFER

An employee who is transferred to another department or is moving from non-exempt to exempt status shall be paid for any accrued compensatory time off by the department in which the overtime was worked prior to the employee’s transfer.

6.10. BENEFITS

6.10.1. INSURANCE

a. **Health**

The County provides health care insurance options to employees in compliance with applicable federal, state and local laws. On an annual basis during open enrollment employees will have the option to change insurance elections. Contributions towards health care premiums will be determined either through negotiations for represented employees, or as set by the Board on an annual basis. Employees shall pay for costs in excess of these amounts through a payroll deduction.

b. **Vision**

The County offers employee only vision coverage to full-time employees only. Full-time employees have the option to pay for dependent coverage.

c. **Dental**

The County offers dental coverage to employees and dependents; contributions towards dental insurance premiums will be determined either through negotiations for represented employees, or as set by the Board on an annual basis. Employees shall pay for costs in excess of these amounts through a payroll deductions.

d. **Life**

The County provides a BASIC life insurance policy for each regular employee. Other voluntary life insurance plans may be available.

e. **Deferred Compensation**

Employees may participate in tax-deferred retirement savings through offered 457(b) plans or other plans as approved by the Board of Supervisors. .

6.10.2. RETIREMENT

The County shall provide eligible employees with membership in the State of California's Public Employee Retirement System (PERS).

6.11. LEAVES AND OTHER TIME OFF

6.11.1. HOLIDAY LEAVE

a. **Official Observed Holidays**

The following holidays are observed as County holidays for pay purposes and all regular and probationary employees in permanent positions shall have these days off, except as otherwise provided:

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1. New Year's Day
2. Martin Luther King's Birthday
3. President's Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veterans Day
8. Thanksgiving Day
9. The day after Thanksgiving Day.
10. Christmas Day

b. Floating Holidays

Floating holiday(s), as designated by an MOU or other Board of Supervisors action, is/are to be taken or lost at the end of pay period 26 of each year, at the employee's discretion, subject to prior approval of the Department Head. Floating holidays will be pro-rated for employees who start work during the year in accordance with the Auditor's schedule. Floating holidays have no cash value.

c. Administrative Holiday

Unless otherwise specified by MOU and subject to scheduling by department heads to insure office coverage, approximately half of the employees in each department will be given a half day off on Christmas Eve with remaining employees being eligible to take off a half day on New Year's Eve.

d. Eligibility for Holiday Pay

An employee in a permanent position shall receive holiday pay if in pay status on the employee's last scheduled work day before the holiday and on the first scheduled work day following the holiday. A part-time employee shall be entitled to holiday pay on a proportionate basis. Permanent part-time employees who work less than fifty percent (50%) are not eligible for holiday pay. Temporary employees are not eligible for holiday pay. No employee shall receive holiday pay for any holiday which is immediately preceded by or followed by an unauthorized absence or a suspension for disciplinary reasons.

e. Holidays observed on Saturday or Sunday

When a holiday falls on a Sunday, the following Monday is observed as a holiday. When a holiday falls on a Saturday, the preceding Friday is observed as a holiday unless an alternate day is designated by the Board of Supervisors.

f. Effect of Other Leaves on Holidays

When a day designated by the County as a holiday occurs during an employee's vacation leave, for payroll purposes the day shall be charged as a holiday instead of vacation. Sick leave shall not

be approved for official holidays. An employee must be in pay status the day before and the day after a holiday to receive holiday pay.

g. Pay for Work on Holidays

An employee who is required by their department head to work on a holiday, who does not receive holiday in lieu or other holiday compensation, shall be paid the regular pay at a straight-time rate. In addition, the employee receives either holiday pay at the straight-time rate or compensatory time off on an hour-for-hour basis for every hour of overtime worked.

h. Effect of holiday on a day off

When a holiday falls on an employee's scheduled day off, other than Saturday or Sunday, the employee shall be rescheduled to another day off within the pay period or be provided with eight hours of compensatory (or other) time off.

i. Alternate Full-time Schedule

Holidays are worth eight (8) hours. Employees on an alternative full-time work schedule, and whose regular work day is more than eight (8) hours, must use accrued leave or unpaid time off for the hours in their scheduled shift that exceed of eight (8) hours on observed County holidays.

6.11.2. VACATION LEAVE (FOR THOSE EMPLOYEES WITHOUT SPECIFIC MOU PROVISIONS RELATING TO VACATION)

a. Purpose

The County provides annual vacation leave to eligible employees. Employees are encouraged to take time off, consistent with these policies.

b. Eligibility

Vacation credit for eligible employees is earned each pay period on a proportionate basis based on the percent of time or number of hours on pay status for that pay period at a rate determined by the length of qualifying service. Employees must be on pay status at least one-half of the working hours of a pay period to earn vacation accruals for that pay period. Employees may not use their vacation accruals until the completion of their probationary period except as set forth in Section 6.2.5(i).

c. Vacation Usage Upon Promotion

An employee who has successfully completed a probationary period and is promoted or transfers to another classification with no break in county service may request vacation. An employee in this situation would still be required to serve a probationary period however, with the department head's consent they will be able to take vacation.

d. Accrual

Vacation credit will be earned by an eligible employee on pay status beginning the first of the pay period during which the required qualifying service is completed, at the following rates (except as explicitly stated otherwise):

<u>Years of Service</u>	<u>Vacation Accrual Rate</u>
<u>0 Years – 3.99 years of service</u>	<u>3.08 hours per pay period</u>
<u>4 Years – 9.99 years of service</u>	<u>4.62 hours per pay period</u>
<u>10 Years – 14.99 years of service</u>	<u>5.85 hours per pay period</u>
<u>15 years of service and greater</u>	<u>6.46 hours per pay period</u>

Vacation accruals shall not accrue for time on pay status in excess of the full-time working hours of the pay period. Employees assigned to part-time positions rated at fifty percent (50%) of full-time equivalent or greater earn vacation accruals on a proportionate basis. Temporary or Seasonal employees do not earn vacation accruals.

e. Maximum Accrual

An employee shall not accrue vacation in excess of an amount equal to two (2) times the employee's yearly accrual rate. However, the vacation accrual limit shall only be enforced as of December 31 of each year. If, on December 31, the employee has accrued above the maximum accrual amount, the employee will not be allowed to accrue vacation until the balance is reduced below the cap.

f. Illness within Vacation Leave

Employees who become ill or injured during vacation leave may have such periods of illness charged to their accumulated sick leave instead of vacation provided that the sick leave rule requirements are complied with as provided in Section 6.11.3.

g. Scheduling Vacation

Vacation leave shall be scheduled at the convenience of the department. Vacation scheduling by the department head shall be made with consideration of staffing/operational needs and on the basis of seniority. All requests for vacation leave must be approved by the employee's department head. The department head or designee is responsible for insuring that the employee is eligible for the vacation requested. No person shall be allowed paid vacation in excess of that actually accrued at the time such vacation is taken.

h. Vacation at Separation

An eligible employee separating from County service voluntarily or involuntarily, who has unused accumulated vacation accruals shall be paid for such accrued vacation up to the effective date of such resignation, retirement or layoff. In accordance with California Labor Code § 227.3, payment

for unused vacation shall be made at the final rate of pay, except as otherwise designated by an MOU or other Board of Supervisors action (e.g. frozen vacation).

When separation is due to the death of the employee, payment for unused accrued vacation shall be paid to the beneficiary designated by the employee, or if none is designated, to the employee's estate.

6.11.3. SICK LEAVE

a. Purpose

Sick leave is provided to continue the salary of eligible employees who would otherwise be on pay status but who are unable to work because of their own illness or disability, for the illness of disability of an eligible family member pursuant to the limitations set for below, and other purposes required by federal and state law. Sick leave is also provided for medical, dental, and optical appointments or other uses as required by state law.

b. Eligible Employees

All employees in paid status may be eligible for sick leave accruals based on the rate provided below.

c. Accrual

Full time employees earn 4.62 hours of sick leave each pay period. Benefitted part time employees (those working a full time equivalent of 50% or greater) earn sick leave pro-rated based on their relationship to full time employment. Employees must be on pay status at least one-half (1/2) the working hours of a pay period to accrue sick leave for that pay period. Sick leave shall not accrue for time on pay status in excess of forty hours in any workweek. A part-time employee in a position rated at fifty percent (50%) or greater shall accrue proportionate sick leave credit, but not less than the minimum requirements as provided by State law. Unused accrued sick leave may be accumulated up to and including two hundred fifty (250) working days or two thousand (2,000) hours.

Part-time employees working less than 50%, temporary or any other employee not already provided sick leave by policy or MOU, shall accrue in accordance with the minimum requirements as provided by State law. Eligible employees may start using their paid sick leave accruals starting the 90th day of their employment. Eligible employees may take up to twenty-four (24) hours or three (3) days of paid sick leave per year. Paid sick time may be carried over from year to year, but accruals will be capped at forty-eight (48) hours per year.

d. Use of Sick Leave

All available accruals may be used for the diagnosis, care or treatment of an existing health condition or preventative care for the employee who is ill, injured, or receiving medical care, treatment or diagnosis.

Use of not more than three accrued sick days per year may be used for an employee who is a victim of domestic violence, sexual assault, or stalking for the purposes allowed by state law.

See California Labor Code section 233 (“Kin Care”) and sections 246.5 and 2810.5 (“California Healthy Workplaces, Healthy Families Act” (HWHF))

e. Notification of Need for Sick Leave

When possible, medical appointments should be scheduled in advance with at least two (2) days’ notice to the employee’s supervisor for coverage purposes. Employees must otherwise notify their supervisors orally or in writing of any unscheduled sick leave absence as early as possible but no later than one hour in advance of the start of their shifts, or as soon as possible in cases of emergency and provide contact information to their supervisor.

f. Doctor’s Certificate or Other Proof

After more than three (3) consecutive days of sick leave or upon reasonable suspicion of sick leave abuse after at least three sick days have been used from the employee’s anniversary date, an employee may be required by the Department Head to submit satisfactory proof of illness or disability, i.e. a physician's certificate or a personal affidavit stating the cause of absence or attesting to the employee's inability to resume work. Medical certification will not be requested for sick leave taken to care for a family member, however, the County may inquire about the need for leave, as permitted by state and federal law.

g. Sick Leave during Vacation and on Official Holidays

An employee who becomes ill while on vacation may have such period of illness charged to the employee’s accumulated sick leave instead of vacation provided that immediately upon return to duty, the employee submits to the employee’s supervisor a written request for sick leave and a written statement signed by the employee's physician stating the nature and dates of the illness. Observed holidays occurring during sick leave shall not be counted as a day of sick leave.

h. Unused Sick Leave Upon Separation

Employees leaving County service shall forfeit all accumulated sick leave, except as follows (1) if the employee retires under the Public Employees Retirement System and has rights to be paid a portion of such sick leave on the next pay day following the effective date of such retirement in accordance with the applicable memorandum of understanding or other Board of Supervisors action, or (2) when an employee separates from employment with the County and is rehired within one year from the date of separation, and the employee had previously accrued unused sick days on the date of separation, the County will reinstate up to a maximum of three previously accrued and unused sick days.

i. Supplementing Bereavement Leave

As a supplement to and after exhausting bereavement leave, an employee shall be permitted to use not more than two (2) days of accrued sick leave per incident when that employee's attendance is required due to the death of a member of the employee's immediate family. For the purpose of this section, immediate family includes a spouse, domestic partner, mother, father, grandmother, grandfather, daughter, son, granddaughter, grandson, sister, or brother and step-relatives and in-laws in those relationships.

j. **Fitness for Duty Certification**

An employee who takes leave for the employee's own serious health condition may be required to produce a fitness for duty certification in order to be able to return to work following an extended sick leave, if reasonable safety concerns exist regarding the employee's ability to perform the employee's duties, based on the serious health condition for which the employee took sick leave. The fitness for duty certification must verify that the employee is able to perform the employee's essential job functions with or without accommodation

6.11.4. WORKER'S COMPENSATION LEAVE

Workers' Compensation Benefits shall be provided in accordance with State law and scheduled whenever an employee is absent from duty because of disability caused by illness or injury arising out of and in the course of employment which has been declared to be compensable under the Workers' Compensation Law. Employees returning from Workers' Compensation Leave are required to provide the County with a Fitness for Duty Certification.

a. **Reporting Injury**

If an employee is injured at work or because of the employee's work, the employee must report the injury or illness to the employee's immediate supervisor as soon as possible, but no later than the end of the scheduled work shift on the day the injury occurs. This ensures that employees receive prompt and adequate medical attention and so that eligible benefits are not delayed.

In the case of severe injury requiring immediate medical care, employees should call 911. California law required the County to report within 5 days every work-related injury or occupational disease which (a) results in lost time beyond the day of injury, or (b) requires medical treatment other than first aid.

b. **Forms and Procedures**

Workers' compensation processing shall be consistent with County procedures and in accordance with State Workers' Compensation regulations. The personnel officer, or designee will provide employees with the forms within 24 hours of the employee's report of injury. If an employee who sustains a work-related injury or illness is required to seek medical care, the employee must do so at facilities designated by the County unless – prior to sustaining the work-related injury or illness – the employee filed a pre-designation of personal physician or there is a valid medical emergency that justifies using an alternative facility.

c. **Safety Employees**

A Sworn Safety employee shall be granted industrial disability leave and temporary disability benefits in accordance with Section 4850 of the California Labor Code. This benefit provides eligible employees with a leave of absence without loss of pay for a period not to exceed one year. Temporary disability payments shall be endorsed to the County during such leave.

6.11.5. FAMILY MEDICAL LEAVE

The County will provide Family Medical Leave for eligible employees as required by State and Federal law. The following provisions set forth certain of the rights and obligations with respect to such leaves. All leaves will run concurrently as permitted by the applicable laws, unless

otherwise noted. “Leave” under this Policy shall mean leave taken pursuant to the Family Medical Leave Act (“FMLA”) and California Family Rights Act (“CFRA”).

a. **Definitions**

1. “12-Month Period” means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
2. “Child” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster, step-child, legal ward or child for whom the employee stands “in loco parentis”. A child is “incapable of self-care if the child requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living—such as, grooming and hygiene, bathing, dressing eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, and using a telephone.
3. “Next of Kin”, for purposes of Military Caregiver Leave, means the nearest blood relative of an injured service member, other than the service member’s spouse, parent, or child in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, siblings, grandparents, aunts and uncles, and first cousins, unless the service member has specifically designated in writing another blood relative as the service member’s nearest relative.
4. “Parent” means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
5. “Qualifying Exigency” includes:
 - i. Short-notice deployment: Leave may be taken to address issues arising from an impending call or order to active duty 7 days or less before the date of deployment.
 - ii. Military events and related activities: Leave may be taken to attend an official military sponsored ceremony, program or event relating to a service member’s active duty or call to active duty.
 - iii. Childcare and school activities: Leave may be taken to provide or arrange for childcare when a service member’s active duty or call to active duty requires a change in existing childcare arrangements.
 - iv. Financial and legal arrangements: Leave may be taken to make or update financial or legal arrangements to address a service member’s absence while on active duty.
 - v. Family counseling: Leave may be taken to attend counseling where the employee, the service member, or the service member’s child needs

counseling because of the active duty or call to active duty.

- vi. Rest and recuperation: Up to 5 days' leave may be taken to spend time with a service member who is on short-term leave from active duty for rest and recuperation.
 - vii. Post-deployment activities: Leave may be taken to attend arrival ceremonies, reintegration briefings and events, and any other official military sponsored ceremony or program for a period of 90 days after the termination of the service member's active duty status, and to address issues that arise from death while on active duty, such as meeting and recovering the body and making funeral arrangements.
6. "Registered Domestic Partner" is defined by California Family Code sections 297 and 299.2.
 7. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
 - i. Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom).
 - ii. Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - iii. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to a serious health condition of more than 3 consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - iv. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider, where two of the physician's visits occur within 30 days beginning from the initial date of incapacity and the first physician visit occurs within the first 7 days of incapacity; or
 - v. Treatment by a health care provider on at least one occasion, the first of which must occur within 7 days of incapacity, which results in a regimen of continuing treatment under the supervision of the health care provider.
 - vi. Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to Pregnancy Disability Leave).
 - vii. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - viii. Requires the employee to make at least two visits per year to a health care

provider, or a nurse or physician's assistant under direct supervision of a health care provider, for treatment;

- ix. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - x. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy).
 - xi. A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective (e.g., Alzheimer's, severe stroke, or terminal stages of a disease). The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
 - xii. Any period of absence to receiving multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for (1) restorative surgery after an accident or other injury, or (2) for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
8. "Serious injury or illness", as applicable to Military Caregiver Leave, means an injury or illness incurred in the line of duty while the individual is on active duty in the Armed Forces, that renders the individual unfit to perform the duties of the individual's office, grade, rank, or rating.
 9. "Spouse" means a husband or wife as defined or recognized under State or Federal law for purposes of marriage.

b. **Eligibility**

An employee is eligible for FMLA and CFRA Family Medical Leave if the employee:

1. Has been employed by the County for at least 12 months; and
2. Has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

Female employees are eligible for PDL leave who are disabled due to pregnancy, childbirth or related medical conditions regardless of length of service or number of hours worked.

c. **Reasons for Leave**

Family Medical Leave under FMLA and CFRA is permitted for the following reasons:

1. The birth of a child or to care for a newborn of an employee (FMLA leave taken for this purpose runs concurrent with PDL leave, CFRA leave does not apply here but CFRA baby bonding leave runs consecutive with PDL leave).
2. The placement of a child with an employee in connection with the adoption or

foster care of a child.

3. Leave to care for a child, parent, spouse, or registered domestic partner who has a serious health condition. (Registered domestic partners are only entitled to CFRA leave, not FMLA leave).
4. Leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.
5. FMLA Leave to care for an employee's child, parent, spouse, or "next of kin" who is a member of the Armed Forces (including a member of the National Guard or Reserves) or a veteran of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, is in outpatient status through the Armed Forces, or is otherwise on the temporary disability retired list, for a serious injury or illness, referred to in this Policy as "Military Caregiver Leave". (Registered domestic partners are not entitled to Military Caregiver Leave).
6. FMLA Leave for a "qualifying exigency" arising out of the fact that an employee's child, parent or spouse is on active duty in the Armed Forces or has been called to active duty, referred to in this Policy as "Qualifying Exigency Leave". (Registered domestic partners are not entitled to Qualifying Exigency Leave).

d. **Duration of Leave**

For all types of Family Medical Leave, other than Military Caregiver Leave and Pregnancy Disability Leave, eligible employees are entitled to up to 12 workweeks of Family Medical Leave to the extent provided, and consistent with the terms and conditions imposed by law, during any 12-month period.

For Military Caregiver Leave, an eligible employee may take up to 26 workweeks of leave during a single 12-month period. Leave to care for a seriously injured or ill military service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period.

Military Caregiver Leave and Qualifying Exigency Leave do not run concurrent with CFRA leave are only covered by FMLA, therefore, CFRA leave does not run concurrent with these types of leave.

1. **Minimum Duration of Leave**

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within 1 year of the birth or placement of the child. In addition, the minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for less than two weeks duration after the initial two weeks leave, if within 1 year of the birth or placement of the child. If Family Medical Leave is taken for any other qualifying reason, there is no minimum amount of leave that must be taken.

2. Spouses Both Employed by the County

The aggregate number of workweeks of leave to which spouses employed by the County may be entitled will be limited to 12 workweeks during a 12-month period when leave is taken for the birth or adoption or foster care placement of the employees' child. Additionally, with respect to Military Caregiver Leave, the aggregate number of workweeks of leave to which both spouses may be entitled is limited to 26 workweeks in a single 12-month period. This limitation does not apply to any other type of leave under this Policy.

e. **Intermittent Leave**

Family Medical Leave and Pregnancy Disability Leave may be taken intermittently or on a reduced leave schedule. An employee who takes leave intermittently or on a reduced leave schedule must make a reasonable effort to schedule the leave so as not to unduly disrupt the County's operations.

If an employee requests leave intermittently or on a reduced leave schedule for the employee's own serious health condition or disability, or for the serious health condition or serious illness/injury of a covered family member of a service member, the employee must provide certification that such leave is medically necessary.

An employee requesting intermittent or reduced schedule leave for Pregnancy Disability Leave or for planned medical treatment that is foreseeable relating to the employee's own serious health condition or the serious health condition of a family member may be required to transfer temporarily to an available, alternative position when (1) the alternative position better accommodates recurring periods of leave, (2) the employee is qualified for the alternative position, and (3) the alternative position has equivalent pay and benefits (equivalent duties are not required.)

f. **Notice of Need for Leave**

Although the County recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that the employee will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child), the employee shall inform the employee's supervisor as soon as possible that such leave will be needed. Such notice may be orally given. If the County determines that an employee's notice is inadequate or the employee knew about the need for leave in advance of the request, the County may delay the granting of the leave.

The County will respond to requests for leave within five (5) business days, as required by CFRA.

g. **Substitution of Paid Accrued Leaves**

Employees on FMLA/CFRA leave are required to use vacation leave, administrative leave, annual leave, reserve leave time, or other applicable leave balances during otherwise unpaid FMLA/CFRA leave.

Employees on FMLA/CFRA leave are required to use accrued sick leave if the employee is taking leave for the employee's own serious health condition.

California's Paid Family Leave Law provides for payments from the State Disability Insurance Fund to cover part of the wage loss suffered by employees who take leave to care for a seriously ill spouse, registered domestic partner, child, grandchild, parent, grandparent, sibling or parent-in-law, or to bond with a new child of the employee or the employee's spouse or registered domestic partner. Employees should contact the State Employment Development Department for more information. (http://www.edd.ca.gov/Disability/More_PFL_information.htm)

6.11.6. Paid Leave Integration

If an employee receives State Disability Insurance (SDI) or Paid Family Leave (PFL) from the State during their leave, the County integrates this benefit with the employee's leave accruals, as applicable. Employees are required to submit their SDI and PDL benefit information to payroll. Failure to disclose this information by not submitting the appropriate documents to payroll in a timely manner may result in the County reporting this to the State EDD.

a. Medical Certification

Employees who request leave under this Policy must provide written certification supporting the need for leave. The appropriate certification form will be provided to the employee at the time leave is requested. The County is prohibited from and will not seek information related to symptoms or diagnosis.

1. Time to Provide Certification

When an employee's leave is foreseeable and at least 30 days' notice has been provided, the employee must provide certification before the leave begins. When this is not possible, the employee must provide the certification within the time frame requested by the County (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

2. Consequences for Failure to Provide an Adequate or Timely Certification

If an employee provides an incomplete certification, the employee will be given 7 calendar days to cure any such deficiency. However, if an employee fails to provide certification within the time frame established by this Policy, the County may delay the taking of leave until the required certification is provided. If no certification is provided, the leave may be denied.

3. Second or Third Opinion

When Family Medical leave is taken for an employee's own serious health condition, and the County has reason to doubt the validity of the certification provided, the County may seek a second opinion by a health care provider chosen and paid for by the County. If the second opinion differs from the certification provided by the employee, the County may request the opinion of a third provider jointly approved by the County and the employee, but paid for by the County. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when a second or third opinion is sought.

Second or third opinions may not be sought for Pregnancy Disability Leave.

4. Recertification

The County has the right to request an employee who is taking FMLA/CFRA leave for the employee's own serious health condition or due to the serious health condition of a family member to provide recertification of the need for leave.

5. Confidentiality

Any medical information provided by the employee in support of a request for leave under this Policy shall be maintained in confidence to the extent required by law.

b. **Reinstatement**

1. Right to Reinstatement

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the period of leave.

2. Employee's Obligation to Periodically Report on the Employee's Condition

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

3. Fitness for Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, the employee will be required to present a certification from a health care provider declaring that the employee is able to resume work. Failure to provide such certification may result in delay or denial of reinstatement.

6.11.7. PREGNANCY DISABILITY LEAVE

a. **Leave Entitlement**

Pursuant to the California Pregnancy Disability Leave Act and California Family Rights Act (CFRA), an employee may take the following unpaid leaves of absence relating to pregnancy and the birth of an employee's child:

1. Up To Four Months of Pregnancy Disability Leave

An employee is entitled to up to four (4) months of pregnancy disability leave for any period of actual disability caused by the employee's pregnancy, childbirth or related medical conditions. (Time off needed for prenatal care, severe morning sickness, doctor ordered bed rest, childbirth, and recovery from childbirth are all covered.) Pregnancy disability leave may be taken intermittently or on a reduced leave schedule when medically necessary.

2. An Additional Twelve Weeks of “Baby Bonding” Leave

In addition to pregnancy disability leave, an employee is entitled to another twelve (12) weeks of leave under CFRA, provided that the employee has not previously exhausted the employee’s CFRA leave prior to the pregnancy disability leave. A minimum of two (2) weeks must be taken by the employee for the initial baby bonding leave, but subsequent requests for leave may be for less than two weeks.

b. **Employee Eligibility**

Unlike family medical leave, there are no eligibility requirements for pregnancy disability leave such as length of employment or hours worked.

c. **Substitution of Paid Leaves**

Employees on PDL are required to use accrued sick leave but are not required to utilize any other paid leaves unless the employee elects to do so. An employee on Pregnancy Disability Leave may be entitled to State Disability Insurance (“SDI”) benefits during the period of disability. Employees should contact the State Employment Development Department for more information.

d. **Medical Certifications and Releases**

An employee requesting pregnancy disability leave will be required to provide a medical certification from a health care provider supporting the need for leave.

The certification shall contain the following information: (1) the date the employee became (or will become) disabled due to pregnancy; (2) the probable duration of the disability; and (3) a statement that the employee is unable to perform one or more of the essential functions of the employee’s position.

e. **Fitness for Duty Certification**

Prior to being allowed to return to work from pregnancy disability leave, the employee may be required to submit a certification from the employee’s health care provider stating that the employee is able to perform the employee’s essential job functions with or without accommodation.

f. **Notice of Need for Pregnancy Disability Leave**

An employee must provide the County with reasonable advance notice of the need for pregnancy disability leave and the anticipated timing and duration of the leave.

If the need for leave is foreseeable, an employee must provide the County with at least thirty (30) days’ notice.

If it is not practicable for an employee to provide thirty (30) days’ notice, the employee must notify the County of the need for leave as soon as practicable.

g. **Interaction between PDL, FMLA, and CFRA Baby Bonding Leave**

PDL does run concurrently with FMLA leave, but does not run concurrently with CFRA leave taken for the purpose of bonding with a newborn, newly adopted, or newly placed child (“baby

bonding leave”). As a result, an eligible pregnant employee who qualifies for CFRA leave is entitled to take up to four (4) months of pregnancy disability leave followed by up to twelve (12) weeks of CFRA baby bonding leave.

6.11.8. BENEFITS AND REINSTATEMENT DURING AND AFTER FMLA/CFRA/PDL LEAVE

a. Continuance of Benefits

While on family medical leave or pregnancy disability leave as described in this policy, the County will continue the employee’s group health insurance benefits under the same conditions as if the employee had continued working.

b. Payment of Premiums

During leave, the County will continue to pay its share of all applicable employee benefits. Employees who pay a portion of the premium toward these benefits are still responsible for paying their share. If the employee returns to work for less than thirty (30) calendar days or if the employee chooses not to return to work upon expiration of the FMLA/CFRA/PDL leave, the employee may be required to reimburse the County for the County’s share of the premiums paid on the employee’s behalf.

If an employee chooses to discontinue health insurance coverage during leave, the employee is entitled to be reinstated to the coverage upon the employee’s return to work on the same terms as prior to taking leave, without any qualifying period, physical examination, exclusion of pre-existing conditions or waiting for an open enrollment period.

If applicable, premium payments shall be made by the employee either through payroll deduction or by direct payment to the County. If the employee’s premium contribution is more than thirty (30) days late, the County may terminate the employee’s insurance coverage.

c. Benefits If Discretionary Leave Is Granted

If an employee is granted additional time off as unpaid leave after all legally mandated leaves are exhausted, the employee is required to pay the full cost of the premium including the County’s portion in accordance with the County’s policy on Leave without Pay.

d. Failure to Return From Leave

An employee who fails to return to work after exhausting FMLA/CFRA leave loses the employee’s right to reinstatement under FMLA/CFRA. However, an employee who has taken leave for the employee’s serious health condition may have a right to reasonable accommodation under the Americans with Disabilities Act (ADA) and/or Fair Employment and Housing Act (FEHA).

e. Reinstatement from Leave

An employee is entitled to be returned to the same position the employee held when the leave commenced or to an equivalent position. An employee taking leave has no greater rights because of the leave than if the employee had been continuously employed. Therefore, the County may deny reinstatement if the employee would have been laid off or otherwise terminated during the leave for reasons unrelated to the leave, or if preserving the position would substantially undermine

the County's ability to operate safely and efficiently. An employee who fails to return to work after the termination of leave loses the employee's reinstatement rights.

6.11.9 PREGNANCY DISABILITY ACCOMMODATION

The County will provide reasonable accommodation, including temporary transfer to an alternate position, to employees with a pregnancy-related disability if the employee requests an accommodation upon the advice of the employee's attending physician. If possible, an employee must provide at least thirty (30) days' notice of the need for accommodation. If such notice is not feasible, notice shall be given as soon as possible. An employee will be required to submit a medical certification from the employee's attending physician to support any request for accommodation.

6.11.10 MILITARY LEAVE

6.11.10.1 USERRA

Employees are entitled to take time off to serve in the uniformed services on a voluntary or involuntary basis, including absences to attend a fitness examination. "Uniformed services" refers to the U.S. Armed Services, including the Coast Guard; the Army National Guard and Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; and the commissioned corps of the Public Health Service.

Employees are required to give reasonable advance notice of the need to use Military Leave. Military Leave may be granted for a total of up to five (5) years. Upon return from leave, Employees are entitled to be returned to the same position they held when the leave commenced or to an equivalent position.

Leave under this section is unpaid unless the Employee uses vacation or other accrued time off.

See Uniformed Service Employment and Reemployment Rights Act (USERRA) 38 USC Section 4301, et seq.

6.11.10.2 SAN BENITO COUNTY MILITARY LEAVE

As delineated in the San Benito County Military Leave Policy, the County will provide 30 days of paid military leave at the employee's regular rate of pay for qualified employees. After the 30 days are exhausted in the fiscal year, the County will provide supplemental military pay based on the employee's days of continuous service with the County. See the County policy on Military Leave for further information.

6.11.11. SCHOOL RELATED LEAVE

6.11.11.1 DISCIPLINE CONFERENCES

An employee who is the parent or guardian of a child who has been suspended from school may take time off from work to appear at a school discipline conference in response to a request by the school administrator, if the employee provides the employee's supervisor reasonable advance notice of the school's request. Leave under this section is unpaid unless the employee chooses to use vacation or other applicable accrued time off.

Labor Code 230.7

6.11.11.2 SCHOOL ACTIVITIES

An employee who is a parent, guardian, stepparent, foster parent, or grandparent of, or a person who stands in loco parentis to a child and the child is in kindergarten through twelfth grade, or in a licensed child care provider, may take up to forty (40) unpaid hours off per year, but no more than eight (8) hours per calendar month, to find or enroll a child in school or with a licensed child care provider, to participate in the activities of a school or licensed child care provider, or to address a school or child care provider emergency.

The County may request documentation that the parent participated in the school event. If both parents work for the County and request leave for the same event, the County may grant leave to the parent who requested the leave first or may approve leave for both parents. Leave under this section is unpaid unless the employee chooses to use vacation or other accrued time off.

Labor Code 230.8

6.11.12 JURY DUTY AND CRIME VICTIM WITNESS LEAVE

Every employee who is called or required to serve as a juror is entitled to be absent during the period of jury service. The County will not discharge, threaten with discharge, demote, suspend, or in any other manner discriminate or retaliate against an employee for taking time off to serve as a juror. The County will provide employees with pay for time spent as a juror, provided that the employee remits to the County all fees received for jury duty, other than the employee's expenses and mileage, within thirty (30) calendar days from the termination of jury service.

Cal. Lab. Code 230(a).

In addition, every employee, including but not limited to an employee who is a victim of a crime, is entitled to take time off to comply with a subpoena or other court order to appear as a witness in any judicial proceeding. The County will not discharge, threaten with discharge, demote, suspend, or in any other manner discriminate or retaliate against an employee for taking time off to appear in court. Leave under this section is unpaid unless the employee chooses to use vacation or other accrued time off.

Cal. Lab. Code 230(a).

Employees are required to provide reasonable notice that they have been called or are required to serve as a juror or appear as a witness. Employees are responsible for keeping their supervisors informed of the employee's court schedule.

6.11.13 LEAVE FOR CRIME VICTIMS

An employee who has been a victim of a violent or serious felony, or a felony involving theft or embezzlement, or an employee whose spouse, registered domestic partner, child or step-child, sibling or step-sibling, or parent or step-parent has been a victim of such a crime, may take time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding related to that crime.

An affected employee must give the County reasonable notice that the employee is required to be absent for a purpose stated above. In cases of unscheduled or emergency court appearances or other emergency circumstances, the affected employee must, within a reasonable time after the appearance, provide the County with written proof that the absence was required for any of the above reasons. Leave under this section is unpaid unless the employee chooses to use vacation or other accrued time off.

Cal. Lab. Code 230.5.

6.11.14 LEAVE TO ADDRESS DOMESTIC VIOLENCE AND SEXUAL ASSAULT

An employee who has been a victim of domestic violence, sexual assault, or stalking may take time off to engage in the following activities related to the domestic violence, sexual assault, or stalking:

- Appear in court proceedings;
- Seek medical attention for or recover from injuries caused by domestic violence, sexual assault or stalking;
- Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault or stalking;
- Obtain psychological counseling related to an experience of domestic violence, sexual assault or stalking;
- Participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault or stalking, including temporary or permanent relocation.

An affected employee must give the County reasonable notice that the employee is required to be absent for a purpose stated above. The affected employee must provide, within a reasonable time of the employee's absence, written documentation that the absence was required for any of the above reasons. Leave under this section is unpaid unless the employee chooses to use up to three (3) days of accrued sick leave, vacation or other accrued time off.

Cal. Lab. Code 230.1.

6.11.15 EMERGENCY DUTY

Employees shall be granted time off to perform emergency duty as a volunteer firefighter, a reserve peace officer or emergency rescue personnel. An employee who is a volunteer firefighter shall be permitted a temporary leave of absence not to exceed an aggregate of fourteen (14) days per calendar year, for the purpose of engaging in fire or law enforcement training and emergency rescue training as a volunteer firefighter, a reserve peace officer or emergency rescue personnel.

Cal. Lab. Code 230.3 and 230.4

6.11.16 CIVIL AIR PATROL LEAVE

The County will provide up to 10 days per calendar year of unpaid, job-protected leave to eligible employees to respond to an emergency operational mission of the California Wing of the Civil Air Patrol.

Ca Labor Code 1500

6.11.17 VOTING

If a voter does not have sufficient time outside of working hours to vote at a statewide election, the voter may, without loss of pay, take off enough working time that, when added to the voting time available outside of working hours, will enable the voter to vote.

No more than two hours of the time taken off for voting shall be without loss of pay. The time off for voting shall be only at the beginning or end of the regular working shift, whichever allows the most free time for voting and the least time off from the regular working shift, unless otherwise mutually agreed.

If the employee on the third working day prior to the day of election, knows or has reason to believe that time off will be necessary to be able to vote on election day, the employee shall give the employer at least two working days' notice that time off for voting is desired, in accordance with this section.

The County shall consider the employee(s) work hours and residence when granting time off if needed.

Ca Elections Code 14001

6.11.18 FUNERAL AND BEREAVEMENT LEAVE

Each regular employee is entitled to five (5) days of paid bereavement leave to be used in the case of death in an employee's immediate family member. For the purpose of this section, immediate family includes a spouse, domestic partner, mother, father, grandmother, grandfather, daughter, son, granddaughter, grandson, sister, or brother and step-relatives and in-laws in those

relationships. Bereavement leave is in addition to an employee's accrued sick leave and vacation leave.

6.11.19 UNPAID LEAVE OF ABSENCE

Leaves of absence without pay in addition to those provided by County policy or federal or state law may be granted in extraordinary circumstances and where such absence would not be contrary to the best interests of the County. Such leaves should be regarded as a privilege and not a right. There should also be the expectation that the employee will return to County employee at the expiration of such leave. No leaves of absence without pay may be granted except in accordance with the following provisions of this policy.

No such leave shall be granted except upon written request of the employee setting forth the reason for the request, and the approval will be in writing as follows:

The Department Head may grant a permanent or probationary employee a leave of absence without pay not to exceed two (2) calendar weeks.

The County Administrative Officer may grant a permanent or probationary employee leave of absence without pay or seniority for a period not to exceed four (4) months.

Leaves of absence without pay may be extended at two (2) month intervals up to a maximum of eight (8) month extension upon the mutual agreement of the County Administrative Officer and the employee involved.

6.11.19.1 Return to Work:

Upon expiration of the regularly approved leave, or within a reasonable period of time after notice to return to duty, the employee may be reinstated in the position held at the time leave was granted.

Failure on the part of the employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty shall be cause for discharge, in the discretion of the Administrative Officer.

6.11.19.2 Effect on Benefits Seniority and Anniversary Date:

A leave of absence of less than fifteen (15) calendar days shall not result in an adjustment to the employee's benefits, seniority or anniversary date. An employee on a leave of absence of fifteen (15) or more calendar days:

6.11.19.2.1Loses all insurance benefits beginning on the first day of the next month after the month in which the 15th calendar day falls. If permitted by the County's current insurance carrier, the employee may keep the policy in force by paying the County for the total cost of the insurance premium.

6.11.19.2.2Shall have the employee's seniority status and anniversary date adjusted to allow for the time over fifteen (15) days spent on leave.

6.12 EMPLOYEE CONDUCT AND WORK ENVIRONMENT

6.12.1 EQUAL EMPLOYMENT OPPORTUNITY

a. Policy on Equal Employment Opportunity

The County strictly enforces policies that protect an employee's equal employment opportunity rights.

The County is committed to equal employment opportunity. It is the policy of the County to ensure:

1. Equal opportunity to all employees and applicants;
2. That employees are selected and promoted based on merit and without discrimination; and
3. That reasonable accommodations for disabilities are provided to qualified employees and applicants who require them.

The County prohibits discrimination on the basis of race, religious creed, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, or any other basis protected by applicable federal, state and local laws.

The County also prohibits retaliation against any employee for making a good-faith complaint of discrimination or harassment, for assisting another employee in doing so, or for participating in an investigation of a discrimination or harassment complaint.

6.12.2 ANTI-HARASSMENT, DISCRIMINATION, RETALIATION POLICY

a. Purposes

The purposes of this policy are to emphasize the County's commitment to keeping its workplace free of harassment, discrimination and retaliation, to define and provide examples of the conduct that is prohibited, to summarize the respective responsibilities for preventing, reporting, investigating, and responding to violations and to give clear warning of the serious consequences that violators will face.

A copy of this policy shall be provided to all persons who are subject to it, and shall be posted on County bulletin boards in all County facilities.

b. Policy

All of the following are prohibited by this policy:

1. Discrimination or harassment in any aspect of County employment based on any legally protected characteristic or status, including race, religious creed, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, or any other basis protected by applicable federal, state and local laws;
2. Retaliation for opposing, filing a complaint about, or participating in an investigation of,

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any such harassment or discrimination;

3. Aiding, abetting, inciting, compelling, or coercing any such discrimination, harassment or retaliation, or attempting to do so.

The County will take all reasonable steps necessary to prevent such misconduct from occurring, and to remedy and punish any occurrence. Any County employee found having engaged in any such misconduct will be subject to disciplinary action up to and including and will be deemed to have acted outside the course and scope of the employee's employment.

This policy applies to all County employees, supervisors, volunteers, interns, vendors, contractors, applicants for County positions, and third parties.

The policy shall not be interpreted or applied in any manner that would be inconsistent with any applicable State or Federal law or regulation, or increase the legal liability of the County.

c. Reporting Discrimination, Harassment or Retaliation

Any County employee, supervisor, volunteer, intern, vendor, contractor, or applicant who becomes aware of any discrimination, harassment or retaliation prohibited by this policy shall report it immediately to the employee's Department Head or Personnel Officer. Supervisors receiving reports under this policy must report it immediately to the Personnel Officer. Under no circumstances shall such a report be required or expected to be made to the person who engaged in the misconduct that is subject to this report. Under those circumstances, the employee may also report to another Department Head or the County Administrative Officer.

The responsibility to report conduct prohibited by this policy arises even if the conduct is directed toward someone else and even if the person toward whom it is directed does not want it reported.

Reports may be made orally or in writing, free of requirements as to form.

Employees shall not be exposed to retaliation for making a complaint.

Because reports of conduct prohibited by this policy will be treated as serious charges, the making of a deliberately false report may subject the maker to disciplinary action.

Reports of harassment, discrimination or retaliation, will be treated confidentially, to the extent possible to investigation and address the complaint and take any appropriate corrective action.

d. Investigation and Resolution

The County will investigate all reported violations of this policy in a timely and impartial manner. The Personnel Officer is responsible for administering the complaint procedure, conducting the investigation, documenting and tracking the progress of the investigation, and reporting the results to the County Administrative Officer.

Any supervisor, manager, department head who receives a report of, or who becomes aware of, conduct prohibited by this policy shall promptly report it to the Personnel Officer.

Upon receiving the report, the Personnel Officer shall conduct a prompt, full, and fair investigation, or delegate that responsibility to a qualified County employee or private investigator. The person performing the investigation shall, within a reasonable period of time:

1. Interview the complainant, the accused, and any other person the investigator believes to have knowledge relevant to the charges;
2. Gather and review any documentary, electronic, or physical evidence relevant to the charges;
3. Consult with legal counsel as needed;
4. Determine whether the charges can or cannot be substantiated; and
5. Develop recommendations for appropriate remedial and/or disciplinary action, if any.

The Personnel Officer is responsible to tracking the progress of the investigation. Upon completion of the investigation, the Personnel Officer shall communicate the results of the investigation to the Administrative Officer, the complainant, the accused, and, as appropriate, all others directly concerned. If any misconduct is found, appropriate remedial actions and resolutions will be taken against the accused. All investigations will be closed in a timely manner.

Employees shall not be exposed to retaliation for participating in an investigation.

To the extent permitted by law, confidentiality shall be maintained with respect to the complainant, the information gathered during the investigation, and the results of the investigation.

e. Outside Administrative Agencies

In addition to the remedies described in these Rules, the U.S. Equal Employment Commission and the California Department of Fair Employment and Housing provide administrative complaint and investigation processes as to harassment, discrimination or retaliation on the basis of a protected status. The toll-free telephone number for each office is listed below:

California Department of Fair Employment and Housing 1 (800) 233-3212

<http://www.dfeh.ca.gov/>

U.S. Equal Employment Opportunity Commission 1 (800) 669-4000

<http://www.eeoc.gov/>

6.12.3 WORKPLACE VIOLENCE PREVENTION POLICY

The County is committed to the safety and security of its employees and the public. The County has a policy of zero tolerance for violence in the workplace. To prevent workplace violence, the County will address behavior that suggests a propensity for violence or where there is a good faith concern about potential violence, even prior to any actual violent behavior.

a. Employee Responsibilities

The County expects its employees to employ civility and mutual respect for all persons encountered in the course of County business including co-workers, contractors and volunteers. Any employees who engage in violent or threatening behavior in the workplace will be subject to disciplinary action.

b. Prohibited Conduct:

“Violence,” “violent behavior” and “threatening behavior” includes, but is not limited to the following conduct:

1. Fighting, shoving, pushing, choking, inflicting physical harm on another person, or other battery or assault.
2. Intimidating, menacing, harassing or stalking another person, whether in person or through the use of electronic mediums.
3. Possession of dangerous objects that could cause physical harm to another person, persons or property.
4. Making verbal threats to immediately or in the near future physically harm another person or persons, whether joking or not.
5. Intentionally damaging the property of another.
6. Other behavior that suggests a propensity towards violence including belligerent speech, yelling, excessive arguing or swearing, gestures, or a demonstrated pattern of refusal to follow policies and procedures.
7. Encouraging others to engage in any of the aforementioned conduct.

The County will not tolerate these behaviors by its own employees or by third persons when such behavior is directed at its employees, contractors or volunteers in the course of their doing business with the County.

c. Reporting Procedures

Everyone has the responsibility to prevent violence in the workplace. All employees are encouraged to report any incident that may be a violation of this policy to someone in management as follows:

1. Emergencies: Where an injury has occurred or it appears to an employee that there is an immediate danger of injury, call 911 immediately. Personal safety is the first priority. The employee should inform the employee’s supervisor, any department head, or the Personnel Officer as soon as possible.
2. Non-Emergencies: In all other cases where an employee is aware of any conduct that violates this policy, the employee should immediately report it to the employee’s supervisor, any department head or the Personnel Officer as soon as practical. Employees should also report to their immediate supervisor, department head or Personnel Officer any restraining orders they have obtained against individuals so that management can take

appropriate actions to notify security of such circumstances.

Employees, who have received temporary protective or restraining orders on their own, should notify the Department Head and their immediate supervisor so that the County is aware of the circumstances and can take necessary precautions.

d. Corrective Actions

The County will take reports of workplace violence seriously and will promptly deal with every report. Any person who engages in violent or threatening behavior shall be subject to removal from the premises, or other appropriate corrective action. The County may also seek temporary protective or restraining orders to keep offending individuals away from County facilities or employees.

The County will not tolerate retaliation or intimidation against any employee who makes a report of workplace violence or participates in an investigation of such a complaint.

6.12.4 ALCOHOL AND DRUG FREE WORKPLACE POLICY

San Benito County has established an alcohol and drug free workplace policy to prevent drug and alcohol abuse in the workplace and to provide a safe working environment. The use and or abuse of drugs and alcohol in the workplace are prohibited consistent with the requirements of the federal Drug Free Workplace Act of 1988, and the California Drug-free Workplace Act of 1990. The County has a vital interest and obligation in maintaining safe, healthful and efficient working conditions for its employees and in supplying services safely to the public. Employee possession of and/or being under the influence of drugs or alcohol on the job are inconsistent with these interests and obligations.

The San Benito County Alcohol and Drug Abuse Policy establishes the rules, rights and obligations of all employees, volunteers and contractors regarding the possession, use, sale, or transport of alcohol and drugs on County property or while conducting County business.

a. Prohibition on Possession, Use, Sale or Transport of Alcohol or Drugs

The following rules and standards of conduct apply to all employees and are strictly prohibited:

1. Buying, selling, or distributing alcohol, illegal or controlled substances while on the job, on the County's premises or at a County event or while engaged in any work on behalf of the County.
2. Being under the influence of alcohol, illegal or controlled substances on the job during working hours, while on the County's premises, while driving a County vehicle or while transporting employees and or the public in a vehicle.
3. Driving a County vehicle while under the influence of alcohol, illegal or controlled substances after leaving a County function.
4. Use of Prescribed drugs which are not being used for prescribed or manufactured purposes, or in accordance with the prescribing professional's and or manufacturer's instructions or

which have not been legally obtained.

5. Being under the influence of any legally obtained drug while performing County business or on the County's premises to the extent that such use affects or gives the appearance of affecting the safety of coworkers, or the general public; the individual's job performance; or the safe or efficient operation of the County's facilities or business.
6. Participation or acquiescence in any of the actions mentioned above.

These rules also apply to employees of vendors and subcontractors and violation of these rules may result in exclusion from county facilities and operations.

b. Notification of Criminal Drug Conviction

Any employee who is convicted of or pleads guilty or no contest to a drug-related crime occurring in the workplace must immediately report such conviction or plea to the County within five (5) calendar days of the conviction or plea. Convictions related to illegal drugs or alcohol dependency may render an individual unfit for further service in the employee's position. Action will be taken based on the nature of the offense, how this conduct affects the individual's fitness to perform the job, the safety and morale of other employees, and the County's interests and reputation.

If the conviction is a result of activities outside the workplace, the employee must notify the County Human Resources Department within five (5) days of the conviction. Any employee who fails to report such a conviction (including a plea of guilty or no contest) may be subject to discipline, up to and including termination of employment. If Human Resources determines that the employee's Department Head needs to be aware of the conviction because the conviction has a nexus to the employee's work with the County, because of the specific nature of the employee's work or because of the specific type of conviction, or circumstances surrounding the incident/conviction, Human Resources may notify the Department after providing notice to the employee.

Any department which receives federal grant funds shall notify the granting agency whenever the department is notified of a conviction.

c. Use of Legal Prescribed Drugs

The legal use of prescribed drugs or over-the-counter medication legally obtained is permitted on the job only if the use does not in any way impair or distort the employee's ability to perform all functions of the job in a safe, effective manner, and does not endanger or negatively impact anyone who comes in close proximity or contact to the employee using the drug. An employee using prescription or over-the-counter drugs that may impair the employee's ability to safely perform the job or may affect the safety of others must report such usage in advance to the employee's supervisor before starting or resuming work.

An employee may continue to work even though under the influence of a legal drug if the County has received confirmation from the employee's doctor that the employee can work safely. Otherwise, the employee may be required to take a leave of absence or comply with other appropriate action.

d. Reasonable Suspicion Testing

Reasonable suspicion is a belief based on objective and documented facts or evidence sufficient to lead a reasonable, prudent person to suspect that an employee is under the influence of alcohol or drugs so that the employee's ability to perform the duties of the job is impaired or reduced.

The County, at its expense, may require an employee to submit to drug and alcohol testing at an independent medical clinic or laboratory as designated by the County. Submission to drug and alcohol testing may occur:

1. As a condition of employment if the individual is an applicant for a job when a special need for the testing is shown;
2. Based upon the County's reasonable suspicion that the employee is under the influence of (both legal and or illegal) drugs and or alcohol;
3. As a pre-requisite to an employee's return to work following completion of a drug or alcohol rehabilitation program.

Refusal to immediately submit a blood or urine sample upon request shall be conclusive evidence of being under the influence and may result in termination of employment.

e. Search or Inspection of County Property for Illegal Drugs or Alcohol

The County's management with prior notice to Human Resources reserves the right to the search or inspection of its property for illegal drugs or alcohol at any time. Employees have no property rights to County property. Such property includes lockers, desk, cabinets, etc., that belong to the County even though employees may have stored personal items in this property.

f. Disciplinary Actions

Violations of any of the prohibitions in this policy shall result in disciplinary action including termination of employment with the County, and may lead to criminal prosecution by law enforcement agencies.

Employees who, having notified the County of their use of legal drugs on the job, but whose job performance is adversely affected by legal drugs which are medically necessary, may have to be removed from the work place and placed on leave status if the adverse effects cannot be controlled. Reasonable efforts to provide reasonable accommodations prior to being placed on leave status will be made if the employee qualifies for accommodation under state and federal law. This will not be considered a disciplinary action.

Individuals suspected of being under the influence or in possession of illegal drugs and or prohibited alcohol or drugs may be suspended pending investigation.

g. Drug and Alcohol Abuse Program

The County provides an Employee Assistance Program for its employees. Employees can avail themselves of Employee Assistance Program in order to address Alcohol or Drug related issues.

The County encourages affected individuals to voluntarily seek professional help for treatment and rehabilitation.

To the extent required by federal and state law, the County will reasonably accommodate any employee who volunteers to enter an alcohol or drug rehabilitation program, provided the reasonable accommodation does not impose an undue hardship on County operations. The County understands that alcohol and drug abuse are problems requiring professional help, and believe these problems can seriously interfere with the operation of the County and place the welfare and safety of employees and the public at risk.

Employees may contact the Personnel Officer without fear of reprisal, in order to find out information about treatment options that may be available. Participation in such programs does not relieve an employee of the employee's responsibility to meet job performance expectations. The County is not obliged to continue to employ any employee whose performance is impaired by alcohol or drug use. Additionally, employees who are given the opportunity to seek treatment and or rehabilitation and who fail to successfully overcome their dependency or problem may not be given a second opportunity for this accommodation.

This policy on treatment and rehabilitation is not intended to affect any actions concerning employees who violate the above regulations. Rather, rehabilitation is an option for an employee who acknowledges a chemical dependency and voluntarily seeks treatment to end that dependency.

It is the responsibility of an employee to seek assistance before drug and alcohol problems lead to disciplinary action. Once a violation of this policy occurs, subsequently entering into a rehabilitation program will not necessarily lessen disciplinary action and may, in fact, have no bearing on the determination of appropriate disciplinary action.

h. Confidentiality

Consistent with law and County policy, all reasonable efforts will be made so only the following persons are informed of the individual employee's circumstances:

1. Persons who have a need to know about the individual's actual or suspected involvement in order to meet the County's operational needs;
2. Persons who must be notified by law; or
3. Persons authorized in writing by the affected individual.

6.12.5 NO SMOKING POLICY

It is the policy of the County to maintain a safe, clean, healthy environment for staff and visitors. In accordance with the County Smoking Policy - Resolution No. 92-5, the County prohibits smoking in any office building owned or leased by the County.

6.12.6 ELECTRONIC COMMUNICATIONS AND INFORMATION TECHNOLOGY POLICY

a. Purpose

This policy establishes the County's guidelines regarding the appropriate use of Electronic Communications and Information Technology (IT) Resources.

b. Scope

This policy applies to all County employees and any temporary County personnel, interns, contractors, volunteers or any other individuals performing work on the County's behalf. This policy governs devices and resources including, but not limited to, the Internet, E-mail, voice-mail, County-owned cellular telephones, personal digital assistants, smartphones, tablets, computers/laptops, telecommunications devices, video and audio equipment, wireless networks, data systems telecommunications equipment, transmission devices, data processing or storage systems, servers, networks, input/output and connecting devices, software, documentation, copiers, scanners and printers that support electronic communication services.

c. Policy

The County encourages the use of Electronic Communications and IT Resources to share information in support of its mission of public service and to conduct its business. Electronic Communications and IT Resources must be used in compliance with applicable statutes, regulations, and County policies including those that require a work environment free from discrimination and harassment. Electronic communications should conform to the same standards of propriety and response as any other verbal or written communication at the County. Employees are expected to use common sense and judgment to avoid any communication which is disrespectful, offensive, harassing or illegal.

The County, as a provider of access to its Electronic Communications and IT Resources, reserves the right to specify how those resources will be used and administered to comply with this policy. Employees may be subject to disciplinary action for using the Electronic Communications and IT Resources in a manner other than for their intended purposes, or in a manner that violates applicable laws, rules and policies.

Employees and other users of Electronic Communications and IT Resources may create criminal and civil liability for themselves and the County by using outside or third party systems in an offensive, defamatory or illegal manner and in such event employees and other users may be subject to disciplinary action up to and including termination.

Privacy Limits: Employees do not have a right to, nor should they expect, privacy while using any County office equipment, electronic communication device or IT resource. To the extent that employees wish their private activities to remain private, they should avoid using the County's office equipment, computer, internet, email, copiers, cell and land lines, etc., for personal incidental use. Any use of the County's Electronic Communications and IT Resources is made with the understanding that such use is generally not secure, is not private, and is not anonymous.

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All communications transmitted via the County’s Electronic Communications and IT Resources, whether or not related to personal or confidential matters, are subject to monitoring, at the County’s discretion. The existence of passwords and “message delete” functions do not restrict or eliminate the County’s ability or right to access Electronic Communications and IT Resources.

Additionally, the County may be required to produce information transmitted or stored in its Electronic Communications and IT Resources pursuant to a court order, subpoena, or statute. In response to requests for such disclosure, it may be necessary to examine communication that users may consider to be personal to determine if they are subject to disclosure.

Use of the County’s Official Email System: The County’s email system is an official communication tool for County business. An official email address is established and assigned by the County to employees. All County communications sent via email will be sent to this address. County employees must use the official County email, instead of their private email address (such as gmail, yahoo, hotmail, etc.) when communicating County business via email.

Incidental Personal Use: Electronic Communications and IT Resources are provided by the County to facilitate the performance of County work. However, incidental personal use is permitted if the use:

1. Involves minimal additional expense;
2. Does not interfere with the County’s mission or operations; and
3. Does not interfere with the user’s employment or other obligations to the County.

Incidental personal use of Electronic Communications and IT Resources shall take place during the employees’ personal time. Employees shall not give the impression that they are representing, giving opinions, or otherwise making statements on behalf of the County unless appropriately authorized to do so.

Employees are expected to abide by this and other rules and regulations and to be responsible for their own personal and professional conduct. Supervisors have the responsibility to ensure the appropriate use of resources within the organization. Personal incidental use of the County’s Electronic Communications and IT Resources is a privilege and may be limited or revoked by a supervisor or Department Head at any time.

The County is not responsible for any loss or damage incurred by an individual as a result of personal use of the County’s Electronic Communications and IT Resources.

Restrictions: It is not possible for any Internet access provider to fully manage the types of information accessible by its systems and users, especially with regard to content limitations.

Nonetheless, the County reserves the right to restrict access to any data source, at its sole discretion. These restrictions do not imply an approval of other nonrestricted sources.

Without exhausting all the possibilities, the following are examples of inappropriate use of the County’s Electronic Communications and IT Resources:

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1. Any use that may, for a reasonable person, create or further a hostile attitude or give offense on the basis of race, religious creed, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, or any other basis protected by applicable federal, state and local laws.
2. Exposing others unwillingly, either through carelessness or intention, to material which is offensive, obscene or vulgar. This includes information which could create an intimidating, offensive or hostile work environment.
3. Sending messages or information which is in conflict with applicable law or County policies, rules or procedures.
4. Communicating confidential County information to unauthorized individuals within or outside of the County.
5. Attempting to access unauthorized data or break into any system.
6. Engaging in theft or the unauthorized copying of electronic files or data.
7. Intentionally misrepresenting one's identity for improper or illegal acts.
8. Engaging in the creation, downloading, viewing, storage, copying, or transmission of materials related to gambling, weapons, terrorist activities, and other illegal or prohibited activities, except when necessary for research within the scope of a job assignment.
9. Acquiring, using, reproducing, transmitting, or distributing software or other material protected by national or international copyright laws, trademarks, or other intellectual property rights.
10. Engaging in personal private business activities or outside employment, including consulting for pay, sales or the sale of goods or services.
11. Performing acts that are wasteful of computing resources or that unfairly monopolize resources is prohibited. These acts include, but are not limited to: the creation, copying or transmission of chain letters, hoaxes, advertisements, solicitations, or other unauthorized mass mailings.
12. Engaging in recreational use of the County's Electronic Communications and IT Resources that interferes with the ability of the employee or other users to conduct County work. This includes but is not limited to downloading or uploading recreational software, games, music or shareware.
13. Connecting personal equipment such as a laptop that is not owned by the County to the County network without express approval of the IT Manager.
14. Giving another person an employee's password without the Department Head's or designee's prior knowledge and approval.

Consequences for Misuse: Unauthorized or improper use of Electronic Communications and IT Resources may result in loss or limitations on the use of equipment or services, disciplinary action up to and including termination, criminal penalty or financial liability for the cost of use or loss/damage to equipment or other infrastructure.

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Electronic Access Outside of Normal Schedule: It is the general policy of the County that all work by non-exempt employees shall, as much as possible, be completed during the employee's normally scheduled work day or shift. As such, employees are not required or expected to check their email outside of work hours. Employees who spend more than a minimal amount of time accessing emails (i.e. more than ten minutes in a day) must obtain pre-approval by the supervisor and report the time as time worked.

b. Procedures

Employees are responsible to:

1. Use IT resources in accordance with this policy and coordinate with IT prior to downloading any software on County computers.
2. Ensure that incidental personal use of IT resources is limited to personal time, does not interfere with the operations of the County or official business and involves minimal additional expense.
3. Notify their supervisor if they have reason to believe IT resources are being used for anything other than authorized purposes.

Supervisors are responsible to:

1. Counsel employees and ensure that IT resources are being used appropriately.
2. Immediately notify the Department Head when they are made aware of potential misuse of IT resources.

6.12.7 MOBILE DEVICE POLICY

b. Purpose

This policy establishes the County’s guidelines regarding the appropriate use of County owned and personally owned mobile wireless devices used for County business.

c. Scope

This policy applies to all County employees and any temporary County personnel, interns, contractors or any other individuals performing work on the County’s behalf. This policy governs devices and resources including, but not limited to cellular telephones, smart phones, and tablets.

d. Policy

The County recognizes the need to support mobile devices in support of its mission of public service and to conduct its business. This requires establishing a standard that is not specific to any hardware and operating system platforms and is capable of attaching securely to the County network to access County technology systems and data. This requires County-wide standards defining the use of mobile devices that covers both County-owned and personally owned devices.

e. User Guidelines

The following requirements apply to all users of mobile devices, whether County-issued or personally owned:

- All County rules and regulations, including but not limited to County policies on harassment and discrimination, overtime, electronic communications and technology, and workplace safety, apply to the use of mobile devices for County business.
- Employees must comply with any and all federal, state, and County rules and regulations relating to the protection of privacy and security for mobile devices.
- Users must maintain the device in its originally configured state. Any modification such as jailbreaking is strictly prohibited and will result in loss of access to the County network and services.
- Any work related to County business such as email and meeting notes are subject to access for legitimate County business purposes.
- Mobile devices used for County purposes must not be used for permanent storage of County information and data for archival purposes.
- Employees must protect the mobile device from loss, theft, or damage and must report loss or theft incidents to the Information Technology department as soon as possible for security purposes.
- Employees will not use the mobile device in any unsafe manner such as when operating a motor vehicle or heavy equipment.

- Users must protect data, information, and connectivity. A user must not show to others any confidential, proprietary, or privileged information, unless authorized by law. A user must not share the device's password with others.
- Users should be cognizant of using mobile devices in public meetings and in forums and avoid mobile communications that violate the California Brown Act (Government Code sections 54950 *et seq.*).
- An employee using a County-issued mobile device should have no expectation of privacy for any use or content on the device. County owned mobile devices are subject to public requests for information as well as court ordered access for discovery purposes. An employee using a personal device can have a limited expectation of privacy for personal content maintained on the device. However, an employee should have no expectation of privacy as to any data that pertains to County business. Data pertaining to County business may be subject to disclosure under the Public Records Act, discovery requests in litigation, or regulatory or court orders.

6.12.8 VEHICLE USE POLICY

a. License Information

An employee must provide to the employee's Department Head a copy of the employee's valid driver's license issued by the California Department of Motor Vehicles prior to operating any county vehicle. The employee must notify the employee's Department Head of any moving violations issued or accidents or citations while on County business.

b. Insurance

Any employee using a personal vehicle on County business or who receives a monthly car allowance shall maintain auto liability insurance for bodily Injury and Property damage as required by the State of California. An employee receiving an auto allowance must provide insurance and license information to the County Administrative Office.

Drivers of personal vehicles for County business will be asked to provide proof of insurance to the Department Head each year. The insurance covering the employee's car is considered primary for payment of any claims that result from its operation. The employee is expected to immediately report any claims that result from its operation while on County business to the employee's auto insurer and to the employee's immediate supervisor.

c. Mileage Reimbursement

Employees who do not receive an automobile allowance, and use their personal vehicles for authorized County business are eligible for mileage reimbursement at the current rate established by the Internal Revenue Service.

d. Miscellaneous

The following miscellaneous provisions apply to use of County vehicles:

1. No animals or pets or persons not necessary for County business are allowed in

County vehicles except for law enforcement activities.

2. Smoking in a County vehicle is prohibited.
3. Any installation of personal equipment in a County vehicle requires prior written approval by the employee's supervisor.
4. Duplication of County vehicle keys is prohibited unless expressly authorized in writing by the Personnel Officer.
5. The County shall adequately maintain and service vehicles used by County employees. Employees with a good faith doubt about the safety of a vehicle which they are required to operate shall ask their Department Head to review the condition of the vehicle. Employees, however, are expected to be responsible for routine cleaning of debris and other material from County vehicles.

e. **Pull-Notice Program**

The County may designate certain positions for participation in the Department of Motor Vehicle's Employer Pull Notice (EPN) program, subject to state law requirements. This program provides the County with information about employee convictions of traffic violations and DMV action or restriction on driver's licenses for the employee. When the County receives reports of these convictions, violations or restrictions, the employee may be subject to discipline up to and including termination.

6.12.9 WHISTLEBLOWER/RETALIATION POLICY

If any employee reasonably believes that a policy, practice, or activity of the County is in violation of state or federal law, that employee may file a written complaint with the Personnel Officer or with the County Auditor, depending on the nature of the complaint. If the employee believes that the Personnel Officer is involved in the violation, then the written complaint may be filed with the County Administrative Office or the County Auditor. It is the intent of the County to adhere to all laws and regulations that apply to the County.

The County will not retaliate against an employee who in good faith, has made a protest or raised a complaint against a practice of the County on the basis of a reasonable good faith belief that the practice is in violation of state or federal law, or a clear mandate of public policy.

6.12.10 LACTATION ACCOMMODATION POLICY

The County supports breastfeeding mothers by accommodating a mother who wishes to express breast milk during the workday when separated from the employee's newborn child. The County will provide all employees who wish to express breast milk at work with a reasonable amount of break time. The break time will be required to run concurrently, if possible, with any paid break time already provided. In the event it is not possible for the break time for expressing milk to run concurrently with the paid break time already provided to the employee, additional unpaid time will be provided. The employee and the employee's immediate supervisor will agree on the times for these breaks.

The employee will be provided with use of a room, or other location that provides sufficient privacy to the employee. This may be a room with a lock or signage that the room is in use or site location that can be screened for privacy. The employee's normal work area may be used if it allows the employee to express milk in private. The County will work with each nursing mother to locate a private area in which the employee may express milk.

Retaliation, harassment and discrimination in any way against an employee who chooses to express breast milk in the workplace is strictly prohibited.

6.12.11 CONFLICT OF INTEREST POLICY

County employment carries with it an obligation to adhere to the highest level of ethical standards. Employees are expected to carry out their duties without conflict of interest.

a. Other Ethical Obligations

California law establishes prohibitions on employees and public officials from participating in government decisions to which they have a financial interest. Section 81002 of the Political Reform Act states that public officials, including employees, "should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interest of person who have supported them". To that end, below is a summary of some of the requirements to ensure compliance with this law.

1. Employees may not use or attempt to use their official position to influence a governmental decision that could affect their financial interests – including the interest of their employer, the employer of their spouse or domestic partner, businesses in which the employee or the employee's spouse/domestic partner have invested, or property the employee or the employee's spouse/partner own or rent.
2. Employees may not use their County title or designation in any communication for any private gain or advantage or in a manner that would lead the recipient to believe that the employee is speaking in an official capacity when the employee is not.
3. Employees may not make, participate in, or attempt to influence a governmental decision affecting a person or entity with whom the employee is discussing or negotiating an agreement concerning future employment.
4. Employees may not accept any compensation, reward, or gift from any source except the County for any service, advice, assistance or other matter related to the employee's County job.
5. Employees may not solicit or accept anything of value in exchange for hiring, promoting, or attempting to influence the hire or promotion of any County employee or applicant.
6. Employees may not make, participate in making, or seek to influence any employment decision involving a person with whom they have a familial or

romantic relationship.

7. An employee must notify a supervisor if the employee is or becomes related to or romantically involved with another employee in the workplace over whom the employee has the authority to impose or recommend an employment action, or any another employee within the same department or with whom the employee has to interact in a work capacity.
8. Supervisors and Department Heads shall avoid any appearance of favoritism or nepotism in the workplace.
9. Employees may not willfully or knowingly disclose the County’s confidential or privileged information unless they are required to do so by law. Employees may not use confidential or privileged information obtained by virtue of their office or employment for non-business purposes, and employees may not use that information to advance the financial or other private interest of themselves or others.
10. For a period of one (1) year after employees leave County employment, employees may not contact their former department on behalf of any person for the purpose of influencing a governmental decision. Employees may not work for or receive compensation from any party to a County contract if, within the previous twelve (12) months, that employee was personally and substantially involved in the County’s award of that contract.
11. Depending on the employee’s level of decision-making authority, employees may be required to file a statement of economic interests. Employees shall contact their supervisor for a list of those employees who are required to file these statements and instructions on how to do so.

b. **Gifts**

Employees may not accept any gift that is intended to influence the employee in the performance of the employee’s job. Employees may not solicit or accept any gift from any person or entity who has a contract with the employee’s department or who has attempted to influence the employee in a governmental decision during the past twelve (12) months. Employees may not solicit or accept any gifts from any subordinate, or any candidate or applicant for a position.

If the employee is required to file a Statement of Economic Interests (“SEI”) financial disclosure, the employee cannot accept gifts worth more than a certain amount in a calendar year from certain sources. At the time of hire or promotion, the County will inform the employee whether or not the employee is required to file an SEI.

c. **Political Activities**

It is unlawful for County employees to use public resources or personnel to engage in political activity relating to elective offices and ballot measures. County employees may not engage in political activities while on duty or in the workplace. Employees may not use County resources, such as photocopiers or fax machines, telephones, postage, or email, for political activities.

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The ban on engaging in political activity while on duty prohibits such activities as circulating petitions, addressing campaign mailers or engaging in any other political activities that use County resources or divert employees from their assigned duties.

County employees are prohibited from using their official positions to influence elections, and from using County funds or resources for political or election activities. Further, County employees may not participate in political activities of any kind while in uniform (i.e., part or all of a uniform they are required or authorized to wear when engaged in official duties).

Violation of these rules may result in considerable civil and criminal penalties, as well as discipline, up to and including dismissal.

For more details, please refer to the County's political activities memo, summarized below.

Political Activity

With the upcoming elections, this memo shall serve to inform or remind all County employees that political activity shall be kept out of the workplace to the extent permitted by law. No County resources (including conducting activity on County work time) shall be used to perform any type of political activity to the extent permitted by law. This policy is reinforced in both the Personnel Rules and Regulations and the Electronic Communications policy as well as the Personnel Ordinance. Our personnel ordinance says that political activities of County employees shall conform to state law and any local provisions adopted pursuant to state law, which states the following:

Prohibited activities – ILLEGAL

Under state law a County officer or employee may not do any of the following:

1. Participate in political activities of any kind while in uniform.
2. Knowingly solicit political funds or contributions from other officers or employees of the County or from persons on the employment list of the County, except:
 - (a) An officer or employee may solicit or receive political funds or contributions to promote the passage or defeat of a ballot measure that would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of the officer or employee
 - (b) An officer or employee may communicate through the mail or by other means of requests for political funds or contributions to a significant segment of the public which may include officers or employees of the County.
 - (c) An officer or employee may solicit political funds or contributions from a bona fide public employee's organization provided that the funds when collected by the employee's organization, were not earmarked for a clearly identifiable local office-holder or candidate.

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3. Use, promise, threaten or attempt to use their County position or official authority to influence the political actions of other County officers or employees or those seeking County employment.

Other activities which are permitted off-work, *while not working*, but NOT PERMITTED while on-duty (for San Benito County) or in the workplace:

1. Express their opinions on political subjects and candidates. *However, this Policy does not restrict or prohibit employees from expressing their opinions on political subjects or candidates while off duty (e.g. while on break or lunch) in non-work areas (e.g. break rooms, sidewalks, etc.)*
2. Become a candidate for nomination or election in any partisan or non-partisan campaign- national, state or local.
3. Engage in partisan or non-partisan political activities as an individual or as a member of a group. *However, this Policy does not restrict or prohibit employees engaging in political activities, including but not limited to Union related activities, while off duty (e.g. while on break or lunch) in non-work areas (e.g. break rooms, sidewalks etc.)*
4. Contribute to political campaign funds if the contribution is not made to or through another County officer or employee.
5. Join political organizations and vote on any questions presented.
6. Organize and manage political clubs, serve as officer, delegate or alternate, or as a member of any committee.
7. Participate actively in political conventions.
8. Attend political meetings, rallies, etc., and organize prepare and conduct such gatherings.
9. Initiate, sign or circulate partisan or non-partisan nominating petitions, distribute campaign literature, badges, etc. *However, this policy does not restrict or prohibit County employees represented by a Union from distributing Union related materials to other Union members while off duty (e.g. while on break or lunch) in non-work areas (e.g. break rooms, sidewalks, etc.)*
10. Wear campaign badges or buttons *while on duty or in areas viewable to County customers.*
11. Speak publicly, or write letters or articles for or against any political candidates; endorse or oppose such candidate in a political advertisement.
12. Manage the campaign of a political candidate.

Employees with questions regarding whether or not an activity in question is permitted in the workplace should consult with their immediate supervisor or Department Head.

d. Incompatible Activities

No County employee may engage in an outside activity (regardless of whether the activity is compensated) or conduct that conflicts with the employee's County duties. An outside activity conflicts with County duties when the ability of the employee to perform the duties of the employee's County position is materially impaired. Engaging in prohibited activities or conduct may subject an employee to discipline, up to and including termination, as well as monetary fines and penalties.

No employee may engage in any outside activity (regardless of whether the activity is compensated) that would cause the employee to be absent from the employee's assignments on a regular basis, or otherwise require a time commitment that is demonstrated to interfere with the employee's performance of the employee's County duties.

All outside compensated work requires prior written approval from the Department Head and County Administrative Office.

e. Religious Activities

In accordance with applicable law, the County prohibits the use of Federal, State or Local Funds for or in support of religious activity. Except as permitted or required by law, no employee shall engage in religious instruction or proselytization while at work.

6.11.9. FITNESS FOR DUTY

In furtherance of the County's goal of maintaining a safe, healthful and productive environment, all employees reporting for work and during times when they are paid, shall be fit to perform their assigned duties. "Fit for duty" means the ability to perform all required physical and mental tasks associated with the employee's job duties to a satisfactory level and without endangering themselves, coworkers, the public and any other individuals, or County property/equipment.

a. Employee Responsibility

No employee shall report to work while unfit, or remain on the job after becoming unfit to perform the employee's job duties.

b. Fitness for Duty Examinations

As discussed in Section 6.2.5.g., the County may identify job classifications that may require a pre-employment medical examination. Finalists for these positions will receive a conditional offer of employment that is contingent upon the candidate successfully passing a pre-employment medical examination and/or a pre-employment drug screening. The purpose of the pre-employment medical examination is to determine if the candidate is fit to perform the duties of the job for which the candidate is being considered.

In addition, the County may require a fitness for duty examination for any employee to determine if the employee is fit to perform the duties of their job.

If a supervisor has a reasonable suspicion that an employee is physically or mentally unfit to perform the duties of the employee's job, the supervisor may recommend that the employee submit to a fitness-for-duty examination. The Personnel Officer shall have the authority to approve the recommendation. Reasonable suspicion means that the supervisor believes that the employee's ability to perform the functions of the job is impaired or that the employee's ability to perform the employee's job duties safely is reduced, and that the supervisor's belief is based upon observations or evidence that has been documented.

All examinations will be performed by or at the direction of a medical professional designated by the County. The medical professional will determine if the employee is capable of performing all duties of the job as required by the job description and physical requirements checklist.

An employee who is deemed unfit or unable to perform the duties of the job as a result of the medical examination shall be informed of the results of the examination. The employee may provide medical evidence that the employee is physically fit and able to perform the duties of the job, which will be considered before a final determination is made. If the examining medical professional determines that the employee is fit for duty, the employee shall be released to return to work. If the medical professional determines that the employee is not fit for duty, the medical professional shall notify both the employee and the Personnel Officer. The employee will not be permitted to return to work until the medical professional releases the employee. One or more subsequent fitness-for-duty examinations may be required in order to determine that the employee is fit to return to work. If approved, Employees may use their accrued leave time for any time off from the job.

c. **Confidentiality of Examination Results**

All documentation of pre-employment and fitness for duty medical examinations will be maintained in confidential and secure medical files, separate from employee personnel files.

6.11.10. REASONABLE ACCOMMODATION/ADA

The County is committed to ensuring equal employment opportunity consistent with the Americans with Disabilities Act (ADA) and will provide reasonable accommodation to people with physical or mental disabilities to apply for employment and perform their jobs.

a. **Conditions Covered by This Policy**

The term "disability" under the ADA means:

1. A physical or mental disorder or condition that limits one or more of the major life activities of such individual;
2. A record of disorder or condition; or
3. Being regarded as having such a disorder or condition.

Individuals who currently use drugs illegally are not protected by the disability laws and do not have rights to reasonable accommodation. This includes people who use prescription drugs

illegally. However, persons who no longer use drugs illegally and have either successfully completed a supervised drug rehabilitation program, are currently participating in a supervised rehabilitation program, or desire to voluntarily enter and participate in such a program are protected under the disability laws.

b. Examples of Reasonable Accommodation

Each request for an accommodation will be evaluated on a case-by-case basis. Reasonable accommodation may include, but is not limited to:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities;
2. Job restructuring or modified work schedules;
3. Acquisition or modification of equipment or devices;
4. The provision of qualified readers or interpreters;
5. Appropriate adjustment or modifications of examinations, training materials or policies; and/or
6. Reassignment to a vacant position.

c. Request for Reasonable Accommodation

To request a reasonable accommodation, an applicant or employee should submit a written request to the Personnel Officer and/or the employee's Department Head, indicating the nature of the claimed physical or mental disability, identifying the employee's (or applicant's) abilities and functional limitations with respect to the claimed disability, and the accommodation being requested. An interactive process with management will occur to determine what reasonable accommodation, if any, might be provided. The following factors will be taken into consideration:

1. Any special methods, skills or procedures which would enable the employee to perform tasks or functions that the employee otherwise might not be able to perform because of the disability;
2. Potential accommodations that might be made that would enable the employee to perform the essential functions of the position, including equipment, physical layout, scheduling, etc.

d. Medical Information

A person identifying themselves as having a disability and requesting an accommodation will be required to provide documentation, including medical documentation, sufficient to establish the existence of the claimed physical or mental disorder or condition, the job related limitations caused by the condition, and the need for accommodation.

Any information obtained regarding the medical condition will be collected and maintained on separate forms, in separate medical files, and treated as a confidential record. Such confidential information may be released as follows:

1. To inform a supervisor of the disabled employee's restrictions on the work or

duties or accommodations necessary;

2. To inform first aid and safety personnel, when appropriate, if the disability may require emergency treatment;
3. To respond to requests from governmental officials investigating compliance with the disability laws; and
4. To respond to requests regarding a workers' compensation claim.

e. **Determinations Regarding Accommodations**

Reasonable accommodation does not negate requirements for good job performance, successful completion of assigned training, and adherence to generally accepted standards of behavior or supervisory instructions. Reassignment is an option if a position is available, accommodation in the employee's current position presents an undue hardship, and the employee is qualified for the reassigned position. An employee with a disability who is reassigned to a vacant, lower graded position as an accommodation will receive the salary or wages of the lower graded position.

For applicants, reassignment is not available as a form of reasonable accommodation.

If the essential job functions or duties of a position occupied by an employee with a disability are expanded, revised or modified, the conditions and procedures stated shall apply to any evaluation of the employee's ability to perform the essential functions of the changed, revised or modified position and the County's determination of whether reasonable accommodation will be provided.

The Personnel Officer will make the final determinations regarding reasonable accommodations.

When making decisions about possible accommodations, the Personnel Officer shall consider the following factors:

1. Is the proposed accommodation reasonable and would enable the employee to perform the essential functions of the job;
2. Would the proposed accommodation be an undue hardship on the operations of the County; and
3. Whether the employee's performance of their assigned duties with the accommodation pose a direct threat of substantial harm to the health or safety of the employee or others.

Notwithstanding any other provision of this policy, if reasonable accommodation would impose an undue hardship on the operations of the County, reasonable accommodation will not be available for that employee or applicant. The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth below:

1. The nature and cost of the accommodation needed, as well as the overall financial resources of the County and the effect on expenses and operations.
2. The type and nature of the operation or operations of the department where the accommodation would occur, including the composition, structure, and functions of the workforce of the department; the geographic separateness,

administrative, or fiscal relationship of the facility or facilities.

6.12.15 DISCIPLINE

a. Policy

The following discipline section will apply to regular employees who are not covered by a ratified MOU maintaining a discipline process and appeal or who are not designated as at-will. The County may reprimand, suspend, demote, or discharge any employee in the County Service. Cause for discipline will be established if required by contract or law. The County may utilize a progressive disciplinary process to provide counseling and reprimands as needed to an affected employee before a disciplinary action is taken. The County reserves the right to take lawful immediate action when warranted by the circumstances.

For employees defined as “peace officers” under specified sections of the Penal Code, the County shall follow the requirements the Police Officers Bill of Rights at Government Code section 3303 (POBR).

b. Causes

Employees may be disciplined for employment-related problems, including but not limited to:

1. Fraud in security appointment;
2. Incompetency, inefficiency, or inexcusable neglect of duty;
3. Insubordination or willful disobedience;
4. Dishonesty (including misrepresentation);
5. Being under the influence of alcohol, drugs, or other intoxicants while on duty;
6. Inexcusable absence without leave, including absenteeism and tardiness;
7. Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a plea of nolo contendere, is deemed to be a conviction within the meaning of this section;
8. Fighting on the job;
9. Discourteous treatment of the public or other employees;
10. Illegal political activity;
11. Misuse of public property or equipment;
12. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment;
13. Divulging confidential information to anyone who is not authorized to receive this

information;

14. Loss or suspension of a driver's license when required for performance of the job
15. Accepting gratuities or personal favors in exchange for performance of assigned duties;
16. Falsification of time sheets or any official County Records;
17. Willful refusal to respond to an official call during an emergency without a valid excuse;
18. Intentional violation of any of the provisions of these Rules, Memoranda of Understanding, or departmental rules and regulations.

c. Types of Discipline

Disciplinary actions may include written reprimand, suspension without pay, demotion, step reduction and termination.

1. Oral/Written Counseling

The oral or written counseling notifies an employee that the employee's performance or behavior must be improved and is not considered discipline. These warnings are given by supervisors when counseling has failed to produce the desired changes.

An oral or written counseling shall define the areas in which improvement is required, set up goals leading to this improvement, and inform the employee that failure to improve will result in more serious action.

To provide both the supervisor and the employee with a permanent record of a specific violation, a written memo shall be sent to the employee confirming the conversation. The memo should state the offense and consequences if corrective action is not taken. No record is placed in the employee's personnel file unless subsequent action is necessary.

2. Written Reprimand

The written reprimand is a written notice to an employee that further disciplinary action will be taken unless the employee's behavior or performance improves.

The content of a written reprimand should define what occurred, the date and time of the event which is the cause of the reprimand, what rules or policies were violated by the employee, what the employee is expected to do to correct the situation, and the employee's rebuttal process.

The written reprimand shall be signed by the supervisor, countersigned by the employee, and filed in the employee's permanent personnel record. If the employee refuses to sign, the employee's refusal shall be noted as such.

When the written warning is issued, the employee shall receive one copy with both signatures affixed, one copy shall be placed in the departmental file, and one copy shall be placed in the employee's permanent personnel record.

The employee shall be granted thirty (30) days after the date of the written reprimand to file a written response to any facts in question. This written answer shall be placed in the employee's permanent personnel file.

3. Suspension / Demotion / Step Reduction / Termination

Disciplinary action involving a suspension, demotion, step reduction, or termination shall comply with the following procedure:

(a) Notice of Intended Disciplinary Action

Disciplinary action against an employee involving suspension, demotion, or termination shall be initiated by a Department Head with a written notice of the intended disciplinary action delivered to the affected employee personally or sent to the employee by certified or mail (return receipt requested) or first class mail with a delivery confirmation at the employee's last known address.

The contents of the Notice of Intended Disciplinary Action shall include:

1. A statement of the nature of the disciplinary action;
2. The proposed effective date of the action;
3. A statement of the cause thereof;
4. A statement of the act, omissions, or behaviors upon which the causes are based;
5. A statement of the employee's right to respond to the charges, either orally or in writing, prior to the action becoming effective and deadline for such response; and
6. A statement advising the employee of the right to Union representation, when applicable.
7. The Notice shall be accompanied by all documentation upon which the County relied upon in determining the need for disciplinary action.

A copy of the Notice will be filed with the Personnel Officer and County Counsel. The Personnel Officer and County Counsel shall review the appropriateness of the proposed disciplinary action before notice is given to the employee.

(b) Employee Response/Skelly Meeting

The employee may respond to the Notice of Intended Disciplinary Action either in person or in writing. If the employee elects to respond in writing, the employee or the employee's representative must file the employee's response within ten (10) workdays after service of the Notice of Intended Disciplinary Action. If the employee elects to respond in person, the employee or the employee's representative must request a meeting with the Department Head or the employee's designated representative within ten (10) workdays after service of the Notice. The Department Head or designated representative shall hold a meeting with the employee within twenty (20) days of the employee's request.

If the Department Head designates a representative to hear the employee's response, the representative shall provide a written recommendation to the Department Head within ten (10) days of the hearing or as soon thereafter as possible.

(d) Appeal of Discipline

In the event a non-probationary, non-at-will employee feels that the discharge, demotion or suspension is unjust, the worker or the worker's representative may appeal the action to the Personnel Officer. An employee may have other disciplinary appeal procedures available to the employee such as the "LAPS" (Local Agency Personnel Standards) disciplinary appeal procedure. The designation of appeal procedure at the time of filing shall constitute a binding election of that appeal procedure and an irrevocable waiver and forfeiture of any and all rights to appeal under another appeal procedure.

The Notice of Appeal must be in writing and must:

1. State the basis for appeal and contain a specific admission or denial of each of the material allegations contained in the notice of disciplinary action;
2. Be filed with the Personnel Officer within ten (10) workdays of the effective date of the disciplinary action for presentation to the Board of Supervisors;
3. Indicate the available appeal procedure the appeal is being filed under. (For instance, the LAPS procedures or the procedures set forth in this Rule)

If the appeal is filed under this Rule, the Board of Supervisors, or their designee, will hear the appeal within thirty (30) days of receipt by the Personnel Officer. The hearing shall be private, unless the employee requests a public hearing. General rules of evidence shall apply, though the hearing need not be conducted according to the technical rules of evidence. The employee may be represented by an attorney or other person of their choice. The Board shall render its decision in writing.

6.12.16 DRESS CODE

Dress Codes shall be determined by each Department to ensure appropriate and professional appearance based on Departmental services.

6.12.17 GRIEVANCE PROCEDURE

a. Purpose

The County of San Benito desires to create and maintain labor relations harmony and, toward that end, shall promptly and fairly attempt to adjust all complaints, disputes, controversies or other grievances arising between the County and its employees.

b. Definition

An alleged violation, improper application of, or non-compliance with a memorandum of understanding, County Personnel Rule or departmental rules or regulations, ordinance or

resolution affecting working conditions. A grievant is an employee who is filing a grievance in accordance with these rules.

c. Applicability

The following grievance procedure will apply to employee who are not covered by a ratified MOU maintaining a grievance procedure. It shall be the policy of the County of San Benito that all employees who have successfully completed the required probationary period and attained regular status shall have the right to appeal under the grievance procedure. The grievance procedure shall not be applicable to probationary or temporary employees, except as may be otherwise provided for in these Rules or applicable MOU's. No employee shall be subject to reprisal for using or participating in the Grievance Procedure.

d. Initiation of Grievance

A formal grievance can only be initiated by completing and filing with the Personnel Office a form provided by the Personnel Officer for this purpose.

The form shall contain: name(s) of the grievant; class title(s); department(s); mailing address(es); a clear statement of the nature of the grievance (citing applicable ordinance, rules or regulations, or contract language); the date upon which the grievance occurred; the date when the informal discussion with the supervisor took place; a proposed solution to the grievance; the date of execution of the grievance form; the signature of the grievant; and the name of the organization, if any, representing the grievant.

e. Step 1

Immediate Supervisor. The aggrieved employee must complete the first step of the grievance form stating the nature of the grievance. The form shall be submitted to the immediate supervisor and Personnel Officer within ten (10) days from the time it was deemed a formal grievance and not more than thirty (30) days following the event or events on which the grievance is based or within thirty (30) days from the time an employee might reasonably have been expected to have learned of the alleged misinterpretation or misapplication.

The immediate supervisor shall complete the first step portion and return the original form to the employee within ten (10) days.

f. Step 2

Department Head. Provided the written statement of the immediate supervisor does not satisfactorily dispose of the grievance, the employee may, within ten (10) days after receipt of the immediate supervisor's decision, deliver the original form to the Department Head.

The Department Head and the supervisor shall together discuss the problem with the aggrieved employee. The response shall be made in writing on the grievance form and within ten (10) days delivered to the employee.

g. Step 3

Administrative Officer. Provided that the written statement of the Department Head does not satisfactorily dispose of the grievance, the aggrieved employee may, within ten days after receipt of the Department Head's answer, deliver the original form to the Administrative Officer.

h. Step 4

Board of Supervisors. Provided the written statement of the Administrative Officer does not satisfactorily dispose of the grievance, the aggrieved employee may, within ten (10) days after receipt of the Administrative Officer's answer, deliver the original form to the Personnel Officer for presentation to the Board of Supervisors.

The Board of Supervisors, or their designate, will hear all grievances and report all findings within thirty (30) days of the receipt of such grievance by the Board of Supervisors.