

**PART 3  
PERSONNEL POLICIES AND PROCEDURES**

Chapter 3.01 Definitions

For the purposes of this Part and any personnel policy statement, memorandum, or correspondence, unless otherwise apparent from the context, certain words and phrases used in this Part are defined as follows:

- (a) “Affirmative action” shall mean the policies and procedures adopted by the County to promote equal employment opportunities.
- (b) “Allocation” or “position allocation” shall mean the assignment of a position to a classification pursuant to Section 3.07.030 of this Part.
- (c) “Allowance” shall mean the money paid to personnel as reimbursement for equipment, supplies, and/or services as designated by a Memorandum of Understanding and/or Board resolution.
- (d) “Anniversary date” shall mean the date that corresponds with the first pay period following the employees date of hire and from which probationary periods and step adjustments are based.
- (e) “Appeal” shall mean the filing of a written request for review and the reversal or modification of a disciplinary action imposed by the Appointing Authority. For the purposes of this Part, a written or verbal reprimand issued by the Appointing Authority shall not constitute a disciplinary action and shall not be subject to the filing of an appeal. Written reprimand may be addressed through the grievance procedures as per Chapter 3.11.
- (f) “Applicant” shall mean a person who has filed an official County application form at the County Auditor’s office, or at such places as designated by the Personnel Director, according to prescribed procedures.
- (g) “Appointing Authority” The Board of Supervisors is the Appointing Authority for appointed Department heads (except for chief probation officer). Department heads are the appointing authorities for all employees in their departments.
- (h) “Appointment” shall mean the final selection of a candidate by an Appointing Authority subject to the provisions of Section 3.05 of this Part and the subsequent acceptance of employment by a candidate.

- (i) “Bargaining unit” or “represented unit” shall mean those persons or organizations formally authorized to represent employees as a group with common interests in matters concerning the terms and conditions of employment.
- (j) “Base salary” shall mean the rate of pay as determined on a given monthly basis (excluding County benefits) for non-overtime work without inclusion of longevity payments.
- (k) “Board”, when used alone, shall mean the Board of Supervisors.
- (l) “Candidate” shall mean a person who has applied for an appointment to a specific position.
- (m) “Candidate group” shall mean those eligible persons from among which final selection consideration for an appointment to a specific position vacancy.
- (n) “Certificate” or “certificate of candidates” shall mean a list of candidates prepared by the Personnel Director from which final selection consideration for an appointment to a specific position at a particular point in time may be given.
- (o) “Class” or “classification” shall mean a set of positions progressing in responsibility such as Auditor I, II, II, Sr., Assistant Auditor allocated pursuant to Section 3.07.030 of this Part and designated by a specific class title and salary range.
- (p) “Classification plan” (parity study) shall mean an orderly arrangement of positions under separate and distinct classes so that each class will contain all those positions which are sufficiently similar in respect to duties and responsibilities that they will meet the requirements established under the definition of “class” set forth in subsection (o) of this section.
- (q) “Compensation” shall mean the salary, wage, allowance, and all other forms of valuable consideration earned by or paid to an employee by reason of service in a position but shall not include any allowance authorized and incurred as incidental to employment.
- (r) “Compensation plan” shall mean a schedule of salaries or salary ranges established by this Part for the classifications recognized in the classification plan.
- (s) “Compensation range”, “salary range”, or “pay range” shall mean a designated set of pay rates having a specified minimum rate, maximum rate, and intermediate rates.

- (t) “Compensation rate”, “salary rate”, or “pay rate” shall mean a set dollar amount used as the basis for compensating an employee for working a given period of time.
- (u) “Compensatory leave” shall mean time that may be taken by an employee as authorized leave with pay for having worked overtime.
- (v) “Continuous service” shall mean the number of calendar days during which work was actually performed for the County which work has not been interrupted by a separation, except as provided for in Sections 3.06.04 and 3.09.04 of this Part.
- (w) “County service” or “service of the County” shall mean all positions in all departments as defined, which are subject to control and regulation by the Board.
- (x) “Day” shall mean a calendar day, unless otherwise specified.
- (y) “Demotion” shall mean a reduction in salary and/or reappointment to a lower classification for disciplinary or other reasons of both a voluntary or involuntary nature. A demotion that is imposed for disciplinary reasons shall be subject to the disciplinary procedures as set out in Chapter 3.10.
- (z) “Department head” shall mean the head of each department and such person shall have authority to appoint, suspend, transfer, promote, dismiss, lay off, demote, assign work, direct or discipline other employees within the department.
- (aa) “Disciplinary action” shall mean action by the Appointing Authority that results in the dismissal, suspension without pay or demotion, other than termination or a demotion that is based solely on a reduction in approved staffing for a department as part of the approved budget as adopted annually by the Board of Supervisors. A reprimand, whether orally or in writing, that does not result in the loss of any pay or benefits to an employee shall not constitute a form of discipline, but rather is deemed to be part of the corrective counseling that is inherent in the management and supervision of employees.
- (bb) “Dismissal” shall mean involuntary separation from County service.
- (cc) “Eligible” shall mean an applicant who has passed all the appropriate examinations and has been placed on a register for a class of positions.
- (dd) “Eligibility list” shall mean the list of candidates eligible for appointment to a vacant position.

- (ee) "Emergency appointment" shall mean an appointment of an extra help/temporary employee made in response to an emergency threatening the public health, safety.
- (ff) "Employee" shall mean a person working in and compensated by the County over which management has the right to direct and control the way the person works, both as to the final results and as to the details of when, where, and how the work is done.
- (gg) "Employee, management" shall mean a department head, supervisor, or other employee having the authority to exercise management rights or develop management policies, or to effectively recommend the exercise of such rights or the development of such policies, where such recommendations or exercise requires the use of independent judgment and is not of a routine nature.
- (hh) "Employee status" shall mean a designation of the employee's status by his or her department head as one of the following; probationary, permanent, or extra help.
- (ii) "Extra help employee" or "temporary employee" shall mean an employee in a position intended to be occupied on less than a nine hundred and sixty hours per year basis to cover seasonal work requirements, emergency extra work loads of a limited duration, necessary vacation relief, and other situations requiring use of a fluctuating and temporary staffing level. Extra help employees shall be deemed to be employed on an at will basis and may be terminated at any time, without cause or advance notice. Extra help employees are not entitled to benefits unless expressly granted in this code or by separate action of the Board of Supervisors. The hiring of extra help or temporary employees is not subject to the provisions under Chapter 3.03 of this Code, provided however, that employment applications shall be required as otherwise set out in Section 3.03.020. It is not the intent of this Code to use extra help employees in place of hiring of permanent employees when there is a legitimate need for and provisions of funding for long term employees.
- (jj) "Examination" or "exam" shall mean any process, procedure, rating, interview, test, evaluation, or assessment, whether scored or unscored, formal or informal, which affects a person's eligibility for, or consideration for, appointment.
- (kk) "Furlough" shall mean a reduction in the work day, work week or other period of time as the Board of Supervisors may from time to time impose on some or all of the employees as a result of budgetary constraints. (*See Section 3.06.060.*)

- (ll) (Omitted)
- (mm) “Grievance” shall mean a dispute between an employee or the employee's bargaining unit and management as to the interpretation, application, or violation of any terms or provisions granted to employees by agreement, this Part, or State and Federal statutes. For the purposes of this Part, grievances do not include and may not encompass appeals from disciplinary actions.
- (nn) “Impasse” shall mean a deadlock in discussions between a formally recognized employee organization and the designated County representative(s) over any matters on which they are required to meet and confer in good faith or over the scope of such matters.
- (oo) (Omitted)
- (pp) “Layoff” shall mean the suspension or termination of the services of an employee due to the lack of work or due to budgetary constraints and not for reasons related to employee job performance.
- (qq) “Leave” shall mean an authorized absence from work that has been authorized by the employees appointing authority in accordance with the provisions of this Part.
- (rr) “Minimum qualifications” shall mean standards which designate the typical types of, and minimum levels of, training and/or experience through which one would be expected to acquire the knowledge, skills, personal characteristics, and other requirements necessary for satisfactory performance upon entry to a class, or a description of the knowledge, skills, and personal characteristics required.
- (ss) “Nepotism” shall mean the hiring of relatives of current County employees. First and second degree relationships by blood or marriage are as follows: parents, children, father-in-law, mother-in-law, son-in-law, daughter-in-law, spouse, grandchildren, brother, sister, grandparents, grandfather-in-law, grandmother-in-law, sister-in-law, brother-in-law, grandson-in-law, and granddaughter-in-law.
- (tt) “Performance evaluation” shall mean a formal review of an employee's work activities and job performance over a particular period of time.
- (uu) “Permanent position” shall mean a position as defined by a specific classification which is part of the authorized staff for a County department as reflected in the annual budget as adopted by the Board of Supervisors. A permanent position may either be shown as a full-time position or a

part-time position (as a percentage of FTE – full time equivalent), which shall be at least 50 percent of a FTE or greater (on a regular work basis – per pay period). Any employment that is less than 50 percent of FTE shall be deemed to be an Extra Help position and shall not constitute a “permanent position”.

- (vv) “Permanent status” or “permanent employee” shall mean when an employee assigned to a permanent position satisfactorily completes a probationary period and obtains a right to continued employment, subject to the County’s right to impose disciplinary action for cause, or to lay-off an employee due to a lack of work or budgetary reduction.
- (ww) “Personnel Director” shall mean the person appointed by the Board of Supervisors to serve as the Personnel Director for the County, or, in the absence of any such appointment, all references to the Personnel Director shall mean the County Auditor who shall perform the functions of the Personnel Director.
- (xx) “Position” shall mean a specific office, employment, or job calling for the performance of certain tasks, duties, and responsibilities.
- (yy) “Probationary period” shall mean the period of time established to review an employee's job performance as an extension of the examination process required before an employee gains permanent status. A “probationary employee” shall be a person appointed to a permanent position, but who, during the probationary period has no rights to continued employment and who is subject to termination without cause, advance notice and without a right to procedural due process.
- (zz) “Promotion” or “promotional appointment” shall mean an appointment of an employee candidate having permanent or probationary status to a position in a different higher position having a higher pay range than the pay range of the employee's previous position.
- (aaa) “Open recruitment” or “open examination” shall mean a position or employment test open to the public and not limited to applicants currently in the County service.
- (bbb) “Qualifying examination” shall mean an examination that is scored on a pass or fail basis, the scores of which do not indicate relative levels of suitability among those who are determined to be qualified.
- (ccc) “Ranking examination” shall mean an examination, the scores of which are appropriate for indicating relative levels of suitability among those who pass.

- (ddd) “Reclassification” or “reallocation of a position” shall mean the changing of a position from one classification to another classification based on the duties assigned pursuant to Sections 3.07.03, 3.07.04, and 3.08.04 of this Part.
- (eee) “Reduction in force” shall mean an involuntary separation from service due to a shortage of funds or work, organizational changes, or other reasons of business necessity, not involving performance or conduct, which require a reduction in staff. A reduction in force is the same as a lay-off.
- (fff) “Referral” or “referral register” shall mean a list of eligible candidates prepared by the Personnel Office from which final selection consideration for an appointment to a specific position at a particular point in time may be given pursuant to Section 3.05 of this Part.
- (ggg) “Reinstatement” shall mean the reemployment or restoration of a former employee to a class in which permanent status was held.
- (hhh) “Resignation” shall mean a voluntary separation from the County service.
- (iii) Retirement shall mean a form voluntary separation from County service with an employee electing to draw retirement benefits from the Public Employment Retirement System (PERS). Any employee electing to retire shall provide notice to his or her Appointing Authority at least thirty (30) days prior to the effective date of the retirement and once such notice is provided, it shall be deemed to constitute notice of the voluntary separation from County service, which may not be withdrawn without the consent of the Appointing Authority.
- (jjj) “Separation” shall mean a break in service resulting from a resignation, termination, retirement, dismissal, reduction in force, or death as provided in Section 3.06 of this Part.
- (kkk) “Step” shall mean a pay rate, expressed in hourly, biweekly, or monthly rates, designated in terms of its relationship with other compensation rates in a compensation range.
- (lll) “Step date” shall mean the date upon which an employee is eligible to receive a salary increase based on satisfactory performance of their work.
- (mmm) “Seniority” shall mean the length of continuous County service within a specific classification without a break due to separation from the date of hire within the classification.
- (nnn) (Omitted)

- (ooo) "Suspension" shall mean an involuntary imposed leave for disciplinary purposes or during investigatory or judicial proceedings.
- (ppp) "Temporary Appointment" shall mean an employee who fills in for a vacated position for a short period of time.
- (qqq) "Termination" shall mean a voluntary or involuntary separation of an employee.
- (rrr) "Time-limited appointment" shall mean an emergency, extra help, appointment made for a confined duration, which must be terminated within some restricted time period.
- (sss) "Transfer" shall mean the appointment of an employee from one position to another position within the same classification.
- (ttt) "Voluntary reappointment" shall mean an appointment of a permanent or probationary employee candidate voluntarily seeking an appointment to a position in a class having the same or lower compensation range than that of the class previously occupied.
- (uuu) "Work unit" shall mean a work system composed of positions organized about a single purpose or program.

### Chapter 3.02 General Provisions

#### 3.02.010 Coverage

- (a) The personnel rules and policies contained in this Part shall apply to all persons employed by the County, except where the natural construction of this Part otherwise indicates. Notwithstanding the foregoing or any provision in this Part to the contrary, Extra Help Employees and Probationary Employees shall not be entitled to the procedural protections, rights and benefits otherwise provided to Permanent Employees under this Part.
- (b) The provisions of this Part shall apply with regards to the procedures for hiring, discipline grievances, establishment of holidays, leaves of absence and the other matters covered herein. The current Memorandum of Understanding ("MOU") between the County and a bargaining unit shall control with regard to the wages and benefits received by employees. Following compliance with the meet and confer requirements under State Law, these personnel rules and policies may be amended as may from time to time be required in order to accommodate changes in the terms and conditions of employment.

- (c) Those departments whose employees are required by State Law to be covered by the Merit System Personnel Standards of the State Personnel Board shall not be obligated to adhere to any provision of this Part which directly conflict with those standards. Where conflicts between this Part and the Merit System Personnel Standards arise, the Merit System Personnel Standards shall supersede and take precedence. However, where conflicts do not arise, the departments and employees shall comply with the requirements of this Part.

#### 3.02.030 Interpretation and Enforcement

- (a) The Personnel Director, or his or her designee, shall have the responsibility for providing official interpretations of this Part in cases of apparent internal conflict between rules and when questions arise regarding the application of these rules to specific situations, procedures, or policies. The County Counsel shall be responsible for providing legal interpretations concerning the intent and application of the policies set forth in this Part.
- (b) The Personnel Director shall ensure that these rules are enforced and that the provisions of this Part are applied uniformly and fairly to all employees in the County service.
- (c) Department heads shall be responsible for compliance with these rules within their respective departments and shall ensure that all department employees comply with the provisions of this Part.

#### 3.02.040 Personnel Policies, Forms, and Records

- (a) The Personnel Director may issue written policy statements relating to the interpretation or application of this Part, procedures to be followed in the administration of personnel and employee relations policies, and to other matters deemed necessary for proper personnel administration.
- (b) Department heads shall ensure the dissemination of such policy statements and procedures and take appropriate action, where applicable, when violations of such policies and procedures are determined.
- (c) The Personnel Director, with the consent of the department head committee, if any, shall prescribe the forms and procedures to be used by County departments in matters of personnel and for the purposes of personnel administration.
- (d) The Personnel Director shall maintain and/or have access to all employee and personnel records, except where specifically prohibited by State or Federal laws.
- (e) The Personnel Director may assign to other personnel staff employees or contractors such duties and responsibilities in connection with this Part deemed proper and expedient.

- (f) When any Department takes any action affecting an employee's status, including without limitation, the hiring, termination, suspension, promotion, demotion, or granting of leave to an employee, the Department shall promptly transmit to the Personnel Director and the Auditor copies of personnel actions forms reflecting such action. Personnel action forms shall customarily be transmitted to the County Auditor at least three (3) working days prior to the effective date of the personnel action.

### 3.02.050 Equal Employment Opportunities

- (a) The County shall provide equal employment opportunities in the administration of all personnel policies and practices in a manner that does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, age, ethnic background, handicap (except where a handicap is a bona fide occupational disqualification), political affiliation, or marital status.
- (b) The personnel policies and practices covered by subsection (a) of this section shall include, but not be limited to, recruitment, appointments, promotions, discipline, retention, training, and other benefits, terms, and conditions of employment.
- (c) Department heads shall conduct all personnel operations in accordance with the equal employment opportunity policy and shall lend full cooperation with the Personnel Director in investigating and resolving alleged discrimination complaints.
- (d) Department heads shall be responsible for the distribution to, and discussion of, the equal employment opportunity policy with the employees of their respective departments.
- (e) It shall be the policy of the County to resolve complaints that arise under the provisions of this section on an informal basis. Unless other procedures are otherwise expressly provided for, if a satisfactory resolution cannot be achieved, an employee shall be directed to pursue those remedies and procedures outlined in the Grievance procedures contained in Chapter 3.12 of this Code.
- (f) The Appointing Authority is hereby directed to maintain such employee and other records as are necessary to accomplish the provisions required by this Code.

### 3.02.060 Political and Economic Conflicts of Interest

- (a) No employee shall use official authority or influence for the purpose of interfering with, or affecting the results of, an election or nomination for office or directly or indirectly coerce, attempt to coerce, or advise a County employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

- (b) All County officers and employees shall be subject to the provisions of Sections 3201 through 3209 of the Government Code of the State relating to political activities.
- (c) No employee shall accept or solicit anything of value which is, or which may appear to be, designed to influence official conduct; nor shall a County employee enter into any financial or other relationship with a County department, a private business, or other organization which would constitute a conflict of interest with County employment.

### 3.02.070 Incompatible Employment Activities

- (a) A local agency officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed. The officer or employee shall not perform any work, service or counsel for compensation outside of his or her local agency employment where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of his or her employing body, unless otherwise approved by the Board of Supervisors.
- (b) For purposes of determining those outside activities which, for County employees, are inconsistent with, incompatible to, or in conflict with their duties as local agency officers or employees, the following outside employment, activity or enterprise is prohibited if it:
  - 1. Involves the use for private gain or advantage of his or her local agency time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her local agency office or employment;
  - 2. Involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than his or her local agency for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her local agency employment or as a part of his or her duties as a local agency officer or employee;
  - 3. Involves the performance of an act in other than his or her capacity as a local agency officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or Enforcement of any other officer or employee or the agency by which he or she is employed;
  - 4. Involves the time demands as would render performance of his or her duties as a local agency officer or employee less efficient.

- (c) Subsections (b)1. through 4. of this section shall not be deemed to be exclusive circumstances which may constitute prohibited employment or activity.
- (d) Officers and employees who engage in the prohibited activities are subject to disciplinary action, up to and including termination.
- (e) Notice of the foregoing prohibited employment, activity, or enterprise and discipline for violation thereof shall be given to all new County officers and employees at the employee's Employment Orientation. Notice to presently employed officers and employees shall be provided through the Department Manger.

#### 3.02.080 Dual Employment Within County Service

There shall be no conflicting hours of work when a person is employed by two (2) or more County departments or in two (2) or more positions in the same department. Dual employment within the County service shall be subject to review and approval by the Personnel Director.

#### 3.02.090. Use of County Property and Official Influence

- (a) No employee, department head or County official shall use or permit the use of County-owned property for other than official activities. In addition, County employees have a positive responsibility to protect and conserve County property entrusted to them.
- (b) County employees shall not use their official positions for personal gain. Public authority and privileged information shall not be turned to personal advantage.

#### 3.02.100. Hours of Work

- (a) All County employment shall be based on a biweekly period for the purpose of compensation.
- (b) Overtime compensation shall be based on hours worked in excess of the employee's regular schedule in accordance with the provisions of Section 3.08.070.
- (c) For the purposes of computing fractions of hours worked, the time shall be computed to the nearest half hour
- (d) Flexible work time may be allowed consistent with the provisions in the most recently adopted Memorandum of Understanding with the applicable bargaining unit.

### 3.02.110 Board of Supervisors as Appointing Authority

The Board of Supervisors is the Appointing Authority for appointive Department heads (except for Chief Probation Officer).

### 3.02.120 Department Heads as Appointing Authorities

Department heads are the appointing authorities for all employees in their departments.

### 3.02.130. Nepotism

- (a) Appointing authorities, department heads, and persons having the power to hire or promote persons on behalf of the County shall not hire or promote any person who is related to them within the first or second degree, whether by blood or marriage.
- (b) Appointing authorities may hire or promote persons within a department who are related to each other within the first or second degree by blood or marriage only if:
  - 1. They are not supervised by the same person; and
  - 2. One relative employee does not supervise the other relative employee; and
  - 3. The course and nature of their work is independent and does not cause interaction or a close working relationship; and
  - 4. They are appointed and employed in distinctly separate locales.
- (c) The provisions of this section shall not apply to those employees who as of the date of the adoption of the revisions to the Personnel Code are in violation of the provisions of this section. However, the provisions shall be applied in all subsequent cases involving the hiring or promotion of all County employees and in cases involving the marriage of a County employee.

### 3.02.140. Management Rights

The County shall have the exclusive right to determine the merits, necessity and organization of any service or activity of County government and to determine all matters concerning the management or administration of County government, subject to the provisions of the MOU and applicable law. (Ord. 771, eff. 05/07/91)

In its determination of matters concerning the management or administration of County government the County shall retain the exclusive decision-making authority in relation to, but not limited by, the following:

- (a) Determine and modify the organization of County government and its constituent work units.
- (b) Determine the nature, standards, levels and mode of delivery of services to be offered to the public.
- (c) Determine the methods, means and the numbers and kinds of personnel by which services are to be provided.
- (d) Determine whether goods or services shall be made, purchased or contracted for.
- (e) Direct employees, including scheduling and assigning work and overtime.
- (f) Establish employee performance standards and to require compliance therewith.
- (g) Discharge, suspend, demote, reduce in pay, reprimand, withhold salary increases and benefits, or otherwise discipline employees where warranted.
- (h) Relieve employees from duty because of lack of work or lack of funds or for other legitimate reasons.
- (i) Implement rules, regulations and directives consistent with law and the specific provisions of the MOU.
- (j) Take all necessary actions to protect the public and carry out its mission in emergencies. In any matter regarding emergencies which affect items of meet and confer, the County shall notify the Union as soon as possible.

### Chapter 3.03 Recruitment, Applications, and Selection for Employment

#### 3.03.010 Recruitment

- (a) The Appointing Authority shall be responsible for the recruitment of persons who are to be considered for employment within their respective departments. An active recruitment program shall be conducted to attract suitable numbers of qualified applicants to compete for County service.
- (b) Recruitment programs shall be conducted in such a manner and for such time periods as determined by the Appointing Authority to be useful and expedient for the class involved. The Appointing Authority may leave the recruitment open for an indefinite time or until the position is filled.

- (c) No offer or commitment of employment may be made to any applicant until after the specified deadline for that position has passed and sufficient time has elapsed for the processing of applications, administration of exams, and the certification and referral of applicants.
- (d) The Appointing Authority may utilize job vacancy announcements, bulletins, advertisements, and other methods to publicize employment opportunities with the County.
- (e) When Federal or State laws, grants, or contracts stipulate, the Appointing Authority shall be responsible for notifying the appropriate public and private agencies concerning job openings in order to comply with applicable equal employment opportunity practices.

### 3.03.020 Applications for Employment

- (a) Applications for employment shall be made on official County job application forms and according to such procedures as may be prescribed by the Personnel Director. Applications shall be filed at the County department or at such places as may be approved by the Appointing Authority on or before any specified final filing date. It shall be the sole responsibility of the applicant to meet the required filing date. In addition, applicants shall submit such documents or supplemental information as required by the Personnel Director or Appointing Authority in order to verify or evaluate the applicant's qualifications and background.
- (b) Applications shall only be accepted when there is an official vacancy announcement or notice posted for the class title applied for, when there is a vacancy anticipated, or when a class is designated for continuous recruitment.
- (c) Applications, which are materially incomplete or improperly executed, will be rejected.
- (d) Neither the issuance of an application form, nor an invitation to apply, shall be construed as incurring an obligation to accept or approve any application subsequently submitted.
- (e) Applicants may be rejected by the Appointing Authority and/or refused further consideration, examination, or appointment for any of the following reasons provided such reasons can be substantiated and documented:
  1. The applicant is found to lack any of the minimum qualifications established for the class;
  2. The failure of an applicant to submit an application according to established procedures or within a prescribed time period;

3. The failure of an applicant to complete the application according to instructions, or failure to submit required documents or additional information, or failure to submit a legible and comprehensible application;
4. The applicant has willfully made a false statement with regard to qualifications or background or has otherwise practiced deception or fraud in connection with an application;
5. The applicant has attempted to use, or has used, unauthorized aids, cheated, or otherwise attempted to secure an undue advantage on any examination;
6. The application submitted is for a job class for which applications are not being accepted at that time;
7. The applicant has failed to appear for a scheduled examination;
8. The applicant has failed to pass any phase of the examination process;
9. The applicant has obtained information regarding examinations to which the individual is not entitled;
10. The application has been on file for over twelve (12) months;
11. The applicant is found to be physically or mentally unable to perform the assigned duties of the class applied for;
12. The applicant has been convicted of a crime or has a record of convictions, the nature of which would affect the individual's suitability for employment in the class;
13. The applicant has used or attempted to use political or personal pressure or bribery to secure an advantage in obtaining employment;
14. The applicant is under eighteen (18) years of age;
15. The applicant is between sixteen (16) and eighteen (18) years of age and has applied for a job which is defined as hazardous by the United States Department of Labor pursuant to the 1974 Federal Fair Labor Standards Act; or
16. For any other job-related reason the Appointing Authority has determined adversely affects the applicant's suitability for appointment.

### 3.03.030 Selection for Employment

- (a) The Appointing Authority shall be responsible for the determination and administration of selection methods for filling all positions and establishing whether an examination shall be conducted on an intradepartmental, interdepartmental, or open competitive basis. Each Appointing Authority shall confer with the Personnel Director to determine the appropriate procedures to be followed.
- (b) Examinations shall measure knowledge, skills, and characteristics validly required for the successful performance of duties for a particular class or classes. The Appointing Authority may use such forms and methods in examining as may be appropriate for the class, including one or a combination of any of the following:
  - 1. Evaluations of training and/or experience;
  - 2. Written examinations;
  - 3. Oral examinations;
  - 4. Performance and/or simulated work sample examinations;
  - 5. Medical examinations of health or physical condition where appropriate for the class and limited to evaluation capability to perform on the essential job requirement;
  - 6. Examinations of physical capabilities, psychomotor control, or dexterity and limited to evaluation capability to perform on the essential job requirement; and
  - 7. Ratings of past work performance and/or promotional potential.
- (c) The Appointing Authority shall establish such time limits, methods of recording answers, regulations for admittance to examinations, policies on retesting, and such other administrative procedures as deemed appropriate for each examination.
- (d) The Personnel Director shall take such measures as are necessary to ensure that uniform standards are maintained regarding instructions, procedures, and other test conditions to afford fair and equal treatment to all applicants for a given examination.
- (e) Examinations may be administered at such times and in such places as are necessary and practical.

- (f) The Appointing Authority may designate such qualified persons to administer examinations and serve as examiners and test monitors as may be practical and expedient.
- (g) The Appointing Authority shall utilize professionally acceptable principles and methods in the development of procedures for scoring, setting passing points, scaling, rounding fractions, converting and combining scores, and weighing examination components as are necessary to ensure that the final scores meet acceptable standards of validity and reliability.
- (h) The Appointing Authority shall establish procedures and take such precautions as are necessary to safeguard the security and confidentiality of examination materials and to ensure that equal opportunity to compete is afforded all applicants.
- (i) Interviews and other examinations conducted by appointing authorities for the purpose of making selection decisions from among candidates shall be job related. Appointing authorities may request the Personnel Director to provide technical assistance in developing and administering such examinations. The Personnel Director, in coordination with the Appointing Authority, may develop standards and procedures for the content and administration of final selection examinations relating to such matters as the composition of examination boards, the development and administration of examinations, and scoring methods.
- (j) Interviews should not be conducted by one interviewer, except when unusual circumstances make it impractical to have two (2) or more interviewers conduct an examination.
- (k) Appointing authorities shall give sufficient final selection consideration to an adequate number of the available candidates to provide for competitive selection and to ensure the employment of relatively more qualified individuals to the County service. The Appointing Authority shall be responsible for giving full final selection consideration to all candidates.
- (l) The Appointing Authority may hold such supplemental interviews with applicants or make other such inquiries as they deem necessary.

#### 3.03.040 Probationary Period

- (a) The probationary period shall be regarded as an integral part of the selection examination process and shall be utilized for closely observing the newly hired or promoted employee's work abilities and performance. No employee shall be deemed to be a permanent employee until they have successfully completed their probationary employment for the employment position that the employee occupies with the County.

- (b) Every peace officer employed by the Sheriff's Department shall serve, to the satisfaction of the appointing authority, a probationary period which shall be the equivalent of fifty-two consecutive weeks of FTE (full time employment). All other County employees shall serve, to the satisfaction of the appointing authority, a probationary period which shall be the equivalent of twenty-six consecutive weeks of FTE (full time employment). Probationary periods shall be in effect whenever an employee receives a promotion.
- (c) An employee may be discharged at any time during his or her probationary period and without reason or cause and without providing any hearing. The Appointing Authority shall provide proper notification to the employee and a separation report to the Auditor's office.
- (d) An employee shall attain permanent status upon satisfactory completion of the probationary period of employment. Except as otherwise provided for employees receiving promotions, no employee shall gain permanent (non-probationary status) unless and until the Appointing Authority certifies in writing to the employee and the Personnel Director of his or her acceptance of the employee as satisfactorily completing their probationary employment. The Appointing Authority shall endeavor to notify all probationary employees of the completion, termination or extension of probationary employment prior to the completion of the probationary period. An Appointing Authority may extend the probation period for an additional six (6) months under the following conditions:
  - 1. Prior to the expiration of the probation period, the Appointing Authority gives the employee written notice of intention to extend the probation period, which notice shall contain the reasons for the extension. Any reason, subjective or objective shall be sufficient.
  - 2. In the event that the Appointing Authority fails to provide written notice to the probationary employee of satisfactory completion of his or her probationary employment, the probationary status shall be deemed to be extended for an additional six month period; at the end of which, unless there is further action by the Appointing Authority, the employee will be deemed to have successfully completed his or her probationary employment.
- (e) An employee who is promoted shall serve, to the satisfaction of the appointing authority, a probationary period which shall be the equivalent of twenty-six consecutive weeks of FTE (full time employment) in the higher position, except employees promoted within the class of Deputy Sheriff who shall serve a fifty-two consecutive weeks probation.
- (f) During a probationary period, if an employee's performance does not meet the required standards for the position to which the employee was promoted, the employee shall have the right, in lieu of termination, to voluntarily demote back

to the former position in which permanent status is held, so long as the former position is vacant and has not been filled with another employee or eliminated.

- (g) Unless notified in writing by the Appointing Authority prior to the completion of the probationary period, a promoted employee shall attain permanent status upon the completion of the probationary period.
- (h) When an employee takes leave while serving any probationary period, the period of probation shall be extended accordingly.

### 3.03.050 Recruitment and Training - 6040 CA Penal Code

While receiving any State aid pursuant to Article 3, commencing with Section 6040 of the California Penal Code, the County of Sierra will adhere to the standards for recruitment and training established by the Board of Corrections for the training of law enforcement and corrections personnel.

### 3.03.060 Recruitment and Training - 13522 CA Penal Code

- Section 1. The County of Sierra declares that it desires to qualify to receive aid from the State of California under the provisions of Section 13522, Chapter 1, of Title 4, Part 4, of the California Penal Code.
- Section 2. Pursuant to Section 13510(c), Chapter 1, the Sierra County Sheriff will adhere to standards for recruitment and training established by the California Commission on Peace Officer Standards and Training (POST).
- Section 3. Pursuant to Section 13512, Chapter 1, the Commission and its representatives may make such inquiries as deemed appropriate by the Commission to ascertain that the Sierra County Sheriff's public safety dispatcher personnel adhere to standards for selection and training established by the Commission on Peace Officer Standards and Training.

### 3.03.070 Internal Promotions Procedure

Whenever a department head believes that there may be existing County employees who are qualified for a vacant position within his or her department, the department head shall be allowed to limit the advertisement of the position to all County employees and shall be allowed to select an existing County employee for the vacant position without having to undertake and/or complete a full outside recruitment. Any such announcement of the employment opportunity may be accomplished by the publication of a job announcement that is circulated internal to County employees and departments. Any such promotion and/or transfer to another position in the County (employment) shall not be subject to the recruitment procedures set out in Chapter 3.03 provided however, that employment applications shall be required as otherwise set out in Section 3.03.020 and the selection process as set out in Section 3.03.030 shall be followed. The intent here is to allow a

department head to hire an existing employee who wants to transfer from his or her present job, without having to go through the full recruitment process.

#### Chapter 3.04. Eligibility Registers

##### 3.04.010 Establishment of Registers

- (a) The Appointing Authority, when necessary, shall establish and maintain registers of applicants who have passed required examinations and/or have otherwise been determined to be eligible for specific classes. Such registers shall contain at least the following information: the names of the eligibles, the examination scores, if applicable, and the geographical areas in which the eligibles are willing to work.
- (b) Where an adequate employment register is not available for a classification, the Appointing Authority may certify the names and scores of the eligibles from a related class register.
- (c) An eligibility register shall be effective from the date on which it is approved by the Appointing Authority and submitted to the Personnel Director.
- (d) All eligibility registers shall be valid for twelve (12) months, unless otherwise extended or shortened by the Appointing Authority, in which case notification shall be sent to those individuals on the register.
- (e) If there are four (4) or less names on any eligibility register, the Appointing Authority may consider that list to be exhausted.

##### 3.04.020 Merging Eligibility Registers

- (a) The Appointing Authority may supplement an eligibility register for a class whenever it is deemed necessary.
- (b) When a supplemental eligibility register is merged with an existing register, the names shall be placed on the new register according to highest scores.
- (c) Persons whose names appear on a merged register shall retain eligibility until the date the original register will expire, subject to the provisions set forth in subsection (c) of Section 3.04.04 of this chapter.

##### 3.04.030 Placement on Registers of Previous Employees and Eligibles Not Hired

- (a) Any person previously employed in a permanent position by the County who separated in good standing shall have the right to placement on a register for the same class in which previously employed with that previous employee's most recent examination score provided that:

1. The previous employee submits a new application form which is approved pursuant to the current application procedures;
  2. The minimum qualifications for the class have not changed requiring additional qualifying training or experience since the employee's last appointment to that class;
  3. The examinations, scoring procedures, and passing points for the examination for that class have not changed since the previous employee was last examined for that class; and
  4. It has not been more than twelve (12) months since the previous employee's separation from employment in the class.
- (b) Employees voluntarily seeking consideration for appointments, including promotions, transfers, and reappointments to positions in classes other than that of their currently held position, shall submit applications, meet the minimum qualifications, and pass any required examination prior to placement on any register.
- (c) Current employees voluntarily seeking consideration for a lateral transfer from one department to another while remaining in the same classification may waive examination if approved by the Appointing Authority.

#### 3.04.040 Removal of Eligibles From Registers

- (a) Eligibles may be removed from registers by the Appointing Authority for any reason set forth in subsection (e) of Section 3.03.02 of this Chapter or for any of the following reasons:
1. The eligible has failed to provide notice of any change of name, address, telephone number, or information which would affect qualifications for the class;
  2. The eligible has failed to respond within the prescribed time limit when an attempt has been made to contact the individual in writing at the last known address;
  3. The eligible has failed to appear for a previously scheduled final selection examination;
  4. The eligible has been on the register for over twelve (12) months;
  5. The eligible has failed to pass any phase of a final selection examination;

6. Upon notice from the eligible that the individual no longer desires consideration for an appointment;
  7. The eligible has failed to respond within a reasonable time to an inquiry to determine if the individual desires continued consideration for an appointment;
  8. The candidate has refused an offer of appointment to a given class in a location and meeting other conditions of availability previously indicated;
  9. The eligible has been appointed from the register;
  10. The eligible has been appointed to a higher paying class, unless the individual has specifically requested to remain on the register for the lower paying class;
  11. Upon the failure, without good cause, of an appointed candidate to report for duty on the date agreed to by the candidate and the appointing authority;
  12. Whenever an eligible has provided information on an application form or otherwise submits a statement restricting the geographical areas, types of appointment, or other conditions relative to availability for, or willingness to accept, an appointment, such eligible shall not be considered to be available for certification or consideration for vacancies which do not meet the conditions of indicated availability.
- (d) The Personnel Director shall have the authority to abolish a register or require the reapplication and/or reexamination of eligibles on a register when:
1. The minimum qualifications for the class have changed;
  2. The positions having that classification no longer exist in the County service;
  3. The examinations, scoring procedures, or passing points have been changed since those eligible were placed on the register; or
  4. For other reasons involving the adequacy of the register in meeting current needs.

## Chapter 3.05 Certification and Appointments

### 3.05.010 Authorization to Fill Vacant Positions

The Appointing Authority shall have the authority to fill any position authorized and funded by the Board of Supervisors in the current budget (as adopted by resolution of the Board of Supervisors) unless the Board has frozen hiring or rescinds the authorization or funding for the position.

### 3.05.020 Filling Vacant Positions

The Appointing Authority shall inquire of the Personnel Director of the existence of any eligibility list for the position to be filled. If no list exists or is determined by the Appointing Authority to be inadequate the procedures in Chapter 3.03 pertaining to recruitment shall be followed.

### 3.05.030 (omitted)

### 3.05.040 Preconditions to Appointments

- (a) Except for temporary appointments, persons employed in or appointed to any position in the classification plan requiring permanent full-time or permanent part-time status shall possess substantially the qualifications of training and experience required for that classification as outlined in the job description.
- (b) Prior to making an offer or commitment to hire, the Appointing Authority shall be responsible for determining that the following conditions are met:
  - 1. The position is authorized and funded per §3.05.010;
  - 2. The person recommended for appointment meets the requirements of subsections (a) and (c) of this section; and
- (c) Pre-employment Testing: Once an offer for employment is made all applicants shall be required to submit to pre-employment drug testing and breath alcohol testing. Applicants who do not pass these tests shall not be hired by the County and any offer of employment shall be deemed voided. Applicants may also be required to submit to a fitness for duty evaluation, on a case by case basis depending on the physical requirements for the position as described in the approved job classification. Routine medical examinations may not be required absent special circumstances and may be required only with the concurrence of the Personnel Director.

### 3.05.050 Preference in Making Appointments

It shall be the policy of the County to appoint the most qualified candidates to the County service and to provide fair and equitable treatment to all candidates eligible for appointment.

### 3.05.060 Probationary, Promotional, and Transfer Appointments

- (a) Appointments shall be made from the appropriate list of eligible candidates.
- (b) All promotional appointments shall be made from employees who otherwise possess the qualifications for the position and who have applied for the position. Promotions should be made in such fashion as to encourage upward mobility within the County work force.

### 3.05.070 Provisional Appointments

- (a) If a register for a position contains four or fewer eligible applicants, a provisional appointment of an applicant not on the register can be made by the Appointing Authority upon the approval of the Personnel Director. Such provisional appointments shall last for a period no longer than sixty (60) days or until thirty (30) days after an adequate register is established, whichever occurs first. The Personnel Director may extend a provisional appointment for a period not to exceed an additional sixty (60) days when difficulty recruiting a sufficient number of applicants is encountered.
- (b) Provisional appointments may be made only of those persons who have filed an official application and who have been approved by the Personnel Director as meeting the minimum qualifications for the class.
- (c) Persons who have been provisionally appointed may be given a subsequent probationary appointment only after the following conditions are met:
  - 1. A eligibility list (register) is established for the position or classification following customary recruitment procedures; and
  - 2. The provisional appointee is certified to the register.

### 3.05.080 Temporary Appointments

- (a) The recruitment and selection procedures in this Chapter need not be followed if pressing requirements for work on a department requires the expedited filling of a job vacancy. With the approval of the Personnel Director, an individual may be hired on a temporary basis to fill a vacancy for a permanent position (as reflected in the approved staffing for the Department as part of the County budget). A temporary appointment shall be effective for no longer than only sixty (60)

calendar days or upon completion of the normal hiring procedures, whichever occurs first. A single extension of a temporary appointment may be granted only with the approval of the Personnel Director or in the absence of a Personnel Director, the Board of Supervisors. Any person hired by the County in this manner shall be deemed to be an extra help employee whose employment may be terminated at any time without cause or advance notice.

- (b) A temporary appointment shall be made from eligibility lists (registers) maintained pursuant to this Chapter if a list is then in existence. In no case shall a temporary appointment exceed one hundred and twenty (120) days or 960 regular hours, whichever is less, in any single classification in any calendar year.

### 3.05.090 Extra Help

- (a) Individuals may be hired to provide additional help for a department to cover seasonal peak work loads, emergency extra work loads of a limited duration, necessary vacation relief, and other situations requiring use of a fluctuating staffing level. Extra Help Employees may only be hired when there are adequate funds available for such purpose in a department's budget. In no event shall an extra help employee be allowed to work more than a nine hundred and sixty hours in any calendar year.
- (b) The classification of the position for such extra help employees shall be determined by the Appointing Authority based on the duties to be assigned to the individual.
- (c) Extra help employees shall not be eligible to receive any of the fringe benefits provided to permanent employees, unless otherwise expressly stated in this Code or by formal action by the Board of Supervisors.
- (d) The employment of extra help employees shall be on at will basis and their employment may be terminated at any time without cause, advance notice, and without right to appeal.
- (e) It is not the intent of this Code to use extra help employees in place of hiring of permanent employees when there is a legitimate need for and provisions of funding for long term employees

### 3.05.100 Alternative Appointments

When fully qualified persons cannot be recruited to fill a position that the Board allocated with alternate classification levels in the salary ordinance, the Appointing Authority may make a request to the Personnel Director that the position be filled at the lower salary range and classification. If approval is granted, the Appointing Authority shall notify the County Auditor for incorporation into the official payroll records.

## Chapter 3.06 Layoffs, Furloughs and Separation

### 3.06.010 Resignation

- (a) An employee intending to voluntarily separate from the County service shall submit notification to the immediate supervisor specifying the effective date of the intended resignation. Such notification should be provided as far in advance as possible. Resignations shall be deemed to be effective as of the end of the regular business day on the date stated in the resignation.
- (b) A resignation shall be deemed accepted on the date submitted and shall not be allowed to be withdrawn except with the written consent of the Appointing Authority. A Resignation shall be effective on the date specified in the employee's notification. If an employee fails to state an effective date, the effective date of the resignation shall be the date that it is delivered to the Appointing Authority.

### 3.06.020 Unauthorized Absence as Abandonment of Employment

- (a) Any employee who, without compelling cause and prior approval from his or her Department head, is absent for five (5) consecutive workdays or any parts thereof and fails to provide notification to the Department head of his or her absence or which absence is otherwise unauthorized, shall be deemed to have automatically resigned his or her employment with the County. For the purposes of this section, any unauthorized absence during any portion of the employee's normal working day shall be held to be an unauthorized absence for the entire day. Nothing in this section shall prevent an Appointing Authority from otherwise disciplining an employee on account of an unauthorized absence for any period of time if there is sufficient cause to do so. Any such discipline may include termination of employment. This provision shall not apply as to an employee who due to injury or illness is so incapacitated as to be unable to communicate his or her situation with his or her Appointing Authority either directly or with the aid of another person.
- (b) Notwithstanding any other provision in this Code to the contrary, an employee whose employment is deemed terminated due to unauthorized absence (per above) shall be held to have left the County service by resignation and shall not require the Appointing Authority to provide the employee with a due process ("Skelly") hearing or any other procedural requirements.

### 3.06.030 (omitted)

### 3.06.040 Reductions in Force (Layoffs)

- (a) Whenever it is necessary, due to the lack of funds or the Board otherwise determines that a reduction or elimination of services performed by any or all departments is needed, employees within the department, including those on an approved leave of absence, may be laid off, transferred, or demoted as set forth in this section. A reduction in force affecting employees who fall under the state personnel rules shall be implemented in accordance with those rules to the extent that such rules are inconsistent with this Part.
- (b) If the County elects to implement a reduction in force, the order of separation shall be by employee status categories and shall be as follows:
  - 1. Extra help;
  - 2. Temporary;
  - 3. Probationary;
  - 4. Permanent part-time;
  - 5. Permanent full-time
- (c) Employees occupying positions designated for abolishment shall have the right to exercise their available options to transfer, demote, or be laid off based on seniority, as provided in this section, with the most senior employees having greater potential right of continued employment than those of lesser seniority within classification within their department.
- (d) Seniority right shall be based on all continuous County employment in a permanent position within the affected class without a break due to separation, subject to the provisions contained in this section; rights to transfer and/or demote shall be within the employees' department only, except as set forth in subsection (2) of subsection (g) of this section.
- (e) The Appointing Authority shall establish a seniority list by classification for each department. Each employee appointed to a permanent position shall receive a seniority credit for each calendar day of permanent employment, with the following exceptions:
  - 1. Seniority credit shall not be granted for those periods when an employee (1) on leave of absence without pay in excess of thirty (30) calendar days, (2) during any layoff, or (3) other periods of uncompensated leave or absence.
  - 2. Seniority credit shall not be granted for those periods when an employee is on extra help status or is otherwise not occupying a permanent position.
  - 3. Employees separated due to a reduction in force (laid off) who are reinstated within one (1) years after layoff, or within the time extended by

the Board of Supervisors, shall be granted credit for those compensated periods prior to the layoff.

4. The seniority of employees who have worked in a less than full-time permanent position shall be determined by converting the total hours worked to yearly equivalents.
- (f) When two (2) or more employees have the same seniority, the tie shall be broken and preference given in the following sequence:

When it becomes necessary to reduce the force in any department or office by lay-off of permanent employees, seniority within the same job classification shall be the determining factor. In the case where seniority is equal, ability shall govern. The determination of ability shall be the exclusive responsibility of the Department head, provided that in making such determination, consideration shall be given to skill, efficiency, knowledge, physical fitness, training and attitude toward fellow employees.

- (g) Employees subject to layoff may be eligible to be demoted or may request transfer subject to the following provisions:

1. An employee who has prior permanent service in a lower level class in the same department may demote to that lower level class.
  - (i) Any employee demoted pursuant to the provisions of this subsection shall be deemed the most senior employee in such lower class.
  - (ii) In the event two (2) or more employees are demoted pursuant to the provisions of this subsection, the employee with the most seniority at the higher class shall be deemed the most senior employee in the lower class. The employee with the least seniority occupying a position in the lower class may in turn be laid off, demoted, or transferred in the same manner to the end that the last person employed in the lowest class shall be the person laid off.
2. An employee subject to layoff may submit a written request to be considered for transfer to any vacant position in a class for which the employee meets the minimum qualifications as provided in the class specification, and as determined by the Appointing Authority over the transfer to position, provided such class has an equivalent or lower salary range.

- (i) The employee may be transferred to the vacant position with the approval of the Appointing Authority wherein such position exists and subject to serving the probationary period for the new class.
  - (ii) Seniority in the new class shall be determined based upon the effective date of the transfer.
  - (iii) For the purposes of this section, "equivalent salary range" shall mean a range with a maximum salary which is not more than two (2%) percent higher than the salary range for the class from which the transfer is sought.
- (h) To be considered for transfer or demotion in lieu of layoff, an employee must notify the Appointing Authority in writing within seven (7) calendar days from the date on the layoff notice.
  - (i) Seniority rights are deemed waived if an employee is unwilling to relocate to the geographical area assigned a position.
  - (j) Those departments covered by Merit System Personnel Standards of the California State Personnel Board shall be obligated to adhere to the reduction in force policies and procedures established by the State Personnel Board.
  - (k) Employees who are re-employed in permanent positions within twenty-four (24) months of the layoff date, or within the time as extended by the Board of Supervisors, shall be credited with all seniority time less the actual period of layoff. Re-employed employees shall be credited with all accrued sick leave at the time of layoff and shall earn vacation benefits at the rate established prior to layoff including adjustments in the rate made after layoff. No employee shall earn or be credited with vacation or sick leave for the layoff period. Employees returning to their former positions shall not be required to serve new probationary periods.
  - (l) Unless otherwise expressly provided for in a resolution adopted by the Board of Supervisors in conjunction with the adoption of the County budget for any fiscal year, in the event that a full time employee (Full Time Equivalent - "FTE") position is reduced, other than on a temporary basis (such as would be case with a temporary reduction as a furlough), to some amount less than a full time position or a permanent part time position suffers a reduction in the hours per week to be worked, the employee's benefits shall be reduced on a proportionate "pro-rata" basis as follows:
    - 1. Health Benefits - Employees working less than full-time will have the portion of the County contribution for health insurance reduced in proportion to the percentage of full-time employee (FTE) worked by the respective employee,

2. Life Insurance - will be provided (not prorated) if the employee's position equates to .75 FTE or greater. If the employee's position does not equate to .75 FTE or greater, life insurance will not be provided.
3. Vacation Days - shall be accrued and prorated based upon the number of hours the employee works and the length of the employee's employment.
4. Sick Leave - shall be accrued and prorated based upon the rate of .0462 hours times the number of compensated hours the employee works.
5. PERS - The employee's share shall be paid based on the gross salary of the employee times the rate per party as reflected in the terms of any MOU with the Union to which the employee is a member, or pursuant to the terms of the employees' current benefit package if the employee be unrepresented.
6. Holidays - shall be prorated.

#### 3.06.050 Notification of Layoff and Re-Employment Lists

- (a) The Appointing Authority shall issue a written notice to the last known address of each employee affected by a layoff at least ten (10) calendar days prior to the effective date of the action. A copy of the written notice shall be sent to the employee's work site and a copy sent to the appropriate bargaining unit representative, unless the lay-off is necessitated by a reduction or elimination of State or Federal funding for the affected job classification or department, whereupon the lay-off may be within five (5) calendar days upon the giving of notice.
- (b) The Appointing Authority shall issue the layoff notice to the employee or employees selected for layoff following the provisions of Section 3.06.04 of this chapter.
- (c) The layoff notice shall include the reason for the layoff, the effective date of the layoff, and pertinent information concerning the employee's right to transfer, demotion, or reinstatement.
- (d) The Appointing Authority shall establish an intradepartmental reemployment list for each department according to each class in which layoffs or elimination of services occur. The list shall take precedence over any other employment list. Such list shall contain the names of the employees who were laid off or demoted in lieu of layoff from that class within the respective department. Departments shall fill all vacancies in affected classes with persons on appropriate class intradepartmental reemployment lists. Individuals shall be certified to the list based on seniority subject to the provisions of Section 3.06.04 of this chapter.

The list shall be used in such a manner whereby when a position becomes available, it shall be offered to the most senior person within the class on the list in the class where the position exists. Under no circumstance shall the list be used in a manner that would result in a promotion being given to any person contained thereon. Names on the list shall automatically be removed after one (1) years, unless the list life is extended by the Personnel Director. An employee's name shall be removed from the intradepartmental reemployment list and the employee's employment rights terminated if the employee fails to accept an offer of reemployment within ten (10) calendar days after the receipt of the offer, or, after accepting a job offer, fails to report to work within thirty (30) calendar days, or for any of the reasons set forth in this chapter.

- (e) The Personnel Director shall also establish an interdepartmental reemployment list from among those employees laid off. Notwithstanding any other provision in this Code, any laid off employees who file a job application and who possess the job qualifications shall be eligible for consideration for employment with any other County department, irrespective of the existence of a current eligibility list. Individuals included in the interdepartmental list will be considered for employment before any other employment list, except the intradepartmental list.
- (f) If, after the intradepartmental list is utilized, a vacant position still exists, the interdepartmental list shall be certified to the department. Each laid off employee shall be included on an interdepartmental reemployment list for all classifications with a lower maximum salary in the same series as the classifications in which permanent status was held; and all classifications with a lower maximum salary requiring similar knowledge, skills, and abilities as determined by the Personnel Director. Under no circumstance shall the list be used in a manner that would result in a promotion being given to the person contained thereon.
- (g) The Appointing Authority, after conducting appropriate selection procedures, may hire from among those eligibles on the list. An employee who qualifies for selection will have to serve the normal probationary period for the class. If none of the eligibles on the interdepartmental list is suitable, the department will then be given certified names from other open or promotional lists.
- (h) The interdepartmental reemployment list shall last one (1) years and will automatically expire, unless the list life is extended by the Personnel Director. An employee's name shall be removed from the interdepartmental reemployment list and the employee's employment rights terminated if the employee fails to accept an offer of reemployment within five (5) calendar days after the receipt of the offer, or, after accepting a job offer, fails to report to work within fourteen (14) calendar days, or for any of the reasons set forth in Section 3.04.04 of this chapter.
- (i) After a reemployment list is established and during its life another reduction in force takes place, the Personnel Director shall merge the reemployment lists for

the appropriate classifications. The order in which names shall be certified shall be subject to the provisions of Section 3.06.04 of this chapter. The total time on all reemployment lists, whether original or merged, shall not exceed two (2) years, unless extended by the Board of Supervisors.

### 3.06.060 Work Furloughs - Reductions in Hours

- (a) As an alternative to or in association with the implementation of a reduction in force, the Board of Supervisors may institute a temporary reduction in the hours to be worked by the employees in any department (a “work furlough”). Any such reduction may require the employees to be furloughed for such period or periods of time as the Board may find necessary due to an insufficiency of funds within the department’s budget or the County budget. Prior to implementing any furlough, the County shall notify the Union of the intent to implement the furlough and shall promptly meet and confer with the Union, if so requested, to discuss any issues pertaining to the implementation of any furlough. The County shall be free to implement any furlough thirty (30) days following the mailing or faxing of the above referenced notice to the Union.
1. A furlough may be ordered only to compensate for a budget shortfall.
  2. The Department Head may furlough an employee or group of employees upon approval or upon the direction of the Board of Supervisors by a 4/5ths vote.
  3. An employee furloughed by the Department Head shall be non-compensated during a furlough period but, shall not suffer any reduction of seniority during the period of the furlough.
  4. The maximum number of furlough days for an employee shall not exceed 13 days in any fiscal year.
  5. An employee shall not be furloughed more than five (5) day in any pay period; provided however that in the event that any furlough exceeds one (1) day in any pay period, the reduction of salary/wages shall in any pay period shall be limited to one (1) day and the remaining salary/wage reduction shall be spread over an appropriate number of pay periods.
  6. Furlough time shall be in full day increments for full time employees and prorated for part time employees, unless otherwise agreed to by the employee and his or her department head.
  7. An employee is to be notified in writing by the Department Head at least fifteen (15) days prior to the assigned furlough day or days.

8. Whenever possible, considering needs of the department, the Department Head will give consideration to an employee's choice in selecting the furlough day or days.
9. The application of a furlough to an employee or group of employees shall not be subject to the grievance procedure.
10. An employee may not be furloughed again until all other employees within the same position or class or service class in their department have been furloughed.

### Chapter 3.07 Position Classifications

#### 3.07.010 Position Classification Plan

- (a) A list of all classified County positions shall be established and maintained on a current basis by the Personnel Director. The Board, upon the recommendation of the Personnel Director, by resolution adopted by a majority vote, may create new classes or divide, combine, or abolish existing classes.
- (b) The position classification list shall show all positions and classes currently in use by the County and the class specifications.
  1. A class specification is a reference standard that serves to illustrate, define, and characterize a group of positions comprising a classification. Class specifications are designed to depict the kinds of positions that may be properly allocated to a classification. The task content of a class specification is not intended to be, nor shall it be construed as being, all-inclusive, restrictive, or precisely descriptive of the duties and responsibilities of any particular position within the classification.
  2. The Personnel Director shall prepare and maintain class specifications for each classification which shall contain the following information:
    - (i) Classification title;
    - (ii) Definition and general description of the class;
    - (iii) Examples of typical tasks performed;
    - (iv) Minimum qualification standards;
    - (v) Knowledge, skills, and abilities required for satisfactory performance in the classification; and

- (vi) Any other information considered by the Personnel Director to be necessary.

### 3.07.020 Position Information

- (a) The Personnel Director shall have the responsibility and authority to obtain any information necessary for use in the position allocation process. In obtaining position information, the Personnel Director shall utilize such data collection methods as determined appropriate. As necessary, the data collection of position information may include the study of relationships with other positions, tasks performed in other positions, organizational structures, program goals, and other factors that relate to the allocation of the position involved.
- (b) Department management and employees shall cooperate with the Personnel Director in the collection of position data by providing access to work areas, making employees available, and otherwise facilitating the data collection process by responding to specific requests and volunteering other information which may have a bearing on the position allocation.
- (c) Only official class titles shall be used to designate a classification or the classification of positions in all personnel, payroll, and budget correspondence, forms, reports, records, and other documents involving personnel administration matters.

### 3.07.030 Position Allocation and Re-Allocation

- (a) Upon the recommendation of the Personnel Director and the Department Head, the Board shall have the sole authority to allocate and reallocate positions as they are found to exist in the work unit.
- (b) Prior to an allocation or reallocation of a position to a classification by the Board, the Personnel Director shall:
  - 1. Review existing classes to identify the class that most adequately embraces the major characteristics of the position to be allocated or reallocated, if such a class exists, and discuss the position with the appropriate supervisor and/or department head;
  - 2. Consider relevant position characteristics in respect to the position such as:
    - (i) Tasks assigned to the position;
    - (ii) Work objectives and purposes of the position;
    - (iii) Levels of authority and responsibility involved in the position;

- (iv) Exercise of discretion and judgment required by the position;
  - (v) Supervision of the position;
  - (vi) Management of work processes and programs;
  - (vii) Types and levels of knowledge and skills required for satisfactory performance; and
  - (viii) Typical types and minimum levels of training and/or experience required for acceptable performance upon appointment to the position; and
3. Discuss the matter with the appropriate department head and the Personnel Committee of the appointed bargaining unit when a position is being considered for downgrading.
- (c) The information set forth in subsection (b) of this section shall be presented to the Board by the Personnel Director for consideration and approval by a majority vote.
  - (d) Upon the completion of the position allocation or reallocation process, the Personnel Director shall provide written notification to the appropriate department of any change in classifications.
  - (e) Upon the reallocation of a filled position, the incumbent shall submit evidence of qualifying experience and/or education to the Personnel Director within three (3) working days in order to remain in the new class.
  - (f) The effective date of an allocation or reallocation shall correspond with the first pay period following its approval or on the date specified by the Board.

#### 3.07.040 Classification System Maintenance

- (a) The Personnel Director shall conduct position audits as necessary to ensure that the position classification plan is maintained on a current basis.
- (b) Department heads may request a review of a current allocation whenever permanent and substantial changes to a position have occurred to the extent that the position has become significantly different in nature than it was when last allocated. Such requests shall include the position classification, the current incumbent, and the nature of the changes in the responsibilities and duties of the position.

- (c) Upon the receipt of a request for a review of a position allocation, the Personnel Director shall evaluate the request and determine if a review of the position is justified. If an evaluation of the position is conducted, the procedures set forth in Section 3.07.03 of this chapter shall be followed.

#### 3.07.050 Establishing Additional Positions

- (a) When a department head feels that additional permanent full-time and/or permanent part-time positions are needed to fulfill program objectives, a written request shall be submitted to the Personnel Committee stating the needs and reasons for the position or positions.
- (b) The Personnel Committee shall evaluate the proposal and make a recommendation to the Board of Supervisors.
- (c) Based on the information provided, the Board, by a majority vote, shall determine whether the request for additional positions shall be approved or denied. This should first go through the appropriate committees of the Board of Supervisors.

#### 3.07.060 Base Station Assignment

- (a) Assignment. A base station shall be assigned to each classified position in County employment and shall not be subject to change once assigned, except with mutual agreement of the affected employee. The base station assignment shall be placed on all Personnel Action Forms. An originally assigned base station can be reassigned only with the filing of a Personnel Action Form containing a written consent by the affected employee with the County Auditor/Personnel Director which Personnel Action Form states the new base station.
- (b) No bargaining unit employee shall be temporarily transferred without notice at least (3) three days prior to said transfer, except in case of emergency.
- (c) Temporary work site and/or shift transfers shall be for a period not to exceed thirty (30) working days unless mutually agreed between Department Manager and employee.
- (d) Transfer shall not include temporary assignment for a portion of a work day or work days to a different work location. This section shall have no effect on the County's obligation to reimburse employees for travel on County business.
- (e) Notwithstanding the foregoing the County reserves the right to transfer employees in accordance with the needs of the County, if the work demands otherwise would require a reduction in force (layoff) for employees at a particular base station. No employee shall be transferred as a punitive measure.

## Chapter 3.08 Compensation

### 3.08.010 Compensation Plan

- (a) The schedule of salary ranges and steps and the schematic list of classes and salary ranges as approved by the Board as a part of the County budget resolution and as set forth in applicable Memorandum of Understandings with employee bargaining units, shall constitute the compensation plan applicable to all positions in the County service.
- (b) The compensation plan shall be maintained by the Personnel Director and shall serve as a reference index for determining the compensation rates associated with a designated salary range. All salaries prescribed shall be monthly equivalents (hourly rates are memo reference only).
- (c) Adjustments to the compensation plan shall be made on a periodic basis by a majority vote of the Board based upon such factors as the level and responsibility of the work performed, samples of prevailing rates for similar jobs paid by comparable and/or competing employers, cost of living, internal relationships between classes, and other valid factors.

### 3.08.020 Application of the Compensation Plan

- (a) The salary schedules for each class, as set forth with such amendments as may be adopted by the Board consistent with applicable Memorandums of Understanding, shall have the force and effect of law. The salaries or rates of compensation prescribed shall be fixed on the basis of permanent full-time service in permanent full-time positions, unless otherwise designated. The rates of pay prescribed shall be deemed to include pay in every form, except as authorized and incurred incident to employment or as approved by the Board as part of a current Memorandums of Understanding with a specific employee bargaining unit..
- (b) The rate of pay of a County employee shall correspond with the letters A, B, C, D, and E, respectively, which denote the various steps in the salary range.
  - 1. The rate of pay upon appointment to a classification shall be at Step A through C of the assigned salary range, except as provided in Section 3.08.03 of this chapter.
  - 2. Step A shall be paid for the one thousand forty (1040) hours of continuous employment for all permanent County employees. Upon satisfactory performance at Step A, the employee shall become eligible for an increase to Step B.

3. County employees shall be eligible for increases to Steps C, D, and E, respectively, after satisfactory performance during two thousand and eighty (2080) hours at the preceding lower step.
- (c) All step increases shall be made on the basis of merit as established by employee job performance and upon the approval of the Appointing Authority. No step increase shall be given when inferior work, as documented by the employee's supervisor, is evident.
  - (d) Whenever a employee takes an authorized leave of absence in excess of thirty (30) calendar days, the length of service in the current step shall be extended accordingly, and a new anniversary date shall be established as provided for and in accordance with Section 3.09.04 of this chapter.
  - (e) Extra help and permanent employees working less than full time shall be hired at Step A through C of the appropriate range for the class, except as provided in subsection (c) of Section 3.08.030, and may be granted step increases by the Appointing Authority upon satisfactory performance.
  - (f) Notwithstanding any other provision in this Code or any provision in any Memorandum of Understanding, the Board shall, based on budgetary considerations, have the authority and right to suspend further step increases for all employees.

### 3.08.030 Appointments

- (a) Advance steps above a C for new hires and voluntary reappointments to permanent full-time and permanent part-time positions may be requested under the following provisions and conditions:
  1. That there is a demonstrated inability to recruit applicants at the entry level step as approved by the Board of Supervisors; or
  2. Prior to the appointment of a new employee to a class or of a present employee seeking a voluntary reappointment, the department head shall make a written request to the Board of Supervisors to establish compensation at a rate of Steps D through E in the range assigned to the class when a candidate has training and/or experience beyond the minimum qualifications which training and/or experience is of the same type and level as that involved in the full and satisfactory performance in the class to which the candidate is being appointed. Such request shall follow prescribed procedures and provide sufficient documentation to enable the Board of Supervisors to determine the eligibility for advanced steps; and

3. Such information shall be presented to the Board by Appointing Authority. The Board, by a majority vote, shall authorize the appointment at a level above step C of the appropriate range.
- (b) Upon the reinstatement of a previous permanent employee separated due to a reduction in force or otherwise terminated in good standing, the compensation rate may be established at any step in the range for the class provided the rate shall not exceed the step occupied at the time of leaving County service, and the class specifications for the classification have not changed.
- (c) Upon the request of the department head, an extra help employee may be hired above Step C of the appropriate range if such employee has had prior service in a permanent position in the same classification within the same department, or if the individual is currently employed in a permanent position in the same classification in another County department. Such requests shall be made in writing to the Board of Supervisors who shall approve, disapprove, or modify the requests, based on the individual's training and/or experience and the needs of the County.
- (d) The compensation for an employee receiving a promotional appointment to a permanent full-time or permanent part-time position shall be at the entrance step of the promoted class, or within five and no/100ths (\$5.00) dollars of a five (5%) percent increase in the monthly salary, whichever is the greater. However, in no case shall the salary exceed the maximum step assigned to the promoted class.
- (e) Prior to a promotion a department head may request approval to establish a compensation rate for a promotional candidate at a higher step in the range than that provided in subsection (d) of this section. The provisions and conditions established by subsection (a) of this section shall govern such requests.
- (f) A new anniversary date, for the purpose of calculating eligibility for merit/step increases in salary, shall be established upon the promotion date of an employee.
- (g) Disciplinary demotions shall be handled under the procedures established in the Chapter 3.10. Upon a disciplinary demotion, an employee shall be assigned to any step in the lower classification range, which is at least five (5%) percent less than the salary received in the previous class. The employee shall lose all seniority rights in the previous class, and the time served in the previous class shall be credited to the new class for the purpose of establishing seniority lists. All disciplinary demotions shall require approval by the Appointing Authority. The Personnel Director shall insure that disciplinary demotions are handled according to proper procedures. A new anniversary date, for the purpose of calculating eligibility for merit/step increases in salary, shall be established based on the effective date of the demotion.

- (h) If an employee transfers to a different position in the same class, or to a different classification with the same salary range, no pay adjustment shall be made, and the individual's anniversary date shall remain the same.
- (i) Upon an involuntary reappointment, the employee shall continue to receive the same rate of pay if that rate corresponds with a step in the new range. If the employee's rate of pay does not correspond with a step in the range for the new class, the employee's rate of pay shall be reduced to the nearest dollar amount in the new range. If the employee's pay prior to the involuntary reappointment is above the maximum step in the new range, the pay shall be established at the maximum step in the new class. Under no circumstance shall an employee receive a salary increase upon an involuntary reappointment.

#### 3.08.040 Position Reallocations and Temporary Assignments

- (a) If an occupied position is reallocated to a higher salary range, and if the incumbent meets the minimum qualifications for the new class and remains in the position, the incumbent shall receive the entry level salary step or within Five and no/100ths (\$5.00) Dollars of a five (5%) percent increase in the monthly salary, whichever is the greatest. However, in no case shall the new salary exceed the maximum step of the salary range for the classification. A new anniversary date shall be established upon the date of the reallocation.
- (b) If a position is reallocated to a classification with the same salary range, the salary and anniversary date of the incumbent shall not change.
- (c) If a position is reallocated to a class with a lower salary range, and the incumbent's rate of pay does not correspond with a step in the new range, the salary shall be "Y" rated. Any such "Y" rate shall be indicated with a capital "Y" following the salary on all personnel and payroll records and transactions. No salary increase, including cost of living increases, shall be given to incumbents occupying "Y" rated positions until such time as the "Y" rates are removed by adjustments to the compensation plan. "Y" rates shall also be cancelled upon the separation of an employee in the "Y" rated position.
- (d) When an employee is appointed to a temporary assignment in a position that provides for a higher rate of pay, there shall be no change in pay until the Board of Supervisors approves the temporary assignment and funding is available within the Department's budget to cover such increased cost. When a temporary assignment is approved, the rate of pay shall be at the first step of the assigned range for the classification or within Five and no/100ths (\$5.00) Dollars of a five (5%) percent increase in the monthly salary, whichever is the greatest. However, in no case shall the new salary exceed the top step in the salary range for the classification. Time served, as a temporary appointment shall be credited as continuous service in the individual's regularly assigned position.

### 3.08.050 Step Increases and Sequences Affecting Pay Adjustments

- (a) For permanent full time and permanent part time employees, the Appointing Authority, on an employee's anniversary date, may grant a one step increase in salary provided the employee's salary is not already at the maximum step in the range for the assigned class. A step increase may be granted at the six month anniversary date as to any employee who is at the "A" step on the salary table for his or her classification and may be granted no sooner than one year (anniversary date) after receiving a prior step increase or one year (anniversary date) for an employee initially placed at a step other than the "A" step within his or her classification.

Such step increases shall be granted only if the Appointing Authority has determined that the employee's performance has been satisfactory since the last step date or since a probationary appointment, whichever is more recent. The denial of a step increase shall not be deemed to constitute a form of disciplinary action against the employee.

- (b) If an employee's (other than a probationary employee) performance has not been satisfactory, the Appointing Authority shall provide written notification to the employee specifying the reasons a step increase will not be granted. A copy of such notification shall be sent to the Auditor's office. Such notification shall be provided prior to the employee's step date. No such notice shall be required with regards to a probationary employee. A denied step increase may be subsequently granted by the Appointing Authority upon performance of a subsequent evaluation.
- (c) If two (2) or more pay adjustments occur on the same effective date, such adjustments shall be made in the following sequence:
1. Adjustments to the table of pay rates;
  2. Pay adjustment resulting from salary surveys;
  3. Step increases; and
  4. Pay adjustments resulting from promotions, reappointments, and position reallocations.
- (d) Longevity Pay. The Appointing Authority shall increase the salary of a permanent employee by a five percent (5%) longevity increase after seven (7), ten (10), fifteen (15) and twenty (20) years of continuous service. Department Managers shall receive longevity increases of five percent after five (5), ten (10), fifteen (15), twenty (20) and twenty-five (25) years of continuous service in a permanent full time employment position. Any employee who worked as a permanent part time position may also receive longevity as per the above provisions so long as that employee remains in a permanent part time position. If a permanent part time employee is moved into a permanent full time position the employees longevity shall be calculated based on the aggregate number of hours

that would, if based on full time service, relate to the years of service as set out above. For the purpose of any such calculation 1800 hours shall be deemed to constitute the number of work hours in any year based on full time employment. For the purpose of entitlement to longevity pay, work/years of continuous service shall be based on a full-time equivalent position (such that a 50% FTE employee needs the equivalent of 7 years of full –time employment to qualify for the longevity pay.)

### 3.08.060 Compensation Upon Separation

- (a) Any permanent employee, after the completion of six (6) months of continuous service, shall be entitled to compensation in the form of a cash buy-out of accrued and unused vacation leave as of the date of separation, payable as of the last day of employment. The grant of and right to vacation leave shall not be deemed to accrue until the completion of six (6) months of continuous service. Subject to the following provisions, any employee who has worked for the County continuously for fifteen (15) years or more, upon retirement or death, shall be eligible to receive, payable to the employee, or their estate, a sum equal to forty percent (40%) of their unused sick leave up to a maximum of one hundred twenty (120) days computed on the basis of the hourly equivalent of such employee's monthly salary as of the time of retirement or death. (Ord. 771, eff. 05/07/91 prior 593):
1. The retiring employee shall have reached the minimum retirement age permitted by the Public Employee's Retirement System of the State and be receiving retirement benefits.
  2. When an employee dies while in the County service, only a surviving spouse or a designated beneficiary shall be eligible for such benefit.

### 3.08.070 Overtime Compensation & Compensatory Time Off

- (a) It is the policy of the County to avoid the necessity of overtime work whenever possible. Except for emergency situations as described below, no overtime work shall be performed by any employee without the express authorization and direction to do so by the employee's Appointing Authority or duly authorized supervisor. When overtime work is necessary to provide County services, employees shall be compensated according to and at such rates as are specified by:
1. A duly ratified collective bargaining agreement between the County and an organization representing the employees designated therein, or in the absence of an agreement;
  2. As required by applicable law.

- (b) The department head shall be responsible for the administration of this policy in accordance with the terms and conditions as set forth and approved. Such responsibilities include, but shall not be limited to, the following:
1. The distribution of policy to all management personnel/supervisors on a periodic basis;
  2. The discussion of policy with managers and supervisors to be certain it is properly understood and followed;
  3. The authorization of overtime work to be performed by a department employee covered under this policy;
  4. Ensuring that adequate funds are available to compensate employees for overtime work; and
  5. The application of adequate controls to ensure that overtime work is not performed if such work has not been officially authorized.
- (c) Overtime shall be computed on the basis of the actual hours worked in excess of an employee's schedule. A regular shift for employees shall be based on working an eight (8) hour day and forty (40) hours work week and in such cases overtime is the time in excess of eight (8) hours on any given day and/or forty (40) hours in a work week. For regularly scheduled employees working a ten (10) hour day and forty (40) hours in a work week, overtime is the time in excess of ten (10) hours on any given day and/or forty (40) hours in a work week. For employees working an alternative schedule, which schedule is mutually agreed to between the employee and the Department Manager, overtime is the time in excess of forty (40) hours per week, with the weekly pay period running from Sunday through Saturday. Overtime of less than fifteen (15) minutes in excess of the regular workday shall not be computed, nor shall such periods be accumulated for the week. Overtime, if more than fifteen (15) minutes in excess of a regular workday, shall be computed to the nearest one-half (1/2) hour.
- (d) Subject to the limited "emergency" exceptions set forth below, overtime may only be earned with the prior written approval of the employee's Appointing Authority, or the Appointing Authority's designated representative. Employees cannot on their own decide to earn overtime and each Department Head shall be responsible for not allowing employees to work more than their assigned work hours without accruing overtime pay. Overtime may be authorized only when it is not possible to adjust staffing patterns and/or employee work schedules to provide essential staffing in the following types of circumstances:

1. Situations where overtime may be authorized:
  - (i) The unexpected absence of an employee whose position must be filled to avoid a disruption of services or to avoid loss of funding.
  - (ii) The necessity of performing an unexpected heavier-than-normal workload to avoid disruption of necessary services.
  - (iii) Situations that are uncontrollable emergencies.
  - (iv) Attendance at agency directed meetings/conferences, provided that the total overtime authorized is pre-approved by the Appointing Authority. Overtime may not be earned for employee-initiated attendance at seminars, etc.

2. Emergency situations qualifying for retroactive approval.

In the face of a bona fide emergency involving risk to life, health or property, the response to which emergency falls within the reasonable scope of the employee's job description, an employee may work overtime on such bona fide emergency situation without prior written authorization, provided that:

- (i). such overtime is reported to the supervisor or Appointing Authority at the earliest opportunity; and
  - (ii). the overtime is ratified by the Appointing Authority not later than 72 hours after the overtime was accrued.
- (e) Compensatory time off shall be allowed as per the provisions set forth in the most recently adopted Memorandum of Understanding with the applicable bargaining unit.

### 3.08.080 Call Backs

Call back pay shall be as provided for in the most recently adopted Memorandum of Understanding with the applicable bargaining unit.

### 3.08.090 Training Expenses, Travel Time

When an employee is required by a department to participate in an approved training course;

- (a) The department shall pay for or, if applicable, reimburse the employee for one hundred 100% of the costs of such required training. Where travel is

required to attend training sessions, reimbursement for travel and incidental costs shall be covered under the County travel policy.

- (b) All employees, except department heads and elected officials, shall receive full compensation for travel time from their base station or residence, whichever is less.

### 3.08.100 Uniform Pay Periods and Employment Records

- (a) The pay period for each County officer, deputy, clerk, or employee of the County shall consist of a two (2) week period, with salaries or wages paid every other Friday. The pay period shall not cover salaries and wages earned during the week in which the payment shall be provided, but rather it shall lag one week behind.
- (b) On or before each alternate Friday, the County Auditor-Controller shall draw a warrant upon the County Treasurer in favor of each employee of the County for the payment of the amount of salary or wage earned during such pay period or cause the amount to be deposited into an authorized financial institution. In cases where a payday falls on a County holiday, the County Auditor-Controller is authorized to make salary payments on the last workday prior to the County holiday. In the event of unusual and unforeseen circumstances, salaries may be paid no later than the second Friday following the end of the pay period..
- (c) In addition, the County Auditor-Controller shall maintain the following records for payroll purposes:
  - 1. A roster of employees, classifications, and salaries;
  - 2. An individual file of each current employee containing a copy of the employee's, personnel action forms showing each change of the employee's status, dates of service, positions held, salary and wage changes, and any other necessary information related to payroll; and
  - 3. An individual file containing the information set forth in subsection (2) of this subsection for all terminated employees. In addition, personnel files for terminated employees shall also contain a copy of the employee's separation report. Terminated employee's files shall be kept for a period of not less than three (3) years from the date of termination.
- (d) The County Auditor-Controller, with the Personnel Director, on matters relating to personnel, shall promulgate such procedures and regulations as necessary to implement the provisions of this section.

### 3.08.110 Uniform Allowance

Uniform allowances shall be as provided for in the most recently adopted Memorandum of Understanding with the applicable bargaining unit.

### 3.08.120 Educational Incentive

Educational incentive pay shall be as provided for in the most recently adopted Memorandum of Understanding with the applicable bargaining unit.

### 3.08.130 Agreement to Participate in PERS 3% @ 55 for Safety Employees

The County is a member of the California Public Employees Retirement System. The County participates, by contract, in the Public Employees Retirement System (PERS) 3% @ 55 for public safety employees (as classified by PERS). The County will pay the employees total contribution to PERS, not to exceed nine percent (9%) of the employees gross pay. The County will pay the PERS contribution for both the employee and employer as if the employee's contribution amount is part of gross wages. The County also participates in the federal social security system.

### 3.08.140 Agreement to Participate in PERS 2.7% @ 55 for Miscellaneous Employees

The County is a member of the California Public Employees Retirement System. The County participates, by contract, in the Public Employees Retirement System (PERS) 2.7% @ 55 for miscellaneous PERS classification employees, The County will pay the employees total contribution to PERS, not to exceed eight percent (8%) of the employees gross pay. The County will pay the PERS contribution for both the employee and employer as if the employee's contribution amount is part of gross wages. The County also participates in the federal social security system.

### 3.08.150 Extended Sick Leave - Insurance Premiums

For employees with at least one year of full-time service, during the period of time that an employee is on leave, pursuant to the Family and Medical Leave Act of 1993 (FMLA – including any amendments thereto), the County shall pay the employees health insurance at the rate consistent with the most recently adopted Memorandum of Understanding with the employee's bargaining unit.

### 3.08.160 Shift Differential Pay

Shift differential pay for permanent employees shall be as provided for in the most recently adopted Memorandum of Understanding with the applicable bargaining unit.

### 3.08.170 Participation in Health Plans

The County shall pay all or that portion of monthly premiums for health insurance for all eligible permanent employees and eligible dependents as set forth in the most recently adopted Memorandum of Understanding with the applicable bargaining units.

Notwithstanding any other provisions of this code, permanent part-time employees working a minimum of fifty percent (50%) of a full time equivalent position (FTE) shall be eligible to participate in health plans provided by the County, provided that the County shall fund only a portion of such employee's participation cost prorated based upon the percentage of FTE employment for the employees position. Where approved personnel actions do not establish an employee's work time, eligibility for County contribution shall be based on the percentage of full-time equivalent work as performed by the employee during the preceding six month period. Costs of participation shall be based upon the premium cost paid by the County for full-time employees.

### 3.08.180 Health Insurance for Retired Employees

- (a) Employees Retired Prior to September 1, 1990. The County shall extend health plan coverage benefits to County employees retiring after January 1, 1986 but before June 30, 1987 who have 19 or more years of equivalent full-time County service, and to County employees retiring after June 30, 1987 but before September 1, 1990 who have 20 or more years of equivalent full-time County service and who are receiving PERS retirement benefits, at 100% of the premium cost.
- (b) Employees Employed on or before September 1, 1990. The County shall extend health plan coverage benefits to County employees retiring after September 1, 1990, who have 20 or more years of equivalent full-time County service and who are receiving PERS retirement benefits, in the amount of the premium being paid for all employees at the time such employee retires until such retired employee is of the age for which Medicare benefits normally become available.
- (c) Employees Employed After September 1, 1990. The County shall extend health plan coverage benefits to County employees retiring after September 1, 1990, who have 20 or more years of equivalent full-time County service and who are receiving PERS retirement benefits, in the amount of the premium being paid for all employees at the time such employee retires for a period of five (5) years from the date of retirement or until such retired employee is of the age for which Medicare benefits normally become available, whichever is less.
- (d) Employees Retired Pursuant to 1992 Employee Early Retirement Plan. The County shall extend health plan coverage benefits to County employees retiring between the months of October and December 1992, who have been offered and who accept the 1992 Employee Early Retirement Program, who have 15 or more years of equivalent full-time County service and who are receiving PERS

retirement benefits in the amount of the County contribution to the premium being paid for all employees at the time such employee retires, for a period of time until such retired employee is of the age for which Medicare benefits normally become available. In the event any employee elects the early retirement program and retires on or before October 2, 1992, in addition to the County's contribution to the Retiree Health Insurance premiums, the County shall pay the employees' share in the amount of \$37.46, for a period of time until such retired employee is of the age for which Medicare benefits normally become available.

### 3.08.190 Included Non-Represented Employees Defined

For the purposes of this Chapter, "Included Non-Represented Employees" shall mean the members of the Board of Supervisors, the Assessor, the Auditor, the Clerk/Recorder, the District Attorney, the Human Services Director, the Chief Probation Officer, Public Works Director, the Sheriff/Coroner, the Transportation and Planning Director, the Treasurer/Tax Collector and any assistant department heads or deputy director positions as may from time to time be established by the Board of Supervisors.

### 3.08.200 Included Non- Represented Employees Retirement Health Benefits

The County shall pay all or that portion of monthly premiums for health insurance for Included Non-Represented Employees (as defined above) who leave County service after 10 or more years of continuous County service as an Included Non-Represented Employee or for those Included Non-Represented Employees who have 20 or more years of Represented and Non-Represented County service combined ("a Qualified Non-Represented Employee"). The amount of the premium paid by the County for such health plan coverage shall be the amount being paid for such Qualified Non-Represented Employee at the time such Qualified Non-Represented Employee leaves County service ("Retired Employee") until such Retired Employee becomes eligible for health insurance due to subsequent employment or is of the age for which Medicare benefits normally become available. The Retired Employee must certify every six months that such Retired Employee is eligible for this benefit and that such Retired Employee is not eligible for health insurance from another employer. This code provision does not "vest" any right in the Included Non- Represented Employee to receive the health insurance benefits set forth above. Should any Qualified Non- Represented Employee separate from County employment prior to the modification or deletion of this code provision, the terms of this code provision shall vest as to such Qualified Non-Represented Employee who was separated from County employment prior to the modification or deletion of the terms of this provision.

### 3.08.210 Life Insurance

The County will pay all of that portion of monthly premiums for life insurance for all eligible employees as set forth in the current Memorandum of Understanding between the County and the employees or their authorized collective bargaining agents.

## Chapter 3.09. Leave

### 3.09.010. Vacation Leave

(a) Length of Service Required

Vacation leave may be used as accrued.

(b) Time of Vacation Set by Appointing Authority.

Department heads shall have full responsibility and discretion for setting vacation periods for all employees under their supervision. In doing so, they shall be guided by the good of the County service, the wishes of the individual employee, and the orderly conduct of the work of the department. (Ord. 771, eff. 05/07/91 prior 216, 326, 491, Section 3614)

(c) Vacation Use - Permanent Part-Time Employees

For permanent part-time classified employees, vacation may only be used on those days that are specified on their work schedule on file with the Auditor.

(d) (Omitted)

(e) Effect of Illness on Vacation Usage

In the event of illness (one requiring hospitalization in excess of 10 days) or serious injury in a job-related manner (one which renders the employee unable to work for a period in excess of 30 days) which results in the employee being unable to utilize his or her vacation time during the calendar year of the catastrophic illness or serious job-related injury, the employee may, with the consent of his or her Appointing Authority, carry accrued vacation time in excess of the maximum otherwise permitted by the County Code for a period not to exceed 60 days into the subsequent calendar year.

(f) Accrued Vacation Upon Termination With County

Any employee, after satisfactory completion of probation and upon becoming a permanent full-time or permanent part-time employee, shall be entitled upon resignation or layoff to compensation in lieu of accrued vacation, payable at the salary rate on the last day of employment. Prior to satisfactory completion of probation, upon resignation or termination, such employee shall not be entitled to compensation for accrued vacation, if any

(g) Rate of Accrual

Vacation leave for permanent full-time and permanent part-time classified employees shall accrue as follows:

1. Day one through five years of continuous service: 0.0385 hours per hour.
2. Six through ten years of continuous service: 0.0577 hours per hour.
3. Eleven through fifteen years of continuous service: 0.0770 hours per hour.
4. Sixteen or more years of continuous service: 0.0962 hours per hour.

(h) Maximum Vacation Accrual

Vacation leave may be accumulated and carried over from one calendar year to another up to the following limits:

1. Up to six years of continuous service: 160 hours
2. Six through ten years of continuous service: 200 hours
3. Eleven through fifteen years of continuous service: 240 hours
4. Sixteen or more years of continuous service: 320 hours

An employee whose vacation leave balance is at the above limits at the start of a calendar year, shall not accrue further vacation leave until the leave balance is reduced below the cap on leave balance for the employee based on the employee's length of service.

3.09.020 Sick Leave

(a) Eligibility

Permanent full-time and permanent part-time employees are eligible for sick leave with pay.

(b) Eligibility – Permanent Part-Time Employees

Work schedules for permanent part-time employees shall be maintained on file with their Department heads and with the Auditor's Office. Such employees shall only be eligible for sick leave when time off occasioned by sickness at a time when the permanent part-time employee is otherwise scheduled to work by his or her Appointing Authority. An employee may not use sick or vacation leave to receive payment for a day or part of a day when the employee was not scheduled to work.

(c) Rate of Accrual

Sick leave for permanent full-time or permanent part-time classified employees shall accrue at the rate of 0.0462 hours per hour worked.

1. Accrual: There shall be no limit on the accrual of sick leave for an employee.
2. Length of Service Required: Sick leave may be used as accrued.

(d) Sick Leave Uses

1. For illness, injury or routine medical or dental appointments of the employee, sick leave may be used in any reasonable amount.
2. For each death of a member of the immediate family, sick leave may be used in an amount not to exceed five (5) days for each death per calendar year.
3. For illness, injury, routine medical or dental appointments for a member of the immediate family sick leave may be used by an employee in any reasonable amount up to seven (7) days per calendar year.
4. For permanent part-time classified employees, sick leave may only be used on those days that are specified on their work schedule on file with the Auditor.

(e) Letter from Medical Officer

An employee shall notify such employee's supervisor or their Appointing Authority as soon as possible that sick leave will be used. An employee taking more than three (3) consecutive days of sick leave for injury or illness shall, at the request of their Appointing Authority, furnish the Appointing Authority a letter from a medical officer stating that the employee is not medically fit to return to work, which letter must include a prognosis and reasonable estimate of the date upon which the employee may return to work, if ever. Before returning to work after an absence of five (5) or more consecutive work days, at the request of the employee's Appointing Authority, the employee must furnish a letter from a medical officer stating that the employee is medically fit to return to work. If the absence from work for non-work related injury or illness is greater than twenty (20) cumulative work days within a twelve (12) month period or seven (7) consecutive work days within a twelve (12) month period, the Appointing Authority may require the employee to be examined by a County-appointed medical doctor at County expense. In the event of any work-related injury, giving rise to a worker's compensation claim for which the employee receives medical attention, the employee shall furnish a medical report from a medical officer

giving an evaluation of the injury. Further, before returning to work after such work related injury, the employee shall furnish the County Auditor and the employee's Appointing Authority with a letter or report from a Medical Officer stating that the employee is medically fit to return to work. A medical officer means a duly California or Nevada licensed Medical Doctor, Nurse Practitioner, or such other medical personnel approved by the County.

(f) Disability

An employee who is entitled to temporary disability indemnity under the Labor Code may elect to take as much of the accumulated sick leave or accumulated vacation leave after accumulated sick leave becomes exhausted as, when added to the disability indemnity, will result in a payment of the full salary or wage.

(g) Sick Leave Incentive Plan

Any employee who has worked for the County for fifteen (15) years or more, upon retirement through PERS or death, shall be eligible to receive, payable to the employee, or their estate or designated beneficiary, a sum equal to forty percent (40%) of their unused sick leave up to a maximum credit of one hundred twenty (120) days of compensation computed on the basis of the hourly equivalent of such employee's monthly salary as of the time of retirement or death.

(h) Donation of Sick Leave for Catastrophic Use

Notwithstanding any other provision of this Code relating to the accumulation and use of sick leave, a permanent employee shall, subject to the provisions below, be allowed to donate and transfer sick leave from his or her sick leave account to a blind catastrophic leave account for use by permanent county employees. Any such donation and use of transferred sick leave shall only be made subject to the following provisions:

1. The receiving employee must have exhausted all other leave balances, including sick and vacation leave and compensatory time and all time accrued while on leave; shall currently be on FMLA – CFRA and/or pregnancy leave and shall incur a minimum of five (5) full days of unpaid leave immediately in advance of the time off for which the employee is requesting use of donated sick leave. A receiving employee must not be eligible for compensation for time off from work from any other source including without limitation, disability insurance.
2. The donating employee must have a minimum sick leave in his or her account following the donation of one hundred twenty (120) hours. An employee may not make a donation of more than forty (40) hours within two (2) months of his or her separation from County employment.
3. To qualify for use of donated/transferred of sick leave, a permanent employee must use of the leave for:

- a. Leave to care for a child, parent, or spouse who has a serious health condition attested to by a physician licensed by the appropriate state board of medical examiners (“licensed physician”); or
  - b. Leave because of a serious health condition attested to by a licensed physician that makes the employee unable to perform the functions of his or her position.
  - c. Absences for a full day or days
  - d. Absences for less than a full day as part of ongoing medical treatment or the phasing of the employee resuming work after a qualifying injury or illness which phasing plan should result in resuming of full duties within ninety (90) days from the initial date of return. (Nothing herein is intended to require the County to accept an employee back to work if the employee is otherwise unable to perform the essential duties of his or her position.)
4. All donations will be made to a blind pool and shall not identify or specify an intended recipient. Donations are to be made in writing on a form to be provided by the County Auditor’s Office. Any donation which fails to comply with the provisions of this Section will be rejected.
5. Use of the sick leave from the donated pool will be applied for on a pay period basis. All requests meeting the qualifications set forth above will be approved to the extent that the pool contains sufficient donations of sick leave. In the event that there are multiple requests and insufficient leave exists within the pool, the approval and allocation of the available sick leave will be made on a prorate basis, without regard to any other factors or considerations.

Except as may be required for accounting purposes the County shall attempt to keep confidential the identity of parties donating sick leave to the blind pool.

### 3.09.030 Holiday Leave

- (a) The following days are designated as official County holidays.

- January 1 (New Year's Day)
- February 12 (Lincoln's Birthday)
- Third Monday in February (Washington's Birthday)
- Last Monday in May (Memorial Day)
- July 4 (Independence Day)
- First Monday in September (Labor Day)
- September 9 (Admissions Day)
- November 11 (Veterans Day)

Fourth Thursday in November (Thanksgiving Day)  
Friday after Thanksgiving  
December 24 (Day before Christmas)  
December 25 (Christmas Day)

(b) Observance of Holiday Occurring on Weekend

All holidays occurring on a Saturday shall be observed on the preceding Friday.  
All holidays occurring on a Sunday shall be observed on the following Monday.

(c) Christmas Eve Holiday

The December 24th holiday should be observed on the last working day prior to the day when the December 25th holiday is observed

(d) Permanent full time employees working on a flex schedule (such as four, ten hour days per week) shall be entitled to ten (10) hours of pay when a holiday falls on a normally/customarily scheduled day of work for the employee. If a holiday falls on a non-customary work day for the employee (when the employee would otherwise not be at work), the employee will not receive any compensation (or additional time off). If the employee is required to work on such non-customary workday/holiday then such work shall be paid at the employee's regular rate of pay. Employees shall not be allowed to adjust their work schedules to change their regular work days in advance of any holiday. Permanent part time employees will get a proportionate credit for holiday leave based on their percentage of FTE. (I.e., a permanent part time employee working at 50 % of FTE will get a credit of 4 hours of holiday pay irrespective, irrespective of whether the holiday falls on a day when the employee was scheduled to work or not. Each Department Head shall provide a schedule to the Auditor at the beginning of each month showing the days and hours to be worked by employees within their respective departments for the following month .

3.09.040 Leaves of Absence Without Pay

(a) Leave of Absence Without Pay

A leave of absence without pay is a period approved in advance pursuant to this chapter during which an employee is not required to work and is not paid. If an employee is absent from work without approval such employee may be disciplined pursuant to this Part. An employee may only take a leave of absence without pay if such employee has no compensatory time, or vacation time available for use.

(b) Eligibility for Leave of Absence Without Pay

Any permanent full-time or permanent part-time employee may be granted a leave of absence without pay, pursuant to the following provisions.

(c) Approval Required for Leave of Absence Without Pay

1. The Appointing Authority may grant an employee a leave of absence without pay not to exceed 30 days per year.
2. The Board of Supervisors may grant a department head a leave of absence without pay of any duration.
3. The Board of Supervisors may grant an employee a leave of absence without pay of more than thirty (30) consecutive calendar days.

(d) Employment Terms During Leave of Absence Without Pay

During any leave of absence without pay, the employee shall not accrue any sick leave or vacation leave or receive any holiday pay. The employee's anniversary date for the purpose of eligibility for step or merit increases and the accrual of leave and other benefits and probation, period if applicable, shall be extended to reflect the cumulative leave of absence without pay. The County and the employee shall each pay their respective shares of group insurance premiums for any leave of absence of up to thirty (30) consecutive days. Unless otherwise expressly provided for in this Part or in the most current Memorandum of Understanding with the employee's bargaining unit, the employee shall pay both the County and the employee's shares of all health and life insurance premiums for that portion of any leave of absence in excess of thirty (30) consecutive days.

(e) Administrative Leave Computation Policy

For good legal cause, the Appointing Authority with the concurrence of the County Personnel Director and/or County Counsel may place an employee on administrative leave with pay. During such period, the employee shall receive full compensation, benefits and accruals. Upon being given written notice (or verbal notice confirmed in writing) of being placed on Administrative leave which shall, if reasonably possible, be made prior to the effective date of the leave, the employee shall not attend his or her County employment. Administrative leave shall not be construed as disciplinary action. The Appointing Authority shall initiate any administrative leave action.

(f) Leave Policy for Volunteer Emergency Response Personnel

County employees who are members in good standing of volunteer emergency response organizations within the County of Sierra which are pre-designated by

the Appointing Authority, including volunteer fire departments, search and rescue, emergency medical technicians, and ambulance crews, may be granted up to one working day per month of leave to respond to bona fide emergencies within the County. Such leave shall be compensated at the employee's normal wage and benefit rate, provided the employee receives no compensation from the emergency service. If the employee receives compensation from the emergency service, such amount may be deducted from the employee's County compensation.

#### 3.09.050 Bereavement Leave

- (a) Department heads may authorize the use of up to five (5) days of earned sick leave to an employee attending or making arrangements for the funeral of an “immediate family” member.
- (b) Authorization shall be in conformance with the provisions of Section 3.09.020 of this chapter. Where insufficient sick leave is available to the employee for this purpose, compensatory leave and/or vacation leave may be granted. Where sufficient leave of this nature is unavailable, leave without pay may be granted in accordance with the provisions of Section 3.09.040 of this chapter.
- (c) For the purposes of this section, “immediate family” shall mean the employee's spouse, child, parent, sister, brother, mother-in-law, father-in-law, daughter-in-law, son-in-law, or any other person living in the employee's household or primarily supported by the employee.

#### 3.09.060 Court Leave

- (a) An employee required to serve as a member of a jury panel or as a witness of the court shall be granted leave with pay upon the remittance to the County of jury or witness fees or upon the submission of evidence that such fees were waived.
- (b) Where court duty is in the same town that an employee normally reports to work, no mileage payment shall be authorized. Where the employee is required to travel to another locale, travel reimbursement shall be authorized at court rate and authorized by the court.
- (c) When an employee elects to use vacation or compensatory time instead of court leave, the jury or witness fees may be retained.

#### 3.09.070 Military Leave

Every employee shall be entitled to such leave of absence with pay and other benefits as are provided in the Military and Veterans Code '395 et seq.

### 3.09.080 California Pregnancy Disability Leave

- (a) Maternity leave of up to four (4) months without pay shall be granted to any employee consistent with federal law and California Pregnancy Disability Leave Act.
- (b) During any period of approved leave under this policy, an employee's group health insurance coverage will be maintained at the same level and under the same conditions as before the leave began. For part time employees, the coverage will be computed on an average of the previous twelve (12) month period.
  - 1. Employees who normally make a contribution toward their health insurance coverage must continue to do so. If on paid leave, the employee's contribution will be collected in the same manner as if the employee were reporting to work. During periods of unpaid leave, the employee must make payment arrangements with the Auditor's Office, prior to commencement of the leave, for the payment of the employee's share of the insurance premium.
  - 2. An employee who does not return to duty from an unpaid leave under this policy will be liable for the County's group health insurance premium contribution and any part of the employee's share paid by the County during the unpaid leave, unless the failure to return to duty is caused by continuation, recurrence, or onset of a serious health condition that would entitle the employee to leave under this policy, or for circumstances beyond the employee's control. Where recovery of premiums is permitted, the County shall be entitled to offset the amount against any final pay or monetary benefit to which the employee would otherwise be entitled.
  - 3. Employees will not accrue other benefits (i.e., sick leave, vacation, holidays, seniority for the purposes of grade or longevity steps) while in an unpaid leave status, including seniority rights, unless these benefits are authorized by an applicable employee bargaining agreement, County Code provision, or any other applicable ordinance or statute.
- (c) Employees taking leave under this section may take leave intermittently upon production of a health care provider's certification. To the extent possible, such certification should provide the dates and duration any treatment and leave is expected. Employees using leave on an intermittent basis must try to schedule the leave to minimize disruption to normal operations. An employee may be reassigned to an alternative position with equivalent pay and benefits that better accommodates the recurring periods of leave.
- (d) Employees who anticipate taking California Pregnancy Disability leave must to provide as much advance notice to the department as may be practicable under the circumstances surrounding the health condition.

- (e) Required Certifications: Failure to provide the required health care medical certifications may result in denial or postponement of the leave or request for leave. The County may request, at the County's expense, that an employee submit a second opinion from a health care provider designated and approved by the County. The County may require an employee to obtain subsequent medical re-certification, on a reasonable basis, as a requirement for continued leave approval. An employee who has been on leave for California Pregnancy Disability will be required to present a certification of fitness for duty from a health care provider prior to commencement of work.

### 3.09.090 Family and Medical Leave Act/California Family Leave Act

- (a) General Purpose

This policy describes the circumstances and conditions under which an employee may take family care and medical leave in accordance with the provisions of the Family and Medical Leave Act (hereinafter FMLA). The policy is applicable to all County departments, and provides a uniform procedure for processing requests for leaves available under the FMLA to all eligible County employees. It is separate and distinct from any other leave policies, procedures, or employee bargaining agreement provisions that are available to Sierra County employees.

- (b) General Application

The FMLA leave policy will not diminish the County's obligation to comply with any employee bargaining agreement, County policy, or benefits plan that provides the greatest benefit to the employee. This policy will supplement leaves available to employees through employee bargaining agreements, or other County leave policies, and will represent the County's policy and guide for applying FMLA leaves when employee bargaining agreements, County policies, and State leave laws are silent or less generous than the leaves available under the Federal Family and Medical Leave Act. This policy will be made available and shall apply equally to both male and female employees.

- (c) Available Leave

Eligible employees are entitled to take a maximum of twelve (12) work weeks of leave during a twelve (12) month period. The twelve (12) month period shall begin on the first day that leave is taken. FMLA leave may be used for any of the following purposes:

1. Child Care Leave: Child care leave can be taken by an employee for the birth, adoption, or foster care placement of a child in order to care for the child.

- (i) Child care leave must be concluded within twelve (12) months from the date of the birth, adoption, or foster care placement. Foster care must require State action, rather than just an informal arrangement to take care of another person's child.
- (ii) Child care leave may be taken intermittently if approved by the respective Appointing Authority. If approved, such leave may be taken in increments of eight (8) hours or more.
- (iii) In cases where both parents of a child are employed by the County, both parents will not be granted leave concurrently, nor in amounts totaling more than four (4) months combined leave in a twenty four month period for both parents.
- (iv) In order to provide departments sufficient time to accommodate requests for leave, employees who foresee taking leave for FMLA child care purposes are encouraged to provide notice at least 30 days prior to the date leave is anticipated to begin, or such notice as may be practicable if leave becomes necessary before a 30 day notice can be given. FMLA child care leaves will not be denied, but may be temporarily delayed if reasonable advance notice is not provided to the respective department.

2. Family Care Leave: Family care leave can be taken by an eligible employee for care of a family member (spouse, son, daughter, or parent) who has a serious health condition.

- (i) For purposes of FMLA leave, a "family member" is defined as:
  - A. The employee's spouse as defined in California Family Code Section 300;
  - B. A child (under the age of 18) who may be biological, adopted, foster, stepchild, legal ward, or one whom the employee has day to day care and financial responsibilities;
  - C. A child (over the age of 18) who is incapable of self-care because of a mental or physical disability;
  - D. An employee's parent means a biological, foster, or adoptive parent, a stepparent, a legal guardian, or a person who acted in place of a parent (i.e., in local parents) in relation to an employee when the employee was a child. A County Department Head, or the Administrative Director, may request that an employee requesting FMLA leave submit proof of a parental relationship.

- (ii) A “serious health condition” means an illness, injury, impairment, or physical or mental condition which involves either:
    - A. inpatient care in a hospital, hospice, or residential health care facility; or
    - B. continuing treatment or continuing supervision by a health care provider of more than three (3) calendar days; or
    - C. continuing treatment or continuing supervision by a health care provider for a chronic or long term health condition that is incurable or so serious that, if not treated, would likely result in incapacity for more than three (3) calendar days; or for prenatal care.
  - (iii) Employees requesting leave under family care must present a certification from a health care provider containing the date on which the serious health condition commenced, the probable duration of the condition, a statement that the employee is needed to care for the family member, and an estimate of the amount of time such care will be required.
  - (iv) Employees taking leave under family care may take leave intermittently upon production of a health care provider’s certification that the intermittent leave is necessary for, or will assist, the care of the family member. To the extent possible, such certification should provide the dates and duration any treatment and leave is expected. Employees using leave on an intermittent basis must try to schedule the leave to minimize disruption to normal operations. An employee may be reassigned to an alternative position with equivalent pay and benefits that better accommodates the recurring periods of leave.
  - (v) Employees who anticipate taking family care leave to care for a seriously ill family member must provide as much advance notice to the department as may be practicable under the circumstances surrounding the health condition. FMLA family care leaves will not be denied, but may be temporarily delayed if reasonable advance notices, or required medical certifications, are not provided to the Appointing Authority.
3. Self-Care: Self-care leave can be taken when an employee is unable to perform the essential functions of the position that the employee holds because of a serious health condition.

- (i) Employees seeking leave for self-care must have a serious health condition, as defined by paragraph 2(ii) above.
- (ii) Employees requesting leave under self-care must provide a certification from a health care provider containing the date the serious health condition commenced, the probable duration of the condition, and a statement that the employee is unable to perform the essential functions of the position. Employees seeking the certification must provide the health care provider with the County's written job description and/or list of essential functions of the position.
- (iii) Employees taking leave under self-care may take the leave intermittently upon production of a health care provider's certification that the intermittent leave is medically necessary. The certification must indicate, if possible, the expected duration of the leave. Employees who elect to use the available leave on an intermittent basis must try to schedule this leave in a way to minimize disruption to normal operations when possible. An employee may be reassigned temporarily to an available alternative position with equivalent pay and benefits that better accommodate the recurring periods of leave.
- (iv) Employees who anticipate taking self care leave for a serious leave condition are encouraged to provide as much advanced notice to the Administrative Director as may be practicable under the circumstances surrounding the health condition.

4. Required Certifications: Failure to provide the required health care medical certifications may result in denial or postponement of the leave or request for leave. The County may request, at the County's expense, that an employee submit a second opinion from a health care provider designated and approved by the County. The County may require an employee to obtain subsequent medical recertification, on a reasonable basis, as a requirement for continued leave approval. An employee who has been on leave for self care will be required to present a certification of fitness for duty from a health care provider prior to commencement of work.

(d) Leave Calculation

- 1. An employee is eligible for FMLA leave if all of the following criteria are met:
  - (i) The employee has been employed by Sierra County for at least twelve (12) months; and

(ii) The employee has been employed for at least 1,250 hours during the immediately preceding twelve month period; and

2. The twelve (12) month period for FMLA eligibility begins with the date of first absence qualifying for FMLA leave, and rolls forwards from that date. FMLA leave may be taken in either a block form or on an incremental basis.
3. When calculating the eligible leave, the calculation will be based on actual hours worked during the previous twelve (12) month period. In other words, this calculation will not include any paid time off, such as vacation, sick leave, compensatory time off, or holiday leave.

(e) Use of Accrued Paid Leave While on FMLA Leave

The employee shall be required to also use sick leave, vacation, and compensatory time off (CTO) while on FMLA leave; except that employees shall have the option of retaining up to 40 hours of accrued vacation leave and up to 80 hours of accrued sick leave on the books.

(f) Benefits While on Leave

Subject to the following requirements and restrictions, during any period of approved leave under this Section, an employee's group health insurance coverage will be maintained at the same level and under the same conditions as before the leave began. For part time employees, the coverage will be computed on an average of the previous twelve (12) month period.

1. Employees who normally make a contribution toward their health insurance coverage must continue to do so. If on paid leave, the employee's contribution will be collected in the same manner as if the employee were reporting to work with appropriate deductions being made from the employee's paycheck. During periods of unpaid leave, the employee must make payment arrangements with the Auditor's Office, prior to commencement of the leave, for the payment of the employee's share of the insurance premium. If an employee fails to make payment for his or her share of the medical insurance for more than sixty (60) days, the County shall be entitled to drop the employee from the health insurance plan/coverage.
2. An employee who does not return to duty from an unpaid leave under this policy will be liable for the County's group health insurance premium contribution and any part of the employee's share paid by the County during the unpaid leave, unless the failure to return to duty is caused by continuation, recurrence, or onset of a serious health condition that would entitle the employee to leave under this policy, or for circumstances

beyond the employee's control. Where recovery of premiums is permitted, the County shall be entitled to offset the amount against any final pay or monetary benefit to which the employee would otherwise be entitled.

3. Employees will not accrue other benefits (i.e., sick leave, vacation, holidays, seniority for the purposes of grade or longevity steps) while in an unpaid leave status, including seniority rights, unless these benefits are authorized by an applicable employee bargaining agreement, County Code provision, or any other applicable ordinance or statute.

(g) Return to Duty

Upon return to duty, an employee who has been on leave is entitled to restoration to the former position, or if that is not possible, to an equivalent position with equivalent pay and benefits.

An employee who has taken leave for self care will be required to present a certification of fitness for duty from a health care provider prior to commencement of work. Failure to provide the certification may cause denial of reinstatement.

(h) Role of Auditing Department

The Auditing Department will be responsible for ensuring that this leave policy is uniformly and equitably applied throughout all County departments. The Personnel Department will provide information and assistance to County departments when reviewing employee leave requests for FMLA leaves. All requests for FMLA, required medical certifications, and related information will be submitted by departments and reviewed by the Auditor who will decide if the request for leave meets the leave requirements of the Family and Medical Leave Act and this policy. Leaves meeting the requirements of the Act will be approved for processing by the Auditor.

(i) Forms

All applicable FMLA forms are available from the Auditing Department and may be obtained upon request. Forms include:

1. Family and Medical Leave Request Form
2. Family Medical Certification Form
3. Your Rights Under the Family and Medical Leave Act of 1993

(j) Complaint Procedure

Any employee, who receives a denial of a request for FMLA leave by a County Department Head, may appeal the matter to the Auditor. Final authority to approve or deny a leave for FMLA reasons will rest with the Auditor.

3.09.100 Procedures Governing Leave Policies

- (a) The Personnel Director, with the cooperation of the County Auditor-Controller, shall establish such procedures and maintain such records as are necessary to administer the provisions of this chapter.
- (b) Where the provisions of this section conflict with presently existing Memorandums of Understanding with particular bargaining units, the presently existing memorandums shall supersede and take precedence.

Chapter 3.10 Disciplinary Policy

3.10.010 Procedure to Impose Discipline

- (a) Notwithstanding any provision in this Code to the contrary, the procedures and protections provided for in this Chapter only apply to permanent full-time and permanent part-time employees. Extra help, temporary and probationary employees are deemed to be “at-will” employees and may be fired without need for cause and without employing the procedures set forth in this Chapter,

It is the intent of this Chapter to provide a basis and uniform procedures for disciplining employees and to provide rights to the employee(s) to contest same as provided under California law. Employees may only be disciplined for just cause and discipline shall be subject to the concepts of progressive discipline, where appropriate. (Depending upon the circumstances and where warranted, employees may be subject to suspension or termination for serious misconduct without progressive discipline).

A permanent employee may be discharged, suspended or demoted pursuant to this Chapter. Prior to taking any disciplinary action against a permanent employee, the Appointing Authority shall contact and discuss such action with the Personnel Director. To initiate a disciplinary action against a permanent employee the Appointing Authority, or his or her designee, shall give the employee a written notice outlining the proposed action and the reasons for such action, the code and ordinance sections which the employee is alleged to have violated, and notice of the right to respond to the charges verbally and/or in writing to the Appointing Authority. The Appointing Authority shall, to the extent practicable and reasonable, provide the employee with copies of any reports that directly pertain

to the proposed discipline. At least seven (7) days prior to the effective date of the proposed disciplinary action, the notice shall be served upon the employee who is the subject of the disciplinary action. The employee may, within said seven (7) day period, respond orally and/or in writing to the proposed action and may request a meeting with the Appointing Authority or the person designated to serve as the initial hearing officer, to respond to the charges against the employee.

- (b) After the time has elapsed for receiving response from the employee, and taking any response into account together with the recommendation of the hearing officer, the Appointing Authority shall decide whether discipline should be taken against the employee. The decision of the Appointing Authority imposing discipline (as originally proposed or as revised after receipt of the employee response) shall be prepared by the Appointing Authority, and shall be reviewed by County Counsel or the Personnel Director for legal sufficiency. The decision and written order for disciplinary action shall advise the employee of the effective date of any such order and shall include a copy of the applicable provisions in the County Personnel Code pertaining to the appeal rights and procedures available to the employee, if not previously given to the employee. The written order for discipline shall be served on the employee who is subject of the disciplinary action. If personal service upon the employee of the written notice or of the order cannot be reasonably be affected, a copy shall be sent by registered mail to the employee at his/her last known address.

Notwithstanding any other provision to the contrary in the County Code or any County rule, policy or administrative procedure, in the event that the order provides for the termination employment then the employee shall be deemed terminated for all purposes upon the effective date stated in the order or upon service of the order if no date is specified.

### 3.10.020 Causes for Discipline

Each of the following constitutes cause for suspension, demotion, or dismissal of an employee.

1. Fraud in securing appointment
2. Incompetence
3. Inefficiency
4. Inexcusable neglect of duty
5. Insubordination
6. Dishonesty
7. Drunkenness on duty
8. Sexual harassment or other forms of harassment or abuse of County employees or the public
9. Addiction to the use of narcotics or drugs
10. Illegal manufacture, distribution, possession, and or use of a controlled substance in the work place

11. Being intoxicated and/or under the influence of any controlled substance while on duty or while subject to scheduled call back
12. Inexcusable absence without leave (absenteeism or tardiness)
13. Conviction of a felony or conviction of a misdemeanor involving moral turpitude
14. Discourteous treatment of the public or other employees
15. Improper political activity as specified in this Code
16. Willful disobedience
17. Misuse of County property
18. Violation of any of the provisions of the Personnel Code
19. Refusal to take and subscribe to any oath or affirmation which is required by federal and/or state law in connection with employment
20. Misuse of sick leave or a claim of sick leave under false pretenses
21. Knowingly falsifying records
22. Threat or assault on an employee or member of the public in connection with County employment
23. Performance of any acts either during or outside of public employment, which are incompatible with public service and the public interest.
24. Possession and/or viewing of pornographic or offensive sexual material during work hours or on County property.

### 3.10.030 Right of Appeal

- (a) Any permanent employee who is suspended, demoted, or dismissed, or any permanent public safety officer who is disciplined by punitive actions as outlined in the Public Safety Officer's Procedural Bill of Rights Act, may appeal such action by filing a notice of appeal with the County Personnel Director within ten (10) working days after the effective date of the notice/order of disciplinary action. Within ten (10) working days after the effective date of the Order, such employee shall file with the County Personnel Director an answer in writing to the charges set forth in the order of disciplinary action.

The Personnel Director shall review said order, notice of appeal and the basis of the appeal (the answer) and may, if he or she deems it appropriate, hold a meeting to discuss the disciplinary action and appeal with the employee and/or his or her representative and with the Appointing Authority. In the event an agreement regarding disposition of the matter cannot be reached within fifteen (15) working days after filing of the answer to the charges, the County Personnel Director will contact the State of California, Office of Administrative Hearings at the earliest possible time to request the assignment of a hearing officer to hear the appeal. Said hearing officer will commence hearing the matter as soon as possible. In the event a State hearing officer is not reasonably available, the parties may mutually select an individual to conduct a hearing. The parties may mutually agree to the extension of any time lines provided for in this Section.

(b) If the employee alleges in his or her answer that the suspension, demotion or dismissal resulted from retaliation for the exercise of the employee's rights, or discrimination based on age, ethnicity, race, color, religion, sex, sexual orientation, national origin, or handicap, and provides a statement of facts to support same, this issue shall be the first issue to be considered on appeal if (1) the employee's allegation is supported by a written statement of facts from the employee or his or her representative, providing reasonable grounds to believe that suspension, demotion or dismissal was improper and (2) the written statement is deemed by the Hearing Officer to be sufficiently clear and concrete to permit a hearing on the issue.

(c) Hearing

The following rules shall apply to any appeal hearing.

1. The hearing shall be private unless the employee requests that the matter be heard publicly.
2. Evidence may be submitted by affidavit or by deposition in accordance with the provisions of Section 11514 and Section 11511 of the Government Code, respectively.
3. Subpoenas for attendance or the production of documents at the hearing shall be issued in accordance with Section 11510 of the Government Code.
4. The hearing shall be conducted in accordance with evidence rules as outlined in Section 11513 of the Government Code.
5. The County and the employee (as the appealing party) shall mutually share all costs related to the hearing, including without limitation, all fees of the Hearing Officer. Other costs including attorney fees shall be borne by the party who incurs said costs.

(d) Decision

The Hearing Officer shall, within fifteen (15) working days after said hearing, make a finding as to whether the employee was suspended, demoted, or dismissed for reasonable cause and shall also make a recommendation as to the appropriate disposition of the case.

The Hearing Officer shall forward written findings and recommendations to the Clerk of the Board of Supervisors, the appropriate Appointing Authority, the County Personnel Director and the employee. These findings and recommendations shall be presented to the Board at its next regular meeting (subject to Brown Act agenda requirements).

In cases where unlawful retaliation or discrimination based on age, race, color, religion, sex, sexual orientation, national origin, or handicap is alleged and proven, the Hearing Officer shall have the authority to reinstate the employee without prejudice. Such a decision, which shall be supported by the written findings of the Hearing Officer, shall be final and binding upon all parties and shall not be subject to any modification by the Board of Supervisors; provided however, the Board may elect to seek judicial review of any such determination, which review shall be under the rules of Civil Procedure, Section 1094.5 to determine if the decision is supported by substantial evidence. In all other instances, the Board will take the findings and recommendations of the Hearing Officer under advisement and will render a decision within twenty-one (21) calendar days after the presentation of said findings and recommendations to the Board.

(e) The Board may:

1. Adopt the proposed decision of the Hearing Officer in its entirety; or
2. Alter the proposed penalty and adopt the balance of the proposed decision;  
or
3. Refer the case to the same hearing officer to take additional evidence; or
4. Decide the case upon the record, including the transcript; with or without taking additional evidence. If such additional evidence is taken, the Board shall afford the parties the opportunity to present either oral or written argument before the Board itself.

The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the penalty, if any. The findings may be stated in the language of the pleadings or by reference thereto.

The decision shall become effective upon adoption by the Board unless the Board orders that the decision shall become effective at another date.

(f) Judicial Review

Judicial review may be had by either the employee or the County by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure Section 1094.5. Such petition shall be filed not later than the 30th day following the date on which the decision becomes effective.

(g) Default

If employee fails to file an answer or to appear at the hearing without good cause, the employee will be considered to be in default and action may be taken without further hearing. Good cause for failure to time answer or to appear shall be made, in any event, within 48 hours following any such failure.

(h) Letters of Reprimand

Any permanent employee except an elective official may be reprimanded by the appropriate Appointing Authority which shall be in writing and a copy shall be entered in his/her personnel file. An employee shall have thirty (30) calendar days within which to file a written response to any adverse written comment entered into the personnel file, and such written response shall be attached to the adverse comment. No right of appeal shall exist with regard to a written reprimand to an employee; provided however, that the employee may file a grievance under Chapter 3.11. Letters of reprimand will be removed from an employee's personnel file following three (3) years from the date of issuance, if no further letters or discipline action is taken against the employee and the employee has received satisfactory job evaluations.

Chapter 3.11 Grievance Procedure

3.11.010 Purpose

It is the purpose of this procedure to provide a simple method for employees of the County of Sierra to resolve grievances they may have in their employment relationships without unnecessarily disrupting county functions or services. This procedure shall apply to the resolution of grievances by all employees in all county departments. The overall purpose of this procedure is to provide for the resolution of grievances at the lowest level possible. Grievances shall be submitted to and addressed by the employee's department prior to presentation of a grievance to the Board of Supervisors.

This procedure shall be liberally construed to effectuate its purpose and shall be viewed by all as a means to enhance the function of the County in providing services to the general public. The use of this procedure in resolving grievances shall not be held against any employee in any manner since the adoption of this procedure gives each employee the right to use it. Employees shall have the right of representation in grievances at all stages.

3.11.020 Definition of Grievance

A Grievance means an alleged violation of the rights given to employees under the Sierra County Code or the applicable memorandum of understanding (MOU) for the employee's bargaining unit for which there are no other procedures in existence which may be used to resolve such problem. A grievance shall not include a complaint for which other procedures exist to resolve the matter, including without limitation, dismissals, or suspensions. Grievances may be used to contest written reprimands to employees. In addition, a grievance shall not include issues more appropriately resolved by use of the meet and confer process.

No complaint shall be considered a grievance unless the involved employee initiates the grievance process within fifteen (15) calendar days after the occurrence of the event or events on which the grievance is based or fifteen days following the discovery of the acts giving rise to the grievance, but in no event later than one hundred eighty (180) days from the event or the initial event. With respect to all periods specified in this Chapter, time limits may be waived by mutual written consent of the parties.

(a) Who May Use

Any employee may use this procedure, regardless of membership in any recognized employee organization. In using this procedure any employee may choose to be represented by the representatives of his or her employee organization.

(b) Communications in Writing

All grievances except those at the first level shall be in writing. The written grievance shall specify the basis of the grievance and the solution or outcome desired by the grievant. Resolution of a grievance shall be limited to the facts and issues specified in the written grievance.

(c) Decision

When any decision is rendered at any level and is not appealed to the next level it shall become final. All those concerned shall abide such final decision. If the person assigned to hear the grievance fails to respond within the time limits set forth below, the grievant may not later than fifteen (15) days following the expiration of such time limit follow the next step in the below procedure.

(d) Use of County Time

Provided that it does not interfere with the proper conduct of the business of the County, The Appointing Authority may allow the use of a reasonable amount of County time for the preparation of a written or oral grievance.

(e) Procedure

1. First Step. Any employee or group of employees having a grievance shall first discuss the grievance with the Appointing Authority or his or her designee. This step shall not require a written grievance but every effort shall be made to resolve the grievance. Within fifteen (15) days the Appointing Authority or designated person shall render his decision. If the grievant or the Appointing Authority is not satisfied with the decision, he may not later than fifteen (15) days following the decision, follow the next steps outlined below; if the next step is not followed within such fifteen (15) days, the decision becomes final.

2. Second Step. If an oral grievance is not satisfactorily resolved, a written grievance setting forth the factual details of the grievance may be submitted to the Appointing Authority. The Appointing Authority shall personally meet with the grievant as soon as is practicable, generally no later than fifteen (15) days from the presentation of the written grievance, to discuss the grievance and shall render a written decision to the grievant within fifteen (15) days of such meeting. The grievant may request that the Appointing Authority hear from reasonable and appropriate witnesses where the Appointing Authority determines there is a significant question as to the facts as alleged by the grievant and a resolution of some or all of the facts is important to the resolution of the grievance. The decision to hear from witnesses shall be at the sole discretion of the Appointing Authority. Any meeting with the grievant may be continued by the Appointing Authority if necessary for the purpose of hearing from witnesses. Thereafter and within fifteen (15) days, the Appointing Authority shall issue a written decision on the grievance. If the grievant is not satisfied with the written decision, he or she may not later than fifteen (15) days follow the next step outlined below; if the next step is not followed within such fifteen (15) working days, the decision becomes final.
3. Third Step. The grievance shall be submitted in writing to the Clerk of the Board of Supervisors only after completion of the second step. Following the filing of an appeal of a grievance with the County Clerk and the Clerk shall schedule a hearing on the matter before the Board of Supervisors within two months. The Board shall hear the matter and render a written decision within thirty-one (31) days of such hearing; any such hearing may be continued by the Board if necessary. Such hearing shall be open to the public unless the grievant elects to have a closed hearing and such closed hearing is permitted by under the provisions of the Brown Act. The Board may sustain, overrule or modify any decision by the Appointing Authority.
4. Upon the filing of any grievance, neither the employee, his or her representative(s) or the Appointing Authority or his or her staff shall discuss the matter of the grievance with any member of the Board of Supervisors, except through the procedures set forth in item # 3, above.

### Chapter 3.12 Drug and Alcohol Non-Use and Testing

#### (a) Purpose and Effect

Sierra County and its employees are committed to providing a safe and drug free work environment. The County also recognizes that its employees are a most valuable resource and as a goal, the County is dedicated to provide a healthy and

satisfying work environment to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from adverse effects of drug and alcohol substance abuse or misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and, (4) to encourage employees to seek professional assistance when personal problems, including alcohol or drug use, misuse, or dependency, adversely affect their ability to perform their assigned duties.

This policy is adopted in order to provide a reasonable means to protect the privacy rights of public employees and to address potential questions and safety considerations should an employee inappropriately be under the influence of drugs and/or alcohol while engaged in the performance of their public duties. This policy sets forth the rights and obligations of employees who are covered by this policy. Employees covered by these new requirements and this policy should become familiar with their respective provisions, as compliance with this policy is an express condition of employment with Sierra County.

(b) Covered Employees

Unless otherwise noted, this policy applies to all employees other than:

1. The employees that are covered by the Drug and Alcohol Testing Policy pertaining to the transportation and road workers employed by the Sierra County Department of Public Works and Transportation, as adopted under Resolution No. 98 175; and
2. Department heads and elected County officials.

(c) Prohibited Substances

Prohibited drugs are any illegal controlled substance including, but not limited to, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the US Department of Agriculture, US Drug Enforcement Administration, or the US Food and Drug Administration. Prohibited drugs shall also include the unauthorized use or misuse of a legally prescribed drug or over-the-counter drugs, or illegally obtained prescription drugs.

The use of any beverage, liquid, or mixture containing alcohol or substances, including any medications, such that alcohol is present in the body while “on duty” (working for the County) is prohibited. (Ord. 909, eff. 8/4/00)

(d) Prohibited Conduct

The following conduct is prohibited and may result in discipline, up to and including termination:

1. Engaging in the manufacture, distribution, dispensing, possession, or use of prohibited substances on County premises, in County vehicles, or while on County business.
2. Reporting for duty or remaining on duty when the employee's ability to perform assigned functions is adversely affected by alcohol or when the employee's blood alcohol concentration is 0.02 or greater. The Sheriff of Sierra County shall be entitled to adopt stricter requirements for deputy sheriffs and other personnel assigned to his office.
3. Using alcohol while on duty or while performing "safety sensitive functions".
4. Being on duty or operating a County vehicle while in possession of alcoholic beverage intended for personal consumption while on duty.
5. Reporting for duty or remaining on duty when the employee has used any controlled substances, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a vehicle. When taking medication pursuant to a doctor's direction, which may affect the employee's ability to perform safety sensitive functions, the employee shall promptly disclose this information to his or her supervisor.
6. Reporting for duty or remaining on duty if the employee tests positive for controlled substances.
7. Refusal of a request to submit to testing for any alcohol or controlled substance as required by this policy. Refusal can include inability to provide a specimen or breath sample without a valid medical explanation, as well as verbal declaration, obstructive behavior, physical absence resulting from the inability to conduct any test, or refusal to submit to an alternative test when requested to do so.
8. Providing false information in connection with a test or any attempt to falsify test results through tampering, contamination, adulteration or substitution.
9. Refusal or failure to comply with requirements for treatment or after care for alcohol or substance abuse problems, or for a return to duty.
10. Failure to immediately disclose to the employee's Appointing Authority of any criminal conviction regarding use of drugs or alcohol.

11. Knowing disregard by supervisory personnel regarding the requirements of this policy or any deliberate misuse of the policy regarding subordinates.
12. Failure to remain readily available for testing following an accident until released by the employee's Appointing Authority or immediate supervisor.
13. Consuming alcohol during the eight (8) hours immediately following an accident or until the employee undergoes a post-accident alcohol and/or drug test, whichever occurs first.
14. Failure to comply with the requirements for any "reasonable suspicion" test as directed by supervisory personnel.

The appropriate use of legally prescribed drugs and non-prescription medication is not prohibited. However, the use of marijuana or of any substance which carries any form of warning label which indicates that mental functioning, motor skills, or judgment will be adversely affected shall be reported to supervisory personnel prior to performing any "safety sensitive duties". Employees shall be responsible for removing themselves from performing and "safety sensitive functions" if they are experiencing any adverse effects from any medication. A legally prescribed drug means that the individual (employee) has a prescription or other written approval from a physician for use of a drug in the course of medical treatment. It must include the patient name, the name of the substance and/or medication, quantity/amount to be taken, and the period of authorization for use of the drug or substance.

For the purpose of this policy, a "safety sensitive function" is any activity or work, the performance of which involves some risk of injury to people or property, including but not limited to the personal safety of the person performing the work, which risk of injury is reasonably believed to be increased due to the use of alcohol and/or drugs which may cause impairment to the mental and or physical abilities of the person consuming same. An example of a "safety sensitive function" is the operation of a motor vehicle. (Ord. 909, eff. 8/4/00)

(e) Testing for Prohibited Substances

All testing under this policy shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and lab facilities, which have been approved by the Department of Health and Human Services (DHHS). All testing will be conducted in accordance with procedures established by law. Samples shall be retained by the County or its testing laboratory for a minimum of ninety-six (96) hours from the time of notification to the employee of the results of the testing which has revealed drug and/or alcohol use in violation of this policy. The employee shall be notified of his or her right to request re-testing or testing at a laboratory of his or her choice (if a sufficient amount of sample is available for that purpose) which request must be made

within the 96 hours from the time of the notification. All costs for storage following such a request shall be borne by the employee.

Testing for drug and alcohol use shall be conducted and imposed upon covered employees under the following circumstances:

1. Pre Employment Testing: All applicants shall be required to submit to pre employment/pre duty drug testing and breath alcohol testing. Applicants who do not pass these tests shall not be hired by the County and/or immediately dismissed.
2. Reasonable Suspicion: Employees shall be required to submit to reasonable and appropriate alcohol and/or drug testing when there are reasons to believe that drug or alcohol use has occurred and/or is adversely affecting job performance.

A reasonable suspicion referral for testing will be made on the basis of objective facts and circumstances that are consistent with the effects of substance abuse. Reasonable suspicion is a belief based upon specific contemporaneous articulable observations concerning the appearance, behavior, speech, and/or body odors of the employee and reasonable inferences drawn from those facts. Reasonable suspicion may be based upon indicators, such as blurry eyes, slurring speech, alcohol on the breath and similar indicators.

A supervisor who is trained to detect the physical and behavioral signs will make reasonable suspicion determinations and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected and/or impaired in his or her work performance due to prohibited substance abuse or misuse.

Once a reasonable suspicion determination is made, it is the responsibility of the employee's immediate supervisor, or such person as may otherwise be designated, to transport the employee to the collection site. Under no circumstances shall the employee who is to be tested based on reasonable suspicion, be permitted to drive any vehicle or to transport him or herself to the testing location. The reasonable suspicion test must be conducted as promptly as possible and in no case may such a test be administered after eight (8) hours following observation. County personnel shall transport the employee to his or her residence or other appropriate destination after the test.

Supervisory personnel implementing a reasonable suspicion test shall use the form attached hereto as "Attachment B", to document the findings supporting the test.

3. Random Testing: Due to the critical nature of the law enforcement and emergency service provided by the employees within the Sheriff's Department and the safety concerns pertaining thereto, those employees within the Sheriff's department shall be subject to random alcohol and drug testing. (Random testing under this ordinance shall not apply to employees other than those in the Sheriff's department.) The following procedures regarding random testing shall apply:

- (i) The number of drug tests conducted annually shall equal or exceed 50% of the number of employees for within the Department. Random alcohol tests shall equal or exceed 25% of the employees.

The County shall use a random selection process to select and request an employee to be tested for use of alcohol or controlled substances (drugs).

- (ii) An employee shall submit to alcohol or controlled substance testing when selected by a random selection process used by the County. Some employees may be tested more than once in a year, while others may not be tested at all depending upon the random selection. To assure random selection, all employees within the department, whether or not they have been chosen for testing in the past, will remain in the pool of employees for any subsequent period. This procedure assures that the probability of any individual being selected each period is always the same, whether or not the individual was selected in a previous period.

- (iii) Post Accident Testing: Employees will be required to undergo urine and breath testing if they are involved in an accident, while on duty, in which there is any injury to a person or there is property damage, or when a State or local law enforcement agency issues a citation to the employee driver for a moving violation arising from the accident. This requirement also includes other employees who are on duty and whose actions or omissions may have contributed to the accident. For the purpose of this policy an accident shall mean an injury to the employee or any other person reasonably requiring medical assistance or review, and/or injury to real or personal property which is could reasonably be expected to amount to more than \$500.00 in loss or damage.

Post accident testing shall occur as promptly as possible. Any employee subject to post accident testing shall not use alcohol within eight (8) hours following the accident or before an alcohol test, whichever comes first.

Following any accident, the employee shall remain available and may not leave the scene of any accident prior to submission to drug and alcohol testing unless appropriate authorization is given by law enforcement and/or supervisory personnel. This does not prohibit the employee from leaving the scene of an accident to obtain required emergency medical care.

4. Return To Duty/Follow Up Testing: Any employee who previously tested positive on a drug or alcohol test and who has violated any of the prohibitions of this policy must submit to a return to duty test before resuming any employment position. The test result must indicate an alcohol concentration of less than 0.02 or a verified negative result on a controlled substances test. Employees who engage in conduct prohibited under this policy shall be evaluated by a substance abuse professional (SAP). The County will provide for the SAP evaluation to assess employees with drug and/or alcohol misuse problems. The County will only provide an assessment by a SAP and all further treatment or rehabilitation, including costs, is the responsibility of the employee. Where care is provided under the employee's health care plan, employees may avail themselves of that or those options. An employee wishing to use health plan benefits should contact the County's health insurance contact for assistance in accessing benefits.

Where the SAP determines that an employee needs assistance for substance abuse, as a condition of continued employment with the County and before returning to duty the employee must (1) comply with the treatment program recommended by the SAP, (2) undergo a drug and/or alcohol test to satisfy established acceptable results for return to duty; and, (3) be re evaluated the SAP to determine whether the employee has successfully complied with the treatment program. In addition, as a condition of continuing employment, the employee shall be subject to a minimum of six (6) unannounced drug and/or alcohol tests over the ensuing twelve (12) months. The SAP can direct additional testing during this period for an additional period up to a maximum of sixty (60) months from the date that the employee returns to duty. The SAP can terminate the requirement for follow up testing in excess of the minimum required at any time if the SAP determines that the testing is no longer necessary and the decision is concurred in by the employer. Follow up testing may include tests for other substances beyond the employee's initial positive test of alcohol and/or drugs when the SAP has reason to suspect other drug or alcohol use or misuse during the follow up period.

- (f) Employee Requested Testing: Any employee who disputes the results of a required drug test may request that an additional test be conducted. In such case, the test must be conducted at a different testing DHHS certified lab and the test

must be conducted on the split sample that was provided at the same time as the original sample.

1. Consequences of a Positive Test

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination. The following process is required for alcohol and drug testing:

(i) Alcohol Test Results Between 0.02 and 0.04:

- A. The supervisor/Appointing Authority shall initiate a disciplinary action against the employee listing the basis of the action and providing a Notice of Disciplinary Action. The disciplinary action, shall include a notice of violation to the employee's file and a requirement that the employee obtain an evaluation of and treatment for alcohol abuse as the SAP may determine, which shall be a condition of continued employment. At the request of the employee a disciplinary hearing shall be held.
- B. The supervisor/Appointing Authority shall give the employee the telephone number of the County's substance abuse professional (SAP) and advise the employee that he or she must contact the SAP within twenty four (24) hours. The employee shall promptly submit to a full and proper evaluation by the SAP. If the employee fails to promptly submit to a full and proper evaluation by the SAP, the employee may be placed on administrative leave, without pay, until the evaluation is performed by the SAP.
- C. The employee must undergo a return to duty test with less than ".00" reading for alcohol and a negative drug test result prior to returning to work.
- D. The employee must sign a return to work agreement outlining ongoing treatment, after care conditions, and follow up testing for up to five (5) years with a minimum of six (6) test the first year

(ii) Alcohol Test Results at 0.04 or above:

- A. The supervisor/Appointing Authority will prepare a Notice of Disciplinary Action and conduct a disciplinary hearing, leading to the suspension, demotion or termination of employment. In addition, the employee shall promptly

submit to the evaluation and treatment program or programs as determined by the SAP (as provided for in subsection 1, above) and the follow up testing as a condition of continued employment with the County.

B. The employee will be given a list of substance abuse rehabilitation resources in the area.

(iii) Drug Test Results are Verified Positive:

A. The supervisor/Appointing Authority shall prepare a Notice Of Disciplinary Action and conduct a disciplinary hearing. The employee may be dismissed from County employment for use of any illegal substance or use of any controlled substance without appropriate authorization of a licensed medical doctor. An employee may be disciplined for abuse of controlled substances (prescription medications) where the employee knew or should have known that the nature of the employee's use could impair his or her ability to properly perform his or her job and/or to protect the public health and safety and failed to properly report such use to his or her supervisor. An employee using prescription medications may be required to take time off from work, using such leave that he or she may have accrued, where in the judgment of the supervisor or Appointing Authority, the use of such medications may impair the employee's job performance or make them unable to perform safety sensitive functions.

B. It is the intent of the County that any employee shall be dismissed for use of any illegal substance or use of any controlled substance without appropriate authorization of a licensed medical doctor dismissal, unless the Appointing Authority believes that there is exceptional reason to continue the employment, in which case the employee shall be suspended without pay, pending a report and recommendation from the SAP concerning the need for substance abuse rehabilitation. Any suspension may continue until such time as the employee successfully completes initial treatment and compliance with a full treatment program shall be a condition for continued employment. The cost of treatment shall be the sole responsibility of the employee. Any subsequent positive test for illegal drugs or the unauthorized use of a controlled substance shall result in dismissal of the employee.

- C. An employee will be given a list of substance abuse rehabilitation resources in the area. If the discipline is not discharge, the employee will be referred to the SAP for evaluation and treatment recommendations as outlined for alcohol tests which result between 0.02 and 0.039.
- D. Failure to meet any of the terms for the return to duty agreement will result in immediate discharge.

(iv) Payment and Costs of Testing

The County shall pay the cost of the initial test or tests. Costs for any follow up testing or requested split sample testing shall be the sole responsibility of the employee subject to the follow up testing or who has requested the split sample testing. If the split sample test should indicate a negative result, the employee shall be reimbursed for the cost of the split sample test. The employee shall also be responsible for any medical evaluation that may be necessary as a result of the employee not being able to provide an adequate sample. Split sample testing will only be available if there is sufficient quantity to allow for such testing.

(Ordinance 878, eff. 02/18/99)