

## **COUNTY OF NEVADA – PERSONNEL CODE**

### **SECTION 1.0 - ADOPTION AND PURPOSE**

#### **1.1 ESTABLISHMENT OF A PERSONNEL CODE**

By adoption of Resolution, the Board of Supervisors of Nevada County establishes a Personnel Code for the County of Nevada. All Nevada County officers and employees shall be subject to this Code, except as otherwise provided.

#### **1.2 PURPOSE AND OBJECTIVES**

The purpose of this Code is to implement an equitable system of human resources administration for County service. The County strives to promote employee morale, opportunities for development and progression, excellence in government, and a high level of customer service, effective employer-employee relations, efficiency and economy in service, continuous improvement, and good working conditions.

This Code is established to develop and maintain a program of personnel administration based on merit principles and modern principles and methods of human resources management. This Code governs the appointment, tenure, promotion, transfer, termination and discipline of its officers and employees.

#### **1.3 CONSTRUCTION**

- A. Nothing in this Code shall be construed to deny any person or employee the rights granted by Federal, State and local laws and County ordinance provisions.
- B. These rules do not create any contract of employment, express or implied, or any rights in the nature of a contract.
- C. The County Executive Officer (CEO) shall have the authority to implement any County policy or procedure as required by law, and as required to facilitate the daily operations of the County in accordance with the County's meet and confer obligations including establishing practice where the Personnel Code or applicable Memoranda of Understanding (MOU) are silent. Nothing in this section shall be construed to abrogate existing MOU language or obligations and/or meet and confer requirements.
- D. If a provision of this Code conflicts with any provision of an applicable MOU (for represented employees) or Compensation and Benefits Summary (for unrepresented employee units) entered into by the County and a recognized employee organization or unrepresented employee, to the extent of such a conflict, the provision of the MOU or Compensation and Benefits Summary shall be deemed

controlling. An applicable MOU or Compensation and Benefits Summary take precedence over these Code provisions.

#### **1.4 SEVERABILITY**

If any part of this Code is declared unconstitutional or void for any reason, such decision shall not affect any remaining parts.

### **SECTION 2.0 – DEFINITIONS**

#### **2.1 ABSENCE WITHOUT OFFICIAL LEAVE (“AWOL”)**

An employee is considered AWOL (absent without official leave) if they are absent from their position on a scheduled shift/workday without authorized leave and without providing reasonable excuse.

#### **2.2 ACTING ASSIGNMENT**

Acting Assignment means the temporary assignment of a regular or limited term employee to another position.

#### **2.3 ADMINISTRATIVE LEAVE**

Administrative leave is a form of authorized leave that may be paid or unpaid depending on the circumstance. The County reserves the right to place an employee on such leave, with or without pay, when appropriate and consistent with County policy and the law. Placement on Administrative Leave is not, in and of itself, disciplinary in nature.

Employees may also be entitled to administrative leave through the application of an applicable MOU or agreement.

#### **2.4 APPLICANT**

Applicant means a person who has submitted a valid application for employment in accordance with this Code. The term does not apply to a person who has indicated interest in employment either orally, in writing or electronically, but who has not submitted a valid and open employment application.

#### **2.5 APPOINTING AUTHORITY**

Appointing Authority means the Board of Supervisors, County Executive Officer (CEO), Department Heads or their designees having lawful authority to hire, appoint, assign, transfer, discipline or remove persons from positions in the County service.

#### **2.6 APPOINTMENT**

Appointment means the offer of and acceptance by a person to a position for County employment service in accordance with these rules.

**2.7 ASSISTANT DEPARTMENT HEAD**

Assistant Department Head means the person with delegated authority to act on behalf of the department head in their absence or as directed, irrespective of the class title assigned. As provided for in Personnel Code, Section 18, an Assistant Department Head serves in such capacity at the will of the Department Head.

**2.8 AT-WILL EMPLOYEE**

An at-will employee is one who serves at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. At-will employees may be terminated at any time with or without cause. At-will employees include any of the following:

- (a) County Executive Officer
- (b) County Counsel
- (c) Department Directors/Department Heads
- (d) Assistant Department Heads
- (e) Attorneys I/II/III-Civil
- (f) Temporary employees
- (g) Probationary employees
- (h) Other positions specifically designated by the Board

**2.9 AUTHORIZED POSITION**

An “authorized” or “allocated” position means a position of a certain classification allocated to a specific department and shown in the most current authorized personnel staffing resolution.

**2.10 BOARD**

Board means the Board of Supervisors of the County of Nevada.

**2.11 COMPENSATION**

Compensation means the salary, wage, allowances, and all other forms of valuable consideration, earned by or paid to any employee by reason of service in any position, but do not include any allowances authorized and incurred as incidents to employment.

**2.12 CONTINUOUS SERVICE**

Continuous service means uninterrupted employment. Military leave and leave with pay do not constitute interruptions of service. Unprotected, authorized, leave of absence

without pay exceeding 15 calendar days, resignation, dismissal, layoff for lack of work or funds or abolishment of position constitute interruptions of service, unless specifically provided otherwise by this Code.

**2.13 DAY**

Day means a calendar day beginning at midnight and ending on the following midnight unless otherwise specified.

**2.14 DEMOTION**

Demotion means a change or movement of an officer or employee from a class assigned to one salary range to a class assigned to a lower salary range.

**2.15 DEPARTMENT HEAD**

Department Head means an elected officer or officer appointed by the Board, County Executive Officer or their designee and who has direct supervision of and responsibility for personnel, records, funds, maintenance, and service to be performed by a County department.

**2.16 EMPLOYEE**

Employee means any person employed by the County except those persons elected by popular vote or appointed to office by the Governor of the State. Employees may be classified as temporary, probationary, or regular.

Except as otherwise provided by this Code or as otherwise required by law, unpaid interns, contractors and volunteers are not County employees.

**2.17 FULL TIME EMPLOYEE**

A full-time employee is one whose position is budgeted to work at least 40 hours per week. Full-time employees receive benefits provided in these Policies, unless otherwise provided in an MOU, or an employment agreement approved by the County's Board of Supervisors.

**2.18 HOURLY RATE**

Hourly rate means the amount of individual compensation, for a full hour's service, as set forth in the Authorized Salary Resolution.

**2.19 INTERN**

From time to time, the County will provide students and adult learners with unpaid internship opportunities so that the student enrolled in educational programs may gain practical work experience. An intern is not considered a County employee, but is an individual who receives training and experience, for the benefit of the individual, similar to that which they would receive in an educational environment. Interns are not entitled to and shall have no expectation or receipt of compensation or benefits of any kind in connection with a County internship, unless specifically authorized by the Human Resources Director. Interns serve at-will and at the pleasure of the appointing authority and have no property right in a continued post or employment, and no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. Interns shall be identified as such prior to commencing County service.

An intern may not serve in or displace an existing staff position. Each intern will work under close supervision by existing staff.

## **2.20 LIMITED TERM APPOINTMENT**

A limited term position refers to an appointment made for a specific, limited, duration of time. Limited term appointments do not confer regular status. Individuals appointed to a limited term position are eligible for benefits further described in Section 24.3. Limited term employees are distinguished from permanent employees by the fact that their employment is for a predetermined duration and does not confer seniority rights or just cause rights.

If an employee who has obtained regular status with the County accepts a Limited Term position, the employee will not have rights to return to the position for which they previously held status once the limited term duration of the position comes to an end.

## **2.21 JUST CAUSE**

Just Cause means the conduct or conditions existing which justify imposing discipline upon an employee. Just cause includes but is not necessarily limited to conduct or conditions prohibited by this Code or an applicable memorandum of understanding or agreement.

## **2.22 OFFICER**

Officer means any appointing authority, person occupying an elective position, or any person acting in such capacity.

## **2.23 PART-TIME EMPLOYEE**

Part-time employee means an employee who is assigned to work a specific number of hours less than a normal full-time schedule for the position they fill. Typically, a part-time employee is one whose position is budgeted to work less than 40 hours per week.

Part-time employees hold a regularly allocated position. Part-time employees may have different rights to leave and other benefits under the law or these Policies, depending on the number of hours they work.

#### **2.24 POSITION**

Position means a specific allocation within a job classification calling for the performance of certain duties and the carrying of certain responsibilities by one individual.

#### **2.25 PROBATIONARY PERIOD**

The probationary period is an extension of the selection process required before an employee gains regular status in that position. Unless otherwise indicated, the probationary period is twelve (12) months from the employee's salary anniversary date. The twelve (12) month probationary period shall be extended by the amount of time that the employee is on any leave of absence (sick, vacation, leave without pay, disability, worker's compensation, etc.) that exceeds fifteen (15) consecutive workdays. The probationary period cannot otherwise be extended.

#### **2.26 PROMOTION**

Promotion means the movement of an employee from one class to another class having a higher maximum rate of pay.

#### **2.27 PROMOTIONAL LIST**

Promotional list means a list of names of current County employees who have passed a selection process for a position.

#### **2.28 RECLASSIFICATION**

Reclassification means the movement of an employee from one classification or salary range to the same or another existing or new classification in a higher, lower, or equal pay range in order to reflect more accurately the duties and responsibilities of the job being performed.

#### **2.29 REGULAR STATUS EMPLOYEE**

Regular status employee means a non-elected individual who has been appointed to a regularly allocated position and who, upon satisfactorily completing a probationary period, has a continued expectation of employment.

A regular status employee is a for-cause employee who cannot be disciplined except when the County has cause to do so. A for-cause employee has a property right in continued employment, and has the right to pre- and post-disciplinary procedural due process and an evidentiary appeal for disciplinary actions that result in a significant deprivation of property, as identified in the disciplinary policy set forth in this Code.

**2.30 REPRIMAND**

Reprimand means a verbal or written warning issued to an employee for a failure to perform satisfactorily.

**2.31 SALARY**

Salary means the amount of individual cash compensation an employee receives for a full pay period of service in a range and step established in accordance with the provisions of this Code.

**2.32 SALARY RANGE**

A salary range is a sequence of salary steps used to identify the minimum and maximum salary rates, which may be paid to employees within a classification.

**2.33 SALARY RESOLUTION**

The authorized salary resolution is the document approved by the Board of Supervisors that establishes the salary to be paid to each position in County service.

**2.34 SENIORITY**

Seniority means the total amount of County service for which an employee shall receive credit for purposes of determining order of layoff, where applicable pursuant to this Code.

**2.35 SEPARATION**

Separation means any termination of employment. Termination may include death, discharge, layoff, resignation, and retirement or work completion. Separation may or may not occur as a result of a disciplinary action.

**2.36 STAFFING RESOLUTION**

The resolution approved by the Board of Supervisors that sets out the authorized positions and staffing pattern for each department or budget unit.

**2.37 STEP**

Step means one of the salary rates identified in a salary range for a particular classification.

**2.38 VOLUNTEER**

A volunteer is not an employee, but instead is an individual who provides services to the County for civic or philanthropic reasons without promise, expectation or receipt of compensation for services rendered.

Individuals identified by the County as volunteers shall not be promised, shall not expect, and shall not receive any compensation for services rendered. Volunteers serve at-will and at the pleasure of the appointing authority and have no property right in a continued post or employment, and no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. Volunteers shall be identified as such prior to commencing County service.

An individual shall not be considered a volunteer if they are otherwise employed by the County to perform the same type of services as those for which the individual proposes to volunteer. Any employee desiring to volunteer unrelated services to the County shall obtain necessary authorization from the Human Resources Director.

**2.39 WEEK**

Week means a period of seven consecutive days.

## **SECTION 3.0 - GENERAL PROVISIONS**

### **3.1 ADMINISTRATION**

- A. **Applicability** Except as otherwise provided, the provisions of this Code shall apply to all County officers and employees. The provisions of this Code shall not apply to volunteers unless otherwise stated herein.
- B. **Authority to Employ** Subject to the provisions of this Code and pertinent federal, state and local laws and regulations, the head of each department and office shall have the authority to employ and assign personnel as provided in this Code.
- C. **Administrative Responsibility** The County Human Resources Director shall be responsible for the administration of this Code, except as otherwise provided. The Director is responsible for the enforcement of personnel policies established by the Board. The Director shall specify such administrative procedures, forms, records, reports, and audits as they deem necessary for the proper administration of the Code. The Human Resources Department shall maintain a personnel file for each employee which will be available to the employee and authorized persons in accordance with the Personnel Files Policy, Personnel Administrative Guideline P-4.
- D. **Delegation of Authority** The County Human Resources Director may delegate to subordinates or other County Officers or their designee any power, duty, or function, which has been delegated to them by the Board, unless by Board rule or by law they are required to act personally.
- E. **Record Keeping** It shall be the mandatory duty of each appointing authority to keep accurate records reflecting the application of this Code and to comply with the requirements set for administrative procedures, forms, records, reports, and audits as the County Human Resources Director may specify.
- F. **Cooperation** All officers and employees of the County shall aid in all proper ways in carrying into effect the rules of this Code. Any changes in this Code, which affect the status of any employees shall be communicated to such employees by the appointing authority or their designee.
- G. **Federal, State and Local Law** These rules shall at all times be construed in a manner consistent with the provisions of any pertinent federal, state or local law or regulation.

### **3.2 DAYS AND HOURS OF WORK**

#### **A. Standard Work Schedule**

The normal work schedule for full-time, regular status employees shall consist of five (5) eight (8)- hour days from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., subject to applicable breaks, Monday through Friday except specified holidays, unless otherwise approved by the County Executive Officer or designee.

With the approval of the County Executive Officer or designee, a department head may make such changes to the schedule of work hours as public convenience or necessity may require subject to meet and confer obligations. The workweek shall commence on Saturday at midnight and end on the following Saturday at midnight.

Employees occupying part-time regular or temporary positions shall work such hours and schedules as prescribed by their department head.

**B. Flexible Work Schedule**

Employees may be assigned a work schedule of work shifts of lesser than, greater than, or equal to five eight-hour days in a given work week (i.e. four ten-hour workdays [4-10], four-nine-hour days and one 4-hour day [4-9-4], four nine-hour days plus one 8 hour day and four nine-hour days and one zero-hours-worked day [9-80]). In some cases of a flexible work schedule, the standard work week may be changed to accommodate the flexible work schedule. Written approval of the flex schedule must be obtained by the Department Head, and the flex schedule may be revoked at any time. The County has the right to change schedules subject to the applicable MOU or in accordance with meet and confer requirements.

For additional information regarding flexible work schedules, refer to Appendix P-13 of this Personnel Code.

**3.3 EMPLOYEE MEAL AND REST BREAKS**

- A. Each non-exempt employee shall normally be allowed one compensated rest period not to exceed 15 minutes for each four (4) hours of continuous time worked at the Department Head's discretion. The time when breaks shall be taken shall be at the discretion of the appointing authority. Rest periods shall not be combined and shall not be used to shorten the workday or to extend the meal period. Insofar as practicable and consistent with work requirements and with the advance approval of the supervisor, each rest period shall occur in the middle of the above-specified 4-hour period.
- B. An overtime-eligible employee who wishes to express breast milk for an infant child during scheduled work hours will receive additional unpaid time beyond the 15-minute compensated rest period. Those desiring to take a lactation break must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.
- C. A one-hour or 30-minute non-compensated meal period will be provided to all full-time overtime-eligible employees who work at least an eight-hour workday. A 30-minute non-compensated meal period will be provided to all overtime-eligible full-time employees who work more than five hours, but less than eight hours during

the workday. Overtime-eligible employees are responsible for taking their meal period at a time designated by the supervisor.

- D. A department may designate areas to be used for employee breaks and meal periods and may purchase appliances as appropriate.
- E. The County will make reasonable efforts to accommodate employees wishing to express breast milk by providing an appropriate location to express milk in private. The County will attempt to find a location in close proximity to the employee's work area, and the location will be other than a toilet stall. Employees occupying such private areas shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance. Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

Any employee storing expressed milk in any authorized refrigerated area within the County shall clearly label it as such. No expressed milk shall be stored at the County beyond the employee's workday/ shift.

### **3.4 ABSENTEEISM AND LATE ARRIVAL**

#### **Notification of Unforeseen Late Arrival or Absence**

An overtime-eligible employee who is unexpectedly unable to report for work as scheduled must notify their immediate supervisor no later than the beginning of the employee's scheduled work time and report the expected time of arrival or absence. If the immediate supervisor is not available, the employee must notify the department head or follow other departmental procedures.

### **3.5 UNSCHEDULED CLOSURE OF FACILITIES**

Whenever, because of inclement weather, power outage or other cause beyond the control of the County, a County facility is declared unusable or unsuitable as a place in which to perform the normal service(s), the County Executive Officer or designee may order the temporary cessation of one or more such services regularly provided in or through the said facility, and may transfer affected employees to another location where productive work can be performed.

The County Executive Officer may order the cessation of a service or services by finding that (1) to permit the employees to access or to continue working at the facility would pose a hazard to their health and welfare, or (2) due to the circumstances, productive work could not be accomplished by the personnel assigned to the affected function or service, or (3) for other circumstances as deemed by the County Executive Officer.

In the event that the County Executive Officer orders the cessation of a service or services pursuant to the provisions of this Section, those employees who are directed to cease working, are directed not to report for work or who upon reporting for work are directed not to work, shall be paid their regular rate of pay for all time missed. Employees may only be directed not to report for work after the building has been officially closed by the County Executive Officer. Nothing in this policy changes the requirement specified above that certain positions are required to work as directed during facility closures.

In the event that an employee feels that their safety is at risk due to inclement weather, such as snow, the employee may, after meeting all departmental call-in requirements, request leave time rather than reporting to work. Employees who are on leave at the time of the facility closure (including leave for leaving early or not coming to work due to weather) shall remain on leave status (such as vacation, unpaid leave or comp time.)

In the event of an emergency closure of one or more buildings, County employees who are set up to telework will be expected to telework in this situation unless otherwise directed. The County shall direct the work of other County employees consistent with safety protocols and the needs of the County.

If an employee is at home at the time of power loss and the employee's County office has not lost power, the employee shall contact their supervisor prior to the start of their shift so that the supervisor can advise regarding whether the employee should physically report to work, stay home and telework or be placed on Building Closure leave.

### **3.6 PROFESSIONAL DUES, MEMBERSHIPS AND LICENSES**

Payment by the County of employee licenses, dues, certifications or professional memberships that may be required by the County for the performance of a County job shall be at the sole discretion of the County.

### **3.7 SAFE WORKING CONDITIONS**

- A. The County shall maintain a safe and healthful place of work in accordance with all applicable local, state and federal laws. Unsafe working conditions or hazardous jobs which jeopardize the health and safety of the employees shall be directed to the attention of the County Safety Officer by any persons having knowledge of same. The County shall investigate the complaint and take necessary corrective measures at the earliest practicable time. The employees and their unions or association shall cooperate fully in carrying out safe practices and in using safety devices provided by the County.
- B. The County shall provide all necessary safety equipment for the employees to perform the normal tasks of their respective classifications. These devices and equipment shall be safety appliances to safeguard the employees against danger to health, life and limb.

- C. The County will provide training programs on safety matters and issues, as it deems necessary. The type and frequency of such training shall be in accordance with the nature of work performed and services provided by the affected employees, and may include training in first aid, CPR and hazardous substances handling and disposal, as necessary.
- D. All employees who could reasonably be expected to come into contact with human blood or other potentially infectious materials in the course of their work will be protected by voluntary vaccinations to prevent Hepatitis B (at County expense) as well as access to protective equipment.

### **3.8 CONTRACTING OUT**

The County may, in the interest of economy and efficiency, perform any or all of the services, projects, or work assignments of its departments, offices, boards, or commissions through the use of its own employees, the employees of other governmental agencies, or through the use of contractual agreements.

The County shall give the affected union or employee association notice prior to the implementation of any proposed contracting wherein such contracting may result in the layoff of any regular status employee and shall consult with the union or employee association in good faith regarding the effects of such contracting. Such consultation shall not delay the effective date of such contracting unless the County and union or employee association mutually agrees in writing to postpone or cancel the proposed contracting. Consultation shall not be required where the contracting will not result in the layoff of any regular status employee.

### **3.9 USE OF COUNTY PROPERTY/EQUIPMENT**

All County equipment is property of the County and is to be used only for purposes related to conducting County business unless otherwise authorized. Equipment including but not limited to telephones, desks, computers, file cabinets, lockers and other County property used by County employees in their work may be monitored and searched by County personnel without prior notice. Employees are hereby notified that they do not have a reasonable expectation of privacy in their use of County property/equipment.

### **3.10 PHONE, COMPUTER, AND ELECTRONIC COMMUNICATIONS AND DEVICES POLICY**

#### **A. Purpose of the Policy:**

This policy governs all County Communications and County Communications Devices and resources including, but not limited to, the Internet, E-mail, voice-mail, cellular telephones, pagers, smartphones, mobile devices, computers/laptops, telecommunications devices, video and audio equipment, wireless networks, data systems telecommunications equipment, transmission devices, storage systems, computer systems, servers, networks, input/output and connecting devices,

software, artificial intelligence systems (AI) systems and services, County-related social media, cloud services, hosted applications, portable storage devices, and documentation that supports electronic communications services ("Electronic Communications Resources").

Access control and usage of the County of Nevada intranet and associated systems are governed by this section of the County of Nevada Personnel Code (3.10) and the Nevada County Information and Cybersecurity Program. All employees are required to abide by the Nevada County Information and Cybersecurity Policy (NCICP) collection and agree to the Acceptable Use Policy (NCICP-101).

**B. General:**

The County of Nevada encourages the use of electronic communications resources to share information in support of its mission of public service and to conduct its business. The County owns and operates a variety of computers, network, messaging, electronic mail (hereinafter "e-mail"), Internet access and voice and video communication systems for use by its employees. These systems are provided to employees at the County's expense to assist the employees in carrying out the business of the County. Social media tools and websites such as Twitter, Facebook, Instagram as well as services such as Instant/Video Messaging/Chat, Comments, Wikis, Blogs, Groups, Skype, and VoIP are similar to e-mail as communication methods and for the purpose of this policy, are equivalent in all aspects to e-mail. As such, social media services/tools/technologies including instant messaging are inclusive to all references to e-mail in this policy.

**C. Employee Owned Equipment:**

Employee privately owned equipment (cell/smartphones, note/net-books, tablets, computers and other current and future devices) are increasingly being used to access County-owned systems, network, information and communications and to conduct County business. The policies covered in Section 3.10 apply to all County Business activities and communications conducted on employee owned equipment and/or while employees are working and utilizing personally owned equipment. Employees should be aware that privately owned equipment may, as part of litigation or other legal processes, be subject to seizure for review of the County owned data and therefore, the County prefers that employees use county-owned equipment for conducting county business. To the extent that an employee uses a personal device for County communications or to conduct County business, all such communications and business must be performed on or directed to County servers. For example, a County employee who uses a personal electronic device to conduct County business/communications must, to the extent possible, route such business/communications through a County email address. If a member of the public communicates with a County employee regarding County business via their

personal email address, the employee shall forward the communication to their County email address and respond to the communication from their County email address. Should the County need to review an employee's privately owned equipment for county purposes, the County will comply with all state and federal laws and regulations regarding employer access to employee-owned equipment.

**D. Electronic Communications:**

The County's email system is an official communication tool for County business. An official email address is established and assigned by the County to each employee and County official. All County related communications sent via email will be sent to/from this address. County employees and officials must use the official County email, instead of a private email address (such as Gmail, Microsoft, Yahoo, etc.) when communicating County business via email. If, through no fault of the employee / official, a County communication is directed to a personal email address, the employee / official must re-direct the communication to their County email address.

Electronic Communications Resources must be used in compliance with applicable statutes, regulations, and County's policies including those that require a work environment free from discrimination and harassment. Electronic communications should conform to the same standards of propriety and respect as any other verbal or written communication at the County. Employees are expected to use common sense and judgment to avoid any communication which is disrespectful, offensive or illegal. The County, as the provider of access to its Electronic Communications Resources, reserves the right to specify how those resources will be used and administered to comply with this policy. It is important to realize that the message content sent from the County's account reflects upon the County (positively or negatively) to those who receive the message.

Electronic communications to recipients on systems outside of County pass through systems and networks not managed by the County. The privacy and confidentiality of these messages is, therefore, not assured. When appropriate, County-supplied encryption methods should be employed to protect the privacy of information in compliance with laws and regulations. In addition, some delivery methods and networks impose legal restrictions regarding the nature of messages allowed. Users are expected to comply with all such regulations.

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

**Login Credentials and Authentication:**

Each employee is assigned unique login credentials by the County to access

systems, as outlined in the Acceptable Use Policy. These credentials must be kept private and secure and must not be shared. Users are not allowed to delete or modify their credentials without County approval. Regularly changing passwords/passcodes/tokens is not a violation of this policy.

**Software and Device Use and Installation:**

Only software approved by the County of Nevada Information and General Services (IGS) Department may be installed on County-owned devices. To ensure all software is properly licensed and free of viruses, software must be reviewed by the Information Systems Department and installation performed by IS staff or authorized delegates.

Any software or data from outside the County—whether downloaded or from physical media—must be scanned using County-approved antivirus and anti-malware tools before installation/use. Downloading software from external sources requires prior approval from IGS. Approved software must be business-related, properly licensed, and scanned for security threats. All devices connected to the County network must be authorized by IGS before use.

**E. Incidental Personal Use:**

Electronic Communication Resources, including County phones, are provided by the County to facilitate the performance of County work. Under no circumstance other than that which is expressly permitted, should an employee use any County resource for personal use.

Incidental personal use is permitted for reasons of personal necessity so long as employee use of the systems are made during the time the employee is relieved from duty (i.e. during a break, during the employee's lunch hour, or before or after the employee's work shift), and only so long as the Department Head determines that the operation of the Department or work performance of other employees is not being compromised or disrupted.

Incidental personal use should be minimal, and should not:

- 1) interfere with the County's operation of its Communications Resources;
- 2) interfere with the user's employment or other obligations to the County;
- 3) burden the County with noticeable incremental costs;
- 4) cause harm to County Resources; or
- 5) violate the law or County policy.

Incidental use of the County's Communications Resources should clearly indicate that the use is personal. Users of County Communications Resources will not give the impression that they are representing, giving opinions, or otherwise making statements on behalf of the County unless appropriately authorized to do so. The

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

The County reserves the right to block or limit access to resources available on the Internet if they are deemed to pose unnecessary risk to County Communications Resources. Risks may be, but are not limited to, potential malware and viruses, bandwidth demands potentially disrupting County Business and content deemed inappropriate for the workplace.

**F. Privacy Limits:**

Employees have no expectation of privacy in their County Communications or County Communications Resource. Users of County e-mail and communication systems should be aware that (1) their e-mail/communications are not personal or private, (2) their e-mail/communications may be (but are not necessarily) saved for future reference and (3) their e-mail/communications may be seen by persons other than the original addressee.

Subject to the restriction regarding obtaining County Counsel's permission under certain circumstances, the County of Nevada reserves the right to monitor or review e-mail messages and any information stored or transmitted on its equipment without advance notice to the users thereof. All such communications are the property of the County and may be accessed or retrieved by the County. The existence of passwords or delete functions does not restrict the County's right to access County Communications or County Communications Resources. The County reserves the right to specify how the County's network resources will be used and administered to comply with this policy and all NCICP documents. Designating communications as "personal", "private" or "confidential" (or otherwise) does not necessarily result in the document receiving any greater degree of privacy or confidentiality than that which would normally be given the specified communication and no employee should have an expectation of privacy in any message or communication they create, receive, store, send, or delete from any of the systems.

Employees should *not* communicate their private, privileged, or confidential information, including but not limited to personal attorney-client communications, financial or medical information and other privileged information, via the County's Communications Resources. Employees who do communicate their private, privileged or confidential information via the County's Communications Resources may be deemed to have waived any privilege or privacy rights in those communications, even where those communications are made via personal password protected accounts using the County's Electronic Communications Resources. Additionally, the County may be required to produce information transmitted or stored on its Communications Resources pursuant to a court order, subpoena, or statute.

Public Records Act and Litigation: The California Public Records Act requires the County to disclose specified public records. In response to requests for such disclosure, it may be necessary to examine County Communications' records, including electronic communications that users may consider to be personal to determine whether they are public records that are subject to disclosure. All communications transmitted via the County's Communications Resources, whether or not related to personal or confidential matters, are subject to monitoring, at the County's discretion. County business conducted on a personal device, or via a personal communications account (such as a personal email address or text message) may also be subject to disclosure pursuant to a Public Records Act request. Accordingly, as noted above, employees and County officials must ensure that any County business conducted on a personal device or via a personal account is directed to a County server and/or County account.

Communications on or through County systems may also be discoverable during the course of legal proceedings. Nothing in this policy will be construed to allow disclosure to the public under the Public Records Act or discovery production in a civil lawsuit of otherwise privileged or confidential information. An employee will consult with their department head regarding department policy before sending information subject to state and federal privacy laws (e.g., Health Insurance Portability and Accountability Act, "HIPAA").

**G. Confidential and Privileged Communications:**

California law requires that certain information be treated as confidential and not be distributed to others inside or outside the County who do not have authorization to view such information. Some examples of confidential information are: personnel records, medical records, internal investigations, on-going civil and criminal investigations, criminal records, information relating to litigation or potential litigation, attorney-client communications, information relating to labor negotiations, or information relating to confidential real estate negotiations. Confidential information should not be sent, copied or blind-copied, forwarded, or accessed by individuals or entities not authorized to receive that information and should not be sent, copied or blind-copied, forwarded, or accessed by County employees not authorized to view such information. Employees shall exercise caution in sending confidential memoranda, letters or phone calls, because of the ease with which such information can lose confidentiality by inadvertent or intentional diversion or re-transmission by others.

Communications sent to and received from attorneys representing the County are privileged communications. Such electronic communications shall not be distributed, copied, or blind-copied to unauthorized individuals.

In order to further preserve the attorney-client and attorney work-product privileges, e-mail communication to, from, or within County Counsel's office may not be opened, except by a person to whom it was properly addressed or with

County Counsel's express permission. Employees who send an e-mail containing confidential information to County Counsel should be aware that the confidential nature of such e-mails is subject to challenge in the courts and that preservation of these privileges requires limiting disclosure of the e-mail to essential recipients only. These limitations on monitoring do not apply to incoming or outgoing Internet e-mail for automated virus and spam protection, or Intrusion Detection Systems, nor do these limitations apply to monitoring by Nevada County Information Systems Department either externally or internally for Security or Quality of Service purposes as long as such e-mail are not opened and read by a person who has not received the County Counsel's permission.

#### **H. Restrictions:**

The information sources accessible via the Internet are worldwide and constantly growing in kind and number. It is not possible for any Internet access provider to fully manage the types of information accessible by its systems and users, especially with regard to content limitations. Nonetheless, the County reserves the right to restrict access to any data source, at its sole discretion. These restrictions do not constitute an implication of approval of other non-restricted sources.

#### **Inappropriate Use:**

Without exhausting all the possibilities, the following are examples of inappropriate use of the County's Communications Resources, including County computers, telephone, and cell phone and voice mail systems:

- 1) Creating, viewing, accessing, downloading, storing, or exposing others unwillingly, either through carelessness or intention, to material which is offensive, obscene or in poor taste. This includes information which could create an intimidating, offensive, abusive or hostile work environment;
- 2) Committing acts of violence including direct threats, communications which make an individual feel threatened or bullied, expressions of an intent to harm or to create an unsafe and/or dangerous situation or to make a person feel unsafe or in danger, or any other actions, activities, behavior, or conduct that violates County policy;
- 3) Any use that may, for a reasonable person, create or further a hostile attitude or give offense on the basis of race, color, religion, national origin, citizenship, ancestry, marital status, gender, disability, age, veteran's status or sexual orientation; or any other protected classification. This includes transmitting images, messages, cartoons, or jokes which include ethnic or racial slurs, or are offensive, or which may be construed as harassment or disparaging of others based on a protected class;

- 4) Communicating confidential County or HIPAA classified information to unauthorized individuals;
- 5) Sending messages or information which is in conflict with applicable law or County policies, rules or procedures;
- 6) Using or disclosing the username or password of another person to gain access to their email or other electronic communications resources account without the required consent and approval, or to otherwise make the County's electronic communications system(s) available to others without the required consent and approval;
- 7) Attempting to access unauthorized data or break into any County or non-County system;
- 8) Engaging in theft or the unauthorized copying of electronic files or data. These acts include, but are not limited to copying and storing confidential County data such as HIPAA classified information to unsecure portable storage devices, computers, or to personal account cloud storage services such as Dropbox, OneDrive, Box, etc.;
- 9) Performing acts that are wasteful of computing resources or that unfairly monopolize resources to the exclusion of others is prohibited. These acts include, but are not limited to sending mass mailings or chain letters and creating unnecessary network traffic;
- 10) Intentionally misrepresenting one's identity for improper or illegal acts;
- 11) Engaging in unlawful activities;
- 12) Engaging in commercial activity or activity for financial gain, not under the auspices of the County;
- 13) Engaging in recreational use of the County's Communications Resources that interferes with the ability of the employee or other users to conduct County work. This includes but is not limited to downloading or uploading software, games, or shareware. Employees are also prohibited from downloading and using instant messenger (IM) for recreational use;
- 14) Conducting ongoing personal business during work hours when the employee is not on a break, including (but not limited to) texting, accessing dating websites and social media websites such as Facebook, GoogleGroups, Instagram, and Twitter;
- 15) Advertising or soliciting for commercial ventures, personal business, or to perform an illegal or malicious act; and

16) Illegal copying of computer software or content that is protected by copyright.

If an employee receives an unreasonable amount of personal email or email that is inappropriate as described above, the employee is required to immediately give notice to the sender(s) of the email to cease further issuance of the subject emails.

Knowledge of passwords, loopholes, or other means of gaining access to network, data, communication, application, server, document, website, device, and associated computer security systems shall not be used to damage computing information or resources, obtain extra information or resources, take information or resources from another user, gain unauthorized access to information and resources, or otherwise make use of information or resources for which proper authorization has not been given. Accessing data on the County computer systems unless expressly authorized is strictly prohibited.

**I. Discipline:**

Employees may be subject to disciplinary action for using the County's Communications Resources in a manner other than for their intended purposes, or in a manner that violates applicable laws, rules and policies. Any violation of this policy will be considered grounds for disciplinary action up to and including termination, and/or civil and/or criminal prosecution under County, State, or Federal laws.

**J. Document Retention:**

Electronic files, documents, and e-mail messages should be treated the same as paper documents with regard to the laws pertaining to a public entity's retention and destruction of documents and records (Government Code Section 26200, et seq.). Accordingly, employees and elected officers may have an obligation to retain certain documents and e-mail communications for a specified period of time.

Employees should seek the advice of their Department Heads in order to ascertain the specific time requirements, which apply to the documents generated, received, and/or maintained by their departments.

An e-mail communication will be deleted as soon as practicable from the electronic communications system by an elected officer or an employee (recipient and the sender) without preserving the informational content of such communication, or any portion thereof, in archival form unless:

- 1) a law expressly requires such communication to be kept;

- 2) preservation of such communication is necessary or convenient to the discharge of the elected officer's or the employee's duties and such communication was made or retained for the purpose of preserving its informational content for future County use or reference;
- 3) in the event a public inspection request is made pursuant to the Public Records Act, or a demand by subpoena or court order is received by the County, for any communication in existence at the time such request or demand is received, or
- 4) whenever the potential for litigation arises, or has arisen, with respect to the matter communicated in the e-mail.

For purposes of this section, retention of e-mails falling into the four specified categories will be accomplished by either saving the communication on the elected officer's or the employee's e-mail system or by printing a hard copy of the communication on a printer and depositing it in a folder named "archives". An e-mail saved in this manner may be destroyed pursuant to Government Code §26202 when it becomes more than two (2) years old. In addition, Resolution No. 99-184 sets forth for each department a destruction of records schedule for various types of records. An e-mail falling into a category that under Resolution 99-184 is to be kept longer than two (2) years will be printed and the hard copy placed in the appropriate category's file for retention beyond the two (2) year period hereby established for e-mails in general.

**K. Data access, usage, storage, and protection:**

Many County employees create, delete, access, and utilize sensitive data in their daily work activities. These sensitive data types [referred to as “types”] are typically highly regulated and can include, but is not limited to, data types such as HIPPA, CJIS, and PCI. Each type has its own law and/or regulation that dictate the proper use, storage, transmission, etc. of the data. It is the employee’s responsibility to understand if they are working with sensitive data types and to handle such data in accordance with all Departmental, County, State and Federal applicable policies and regulations. For example, an employee should not copy County HIPAA data to a personal Dropbox online storage account, mobile device, print copy, email, or USB drive. Sensitive County data should only be stored on authorized county storage systems, services, and devices that have been configured for such use by the County with applicable safeguards such as data encryption capabilities and authorized by the employee’s Department Head for such storage.

**L. Overtime - Prior Approval Required:**

The Fair Labor Standards Act (FLSA) requires that the County pay each employee who is entitled to receive FLSA overtime for all hours worked. This provision does not apply to employees who are exempt from FLSA overtime because of the executive, administrative, or professional nature of their job duties.

1) No time spent in any activity on the County's Communications Resources for the benefit of the County may be done outside of employee scheduled work hours without advance approval from the employee's immediate supervisor. Emergencies may arise that call for an exception to this rule. In emergencies, the employee may perform the work, but must notify a supervisor as soon as possible, and in no event later than the end of that day. If the employee's supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working overtime.

2) All time spent outside of the employee's scheduled hours on the County's Communications Resources for the benefit of the County must be reported on official County forms so that the County may pay the employee for that work. Employees may never choose to work and not request compensation. All legitimate overtime will be compensated.

3) Employees are required to record all work time on official County records and to work overtime with approval. Failure to follow the County's overtime approval procedures will result in being paid for all legitimate work time, and being subject to disciplinary action, up to and including termination for violating the overtime approval procedures.

**3.11 EMPLOYEE NAME BADGES**

Each employee shall be provided with a name badge and shall wear the badge in clear view while working with the public.

The name badge should show the first name, last name being optional, and the County department in which the employee works.

Each employee leaving County employment will turn in to their supervisor, the County name badge(s) at the end of their last workday.

This policy shall not apply to the employees and officers of the Nevada County Sheriff's Department. The Sheriff shall provide such uniform regulations as are appropriate.

**3.12 WHISTLEBLOWER PROTECTION POLICY**

No manager, supervisor or Department Head shall prevent or take reprisal action through any act of intimidation, restraint, coercion, discrimination, or other adverse employment

action against any employee who has or is believed to have disclosed information to any government or law enforcement agency, including to the County, where the employee has reasonable cause to believe that the information discloses a violation of or noncompliance with any federal or state law, statute or regulation. Neither shall a manager, supervisor or Department Head retaliate against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation. The County additionally prohibits acts of retaliation against an employee because the employee's family member has, or is perceived to have engaged in any of the above conduct. This policy is not intended to prevent managers and supervisors from taking any personnel action affecting an employee when:

- A. The employee has disclosed information that they know to be false or has disclosed information with intentional disregard for the truth or falsity thereof;
- B. The employee has unlawfully disclosed confidential information from records, which are closed to public inspection pursuant to law;
- C. The employee has unlawfully disclosed information, which is confidential under any other provision of rules or law.

## **SECTION 4.0 – CLASSIFICATION SYSTEM**

### **4.1 PERSONNEL STAFFING RESOLUTION**

Each fiscal year, the Board of Supervisors shall, by resolution, specify the number and classification of all regular regular status employees authorized for each department of the County. Such resolution shall be known as the personnel staffing resolution. All additions, deletions or modifications to the personnel staffing resolution shall be made by the Human Resources Director amending the resolution. The County Executive Officer (CEO) shall have the authority to modify staffing allocations in unusual, emergency or hard-to-recruit situations subject to any meet and confer obligations. All changes made by the CEO will be set forth in writing and forwarded to the Human Resources Director and Auditor-Controller for implementation. The change will be brought before the Board at the next scheduled update to the personnel staffing resolution. No person shall receive any compensation for their service as a regular County employee from County funds whose employment is not authorized by resolution, except as authorized by the CEO. The Clerk of the Board shall immediately forward to the Auditor and Human Resources Director a copy of the authorized personnel staffing resolution, and all amended resolutions. Nothing in this Section shall restrict the right of any Department Head to appoint as many volunteers as they shall deem proper in accordance with this Code, who shall serve without compensation for their services or reimbursement of their expenses from County funds.

### **4.2 ESTABLISHMENT OF CLASSIFICATIONS**

The County shall, in its discretion, establish employment classifications for positions or groups of positions having duties and responsibilities sufficiently similar that (1) the same title may be used, (2) the same qualifications may be required, and (3) the same schedule of compensation may be made to apply with equity.

### **4.3 ALLOCATION OF POSITION TO APPROPRIATE CLASS**

At the County's discretion and in accordance with the procedures set forth below, every regular position in the County shall be allocated to an appropriate class or classification as established in the Personnel Salary Resolution. The allocation of a position to a class shall be determined by the duties, responsibilities, knowledge, skills, abilities, experience and education required to perform the position.

### **4.4 CLASSIFICATION AND RECLASSIFICATION STUDIES**

- A. The County Human Resources Director shall make classification studies of proposed additional or presently authorized positions in the classified service:
  - 1) When authorization for a new position is indicated.
  - 2) When directed to do so by the Board.

- 3) When the County Human Resources Director identifies the need for a review of an existing position or group of positions in a department or group of departments. In all such cases, the County Human Resources Director may, at any time, secure from an appointing authority, department head, and/or employee involved, new statements of the duties and responsibilities of the position or positions under consideration. Such recommendation shall include rationale for changing the current classification or for recommending a change in staffing levels to accommodate workload.
- 4) Each appointing authority shall report to the County Human Resources Director the need for new positions and shall report material changes in the duties of any position, including the date when such changes occurred, in order that new positions and positions whose duties have been materially changed may be classified and allocated accordingly.
- 5) Reclassification  
Any regular status employee may petition their department head with a request to initiate a position classification review of their position. Such request shall be made only during the months of July through August, shall be in writing, and shall contain justification and a complete description of the employee's current duties and responsibilities.
  - a. The department head shall promptly notify the employee, in writing, whether the position will be recommended to the Human Resources Director for review.
  - b. The Human Resources Director shall, following receipt of a department head's request, notify the department head and the union whether the position will be reviewed.
  - c. In the event the position is reviewed by the Human Resources Director, such review shall be concluded, and written recommendations submitted to the employee and the Union no later than January 15<sup>th</sup>.
  - d. In the event that the employee and/or the Union dispute the recommendation, the rationale for the recommendation and/or recommended salary level for the proposed class, if any, the Human Resources Director, or their designee, shall meet with the employee and/or Union upon their request to attempt to resolve the disputed area(s).
  - e. In the event that the Human Resources Director or designee and the Union cannot resolve the disputed issues, the matter will be referred to the County Executive Officer who will make a recommendation to resolve the disputed areas no later than February 15<sup>th</sup>.

- f. Position reclassifications that are approved through this process will be effective no later than the first full pay period beginning in July of the following fiscal year from the date of submission
- 6) The salary of the incumbent in a position, which is reclassified, shall be determined as follows:
- a. If the position is reclassified to a class in the same salary range, the salary and salary anniversary date of the employee shall not change.
  - b. If the position is reclassified to a class with a higher salary range, the employee shall receive an increase of at least 4.5% but not more than the maximum of that range. The employee's salary anniversary date will be changed to the first day of the month following the date when the reclassification was effective, unless the reclassification is effective as of the first working day of the month in which they were reclassified.
  - c. Promotional probationary periods will apply to the reclassification resulting in a higher salary range pursuant section 12.3 Probation Period Upon Promotion of the Personnel Code.
  - d. If the position is reclassified to a class with a higher salary range, the Human Resources Director may request authorization from the County Executive Officer to apply Acting Pay in accordance with the applicable Memorandum of Understanding or Personnel Code, from the date the reclassification is approved until the position is established on the Staffing Resolution approved by the Board of Supervisors and the recruitment and selection process is concluded. The promotion will take effect on the first day of the pay period following the changes approved on the Staffing Resolution and the finalization of the recruitment and selection process.
  - e. If the position is reclassified to a class with a lower salary range, the salary of the employee shall be designated as a Y-rate and shall not change during continuous regular service until the salary of the new position exceeds the employee's present salary.

#### **4.5 APPOINTMENT TO APPROPRIATE CLASS**

Each person shall meet the minimum requirements for the position to which they are to be appointed.

#### **4.6 ADDING OR CHANGING CLASSES**

The County Executive Officer may establish additional classes and divide, combine, alter, or abolish existing classes. When such actions are taken, the CEO shall determine whether positions affected are to be reallocated to another class after taking into account the duties and responsibilities, qualifications, performance standards, and other related criteria and shall determine the status of the probationary and regular status employees affected.

## **SECTION 5.0 – COMPENSATION AND PAYROLL PRACTICES**

### **5.1 PERSONNEL SALARY RESOLUTION**

Each fiscal year a personnel salary resolution will be submitted by the Human Resources Director for approval by the Board that will contain the classification title, monthly salary range, and salary steps within each range for every County position. The salaries or rates of compensation prescribed in the salary schedule are fixed on the basis of regular service in full-time positions except where otherwise provided. The County Executive Officer has the authority to amend the salary document in unusual, emergency or hard-to-recruit situations subject to meet and confer requirements. All changes will be set forth in writing by the County Executive Officer and forwarded to the Human Resources Director and Auditor-Controller for implementation. The change will be brought before the Board at the next scheduled update to the personnel salary resolution.

### **5.2 PAYMENT OF SALARIES TO EMPLOYEES (“PAY PERIOD”)**

The salaries of all employees shall be paid on a biweekly pay period consisting of 14 consecutive days / 336 hours. The County Auditor shall divide the calendar year into 26 equal pay periods, and pay the salary accrued for each pay period on the first Friday following the close of each pay period or the first preceding business day if the first Friday falls on a holiday.

### **5.3 SALARY AND BENEFITS COMPUTATION**

#### **A. Non-Exempt Employees**

##### **1) Full Time Non-Exempt Employees**

Full-time non-exempt employees are those (i.e. those employees assigned to a position that is budgeted to work at least 40 hours per week) who are assigned to a regular position. Full-time employees shall receive the full amount of the salary specified for the step to which they are assigned in the pay range if the total hours worked for the pay period, plus the total compensated time off and paid leave lawfully earned and taken during the pay period, equals the total hours of full-time work for such position during the pay period. Employees must use available leave accruals when working less than their assigned schedule during any pay period, except as allowable by law.

##### **2) Part Time Non-Exempt Employees**

Non-exempt part-time employees assigned to regular positions shall receive a portion of the salary designated for the equivalent full-time position equal to the hours worked as a percentage of the hours required of a full-time employee in the same classification.

Part-time employees working at least fifty percent (50%) time (i.e. 20 hours per week or more, but less than 40) shall earn vacation, personal and paid sick leave, as well as medical, life and retirement benefits associated with the equivalent full-time positions on a pro rata basis.

Part-time employees working less than fifty percent (50%) time (i.e. less than 20 hours per week) shall only be eligible to earn sick leave on a pro rata basis as provided for by law. Such employees shall also be entitled to retirement benefits when required by law or the County's contract with the California Public Employees' Retirement System.

## **B. Exempt Employees**

A full-time regular or limited-term exempt employee shall receive the full amount of salary specified for the pay range to which their position is assigned. Leave balances shall be deducted to account for vacation, personal leave ("PLP"), sick, administrative or other approved leave as appropriate when an employee takes leave in increments of four (4) or more hours. Approved leave taken in increments of less than four (4) hours will not be counted against the employee's leave banks.

Part-time exempt employees shall receive a portion of the salary and benefits designated for the equivalent full-time position, equal to the part time employee's assigned work hours as a percentage of the hours required of a full-time employee in the same classification.

## **C. Temporary Employees**

- 1) Appointing authorities are authorized to employ temporary help for any seasonal or temporary work in accordance with the limitations of the budget. Temporary employees shall not be considered regular County employees for the purposes of paid leave retirement, life or health insurance benefits except as otherwise authorized by the Board of Supervisors or applicable law.
- 2) Temporary employees are those employees appointed other than from an eligible list for a short term or seasonal basis. Temporary employees shall not work more than 960 hours (or 120 days if paid on a per diem basis) in any fiscal year (July 1-June 30) unless otherwise approved by the County Executive Officer. If temporary employment with the County exceeds the specified time of appointment, the temporary employee does not acquire regular status employee status.
- 3) Temporary employees shall be paid a salary based on the number of hours actually worked, multiplied by the hourly rate as specified in the most current salary schedule or such hourly rate as is otherwise established. Temporary employees are not eligible for employee benefits, except as required by law and County policy.

- 4) Retired annuitants may only be appointed consistent with Government Code 7522.56(d) and applicable CalPERS regulations. These appointments are of limited duration and, unless specifically authorized by law or regulation, shall not exceed 960 hours per fiscal year.

**D. Time Sheets:**

All employees shall be required to submit a biweekly time sheet that will accurately reflect the amount of time worked and leave taken. Each County department shall make available to each employee, upon the employee's request, a copy of the completed time sheet upon which their biweekly pay amount and/or leave accruals are based. In the event that a supervisor changes the time sheet, a copy of the time sheet shall be provided to the employee.

**5.4 PAYROLL ERRORS**

For any payroll error resulting in incorrect payment of an employee's wages, the County shall adjust such compensation to the correct amount as soon as possible following identification and appropriate written notice of the error to the employee.

Payroll errors must be brought to the attention of the Auditor-Controller's Office or Human Resources as soon as they are discovered. In no event will payroll errors be corrected retroactively more than three years from identification.

For payroll errors resulting in an overpayment of wages, written notice shall be provided to the employee, including the amount owed to the County, how the amount was determined, and an opportunity to respond. Overpayments shall be reimbursed to the County through one of the following options:

- The employee can choose to make a lump sum payment through payroll (repayments that cannot be processed by payroll in one pay period will be divided); or
- The employee can choose to make a one-time deduction from usable accruals (except for sick leave), equivalent to the overpayment at the employee's current hourly rate; or
- The employee can choose a repayment schedule through payroll deductions over the same number of pay periods in which the error occurred or not to exceed 52 pay periods; or
- Other means as may be mutually agreed between the County and the employee.
- If the parties cannot reach a repayment agreement, the County reserves the right to employ whatever means are necessary to collect any and all amounts owed to it.

All repayment schedules shall be signed by the employee and the County and shall state: If the employee separates from County employment prior to completing their repayment schedule, the employee authorizes the County to deduct any amounts still owed from their final paycheck. However, in no event shall repayment deductions result in a non-

exempt employee's wages for a work period being reduced to less than that required by the federal Fair Labor Standards Act or the California minimum wage.

The provisions of this section shall not be subject to the grievance procedure provided by either this Personnel Code or any applicable Memorandum of Understanding. This provisions of this section shall not apply to payroll errors discovered by the County prior to this section's adoption by the Board of Supervisors.

## **SECTION 6.0 – RECRUITMENT**

### **6.1 GENERAL**

The County's Human Resources Director will be responsible for the recruitment of persons who are to be considered for employment. The Human Resources Director will make use of recruiting procedures that are competitive and of such character as to fairly test and determine the qualifications, fitness and ability of applicants to perform the duties of the position or classification applied for.

The Human Resources Director shall schedule recruitments according to the current and anticipated service needs of the County, and in consideration of departmental workload. Scheduled recruitments may be postponed or cancelled, or the closing date extended. In these events, the Human Resources Director shall notify all affected persons and post public notice.

Hiring authorities must obtain CEO approval to recruit and fill temporary and regular vacancies which occur in their departments prior to the Human Resources Director taking any action. A request to recruit is submitted via a requisition which states the position being recruited for, salary range, and location.

### **6.2 ANNOUNCEMENTS**

Each employment announcement shall state the title, duties, and salary range of the position; the minimum qualifications for the position, including whether the job is a promotional positions; the method of evaluating the education, experience, and qualifications of the candidates; the place and date to file applications; and such additional information as may be appropriate.

### **6.3 APPLICATIONS**

All applications must be filed electronically using the Human Resources' application system, within the time and in the manner specified in the announcement. The time for filing applications may be extended by the Human Resources Director. A separate and completed application is necessary for each classification (for example, a separate application is required for Account I and for Accountant II if an applicant wishes to be considered for both positions) for which a recruitment/selection procedure is conducted. All applications shall be signed/affirmed electronically. Under no circumstances shall applications be returned to the applicants.

### **6.4 MINIMUM QUALIFICATIONS**

Each applicant for employment must meet the minimum qualifications for the position as outlined in the announcement. Minimum qualifications, as outlined in the announcement, mean the minimum qualifications of education, experience, ability, knowledge, licenses and other qualifications required for entrance into a position. Applicants are required to

submit necessary documentation verifying degrees, licenses, certificates and/or other qualifications.

Where appointment or promotion to a position is made upon the condition that the candidate will obtain additional education or certification as a minimum qualification for the position within a specified time following appointment, upon the failure of the candidate to obtain the required additional education or certification within the specified timeframe, the candidate shall be terminated, or in the case of a promotional appointment, demoted to the position previously held by the candidate.

## **6.5 CAUSES OF DISQUALIFICATION**

The Human Resources Director may disqualify any candidate who does not timely complete an application or does not meet the minimum qualifications required for evaluation for any position, or who:

- (a) is medically determined to be physically or psychologically unfit for the performance of duties of the position to which they seek appointment and if disabled cannot be reasonably accommodated,
- (b) has failed the pre-employment drug/alcohol test associated with the position to which they seek appointment,
- (c) has been convicted of a job-related crime,
- (d) has practiced or attempted to practice any deception or fraud in the application or selection process,
- (e) has failed to reply within a reasonable time to communications concerning their availability for employment,
- (f) is found to be unsuited or not qualified for employment based on other County policies, or
- (g) for any material cause which in the judgment of the Human Resources Director would render the applicant unsuitable for the position, including a prior resignation or termination from employment or a significant disciplinary action during prior County employment.

## **6.6 RECRUITMENT INCENTIVE**

An appointing authority may make a request for one or more recruitment incentives to apply to the selection process for a hard to recruit classification/series when submitting a requisition for recruitment. Upon authorization from the **County Executive Officer**, one or more recruitment incentives may be applied to the recruitment.

Recruitment Incentives:

1. Recruitment incentive between \$1,000 to \$5,000 paid over a 1-year period (either new or lateral hires into regular status classifications) paid in two equal parts, the first part (half) upon hire. The second part (half) is paid upon probation completion at the end of the original 12-month probation completion date. If the new hire leaves by choice within the first 6-

months, they must pay back the entire amount that was paid to them upon hire. If the new hire fails probation at any point during the 12-month probation period, there is no obligation to pay back recruitment incentive. Repayment may be made through cash, check, or the payment may be withheld from their final paycheck.

Recruitment incentives between \$1,000 to \$3,000 paid over a 6-month period (either new or lateral hires into temporary status classifications) paid in two equal parts, the first part (half) upon hire. The second part (half) is paid upon completion of six (6) months of employment in the temporary position. If the temporary hire leaves by choice within the first three (3) months, they must pay back the entire amount that was paid to them upon hire. If the temporary employee is released by the employer at any time during the six (6)-month period, there is no obligation to pay back the recruitment incentive. Repayment may be made through cash, check, or the payment to be withheld from their final paycheck.

2. Referral bonus: Any regular status employee (including employees on a probationary period) who successfully refers a hard to recruit candidate to be hired by the County will receive \$500 upon hire and an additional \$500 upon the completion of the employee's probationary period, provided the referring employee is still employed by the County at that time.
3. Student loan repayment shall be available to candidates for hard to recruit positions, at the sole discretion of the County, only if the degree program for which student loan repayment is contemplated: (i) qualifies or highly qualifies the candidate for the position to which they have applied; and (ii) has been completed prior to the candidate's application for employment to the hard-to-recruit position with the County.
  - a. At such time as an authorized selection procedure has taken place and the hiring authority is ready to make an offer of employment to a highly qualified candidate for a hard-to-recruit position, the hiring authority may negotiate with the candidate an annual payment of their qualified, as defined by the IRS, and student loan for a period not to exceed three (3) years to the limits allowed annually in the applicable MOU or other Agreement (for unrepresented employees) for tuition payment/reimbursement. The first annual payment is made at the completion of the 12-month probationary period.
  - b. Employees who have negotiated student loan repayment as a benefit of their employment with the County shall reimburse the County for student loan payments made on their behalf should the employee's employment with the County terminate for any reason, voluntary or involuntary, within 5 years of the last student loan repayment/reimbursement. Employees who choose to leave the hard-to-recruit position for which they were offered loan repayment assistance shall not receive further reimbursement for the program after the last day of their employment with the County.
4. Advanced Leave Accrual for lateral transfers (Sheriff's Management Association and Deputy Sheriff's Association); :New employees hired into a hard to recruit position, from other jurisdictions and identified as lateral employees, will be given credit for their prior service

when determining their vacation/PLP accrual tier in accordance with the unit for which the hire is made.

Additionally, after an authorized selection procedure has taken place, and an appointing authority is ready to make an offer to attempt to employ a highly qualified candidate for a hard to recruit classification, a hiring authority may request that negotiations with candidate include one or more recruitment incentives. Upon authorization from the County Executive Officer, one or more recruitment incentives may be included in the negotiations:

1. Relocation incentive: Moving and relocation assistance to candidate. Amount is determined by the County Executive Officer.
2. Advanced Leave Accrual (Professional, managerial, executive positions): An appointing authority attempting to make an offer to employ a highly qualified candidate for a hard-to-recruit, professional, managerial, or executive position, may offer advanced leave accruals and/or advanced Administrative Leave balance in accordance with the leave accrual rates of the assigned unit.

IRS tax rules apply to the recruitment incentive and relocation incentives.

## **SECTION 7.0 - SELECTION PROCEDURES**

### **7.1 TYPE AND DURATION OF SELECTION PROCEDURES**

Recruitment and selection procedures also referred to as examinations or testing processes, may vary in types and duration. A job vacancy may be made available for recruiting to County employees only (called a “County-wide recruitment”) or it may be opened to County employees and the public (an “open recruitment”), or it may be opened to applicants who work or have worked in a public agency with a merit-based recruitment process (a Public Agency Eligible List or “PAEL recruitment”). It may be continuously recruited, or it may have a fixed cut-off date. The Human Resources Director will determine the type and duration of recruitment which best matches the needs of the County and the likely availability of candidates. A selection procedure shall be deemed to be competitive when applicants are tested as to their relative qualifications and abilities, or when an applicant is scored against an accepted standard.

### **7.2 WAIVER OF SELECTION PROCEDURE**

When a selection procedure has been publicly announced and the number of applicants meeting the minimum qualifications for the position is insufficient in size to allow for a satisfactory applicant pool, the County Human Resources Director may, at their discretion, revise the conditions of the recruitment to a more practical basis under the circumstances.

The County’s Human Resources Director may, in their discretion, forego regular selection procedures for:

- A. The appointment of persons to temporary positions.
- B. The promotion or appointment of employees approved for reclassification to a different position in accordance with section 4.4, Classification and Reclassification Studies.

### **7.3 APPLICANT NOTIFICATION**

Each applicant shall be notified of the status of their application and eligibility to participate in selection procedures. Each applicant shall be notified of the disposition of their application for employment to the County.

## **SECTION 8 – ASSESSMENT PROCEDURES**

### **8.1 PROCEDURES**

#### **A. Type of Examination**

Assessment procedures can vary according to the needs of the recruitment. The Human Resources Director will choose the type of procedure to use in consultation with the hiring department.

Review of education and experience, department interviews, oral appraisal boards or panels, written tests, assessment centers, physical agility exercises, and other examinations may be used.

Only those candidates who initially meet minimum qualifications will be permitted to proceed further into whatever assessment procedure is being used, and of those, applicants who appear best suited for the position will be invited to test further.

#### **B. Confidentiality of Examinations**

The content of all examinations will be kept confidential prior to the administration of the examination. However, all applicants who are invited to the examination will be notified of the nature of the examination.

#### **C. Examination Accommodation**

An applicant with a disability may request accommodation in an examination process. Following receipt of a request for accommodation, the Human Resources Officer may require additional information, such as reasonable documentation of the existence of a disability.

#### **D. Minimum Passing Score**

For those positions that require examinations, the minimum passing score for any type of test or assessment used to choose a candidate for a position is 70%. Computed scores will be rounded to the nearest whole number.

If more than one assessment method is used, the Human Resources Director will weigh the various parts of the assessment according to their relative value to the recruitment. The candidate's final score will be a sum of the weighted parts.

If an oral interview assessment is used for determining ranking on the eligibility list, the candidate's final score is derived from the marks given by the interviewers. The interviewer's marks shall be a numerical percentage of total available points with 70% as the minimum passing rating. Each candidate's rating will be determined by averaging the ratings assigned to the candidate by each assessment

panel member. However, if the candidate's average rating is below 70%, but if less than a majority of the assessment panel assign the candidate a rating below 70%, the candidate will be given a rating of 70%. If a majority of the panel members assigned candidate a rating below 70%, the competitor will be eliminated regardless of the fact that their average score may be 70% or more. Each member of the oral assessment panel will write the reason for the score of below 70% on the interview rating sheet.

**E. Veteran's Points for Non-exempt Positions**

For those positions that require examinations, applicants for open, non-promotional examinations who have served in the United States' Armed Forces as defined in Government Code Section 18540 and who qualify as veterans shall be eligible for five (5) veterans' preference points to be added to their score, provided that they achieve a passing score in the overall examination.

Qualified veterans with a service-connected disability of 10% or more shall be eligible for an additional five (5) points to be added to a passing score of an open, non-promotional examination. To receive the additional five (5) veterans' preference points, a copy of an official statement, dated within the last twelve (12) months, from either the Department of Veterans Affairs, or a branch of the Armed Forces indicating that applicant's disability is 10% or more must be attached to each specific employment application.

For the purposes of this section, a veteran means any person who has served full time in the armed forces in time of national emergency or state military emergency or during any expedition of the armed forces and who has been discharged or released under conditions other than dishonorable.

**F. Rating by Oral Assessment Panel**

- 1) When this type of assessment procedure is used, the assessment panel shall be approved by the County Human Resources Department.
- 2) Persons identified as having a conflict to providing a fair assessment of the applicant, shall be disqualified from serving on an assessment panel.
- 3) If the Human Resources Director has reason to believe that a panel member has a conflict with the candidate, the Director may exclude the rating of that panel member.

**G. Written Test Limitation**

When a written test is required within the selection process, a candidate who fails the written test shall not be allowed to take a second test for the same classification

within thirty (30) days from the date of the previous written test. The Human Resources Director may allow exceptions to this limitation.

**H. Waiver of Test**

When a written test is part of the recruitment and selection process for an entry level classification, such as for a law enforcement position, applicants may present evidence of having attained a passing score in such exam with the County within three years of the selection process for the current position. The passing score must apply to the same County classification as is being tested for currently.

**I. Inability to Appear for a Test**

In the event an applicant is unable to appear at the designated time and place for an exam, including any portion of the selection process other than an initial application deadline, they must forego the competition on that selection procedure unless they submit in writing one of the following reasons for inability to appear.

- 1) The applicant is a member of a bona fide religious group, which observes the examination day as the Sabbath or as a holiday.
- 2) Through an oversight on the part of the County Personnel/Human Resources Department, the applicant was given no notice or insufficient notice to appear.
- 3) The applicant is a person who is required on a public emergency assignment at the time of examination and notice of inability to appear was given.
- 4) The applicant is a member of an active reserve unit who will be on active duty on the test date.
- 5) The applicant has been summoned for jury duty.
- 6) In the event of an excusable inability to appear, as determined by the County, the County Human Resources Director may at their discretion grant an extension of time in which to take such a test.

**J. Late Arrivals to the Test**

The proctor of an exam is authorized to decide whether applicants who arrive late may be admitted to the test.

**K. Right to Challenge Test Questions**

An applicant who finds an ambiguous or doubtful question or item in a written test must call it to the attention of the proctor either during or immediately after the

written test. The proctor shall then record the nature of the doubt and notify the County Human Resources Director. The County Human Resources Director shall determine, based on competent authority that the item is proper or eliminate the item if it proves to be improper.

**L. Disqualification from Testing Process**

Communication between candidates or between candidates and third parties during a test is strictly forbidden and candidates are forbidden to receive aid from one another or to use help in any form during the examination. Before the commencement of a test, candidates will be required to hand to the proctor any printed, written or electronic matter in their possession that might serve to aid them in the test. Evidence of copying or collusion shall result in disqualification of the applicant from this and future selection procedures. A candidate may not copy, photograph, or take any test materials from the testing process.

**M. Security Agreement**

To ensure confidentiality in the assessment process, candidates and oral assessment panels members, will be required to sign a security agreement.

## **SECTION 9 - ELIGIBLE LISTS AND CERTIFICATION OF ELIGIBLES**

### **9.1 ESTABLISHMENT OF ELIGIBLE LISTS**

The County Human Resources Director shall establish an eligible list of applicants who have met the minimum qualifications required to perform the duties of the position, and who have passed a selection procedure. Eligibility lists may be established by external (open) recruitments, internal (County-wide) recruitments, and re-employment processes. The appointing authority shall be authorized to appoint to the open position any eligible candidate referred to them by the County Human Resources Department.

### **9.2 ORDER OF NAMES ON THE ELIGIBILITY LIST**

#### **A. Eligibility List for a Non-Exempt Position**

The names of the applicants who have attained a passing mark in a selection process for a non-exempt position shall be placed on the eligibility list in order of final earned ratings. In case of identical ratings, the names of the applicants shall be placed in the same rank in alphabetical order. The department appointing authority receives the names of the highest ranked candidates at one time.

If there are an insufficient number of candidates remaining on the original list, then the Human Resources Director may also include additional names from another eligible list meeting the requirements of this section.

#### **B. Eligibility List for Exempt Positions**

The names of the applicants who have met the minimum qualifications of the exempt position being recruited for will be placed on an eligibility list in alphabetical order. The department appointing authority receives all the names of the candidates on the list.

#### **C. Public Agency Eligibility List**

The names of applicants employed by another public agency operating under a recruitment process which is merit based may be placed on a Public Agency Eligibility List for the comparable jobs in Nevada County. In order to qualify for placement on the Public Agency Eligibility List, the following conditions must be met:

1. The position in which Nevada County employment is contemplated must possess the same or less minimum qualifications of those of the public agency position and be substantially similar in job assignment and responsibility;
2. As part of the application process, the individual must submit documentation from the other qualifying public agency certifying that:

- a. The individual had been employed by a public agency other than Nevada County within one year prior to the date of their application to Nevada County;
- b. The applicant holds or held permanent status with the public agency in a comparable job assignment;
- c. The applicant must be or have been employed by the public agency in a qualifying job assignment for a minimum of one year;
- d. The public agency employment record of the individual has been satisfactory or above;
- e. The individual has not been separated from the public agency for cause;
- f. The individual was appointed to the public agency position from an eligible list resulting from a competitive examination/hiring process,
- g. If not currently employed by the other public agency, the individual is eligible for reinstatement to the prior public agency;

**D. Certification from an Alternate Eligibility List**

Where no eligibility list is in existence for a classification, the Human Resources Director may authorize certification of candidates from another class of the same or higher rank in in a related series to be certified to an eligibility list, if the duties of the class for which the selection procedure was given include substantially all of the duties of the position to be filled.

**E. Certification to a Classification of Lower Class**

Whenever a request for certification is made to fill a position in a class for which (1) there is no eligibility list, or (2) there are not sufficient names on the eligibility list, a candidate may be certified to a position in a class lower than that for which they were placed on an eligibility list, provided such position has similar duties and responsibilities; provided that the County Human Resources Director finds that the use of the lists is in the best interest of the County. The acceptance of such a position shall not affect the applicant's right to be certified to a position in the class for which they were originally examined.

**F. Sufficiency of Eligibility List**

When an eligibility list for either a non-exempt or exempt position contains insufficient number of applicants to make a competitive and informed hiring decision, the Human Resources Director may (1) expire the list and establish a new

list to provide a broader range of candidates or (2) may allow additional recruiting to add names to the existing list, in order to provide a broader range of candidates.

There may be instances when an eligibility list, in the opinion of the County Human Resources Director, does not meet the demands of the service but has not expired. In such cases, they may order selection procedures to provide additional candidates and all successful candidates shall have their names placed on the eligibility list in the order of their scores (if a non-exempt position) or in alphabetical order (if an exempt position).

#### **G. Order of Lists for Certification**

If more than one eligibility list exists for a classification, the eligibility lists shall be certified in the following order: (1) Re-employment eligibility list (due to layoff); (2) Internal eligibility list; (3) Re-employment list (due to resignation); and (4) External eligibility list and/or PAEL list. Re-employment eligibility lists (due to layoff) shall have the names certified one at a time.

#### **H. Tenure of Eligibility List**

An eligibility list shall be in effect from the date on which it is approved by the Human Resources Director and shall continue in force for a period of six months, unless otherwise expired. Such lists may be extended by the Director in increments of three months but not to exceed the maximum of one year.

### **9.3 REMOVAL OF NAMES FROM THE ELIGIBILITY LIST**

The names of candidates may be removed from an eligible list for any of the following reasons:

- 1) For any cause for disqualification set forth in Section 6.5.
- 2) Upon communication from the candidate that they no longer desire to remain on the eligible list.
- 3) After refusal of two (2) offers of appointment from any department to the class for which the eligible list was established.
- 4) For failure to be reached by the Human Resources or hiring department within a reasonable period of time.
- 5) After the candidate has been certified to the same department one (1) time without selection, the candidate may remain on the list for other departments unless the provisions of this section otherwise apply.

- 6) A candidate who has failed the pre-employment drug/alcohol test shall be removed from all County eligibility lists for a period of one year from the date of the results of the positive drug/alcohol test.
- 7) The name of an employee who separates from County service shall be removed from a promotional list.

#### **9.4 APPLICANT CONTACT INFORMATION**

Applicants are responsible for updating their contact information.

#### **9.5 RE-EMPLOYMENT LISTS**

In addition to a recruitment eligibility list, there shall be a re-employment eligibility list containing the names of employees who have been laid off and former employees who have requested reinstatement following a resignation from their position in good standing.

##### **A. Re-employment List Due to Lay-Off**

Providing their overall performance has been satisfactory, any employee who attained regular status who is laid off in good standing shall have, at the time of layoff, their name placed on the re-employment list for the classification from which they have been laid off. Any regular status employee who is laid off in good standing may, upon written request, have their name placed on a re-employment list for any other classification of equivalent or lower pay for which they are qualified.

The names of persons laid off shall be placed on the appropriate re-employment list in order of seniority as determined by Section 20 of this Personnel Code.

The name of any person laid off shall continue on the appropriate re-employment eligibility lists for a period of eighteen (18) months from the date of layoff. The name of any candidate on a re-employment list shall be automatically removed from said eligibility list at the expiration of such time period.

##### **B. Re-employment List Due to Resignation:**

Providing their overall performance has been satisfactory, any person having attained regular status who has resigned in good standing may submit a written request to the Department Head of the former department for consideration for re-employment within one year after the date of resignation. If such request is granted, they will be placed on a re-employment eligibility list for the class of position from which they resigned.

The names of persons granted re-employment privileges after resignation shall be placed on the appropriate eligibility list in the order of date of application for re-employment, the most recent application being placed last.

**C. Removal from Re-Employment List**

The County Human Resources Director may remove the name of any candidate from a re-employment list for any of the reasons set forth in this Code.

**D. Temporary Re-Employment Assignment**

The acceptance of a temporary position shall not affect an individual's right to be certified to a position in the class for which they qualified as a candidate under the provisions of this Section.

## **SECTION 10.0 - APPOINTMENT AND RE-EMPLOYMENT**

### **10.1 APPOINTMENT FOLLOWING CERTIFICATION**

The appointing authority shall fill a vacancy or new position in a class by selection from the candidates on the eligibility list. If an eligibility list contains a candidate who is an ArmyPAYS applicant, or who is a former foster youth or former homeless youth as defined by the McKinney-Vento Homeless Assistance Act, the hiring manager shall provide said candidate an opportunity to interview.

The appointing authority may, at their discretion, appoint or refuse to appoint from any eligibility list when the list contains an insufficient candidate pool to conduct a meaningful and competitive recruitment. In such cases, and in accordance with Section 9.2, the hiring authority may request the Human Resources Director to expire the list.

### **10.2 APPOINTMENT PROCEDURE**

The appointing authority shall, prior to a regular, non-exempt appointment:

- 1) Interview a minimum of three (3) candidates who have been certified. This requirement shall have been met if the appointing authority was in attendance at the appraisal board.
- 2) Check references and work experience records as necessary.
- 3) Complete pre-employment medical and background processes identified in 10.3.
- 4) Notify in writing the candidate who has been selected for appointment with a copy to the County Human Resources Director.
- 5) Upon confirmation of appointment by the selected candidate, notify in writing those candidates who were referred for a vacant position and were not appointed to such position.

### **10.3 PRE-EMPLOYMENT TESTING**

The County may make a final job offer contingent on the satisfactory outcome of one or more pre-employment tests.

#### **A. Criminal Conviction Check**

After the County makes a conditional offer of employment, the Human Resources Officer may then request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged. Unless required by law, the County will not deny employment to any applicant solely

because they have been convicted of a crime. The County will, however, consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the position.

This section does not apply to applicants for public safety jobs, or to positions that the County is required by law to conduct a criminal background check for employment purposes or to restrict employment based on criminal history.

**B. Psychological Examination**

A psychological test will be required of candidates considered for law enforcement positions.

**C. Records Check**

Confirmation of an applicant's education, licenses, and other employment-related data is performed in order to verify minimum qualifications have been met for the position.

**D. Medical Examination/Drug Testing**

The post-offer/pre-employment examination is intended to assess the candidate's ability to meet the physical and/or mental demands of the position with or without accommodation in accordance with state and federal law.

Such examination may include a drug/alcohol test as described in the applicable job description and County Drug Testing Policy.

**E. Failure to Pass a Pre-Employment Test**

The cost incurred for all testing and record checks shall be borne by the department to which the applicant has applied.

Inability to pass any pre-employment test shall disqualify the applicant for employment by the County for up to one year. If the applicant is a qualified individual with a disability, the applicant must be able to perform the essential functions of the position with or without accommodation in accordance with state and federal law.

**10.4 APPOINTMENT OF AN EMPLOYEE**

Any appointment to a class should be at the entry step of the range for such class; however, an appointing authority may request an appointment up to step "C" of the range for the class. An appointing authority may request appointment at a higher step by providing a written explanation of the qualifications of the candidate that justifies a higher salary placement to the County Executive Officer or designee for authorization.

#### **10.5 APPOINTMENT OF DEPARTMENT DIRECTORS**

- A. Unless otherwise provided, the County Executive Officer or their designee is the appointing authority for all appointed department heads. Appointed department heads are at-will and serve at the pleasure of the County Executive Officer subject only to the conditions of applicable contracts, regulations or law. At the County Executive Officer's discretion, interim department head appointments may be made without utilizing an eligibility list.
- B. In accordance with Welfare & Institutions Code section 271 and Penal Code section 1203.5, the Board of Supervisors in its sole discretion shall appoint the Chief Probation Officer. The position of Chief Probation Officer is at-will and serves at the pleasure of the Board subject to the conditions of applicable contracts, regulations or law. At the Board's discretion, interim Chief Probation Officer appointments may be made without utilizing an eligibility list.

#### **10.6 RE-EMPLOYMENT FOLLOWING SEPARATION**

- A. Any person re-entering County employment following separation by reason of discharge or release during probationary service shall be considered a new employee for purposes of determining salary step, seniority and benefit levels.
- B. Any person re-entering County employment following separation by reason of resignation in good standing may be reinstated at the leave accrual rates and seniority obtained as a previous Nevada County employee. The reinstatement must be requested by the Department Director and approved by the Human Resources Director and County Executive Officer in advance of an offer of employment to the candidate.

#### **10.7 RE-EMPLOYMENT FOLLOWING MILITARY LEAVE**

The rights and privileges of employees during and following military leave shall be governed by the provisions of the Military and Veterans' Code and any other state and/or federal law.

## **SECTION 11 - PROMOTIONS**

### **11.1 FILLING VACANCIES BY PROMOTION**

Vacancies in positions shall be filled insofar as possible and consistent with the best interests of the County from among eligible County employees. Appropriate promotional lists shall be established for this purpose. Each hiring authority shall encourage economy, efficiency in and devotion to County service by encouraging promotional advancement of employees showing willingness and ability to perform efficiently the services assigned to them, and every person in County service shall be given encouragement and the opportunity to advance according to merit and ability whenever it is practicable to do so.

### **11.2 PROMOTIONAL SELECTION PROCESS**

Promotional selection processes will follow Sections 6, 7 and 8.

### **11.3 PROMOTIONAL ELIGIBILITY**

An employee, who has completed twelve (12) months of satisfactory probationary service and attained regular status, may participate in a County-wide recruitment.

### **11.4 SALARY UPON PROMOTION**

A regular status employee who is promoted to a position in a class with a higher salary range than the class from which they were promoted shall be appointed to that step in the higher salary range which will result in an increase of at least 4.5% in such employee's salary; provided, that, in no event shall the new salary be higher than the maximum of the salary range of the class to which the employee is promoted. Such salary increase shall be effective as of the date upon which the promotion is effective. For the purpose of further step increases within the new salary range, the employee's salary anniversary date will be changed to the first day of the month following the date when the promotion was effective, unless the promotion is effective as of the first working day of the month, in which case the employee's new salary anniversary shall be the first day of the month in which they are promoted.

## **SECTION 12.0 - PROBATIONARY PERIODS**

### **12.1 PROBATIONARY EMPLOYEE**

Probationary employee means an individual who has been appointed to an allocated position and is serving a probationary period at either: the outset of initial employment with the County, or at the outset of a promotion to a higher classification. During the initial probationary period, a probationary employee serves at the will of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. A probationary employee serving in the initial probationary period is an at-will employee.

### **12.2 PROBATIONARY PERIOD**

Persons entering County service by appointment to a regular position shall serve a probationary period of twelve (12) months. Such period commences the first day of the month following the date of employment, or in the event the date of employment is on the first working day of the month, then from that date. The twelve (12) month probationary period shall be extended by the amount of time that the employee is on any leave of absence (sick, vacation, leave without pay, disability, worker's compensation, etc.) that exceeds five (5) consecutive workdays. The probationary period cannot otherwise be extended. The period of County service of an appointee in a temporary position subsequently appointed to a permanent position in the same class without a break in service may, at the discretion of the appointing authority, be included in computing the probationary service. Failure to reject an employee in writing within the probationary period shall cause the employee to attain regular status.

### **12.3 PROBATIONARY PERIOD UPON PROMOTION**

An employee with regular status who is promoted to a position in a classification having a higher salary range shall serve a probationary period of the same duration as specified above (twelve (12) months) before attaining regular status in that position.

### **12.4 ACQUISITION OF REGULAR STATUS**

A probationary employee acquires regular status upon completion of the twelve (12) month probationary period.

### **12.5 SEPARATION DURING PROBATIONARY PERIOD (INITIAL APPOINTMENT OR PROMOTIONAL)**

Any probationary employee may be discharged from any probationary appointment by the appointing authority during the probationary period, or any extension thereof, and shall have no right to appeal from such action. The appointing authority may, at any time before the effective date thereof, withdraw or cancel any notice of discharge.

An employee discharged during the probationary period from a position in a classification to which the employee has been promoted shall be restored to the last position for which they held regular status, and at the range and step held prior to promotion, unless they are terminated for cause. Such employee shall not be required to serve a probationary period in such last position.

#### **12.6 CONDITIONS WHEN PROBATIONARY PERIOD NOT REQUIRED**

A person re-employed in a classification in which they have previously held regular status and from which they were separated in good standing, may not be required to serve the probationary period if such re-employment occurs within 12 months from the date of their separation. The appointing authority shall determine prior to the offer of re-employment if a probationary period is required. If re-employment occurs in excess of 12 months, the employee shall be appointed on a probationary basis, in accordance with Section 12.1.

#### **12.7 RETURN FOLLOWING LEAVE WITHOUT PAY**

Return following an approved leave without pay during a probationary period shall not constitute an appointment but is a continuation of service in probationary status. Compensation and benefits shall be granted in accordance with the provisions of this Code.

### **SECTION 13 - PERFORMANCE EVALUATIONS AND SALARY INCREASES**

#### **13.1 PERFORMANCE EVALUATIONS**

The Human Resources Director shall establish a performance management system. The standards shall have reference to the quality and quantity of work performed, the manner in which the service is rendered, and the responsibility of employees to their duties. Employee performance reports shall be developed so that they can be used as a guide in determining layoffs, transfers, and step advancements. The performance report of each employee shall be reviewed with the employee by the appointing authority as defined by this Code or supervisor in order that improvement may be recommended if required, and commendation provided when warranted. Performance reports, after filing, may be examined by the employee, by the employee's supervisor, by the Human Resources Director, and appointing authority, but shall not be open by any other person except for purposes of inquiry or review as approved by the Human Resources Director. As the appointing authority, the County Chief Executive Officer or designee reserves the right to provide input in and/or generate/complete and provide County performance evaluations for any County employee in accordance with this Code.

#### **13.2 PROBATIONARY-PERFORMANCE REPORTS**

During the probationary period of an employee, the appointing authority and the immediate supervisor shall regularly monitor and review the employee's performance, development in their job classification, and responsiveness to the position's requirements, to determine whether the probationary employee has met the requirements for regular status. With the exception of safety personnel, the appointing authority, or their designee, shall prepare

three (3) performance reports regarding the probationary employee's performance, which they shall file with the Human Resources Director at least five (5) working days prior to the expiration of three (3) calendar months of probationary service, at least five (5) working days prior to the expiration of six (6) calendar months of probationary service, and at least five (5) working days prior to the end of the twelve (12) month probationary period.

Performance reports on safety personnel within the Deputy Sheriff's Association and Sheriff's Management Association units only shall be made and filed with the Personnel/ Human Resources Director two (2) times during the probationary period. The appointing authority, or their designees, shall file such reports with the Human Resources Director at least five (5) working days prior to the expiration of six (6) months of service, and at least five (5) working days prior to the end of the twelve (12)-month probationary period.

Failure to make and file a performance report within the time limits stated herein shall not confer regular status upon any probationary employee.

The timelines set forth above may be extended in the event that an employee's probationary period is extended by an authorized leave of absence that exceeds fifteen (15) consecutive workdays or in cases where an employee is on light duty and unable to be evaluated regarding their ability to perform the essential functions of the position. In such case, the extended timeline shall correspond with the employee's extended probationary period.

### **13.3 REGULAR STATUS EMPLOYEE PERFORMANCE EVALUATIONS**

Performance reports conducted on regular status employees shall be made and filed by the supervisor or appointing authority annually on the employee's salary anniversary date and at such other time as performance has changed substantially since the last evaluation, or as required by the Human Resources Director for use in transfer or special evaluation.

### **13.4 SALARY ANNIVERSARY DATE**

#### **A. Standard / Default Anniversary Date**

Unless otherwise designated by a Memorandum of Understanding, each employee shall have a salary anniversary date which shall be the first calendar day of the month following completion of:

- (1) One (1) year of continuous service in the event the employee started in a step higher than Step "A" of the salary range.
- (2) One year of continuous service following increase to Step "B" in the event the employee started at Step "A" of the salary range.

#### **B. Impact of Leave on Anniversary Date**

Any leave of absence with or without pay exceeding fifteen (15) calendar days shall cause the employee's salary anniversary date to be postponed a number of months equal to the number of full calendar months or greater portion thereof for which the leave of absence was taken, effective the first day of such leave.

**C. Impact of Promotion or Reclassification on Anniversary Date**

A promotion, as distinguished from a step increase described below, is the movement of an employee from one class to another class having a higher maximum rate.

In the event of promotion or reclassification, an employee's salary anniversary date will be changed to the first day of the month following the date when the action was effective, unless the action is effective as of the first working day of the month, in which case the employee's new salary anniversary shall be the first day of the month.

**13.5 STEP INCREASES**

Steps are used to identify the specific compensation of an employee within the established range for their classification.

Step increases are salary adjustments based on merit within the classification of employment. On each salary anniversary date, until an employee reaches the maximum salary step for the employee's salary range, each employee shall receive a merit increase in salary and shall be advanced to the next higher step of the employee's salary range unless the employee's service is not satisfactory.

Step increases are not automatic. The following standards shall govern step increases:

- A. An employee who was hired at step "A" shall, subject to receipt of an overall satisfactory performance rating, receive a merit step increase to the "B" step of their salary range on the first calendar day of the month following six (6) months of actual work time in the first step unless the probationary period is extended in the manner provided by this Code. In the event of such extension of the probationary period, an employee shall, subject to receipt of a satisfactory performance rating, receive such merit step increase on the first calendar day of the month following the completion of the extended six-month period.

Eligibility for merit increases above Step "B" shall be on an annual basis thereafter until the employee reaches the maximum salary step in such employee's salary range.

- B. Employees starting above Step "A" of the salary range shall be eligible for a merit step increase to the next step of the salary range on each salary anniversary date,

subject to receipt of a satisfactory performance rating, until reaching the maximum step of such employee's salary range.

- C. An employee in Step "E" shall not be eligible for further merit increases.
- D. Upon recommendation of the appointing authority, the County Executive Officer may at any time adjust the salary of an employee up to Step "E" of the employee's salary range if the adjustment is found to be necessary to resolve an inequitable salary relationship within a department, or to ensure retention of an employee, in a position of significant responsibility, who would be difficult to replace.

### **13.6 PROCEDURES FOR STEP INCREASES**

Until an employee reaches the maximum salary step for the employee's salary range, the appointing authority shall notify the Human Resources Director in writing on performance evaluation forms that the employee should be advanced in salary or not advanced. The Human Resources Director shall notify the County Auditor in writing of such actions and such notification shall constitute authorization for the Auditor to make or withhold payment at the higher rate.

If a merit increase is withheld, the appointing authority must give the employee second consideration within three (3) calendar months of the anniversary date and at least once every three (3) calendar months thereafter until the employee receives the merit increase, is demoted or terminated.

### **13.7 SALARY ADJUSTMENT OCCURRING ON SALARY ANNIVERSARY DATE**

Whenever, on their salary anniversary date, an employee is promoted, receives a range change, or their position is reclassified to a class with a higher salary range, the employee may first receive any within-range increases to which the employee is eligible, and then receive the specified step in the new salary range as provided in this Section.

## **SECTION 14 - PAY DIFFERENTIALS**

### **14.1 TRUCKEE-DONNER DIFFERENTIAL**

In addition to the compensation enumerated in the Schedule of Salary Ranges for officers and employees, there shall be paid a differential of ten percent (10%) of base salary payable to each officer or each employee who is regularly assigned to and working a minimum of forty (40) hours per pay period in the Truckee-Donner area of Nevada County.

### **14.2 SHIFT DIFFERENTIAL**

Except as provided by MOU, employment contract, or the compensation and benefits applicable to specified classifications, employees who are required to work 50% or more of their regular work time between 6:00 p.m. and 6:00 a.m. shall receive a shift differential of five percent (5%) of base salary.

### **14.3 BILINGUAL PAY DIFFERENTIAL**

For those employees identified by the Director of Human Resources as having assigned duties involving regular use of bilingual skills, a differential of five percent (5%) of base salary shall be provided. Regular use shall be defined as using the skill a minimum of twenty percent (20%) or more in the course of the employee's assigned duties. Exceptions to this requirement will be reviewed by the Human Resources Director on a case by case basis and that determination shall be final.

Bilingual pay differential shall cease when the position is determined by the Human Resources Director to no longer require the bilingual skill or when the employee is assigned, transferred, promoted or demoted to a position not requiring the bilingual skill.

Requests to have positions considered for bilingual differential shall be submitted by the Department Head to the Human Resources Director, whose determination shall be final. Requests to have positions considered for bilingual differential shall include:

- A. Title of position proposed for designation;
- B. Description of the bilingual duties being performed by each employee in sufficient detail to indicate the second language to be utilized, purpose, nature and frequency of use; and
- C. Location of work assignment.

Upon approval of the proposed designation, the Human Resources Department shall schedule the designated employee and/or applicants for bilingual examination.

### **14.4 CONFIDENTIAL DIFFERENTIAL**

A Confidential employee is any employee who is required to develop or present management's positions with respect to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions with respect to employer-employee relations.

Each regular Confidential employee (as defined by this Code) whose most recent final probationary or annual performance report is "very satisfactory" or above shall receive a five percent (5%) pay differential. The said differential shall begin to accrue on the employee's salary anniversary date immediately following the close of the reporting period on which the employee's performance report is based and shall remain in effect until the succeeding anniversary date, at which time the employee shall cease to receive the differential unless it is renewed. Upon promotion or transfer of an employee who is receiving the differential to another Confidential classification, the differential shall remain in effect only until the employee's next anniversary date within the new classification, which date shall be set in accordance with the Personnel Code. Eligibility for renewal of the differential within the new classification shall then be in accordance with requirements as outlined in this section.

Upon an employee becoming eligible for receipt of the differential, their department head shall forward the appropriate Personnel Action form to the Department of Human Resources.

Confidential department heads may be approved to receive a confidential differential equal to five percent (5%) of base salary at the discretion of the CEO, which shall be subject to annual review.

#### **14.6 LONGEVITY PAY DIFFERENTIAL**

As stipulated by a Memorandum of Understanding (MOU), Summary of Benefits and Compensation, or employment contract for bargaining unit or unrepresented employees, salary differentials may be awarded to eligible employees who have achieved a specified number of years of service with the County.

Unless otherwise provided by MOU or contract, the said differential shall begin to accrue on the pay period following the employee's attainment of the specified number of years of service with the County.

Notwithstanding anything to the contrary, upon promotion or transfer of an employee who is receiving the differential to another classification within the same bargaining unit, the differential shall remain in effect.

#### **14.7 WORK/SAFETY FOOTWEAR REIMBURSEMENT**

The County shall reimburse up to the amount specified in an applicable MOU each fiscal year toward the purchase of approved work/safety footwear for each employee assigned to positions requiring such footwear. Positions that require work/safety footwear are determined by Department Head. If, due to extenuating circumstances, an employee has exhausted the footwear allowance and needs additional approved footwear, they may seek approval for additional footwear reimbursement on an as needed basis from the Department Head. The Department Head has the discretion to approve or deny such request. All work/safety footwear reimbursements are subject to the employee providing proof of purchase to the Department Head and County Auditor-Controller.

#### **14.8 ACTING PAY**

If a regular status employee is temporarily assigned in writing to an acting position in a class with a higher salary range, the employee will be eligible to receive an increase of at least 7.5% to the employee's pay from the first date of the assignment. In certain circumstances, the County Executive Officer can approve a higher differential to meet the needs of the organization. The acting assignment will not cause a change to the employee's regular status employee unit or benefits.

Acting assignments due to another employee's leave of absence will be no longer than nine (9) months in duration, unless approved by the CEO. Acting assignments due to position vacancy, during recruitment for a permanent appointment, shall be limited to 960 hours per fiscal year. Upon termination of the acting assignment, the employee shall be restored to their regular position at the salary step they previously held including any merit increase earned. Acting assignments shall not affect any employee's salary anniversary date. If an acting position is offered to an employee from a different department, both department heads must approve the assignment.

This section does not apply to regular status employees whose positions are designated to act in the absence of the department, division or section head for time periods not to exceed fifteen (15) working days or one-hundred-twenty (120) hours, whichever comes first, of time such as a vacation or off site in an official capacity or for those employees participating in training or quality teams.

#### **14.9 SPECIAL PROJECT PAY**

1. An employee assigned a special project or set of duties and responsibilities substantially in excess of the normal or typical duties of the job may be eligible for additional compensation as authorized by the County Executive Officer (CEO).
2. Granting this additional pay shall be within the sole discretion of the CEO.
3. The CEO may authorize paying an employee Special Project Pay up to ten percent (10%) of the employee's base pay for the duration of the special project assignment or set of duties and responsibilities in excess of the employee's normal or typical duties. Such pay would not be reportable for PERS retirement calculation purposes.



## **SECTION 15.0 – TRANSFERS**

### **15.1 TRANSFERS**

As used in this section, a transfer means the voluntary or involuntary movement of an employee from a position in one classification to a position in the same or comparable classification with the same pay range.

### **15.2 PRE-TRANSFER REQUIREMENTS**

An employee may be transferred to a position in another office, or department, or agency provided that prior to the transfer:

- A. The two positions have similar minimum qualifications and duties and the affected employee possesses the minimum qualifications for the position to which they are being transferred, and
- B. The positions, if not in the same class, are in the same salary range provided that an employee may voluntarily accept a transfer to a position in a lower salary range, and
- C. The employee is provided at least ten (10) working days' notice; and
- D. The County Human Resources Director has approved the transfer.

### **15.3 RESTRICTIONS ON TRANSFERS**

Employees who transfer shall not:

- A. Be subject to a probationary period for the transfer, however, if the employee was on probation previous to the transfer then they shall remain on probation until the end of the twelve (12) month probationary period as provided in Section 13;
- B. Be subject to a change in anniversary date.
- C. Be subject to involuntary geographic moves between Truckee and the Western County except in circumstances where the elimination of position(s) requires the reassignment of staff.

## **SECTION 16.0 – Y-RATES, DEMOTIONS AND RESIGNATIONS**

### **16.1 Y-RATES**

Y-Rate means paying an employee above the maximum of the established range for their classification. The salary for Y-Rated employees is typically frozen until the employee's salary falls within the established range for their classification.

The County Executive Officer has the authority to Y-rate positions in the best interests of County operations and in accordance with meet and confer requirements.

### **16.2 DEMOTION**

A demotion means a voluntary or involuntary change or movement of an officer or employee from a class assigned to one salary range to a class assigned to a lower salary range.

A regular status employee who is demoted shall receive the salary assigned to the lower range classification at the same step the demoted employee held in the class from which they were demoted. For example, if the employee was in Step B in their prior classification, they will be assigned to Step B in the lower salary range position. At the Department Head's discretion, the step may be adjusted to a higher step in the new classification range. Any corresponding salary adjustment shall be effective as of the date upon which the demotion is effective.

The employee's salary anniversary date for step advancement shall not be changed and the provisions of this Code shall be applicable in determining the eligibility of the employee for step increases within the lower salary range.

### **16.3 RETURN TO FORMER CLASS**

Whenever an employee is returned to their former class following promotion or demotion, the employee shall return to the step they previously held including any merit increases they would have received. The employee's salary anniversary date for step advancement shall be that which would have existed had the employee never been promoted to, or assigned.

### **16.4 VOLUNTARY RESIGNATION**

An employee who wishes to resign from County employment in good standing must submit written notice of resignation to the appointing authority at least two (2) weeks prior to the planned separation date.

**16.5 EFFECTIVE DATE OF RESIGNATION**

A written resignation submitted by an employee shall be effective and irrevocable as of the date stated on the document or on such date as the appointing authority and the employee may agree. Such resignation, once submitted to the appointing authority, may be withdrawn prior to the effective date thereof only with the consent of said appointing authority.

An undated written resignation shall be effective immediately upon receipt by the appointing authority or on such date as the appointing authority and the employee may agree.

**16.6 FAILURE TO SUBMIT WRITTEN RESIGNATION**

An employee who leaves the County service without filing a written resignation giving two (2) weeks' notice or notice acceptable to the appointing authority shall not be placed on any re-employment list and may be denied eligibility to take any examination. In such cases, the employee will be deemed to have separated without good standing.

**16.7 JOB ABANDONMENT/ABSENCE WITHOUT AUTHORIZED LEAVE**

An employee who is AWOL (i.e. absent from their position without authorized leave and without a reasonable excuse) for a period of five (5) consecutive working days shall be deemed to have resigned their position.

Except as prohibited by law, an employee who is AWOL for a period of four (4) consecutive working days or less may be subject to discipline, in accordance with the provisions of this Code.

## **SECTION 17.0 - CONFLICTS OF INTEREST**

### **17.1 GENERAL POLICY**

No County employee shall engage in any employment, activity, or enterprise for compensation, which is inconsistent, incompatible, in conflict with or unfavorable to their duties as a County officer or employee or with the duties, functions, or responsibilities of the appointing authority of Nevada County. Employees shall not engage in any conduct prohibited by this Code.

### **17.2 PROHIBITED ACTIVITIES**

No employee of Nevada County shall:

- 1) Represent or counsel for compensation any individual, group of individuals or private or public organization in legal or administrative actions against Nevada County;
- 2) Use for private gain or advantage, Nevada County time, facilities, equipment or supplies or their badge, uniform, prestige or influence as a Nevada County Officer or employee unless written permission from the CEO is obtained prior to commencement of any work;
- 3) Participate in outside employment under one or more of the following circumstances:
  - (a) Receiving or accepting compensation or other consideration from an individual, group of individuals or private or public organization other than Nevada County for the performance of an act which the officer or employee, if not performing such act, would render during regular course or work hours as part of such officer's or employee's assigned or prescribed duties as a Nevada County Officer or employee;
  - (b) Performing an act for compensation outside of employment with Nevada County which may later be subject directly or indirectly to control, inspection, review, audit or enforcement by that employee's or officer's department or is subject to the review and audit by a department under the administrative control of such officer.

For the purpose of implementing this provision, no appointed County officer or member of any committee established by the Board who receives reimbursement or compensation on a per diem or per meeting basis as their sole compensation for the performance of their official duties, shall be considered to be an employee (or officer) within the meaning of this Section and Section 1126 of the California Government Code;

- (c) Performing an act of outside of employment, activity, or enterprise outside of employment with Nevada County which would involve time demands as would render performance of their duties as a Nevada County Officer or employee less efficient.

Employees who wish to engage in outside employment, which is subject to approval by any other officer, employee, board or commission of Nevada County, shall complete a Request to Approve Outside Employment form and provide it to their department head who shall review the request within ten (10) working days and either (1) approve the request if not in violation of this Section, (2) deny the request if in conflict with this Section, or (3) refer the request to the County Executive Officer for review and final determination.

Request forms must be submitted for any change in outside employment once initially approved. Approval may be rescinded at any time if, in the judgement of the department head and/or the County Executive Officer, the outside employment is in conflict with this Section.

- 4) An employee may not be required as a condition of employment with the County to become a director of or volunteer with any non-profit corporation. An employee shall not be prohibited from participating as a director of or a volunteer with any non-profit corporation so long as that participation is completely voluntary. There shall be no compensation paid to any County employee by the County for such voluntary service on a non-profit corporation's board of directors, and any such service on behalf of a non-profit corporation shall not be deemed to constitute County employment. Notwithstanding the above, participation on the board of a non-profit corporation shall be prohibited in all cases where the County employee is compensated for services by the non-profit corporation or is compensated as a consequence of service on the board of the non-profit corporation if that non-profit corporation provides services for or contracts with the County in any capacity.

### **17.3 POLITICAL ACTIVITIES**

- A. All appointed officers and employees are subject to the provisions of Government Code Section 3201, et. seq. relating to political activities. Officers and employees whose principal employment is connected with an activity which is financed in whole or in part by loans or grants made by the United States or any Federal Agency are subject to the provisions of Sections 1501-1508, Title 5, United States Code.
- B. Employees of Nevada County shall not engage in prohibited political activity during working hours, or while on duty or in uniform, regardless of the location, and shall not use the County's phones, computers, equipment, supplies and vehicles, in connection with such prohibited political activity. For purpose of this rule, "prohibited political activity" shall mean activities related to supporting or opposing candidates for election, ballot measures, or political organizations or associations, whether partisan or not.

#### **17.4 DISCIPLINARY ACTION**

Any employee who receives compensation or other consideration for an act prohibited by this Section may be subject to the disciplinary actions as provided in this Code. See Section18.

## **SECTION 18.0 – DISCIPLINE, DISCHARGE AND REPRIMANDS**

### **18.1 TYPES OF DISCIPLINARY ACTION**

For the purposes of this Code, disciplinary action means suspension, demotion, reduction in compensation, dismissal or other action taken by the appointing authority as defined by this Code, or their designated representative for disciplinary reasons due to employee conduct. A corrective action memo, verbal or written reprimand issued by the appointing authority or their designee shall not constitute a disciplinary action. Discipline for those positions covered by the Peace Officer Bill of Rights shall be administered in accordance with the law and Sheriff Department policies and procedures.

### **18.2 CAUSES OF DISCIPLINE**

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

- (a) Fraud in securing appointment
- (b) Incompetence or unsatisfactory job performance
- (c) Inefficiency
- (d) Inexcusable neglect of duty
- (e) Insubordination, refusing a directive or work order
- (f) Dishonesty
- (g) Theft
- (h) Mishandling of public funds
- (i) Harassment or discrimination of County employees or member of the public in connection with County employment based on their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status, or any other status protected by state or federal law.
- (j) Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance
- (k) Illegal manufacture, distribution, possession, and or use of a controlled substance in the workplace
- (l) Carrying firearms or other dangerous weapons while on duty when not required by job duties

- (m) Being intoxicated and/or under the influence of any controlled substance while on duty or while subject to scheduled call back
- (n) Reckless or unsafe conduct, including horseplay or fighting
- (o) Inexcusable absence without authorized leave (absenteeism or tardiness)
- (p) Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties
- (q) Discourteous or offensive treatment of the public or other employees, including insulting or demeaning the authority of a supervisor or manager
- (r) Improper political activity as specified in this Code
- (s) Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the County
- (t) Misuse of County property, including, but not limited to: physical property, electronic resources, supplies, tools, equipment, County communication systems, County vehicles or intellectual property
- (u) Damaging any County property, equipment, resource, or vehicle, or the waste of County supplies through negligence or misconduct
- (v) Violation of the County's or a department's confidentiality policies, or disclosure of confidential County information to any unauthorized person or entity
- (w) Violation of any County rule, policy or regulation, ordinance or resolution or the provisions of the Personnel Code
- (x) Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment
- (y) Misuse of sick leave or a claim of sick leave under false pretenses
- (z) Working overtime without prior authorization or refusing to work assigned overtime
- (aa) Threat or assault on an employee or member of the public in connection with County employment
- (bb) Any conduct that impairs, disrupts or causes discredit to the County, to the public service, or other employee's employment
- (cc) Any other failure of good behavior or acts either during or outside of duty hours which are incompatible with or inimical to the public service

- (dd) Falsifying or tampering with any County record, including work time or financial records

### **18.3 DISCIPLINARY PROCEDURE**

Except as distinguished by an applicable MOU or employment contract, the following disciplinary procedures apply to all regular, for-cause employees. All employees other than regular, for-cause employees (e.g. temporary, seasonal, at-will, and probationary, employees) may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed below. The following discipline procedures apply only to suspension without pay, reduction in pay, demotion, or dismissal.

#### **A. “Skelly” Notice of Proposed Disciplinary Action**

A written notice of the intended disciplinary action shall be given to the employee, which will include the following information:

- (i) The level of the intended discipline;
- (ii) The specific charges that support the intended discipline;
- (iii) A summary of the facts that show that the elements of each charge at issue in the intended discipline;
- (iv) A copy of all materials upon which the intended discipline is based;
- (v) Notice of the employee’s right to respond to the appointing authority regarding the intended discipline within five days from the date of the notice, either by requesting a *Skelly* conference, or by providing a written response, or both;
- (vi) Notice of the employee’s right to have a representative of their choice at the *Skelly* conference; and
- (vii) Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.

#### **B. Employee Response to Notice of Proposed Disciplinary Action**

The employee shall, within five (5) working days from the date of Notice of Proposed Disciplinary Action, have a right to respond orally and/or in writing to the proposed action. The employee’s failure to respond orally and/or in writing within the five (5) working day period shall constitute a waiver of their right to respond.

If the employee requests a *Skelly* conference, the appointing authority or designee will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to respond to the charges against them including rebutting the charges and presenting any mitigating circumstances. The appointing authority will consider the employee’s presentation in determining the final recommendation on discipline. The employee’s failure to attend the conference, or to deliver a written response by the date specified in the *Skelly* notice,

is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the *Skelly* letter.

**C. Final Notice of Discipline**

After the *Skelly* conference and/or timely receipt of the employee's written response, the appointing authority shall decide whether the proposed disciplinary action should be taken, whether to modify the proposed disciplinary action, or whether to take no disciplinary action. In any case, the appointing authority will provide the employee with a notice that contains the following:

- (i) The level of discipline, if any, to be imposed and the effective date of the discipline and the reasons for such action;
- (ii) The code and ordinance sections which the employee is found to have violated;
- (iii) A copy of materials upon which the discipline is based; and
- (iv) Notice of the employee's appeal right and deadline to appeal.

On the effective date of the disciplinary action, the Final Notice of Discipline shall be filed with the Human Resources Director, and a copy thereof together with a copy of the code sections outlining the administrative review procedure, shall be served on the employee who is the subject of disciplinary action. If personal service upon the employee of the written notice or of the Order is impossible, a copy shall be sent by regular mail and certified mail return receipt requested to the employee at the last known address. If the notice is not deliverable because the employee has moved without notifying the County or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

**D. Administrative Leave Pending Disciplinary Action**

When the disciplinary action involves employee behavior, which threatens the County's operations or the safety of its employees and/or members of the public, or when otherwise determined by the Department Head, Human Resources Director and/or CEO to be in the best interests of the County, an employee may be placed on an immediate administrative leave with pay pending the outcome of any pre-disciplinary proceedings.

**E. FLSA Compliance Regarding Application of Suspension to Exempt Employees**

For compliance with the Fair Labor Standards Act as it pertains to salaried, exempt employees and except for employees assigned to the Deputy District Attorneys' and Deputy Public Defenders' Unit, attorneys assigned to County Counsel's Office, and the County Executive Officer, an exempt employee who is to be suspended pursuant to this Section shall be suspended for periods consisting of one or more

full workweeks, except that suspension for less than a full workweek may be imposed for infractions of safety rules of major significance.

#### **18.4 POST-DISCIPLINARY RIGHT OF APPEAL**

The following appeal procedures only apply to the County's for-cause employees. All employees other than for-cause employees, such as temporary, seasonal, extra-help, at-will, probationary employees, may be disciplined or separated at will, with or without cause, and without the disciplinary appeal procedures listed below. Any regular "for-cause" employee who is suspended for 6 (six) or more working days, demoted, reduced in pay, or dismissed, or any regular 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 Human Resources Director. Such appeal must be filed within ten (10) working days after the effective date of the Final Notice of Discipline. Failure to file Notice of Appeal within ten (10) working days after the effective date of the Final Notice of Discipline shall constitute a waiver of the employee's right to any appeal and the imposed disciplinary action shall stand.

##### **A. Request for Appeal**

##### **i. Suspension of 5 working days or less, or Reduction in Pay equivalent to a suspension of 5 working days or less.**

Any regular status employee who is suspended for **5 working days or less** may appeal such action by filing a Notice of Appeal, in writing, with the County Human Resources Director. Such Appeal must be filed within ten (10) working days after the effective date of the Final Notice of Discipline. Failure to file Notice of Appeal within ten (10) working days after the effective date of the Final Notice of Discipline shall constitute a waiver of the employee's right to any appeal and the imposed disciplinary action shall stand.

The Human Resources Director shall review said Notice of Appeal and corresponding Final Notice of Discipline, and shall, within five (5) working days from the date of receipt of the Notice of Appeal, set a meeting to discuss the disciplinary action and appeal with the employee and/or their representative and with the appointing authority. In the event an agreement regarding disposition of the matter cannot be reached within five (5) working days after the meeting, the employee may submit an appeal to the County Executive Officer for final determination.

Should the employee desire to submit an appeal to the County Executive Officer, such appeal must be filed in writing, within ten (10) working days after the meeting with the Human Resources Director. Failure to submit a written appeal to the CEO within ten (10) working days after the meeting with the Human Resources Director shall constitute a waiver of the employee's right to such appeal and the imposed disciplinary action shall stand. The CEO shall, upon timely receipt of an appeal,

review the written appeal, Notice of Appeal submitted to the Human Resources Officer and the Corresponding Final Notice of Discipline, and issue a Final Determination. Upon the issuance of the Final Determination, the employee shall have no further right of appeal.

The timelines above may be extended by mutual agreement of the parties.

**ii. Suspension of 6 or more working days, Reduction in Pay equivalent to 6 or more working days' Suspension, Demotion or Termination**

Any regular status employee who is suspended for **6 or more working days**, demoted, reduced in pay, or dismissed, or any regular 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 Human Resources Director. Such Appeal must be filed within ten (10) working days after the effective date of the Final Notice of Discipline. Failure to file Notice of Appeal within ten (10) working days after the effective date of the Final Notice of Discipline shall constitute a waiver of the employee's right to any appeal and the imposed disciplinary action shall stand.

The Human Resources Director shall review said Notice of Appeal and corresponding Final Notice of Discipline, and shall within five (5) working days from the date of receipt of the Notice of Appeal, set a meeting to discuss the disciplinary action and appeal with the employee and/or their representative and with the appointing authority. In the event an agreement regarding disposition of the matter cannot be reached within five (5) working days after the meeting, the employee may request to appeal the discipline to arbitration.

A request to appeal the discipline to arbitration must be made in writing, within ten (10) working days after the meeting with the Human Resources Director. Failure to submit a written request to the Human Resources Director within ten (10) working days after the meeting with the Director shall constitute a waiver of the employee's right to appeal and the imposed disciplinary action shall stand.

The Human Resources Director shall, upon timely receipt of a request to appeal to arbitration begin the process of selecting an arbitrator to hear the appeal as specified below.

**B. Arbitration**

The employee and the County shall attempt to agree upon an arbitrator. If no agreement can be reached, the Parties shall request a list of seven (7) arbitrators from the State Mediation and Conciliation Service (SMCS) – Public Employment Relations Board (PERB). The Parties will flip a coin. The winner shall choose the first name and so on until one name is left, who shall be the arbitrator. The arbitrator must decide each and every dispute in accordance with the laws of the State of

California, and all other applicable laws. The Parties shall split the cost of all fees charged for such arbitration proceedings as permitted by law.

**C. Record of the Arbitration Appeal Hearing**

The arbitration hearing shall be recorded, either electronically or by a court reporter, at the option of the County. If the County orders a transcript or makes a transcript of the recording, the County will notify the employee within three days of ordering or making the transcript and will provide a copy of the transcript upon receipt of the costs of duplication.

**D. Employee Appearance**

The employee must appear personally before the hearing officer at the time and place set for the hearing. The employee may be represented by any person they may select.

**18.5 HEARING PROCEDURE**

The following rules shall apply to any hearing conducted under the provisions of the Section.

- A. **Sworn Testimony:** All witnesses shall be sworn in prior to testifying. The arbitrator or court reporter shall request each witness to raise their hand and respond to the following: “Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth?”
- B. **Evidence:** Arbitration hearings need not be conducted according to technical rules relating to evidence and witnesses but shall be conducted in a manner that the arbitrator decides is the most conducive to determining the truth. The rules dealing with privileges shall be effective to the same extent that they are recognized in civil actions. Irrelevant or unduly repetitious evidence may be excluded. The arbitrator shall determine the relevance, weight and credibility of testimony and evidence.
- C. **Exclusion of Witnesses:** During the examination of a witness, all other witnesses, except the parties, shall be excluded from the arbitration.
- D. **Burden of Proof:** The County has the burden of proof by the preponderance of the evidence.
- E. **Authority of Arbitrator:** The arbitrator shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Policies.

F. **Professionalism:** All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity or personal behavior of their adversaries or the arbitrator.

G. **Fees and Costs:** In accordance with applicable rules, collective bargaining agreements and the law, each party shall bear equally the cost of facilities, fees and expenses of the Arbitrator, including transcripts. Each party shall bear its own witness and attorney fees.

If either party unilaterally cancels or postpones a scheduled arbitration, thereby resulting in a fee charged by the arbitrator, then the party responsible for the cancellation or postponement shall be solely responsible for the payment of that fee.

## **18.6 DECISION**

The Arbitrator shall, within fifteen (15) working days after said arbitration, 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.

Written findings and recommendations shall be forwarded by the Arbitrator to the Clerk of the Board of Supervisors, the appointing authority, the County Human Resources Director and the employee. These findings and recommendations shall be presented to the Board as soon as the matter can be agendaized.

In cases where discrimination based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status is alleged and proven, the Arbitrator shall have the authority to reinstate the employee without prejudice. Such a decision, which shall be supported by the written findings of the Arbitrator, shall be final and binding upon all parties and shall not be subject to any modification by the Board of Supervisors.

In all other instances, the Board will take the findings and recommendations of the Arbitrator under advisement and will render a decision within twenty-one (21) calendar days after the presentation of said findings and recommendations to the Board.

The Board may:

- (a) Adopt the proposed decision of the Arbitrator in its entirety; or
- (b) Alter the proposed penalty and adopt the balance of the proposed decision; or
- (c) Refer the case to the same Arbitrator to take additional evidence; or

- (d) 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 Board's 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.

#### **18.7 JUDICIAL REVIEW**

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

#### **18.8 DEFAULT**

Failure to appear at the hearing shall be considered a waiver of the employee's right to appeal.

#### **18.9 EXCLUSIONS**

- A. Notwithstanding the provisions of this Section, except as otherwise provided by law, any employee designated as an "At Will" employee (appointed Department Heads, the Public Health Officer, probationary, temporary and other employees identified as serving "at will") shall be considered to be dismissed without cause and shall have no right to appeal from such action.
- B. A Department Head shall have the right to remove without cause their Assistant Department Head, and such assistant department head shall have no right to appeal such action.

Paragraphs (1) and (2) below apply only to employees hired prior to July 1, 2007.

- 1) Upon removal of an employee from the position of Assistant Department Head without cause, such employee shall be dismissed from County service as of the effective date of the order of dismissal unless the employee had vacated a position in County service to accept appointment as Assistant Department Head. In that event, such employee shall, upon request, be reinstated to their former position. Under such reinstatement, tenure in the position of assistant department head shall be deemed to be time served in such former position for the purpose of determining seniority and eligibility for merit increases. For the purpose of this Section 'former position' means the last position in which the employee had regular status.

- 2) Any employee who is displaced by reason of action taken pursuant to (1) above shall be transferred to a position in the next lower classification if they meet all of the requirements for said lower position. In the event of lay-off due to the above procedure, the applicable layoff and reinstatement regulations will apply. Except that an Assistant Department Head removed for cause, as provided by this Code, shall not have the right of transfer to a position in a lower classification unless otherwise provided by the Board of Supervisors.
- C. The provisions of this Section shall not apply to any employee designated as temporary, and any appointing authority shall have the right to remove without cause any such temporary employee assigned to work under their direction.
  - D. Any employee appointed on or after February 26, 1985, to serve in any position within the County Counsel's Office which requires membership in the State Bar shall serve at the will and pleasure of the County Counsel, and such employee may be dismissed without cause and shall have no right to appeal such action.

#### **18.10 MEDICAL INABILITY TO PERFORM WORK**

##### **A. Demotion or Separation**

For non-disciplinary reasons, a regular status employee may be separated or reduced in rank because of a medical disability, which precludes the employee from the proper performance of the essential duties of their job. Notice of the intended action with supporting information shall be served on the employee at least ten (10) working days before the effective date. Prior to the effective date, the employee shall be entitled to a meeting with the appointing authority, and may submit oral or written information in person, with a representative. As a result of the meeting, the appointing authority may affirm, modify, or vacate the intended action. If the action takes effect, the employee shall have a right to a due process hearing and appeal, following those applicable procedures of Section 18.0 (Disciplinary Action).

##### **B. Disability Retirement**

Prior to proposing separation, the appointing authority shall consider the employee's right to disability retirement, and shall coordinate with the employee in that regard. An employee otherwise eligible to retire for disability may not be separated for inability to perform work, but the County may be required to apply for the employee's disability retirement on the employee's behalf. In such cases, the County will provide the employee with notice of the intended action with supporting information, which shall be served on the employee at least ten (10) working days before the effective date of the action. Prior to the effective date, the employee shall be entitled to a meeting with the appointing authority, and may submit oral or written information in person, with a representative. As a result of

the meeting, the appointing authority may affirm, modify, or vacate the intended action.

The employee shall not have a right to a due process hearing and appeal regarding the County's decision to file for their disability retirement on their behalf under the County's Personnel Rules. However, the employee will be entitled to appeal any decision of CalPERS to affect their disability retirement.

#### **18.11 NON-DISCIPLINARY CORRECTIVE ACTION – LETTERS OF REPRIMAND**

- A. Any regular status employee except an elective official may be reprimanded by the appropriate appointing authority by an order in writing, a copy of which may be entered into their personnel file.
- B. An employee shall have thirty (30) calendar days within which to file a written response to such reprimand entered into the personnel file, and such written response shall be attached to the reprimand. A letter of reprimand issued to an employee pursuant to this section and the attached response shall, upon request of the affected employee, be removed from the employee's personnel file after a minimum of two (2) years has lapsed, provided that during that intervening two (2) year period the said employee has not received a less-than-satisfactory performance report and has not been issued any additional letter of reprimand pursuant to this section.
- C. Letters of reprimand are not subject to the discipline and appeal process outlined in Section 18.0 of the Personnel Code.

## **SECTION 19.0 - GRIEVANCE PROCEDURE**

### **19.1 PURPOSE**

The purpose of the grievance procedure is to afford employees a written and simple means of obtaining consideration of their grievances by informal means at the department head's decision without the use of legalistic forms and procedures.

For purposes of using the grievance procedure, a grievance shall be defined as an alleged violation of the rights given to employees under a(n) union-management or association-management memorandum of understanding, the summary of compensation and benefits ("summary") applicable to the grievant, or a specific provision of these Policies that adversely affects the employee. A grievance is a dispute between the management and the union, association or employee or group of employees as to the interpretation, application, or violation of any terms or provisions of the MOU, summary or Personnel Code.

Specifically excluded from the grievance procedure are issues more appropriately resolved by use of the meet and confer process, disputes arising over any subject or item not contained in the MOU, and any matter which has another means of appeal specified in the MOU or elsewhere. Also excluded is any dispute arising between the County and an employee absent outside of the normal employer/employee relationship.

The grievance procedure cannot be utilized to challenge the content of a performance evaluation.

### **19.2 GRIEVANCE FORM**

A concern is not a grievance unless the affected employee is able to state each of the following: the date of the alleged violation; the specific provision(s) of the MOU, summary, or Personnel Code that were allegedly violated; a description of all facts regarding how the alleged violation occurred; and a list of all persons who are witnesses or are involved. The Human Resources Department shall develop a standard form to be used by employees in filing a written grievance. The form shall include all of the grievance procedures contained in this Section. The grievant must use the County form to make the Statement of the Grievance. The form must be signed by the employee filing the grievance to certify that it is filed in good faith.

### **19.3 PROCEDURE**

The following procedure applies to all County employees unless the employee is covered by a grievance procedure in an MOU; another dispute resolution procedure applies to the dispute, or a discipline policy and procedure applies.

**A. Step I: Informal Resolution with Supervisor**

Each employee believing they have a grievance shall, before filing the same in writing, discuss their problem or complaint with the immediate supervisor no later than five (5) working days after the grievant first became aware of the facts or circumstances resulting in the grievance, in an attempt to resolve the matter as simply and as informally as possible.

**B. Step II: Department Head**

If discussion with the immediate supervisor at Step I fail to resolve the matter, the employee or their representative shall present the grievance in writing to the department head within ten (10) working days after final discussion with the immediate supervisor. The employee or their representative shall use the standard grievance form developed by the Human Resources Department for this purpose. The department head receiving the grievance shall enter their decision and comments in writing and return the form to the employee within ten (10) working days after receiving the grievance. Failure of the employee to take further action within the ten (10) working days after receipt of the written decision shall constitute an abandonment of the grievance.

**C. Step III: Human Resources Director**

If the employee does not agree with the department head's decision, or if no answer has been received by the department head within ten (10) working days, the employee or their representative may present the grievance in writing to the County Human Resources Director. The County Human Resources Director or an authorized representative shall render a decision in writing to the employee with a copy to the department head within ten (10) working days after receiving the grievance.

**D. Step IV: County Executive Officer**

If the employee does not agree with the decision of the County Human Resources Director or their authorized representative, they may appeal in writing to the County Executive Officer. Such appeal must be made within ten (10) working days of the receipt of the Human Resources Director's decision.

Upon receipt of said appeal the County Executive Officer, or their designee, shall order that the matter be heard by an arbitrator selected from a listing of arbitrators supplied by the State Mediation & Conciliation Service (SMCS). As soon as possible thereafter, the arbitrator shall hear the grievance at issue and render to the County Executive Officer, with a copy to the grievant, a recommendation on proper resolution of the issue(s). The County Executive Officer shall consider all information and testimony as they deem relevant to the issue(s) on appeal and render a written decision within fifteen (15) working days after receipt of the

recommendation of the arbitrator. The County Executive Officer's decision shall be final and binding.

**E. Waiver of Timelines**

The time specified in these rules may be extended to a definite date by mutual agreement by stating the fact thereof on the grievance previously submitted and initialed by the parties making the agreement.

**F. Reasonable Release Time**

The grievant shall be permitted a reasonable amount of work time as determined by the department head, in preparing the grievance and presenting same at each level of appeal as specified herein.

Witnesses shall suffer no loss of compensation or benefits while participating in this procedure, in order to give testimony before the arbitrator. Recognizing the County's need to provide continuity of services to the public, the employee(s) shall provide a list of required witnesses in advance of any scheduled hearing and shall insure that the number of witnesses and their scheduling shall be reasonable.

**G. Representation**

The grievant may request the assistance of another person of their own choosing in preparing and presenting their grievance. The grievant's representative, if a County employee, shall be permitted a reasonable amount of work time, as determined by the department head, in preparing for and presenting the grievance to the arbitrator and/or Board of Supervisors as provided herein.

**H. Selection of Arbitrator**

The arbitrator shall be selected from a listing of five (5) names provided by the SMCS by a method agreed upon by the grievant or their representative and the Board of Supervisors' designee. If the parties cannot agree upon the method of selecting the arbitrator from the listing of names, then the selection shall be made by random drawing from those names submitted.

**I. Arbitrator's Power**

The arbitrator shall be bound by the language of the Agreement and County rules and regulations consistent therewith in considering any issue before them.

The arbitrator shall have no authority to add to, delete or alter any provision of the Agreement or County rules or regulations. The arbitrator shall limit their recommendation to the application and interpretation of its provisions.

**J. Arbitrator's Fees**

The fees of the arbitrator shall be borne equally by the parties.

## **SECTION 20 - LAYOFFS AND RE-EMPLOYMENT**

A layoff is a separation from service without fault on the part of the employee because of lack of work, lack of funds, or other causes unrelated to the employee's job performance.

### **20.1 LAYOFF - NONSAFETY PERSONNEL**

Except as otherwise provided by an applicable MOU, the appointing authority may lay off employees pursuant to this Section whenever it becomes necessary because of lack of work or funds, or whenever it is deemed advisable in the interest of economy to reduce the force in a department or office.

The County shall give the union or association notice prior to implementation of any proposed layoff and shall consult with the union or association, in good faith, regarding the effects of the said layoff. Such consultation shall not delay the effective date of the layoff unless an agreement is reached to postpone or cancel the proposed layoff.

#### **A. Section Definitions**

##### **1) Seniority**

For the purpose of applying section 20.1 only, seniority shall be defined as the total number of calendar days an employee has been employed in a regular or temporary capacity and on active pay status in the classification of the employee or group of employees subject to layoff or bumping, except that in the case of a regular status employee, approved or legally protected leaves of absence with or without pay shall also count as time worked on active pay status. Time worked in another classification of equal or greater pay grade and within the same series shall count as time worked within the classification of the employee or group of employees subject to layoff or bumping. Seniority shall not include any period during which an employee was (1) on leave without pay for disciplinary reasons or (2) not actually in County employment because of their voluntary termination, layoff, or other cause; provided, that for any employee who is re-employed after being discharged for cause or any probationary employee discharged during the probationary period, seniority shall not include any time worked prior to their succeeding appointment.

##### **2) Performance**

For the purpose of applying section 20.1 only, performance shall be defined as annual or probationary performance evaluations submitted between 90 days and 12 months prior to the issuance of a layoff notice.

**B. Order of Layoff**

Employees in the same department and within the same classification shall be laid off as follows:

- 1) All temporary and limited term employees shall be laid off, in an order determined by the appointing authority, before any probationary employees.
- 2) All part-time probationary employees shall be laid off, in an order determined by the appointing authority, before any full-time probationary employees.
- 3) All full-time probationary employees shall be laid off, in an order determined by the appointing authority, before any regular status employees.
- 4) All part-time regular status employees shall be laid off, in an order determined by the appointing authority, before any full-time regular status employee.
- 5) When it becomes necessary to reduce the force in any department by layoff of regular full-time employees, seniority and the ability to perform the work shall be the determining factors. Specifically, layoffs shall be made by classification and by department in accordance with the following procedure and in the following order:
  - a. All employees within the classification of a position which is being abolished whose annual or final probationary performance report, which is at least 90 days old, was less than overall "outstanding" shall be laid off before any employee in the same classification whose most current annual or final probationary performance report, which is at least 90 days old, was overall "outstanding." Within this group, a less senior employee shall be laid off before an employee with more seniority.

In the case of a tie in seniority pursuant to this Section, such tie shall be broken by counting all time in County service. If this method of breaking ties in seniority results in a tie; the order of layoff shall be determined by lot as drawn by the Human Resources Director.
  - b. Whenever it becomes necessary to lay off employees whose annual or final probationary performance report, which is at least 90 days old, was overall "outstanding", the said layoffs shall occur in an order determined by the appointing authority, based on their assessment of the affected employees' overall ability and willingness to perform.
- 6) Regular County employees who are receiving the bilingual differential may be exempted from layoff at the discretion of the Department Head based on the needs of the County

**C. Bumping Rights**

Except as otherwise provided, any employee who has been displaced as a result of the application of the provisions of this Section shall be permitted to exercise bumping rights into a lower classification within the same classification series and within the same department or within a previously held classification series or department from which an employee was involuntarily transferred. If an employee should elect to exercise their bumping rights as provided herein then such employee shall be judged against all employees within the said lower classification in accordance with the foregoing methodology, giving proper weight to the factors of performance and seniority. Such bumping right must be exercised within ten (10) days of the date of layoff notice.

Any employee displaced by another employee's exercise of the right to bump shall also be permitted to exercise bumping rights into an existing lower classification within the same series and within the same department, where applicable.

**D. Interdepartmental Transfers**

The Human Resources Director or their designee shall make an effort to transfer any employee who is so affected by a reduction in force to another vacancy for which such employee is qualified.

The Human Resources Director shall have the authority, at their discretion, to transfer any employee who is laid off pursuant to this Section to any vacancy in any department, provided the employee is qualified for the said vacancy.

**E. Notice of Layoff**

Regular status employees shall be notified of layoff fourteen (14) days prior to the effective date of same. All other employees may be laid off on twenty-four (24) hours' notice. An employee who is to be laid off may elect to accept such layoff prior to the effective date thereof.

**F. Re-Employment List**

A re-employment list shall be established containing the names of employees who have been laid off through no fault or delinquency on their part in accordance with Section 10.

**20.2 LAYOFF - SAFETY PERSONNEL**

An appointing authority may lay off employees of either of the two recognized safety employees' bargaining units pursuant to this Section whenever it becomes necessary

because of lack of work or funds, or whenever it is deemed advisable in the interest of economy to reduce the force in a department or office.

**A. Order of Layoffs**

Employees in the same department and within the same classification shall be laid off as follows:

- 1) All temporary employees shall be laid off, in an order determined by the appointing authority, before any probationary employees.
- 2) All part-time probationary employees shall be laid off, in an order determined by the appointing authority, before any full-time probationary employees.
- 3) All full-time probationary employees shall be laid off, in an order determined by the appointing authority, before any regular status employees.
- 4) All part-time regular status employees shall be laid off, in an order determined by the appointing authority, before any full-time regular status employees.
- 5) When it becomes necessary to reduce the force in any department by layoff of permanent, full-time employees, seniority and the ability to perform the work shall be the determining factors. Layoffs shall be made by classification and by department in accordance with the following procedure and in the following order:
  - a. All employees within the classification of a position which is being abolished whose last three (3) annual performance reports averaged less than overall "satisfactory" shall be laid off before any employee in the same classification whose last three (3) annual or final probationary performance reports averaged "satisfactory" or above. Rounding will not be used in these calculations. An employee must be at or above the required level in order to be considered to be at that level. For employees with less than three years of service the average of the available evaluations will be used. Within this less than satisfactory group, a less senior employee shall be laid off before an employee with more years of service. An employee laid off pursuant to this provision shall not be permitted to bump an employee occupying a lower classification. Where seniority is equal, the order of layoff within the less than satisfactory group shall be determined by the average performance report score as specified in this paragraph and if those scores are the same the order shall be determined by lot as drawn by the Human Resources Director.

- b. All employees within the classification of a position which is being abolished whose last three (3) annual or final probationary performance reports averaged "satisfactory" shall be laid off before any employee in the same classification whose last three (3) annual or final probationary performance reports averaged "very satisfactory." Rounding will not be used in these calculations. An employee must be at or above the required level in order to be considered to be at that level. For employees with less than three years of service the average of the available evaluations will be used. Within this group, a less senior employee shall be laid off before an employee with more seniority. Where seniority is equal, the order of layoff within this group of employees shall be determined by the average performance report score as specified in this paragraph and if those scores are the same the order shall be determined by lot as drawn by the Human Resources Director.
- c. All employees within the classification of a position which is being abolished whose last three (3) annual or final probationary performance reports averages "very satisfactory" shall be laid off before any employee in the same classification whose last three (3) annual or final probationary performance reports averages "outstanding." Rounding will not be used in these calculations. An employee must be at or above the required level in order to be considered to be at that level. For employees with less than three years of service the average of the available evaluations will be used. Within this group, a less senior employee shall be laid off before an employee with more seniority. Where seniority is equal, the order of layoff within this group of employees shall be determined by the average performance report score as specified in this paragraph and if those scores are the same the order shall be determined by lot as drawn by the Human Resources Director.
- d. Whenever it becomes necessary to lay off employees whose last three (3) annual or final probationary performance reports averages "outstanding," the said layoffs shall occur in an order determined by the appointing authority, based on their assessment of the affected employees' overall ability and willingness to perform. Rounding will not be used in these calculations. An employee must be at or above the required level in order to be considered to be at that level. For employees with less than three years of service the average of the available evaluations will be used.
- e. Except as otherwise provided, any employee who has been displaced as a result of the application of the provisions of this Section shall be permitted to exercise bumping rights into a lower

classification within the same classification series and within the same department or into the last position in which the employee held regular status and within the same department from which the employee is being displaced. If an employee should elect to exercise their bumping rights as provided herein then such employee shall be judged against all employees within the said lower classification in accordance with the foregoing methodology, giving proper weight to the factors of performance and seniority. Such bumping right must be exercised within ten (10) days of the date of layoff notice.

- f. Any employee in this unit, bumped pursuant to e., above, shall be permitted to exercise bumping rights into an existing lower classification within the same series and within the same department, or into the last position in which the employee held regular status and within the same department from which the employee is being displaced where applicable.
- g. For employees covered by the Sheriff's Management Unit, all performance reports cited in Section 20.2(a)(5)(a-d) shall be limited to the employee's current classification. For employees with less than three years of service, the average of the available evaluations within the employee's current classification shall be used.

**B. Interdepartmental Transfers**

The Human Resources Director or their designee shall make an effort to transfer any employee who is to be affected by a reduction in force to another vacancy for which such employee is qualified.

**C. Seniority Defined**

For the purpose of applying this Section only, seniority shall be defined as the total number of calendar days an employee has been employed and on active pay status in the classification of the employee or group of employees subject to layoff or bumping, except that in the case of a regular status employee, approved or legally protected leaves of absence with or without pay shall also count as time worked on active pay status. Time worked in another classification of equal or greater pay grade and within the same series shall count as time worked within the classification of the employee or group of employees subject to layoff or bumping. Seniority shall not include any period during which an employee was (1) on leave without pay, or (2) not actually in County employment because of their voluntary termination, layoff, or other cause; provided, that for any employee who is re-employed after being discharged for cause or any probationary employee discharged during the probationary period, seniority shall not include any time worked prior to their succeeding appointment.

**D.     Notice of Layoff**

Regular status employees shall be notified of layoff fourteen (14) calendar days prior to the effective date of same. All other employees may be laid off on 24 hours' notice. An employee who is to be laid off may elect to accept such layoff prior to the effective date thereof.

## **SECTION 21 - TYPES OF LEAVE**

### **21.1 LEAVE WITHOUT PAY**

- A. In instances where work will not be significantly impacted by the temporary absence of an employee from a regular position, a Department Head may grant a leave of absence for a period of up to 5 days. Beyond a period of 5 days, the County Human Resources Director may grant a leave of absence for a period not to exceed four (4) months upon request of the employee and approval of the department head. If the leave is denied by the Human Resources Director, the department head may request that the matter be decided by the County Executive Officer. Extension of the leave of absence or an initial request for a longer leave of absence may be considered upon application of the department head to the County Executive Officer. Any leave of absence request for a department head shall be approved by the County Executive Officer. All requests for leaves of absence must be in writing and must establish reasonable justification for approval of the request. A leave of absence shall not be approved for an employee who is accepting employment outside the County service.
- B. Any leave of absence without pay exceeding fifteen (15) calendar days shall cause the employee's salary anniversary date to be postponed a number of calendar months equal to the number of full calendar months or major portion thereof (meaning a leave of absence without pay exceeding fifteen (15) calendar days), for which the leave of absence was taken. Sick leave, vacation/PLP shall not accrue during an unpaid leave of absence.
- C. Failure of the employee to return to their former County position immediately following the expiration of leave may be cause for dismissal.

### **21.2 VACATION/PERSONAL LEAVE PROGRAM (PLP)**

Employees should refer to their applicable MOU or Agreement outlining the leave benefits. Regular part-time employees are eligible for leave benefits on a pro-rata basis.

### **21.3 CATASTROPHIC LEAVE POLICY**

The purpose of this policy is to provide a method for employees to assist fellow employees who have exhausted their paid leave time due to a catastrophic illness, injury or other unforeseen, unanticipated emergency need.

The program establishes and maintains a county-wide bank wherein any employee who wishes to contribute may authorize that a portion of their accrued vacation, compensatory time, floating holiday, HTO, administrative leave, PLP, PTO or comp time be deducted from one or more of those banks and credited to the County Catastrophic Leave Bank. Employees are only entitled to receive contributions from the County-wide bank while on an approved leave of absence upon verification of eligibility.

**A. Definition of Eligible Employee**

To be eligible, the employee must meet all of the following criteria:

- Have successfully completed a probationary period.
- Must be on an approved leave of absence.
- Have exhausted all available leave balances.
- Be disabled due to verifiable, catastrophic injury or illness. Must be unable to work due to an unforeseen, unanticipated emergency.
- Must have donated at least four (4) hours of leave during their employment.
- Must integrate with State Disability Insurance.

**B. Definition of Catastrophic Illness or Injury**

Catastrophic illness or injury is an illness or injury which is expected to incapacitate the employee for a period of time, and which creates a financial hardship because the eligible employee has exhausted all of their accumulated leave. Catastrophic illness or injury is further defined as a debilitating illness or injury of an immediate family member that results in the employee being required to take time off from work for a period of time to care for the family member, when this creates a financial hardship because the employee has exhausted all of their accumulated leave. Immediate family shall mean son or daughter including variation of step or foster, spouse, parents, grandparents, and brother or sister of the employee.

**A. Plan Administrator**

The Human Resources Director shall be responsible for the following administrative duties:

- Review catastrophic leave applications for satisfaction of all eligibility requirements.
- Receive, evaluate, approve or deny all requests to utilize catastrophic leave hours, and forward all approved requests to the Auditor-Controller.
- Maintain the confidentiality of employees donating hours.
- Coordinate with the County Auditor-Controller during the application review process, upon approval of applications, and to facilitate the transfer of leave time.
- Investigate any allegations of misuse relating to the donation of leave time.
- Forward all appeals resulting from denial of applications, to the County Executive Officer, whose decision shall be final.

**B. The Auditor Controller**

The Auditor Controller shall be responsible for the following payroll/administrative functions of the program:

- Monitor the number of hours donated to every recipient to ensure that accrued hours do not exceed 480 hours per employee.
- Maintains the County-wide bank and balance of hour value in dollars donated by employees for general use by eligible employees.
- Provide information to Human Resources on the total number of hours used by leave bank recipients and other relevant payroll data.
- Process all requests to donate leave hours.
- Maintain the confidentiality of persons donating hours.

**C. Requesting and processing catastrophic leave applications**

- Employees wishing to participate in the catastrophic leave program must complete a Catastrophic Leave Application and submit it to the Human Resources Department.
- Employees applying for catastrophic leave must be willing to provide additional information and/or a physician's statement, as may be needed to establish eligibility, upon request of the Human Resources Director or Health Benefits Officer. Failure to provide this information may result in a denial of the leave application.
- All information regarding the leave application will be kept confidential and the employee will be contacted by Human Resources when a determination has been made regarding the application.
- Any application which is denied may be appealed to the County Executive Officer. The County Executive Officer's decision shall be final.

**D. Conditions and Procedures for Donating Leave Hours**

- Employees wishing to donate accrued leave hours must submit a completed Leave Donation Form to the Human Resources Department.
- Employees may donate any cashable leave hours as identified above (sick time is not eligible).
- The minimum donation is 4 hours.
- The transfer of leave hours is non-refundable.
- When any recipient has received a total donated leave balance of 480 hours per leave event, the Auditor Controller will stop integrating donated leave.
- Leave donated in accordance with this policy will not be considered wages for the employee who surrenders the leave and will therefore not be included in gross income or subject to withholding.
- Donated leave shall be changed to its cash value and credited to the catastrophic leave bank. As employees received donated leave, it will be at their base hourly rate.
- Employees donating leave must have an overall leave balance of at least 80 hours remaining after donating.

#### **21.4 LEAVE - VOLUNTEER FIREFIGHTERS, RESERVE DEPUTY SHERIFFS**

- A. A volunteer firefighter may respond to fire and rescue calls within their department jurisdiction during County working hours provided their immediate work is such that they may leave, as determined by their immediate supervisor.
- B. The employee shall notify a supervisory member of the County department upon receipt of a call and when returning from a call.
- C. Any injury sustained by a volunteer firefighter during the period of time away from work on a fire or rescue call shall be reported to the compensation insurance carrier of the fire department of which the volunteer is a member.
- D. The time spent away from regularly assigned work during a fire or rescue call by a volunteer firefighter who is a County employee shall be counted as time worked for pay purposes.
- E. Upon request of the Sheriff, a reserve deputy sheriff may respond to an emergency call during working hours provided their immediate work is such that they may leave, as determined by their immediate supervisor. The time spent away from regularly assigned work during the emergency shall be counted as time worked for pay purposes.

#### **21.5 SICK LEAVE**

For those employees not participating in the Personal Leave Program, sick leave shall be accrued as stated below:

- a) Sick leave with pay for regular status employees assigned to the normal forty (40) hour work week shall accrue at the rate of eight (8) hours of sick leave for each full calendar month of service.
- b) Regular status employees of the County assigned to work weeks in excess of the regular forty (40) hours shall accumulate sick leave at the rate of eight (8) hours of sick leave for each full calendar month of service.
- c) Part-time appointments to regularly authorized positions shall accrue sick leave on a pro-rata basis.
- d) Regular and temporary employees shall accrue sick leave beginning their first day of hire and are permitted to use such sick leave beginning this first day of hire.

- e) Sick leave shall be compensated at the same wage as the employee normally earns during regular work hours. If an employee has a reduction in pay within the ninety (90) days preceding their sick leave time taken, the employee shall receive sick leave pay equal to the average hourly wage paid over the last ninety (90) days.
- f) Effective January 1, 2024, temporary County employees can accrue a maximum of 80 hours of sick leave which may be carried over from one fiscal year to the next.
- g) Effective January 1, 2024, temporary County employees are limited to using 40 hours or 5 8-hour days of sick leave per fiscal year.
- h) If an employee is separated and rehired within one year from the date of separation, their unused sick leave balance at the time of separation (not to exceed 80 hours), that is not paid out or converted to PERS service credit in accordance with the terms below, will be reinstated. Exceptions to this rule made only by approval of the County Executive Officer.
- i) Employees may be entitled to compensation for unused paid sick days upon termination, resignation, retirement, or other separation from employment in accordance with the specific terms in applicable MOUs or employment agreements.
- j) Upon the death of any employee in the active service of Nevada County who is a member of the Management Employees' Bargaining Unit, is an Appointed Department Head, or is listed as a Confidential exempt employee on the most current salary resolution, there shall be paid to the employee's estate the value of all unused, accumulated sick leave. The value of such sick leave shall be determined by multiplying the total hours accumulated and unused by the hourly wage rate of the range and step to which the employee was assigned.
- k) Sick leave shall not accrue during any period of unpaid leave of absence with the exception of authorized temporary military leave of an employee who has been in the service of the County for a period of not less than one year, who shall also accrue sick leave for authorized temporary military leave.
- l) An employee may utilize their allowance of sick leave when unable to perform their work duties by reason of illness or injury, including necessity for medical or dental care, exposure to contagious disease under circumstances by which the health of the employees with whom associated, or member of the public necessarily dealt with, would be endangered by the attendance of the employee. The employee may also utilize their allowance of sick leave for the diagnosis, care, or treatment of an existing health condition, or for preventive care. An employee who is unable to perform their work duties due to pregnancy must utilize their accrued sick leave while on pregnancy leave under section 21.6. The use of sick leave will run concurrently with pregnancy leave under section 21.6 and Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA) leave under Section P3.

An employee may utilize their accrued sick leave to attend to:

- the diagnosis, care, or treatment of the employee's own existing health condition or for preventive care;
  - the diagnosis, care, or treatment of an existing health condition, or preventive care of their child, parent, spouse, domestic partner, child of their domestic partner, sibling, grandchild, grandparent, or designated person (designated person means any individual related by blood or whose association with the employee is the equivalent of a family relationship)
  - a death in the immediate family requiring the presence of the employee. An employee may utilize up to ten (10) days of sick leave because of a death in the immediate family requiring the presence of the employee. "Immediate family" is defined as mother, father, spouse, sister or brother of both the husband and wife; children, grandchildren, grandparents of both husband and wife; or other relative residing in the employee's immediate household.
  - because of pregnancy or childbirth. The use of sick leave will run concurrently with CFRA and FMLA leave as described in Section P3 when used because of pregnancy or childbirth.
  - if the employee or a family member is a victim of domestic violence, sexual assault, stalking, or any act causing bodily injury or death, brandishing or using a weapon, or perceived/threatened use of force to cause injury or death, an employee may use sick leave for the following: to obtain legal relief, to seek medical attention, to obtain services from a domestic violence shelter, program or rape crisis center, to obtain psychological counseling, or to participate in safety planning and take other actions to increase safety. All employees who use paid leave to address issues related to domestic violence, sexual assault or stalking, and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter.
- n) A certificate from a health care provider as defined in Personnel Code Section P-3, may only be required if absence from duty by reason of sickness or injury extends beyond period of three (3) working days, if there is suspected abuse of the leave policies, and in cases of FMLA, CFRA, Pregnancy Disability Leave (PDL), Workers' Compensation Leave or disability certification. The certificate shall be filed with the employee's department and the Human Resources Department as referenced in Personnel Code Section P-3.

## **21.6 PREGNANCY LEAVE**

- a) An employee shall be entitled to a pregnancy disability leave without pay of up to four (4) months or may request to be reasonably accommodated or transferred to less strenuous or hazardous duties if the employee is disabled by pregnancy, childbirth or related medical conditions. When an employee takes leave under this policy, such leave will run concurrently with FMLA/CFRA leave. FMLA/CFRA leave is fully described in Section P3.
- b) Reasonable notice shall be provided to the appointing authority prior to commencement of and return from pregnancy leave. The employee's attending physician must certify that the employee is physically unable to work due to pregnancy, childbirth, or a related condition. The certification should include:
  - (1) The date on which the employee became disabled due to pregnancy, childbirth or a related condition or the date of the medical advisability of the transfer;
  - (2) The probable duration of the period(s) of disability or the period(s) for the advisability of the transfer; and
  - (3) A statement that, due to the disability, the employee is unable to work at all or to perform any one or more of the essential functions of the position without undue risk to the employee or to others or the successful completion of the pregnancy.
- c) The employee may elect to use any vacation or other accrued personal time off and will be required to use accrued sick leave during the otherwise unpaid portion of the pregnancy disability leave, as described in section 21.5(n), above.
- d) During the period of pregnancy disability leave, the employee is entitled to accrual of seniority and to participate in health plans and other employee benefit plans. An employee who takes unpaid leave under this policy must utilize FMLA/CFRA leave at the same time if the employee is eligible. The County will continue to pay the County share of any normally paid health insurance premium during a pregnancy disability leave up to four months. The County may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond their control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act.

The pregnancy disability leave shall not constitute a break in service for purposes of longevity and/or seniority under any collective bargaining agreement or under any employee benefit plan.
- e) Upon expiration of the approved leave or transfer, the employee shall be reinstated to their former position or to a comparable one if the former position is abolished during the period of leave and the employee would not have otherwise been laid

off. The comparable position is one having similar terms of pay, location, job content and promotional opportunities.

- f) Prior to the employee being reinstated or transferred back to their position, the department head may require a statement from the employee's attending physician that the employee is physically capable of resuming the regular duties of their position. If upon return from leave an employee is unable to perform the essential functions of their job because of a physical or mental disability, the County will initiate an interactive process with the employee in order to identify a potential reasonable accommodation in accordance with these Policies.

## **21.7 REPRODUCTIVE LOSS LEAVE**

An eligible employee is entitled to receive up to five (5) days of time off following a failed adoption, failed surrogacy, miscarriage, stillbirth, or unsuccessful assisted reproduction. The five days of leave do not need to be taken consecutively. However, the leave must be completed within three months of the reproductive loss event, with the exception that, if an employee is on CFRA leave, PDL, or another leave protected by state or federal law at the time of or immediately following the Reproductive Loss Event, the employee may use Reproductive Loss Leave within three (3) months of the end date of the other protected leave. If an employee experiences more than one reproductive loss event within a 12-month period, an employee may be granted additional time off up to a maximum of 20 days within a 12-month period.

An employee may use sick leave, or any other paid leave the employee has accrued, to cover this loss.

Absent accrued leave, a reproductive loss leave may be unpaid.

## **21.8 HOLIDAY LEAVE**

- a) Each regular status employee in the County service, except employees assigned as crisis workers and members of the Deputy Sheriff's Association, shall be entitled to compensation without appearing for work for the following designated holidays:
  - (1) January 1<sup>st</sup>
  - (2) The third Monday in January known as "Martin Luther King's Birthday"
  - (3) The third Monday in February known as "President's Day"
  - (4) The last Monday in May known as "Memorial Day"
  - (5) July 4<sup>th</sup> known as "Independence Day"
  - (6) The first Monday in September known as "Labor Day".

- (7) The 2<sup>nd</sup> Monday in October known as "Columbus Day/Indigenous Peoples' Day".
- (8) November 11<sup>th</sup>, known as "Veterans' Day".
- (9) Thanksgiving Day, designated Thursday in November.
- (10) The Friday immediately following Thanksgiving Day.
- (11) December 25<sup>th</sup>.
- (12) Every day designated by the President or Governor for a public fast, thanksgiving, or holiday and approved by the Board of Supervisors.
- (13) All employees will receive two floating holidays per fiscal year, which may be taken at any time mutually agreed upon by the employee and the appointing authority. Employees will not be permitted to accrue or carry over floating holidays from one fiscal year to the next.

Employees should review their applicable MOU or Agreement for additional provisions regarding holiday leave.

- b) Part-time regular status employees shall be entitled to compensation on a pro rata basis, applying the percentage of employment against the eight (8) hours granted a full-time employee for each holiday.
- c) When a holiday specified herein falls on Saturday, the preceding Friday shall be observed as a holiday. When a holiday falls on a Sunday, the following Monday shall be observed as a holiday. When a holiday falls on an employee's regular day off, which is other than the observed Saturday or Sunday, the following workday shall be observed as a holiday.
- d) An employee must work on the regular workday before and the regular workday after a paid holiday or be on an approved paid leave of absence during these times in order to receive pay for the holiday. Approved paid leave of absence is defined as paid sick leave, paid vacation, paid floating holiday, or paid authorized leave of absence. Any exception to the foregoing shall be for good cause, only, and shall require the approval of the County Executive Officer whose decision shall be final.

## **21.9 MILITARY LEAVE**

Military leave shall be granted in accordance with federal and state law. An employee requesting leave for this purpose shall promptly provide the Department Head with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the Department Head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

## **21.10 COURT/JURY DUTY**

A County employee, who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify their supervisor or department head as soon as possible. Any employee who is released from jury service prior to the end of their scheduled work hours must report to work unless otherwise authorized by their supervisor.

### **A. Paid Leave/Release Time**

- a. An employee in the County service, who is not a party to the court action, shall be granted a leave of absence with pay for actual work hours missed due to:
  - (ii) Service with a jury, provided that the salary paid to the employee for the period of absence shall be reduced by the amount of money they received for jury service, or an amount equal to the amount of money received for jury service is deposited with the County of Nevada prior to receiving any warrant for the pay period affected. An employee is not entitled to leave of absence with pay once they are released from service.
  - (iii) Appearance before a court, legislative committee, judicial or quasi-judicial body as a witness in response to a subpoena or other direction by proper authority, provided that the salary paid to them shall be reduced by an amount equal to any compensation they might receive as witness fees, or an amount equal to the amount of money received as witness fees is deposited with the County of Nevada prior to receiving any warrant for the pay period affected.
- b. Attendance in court in connection with an employee's officially assigned duties, including the time required to travel from the worksite to court and return.
- c. When time spent on jury duty or appearance before a court, legislative committee, judicial or quasi-judicial body is *not* in connection with an employee's official assigned duties, and the employee is a non-exempt, FLSA-overtime eligible employee, the time spent is not counted as work time for the purposes of calculating overtime compensation, unless otherwise provided by the employee's MOU.
- d. An employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission is entitled to paid release time.

### **B. Leave Time for Victims of Crimes**

When an employee is a party to, or involved in a court action as outlined below, but not in connection with their officially assigned duties, they shall be entitled to leave as follows:

- a. Any employee who is a victim of a crime that is a serious or violent felony, or a felony involving theft or embezzlement, may take leave from work to attend judicial proceedings related to that crime, if the employee provides the County a copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the County, within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court / governing agency that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime. The leave is unpaid unless the employee elects to use accrued vacation, sick, or other paid leave, or compensatory time off.
- b. Any employee who is a victim of a crime listed in Labor Code section 230.5(a)(2)(A), may take leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue, if the employee provides the employer reasonable advance notice. If advance notice is not feasible, the employee must provide the County, within a reasonable time after the leave is taken, certification from a police report, a district attorney or court, or from a health care provider or victim advocate, that the employee was a victim of any of the crimes listed in Labor Code section 230.5(a)(2)(A). An employee who is a spouse, parent, child, sibling, or guardian of such a crime victim is also a victim who is entitled to this leave if the above notice or certification requirements are met. The leave is unpaid unless the employee elects to use accrued vacation or paid leave, or compensatory time off.
- c. Any employee who is a victim of domestic violence, sexual assault, stalking, or any act causing bodily injury or death, brandishing or using a weapon, or perceived/threatened use of force, may take leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or their child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or paid leave, or compensatory time off.

### **21.11 ADMINISTRATIVE LEAVE**

Some employees are covered by MOU's or Agreements that provide paid administrative leave benefits. Employees should refer to their applicable MOU or Agreement to see if they are eligible.

For those employees who are eligible for Paid Administrative Leave:

On July 1 of each fiscal year, each eligible employee or officer with at least 6 months of service shall be credited with 40 hours of administrative leave, to be used at a time mutually agreed upon by the employee or officer and their appointing authority.

An employee or officer appointed during a fiscal year or completing the required 6 months of service during a fiscal year, whichever comes later, shall receive administrative leave for the year on a pro rata basis using the number of calendar days remaining in the fiscal year as a percentage of all calendar days within the fiscal year. Time served with the County in another regular position shall be counted in meeting the requirement for 6 months of service.

An eligible employee shall be permitted to accrue a maximum of 80 hours of administrative leave. Administrative leave in excess of this amount shall be paid off at the regular hourly rate of pay for the range and step to which the employee or department head is assigned.

### **21.12 LEAVE FOR PURPOSE OF DONATING BLOOD**

A regular status employee may be granted up to one (1) hour of leave with pay for purposes of donating blood during their regularly scheduled work hours to any organized local blood drive sponsored within Nevada County by the Sacramento Blood Center or other bona fide blood bank, provided that (1) release of the employee will not unduly interrupt departmental schedules or operations, as determined exclusively by the department head, and (2) the employee provides proof of donation as deemed sufficient by the department head, and (3) no employee shall be granted leave pursuant to this subsection more frequently than once every eight (8) weeks.

### **21.13 FAMILY-SCHOOL PARTNERSHIP ACT LEAVE**

All employees who qualify as a parent, guardian, stepparent, foster parent, or grandparent or person who stands in loco parentis to one or more child in kindergarten through grade twelve (12), or in a licensed child care facility, shall be entitled to request up to eight (8) hours per month not to exceed forty (40) hours annually for the purpose of participating in their children's school activities, or for the purposes of finding, enrolling, or reenrolling a child in a school or with a licensed child care provider. Such leave, up to the forty (40) hour annual cap, may also be used to address a childcare provider or school emergency. Regardless of the number of children, an employee shall only be granted forty (40) hours total annual leave.

Employees shall be required to provide reasonable advance notice of anticipated absences related to school activities.

Such time off shall be considered unpaid leave unless the employee chooses to utilize vacation, administrative leave, floating holiday or compensatory time off to allow for the time off to be considered paid leave.

#### **21.14 CHILD SUSPENSION LEAVE**

Any employee who is the parent or guardian of a child in grades 1 through 12 may take time off to go to the child's school in response to a request from the child's school, if the employee gives advance notice to their supervisor. A school has the authority to request that the parent attend the child's school if the child has: committed any obscene act; habitually used profanity or vulgarity; disrupted school activities; or otherwise willfully defied the valid authority of school personnel.

Such time off shall be considered unpaid leave unless the employee chooses to utilize vacation, administrative leave, floating holiday or compensatory time off to allow for the time off to be considered paid leave.

#### **21.15 LEAVE FOR PURPOSE OF WORKING IN THE VOLUNTARY NEVADA COUNTY EMPLOYEE POLLWORKER PROGRAM**

At the discretion of the department head, a regular status employee with written permission from their department head may be granted up to eight (8) hours of leave with pay during their regularly scheduled work hours for the purpose of participating in the Voluntary Nevada County Employee Poll Worker Program.

#### **21.16 STATE DISABILITY INSURANCE/PAID FAMILY LEAVE INTEGRATION**

The County shall augment the amount of SDI/PFL benefits in accordance with the laws governing the amount paid to employees through California Employment Development Department-State Disability Insurance by an amount sufficient to provide the employee with a gross biweekly salary equal to the employee's normal biweekly base salary effective as soon as administratively possible after the leave effective date. The afore stated augmentation to SDI/PFL shall be made from the employee's sick leave balance, CTO balance (unless otherwise directed not to do so by the employee), floating holiday balance, vacation balance or PLP balance, and administrative leave balance in that order until exhausted. Notwithstanding anything to the contrary, each employee absent from work and receiving SDI/PFL benefits shall be required to utilize accrued leave balances (with the exception of CTO) to augment SDI/PFL benefits as provided herein, in the manner provided herein. Employees shall submit copies of all payments received from SDI/PFL at the time the payments are received to the Auditor-Controller's office for documentation to the augmentation.

## **21.17 DECLARED EMERGENCY LEAVE**

The purpose of this policy is to provide a method to support employees who have suffered the permanent loss of their primary residence during a declared emergency.

During a declared emergency the CEO is authorized to grant Declared Emergency Leave (“DEL”) to any County employee who has experienced the loss of use of their primary residence due to the associated declared emergency (example: wildfire, flood, earthquake, etc.) The CEO, at their sole discretion, can grant up to 36 hours per declared emergency to each qualified employee.

Employees will apply for Declared Emergency Leave through the CEO’s Office by submitting a Request for DEL form, available on the InfoNet and in NeoGov. If granted, the authorized DEL form shall be sent to the Auditor Controller and added to either the vacation or Personal Leave Program balance the next pay period. Once processed, the employee may use the time at their discretion. The employee is not required to exhaust other leave banks prior to utilizing DEL. No employee shall be granted more than 36 hours per declared emergency.

## **SECTION 22.0 - OVERTIME**

### **A. Overtime Work Defined**

Except as provided in an applicable memorandum of understanding, overtime work is work that is performed by a non-exempt employee in excess of forty (40) hours in their designated work week. Unless otherwise designated, for the purposes of calculating overtime, the work period begins at 12:00 a.m. on Saturday and ends at 11:59 p.m. on Friday, except as otherwise designated in an applicable MOU, or by a Fair Labor Standards Act (FLSA) 29 USC § 207(j) or (k) work period for specified employees.

When a non-exempt employee works a 9-80 flexible work schedule, then overtime is calculated beginning at 1:00 p.m. on the 8-hour day to 12:59 p.m. seven days later. Time worked in increments of less than one-quarter of an hour shall be rounded to the nearest quarter hour.

### **B. Prior Approval of Overtime Work**

The policy of the County is that overtime work is to be discouraged. Unless an applicable memorandum of understanding indicates otherwise, or in case of emergency, or whenever public interest or necessity requires, any department head or their designee may require any employee in their department to perform overtime work. When overtime work is required, approval must be given prior to the performance of the overtime work except when performed in an emergency to prevent loss of life or injury or damage to person or property. An employee who engages in overtime work without approval as provided in this section may be subject to discipline up to and including termination.

### **C. Overtime Exclusions**

Except as otherwise provided, the provisions of this section shall not apply to those officers or employees occupying FLSA-overtime exempt positions as designated by the County Executive Officer.

With the approval of the County Executive Officer, persons occupying management positions may be given time off with pay as partial compensation for overtime worked. However, as a general policy, FLSA-overtime exempt management personnel are expected to work necessary overtime without compensation in addition to their regular monthly salary.

### **D. Compensation for Overtime Hours Worked**

- 1) Except as provided in an applicable memorandum of understanding, a non-exempt employee shall be paid for overtime work at one and one-half times the employee's regular rate of pay. An employee may, with the written approval of the department head and by written mutual agreement between the County and the employee, accumulate compensatory time off in lieu of payment. When such time is

accumulated, it shall be compensated for at one and one-half times the employee's regular rate of pay. Except as provided in an applicable memorandum of understanding, no employee may accumulate more than eighty (80) hours of compensatory time.

- 2) The appointing authority may schedule compensatory time to meet the best interests of the County. Employees may request to use compensatory time off in the same manner as vacation leave. The time when compensatory time will be taken shall be determined by the department head who shall give consideration to factors of workload and the desires of the employees prior to making such determination. If an employee is nearing their maximum allowed accrual, the appointing authority may direct the person to take compensatory time.
- 3) If the appointing authority cannot schedule compensatory time off within the fiscal year in which the overtime was worked, the employee shall be paid the equivalent compensation at the end of the last full pay period within said fiscal year, except that an employee may, with department head approval, carry forward from one year to the next a maximum amount of 40 hours of compensatory time earned and unused as of the end of the last full pay period of each fiscal year. Authorization to exercise this option must be obtained from the department head and submitted to the Auditor-Controller no later than the first Monday following the last full pay period in the fiscal year. Upon submittal by an employee of proper justification, the County Executive Officer (CEO) may grant an exception to the herein stated limitation on the amount of time which may be carried forward and/or the herein stated date for compensatory time pay off. Such exceptions shall only be granted upon a finding by the CEO that the best interests of the County will be served. The CEO's decision in these matters shall be final and binding and shall not be subject to review by any county officer or administrative or legislative body.

## **SECTION 23 - TUITION PAYMENT REIMBURSEMENT PROGRAM**

### **23.1 OBJECTIVES**

The continuing education program is designed to assist employees in achieving their higher education degree goals such as AA/AS, BA/BS or MA/MS.

### **23.2 ELIGIBILITY OF COURSES FOR TUITION PAYMENT/REIMBURSEMENT**

The following criteria shall be used in determining the eligibility of courses for tuition reimbursement.

- A. The degree program must be related to the work of the employee's position or occupation. Courses taken must be required in order to obtain the degree.
- B. Application to the program should be made 60 days prior to start of the degree program.
- C. The degree program must be taken at accredited institutions approved by the County. Classes enrolled in must be part of the educational plan in order to achieve the ultimate goal of obtaining the degree.
- D. The employee must be in good standing with the County which includes positive performance evaluations and no disciplinary history.
- E. Employees may only participate in one County tuition program at a time.
- F. Courses are not eligible for the tuition program if they:
  - (1) Are taken to bring unsatisfactory performance up to an acceptable level.
  - (2) Are taken to acquire basic skills or basic knowledge which the employee was deemed to have when appointed.
  - (3) Duplicate available in-service training.
  - (4) Duplicate training which the employee has previously received.
  - (5) Are classes taken prior to acceptance to the program with a signed contract.
- G. Conventions, workshops, short courses, institutes, etc., are not included in the Tuition Reimbursement Program because of the difficulty in establishing criteria which are consistent with those used to evaluate more traditional courses - for example, such programs are often given by non-accredited institutions, involve County time, considerable travel expense and are not easily comparable to any other

program. Therefore, departments participating in such a program shall continue to use the transportation and travel account in their usual manner.

### **23.3 ELIGIBILITY OF EMPLOYEES FOR TUITION PAYMENT/REIMBURSEMENT**

Probationary and regular full-time employees performing their jobs satisfactorily are eligible for payment of or reimbursement of tuition at the sole discretion of the County, as determined annually by the Board or its designee subsequent to adoption of the County operating budget. This program does not apply to Temporary or Limited Term Appointments.

### **23.4 NATURE OF PAYMENT/REIMBURSEMENT**

The nature of payment/reimbursement is as follows:

- (a) Payment/reimbursement amount is specified in applicable MOUs.
- (b) Pre-payment/reimbursement shall be used for tuition, books, registration fees and laboratory fees, and these items are eligible for reimbursement only. Expenses for parking, travel, meals and other incidental costs are not reimbursable.
- (c) Payment in advance will be made only for registration of a single class or semester depending on how the school requires payment. If the employee withdraws or fails to pass the class in accordance to the institution's minimum grade requirement the employee will reimburse the County within 30 days from the date that the employee withdrew from the course or the date the failed grade was received for the total advanced payment that the County paid. If the County is not reimbursed within 30 days, the employee agrees to have the advanced payment amount withheld from their future County paycheck.
- (d) Reimbursement shall be made to the employee on the completion of the course with a minimum final passing grade. For courses that do not give letter grades, proof of completion or passing the course is required. No reimbursement shall be made for courses that have been withdrawn from, failed or incomplete courses.
- (e) Reimbursement received from other sources for tuition, books, registration and/or lab fees will be deducted from the cost of such expenses in determining the amount, which the County will pay.

### **23.5 PROCEDURES FOR TUITION PAYMENT/REIMBURSEMENT**

The procedure for tuition payment/reimbursement is managed by the Human Resources Department.

### **23.6 SUSPENSION**

This program may be suspended by the Board of Supervisors at any time or when deemed necessary by the CEO. Such suspension shall not alter existing approved County agreements for tuition reimbursement.

### **23.7 SPECIALIZED TRAINING**

Where a department head establishes that there is a need for specialized training of employees for the purpose of expanding the capabilities of the department or to keep the department current with respect to changes in the law or the field relevant to that department, the department head, with prior approval from the County Executive Officer, may enter into a contract with the candidate for specialized training. Said contract may provide for a commitment of a specified period of time, which the employee agrees to remain in County employment after the specialized training. If the employee terminates employment voluntarily within that period of time, the contract may provide for an amount either in whole or on a reducing scale over time which the employee will be required to reimburse the County for the benefits received by the employee as a result of the specialized training.

Said contract shall be submitted to the County Executive Officer for approval prior to signing by either the department head or the candidate for specialized training.

If the candidate for the specialized training is a department head, then the County Executive Officer shall be authorized to negotiate and enter into the contract for continued future employment or reimbursement with that department head.

## **SECTION 24 – INSURANCE**

### **24.1 AUTHORITY**

This Section delineates briefly the various insurance programs available to Nevada County employees, as provided by contract or agreement between the County of Nevada and certain insurance carriers. Nothing contained herein shall be deemed to amend or affect any portion or provision of any contract or agreement between the County and any employee organization, but instead this Section shall be construed only as a general description of certain insurance benefits available.

### **24.2 ELIGIBILITY/RESTRICTIONS ON COVERAGE**

- A. Any elective or appointive officer, regular status employee, or member of the Board of Supervisors working fifty percent (50%) or more of a full-time schedule shall be eligible to enroll in any health and welfare plan currently authorized for the recognized bargaining unit to which such person is assigned. If such employee or elected official is not assigned to any recognized bargaining unit, then eligibility for health and welfare plans shall be in accordance with Board of Supervisors' determination.
- B. Certain eligible dependents of the aforementioned employees and elected officials shall be eligible to enroll in the health and welfare plans. Temporary employees and their dependents are not eligible to enroll in any health and welfare plan unless expressly provided elsewhere in this Code or as required by law.

### **24.3 MEDICAL INSURANCE BENEFITS**

The County contracts with the California Public Employees Retirement System (CalPERS) for the purpose of providing employees and their eligible dependents with medical insurance benefits. The County's maximum monthly contribution for each eligible active employee shall be equal to the minimum employer contribution required under the Public Employees Medical and Hospital Care Act (PEMHCA.)

#### **24.4 CAFETERIA PLAN**

- A. The County maintains a Cafeteria Plan, pursuant to Section 125 of the Internal Revenue Code, for the purpose of providing eligible active employees with access to various health and welfare benefits. Benefits available through the Cafeteria Plan include medical insurance, dental insurance, vision insurance and life insurance benefits.
- B. The County provides a Cafeteria Plan Allowance to all active employees eligible to participate in County sponsored health and welfare benefits under Section 24.2. The amount of this Cafeteria Plan Allowance shall be determined by an employee's participation level, as follows:
  - 1. Employees participating in employee only benefits shall receive a Cafeteria Plan Allowance that is equal to the premium cost of employee only benefits for the least expensive medical insurance plan available to County employees, including the cost of employee only Dental and Vision insurance, less the amount of the County's contribution towards medical insurance set forth in Section 24.3.
  - 2. Employees who enroll eligible dependents in County health and welfare benefit plans shall receive a Cafeteria Plan Allowance that is equal to the amount described in Section 24.4 b (1) above, plus an amount equal to the County contribution for "Employee plus one" coverage and "Employee plus two or more" coverage for medical, dental and vision plans at the 2016 dollar contribution levels. The County contribution amount applicable to this provision shall remain frozen until such time as the employee paid premium contribution equals twenty percent (20%) of the total premium for the least expensive health insurance plan available and the cost of dental and vision coverage for the level of enrolled coverage. Employees choosing a more expensive health plan will be responsible for paying the difference in cost.
- C. Employees who opt out of participating in any medical insurance benefits sponsored by the County and who provide proof of medical coverage which is a group plan offering minimum essential coverage will not receive any Cafeteria Plan Allowance under Section 24.4 (b). Instead, employees who opt of these County sponsored medical insurance benefits will receive \$300 cash per month unless otherwise provided by MOU or employment agreement. Employees who opt out of participating in County offered medical insurance benefits may still enroll in dental and vision insurance.
  - 1. Some employees in unrepresented and represented units may continue to receive \$335 or \$350 cash per month instead of \$300 per month based on prior years' cafeteria plan terms and conditions. Once these employees opt out of the higher paying cafeteria plan, they may not return to it.

- D. Any Cafeteria Plan Allowance provided for under Section 24.4 (b) can only be used by an employee to offset the cost of participation in County sponsored medical, dental and vision insurance benefits for the employee and any eligible dependents.
- E. Medical insurance benefits are offered to current employees separately from dental and vision insurance. Dental and vision insurance is offered as a package. Employees who wish to participate in medical insurance and the dental and vision insurance package must participate at the same level (tier).

#### **24.5. ENROLLMENT IN CAFETERIA PLAN**

- A. An eligible employee may enroll themselves and their dependents into the cafeteria plan within the guidelines set by the medical, dental, and vision plans and as administered by Human Resources. Beyond the initial enrollment period for the cafeteria plan, enrollment will only be allowed during an open enrollment period held on an annual basis unless the employee can prove loss of previous coverage within 30 days of the loss.
- B. An eligible employee may enroll themselves and their dependents within 30 days of the initial hiring date. Beyond the initial enrollment, evidence of insurability may be required prior to coverage.

#### **24.6 COVERAGE - LEAVE OF ABSENCE**

Unless the employee is on pregnancy, FMLA or CFRA leave as described in this Code or receiving compensation under the Workers' Compensation program, the employer-paid insurance contributions shall not be made on behalf of any employee who receives any leave of absence without pay exceeding fifteen (15) calendar days, effective on the first day of such leave of absence. An employee may continue coverage during the aforementioned leave of absence, from the first day of such leave of absence, by advancing to the Auditor-Controller each month the total monthly premium cost.

For employees on FMLA or CFRA leave, the County will contribute to or pay employee and dependent medical, dental, and vision costs in accordance with this Code and any applicable agreement between the County and an employee organization for up to 12 weeks in a 12-month period.

#### **24.7 RETIREE MEDICAL INSURANCE**

- A. The County will provide access to medical insurance coverage for those employees who retire from employment with the County and who constitute "annuitants" as defined by the Public Employees Medical and Hospital Care Act (PEMHCA). The County's maximum monthly contribution for each eligible annuitant shall be equal to the minimum employer contribution required under the PEMHCA. The provisions of the PEMHCA will govern medical insurance coverage for annuitants.

**B. Retirement Benefit Allowance**

1. **Employees Hired Prior to July 1, 2000**--Employees hired prior to July 1, 2000, who retire from the County and are not eligible for Medicare benefits, are eligible to receive a retirement benefit allowance from the County. The amount of any retirement benefit allowance will be determined based on the individual's years of service, as follows:
  - a. Individuals who served between 0 and 5 years of consecutive service with the County are not eligible to receive any retirement benefit allowance under this Section.
  - b. Individuals who served between 6 and 10 years of consecutive service with the County shall receive a retirement benefit allowance equal to \$105.44 per month.
  - c. Individuals who served between 11 and 19 years of consecutive service with the County shall receive a retirement benefit allowance equal to \$150.00 per month.
  - d. Individuals who served at least 20 years of cumulative service with the County will receive a monthly retirement benefit allowance in an amount equal to the cost of the premium for the least expensive health insurance plan sponsored by the County, less the amount of any employer contribution determined under Section 24.7 (A).
  - e. Upon becoming eligible for Medicare an individual will cease to receive any retirement benefit allowance provided under this Section and will become eligible for the Medicare Supplemental Insurance as described in 24.7 (C) (1) below.
- 2) **Employees Hired On or After July 1, 2000**-- Employees hired on or after July 1, 2000, who retire from the County and are not eligible for Medicare benefits, are eligible to receive a retirement benefit allowance from the County. The amount of any retirement benefit allowance will be determined based on the individual's years of service, as follows:
  - a. Individuals who served between 0 and 19 years of consecutive service with the County are not eligible to receive any retirement benefit allowance under this Section.
  - b. Individuals who served at least 20 years of cumulative service with the County will receive a monthly retirement benefit allowance in an amount equal to the cost of the premium for the least expensive medical insurance plan sponsored by the County, less the amount of any employer contribution determined under Section 24.7 (a).

- c. Upon becoming eligible for Medicare an individual will cease to receive any retirement benefit allowance provided under this Section and will become eligible for the Medicare Supplemental Insurance as described in 24.7 (C) (2) below.
- 3) **Employees Hired On or After July 1, 2008**—Employees hired on or after July 1, 2008, and who retire from the County, will not be eligible to receive any retirement benefit allowance provided for in either Section 24.7 (B) (1) or 24.7 (B) (2).

**C. Medicare Supplemental Insurance**

- 1. **Employees Hired Prior to July 1, 2000**--The County shall provide those retired employees who were hired prior to July 1, 2000 and who become eligible for Medicare with a retirement benefit allowance in an amount equal to 80% of the cost of the least expensive Medicare supplemental insurance available to the County, less the amount of any employer contribution provided under Section 24.7 (A). This benefit replaces any retiree benefit allowance provided under Section 24.7 (B) (1) and is available to the eligible retired employee only after they have reached the age of 65.
- 2. **Employees Hired On or After July 1, 2000**--The County shall provide those retired employees who were hired on or after July 1, 2000 and who become eligible for Medicare with a retirement benefit allowance in an amount equal to 80% of the cost of the least expensive Medicare supplemental insurance available to the County, less the amount of any employer contribution provided under Section 24.7 (A). In order to be eligible for this retirement benefit allowance, the individual must have served at least 20 years of cumulative service with the County. Individuals who served less than 20 years of cumulative service with the County before retirement are not eligible for benefits under this Section. This benefit replaces any retiree benefit allowance provided under Section 24.7 (B) (2) and is available to the eligible retired employee only after they have reached the age of 65.
- 3. **Employees Hired On or After July 1, 2008**—Employees hired on or after July 1, 2008 are not eligible to receive any benefits provided for in either Section 24.7 (C) (1) or 24.7 (C) (2).
- 4. Eligibility for receipt of any retirement benefit allowances described in Section 24.7 (B) (1), 24.7 (B) (2), 24.7 (c) (1) or 24.7 (c) (2) above is contingent upon retirement occurring within one-hundred twenty (120) days of departure from active service with the County and with continuous coverage under the medical plan. An individual's retirement must be under a CalPERS system to be eligible for any retirement benefit allowance.
- 5. Any retirement benefit allowances provided under Section 24.7 (B) (1), 24.7 (B) (2), 24.7 (C) (1) or 24.7 (C) (2) above are provided in the form of a cash payment paid directly to the eligible retiree.
- 6. In recognition that there may be some isolated cases whereby an employee may become ineligible because of this change in eligibility the Union shall have the right

to meet and confer on any such case.

7. Retired Nevada County Employees who return to work will not lose retiree benefits upon return to retirement.

## **24.8 COVERAGE--COBRA**

### **A. COBRA Qualifying Events**

The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) guarantees employees and their covered dependents an opportunity to continue medical, dental and vision coverage when it would otherwise end due to any of the following qualifying events:

- 1) Termination of employment for any reason except discharge for gross misconduct.
- 2) Death of the employee.
- 3) Divorce or legal separation.
- 4) Reduction of hours to less than 20 hours per pay period.
- 5) Upon a dependent child's ceasing to be a dependent child under the provision of the group health plan.
- 6) Eligibility for Medicare Benefits.

Upon the death, termination (except for gross misconduct) or reduction of hours of an employee resulting in ineligibility for coverage under the health plan(s), the Human Resources Director shall, within fourteen (14) days, notify the employee and/or dependents of the right to elect to continue coverage.

If an employee's child ceases to be a dependent child under the provisions of the group health plan or if an employee becomes divorced or legally separated from their spouse, the employee is responsible for notifying the Personnel/Human Resources/Director of the occurrence of either of these events immediately. The Human Resources Director shall then provide a notice to the dependent child or estranged spouse, within fourteen (14) days, regarding continuation of coverage.

Employees and/or covered dependent(s) are required to notify the County within sixty (60) days from the date of the qualifying event cited above of their desire to continue coverage.

**B. Length of Continuation for COBRA benefits:**

Coverage may be extended for an employee and/or dependent(s) for up to:

**18 months** from the date coverage would otherwise cease because of:

- 1) Termination, except in the case of discharge for gross misconduct.
- 2) Reduction in hours to less than 20 hours per pay period.

**36 months** from the date coverage would otherwise cease because of:

- 1) The employee's death.
- 2) The employee's divorce or legal separation from their spouse.
- 3) Upon a dependent child ceasing to be a dependent child under the health plan.
- 4) Entitlement to Medicare occurs before a termination or reduction in hours of employment. In this case, the special COBRA rule shall apply which provides that the COBRA period will be the longer of 18 months from the termination in employment or 36 months from the earlier Medicare entitlement. If Medicare entitlement occurs more than 18 months before a termination or reduction in hours of employment, the special Medicare rule has no application.

**29 months** from the date coverage would otherwise cease because of:

- 1) The U.S. Social Security Administrations' determination that the employee or dependent(s) were disabled either at the time County coverage would have ended or during the 60 day election period.

Coverage will end before the periods stated above under any of the following circumstances:

- 1) The premium payment is not paid on a timely basis.
- 2) The employee or a covered dependent become employed and covered for benefits under another plan.
- 3) If the employee's former spouse remarries and becomes covered under another plan.

**C. Premium Payments for COBRA benefits:**

- 1) If an employee or dependent elects to continue group health coverage, they shall pay 102% of the premium cost for such coverage unless they have been determined by the U.S. Social Security Administration to meet disability guidelines in which case the premium shall be 150%. Upon election to continue coverage, the employee or dependent shall have up to 45 days to pay the prepayment fees for the coverage period (month) in which election is made and for any coverage periods preceding the coverage period in which election is made.

These fees shall be considered delinquent if not received by the County at the end of the 45-day period. Prepayment fees for all coverage periods subsequent to the election date are due and payable on the first day of each coverage period and shall be considered delinquent if not received within 30 days of the date due. If valid payment of any prepayment fee is not received in full by the delinquency date, coverage shall be cancelled. Continuous coverage shall be extended through the last date for which prepayment fees received by the County will purchase coverage. Coverage that has been cancelled for nonpayment shall not be reinstated.

**D. Termination of COBRA Coverage**

- 1) Extended group health care coverage under all plans shall terminate for employee or dependents upon the earliest of the following events:
  - a. Expiration of applicable term as indicated above.
  - b. The date the County ceases to provide the group health plan to any employee.
  - c. The date the coverage ceases under the plan because of nonpayment of premium.
  - d. The date the employee becomes covered under another employer's group health plan. (Not applicable to retired employees)
  - e. The date the employee becomes eligible for Medicare benefits under Title XVIII of the Social Security Act. (Employee's coverage terminates)
  - f. The date the spouse becomes eligible for Medicare benefits under Title XVIII of the Social Security Act. (Spouse coverage terminates)
  - g. The date an estranged spouse remarries and becomes covered under another group health plan. (Spouse's coverage terminates)

## **SECTION 25 - RETIREMENT PROGRAM**

### **25.1 AUTHORITY**

This Section delineates briefly the various retirement programs available to Nevada County employees as provided by law, contract or memorandum of understanding. Nothing contained herein shall be deemed to amend or affect any portion or provision of any contract or agreement, but, instead, this Section shall be construed only as a general description of certain retirement programs available.

### **25.2 ELIGIBILITY**

- a) Social Security. All employees and officers in the County service shall be members of the Social Security System, unless otherwise provided by law.
- b) Public Employees' Retirement System. Eligible employees holding positions in the County service shall be members of the Public Employees' Retirement System, as provided by the terms of the contract in effect between the County and the Public Employees' Retirement System. In addition, certain elected officers in the County service may choose to become members of said system, as permitted by PERS contract.

### **25.3 COVERAGE AND CONTRIBUTION RATE**

The type of coverage and amount of employee contribution shall be established in accordance with current memorandum of understanding and contract between the County and the Public Employees' Retirement System.

### **25.4 COVERAGE - LEAVE OF ABSENCE**

- a) Retirement contributions shall continue for any employee on leave of absence with pay unless otherwise provided by contract, ordinance or statute.
- b) Retirement contributions shall be suspended for any employee on leave of absence without pay.

### **25.5 ADDITIONAL INFORMATION**

Additional detailed information concerning the retirement plan may be obtained from the Personnel/Human Resources/Department.

## **SECTION 26.0 - EMPLOYER-EMPLOYEE RELATIONS**

### **I. General Provisions**

#### **A. Statement of Purpose**

This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned “Local Public Employee Organizations,” by providing orderly procedures for the administration of employer-employee relations between the County and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of state and local law and rules which establish and regulate the merit and civil service system, or which provide for other methods of administering employer-employee relations. This Section is intended, instead, to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the County.

It is the purpose of this Section to provide procedures for meeting and conferring in good faith with Exclusively Recognized Employee Organizations regarding matters that directly and significantly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal, state or local law. However, nothing herein shall be construed to restrict any legal or inherent exclusive County rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the mission of its constituent departments, commissions, and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other lawful reasons; determine the content of job classifications; subcontract and/or transfer work out of the unit; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

#### **B. Definitions**

For purposes of this Section (Section 26), the following terms shall have the meanings indicated:

1. “Appropriate unit” means a unit of employee classes or positions, established pursuant to Section II hereof.
2. “County” means the County of Nevada, and, where appropriate herein, refers to the County Board of Supervisors or any duly authorized County representative as herein defined.

3. “Confidential Employee” means an employee who, in the course of their duties, has access to confidential information relating to the County's administration of employer-employee relations.
4. “Consult/Consultation in Good Faith” means to communicate orally or in writing with all effected employee organizations, whether exclusively recognized or not, for the purpose of presenting and obtaining views or advising of proposed actions in an effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposal with an exclusively recognized employee organization in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Section IV hereof.
5. “Day” means calendar day unless expressly stated otherwise.
6. “Employee Relations Officer” means the Human Resources Director or their duly authorized representative.
7. “Exclusively Recognized Employee Organization” means an employee organization which has been formally acknowledged by the County as the sole employee organization representing the employees in an appropriate representation unit pursuant to Section II hereof, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.
8. “Impasse” means that the representatives of the County and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
9. “Management Employee” means an employee having responsibility for formulating, administering or managing the implementation of County policies and programs.
10. “Meet and Confer in Good Faith” (also referred to as "meet and confer") means performance by duly authorized County representatives and duly authorized representatives of a recognized employee organization of their mutual obligation to meet at mutually agreeable times and to confer in good faith regarding matters within the scope of representation, including wages, hours, and other terms and conditions of employment, in an effort to: (1) reach agreement on those matters within the authority of such representatives and (2) reach agreement which will not be binding, but which will be affirmatively recommended to the Board of

Supervisors for its determination. This does not require either party to agree to a proposal or to make a concession.

11. “Proof of Employee Support” means (1) an authorization card recently signed and personally dated by an employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. If an authorization petition is submitted, the petition shall clearly indicate that employees desire to be represented by the employee organization for purposes of meeting and conferring on wages, hours and other terms and conditions of employment. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words “recently signed” shall mean within ninety (90) days prior to the filing of a petition.
12. “Supervisory Employee” means any employee having authority, in the interest of the County, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

## **II. Representation Proceedings**

### **A. Filing of Recognition Petition by Employee Organization**

An employee organization which seeks to be formally acknowledged as an Exclusively Recognized Employee Organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

1. Name and address of the employee organization.
2. Names and titles of its officers.
3. Names of employee organization representatives who are authorized to speak on behalf of the organization.
4. A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the County.

5. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
6. Certified copies of the employee organization's constitution and bylaws.
7. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
8. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.
9. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of employees therein.
10. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the County. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.
11. A request that the Employee Relations Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

#### **B. County Response to Recognition Petition**

Upon receipt of the Petition, the Employee Relations Officer shall determine whether:

1. There has been compliance with the requirements of the Recognition Petition, and
2. The proposed representation unit is an appropriate unit in accordance with subsection G of this Section II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, they shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action

on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section II, subsection J of this Section.

### **C. Open Period for Filing Challenging Petition**

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in subsection A of this Section II. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in subsection G of this Section II. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to subsection J of this Section II.

### **D. Granting Recognition Without an Election**

If the Petition is in order, and the proof of support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the Employee Relations Officer shall request the California State Mediation and Conciliation Service, or another agreed upon neutral third party, to review the count, form, accuracy and propriety of the proof of support. If the neutral third party makes an affirmative determination, the Employee Relations Officer shall formally acknowledge the petitioning employee organization as the Exclusively Recognized Employee Organization for the designated unit.

### **E. Election Procedure**

Where recognition is not granted pursuant to section II(D) above, the Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with such party's rules and procedures subject to the provisions of this Section. All employee organizations who have duly submitted petitions which have been determined to

be in conformance with this Section II shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the County. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the County in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one valid election under this Section pursuant to any petition in a 12-month period affecting the same unit.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Mediation and Conciliation Service. If the parties cannot agree as to the time, place, and manner of the election, the parties shall authorize CSMCS and its election supervisor to unilaterally determine such issues and carry out the election accordingly. In the event that CSMCS declines to conduct the election, for any reason, the parties agree that the election shall be conducted by a neutral arbitrator selected from a list of seven (7) names to be provided by CSMCS or, if that body for any reason fails to provide such a list, by the American Arbitration Association. The incumbent recognized employee organization shall first strike one name, the petitioning organization shall then strike one name, and alternate so forth until the last name remaining shall be the Election Supervisor.

Costs of conducting elections shall be borne in equal shares by the County and by each employee organization appearing on the ballot.

#### **F. Procedure for Decertification of Exclusively Recognized Employee Organization**

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer at any time following the first full year of recognition, provided however, that if a Memorandum of Understanding is in effect for three years or for less than a three year period of time, then a decertification petition may only be filed during the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of the Memorandum of Understanding then having been in effect less than three (3) years. (If the Memorandum of Understanding is in effect for a time period greater than three (3) years, then the decertification petition may also be filed

at any time following the expiration of the three-year period.) A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

1. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
2. The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as a representative of that unit.
3. An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
4. Proof of employee support that at least thirty percent (30%) of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this subsection.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this Section in the form of a Recognition Petition that evidences proof of employee support of at least thirty percent (30%), that includes the allegation and information required under this subsection F, and otherwise conforms to the requirements of subsection A of this Section II.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Section II. If their determination is in the negative, they shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with subsection J of this Section II. If the determination of the Employee Relations Officer is in the affirmative, or if their negative determination is reversed on appeal, they shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees. Upon request, the Employee Relations Officer shall provide a copy of the petition with names and all other identifying information redacted.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with subsection E of this Section II.

During the "open period" specified in the first paragraph of this subsection F, the Employee Relations Officer may on their own motion, when they have reason to believe that a majority of unit employees no longer wish to be represented by the incumbent Exclusively Recognized Employee Organization, give notice to that organization and all unit employees that they will arrange for an election to determine that issue. In such event any other employee organization may within fifteen (15) days of such notice file a Recognition Petition in accordance with this subsection F, which the Employee Relations Officer shall act on in accordance with this subsection F.

If, pursuant to this subsection F, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

#### **G. Policy and Standards for Determination of Appropriate Units**

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the County and its compatibility with the primary responsibility of the County and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

1. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
2. History of representation in the County and similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
3. Consistency with the organizational patterns of the County.
4. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.

5. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.
6. Effect of differing legally mandated impasse resolution procedures.

Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in Section II, subsection B of this Section, are determining factors in establishing appropriate units hereunder, and therefore managerial, supervisory and confidential employees may only be included in a unit consisting solely of managerial, supervisory or confidential employees respectively. Managerial, supervisory and confidential employees may not represent any employee organization, which represents other employees.

Peace Officers may be required to be represented in separate units composed solely of such peace officers. These units shall not be represented by an organization that, directly or indirectly, is subordinate to any other employee organization, which includes non-peace officers.

The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section. The decision of the Employee Relations Officer shall be final.

#### **H. Procedure for Modification of Established Appropriate Units**

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in subsection F of this Section II. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in subsection A of this Section, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in subsection G of this Section II. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Section II.

The Employee Relations Officer may at the request of any employee or group of employees, or on their own motion propose during the period specified in subsection F of this Section that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with subsection G of this Section II, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in subsection J of this Section. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may

thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to subsection A hereof.

#### **I. Procedure for Processing Severance Requests**

An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another recognized employee organization. The timing, form and processing of such request shall be as specified in subsection H of this Section for modification requests.

#### **J. Appeals**

An employee organization aggrieved by a determination of the Employee Relations Officer regarding a Recognition Petition (Section II, subsection A), Challenging Petition (Section II, subsection C), Decertification of Recognition Petition (Section II, subsection F), Unit Modification Petition (Section II, subsection H), or Severance Petition (Section II, subsection I) may, within ten (10) days of notice thereof, submit the matter to mediation by requesting the intervention of the California State Mediation and Conciliation Service or may, in lieu thereof or thereafter, appeal such determination to the Board for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination or the termination of mediation, whichever is later.

If a group of employees has filed a decertification petition and the group is aggrieved by a determination of the Employee Relations Officer regarding the processing of such petition, the employees may use the appeal process outlined above.

Appeals to the Board shall be filed in writing with the County Clerk, and a copy thereof served on the Employee Relations Officer. The Board shall commence to consider the matter within thirty (30) days of the filing of the appeal or such later time as is practicable. The Board may, in its discretion, refer the dispute to a third party hearing process. Any decision of the Board on the use of such procedure, and/or any decision of the Board determining the substance of the dispute shall be final and binding.

### **III. Administration**

#### **A. Submission of Current Information by Recognized Employee Organizations**

All changes in the information filed with the County by an Exclusively Recognized Employee Organization under items 1 through 11 of its Recognition Petition under Section II, subsection A of this Section shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

Exclusively Recognized Employee Organizations shall provide to the Employee Relations Officer financial reports required by law.

## **B. Employee Organization Activities -- Use of County Resources**

Access to County work locations and the use of County-paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures, shall be limited to lawful activities consistent with the provisions of this Section that pertain directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of County operations.

## **C. Administrative Rules and Procedures**

The County Executive Officer is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Section after consultation with affected employee organizations.

# **IV. Impasse Procedures**

## **A. Initiation of Impasse Procedures**

If the meet and confer process has reached impasse as defined in Section I, subsection B of this Section, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:

1. To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and
2. If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

## **B. Impasse Procedures**

Impasse procedures are as follows:

1. If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
2. Otherwise, the parties can utilize any other impasse procedures provided in accordance with the Meyers-Milias-Brown Act.

After any applicable impasse procedures have been exhausted, the Board may hold a public hearing regarding the impasse, and take such action regarding the impasse as in its discretion deems appropriate as in the public interest, including implementation of the County's last, best, and final offer. Any legislative action by the Board on the impasse shall be final and binding.

### **C. Costs of Impasse Procedures**

The cost for the services of a mediator and other mutually incurred costs of mediation shall be borne equally by the County and Exclusively Recognized Employee Organization. The cost for other separately incurred services or costs shall be borne separately by each party.

## **V. Miscellaneous Provisions**

### **A. Construction**

This Section shall be administered and construed as follows:

1. Nothing in this Section shall be construed to deny to any person, employee, organization, the County, or any authorized officer, body or other representative of the County, the rights, powers and authority granted by federal, state or local law.
2. This Section shall be interpreted so as to carry out its purpose as set forth in Section I, subsection A.
3. Nothing in this Section shall be construed as making the provisions of California Labor Code Section 923 applicable to County employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the County, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination, and may be replaced, to the extent such actions are not prohibited by preemptive law; and employee organizations may thereby forfeit rights accorded them under County law or contract.

### **B. Severability**

If any provision of this Code Section, or the application of such provision to any persons or circumstances, shall be held invalid, the remainder of this Code Section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

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**SUBJECT: EQUAL OPPORTUNITY POLICY**

The County is committed to a policy of equal application of rules and regulations in all employment practices including hiring, firing, promotion, compensation and other items, privileges, and conditions of employment. The County prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, reproductive health decision-making, a person's use of cannabis off duty and away from the workplace, or military and veteran status or any other basis protected by law. Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Policies, or by contacting the U.S. Equal Employment Opportunity Commission, or the Civil Rights Division. To further this policy, the following procedures have been formulated.

**Discrimination Complaints**

To assist employees and job applicants who feel they have been discriminated against on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, reproductive health decision-making, a person's use of cannabis off duty and away from the workplace, a person's use of cannabis off the job and away from the workplace, or military and veteran status or any other basis protected by law, the following complaint procedures have been formulated.

(1) **Informal Discussions**

If an employee or job applicant feels that they have been discriminated against on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, reproductive health decision-making, a person's use of cannabis off duty and away from the workplace, or military and veteran status or any other basis protected by law, the employee/applicant should, within five (5) working days of the incident, bring this matter to the attention of the immediate supervisor or any management employee of the County.

If the employee/applicant is not satisfied with the results of the informal discussion with the supervisor or management employee, they may, within fifteen (15) days of the incident, file a formal written complaint.

(2) Formal Complaint

The employee/applicant must, to the best of their ability, complete a County discrimination complaint form clearly expressing the complaint, giving names of individuals involved and dates. The completed form shall be delivered to the department head or the Human Resources Director. The department head shall forward the complaint to the Human Resources Director.

The Human Resources Director shall assign an individual to investigate the complaint. An investigation will be conducted, and a report shall be sent to the Human Resources Director noting recommended actions to be taken. The Human Resources Director shall, upon receiving the completed investigation report, make a decision on the recommendations and notify the complainant of the outcome of the investigation in writing. If the employee is not satisfied with the outcome of the investigation, they shall have the right to appeal the decision to the County Executive Officer (CEO) who shall review the record and make a final decision within twenty (20) days. The CEO's decision shall be final.

This procedure shall apply to all County employees and applicants for County employment. By law, employees filing discrimination complaints shall be free of any retaliation or harassment by any County official.

An individual additionally has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Civil Rights Department. These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of the telephone book or employees can check the posters that are located on County bulletin boards for office locations and telephone numbers.

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**SUBJECT: POLICY AGAINST DISCRIMINATION, HARASSMENT AND RETALIATION**

**A. PURPOSE**

The County is committed to providing a work environment free from discrimination, harassment, and retaliation. This Policy defines discrimination, harassment, and retaliation and sets forth a procedure for the investigation and resolution of complaints of such conduct by or against any employee, volunteer, intern, applicant or person providing services pursuant to a contract with the County.

**B. POLICY**

1. Discrimination, harassment, and retaliation violate this Policy and will not be tolerated. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. Discrimination or harassment of an applicant, employee, volunteer, intern, or person providing services pursuant to a contract violates this policy when such conduct is based on the individual's actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, reproductive health decision-making, a person's use of cannabis off duty and away from the workplace, or military and veteran status or any other basis protected by law. It is also improper to retaliate against any individual for making a complaint of discrimination or harassment or for participating in a discrimination or harassment investigation. Retaliation constitutes a violation of this Policy.
2. This Policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation.
3. Employees who violate this Policy are subject to discipline, up to and including termination.

**C. DEFINITION OF DISCRIMINATION**

Discrimination occurs when an individual is treated differently and adversely in terms and conditions of employment because of the individual's protected classification, actual or perceived; because the individual associates with a person who is member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy.

#### **D. DEFINITION OF HARASSMENT**

Harassment can consist of virtually any form or combination of verbal, physical, visual or environmental conduct engaged in because of a person's actual or perceived protected classification. It need not be explicit, nor even specifically directed at the victim.

The prohibition against sex harassment includes a prohibition against sexual harassment, gender harassment, and harassment based on pregnancy, childbirth or related medical conditions.

Harassment includes, but is not limited to the following types of misconduct:

- |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Verbal:</u>            | Inappropriate or offensive remarks, slurs, jokes or innuendoes based on actual or perceived protected classification. This may include, but is not limited to the following: Inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status, pregnancy or sexual orientation; and unwelcome flirting or propositions, demands for sexual favors, verbal abuse, threats or intimidation, or patronizing or ridiculing statements that convey derogatory attitudes about a particular gender, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. |
| <u>Physical:</u>          | Inappropriate or offensive touching, assault, or physical interference with free movement when directed at an individual on the basis of actual or perceived protected classification. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, massaging, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures.                                                                                                                                                                                                                                            |
| <u>Visual or Written:</u> | The display or circulation of offensive or derogatory visual or written material related to an individual's actual or perceived protected classification. This may include, but is not limited to, posters, cartoons, drawings, and graffiti, reading materials, computer graphics or electronic media transmissions.                                                                                                                                                                                                                                                                                                                                                 |
| <u>Environmental:</u>     | A work environment that is permeated with sexually-oriented talk or innuendo, insults or abuse related to sex, gender, gender identity, gender expression, or any other protected classification not relevant to the subject matter of the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements or from an                                                                                                                                                                                                                                                                                               |

unwarranted focus on an individual's protected classification. An environment may be hostile if unwelcome sexual behavior is directed specifically at an individual or if the individual merely witnesses unlawful harassment in the individual's immediate surroundings. An environment may also be hostile if unwelcome behavior focusing on an individual's protected classification is directed specifically at an individual or if the individual merely witnesses the unlawful harassment in the individual's immediate surroundings.

The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's work.

Romantic or sexual relationships between supervisors and subordinate employees are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. A welcome sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

By definition, sexual harassment is not within the course and scope of an individual's employment with the County.

#### **E. DEFINITION OF PROTECTED CLASSIFICATION**

"Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, reproductive health decision-making, a person's use of cannabis off duty and away from the workplace, or military and veteran status, or any other basis protected by law.

#### **F. DEFINITION OF PROTECTED ACTIVITY**

Protected activities include making a request for an accommodation for a disability; making a request for accommodation for religious beliefs; making a complaint under this Policy; opposing violations of this Policy; or participating in an investigation under this Policy.

## **G. DEFINITION OF RETALIATION**

Retaliation occurs when adverse conduct is taken against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" may include but is not limited to: disciplinary action, counseling, taking sides because an individual has reported harassment or discrimination; spreading rumors about a complainant or about someone who supports or assists the complainant; shunning or avoiding an individual who reports harassment or discrimination; or making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

## **H. BEHAVIOR PROHIBITED BY ALL EMPLOYEES**

1. No supervisor, manager, or any other person employed by the County may engage in discrimination as that term is defined by this policy. This means that no supervisor, manager, or other person employed by the County may condition the terms and conditions of employment or continued employment in the County – including but not limited to any employee benefit, promotion, job assignment, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities or compensation – on an applicant's or employee's actual or perceived protected classification or on the basis of the individual's association with a person who is member of a protected classification, actual or perceived.
2. No supervisor, manager, or any other person employed by the County may condition employment or continued employment in the County or any employee benefit, including promotion or job assignment, on an applicant's or employee's acquiescence to any of the discriminatory or harassing behavior defined above.
3. No supervisor, manager, or any other person employed by the County may create a hostile or offensive work environment for, or retaliate against, any applicant or employee because that person has opposed a practice prohibited by this Policy or has filed a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing conducted by an authorized investigator.
4. No supervisor, manager, or any other person employed by the County shall assist any individual in doing any act which constitutes harassment, discrimination, or retaliation against any employee of the County.
5. No County employee shall destroy evidence relevant to an investigation of alleged harassment, discrimination or retaliation.

## **I. OBLIGATIONS OF SUPERVISORS/MANAGERS**

Each manager and supervisor are responsible for:

1. Informing employees of this Policy.

2. Providing a copy of this Policy to all County employees and displaying this Policy in prominent locations throughout County offices.
3. Taking all steps necessary to prevent harassment, discrimination, and retaliation from occurring, including monitoring the work environment and taking immediate, appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
4. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
5. Following up with those who have complained to ensure that the behavior has stopped and that there are not reprisals.
6. Assisting, advising, or consulting with employees and the Human Resources Director regarding this Policy.
7. Assisting or participating in the investigation of complaints involving employees in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with this Policy, up to and including termination.
8. Providing employees with a copy of the information sheet on sexual harassment prepared by the Civil Rights Department upon request.
9. Periodically notifying employees of the procedures for registering a complaint as well as those available for redress. Such notification shall occur through the normal channels of communication.
10. Informing those who complain of harassment or discrimination of their option to contact the Civil Rights Department (CRD) and Equal Employment Opportunity Commission (EEOC) regarding alleged Policy violations. The Human Resources Director will make available upon request information from the CRD and the EEOC about filing claims of sexual harassment with these entities.
11. Implementing appropriate disciplinary and remedial actions.
12. Reporting potential violations of this Policy to the Human Resources Director, regardless of whether a complaint has been submitted.
13. Participating in periodic training and scheduling employees for training.

A copy of this Policy shall appear in any publication of which sets forth the comprehensive rules, regulations, procedures and standards of conduct for employees. This Policy shall be included in the County's policies and procedures manual and employee handbook. This Policy will also be provided to all new hires as part of the new employee orientation process.

## **J. OBLIGATIONS OF ALL EMPLOYEES**

All employees, including non-manager and non-supervisor employees, are responsible for:

1. Treating all individuals in the workplace or on worksites with respect and consideration.
2. Modeling behavior that conforms to this Policy.
3. Participating in periodic training.
4. Reporting any conduct believed to fit the definition of harassment, discrimination or retaliation as defined in this policy, to their immediate supervisor or to the Human Resources Director or their designee. This includes conduct of non-employees, such as sales representatives or service vendors or harassing conduct toward such contractors. This employee obligation exists whether or not the employee who is the object of the harassment reports the alleged harassment. In the event that the Human Resources Director is the complainant or is considered the/a perpetrator of the alleged harassment, employees shall report such allegedly harassing conduct to the County Executive Officer or their designee.
5. Cooperating with any investigation of any alleged act of harassment, discrimination or retaliation conducted by the County or its agents. This includes responding fully and truthfully to all questions posed during an investigation. Complainants will be encouraged to provide specific written allegations to facilitate the investigation.
6. Taking no actions to influence any potential witness while an investigation is ongoing.

## **K. INVESTIGATIVE/CORRECTIVE ACTION**

All who believes they have been subjected to discrimination, harassment or retaliation, may make a complaint -- orally or in writing -- to any supervisor, manager, or department head, without regard to any chain of command.

All employees shall immediately report any evidence of discrimination, harassment or retaliation, or complaints regarding discrimination, harassment, or retaliation made to them to their immediate supervisor or to the Human Resources Director or their designee. Any supervisor or manager who receives a complaint regarding harassment shall immediately report it to the Human Resources Director.

The Human Resources Director shall authorize an investigation or conduct an investigation of any incident of alleged discrimination, harassment or retaliation that is reported. The investigation shall be conducted in a prompt and thorough manner and in a way which ensures, to the extent feasible, the privacy of the parties involved.

The person designated to investigate shall immediately report in writing the findings of fact to the Human Resources Director. The Human Resources Director will determine whether County Policy has been violated and communicate the conclusion of the investigation to the complainant. Disciplinary action shall be decided in accordance with County policy and after consultation with the Human Resources Director.

Under no circumstances shall a County employee who believes that they have been the victim of discrimination, harassment, or retaliation be required to first report that conduct to a supervisor or other authority figure if that person or authority figure is the perpetrator of the alleged harassment, discrimination or retaliation.

Under no circumstances shall a supervisor, manager, or other authority figure retaliate in any way against an employee who has made a complaint or who has provided information as a witness to an incident of alleged harassment, discrimination or retaliation.

It is the right of all employees to seek at any time redress for alleged harassment, discrimination, or retaliation from the CRD and the EEOC as though a court of law. These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of the telephone book or employees can check the posters that are located on County bulletin boards for office locations and telephone numbers. Employees are always encouraged to seek redress through the County's administrative policies as well.

All individuals are requested to maintain confidentiality to the extent possible in communicating or investigating any claims of alleged harassment. In addition, all individuals with knowledge of a claim of alleged harassment or who are in any way involved in the investigation into such a claim are requested to maintain the same level of confidentiality. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. The County will share information regarding an investigation of alleged harassment on a need-to-know basis only. The County will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

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**SUBJECT: FAMILY and MEDICAL CARE LEAVE**

**A. STATEMENT OF POLICY**

To the extent not already provided for under current leave policies and provisions, the County will provide unpaid family and medical care leave for eligible employees as required by state and federal law. The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 ("FMLA"), and the regulations of the California Family Rights Act ("CFRA"). Unless otherwise provided by this article, "Leave" under this article shall mean leave pursuant to the FMLA and the CFRA.

**B. DEFINITIONS**

- 1) **"12-Month Period"** means a 12-month period measured forward from the day the leave begins.

- 2) **"Child"**

Under the FMLA, **"child"** means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or step-child. A child is "incapable of self-care" if they require active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories.

Under the CFRA, "child" means a child, including a child who is 18 years of age or older who is capable of self-care. An employee's child means a biological, adopted, foster, step-child, legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.

- 3) **"County"** means the County of Nevada.

- 4) **“Parent”** means the biological, adoptive, step or foster parent, a parent-in-law (CFRA only), legal guardian, or other person who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child.
- 5) **“Parent-in-law”** for CFRA means the parent of a spouse or domestic partner of the employee.
- 6) **“Designated person”** means any individual related by blood or whose association with the employee is the equivalent of family relationship. One designated person per 12-month period may be used for CFRA.
- 7) **“Spouse”** means one or two persons to a marriage, regardless of the sex of the persons. Under CFRA regulation, registered domestic partners are also recognized as spouses.
- 8) **“Domestic Partner”** is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.
- 9) **“Family member”** for FMLA leave means an employee’s child, parent, and spouse. **“Family member”** for CFRA leave means an employee’s child, parent, parent-in-law, spouse, domestic partner, grandchild, grandparent, and sibling.
- 10) **“Sibling”** means a person related to the employee by blood, adoption, or affinity through a common legal or biological parent.
- 11) **“Grandchild”** means a child of the employee’s child.
- 12) **“Grandparent”** means a parent of the employee’s parent.
- 13) **“Serious health condition”** means an illness, injury, impairment, or physical or mental condition that involves:
  - a. **Inpatient Care** treatment or anticipated treatment in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered “inpatient” when a health care facility admits them to the facility with the expectation that they will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or

b. **Continuing treatment** by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

i.) A period of **incapacity** (i.e., inability to work, or perform other regular daily activities due to serious health condition) of more than three consecutive full calendar days, and

ii.) Any subsequent treatment or period of incapacity relating to the same condition that also involves:

(a) Treatment two or more times within 30 days from the first day of incapacity, by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; and the first medical visit must take place within seven days of the first day of incapacity, or

(b) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider where the first medical visit must take place within seven days of the first day of incapacity. This includes for example; a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

c. Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a "serious health condition" under the FMLA, but not the CFRA. Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave.

d. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

i.) Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

ii.) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

iii.) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.

e. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of but need not be receiving active treatment by a health care provider.

f. Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

- 14) **“Covered active duty”** means: (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country, or (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of member of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.
- 15) **“Covered Servicemember”** means (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- 16) **“Outpatient Status”** means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- 17) **“Next of Kin of a Covered Servicemember”** means the nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and

sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under the FMLA.

- 18) **“Serious Injury or Illness”** means (1) in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.
- 19) **“Qualifying Exigency”** includes (1) short notice deployment; (2) military events and related activities; (3) childcare and school activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation; (7) post-deployment activities; (8) parental care; and (9) additional activities that the District and employee may agree qualify as an exigency.

C. **“HEALTH CARE PROVIDER”** means:

- 1) A Doctor of Medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
- 2) An individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises treatment of a serious health condition;
- 3) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
- 4) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
- 5) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and

- 6) Any health care provider from whom the County's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

**D. REASONS FOR LEAVE**

Leave is only permitted for the following reasons:

- 1) The birth of a child or to care for a newborn of an employee;
- 2) The placement of a child with an employee in connection with the adoption or foster care of a child;
- 3) To care for a child (of any age or dependency status), parent, parent-in-law (CFRA only), grandparent (CFRA only), grandchild (CFRA only), sibling (CFRA only), spouse or registered domestic partner or designated person who has a serious health condition. Leave for CFRA-only purposes do not apply to FMLA leave and will not run concurrently with leave under the FMLA;
- 4) Because of a serious health condition that makes the employee unable to perform the functions of their position;
- 5) For a variety of "qualifying exigencies" arising out of the fact that an employee's spouse, domestic partner (under CFRA only), child, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA; or
- 6) To care for a spouse, child, parent, or "next of kin" who is a covered service member of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period (under the FMLA only, not the CFRA).

**E. EMPLOYEES ELIGIBLE FOR LEAVE**

An employee is eligible for leave if the employee:

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

**F. AMOUNT OF LEAVE**

Eligible employees are entitled to a total of 12 workweeks (480 hours) (or 26 workweeks to care for a covered service member) of leave during any 12-month period, as that period is defined above. If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

**1) Minimum Duration of Leave**

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, spouse, registered domestic partner or the employee themselves with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

**2) Spouses Both Employed By the County**

In any case in which spouses both employed by the County are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks (480 hours) during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave - CFRA). This limitation also applies to leave under the Family Medical Leave Act. If both parents of a covered service member are employed by the County and are entitled to leave to care for a covered service member, the aggregate number of workweeks of leave to which both may be entitled is limited to 26 work weeks during the 12-month period. This limitation does not apply to any other type of leave under this Policy. For example, each employee is eligible for 12 workweeks (480 hours) of CFRA in a 12-month period, if the CFRA is needed to care for a child with a serious health condition.

**G. EMPLOYEE BENEFITS WHILE ON LEAVE**

While on leave, employees will continue to be covered by the County's health, dental, vision and life insurance plans to the same extent that coverage is provided while the

employee is on the job. Continuation of such coverage will end after 12 weeks or 480 hours of leave is taken in a 12-month period with one exception. If leave is due to pregnancy, pregnancy related disability and subsequent bonding time; the County will continue to contribute the County's share of health, dental and vision premiums to the same extent that coverage is provided while the employee is on the job. The maximum benefit entitlement period in any case is 29 1/3 weeks. Thereafter, the employee may continue coverage at their own expense.

Employees may make the appropriate contributions for continued coverage under the preceding non-health benefit plans by payroll deductions or direct payments made to these plans. Depending on the particular plan, the County will inform you whether the premiums should be paid to the carrier or to the County. Your coverage on a particular plan may be dropped if you are more than 30 days late in making a premium payment. However, you will receive a notice at least 15 days before coverage is to cease, advising you that you will be dropped if your premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after their leave entitlement has been exhausted or expires, the County shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or their family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The County shall have the right to recover premiums through deduction from any sums due the County (e.g., unpaid wages, vacation pay, etc.).

## **H. SUBSTITUTION OF PAID ACCRUED LEAVES**

An employee may elect to concurrently use paid accrued leaves for all or any portion of unpaid family and medical care leave. Similarly, the County may require an employee to concurrently use paid accrued leaves after requesting FMLA and/or CFRA leave and may also require an employee to use Family and Medical Care Leave concurrently with a non-FMLA/CFRA leave which is FMLA/CFRA-qualifying.

### **1) Employee's Right To Use Paid Accrued Leaves Concurrently With Family Leave**

Where an employee has earned or accrued paid vacation, administrative leave or compensatory time, that paid leave may be substituted for all or part of any (otherwise) unpaid leave under this policy.

As for sick leave, an employee is entitled to use sick leave concurrently with leave under this policy if:

- a. The leave is for the employee's own serious health condition; or

- b. The leave is needed to attend to the illness of the employee's parent, spouse, domestic partner, child, or child of the employee's domestic partner.

## **2) County's Right To Require An Employee To Use Paid Leave When Using FMLA/CFRA Leave**

Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFRA leave with three exceptions:

- a. Employees may choose not to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act;
- b. Employees will only be required to use sick leave concurrently with FMLA leave if the leave is for the employee's own serious health condition unless they so choose;
- c. Employees will not be required to use sick leave, unless they choose to as a supplement, while collecting SDI benefits during their CFRA leave;

## **3) County's Right To Require An Employee To Exhaust FMLA/CFRA Leave Concurrently With Other Leaves**

If an employee takes a leave of absence for any reason which is FMLA/CFRA qualifying, the non-FMLA/CFRA paid leaves accrued by the employee will run concurrently with the employee's 12-week (480 hours) FMLA/CFRA leave entitlement. The only exception is for peace officers that are on leave pursuant to Labor Code § 4850.

## **4) County and Employee's Rights If An Employee Requests Accrued Leave Without Mentioning Either the FMLA or CFRA**

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the County may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose.

However, if the County denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the County may inquire further into the reason for the absence. If the reason is FMLA/CFRA qualifying, the County will require the employee to exhaust accrued leave as described above.

## **I. MEDICAL CERTIFICATION**

Employees who request protected leave for their own serious health condition or to care for a child, parent or a spouse or domestic partner who has a serious health condition, must

provide written certification and/or recertification from the health care provider of the individual or employee requiring care.

Medical certification must contain all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and, if for the employee's own condition, a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of their position. If leave is requested to care for a child, parent, spouse or domestic partner, the certification must contain an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, or spouse, and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent or spouse. The term "warrants the participation of the employee" includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care.

**1) Time To Provide A Certification**

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

**2) Consequences For Failure To Provide An Adequate Or Timely Certification**

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency.

However, if an employee fails to provide a medical certification within the time frame established by this Policy, the County may delay the taking of FMLA/CFRA leave until the required certification is provided, or deny FMLA/CFRA protections following the expiration of the time period to provide an adequate certification.

**3) Recertification and Second Opinions**

Under FMLA, recertification of a medical condition is allowable every six months, even for lifetime conditions.

Under CFRA, recertification is allowable only when the medical certificate has expired or the employee requests additional leave.

Upon expiration of the time period the health care provider originally estimated that the employee needed for their own serious health condition, and upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employee and County must obtain recertification if additional leave is requested.

If the County has a good faith, objective reason to doubt the validity of a certification for an employee's own serious health condition, the County may require a medical opinion of a second health care provider chosen and paid for by the County. If the second opinion is different from the first, the County may require the opinion of a third provider jointly approved by the County and the employee but paid for by the County. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a recertification.

#### **4) Intermittent Leave Or Leave On A Reduced Leave Schedule**

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. Employees who take intermittent leave for planned medical treatment must make a reasonable effort to schedule such treatment so as not to disrupt unduly the employer's operations.

### **J. EMPLOYEE NOTICE OF LEAVE**

Although the County recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that they will need leave in the future, but does not know the exact date(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform their supervisor as soon as practicable that such leave will be needed. Such notice may be orally given. If an employee does not ask for foreseeable leave with at least 30 days' advance notice, Nevada County has the right to ask the employee why it was not possible to give a 30 day notice of the need for leave, to determine if the notice for leave was provided as soon as practicable. If the County determines that an employee's notice is inadequate or the employee did not provide notice of the leave as soon as practicable, the County may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

### **K. REINSTATEMENT UPON RETURN FROM LEAVE**

**1) Right To Reinstatement**

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

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the County, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of their readiness to return.

**2) Employee's Obligation To Periodically Report On Their Condition**

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

**3) Fitness For Duty Certification**

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform their job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

**4) Reinstatement Of "Key Employees"**

The County may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid ten percent (10%) of all employed by the County within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the County, and the employee is notified of the County's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. Under the CFRA, the County may not deny reinstatement to a "key" employee during or upon the expiration of CFRA leave.

**L. REQUIRED FORMS**

Employees must fill out or submit the following applicable forms in connection with

leave under this policy:

- 1) A written or verbal request for Family Medical Leave (FMLA), California Family Rights Act (CFRA) Bonding Time or Pregnancy Disability Leave (PDL). The County will respond in writing with conditions of the leave;
- 2) Medical certification for the employee's own serious health condition or for the serious health condition of a spouse, child, parent or registered domestic partner;
- 3) Fitness for duty form to return to duty.

These forms are available through the County's Human Resources Department.

**M. GENETIC INFORMATION NONDISCRIMINATION ACT**

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, the County will not ask any employee to provide genetic information. 'Genetic information' as defined by GINA, includes an individual's family medical history, the manifestation of a disease or disorder in an individual's family members, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

**N. MILITARY CARETAKER LEAVE**

The National Defense Authorization Act (NDAA) allows an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member to take twenty six (26) workweeks of leave during a single 12-month period to care for the service member. An eligible employee may take FMLA leave to care for a covered service member of the U.S. Armed Forces who has a serious injury or illness incurred in the line of duty on active duty, or existed before the beginning of the member's active duty but was aggravated by service in the line of duty on active duty in the Armed Forces, for which the service member is (1) undergoing medical treatment, recuperation, or therapy; or (2) otherwise in outpatient status; or (3) otherwise on the temporary disability retired list for a serious injury or illness. An employee on military caregiver leave is entitled to paid health benefits as if the employee continued to work. Military Caregiver Leave is unpaid. While on leave under this policy, as set forth herein, an employee may elect to concurrently use accrued leave balances.

**1) Who is Entitled to Take Military Caregiver Leave:**

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled to take military caregiver leave. For the purposes of this leave, the following definitions and conditions apply:

- a. Covered service member includes current members of the Regular Armed Forces, including current members of the National Guard or Reserves, and members of the Regular Armed Forces, the National Guard and the Reserves who are on the temporary disability retired list. Covered service members also included a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including National Guard or Reserve, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- b. An employee seeking to take military caregiver leave must obtain appropriate certification that a service member's serious injury or illness was incurred in the line of duty on active duty.
- c. For purposes of military caregiver leave, a "son or daughter of a covered service member" is the covered service member's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood *in loco parentis*, and who is of any age.
- d. Next of kin is the service member's nearest blood relative, other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under FMLA, in which case the designated individual shall be considered the covered service member's next of kin.
- e. When proof of an individual's status as a covered service member's next of kin is needed, the employee must provide reasonable documentation of the familial relationship. If the service member has not designated a next of kin, a simple statement from the employee outlining the employee's familial relationship to the service member will suffice.
- f. An employee's need to take leave to care for a covered service member with a serious injury or illness must be certified by an authorized health care provider. It will be the responsibility of the employee to provide all certification information as requested on the Certification of Serious Injury or Illness of Covered Service member for Military Family Leave.

## **2) Circumstances Under Which Military Caregiver Leave May be Taken**

- a. The 26-workweek entitlement is a one-time entitlement applied on a per-service member, per-injury basis, meaning that an eligible employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious injury or illness, except that no more than 26 workweeks of leave may be taken within any single 12-month period.
- b. Military caregiver leave is not a yearly entitlement that renews each year. An eligible employee who is caring for a covered service member, whose serious injury or illness extends beyond the employee's 26-workweek leave entitlement, is not eligible for an additional 26-workweek entitlement to continue to care for the covered service member.
- c. After an employee has exhausted their military caregiver leave entitlement, the employee may be entitled to use their normal 12-week FMLA leave entitlement to provide care to the service member due to the same injury or illness. If an employee has not satisfied the 1,250 hour eligibility requirement for FMLA prior to using the military caregiver's leave, they will have satisfied the eligibility requirement if the eligibility requirement was met during the time the employee was taking military caregiver's leave for the same condition.
- d. The single 12-month period for military caregiver leave begins on the first day the eligible employee takes the leave and ends 12 months after that date, regardless of the method used to determine the FMLA qualifying methods. The single 12-month period used for military caregiver leave need not be the same as other FMLA-qualifying leave. It may be possible that two different 12-month leave periods are in effect at the same time.
- e. An eligible employee is entitled to a combined total of 26 workweeks of military caregiver leave and leave for any other FMLA-qualifying reason in a single 12-month period, provided that the employee may not take more than 12 workweeks of leave for any other FMLA-qualifying reason.
- f. In the case of leave that qualifies as both military caregiver leave and leave to care for a family member with a serious health condition, Nevada County will designate such leave as military caregiver leave first. The employee will receive notice of the designation of leave.

## **O. QUALIFYING EXIGENCY LEAVE**

The National Defense Authorization Act provides that eligible employees may take up to 12 weeks of FMLA leave for any qualifying exigency due to a spouse, son, daughter or parent of the employee being on active duty or being notified of an impending call to active duty status. Qualifying exigency leave is available to employees who have a spouse, son, daughter, or parent called to active duty as part of the Reserve components of the Armed Forces, including the National Guard, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve and Coast Guard Reserve, or a retired member of the Regular Armed Forces or Reserve called in support of a contingency operation. Such leave is also available in the case of a deployment of a Regular Armed Forces member to a foreign country.

An employee requesting qualifying Exigency Leave must provide sufficient information that indicates that a family member is on active duty or call to active duty status, and that the requested leave is for one of the qualifying exigencies listed below, and the anticipated duration of the absence.

Nevada County may require an employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or has been notified of an impending call or order to active duty in support of a contingency operation, and the dates of the covered military member's active duty service.

#### **1) Categories of Qualifying Exigencies:**

- a. Short-notice deployment: To address any issue that arises due to a covered military member being notified of an impending call or order to active duty seven or less calendar days prior to the date of deployment.
- b. Military events and related activities: To attend any official ceremony, program, or event sponsored by the military and to attend family support and assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member.
- c. Childcare and school activities: To arrange childcare or attend certain school activities for a child of the covered military member, who is either under age 18, or age 18 or older and incapable of self-care. This leave may be taken to arrange for alternative childcare, to provide urgent, immediate, non-routine childcare, to enroll the child in a new school or day care facility, or to attend meetings with staff at a school or a day care facility.

d. Financial and legal arrangements: To make or update financial or legal arrangements to address the covered military member's absence while on active duty or call to active duty status, such as preparing and executing financial and healthcare powers of attorney, transferring bank account signature authority, obtaining military identification cards, or preparing or updating a will or living trust. The leave can also be used for acting as the military member's representative for purposes of obtaining, arranging, or appealing military service benefits while the covered military member is on active duty or call to active duty status, and for the 90 days after the termination of the covered military member's active duty status.

e. Counseling: To attend counseling provided by someone other than a healthcare provider for oneself, for the covered military member, or for the child of the covered military member who is either under the age of 18 or age 18 or older and incapable of self-care, provided that the need for counseling arises from the active duty or call to active duty status of a covered military member.

f. Rest and recuperation: To spend time with a covered military member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to fifteen (15) days of leave for each instance of rest and recuperation.

g. Post-Deployment activities: To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following the termination of the covered military member's active duty and to address issues that arise from the death of a covered military member while on active duty status, such as meeting and recovering the body of the covered military member and making funeral arrangements.

h. Parental Care: To arrange for parental care for the parent of the military member if the parent is incapable of self-care and is the military member's biological, adoptive, step, or foster father or mother, or any individual who stood in loco parentis to the military member when the member was under 19 years of age. This leave may be taken to arrange for alternate care for the parent of the military member when the parent is incapable of self-care and the covered active duty or call to covered active duty status necessitates a change in existing care arrangements for the parent; to provide care for a parent on an urgent, immediate need basis (but not on a routine, regular, or everyday basis); to admit to or transfer to a care facility the parent of the military member; or to attend meetings with staff at a care facility.

i. Additional activities: To address other events which arise out of the covered military member's active duty or call to active duty status provided that Nevada

County and the employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.

**NEVADA COUNTY, CALIFORNIA**  
**Personnel Administrative Guidelines**  
**P-4**

**SUBJECT: PERSONNEL FILES POLICY**

**1) General**

- a. The County will maintain an official personnel file in which all personnel information and documents which the County wishes to keep regarding employees and former employees and which are required by law will be maintained. All personnel files will be maintained in the Personnel/Human Resources Department by the Human Resources Director or their designee. In no case shall an employee or former employee have the right to inspect records relating to the investigation of a possible criminal offense, letters of reference and/or ratings, or reports or records that were: (1) obtained prior to the employee's employment with the County; (2) prepared by identifiable examination committee members and (3) obtained in connection with a promotional exam.
- b. Individual supervisors may maintain supervisor files or folders for the purpose of completing the employee's annual performance evaluation. Documents contained in the supervisor's folder may or may not be purged at the end of the performance evaluation cycle. Documents contained in the supervisor's folder which are not transferred to the official personnel file may be maintained in the supervisor's folder or destroyed. While the exception of files transferred to an official personnel file, individual supervisor files are not subject to this Policy.
- c. Maintenance and inspection of law enforcement personnel files are subject to certain state law requirements and are discussed under section 3 of this policy.

**2) Notifying County of Changes in Personal Information**

Each employee is responsible for providing prompt notification to the Personnel/Human Resources Department of any changes in relevant personal information, including:

- a) Mailing address
- b) Telephone number
- c) Name change
- d) Persons to contact in emergency
- e) Number and names of dependents

**3) Employee Access to Personnel File**

- a. An employee or former employee wishing to inspect their personnel file may only do so between the hours of 9:00 a.m. and 5:00 p.m. Monday through Thursday (holidays excluded). An employee may not inspect their personnel file at a time when the employee is actually required to render services for the County. A former employee is entitled to inspect their personnel records one time per year.
- b. All employees, former employees, and/or their representatives who inspect their personnel files must note their inspection on the entry log attached to the personnel file or made available by the Human Resources Director or their designee.
- c. A current or former employee wishing to inspect their personnel file must submit a written request for an appointment with the Human Resources Director or their designee at least 24 hours in advance. The Human Resources Director or their designee will then notify the current or former employee in writing of the date, time and place of the inspection. The employee will not be required to wait more than 72 hours from the time the request was made to inspect their file.
- d. In the event a current or former employee wishes to have another person/representative inspect their personnel file, the current/former employee must provide the person/representative with written authorization to inspect the file and present a copy of that authorization to the Human Resources Director or their designee at least 24 hours in advance. The Human Resources Director or their designee will then notify the current/former employee in writing of the date, time and place of the inspection within the time frame noted in (b), above. It is the requesting current/former employee's responsibility to notify the person/representative of the date, time and place of the inspection.
- e. The County shall have an official monitor the current or former employee and/or the current/former employee's representative during the inspection of the employee's personnel file. Under no circumstances shall the current or former employee and/or their representative remove the personnel file or any of its contents from the area designated by the County during the inspection. Should the current or former employee desire copies of any documents located in their personnel file, the County will copy the documents at the employee's expense within 72 hours of the request.
- f. Under no circumstances shall the current or former employee and/or the employee's representative be permitted to add or remove any document or other item from the employee's personnel file during the inspection.

**4) Employee Response to Content of Personnel File**

- a. A current employee who questions the accuracy of records in their personnel file has the right to request that the Human Resources Director or their designee correct and/or amend the record(s) in question. A notation will be made in the employee's personnel file that the correction was made or that the request for correction was rejected, along with any comments made by the employee in regard to the alleged inaccuracy or the action taken.
- b. When a supervisor, manager or department head intends to issue a derogatory memorandum regarding an employee, such as a written reprimand, the employee will be given notice of the memorandum and an opportunity to respond in writing prior to placement of the memorandum in the employee's personnel file. An employee response must be received by the Human Resources Director within 10 days of receiving notice about the memorandum. Upon receipt of the employee's response or the expiration of the 10-day deadline, the memorandum will be placed into the employee's personnel file and the employee will be notified of such placement. If the employee has provided a timely written response, the response will be attached to the memorandum.

**5) Maintenance of Separated Employees' Personnel Files**

- a. Upon separation from County employment, employees' personnel files shall be sent to a central County location where they will be maintained for three (3) years and then will be destroyed. Medical/Workers' Compensation files will be maintained for five (5) years before being destroyed.

**6) Medical Information**

- a. Separate Confidential Files. All medical information about an employee or applicant is kept separately and is treated as confidential.
- b. Information in Medical Files. The County will not obtain medical information about an employee or applicant except in compliance with the California Confidentiality of Medical Information Act. To enable the County to obtain certain medical information, the employee or applicant may need to sign an Authorization For Release of Employee Medical Information.
- c. Access to Medical Information. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for County business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability,

managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations. The County will not provide employee or applicant medical information to a third party (except as permitted under the California Confidentiality of Medical Information Act) unless the employee signs an Authorization For Release of Employee Medical Information in the form attached to this rule. The County will release only the medical information that is identified in the employee's authorization. If the employee's authorization indicates any limitations regarding the use of the medical information, the County will communicate those limitations to the person or entity to which it discloses the medical information.

7) **References and Release of Information in Personnel Files**

- a. Reference Checks. All requests from outside the County for reference checks or verification of employment concerning any current or former employee must be referred to the Personnel/Human Resources Department. Information will be released only if the employee signs an Authorization For Release of Employment Information, except that without such authorization, the following limited information will be provided: dates of employment and position title. Department heads and supervisors should not provide information in response to requests for reference checks of verification of employment, unless specifically approved by the Personnel/Human Resources office on a case-by-case basis.
- b. Public Information. Upon request, the County will release to the public information as required by the Public Records Act. The County will not disclose any personnel information that it considers would constitute an unwarranted invasion of personal privacy, consistent with the requirements of the California Public Records Act.
- c. Medical Information. Medical information will be released only in accordance with 5(c), above.

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**SUBJECT: ANTI-NEPOTISM POLICY**

It is the policy of the County to prohibit the employment of relatives within the same department for reasons of supervision, safety, security and morale when necessary for proper and efficient operations and delivery of County services. Relatives may work within the same Agency for the County provided they work in different departments, or if in the same department, they work in different divisions, different locations, or in non-supervisor-subordinate relationships, and their relative is not the agency head. This shall extend to the employment of temporary employees.

A relative is defined as spouse, registered domestic partner, child, step-child, child of a domestic partner, parent, step-parent, grandparent, grandchild, sibling, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

Employees who become relatives and work in a direct supervisor-subordinate relationship shall be subject to this rule. The County shall allow the affected employees to determine which employee shall remain in their position. If the affected employees have no preference, the Human Resources Director in consultation with the appointing authority and the County Executive Officer shall determine which of the employees shall remain in the current position. As to the other employee, the Human Resources Director will attempt to make a mutually acceptable transfer to a similar position in another department if available. If a mutually acceptable transfer cannot be made, that employee shall be subject to layoff as defined in Personnel Code section 22.

Exceptions to this policy may be determined through an appeal to the County Executive Officer who may waive this rule with an acceptable showing of unusual or exceptional circumstances when this rule would otherwise prohibit the hiring, promotion, transfer, or demotion of a job applicant or regular status employee.

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**SUBJECT: REASONABLE ACCOMMODATIONS AND ABILITY TO PERFORM WORK**

Absent undue hardship or direct threats to the health and safety of employee(s), the County provides employment-related reasonable accommodations to qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions; employees with conditions related to pregnancy, childbirth, or a related medical condition, if the employee so requests, and with the advice of the employee's health care provider; employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and to employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

For non-disciplinary reasons, the County may refuse to hire, reduce in rank, or separate from employment an employee who is unable to perform the essential functions of their position (or position to which they applied for employment) with or without a reasonable accommodation.

**A. DETERMINATION OF NEED FOR REASONABLE ACCOMMODATION**

**1. Medical Documentation of a Disability**

If the disability or the need for reasonable accommodation is not obvious, the County may require the individual to provide reasonable medical documentation confirming:

- (a) The existence of the disability;
- (b) The need for reasonable accommodation;
- (c) The functional limitations or work restrictions that apply to the employee's ability to perform the essential functions of the job; and
- (d) The name and credentials of the individual's health care provider.

If an individual provides insufficient documentation (regarding a disability or pregnancy-related condition), the County will:

- (a) Explain the insufficiency;
- (b) Allow the employee or applicant to supplement the documentation; and
- (e) Pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

Information received from the medical examination shall be maintained consistent with the California Civil Code and Health Insurance Portability and Accountability Act (HIPAA).

**2. Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions**

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, the County will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains:

- (a) A description of the requested accommodation or transfer;
- (b) A statement describing the medical advisability of the accommodation or transfer due to pregnancy; and
- (c) The date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer.

**3. Certification of Victim Status**

An employee who is a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for their safety while at work must provide both of the following:

- (a) A written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and
- (b) A certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

**B. FITNESS FOR DUTY EXAMINATION**

**1. Job Applicants**

After a conditional offer of employment has been extended to an applicant, the County may require the applicant to submit to a fitness for duty examination that is job-related; necessary for efficient operations of the agency; and required of all applicants for the job classification. An applicant or employee who is required to pass a medical and/or psychological examination will be notified of their right to obtain a second opinion at their expense and that they may submit such second opinions for consideration.

**2. Current Employees**

The appointing authority may require an employee to submit to a fitness for duty examination to determine if the employee has a disability and is able to perform the essential functions of their job when there is significant evidence that:

- (a) The employee's ability to perform one or more essential functions of their job has declined; or
- (b) Could cause a reasonable person to question whether an employee is still capable of performing one or more of their essential job duties, or is still capable of performing those duties in a manner that does not harm themselves or others.

**3. Examination**

The County may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or employee, or may request a County-selected health care provider to do so at the County's expense. The County will allow an employee paid time off to attend the exam. The County will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job. The examination will be limited to determining whether the applicant or employee can perform the essential functions of their position and any work restrictions and/or functional limitations that apply to the applicant or employee. The health care provider will examine the employee and provide the County with non-confidential information regarding whether:

- (a) The applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
- (b) The applicant or employee is fit to perform essential job functions;
- (c) Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
- (d) There are any reasonable accommodations that would enable the employee to perform essential job functions; and
- (e) The employee's continued employment poses a threat to the health and safety of themselves or others.

**4. Handling of Confidential Medical Information**

During the course of a fitness for duty examination, the County will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

Should the health care provider exceed the scope of the County's request and provide confidential health information, without valid consent of the applicant or

employee, the County will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the County has requested.

If an employee or applicant submits medical information to the County from their own health care provider, the County will not forward that information on to the health care provider who conducted the examination for the County, without the employee or applicant's written authorization. Upon receipt of the written authorization, the County will request the County-paid health care provider to determine whether the information alters the original fitness for duty assessment.

Medical records and information regarding fitness for duty, or the need for an accommodation, will be maintained separately from non-medical records and information. Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the Human Resources Director, the County's legal counsel, first aid and safety personnel in case of emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to state and federal law.

**C. INITIATION OF INTERACTIVE PROCESS**

Depending on the above determination of an employee or job applicant's need for a reasonable accommodation, the appointing authority shall enter into an interactive process with the employee or job applicant to determine if the essential functions of the job can be performed with reasonable accommodation.

**D. ACCOMMODATION**

After the interactive process communications, the Human Resources Director will review the information received, and determine whether all available information has been reviewed; whether all potential accommodations that the applicant or employee has suggested have been considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant's or employee's preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions without harming themselves or others; and if the accommodations would pose an undue hardship on County finances or operations. The Human Resources Director will inform the applicant or employee of their determination in writing. The Human Resources Director will use their discretion based upon the particular facts of each case.

If the determination is that the employee will be capable of returning to work within a reasonable time, the employee may be granted unpaid leave pursuant to Section 21.1.

**E. INTERACTIVE PROCESS**

Whenever circumstances trigger the need to conduct an interactive process meeting, the Human Resources Director or their designee will promptly arrange for a discussion or discussions, in person or via conference telephone or video call, with the applicant or employee and their designated representative, (if any). The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations. The Human Resources Director, or their designee, will document these communications in writing.

Depending on the facts of each case, the interactive process analysis will generally begin with a review of possible reasonable accommodations that would enable an individual to retain their current job, or for an applicant to obtain the position to which they applied. For current employees, the process will generally then move on to possible reasonable accommodations in other vacant jobs for which the individual is qualified, if there is no reasonable accommodation in the current job that does not cause undue hardship, or that does not present a risk of harm to the individual or others. The County will consider accommodations that the applicant or employee suggests as part of determining whether or not reasonable accommodation can be reached.

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**SUBJECT: TRAVEL REIMBURSEMENT AND EXPENSE POLICY**

**POLICY:**

County officers, employees, and volunteers traveling on properly authorized county business may be reimbursed for travel, meals, lodging, and incidental expenses pursuant to these procedures. Reimbursement shall be limited to documented trip expenses. It is the policy of this county to accord discretion to department heads in the management and control of their travel budgets and in the claims submitted for reimbursement under this article.

**OVERVIEW:**

County travelers shall exercise prudent judgment and show proper discretion for accountable and economical use of public funds. County Department heads are accountable to the CEO and the public for the funds and assets entrusted to them. This policy establishes the basic foundation of rules and requirements. In order to meet certain Federal and or state subvention requirements, some departments may need to establish more restrictive guidelines to meet their unique needs. Any exception to this policy must be approved in writing by the CEO.

**A. TYPES OF TRAVEL**

1. In-County travel by authorized employees may be reimbursed only for actual expenditures for transportation and business expenses according to the specific guidelines contained elsewhere in this policy.
2. In-State travel may be authorized by County officers for employees under their jurisdiction.
3. Out-of-State travel must be authorized in advance by the employee's Department Head.
  - a. Out-of-state travel for Department Heads must be authorized in advance by the Agency Director.
  - b. Out-of-state travel for Agency Directors, and for Department Heads who report to the CEO, must be authorized in advance by the CEO.
  - c. Out-of-state travel by the CEO, and for Department Heads who are appointed by the Board of Supervisors, must be authorized by the Board Chairperson.
  - d. Retroactive authorization for emergency out-of-state travel may be given by the designated authority for county officers and regular status employee regular status

employees, temporary employees, and volunteers, with written documentation of the need for the emergency travel.

## **B. DEFINITIONS**

For the purposes of this policy, the following definitions apply:

- 1) **County employee** – any person who receives a wage from the county on a regular basis including both temporary and regular status employees. Independent contractors and their employees are not County employees.
- 2) **County officer** –Elected county official, or any Department Head/Agency Head.
- 3) **County business** – the activity directly related to the necessary and required business functions of the County.
- 4) **Designee** – an employee that has been specially appointed by a Department / Agency head to serve in place of them.
- 5) **Out-of-pocket expense** – personal funds used for travel on County business.
- 6) **County Volunteers** – a person other than a County employee who performs “unpaid” volunteer work authorized by a department or the Board of Supervisors for the County. This does not include grand jurors, wards, inmates, probationers working for the County, appointed commissioners or committee members who are paid in accordance with their approved by-laws or other Board of Supervisor approved actions.
- 7) **Residence** – the actual dwelling place of the County traveler without regard to any other legal or mailing address.
- 8) **Primary Workplace** - the principal place of business for the County employee or the principal location to which the County volunteer is assigned to work for the County. This may be the place at which they spend the largest portion of their regular County workday or working time or, in the case of field workers, the assigned location/headquarters to which they return upon completion of regular or special assignments.
- 9) **Temporary Work Location** - the location where the County employee or volunteer is assigned on an irregular or short-term basis.

## **C. REQUIRED DOCUMENTATION FOR REIMBURSEMENT**

- 1) Reimbursement under this section is obtained by completing a Travel Reimbursement Claim and attaching all required documentation. Any claim not

submitted within sixty (60) calendar days from the date of the occurrence of the expense shall not be paid except by specific authorization by the CEO. A late claim submitted by the CEO may be approved by the Board chairperson.

- 2) A completed claim accounts for trip time, place, and purpose. This includes time and date of departure, return time and date, and number of days on county business (if mixed with personal), destination or locality of travel, and the business reason for the trip supported by an agenda/or flyer, or separate statement of purpose. Expenditures must be specifically accounted for using the descriptive categories specified on the Travel Reimbursement Claim form. Receipts on all expenses are required except where noted.
- 3) County officers and employees are encouraged to use Department Travel or personally assigned County credit cards when traveling on County business. County officers and employees charging travel expenses on credit cards must follow the County credit card policy and this policy. Any reimbursements exceeding \$200 will require Department / Agency Head signature.

#### **D. TYPES OF REIMBURSEMENT**

##### **1) Travel**

- a. Travel reimbursement is limited to the most economical mode of travel. Travelers are encouraged to use County owned vehicles for County-related travel. Travel by personal vehicle will be reimbursed at the prevailing IRS mileage rate. Terms and conditions of use of private vehicles on County business may be found in Chapter II Administrative Code Article 14 – County Vehicles – Section A-II 14.9.
- b. Commercial auto rental may be reimbursed for the actual and necessary cost of such rental when substantiated by an invoice. The size of the auto rented shall be the least expensive vehicle appropriate to the use required by the employee. No rental insurance shall be taken. A County credit card should be used whenever possible for rental in order for the extended insurance coverage provided by the credit card company to be in effect. Luxury cars are not authorized under any circumstance.
- c. Private aircraft use either owned or rented by employees will require prior authorization by the Department/Agency Head. Due to insurance requirements, private aircraft must have current "Standard" airworthiness certificates issued by the FAA, and the pilot in command must hold a currently effective pilot's certificate issued by the FAA and must have a current rating for the aircraft flown. Before any private aircraft owned by an employee is flown on County business, a current certificate of insurance covering the aircraft must be filed with the County's Risk Manager.

Use of personal aircraft will be limited to a reimbursement at the IRS vehicle rate using road mileage computed from Nevada County Airport to the destination airport plus landing and tie down fees.

- d. Commercial Airlines – When reimbursement is claimed for transportation via scheduled commercial airlines, reimbursement will be limited to the cost of travel by air coach. Airline or other travel insurance is not reimbursable.
- e. When flying is more economical than driving for mileage reimbursement, an airline rate will be used for reimbursement at a 30 day in advance rate.

## **2) Meals**

- a. No reimbursement will be made for meals within County limits or on a temporary workplace reassignment unless the travel involves remaining away from an employee's primary workplace overnight. The exception is that the evening meal may be claimed with the approval of the Department/Agency Head if by reason of County Business an employee must remain away from their primary workplace later than 7pm.
- b. Per IRS Regulations, any meal reimbursement without an overnight stay is considered taxable income. These reimbursements will be reported on the employees W-2. For IRS Information about meal reimbursements see Circular E, Employer's Tax Guide (Publication 15), Employer's Tax Guide to Fringe Benefits (Publication 15-B, and Publication 463, Travel, Entertainment, Gift and Car Expense.
- c. Federal Meal Per Diem Allowance: Employees shall be reimbursed at a rate not to exceed the current standard Federal meal and incidental per diem amounts set by the U.S. General Services Administration Meal and Incidental Expenses (M&IE) Breakdown ([www.gsa.gov](http://www.gsa.gov)). The Federal per diem meal allowance includes incidental expenses for fees, tips and phone calls.
- d. Per the U.S. General Services Administration, the meal and incidental daily rate is prorated for the first and last day of travel at 75% of the daily rate
- e. The per diem allowance method is also an Accountable Plan. It is treated as "deemed substantiated" and therefore does not require detailed accounting or record keeping. No receipts are required to receive Federal Per Diem Allowance.
- f. Itemized and detailed meal receipts are required for purchases made through the County Credit Card Program. (See the Credit Card Policy) A receipt with just a total dollar amount only is not acceptable documentation. A group meal on one receipt must include names of all attendees.
- g. Under no circumstances will expenses for alcoholic beverages be reimbursed.

- h. Travel Reimbursement Claims must be signed by the traveler and the Department/Agency Head, or designee, and will be made available for public inspection.

### **3) Meal Exceptions**

- a. Meal reimbursements shall not be authorized to County employees whose normal assigned work schedule includes their meal break and where the County provides an onsite meal.
- b. Officers and employees attending, serving on, or assigned to Board meetings and Planning Commission meetings that extend beyond 6:00 p.m. and reconvene after a meal break, may be reimbursed for out-of-pocket dinner costs at the federal meal per diem allowance.
- c. Volunteers who are invited to attend sessions of the Board of Supervisors, or such other county meetings which last more than one normal working day, may be reimbursed for out-of-pocket expense for mileage, meals, and lodging expenses, at the discretion of the Department Head. Reimbursement is not subject to spending limits contained in this section and receipts are required.

### **4) Lodging**

- a. Overnight lodging is reimbursed at the actual cost upon submission of itemized receipts. Single occupancy rates prevail unless the room is occupied by more than one County employee or officer. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. Government rates should be requested for all expenses associated with the conference. As lodging is reimbursed at actual cost, the County does not follow GSA Per Diem rates on Lodging.
- b. Temporary lodging expenses may be reimbursed with advanced authorization of the Department Head, or designee, when a County officer or employee is required to work temporarily more than 30 miles from their worksite. This includes temporary assignments in Truckee.
- c. Private short-term rentals like Air BNB or VRBO are not allowed for county travel.
- d. Most counties and cities in California charge a Transient Occupancy Tax (TOT) rate on nightly room rates in hotels/motels. Government employees may be exempt from this tax in many jurisdictions. A generic exemption certificate is available on the County website for use in this situation. All persons in the

service of the County should take advantage of this exemption, whenever possible.

**5) Other Miscellaneous Expenses**

- a. Miscellaneous expenses when traveling on County business will be reimbursed, including but not limited to ferry and bridge tolls, taxi fares, registration fees for conferences and conventions, business calls and parking fees. An itemized receipt is not required for items under \$15.
- b. Personal expenses such as barbering, alcoholic beverages, entertainment, other tips, laundry, or dry-cleaning will not be reimbursed.
- c. Other miscellaneous expenses may be reimbursed with receipts and authorization from the Department Head, or designee.

**6) Advances**

Employees may seek cash advances for long term travel by submitting a request for such advance to their Department / Agency Head. If approved by the Department / Agency Head, the Department/Agency Head must submit these requests to the County CEO for approval. Therefore, employees are encouraged to seek cash advances for long term travel as far in advance as possible. Long term travel is defined as travel for five days or longer.

**7) Business Expenses**

- a. Department / Agency Heads may at times find it necessary to hold a meeting over a meal period. Any reimbursement must be supported by a meeting agenda, names of those present and an itemized receipt.
- b. Meal costs for purchasing meals for examining boards, commissions or committees will be reimbursed up to the federal per diem rate.
- c. County officers or designees may be reimbursed for out-of-pocket expenses for food purchased and provided at on-site/offsite training sessions or workshops, or department sponsored workshops, law enforcement or OES critical incidents or staff meetings. Receipts are required.
- d. County officers or designee may be reimbursed for actual cost of their meals when the officer is invited to a local community sponsored activity as an official representative of the county. Documentation of the event must accompany the claim for reimbursement.
- e. With prior approval from the Department/Agency Head, a person in the service of the County who attends a breakfast, lunch, or dinner meeting within the County may be reimbursed up to the group rate published by the meeting

sponsor only when such meeting is incidental to that person's job or official duties. All claims for reimbursement of meals within the County shall include a brief description of the purpose of the meeting, its relevance to the claimant's job or official duties, and if available, a meeting agenda or brochure.

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**SUBJECT: REVOLVING DOOR POLICY**

**Policy**

It is the policy of the County of Nevada to prohibit certain high-level former employees and legal entities that hire them from gaining an unfair advantage by virtue of their previous employment with the Nevada County.

**A. DEFINITIONS:**

- 1) "**Contract**" includes a memorandum of understanding (MOU).
- 2) "**Legal entity**" means any person, business, partnership, company, association or other affiliation that may sue or be sued.
- 3) "**Public entity**" means those entities specified in Government Code §811.2.
- 4) "**Remuneration**" means any direct payment of money, property, or services to a former Nevada County employee, provided that the value of the money, property or services, collectively, during a twelve-month period exceeds \$2,000.

**B. THOSE TO WHOM THIS POLICY APPLIES:**

- 1) This policy applies only to the following former Nevada County officers and employees:
  - a. members of the Board of Supervisors;
  - b. the Nevada County CEO; and
  - c. the Nevada County Purchasing Agent;
- 2) This policy does not apply to circumstances wherein a former Nevada County employee or officer leaves employment or service with Nevada County and thereafter enters into a remunerating relationship with another public entity.

**C. PROHIBITIONS UPON FORMER NEVADA COUNTY EMPLOYEES AND OFFICIALS:**

No former Nevada County employee or official shall, for a period of twelve (12) months following their last day of employment or last day of office with Nevada County, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that local government agency, or any committee, subcommittee, or present member of that local government agency, or any officer or employee of the local government agency, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or

contract, or the sale or purchase of goods or property. . This subsection is intended to prohibit, but is not limited to, the following paid activities:

- a. lobbying on behalf of;
- b. advising;
- c. counseling;
- d. employment with;
- e. independent contracting with; and
- f. representing a legal entity by a former Nevada County employee.

This provision shall not apply to any individual who is, at the time of the appearance or communication, a board member, officer, or employee of another local government agency or an employee or representative of a public agency and is appearing or communicating on behalf of that agency.

**D. ENFORCEMENT OF POLICY:**

- 1) To the extent allowed by law, Nevada County may seek an injunction to enforce its rights under this policy.
- 2) Any legal entity contracting with, or receiving a grant from, Nevada County is subject to having such contract or grant voided, at the discretion of Nevada County, if such legal entity thereafter enters into a remunerating relationship with a former Nevada County employee that puts such former Nevada County employee in violation of section C.
- 3) In the event Nevada County elects to void a contract pursuant to subsection 2, it shall have a cause of action for breach of contract against the legal entity and shall be entitled to reasonable attorney's fees.
- 4) In the event that Nevada County elects to void a grant pursuant to subsection 2, it shall first ask for the return of such grant money and may thereafter seek a court order if such request is denied. In the event a court order is sought, Nevada County shall be entitled to reasonable attorney's fees.
- 5) Contracts and grants entered into with outside legal entities shall contain a reference to this policy which shall thereby be incorporated therein, unless the Board of Supervisors determines such incorporation is not in the best interest of Nevada County or would be otherwise inappropriate, in which case this policy shall not apply to that contract or grant.

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**SUBJECT: DRUG FREE WORKPLACE AND ALCOHOL AND CONTROLLED**  
**SUBSTANCE TESTING POLICY**

**PURPOSE**

It is the intention of this policy to eliminate substance abuse and its effects in the work-place. While Nevada County has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol off the job can take its toll on job performance and employee safety. Employees should be in a condition to perform their duties safely and efficiently, in the interests of their co-workers and the public as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective. Managers will be trained to recognize symptoms of substance abuse and to become involved in this process.

Certain positions with the County of Nevada are required to comply with the U.S. Department of Transportation (DOT) drug and alcohol program regulations. The DOT encompasses all DOT agencies, including but not limited to Federal Motor Carriers Safety Administration (FMCSA) and Federal Transit Administration (FTA). Employees whose position requires them to hold a Commercial Driver's License (CDL) fall under the oversight of the FMCSA and employees of the Transit division fall under the oversight of the FTA.

This policy complies with Code of Federal Regulations sections 49 CFR Part 655, as amended, 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended. Copies of Parts 655, 382, and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the U.S. Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance website <http://www.transportation.gov/odapc>.

All DOT covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with the ODAPC regulations.

In addition, the DOT has published Code of Federal Regulations section 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

Portions of this policy are not DOT mandated, but reflect County of Nevada's policy. These additional provisions are identified by **bold text**.

**The County of Nevada provides many services to our community, including public transit and para-transit services for the residents of our community. Part of our mission is to**

**ensure that all services are delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Nevada County declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.**

**Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Federal Drug-Free Workplace Act of 1988, the California Drug-Free Workplace Act of 1990, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates drug and alcohol testing for safety-sensitive positions and prohibits performance of DOT safety-sensitive functions when there is a positive test result, or a refusal to test. The DOT has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens for controlled substances and alcohol.**

**This policy is to be interpreted and applied such that it is consistent Government Code Section 12954, to prohibit employers from engaging in any adverse employment action against non-exempted employees for off-duty marijuana use. Any provisions set forth in this policy that are included under the sole authority of Nevada County are not provided under the authority of the above-named Federal regulations are underlined. Tests conducted under the sole authority of Nevada County will be performed on NON-USDOT forms and will be separate from USDOT testing in all respects.**

**All County of Nevada employees are subject to the provisions of the Drug-Free Workplace Act of 1988.**

**The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify Director of Human Resources or designee at 530-265-7010 no later than five days after such conviction.**

### **APPLICABILITY**

**This policy applies to all employees when they are on County of Nevada property or when performing any County of Nevada related business. It applies to off-site lunch periods, breaks when an employee is scheduled to return to work and on-call employees. Vendors and contracted employees/agents are governed by this policy while on County of Nevada premises and they will not be permitted to conduct business if found to be in violation of this policy. Violation of this policy by a vendor**

**and/or contracted employee or agent may serve as grounds to terminate said contract with the County of Nevada.**

**The County is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law. Should an employee self-identify their substance abuse problem PRIOR to violating any provisions of the Personnel Code, the employee shall be allowed to seek rehabilitation without being subject to disciplinary action.**

In accordance with Federal Regulations, this Drug and Alcohol Testing Policy applies to all DOT and County designated safety-sensitive employees (full- or part-time) when performing safety-sensitive duties. Nevada County employees who do not perform safety-sensitive functions are also covered under this policy under the sole authority of Nevada County. A DOT safety-sensitive function covers operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, transit security personnel who carry firearms, dispatchers or person controlling the movement of revenue service vehicles and any transit employee who operates a non-revenue vehicle that requires a Commercial Driver's License ("CDL") to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions that perform one or more of the above-mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety-sensitive and subject to testing if they are required to hold a CDL or receive remuneration for service in excess of actual expense. Employees and volunteers who work for the Nevada County Sheriff's Office are required, in addition to this policy, to conform to any and all policies and regulations mandated by the Sheriff regarding the use of alcohol and drugs both on and off duty, which may be more restrictive than this policy.

### **COVERED EMPLOYEES**

This policy applies to every person whose position requires the possession of a commercial driver's license (CDL); every employee performing a "safety-sensitive function" as defined below, and any person applying for such positions.

Under Federal Motor Carriers Safety Administration (FMCSA) (Part 382), you are a covered employee if you perform any of the following safety-sensitive functions:

- Driving a commercial motor vehicle which requires the driver to have a Commercial Drivers License (CDL)
- Waiting to be dispatched to operate a commercial motor vehicle
- Inspecting, servicing, or conditioning any commercial motor vehicle

- Performing all other functions in or upon a commercial motor vehicle (except resting in a sleeper berth)
- Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

Under FTA (Part 655), you are a covered employee if you perform any of the following safety-sensitive functions:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver's license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

Supervisors are only safety sensitive if they perform one of the above functions. Volunteers who perform one or more of the above functions are considered safety sensitive and subject to testing if they are required to hold a CDL or receive remuneration for service in excess of actual expense.

**Employees and volunteers who work for the Nevada County Sheriff's Office are required, in addition to this policy, to conform to any and all policies and regulations mandated by the Sheriff regarding the use of alcohol and drugs both on and off duty, which may be more restrictive than this policy.**

See Attachment A for a list of covered positions by job title.

### **DEFINITIONS**

**Accident:** An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- (1) An individual dies;
- (2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,

- (3) One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle. For purposes of this definition, disabling damage means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors, or windshield wipers that makes them inoperative.

**Adulterated Specimen:** A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

**Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation, or medication.

**Alcohol Concentration:** The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath indicated by a breath test under 49 CFR Part 40.

**Aliquot:** A fractional part of a specimen used for testing; it is taken as a sample representing the whole specimen.

**Canceled Test:** A drug or alcohol test that has a problem identified that cannot be or has not been corrected or which is cancelled. A canceled test is neither positive nor negative.

**Confirmatory Drug Test:** A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

**Confirmatory Validity Test:** A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

**Covered Employee Under FTA/DOT Authority:** An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function. (See Attachment A)

**Covered Employee Under County-Designated Safety Sensitive:** An employee, applicant, or transferee that will not perform a safety-sensitive function as defined by FTA/DOT but is included based on a performance of specific duties under the County's own authority. (See Attachment A)

**Designated Employer Representative (DER):** An employee authorized by the County to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the County, consistent with the requirements of 49 CFR Parts 40 and 655.

**Department of Transportation (DOT):** For the purposes of Drug and Alcohol regulatory oversight, the DOT encompasses all DOT agencies, including, but not limited to Federal Aviation Administration (FAA), Federal Railroad Administration (FRA), Federal Motor Carriers Safety Administration (FMCSA), Federal Transit Administration (FTA), Pipeline and Hazardous Materials Safety Administration (PHMSA), National Highway Traffic Safety Administration (NHTSA), Office of the Secretary (OST), and any designee of a DOT agency. For the purposes of testing under 49 CFR Part 40, the U.S. Coast Guard (USCG) (in the Department of Homeland Security) is considered to be a DOT agency for drug testing purposes.

**Dilute specimen:** A specimen with creatinine and specific gravity values that are lower than expected for human urine.

**Disabling Damage:** Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

**Evidential Breath Testing Device (EBT):** A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations and appears on the ODAPC website for “Approved Evidential Breath Measurement Devices” because it conforms with the model specifications available from NHTSA.

**Initial Drug Test:** (Screening Drug Test) The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

**Initial Specimen Validity Test:** The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.

**Invalid Result:** The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

**Laboratory:** Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under 49 CFR Part 40.

**Limit of Detection (LOD):** The lowest concentration at which a measure can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

**Limit of Quantitation:** For quantitative assays, the lowest concentration at which the identity and concentration of the measure can be accurately established.

**Medical Review Officer (MRO):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

**Negative Dilute:** A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

**Negative Test Result:** The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug, or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

**Non-negative Test Result:** A test result found to be adulterated, substituted, invalid, or positive for drug/drug metabolites.

**Oxidizing Adulterant:** A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites or affects the reagents in either the initial or confirmatory drug test.

**Performing (a safety-sensitive function):** A covered employee is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

**Positive Result:** The result reported by an HHS-Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

**Prohibited Drugs:** The drugs for which tests are required are: tetrahydrocannabinol (THC), cocaine, amphetamines, phencyclidine (PCP) and opioids, at levels at or above the minimum thresholds specified in 49 CFR Part 40 as amended. **Additionally, Nevada County also prohibits all illegally used controlled substances as defined by the California Health and Safety Code.**

**Reconfirmed:** The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

**Rejected for Testing:** The result reported by an HHS Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

**Revenue Service Vehicles:** All transit vehicles that are used for passenger transportation service.

**Safety-Sensitive Functions:**

Employee duties identified as:

The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.

- (1) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Driver's License (CDL).
- (2) Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service.
- (3) Controlling dispatch or movement of a revenue service vehicle.
- (4) Carrying a firearm for security purposes in a FTA covered position.

**Split Specimen Collection:** A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

**Substance Abuse Professional (SAP):** A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, a state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

**Substituted Specimen:** A specimen with creatinine and specific gravity values that are so diminished or so divergent, that they are not consistent with normal human urine.

**Test Refusal:** The following are considered a refusal to test if the employee:

- (1) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- (2) Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test;

- (3) Fails to attempt to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test;
- (4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen;
- (5) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- (6) Fails or declines to take a second test the employer or collector has directed you to take for drug testing;
- (7) Fails to undergo a medical examination or evaluation, as directed by the MRO, or as directed by the DER;
- (8) Fails to cooperate with any part of the testing process;
- (9) If the MRO reports that there is verified adulterated or substituted test result; or
- (10) Failure or refusal to sign Step 2 of the alcohol testing form.
- (11) Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- (12) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- (13) Admit to the collector or MRO that the employee adulterated or substituted the specimen.
- (14) Employee leaves the scene of an accident without a legitimate explanation prior to submission to drug/alcohol tests.

**Validity Testing:** The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

**Vehicle:** A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

**Verified Negative Test:** A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

**Verified Positive Test:** A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

### **PROHIBITED BEHAVIOR**

Use of illegal drugs is prohibited at all times. Prohibited drugs include:

- marijuana
- cocaine
- phencyclidine (PCP)
- opioids
- amphetamines

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater. **A positive alcohol test for any County employee may result in disciplinary action up to and including termination.**

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance. **The covered employee will subsequently be relieved of their standby responsibilities and may be subject to discipline for not fulfilling their standby responsibilities.**

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

**When there is reasonable suspicion to believe an employee engaged in their duties is currently under the influence of alcohol or drugs, they shall be prevented from engaging in**

**further work and shall be assisted in being safely transported from the work site. Such employee will be on a paid leave of absence until the test results are received.**

**Employees who are rightfully requested to submit to testing as defined by this policy and who fail to pass a controlled substance or alcohol test shall remain off duty and be subject to disciplinary action up to and including termination.**

All covered employees required to take a post-accident test are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

**Nevada County under its own authority also prohibits the consumption of alcohol and marijuana at all times an employee is on duty, subject to call-in, on a break, on County property, or anytime the employee is in uniform.**

### **EDUCATION AND TRAINING**

Every employee shall receive a copy of this policy and shall have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel who are in a position to determine employee fitness for duty shall receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. **Under the Nevada County's own authority, supervisory personnel shall also be trained on how to intervene constructively and how to effectively integrate an employee back into his/her work group following intervention and/or treatment.**

Information on the signs, symptoms, health effects, and consequences of alcohol misuse is presented in Attachment B of this policy.

### **CONSEQUENCES FOR VIOLATIONS**

#### **FTA Consequences**

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and provided with contact information for Substance Abuse Professionals (SAPs).

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of the employee's next regularly scheduled

duty period (but for not less than eight hours) **and will be subject to disciplinary action** unless a retest results in the employee's alcohol concentration being less than 0.02.

#### FMCSA Consequences

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and provided with contact information for Substance Abuse Professionals (SAPs).

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of the employee's next regularly scheduled duty period, but for not less than 24 hours following administration of the test.

#### **Non-DOT Safety Sensitive Consequences**

An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered to receive a positive alcohol test and in violation of this policy. A positive alcohol test may result in disciplinary action up to and including termination. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive under DOT guidelines, the employee shall still be removed from duty for at least eight hours or for the duration of the workday whichever is longer and will be subject to disciplinary action. An alcohol concentration of less than 0.02 will be considered a negative test, however, may be considered misconduct. For employees represented by the Deputy District Attorney/Deputy Public Defenders Unit, Sheriff's Management Association, or Management Employees Association, an alcohol concentration of less than 0.02 will be considered a negative test, however, the employee may still be subject to discipline in accordance with County disciplinary rules.

The cost for the assessment and any subsequent treatment by an SAP will be the sole responsibility of the applicant or employee.

When an employee being placed, transferred, or promoted from a non-covered position to a covered position submits a drug test with a verified positive result, and/or an alcohol concentration above 0.02, the employee may be subject to disciplinary action.

#### Treatment/Discipline

Per County of Nevada policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will **be disciplined as specified in the Personnel Code or the Memorandum of Understanding.**

### **TESTING REQUIREMENTS**

**All employees shall be subject to testing for reasonable suspicion and following an accident as defined in this policy.**

All DOT (FTA/FMCSA) safety-sensitive employees are subject to testing prior to employment and random testing in addition to testing for reasonable suspicion and following an accident as defined in the FTA and FMCSA guidelines. Classifications defined by the County to be deemed safety sensitive will also be subject to testing prior to employment. The classifications are listed at the end of this policy.

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40 as amended. All DOT covered employees shall be subject to testing prior to performing DOT safety-sensitive duties, for reasonable suspicion, following an accident, and random as defined in this policy, and if applicable, return to duty/follow-up testing. A drug test can be performed any time a DOT covered safety-sensitive employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a DOT safety-sensitive job function.

All DOT covered employees who have tested positive for drugs or alcohol will be required to comply with all requirements of the return-to-duty process as listed in Subpart O, of 49 CFR Part 40, as amended. This will include testing prior to returning to duty after completion of the Substance Abuse Professional's recommended treatment program and subsequent release to duty. Follow-up testing will also be conducted following return-to-duty for a period of one to five years, with at least six tests performed during the first year. The duration and frequency of the follow-up testing above the minimum requirements will be at the discretion of the Substance Abuse Professional.

**Any employee who refuses to comply with a rightful request for testing (i.e., engages in a "test refusal" as defined above) shall be removed from duty immediately and subject to disciplinary action.**

**All DOT safety-sensitive employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment.**

### **CIRCUMSTANCES FOR TESTING**

#### **Pre-Employment Testing**

Pre-employment alcohol tests are conducted after making a contingent offer of employment or transfer. All pre-employment alcohol tests will be conducted using the procedures set forth in 49 CFR Part 40. An alcohol test result of less than 0.02 is required before an employee can first perform safety-sensitive functions. If a pre-employment alcohol test is cancelled, the individual will be required to undergo another test with a result of less than 0.02 before performing safety-sensitive functions.

**County specified safety-sensitive positions working with at-risk children and adults that also require pre-employment testing are identified in applicable job descriptions and in Attachment A at the end of this policy. If a specified applicant fails a pre-employment drug or alcohol test, the conditional offer of employment shall be rescinded and the applicant is then ineligible for employment for a period of one year.**

**A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be**

**required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.**

**Applicants for DOT covered safety-sensitive positions are required to report previous DOT covered employer drug and alcohol test results. Failure to do so will result in the employment offer being rescinded. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must then provide the County of Nevada proof of having successfully completed a referral, evaluation and treatment plan as described in Section 655.62 of Subpart G.**

If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

#### **FMCSA Drug Testing Exceptions**

A driver is not required to undergo a pre-employment test if:

- (1) The driver has participated in a DOT testing program within the previous 30 days; and
- (2) While participating in that program, either:
  - (i) Was drug tested within the past six months (from the date of application with County of Nevada, or
  - (ii) Participated in the random drug testing program for the previous 12 months (from the date of application with County of Nevada); and
- (3) County of Nevada can ensure that no prior employer of the driver of whom County of Nevada has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months

#### **Reasonable Suspicion Testing**

All covered employees shall be subject to a drug and/or alcohol test when County of Nevada has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

**Any such trained employee requesting or ordering an employee to submit to a controlled substance or breath analysis or saliva test shall, prior to the test, document in writing the facts constituting the employee's behavior that is characteristic of alcohol misuse or prohibited drug use. In the event that extenuating circumstances prevent the trained employee from completing the written documentation prior to the test such employee shall complete the documentation as soon as possible but not later than 24 hours after the test. The documentation shall specify the extenuating circumstances. The County shall create a standard form to be used to document the basis for any request to test an employee. Additionally, the department head is to be contacted before the test is required by the employee.**

**Any such trained employee encountering another employee who refuses an order to submit to a controlled substance, breath analysis or saliva test shall remind the employee that failure to comply is insubordination and may result in disciplinary action, including and up to termination.**

**The standard form referred to above shall have places to document the factors which constitute the objective basis for the request to test. For purposes of this policy, the form may include, but is not limited to, a critical incident which occurs while on duty for the County or at the employee's work location.**

Examples of critical incidents may include 1) An accident involving a County vehicle or equipment causing damage to property or persons; 2) Manifestation of mental or physical impairment sufficient to raise doubt that normal tasks can be safely or effectively performed; 3) Observation of the employee with open container of alcohol or drug paraphernalia in work area or vehicle; 4) Documented objective facts and a reasonable inference drawn from those facts that an employee is under the influence of alcohol or a controlled substance.

The County of Nevada management shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending the test results. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish their shift and shall immediately be placed on administrative leave pending disciplinary action.

## **Post-Accident Testing**

**All employees (all employees mean any employee employed by the County) will be required to undergo urine and breath testing if they are involved in an accident that results in a fatality. This includes all surviving employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident.**

## **FTA Procedures**

Covered employees shall be subject to FTA post-accident drug and alcohol testing under the following circumstances:

### **Fatal Accidents**

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by County of Nevada using the best information available at the time of the decision, will be tested.

### **Non-fatal Accidents**

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by County of Nevada using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of

necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

### FMCSA Procedures

Covered employees shall be subject to FMCSA post-accident drug and alcohol testing under the following circumstances:

#### Fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee who was performing safety-sensitive functions with respect to the vehicle.

#### Non-fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, an alcohol test will be conducted on each driver who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene; or
- (2) One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, a drug test will be conducted on each driver who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene; or
- (2) One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee

from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

### **Random Testing**

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year within each DOT agency. The current year testing rates can be viewed online at <http://www.transportation.gov/odapc/random-testing-rates>. If a given driver is subject to random testing under the rules of more than one DOT agency, the driver will be subject to random drug and alcohol testing at the annual percentage rate established by the DOT agency regulating more than 50% of the driver's function.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

### **Return to Duty Testing**

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), complete a SAP-required program of education and/or treatment, and provide a negative return-to-duty drug test result and/or an alcohol test result of less than 0.02. Any return-to-duty drug testing will be directly observed. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

### **Follow-up Testing**

Employees returning to safety-sensitive duty following a return-to-duty test will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the SAP. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP.

A covered employee may only be subject to follow-up alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be subject to follow-up drug testing anytime while on duty. All follow-up drug tests will be directly observed. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

**In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations and will be conducted under company authority and will be performed using non-DOT testing forms.**

### **TESTING PROCEDURES**

All FMCSA/FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

#### **Dilute Urine Specimen**

If there is a negative dilute test result, County of Nevada will accept the test result and there will be no retest, unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

#### **Split Specimen Test**

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory **at the sole expense of the employee**. County of Nevada guarantees that the split specimen test will be conducted in a timely fashion.

### **TESTING REFUSALS**

As a covered employee, you have refused to test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by County of Nevada.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to provide a specimen for a drug or alcohol test. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient specimen for a drug or alcohol test without a valid medical explanation.
- (6) Fail or decline to take a second drug test as directed by the collector or County of Nevada.
- (7) Fail to undergo a medical evaluation as required by the MRO or County of Nevada's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine drug test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions, and provided with contact information for SAPs.

**The employee shall be notified of proposed disciplinary action pursuant to the applicable section of the Personnel Code or respective Memorandum of Understanding.**

**The cost of any treatment or rehabilitation services shall be paid directly by the employee or their insurance provider. The employee shall be permitted to take accrued sick leave or administrative leave to participate in the SAP prescribed treatment program. If the employee has insufficient accrued leave, the employee shall be placed on leave without pay until the SAP has determined that the employee has successfully completed the required treatment program and releases them to return-to duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.**

## **FMCSA CLEARINGHOUSE**

The Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) is a database containing information regarding drivers who are subject to FMCSA drug and alcohol testing regulations. The following personal information will be reported to the Clearinghouse for covered drivers:

- (1) A verified positive, adulterated, or substituted drug test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to DOT test;
- (4) An employer's report of actual knowledge that a driver has:
  - a. used alcohol while performing safety-sensitive functions;
  - b. used alcohol within four hours of performing a safety-sensitive function;
  - c. used alcohol for eight hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test; or
  - d. used a controlled substance;
- (5) A substance abuse professional (SAP) report of the successful completion of the return-to-duty process;
- (6) A negative return-to-duty test; and
- (7) An employer's report of completion of follow-up testing.

## **VOLUNTARY SELF-REFERRAL**

**Any employee who has a drug and/or alcohol abuse problem and has not been notified of the requirement to submit to reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the Human Resources Director or designee at 530-265-7010, who will refer the individual to a substance abuse counselor for evaluation and treatment.**

**The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.**

**Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.**

### **FMCSA Procedures**

**Any covered employee who has a drug and/or alcohol abuse problem and has not been notified of the requirement to submit to reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the**

**Human Resources Director or designee at 530-265-7010, who will refer the individual to a substance abuse counselor for evaluation and treatment.**

**The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.**

**Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function until successful completion of a prescribed rehabilitation program. Prior to participating in a safety-sensitive function, the employee must also undergo a DOT return-to-duty drug test with a verified negative result and/or a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.**

#### **PRESCRIPTION DRUG USE**

**The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to Human Resources Director or designee at 530-265-7010. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.**

#### **GRIEVANCE AND APPEAL**

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

Except as specified in this section in the paragraph immediately above; nothing in this section changes the rights of an employee with respect to the County disciplinary and appeal procedures.

#### **PROPER APPLICATION OF THE POLICY**

**The County of Nevada is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or**

who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

This policy shall be in no way used to retaliate against any employee for reporting a workplace injury or accident.

### **INFORMATION DISCLOSURE**

Laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate confidential medical folder. The reports or test results may be disclosed to County management on a strictly need-to-know basis and to the tested employee upon request.

A log of persons accessing the folder shall be maintained in the folder detailing identity (name and position), specific purpose and date of access. Copies of this log shall be provided to the employee at any time, upon request.

Drug/alcohol testing records shall be maintained by the Nevada County Drug and Alcohol Program Manager and, except as provided by this Policy or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.

Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, Department Supervisor and Human Resources Director on a need-to-know basis.

Records will be released to a subsequent employer only upon receipt of a written request from the employee.

Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding. The information will only be released with binding stipulation from the decision maker that he/she will make it available only to parties in the proceeding. Records will be released to the National Transportation Safety Board during an accident investigation.

Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.

- 1) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.**
- 2) Records will be released if requested by a Federal, state, or local safety agency with regulatory authority over Nevada County or the employee.**
- 3) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.**
- 4) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.**

## CONTACT PERSON

For questions about County of Nevada's anti-drug and alcohol misuse program or any other aspect of the substance abuse policy should be directed to the individual(s) listed below.

Nevada County Drug and Alcohol Program Manager

Name: \_\_\_\_\_ Director of Human Resources (or designee)

Address: 950 Maidu Avenue  
Nevada City, CA 95959

Telephone Number: (530) 265-7010

## **Attachment A: Covered Positions**

### **Department of Transportation (DOT) Classifications**

Federal Transit Administration (FTA) safety-sensitive duties include any of the duties performed by incumbents of the following classifications irrespective of holding a Commercial Driver's License:

- Bus Driver
- Bus Driver Trainee
- Fleet Mechanic I/II
- Fleet Services Manager
- Heavy Equipment Mechanic I/II
- Senior Heavy Equipment Mechanic
- Supervising Bus Driver
- Supervising Mechanic
- Transit Services Manager
- Transit System Supervisor

Federal Motor Carriers Safety Administration (FMCSA) specified safety-sensitive duties include, but are not limited to, any of the duties performed by incumbents of the following classifications, if any of these incumbents hold a Commercial Driver's License. Agricultural Biologist I/II/III (May require Commercial License – if held must be tested)

Road Maintenance Worker I (Commercial License not required – if held must be tested)  
Road Maintenance Worker II/III (Commercial License Required)

Road Services Manager (Commercial License not required-if held must be tested)  
Road Supervisor (Desired Commercial License – if held must be tested)

Senior Traffic Sign Technician (Commercial License not required – if held must be tested)

Senior Wastewater Service Worker  
(Commercial License Required)  
Supervising Road Maintenance Worker  
(Commercial License Required)

Traffic Sign Technician (May require  
Commercial License – if held must be tested)

Wastewater Collections Supervisor  
(Commercial License Required)

Wastewater Service Worker I/II (Commercial  
License Required)

**Classifications considered safety sensitive by the County of Nevada because they are  
working with at-risk children/adults include (not subject to random testing):**

**Behavioral Health Clinic Supervisor I and II  
Behavioral Health Medical Director  
Behavioral Health Nurse I/II  
Behavioral Health Therapist I/II/Licensed  
Behavioral Health Worker I/II/III  
Chief Deputy Public Conservator  
Chief District Attorney Investigator  
Clinic Practitioner  
Cook  
Correctional Lieutenant  
Correctional Officer I/II  
Correctional Sergeant  
Deputy Sheriff Trainee/I/II  
Deputy Probation Officers I/II/III/Supervisor  
Deputy Public Conservator  
Director of Public Health Nursing  
District Attorney Investigator  
Health Education Coordinator (WIC Department only)  
Health Education Specialist (WIC Department only)  
Health Technician I/II/Senior (WIC Department only)  
Nutritionist**

**Occupational Therapist  
Physical Therapist  
Program Managers in Children and Adult Services  
Project Coordinator**

**Public Health Nurse I/II/Senior**  
**Registered Nurse I/II**  
**Senior Nutritionist (WIC Department only)**  
**Sheriff's Captain**  
**Sheriff's Dispatcher I/II/Senior**  
**Sheriff's Lieutenant**  
**Sheriff's Sergeant**  
**Social Services Aide**  
**Social Workers I/II/III/IV**  
**Social Worker Supervisor I/II**  
**Staff Psychiatrist**  
**Supervising Cook**  
**Welfare Fraud Investigator I/II**

## **Attachment B**

### **Alcohol Fact Sheet**

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

- ☐ Signs and Symptoms of Use
- ☐ Dulled mental processes
- ☐ Lack of coordination
- ☐ Odor of alcohol on breath
- ☐ Possible constricted pupils
- ☐ Sleepy or lethargic condition
- ☐ Slowed reaction rate
- ☐ Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

#### **Health Effects:**

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6-ounce glass]) over time may result in the following health hazards:

- ☐ Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed "alcoholic")
- ☐ Fatal liver diseases
- ☐ Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- ☐ Kidney disease
- ☐ Pancreatitis
- ☐ Spontaneous abortion and neonatal mortality
- ☐ Ulcers
- ☐ Birth defects (up to 54 percent of all birth defects are alcohol related).
- ☐ Social Issues
- ☐ Two-thirds of all homicides are committed by people who drink prior to the crime.
- ☐ Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- ☐ Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- ☐ The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
- ☐ Forty percent of family court cases are alcohol problem related.
- ☐ Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- ☐ More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

#### **The Annual Toll:**

- ☐ 24,000 people will die on the highway due to the legally impaired driver.
- ☐ 12,000 more will die on the highway due to the alcohol-affected driver.
- ☐ 15,800 will die in non-highway accidents.

- ☐ 30,000 will die due to alcohol-caused liver disease.
- ☐ 10,000 will die due to alcohol-induced brain disease or suicide.
- ☐ Up to another 125,000 will die due to alcohol-related conditions or accidents.

Workplace Issues:

- ☐ It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- ☐ Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- ☐ A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

**NEVADA COUNTY, CALIFORNIA**  
**Personnel Administrative Guidelines**

**P-10**

**SUBJECT: POLICY AGAINST VIOLENCE IN THE WORKPLACE**

**A. SAFE AND SECURE WORKPLACE**

The County is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace. The workplace includes any location where County business is conducted, including vehicles and parking lots. Any violation of this Policy may lead to criminal prosecution, and/or disciplinary action, up to and including termination.

**B. PROHIBITED BEHAVIOR**

Employees are prohibited from participating in or promoting acts of intimidation, violence, threats, coercion, assault and/or abusive behavior toward any person while in the course of County employment. The County has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting.

**C. “WORKPLACE VIOLENCE”**

**“Workplace violence”** is defined as any conduct that causes an individual to reasonably fear for their personal safety or the safety of their family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following:

- 1) Threats or acts of physical harm directed toward an individual or their family, friends, associates, or property.
- 2) The destruction of or threat of destruction of County property or another employee’s property.
- 3) Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay.
- 4) Striking, punching, slapping, or assaulting another person.
- 5) Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise.
- 6) Harassing or threatening phone calls.
- 7) Surveillance.
- 8) Stalking.
- 9) Possessing a weapon(s) during work hours unless the County issues the weapon(s) for performance of the job or has authorized the lawful carry of the weapons by law enforcement personnel. “Weapon” is defined as a firearm, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used

as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

**D. INCIDENT REPORTING PROCEDURES**

- 1) Employees must immediately report to their supervisor or department director whether they have been a victim of, or have witnessed, workplace violence. The supervisor or department director will immediately report the matter to the Human Resources Director.
- 2) The Human Resources Director or their designee will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.
- 3) The Human Resources Director or their designee will take appropriate steps to provide security, such as:
  - a. Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
  - b. Asking any threatening or potentially violent person to leave the site; or,
  - c. Immediately contacting an appropriate law enforcement agency.

**E. INVESTIGATION**

The Human Resources Director will see that reported violations of this Policy are investigated as necessary.

**F. PREVENTION**

Each department head has authority to enforce this Policy by:

- 1) Training supervisors and subordinates about their responsibilities under this Policy;
- 2) Assuring that reports of workplace violence are accurately and timely documented and addressed;
- 3) Notifying the Human Resources Director and/or law enforcement authorities of any incidents;
- 4) Making all reasonable efforts to maintain a safe and secure workplace; and
- 5) Maintaining records and follow-up actions as to reports of workplace violence.
- 6) Seeking a temporary restraining order on behalf of an employee.

**NEVADA COUNTY, CALIFORNIA**  
**Personnel Administrative Guidelines**

**P-11**

**SUBJECT: BACKGROUND CHECK REQUIREMENT FOR APPLICANTS AND EMPLOYEES WHO HAVE ACCESS TO FEDERAL TAX INFORMATION**

**A. PURPOSE**

This policy applies to all applicants and employees at the County of Nevada who require access to Federal Tax Information (FTI) to complete work assignments associated with their employment. In accordance with Internal Revenue Service (IRS) Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies (Publication 1075), Nevada County applicants and employees having access to Federal Tax Information (FTI) must undergo a background investigation prior to being permitted access to FTI, which includes a criminal conviction history screening and citizenship/residency validation. Individuals with access to FTI must undergo reinvestigation every five years.

**B. APPLICABILITY**

This policy is applicable to all current and prospective employees, volunteers, agents, contractors, and subcontractors of the County of Nevada whose work assignments may require access to FTI.

**C. AUTHORITY**

- IRS Publication 1075
- 26 United States Code (U.S.C.) § 6103
- Family Code § 17202
- Government Code § 1044, 12952 (if applicable upon passage of AB 1008) 19572, and 18935
- Labor Code § 432.7 and 432.9
- Title 2, California Code of Regulations (CCR) § 11017 and 11017.1
- State Personnel Board Rule 172
- Penal Code § 11105(b)
- Equal Employment Opportunity Commission (EEOC) Enforcement Guidance 915.002

**D. DEFINITIONS**

**FTI:** Federal Tax Information – Includes tax returns or return information received directly from the IRS or obtained through an authorized secondary source, such as Social Security Administration, Federal Office of Child Support Enforcement, Bureau of the Fiscal Service, or Centers for Medicare and Medicaid Services, or another entity acting on behalf of the IRS pursuant to Internal Revenue Code (IRC) 6103(p)(2)(B) Agreement.

**Access to FTI:** Includes individuals who require access to FTI to perform their official duties and as authorized under the IRC. Pursuant to need-to-know restrictions, an individual who has the authority to access FTI information should not access such information unless it is necessary to perform their official duties and for the purposes listed in IRC 6103.

**Unauthorized Access:** Unauthorized access occurs when an entity or individual knowingly or due to gross negligence receives or has access to FTI without authority, as defined in IRC 6103.

**Direct Access:** FTI includes tax return or any information from a tax return received directly from the IRS or obtained through an authorized secondary source, such as Social Security Administration (SSA), Federal Office of Child Support Enforcement (OCSE), Bureau of the Fiscal Service (BFS), Centers for Medicare and Medicaid Services (CMS), or another entity acting on behalf of the IRS pursuant to an IRC 6103(p)(2)(B) Agreement.

**Criminal Conviction History Screening:** Includes a review of Federal Bureau of Investigation (FBI) fingerprint results through the state identification bureau (California Department of Justice [DOJ]) to identify suitability for employment, and a check of local law enforcement agencies where the subject has lived, worked and/or attended school within the last five (5) years prior to the investigation.

**Citizenship/Residency Validation:** Validation of an individual's eligibility to legally work in the United States using the USCIS Form I-9 and USCIS E-Verify System. This requirement applies to employment candidates only.

**Custodian of Records:** Individual(s) designated by an agency as responsible for the hiring decisions, for the security, storage, dissemination, and destruction of the criminal records furnished to the agency, and who serves as the primary contact for DOJ for any related issues.

**Reinvestigation:** Includes a redetermination of the criminal conviction history screening, based on new information obtained since the last screening, including local arrest information if the employee has lived, worked, or attended school in another state/county. Reinvestigations will occur 5 years from the date of the previous investigation. Subsequent arrest notifications shall be requested as required under Government Code section 1044(d).

**Criminal History Information:** Information obtained through the screening process, excluding criminal history prohibited for consideration by state and federal statutes, rules, and regulations (e.g. conviction judicially dismissed).

**E-Verify:** A USCIS internet-based system that compares information from Employment Eligibility Verification (Form I-9) to government records to confirm an individual is authorized to work in the US.

**Internal Revenue Service Office of Safeguards:** Monitors safeguard measures utilized by agencies receiving FTI.

**Department of Justice:** Process fingerprint and applicant data information requests and transmit information to the requesting agency.

## **E. GUIDELINES**

Nevada County is responsible for identifying each position that provides individuals with access to FTI, including employee, volunteer, agent, contractor, and subcontractor positions. Identified individuals must undergo and pass a background investigation prior to being permitted access to FTI and are subject to reinvestigation every 5 years thereafter.

Then minimum requirements of the background investigation include:

- Review of FBI fingerprint results that include criminal history in all 50 states (FD-258 Applicant Fingerprint Card).
- Check of local law enforcement agencies where the subject of the background investigation has lived, worked, and/or attended school within the last five (5) years, and if applicable, a check of the appropriate agency for any identified arrests.
- Reinvestigation of each individual with access to FTI every 5 years from the date of the previous background investigation.

Validation of citizenship/residency for employment candidates shall include the following:

- Validate citizenship/residency to confirm the subject's eligibility to legally work in the United States.
- Utilization of Form I-9 and supporting documents.
  - Within three days of completion Form I-9, verify employment status through the E-Verify system.
- Ongoing monitoring for expired employment eligibility, if applicable.

FTI access includes, but is not limited to, any county or federal or state computer system access or online database, hard copy documents, reports, forms, and any other paper or electronic media that contains FTI.

Criminal history screening for employment purposes, including reinvestigation screening, will be conducted in accordance with Federal EEOC Enforcement Guidance, California Department of Fair Employment and Housing (DFEH) rules and regulations and applicable California Labor Code provisions.

Fingerprint and criminal conviction history screening must be reflected on each position duty statement and job posting/announcement for each position with access to FTI.

Individuals who do not successfully pass the background investigation shall not be permitted to hold a position with access to FTI.

All offers of employment and work assignments are conditional pending successful completion of the policy requirements.

## **F. RECORDKEEPING**

Records relating to compliance with this policy will be maintained using methods designed to safeguard the data.

The types of records that are maintained for pre-employment background processes include records documenting that pre-employment fingerprinting was completed; that an E-verify record was established; and that local law enforcement agencies were contacted. Fingerprint results are shredded once a determination is made regarding information in the results.

The types of records that are maintained for reinvestigation processes include records documenting that re-fingerprinting was completed and that local law enforcement agencies were contacted. Fingerprint results are shred once a determination is made regarding information in the results.

## **G. CRITERIA FOR WITHDRAWAL OF EMPLOYMENT OFFER OR INITIATION OF DISCIPLINARY PROCEEDINGS**

## Disqualification Criteria

The felony and misdemeanor convictions listed below are offenses that may render any individual's background unsuitable for employment in positions that involve access to FTI and do not attempt to specify every unacceptable criminal conviction.

- Fraud: welfare, insurance, financial, theft, or bribery
- Misuse of data
- Inappropriate access to data
- Theft/Burglary

Criminal background investigation results will be considered utilizing an individual assessment method providing that any basis for withdrawal of a job offer (applicant) or initiation of disciplinary proceedings (employee) will be job-related and consistent with business necessity. Individuals subject to criminal conviction screening will have the opportunity to provide additional information within a specified timeframe in the event the background investigation results in an unfavorable outcome or requires clarification. Final decisions resulting in a denial of employment will be provided in a written statement of the reason for denial.

Factors to be considered in the decision to withdraw an employment offer (applicant) include, but are not limited to, the seriousness of the offense committed, the nature and background of the offense, the length of time which has passed since the conviction, and whether or not the facts that constituted a conviction are still a crime under current statutes and guidelines.

With respect to employees, the use of information received as a result of the required subsequent 5-year reinvestigation of employees is limited to convictions that will disqualify an individual from accessing or having access to FTI in course and scope of their employment. The decision to initiate the disciplinary process will be based on factors that include, but are not limited to, the seriousness of the offense committed, the nature and background of the offense, the length of time which has passed since the conviction, and whether or not the facts that constituted a conviction are still a crime under current statutes and guidelines.

The decision to withdraw an employment offer (applicant) or begin the disciplinary process (employee) will be done on a case-by-case basis after review of the documents and completion of the background investigation. Decisions made under this policy and in accordance with state and federal regulations and policies are final and not subject to review or appeal when pertaining to prospective employees.

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**SUBJECT: CRIMINAL BACKGROUND VERIFICATION POLICY AND PROCEDURE TO MEET CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS) REQUIREMENTS**

**BACKGROUND**

The County of Nevada operates California Law Enforcement Telecommunications Systems (CLETS) in compliance with section 703(d) and 707(b) of Title 11 Division 1 of the California Code of Regulations and in compliance with California Justice Information System's requirements. Compliance requires that applicants or employees in positions which have access to CLETS computers, equipment, or information shall undergo a criminal record check under the Sheriff's Office account. This includes any work done on applicable equipment, systems design, programming, and operating procedures associated with the development, implementation or operation of any computerized message-switching or database systems.

**A. APPLICABILITY**

This policy is applicable to all current and prospective employees, volunteers, agents, contractors, and subcontractors of the County of Nevada whose work assignments may require access to CLETS computers, equipment or information.

**B. DEFINITIONS**

- a. **CJIS**: California Justice Information Services (CJIS) provides criminal justice intelligence, identification, information and technology services to law enforcement, regulatory agencies and the public.
- b. **CLETS**: California Law Enforcement Telecommunications System; CLETS is an efficient law enforcement communications network available to all public agencies of law enforcement within the state. The CLETS will provide all law enforcement and criminal justice user agencies with the capability of obtaining information directly from federal and state computerized information files.
- c. **Department of Justice**: Process fingerprint and applicant data information requests and transmit information to the requesting agency.
- d. **Access to CLETS**: Authorization for access to CLETS is governed by the Access Control Coordinators in each County department which maintains a CLETS system in accordance with State of California Department of Justice Policies, Procedures, and Practices. Access includes and is defined as (1) physical access to the CLETS equipment, (2) access to information from the CLETS, or (3) access to criminal offender record information. Persons with any type of access are required to California Justice Information Systems training through Nevada County Sheriff's Office and undergo a fingerprint-based criminal conviction records check.
- e. **Agency CLETS Coordinator**: Individual(s) designated by a CLETS agency as responsible for initial CLETS access decisions, and for the security, storage, dissemination, and destruction of the criminal records furnished to the agency, and who serves as the primary contact for DOJ for any related issues.

- f. **Unauthorized Access:** Unauthorized access occurs when an entity or individual knowingly or due to gross negligence receives or has access to CLETS without authority, as defined by the California Department of Justice CLETS Policies, Practices and Procedures.
- g. **Criminal Records Check:** Includes a review of Federal Bureau of Investigation (FBI) fingerprint results through the state identification bureau (California Department of Justice [DOJ]) to identify suitability for employment or assignment and which excludes criminal history prohibited for consideration by state and federal statutes, rules, and regulations (e.g. conviction judicially dismissed). Subsequent arrest notifications shall be requested as required under Government Code section 1044(d).
  - i. As part of this policy, existing employees who have access to CLETS and who have been fingerprinted as part of a pre-employment process or in response to other policies are required to undergo fingerprinting using the Sheriff's Office account.
- h. **Message-switching computer:** That portion of the hardware and software solely designed to pass through transactions to and from the CLETS.

## C. **GUIDELINES**

Nevada County is responsible for identifying each position that provides individuals with access to CLETS computers, equipment, or information including employee, volunteer, agent, contractor, and subcontractor positions. Identified individuals must undergo a criminal record check before being permitted access to CLETS.

The minimum requirements of the criminal records check include:

- Review of FBI and DOJ fingerprint results that includes criminal history in all 50 states (FD-258 Applicant Fingerprint Card). Fingerprints will be scanned using a "peace officer" level of review which means that subsequent arrest notifications will be supplied to the Sheriff's Office subsequent to the initial fingerprinting.

CLETS access includes, but is not limited to, any County or federal or state computer system access or online database, hard copy documents, reports, forms, and any other paper or electronic media that contains CLETS data.

Criminal records checking for employment and job assignment purposes will be conducted in accordance with Federal EEOC Enforcement Guidance, California Department of Fair Employment and Housing (DFEH) rules and regulations and applicable California Labor Code provisions.

Fingerprint and criminal conviction history screening must be reflected on each position duty statement and job posting/announcement for each position with access to CLETS.

Individuals who do not successfully pass the criminal records check shall not be permitted to hold a position with access to CLETS.

All offers of employment and work assignments are conditional pending successful completion of the policy requirements.

## D. **RECORDKEEPING**

Records relating to compliance with this policy will be maintained using methods designed to safeguard the data.

The types of records that are maintained for pre-employment and post-employment criminal records check process include records documenting that fingerprinting or re-fingerprinting was completed. Fingerprint results are shredded once a determination is made regarding information in the results.

**E. CRITERIA FOR WITHDRAWAL OF EMPLOYMENT OFFER OR INITIATION OF DISCIPLINARY PROCEEDINGS**

**Disqualification Criteria**

The factors listed below are offenses that may render any individual's background unsuitable for employment in positions that involve access to CLETS and do not attempt to specify every unacceptable criminal conviction or questionable background.

- Any felony
- An arrest for a felony without a conviction
- The individual appears to be a fugitive

Criminal records check results will be considered utilizing an individual assessment method providing that any basis for withdrawal of a job offer (applicant) or initiation of disciplinary proceedings (employee) will be job-related and consistent with business necessity.

Individuals subject to criminal records checking will have the opportunity to provide additional information within a specified timeframe in the event the fingerprinting results in an unfavorable outcome or requires clarification.

If a determination is made that an individual's background prohibits access to CLETS, the following outcomes may occur:

- Withdrawal of job offer (candidate)
- Revision of conditional job offer to a position without CLETS access (candidate)
- Change of duties within position (employee)
- Transfer to another position or classification (employee)
- Informal or formal discipline, including termination, in the event of a conviction (employee)

Final decisions resulting in a denial of employment will be provided in a written statement of the reason for denial.

With respect to employees, the use of information received as a result of the required fingerprinting of employees is limited to convictions that will disqualify an individual from accessing or having access to CLETS equipment or information in course and scope of their employment.

The decision to withdraw or modify an employment offer (applicant), to transfer (employee), to change a work assignment (employee), or to begin the disciplinary process (employee), will be done on a case-by-case basis after review of the documents and completion of the criminal records check. Factors to be considered in the decision to withdraw an employment offer (applicant) or initiate a disciplinary or transfer process (employee) include, but are not limited to, the seriousness of the offense committed, the nature and background of the offense, the length of time which has passed

since the conviction or arrest, whether the employee was acquitted, had charges dropped, dismissed or was otherwise not convicted, and whether or not the facts constituted a conviction or arrest are still a crime under current statutes and guidelines.

Nothing in this policy limits the right of the County to take any action consistent with the Personnel Code or applicable MOU.

Decisions made under this policy and in accordance with state and federal regulations and policies are final and not subject to review or appeal when pertaining to prospective employees.

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**SUBJECT: POLICY REGARDING FLEXIBLE WORK SCHEDULES**

**A. PURPOSE**

The County is committed to supporting work/life balance through the use of flexible work schedule arrangements where operationally feasible. Flexible work schedules, in general, provide employees an opportunity to request a work schedule that balances work hours with the daily demands of everyday life outside of work. The County provides the option of flexible work schedules to employees as a privilege and not as a right.

**B. POLICY**

Flexible work schedules may be approved in accordance with this policy, at the discretion of the Department Head. Flexible work schedules may vary by department and will be based on department needs to provide coverage and adequate staffing for normal business hours.

There is no guarantee that a request for a flexible work schedule will be granted. A flexible work schedule may be revoked at the discretion of the Department Head. The granting of a flexible work schedule in no way implies that less work will be completed than that expected of an employee working a standard work schedule.

The County operates on a standard work schedule which is Monday through Friday 8:00 a.m. to 5:00 p.m. A non-standard work schedule is called a flexible work schedule.

County offices which provide public access shall remain open continuously from 8:00 a.m. to 5:00 p.m. Monday through Friday, including the lunch hour, assuming adequate staffing and other operational considerations, and except as otherwise defined by the County Executive Officer or by the Board of Supervisors. It shall be the responsibility of the Department Head to provide adequate department staffing to meet this operational objective.

Employees who are subject to “7K” or 84-hour schedules are not covered by this policy.

**C. NON-EXEMPT EMPLOYEE WORK SCHEDULES**

**1. Introduction**

A non-exempt employee's workweek is a fixed and regularly recurring period of 168 hours -

seven consecutive 24-hour periods. The normal work schedule for full-time, regular status employees shall consist of five (5) eight (8) hour days from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., subject to applicable breaks, Monday through Friday except specified holidays. The workweek shall commence on Saturday at midnight and end on the following Saturday at midnight (to coincide with the established two-week pay period). A Department Head may make such changes to the schedule of work hours as defined below. A non-exempt employee is paid on an hourly basis and is eligible to earn overtime pay in accordance with an applicable Memorandum of Understanding and the Fair Labor Standards Act ("FLSA").

## 2. Flexible Work Schedule Options

A non-exempt employee must first request approval for a Flexible Work Schedule (FWS) on the Flexible Work Schedule Request and Agreement Form approved by the Human Resources Department. Approval of a Flexible Work Schedule is at the discretion of the Department Head. FWS requests may be modified by the Department Head prior to approval if necessary, to address the operational or other needs of the Department. It is permissible for an employee to have both a flexible work schedule and a telework schedule concurrently. If an employee intends on requesting both a flexible work schedule and a telework schedule, both requests shall be turned in at the same time for review and potential approval by the Department Head.

A bi-weekly time report is required to certify attendance and scheduled time off and shall be signed by the employee and the employee's supervisor at the close of each pay period. Although scheduling options may vary from department to department depending upon the specific operational requirements, there are four available alternative work schedules that differ from the standard Monday through Friday, 8:00 am to 5:00 pm work schedule. These four options are called "9/80", "4/10", "4-9-4" and "Flex Schedule."

An employee may request to add/modify/delete a Flexible Work Schedule/Telework Schedule twice in a 12-month period which begins with the date of the first election. Schedule change requests which exceed two per 12-month period may be approved only by the County Executive Officer or designee, based on the operational needs of the Department or other good cause.

### "9/80" Schedule:

Employees will work eight 9-hour days and one 8-hour day every two weeks and have one regularly scheduled day off (RDO) every other week. The employee's scheduled RDO shall fall on the same day of the week as the 8-hour workday on the opposite week during the pay period.

The start of the workweek is deemed to be midway (4 hours) into the employee's 8-hour day. The workweek ends seven days later midway through the employee's next 8-hour regular day off (RDO). Whenever the beginning of an employee's workweek changes, e.g., changing to or from an FWS, a situation in which one or more hours or days falls in both the "old" workweek as previously defined and the "new" workweek occurs. Therefore, a computation of overtime due to overlapping workweeks must be done. Contact the Payroll Division of the Auditor's Office for help with overlapping workweek overtime computations.

The work schedule or regular day off (RDO) of an employee may not be changed to accommodate a holiday. If a holiday lands on the RDO, the holiday will be moved to the next working day unless that moves the holiday into the next workweek. If moving the holiday to the next working day causes the holiday to be observed in the next workweek, then the holiday will be moved to the previous workday. If a holiday lands on a 9-hour day, the employee will be required to use 1 hour of qualifying leave balance (vacation, CTO, floating holiday).

### "4/10" Schedule:

Employees will work four 10-hour days per work week and have one day off. The typical schedule is Monday through Friday. The workweek is defined as Saturday at midnight and ending on the following Saturday at midnight. If a holiday lands on the RDO, the holiday will be moved to the next working day unless that moves the holiday into the next workweek. If moving the holiday to the next working day causes the holiday to be observed in the next workweek, then the holiday will be moved to the previous workday. If a holiday lands on a 10-hour day, the employee will be required to use 2 hours of qualifying leave balance (vacation, CTO, floating holiday).

**"4-9-4" Schedule:**

Employees will work four 9-hour days and one 4-hour day per week. The typical schedule is Monday through Friday. Workweek is defined as Saturday at midnight and ending on the following Saturday at midnight. If a holiday lands on the 4-hour day, the employee's 4-hour day will be moved to the next working day unless that moves the 4-hour day into the next workweek and in this case, the 4-hour day will be moved to the previous workday. If a holiday lands on a 9-hour day, the employee will be required to use 1 hour of qualifying leave balance (vacation, CTO, floating holiday).

**"Flex" Schedule:**

Subject to Department Head discretion and the operational needs of the department, employees may be assigned to work a shift that may begin as early as 7:00 a.m. and end as late as 6:00 p.m., which includes either a half-hour or an hour off for lunch. Employees on a flex schedule typically work Monday through Friday, 8 hours per day. With supervisory approval, a non-exempt employee may flex start and stop times during the same workweek to accommodate absences. Workweek is defined as Saturday at midnight and ending on the following Saturday at midnight.

**D. EXEMPT EMPLOYEE WORK SCHEDULES**

**1. Introduction**

Nevada County maintains a standard of excellence in the successful accomplishment of established goals. Exempt employees guide the achievement of these goals and the delivery of services to our community as they provide a high level of technical expertise and serve as managers of other County employees. They are integral to the successful operation of the County on a day-to-day basis and are responsible to ensure that work continues to get done efficiently. Employees in this group are exempt employees as defined by the Fair Labor Standards Act (FLSA).

The standard work schedule for full-time, regular status employees shall consist of five (5) eight (8) hour days from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., subject to applicable breaks, Monday through Friday except specified holidays. The workweek shall commence on Saturday at midnight and end on the following Saturday at midnight (to coincide with the established two-week pay period).

While expected to maintain regular hours equal to 80 hours in a two-week period, exempt employees may need to extend their work schedule to accommodate job demands and complete their work. For regular, full-time employees, regular hours frequently extend beyond 80 hours in a pay period. Exempt employees are paid a salary to accomplish both self-directed and assigned projects by balancing and managing their time appropriately and responsibly. They are not paid for working hours which extend beyond the 80 hours in a pay period but are provided

with an additional Administrative Leave benefit to help offset the extra hours that they may need to work.

An employee may request to add/modify/delete a Flexible Work Schedule/Telework Schedule twice in a 12-month period which begins with the date of the first election. Schedule changes outside of the two per 12-month period may be approved only by the County Executive Officer or designee, based on the operational needs of the Department or other good cause.

An exempt employee must first request approval for an FWS on the Flexible Work Schedule and/or Telework Request Form. Approval is at the discretion of the Department Head.

## 2. Use of Leave

Exempt employees record hours on a timesheet only for purposes of complying with timekeeping system requirements and to support time studies for billback purposes. Exempt employees take leave (PLP, vacation, admin leave, floating holiday) in increments of four or more hours.

## 3. Flexible Work Schedule Options

A department head may implement a flexible work schedule for exempt employees so long as adequate staffing is provided. When exempt employees are approved to work an FWS, they are responsible for successful performance of their position requirements and understand that they are required to work the number of hours necessary to successfully complete their assignment.

Although scheduling options may vary from department to department depending upon the specific operational requirements, there are four available alternative work schedules that differ from the standard Monday through Friday, 8:00 am to 5:00 pm work schedule that are available for consideration by an exempt employee and his/her Department Head. These four options are called "9/80", "4/10", "4-9-4" and, "Flex Schedule."

### "9/80" Schedule

Employees will work four 9-hours days in one week (Sunday through Saturday), having one day off, and four 9-hour days and one 8-hour day in the other week (Sunday through Saturday) of the pay period. The work schedule or regular day off (RDO) of an employee may not be changed to accommodate a holiday. If a holiday lands on the RDO, the holiday will be moved to the next working day unless that moves the holiday into the next workweek, otherwise the holiday will be moved to the previous workday.

Exempt employees shall be expected to work their standard schedule. "4/10" Schedule

Employees will work four 10-hour days per work week (Sunday through Saturday) and have one day off per work week. If a holiday lands on the RDO, the holiday will be moved to the next working day unless that moves the holiday into the next workweek and in this case, the holiday will be moved to the previous workday.

### "4-9-4" Schedule

Employees will work four 9-hour days and one 4-hour day per work week (Sunday through Saturday). Employees on this schedule will not be required to use a leave balance for the 4 hours on their "short" day. If a holiday lands on the 4-hour day, the employee's 4-hour day will be moved to the next working day unless that moves the 4-hour day into the next

workweek and in this case, the 4-hour day will be moved to the previous workday.

Exempt, regular full-time employees are required to charge a leave account for absences in increments of four or more hours unless the employee is working an approved 4-9-4 schedule and the day in question is the regularly scheduled 4-hour day.

“Flex” Schedule:

Subject to Department Head discretion and the operational needs of the department, employees may be assigned to work a shift that may begin as early as 7:00 a.m. and end as late as 6:00 p.m., which includes either a half-hour or an hour off for lunch. Employees on a flex schedule typically work Monday through Friday, 8 hours per day. Workweek is defined as Saturday at midnight and ending on the following Saturday at midnight. Exempt employees may flex their schedules with supervisory input/approval within the same workweek.

4. General Considerations

Nevada County employees can be required to record partial day absences of 4 hours or more due to illness or for personal reasons, without altering their FLSA exempt status.

Exceptions to these time reporting policies may occur when an employee records partial days for a short-term disability, absences covered by the Family Medical Leave Act (FMLA), or other appropriate exceptions.

If an employee’s leave balances are insufficient to cover the period of absence or use of leave balances has been denied, then the employee shall take unpaid time off where the employee would otherwise be required to use a leave balance pursuant to this policy. Nothing herein shall affect the ability of a Department Head to discipline an employee for unauthorized absences.

Part-time exempt employees will deduct the full number of hours from their paid time off accruals for all absences.

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**SUBJECT: COUNTY OF NEVADA TELEWORK POLICY**

**Purpose and Definitions**

The Nevada County Teleworking program is designed to provide work/life balance, reduce greenhouse emissions, and allow for greater flexibility in serving customers both internal and external. It also provides a continuity of services for the Nevada County citizens as outlined in the County's Continuity of Operations Plan (COOP). The County Executive Officer ("CEO") or their designee can authorize telework for episodic use during a utility disruption, communicable disease outbreak, other health risk, or other approved situations.

Telework in Nevada County is at the sole discretion of the CEO or their designee and is not an employee right. Teleworking agreements may not reduce customer service to internal and external customers nor reduce standard hours of operation. The employee must self-disclose proof of a safe work area at home or other location via completed telework agreement. Employees agree to cooperate with the County to verify compliance with the required minimum workplace standards while teleworking. This may include physical inspection, photographs, or live video feed, which shall be mutually agreed upon. Telework is not to be completed until written authorization and approval of the CEO or their designee.

"Telework" is defined as a work arrangement authorizing an employee to work from an alternative worksite other than their normal work location, such as home, for all or a portion of their regularly scheduled work hours.

"Alternative Worksite" means the employee's home, place of residence or from another location approved by the County other than the employee's normal workplace at the County's worksite or facility.

"Work Schedule" means the days and hours determined by the supervisors or managers during which non-exempt, overtime eligible employees should be in attendance at the Alternative Worksite. The Work Schedule shall provide for and include the rest and meal breaks required under applicable federal and state law, as well as under contract.

**Eligibility Criteria**

The CEO or their designee, possesses the discretionary authority to determine the job classifications, positions, and employees who are eligible to telework under this policy. The CEO or their designee, may make such determination using criteria including, but not limited to, the following:

1. The operational needs of the County and employee's department and division;
2. The disruption of or potential for disruption to the County's functions;
3. The ability of the employee to perform their job duties (both essential and marginal) from an Alternative Worksite without diminishing the quantity or quality of the work performed;
4. The degree to which the employee's job functions require face-to-face interaction with other

- County employees, contractors and members of the public;
5. The employee's job performance, as determined by their last performance review;
  6. The employee's length of service with the County, department or division;
  7. The portability of the employee's work, including the employee's ability to remotely access tools, equipment, and materials necessary to perform their job functions;
  8. The availability of or ability to create a functional, reliable, healthy, safe, and secure Alternate Worksite for the employee at a reasonable cost;
  9. The risk factors associated with performing the employee's job duties from a location other than the employee's normal workplace at a County worksite;
  10. The County's capacity to monitor and measure the employee's work performance at the Alternate Worksite;
  11. The employee's supervisory responsibilities;
  12. The employee's need for supervision; and
  13. Other considerations deemed necessary and appropriate by the County, including tax and other legal implications of teleworking.

Employees may be permitted to telework episodically when authorized by CEO or their designee. The employee must sign an agreement that details their telework location and adherence to the guidelines set forth in the policy in advance of any episodes of telework.

The following are examples of circumstances that may support episodic teleworking:

1. To complete special project work that requires a period of uninterrupted work time.
2. During self or family member convalescence from injury or illness: if for self, must be cleared by physician to do so.
3. To provide convenience and maximize work time on days in which off-site meetings or personal appointment make travel to the regular work site impractical.
4. While all reasonable commute routes are blocked.
5. While the primary worksite is inaccessible.
6. As a reasonable accommodation during pregnancy with physician approval.
7. During PSPS (public safety power shutoff) events and snow days.
8. Other approved conditions by the CEO or their designee.

**Telework may only occur if:**

1. CEO or designee authorizes an employee to telework; or
2. CEO or designee authorizes an employee to work a telework and flexible work schedule.

**Telework Enrollment Periods:**

1. Requests to telework may be submitted by an employee twice in a 12-month period which begins with the date of the first election.
  - a. Requests regarding flexible work schedules must be made at the same time, if an employee requests a flexible work schedule.
  - b. Supervisor shall track the number of requests by an employee.
  - c. CEO or their designee may consider additional telework and/or flexible work schedule change requests based on the operational needs of the Department or other good cause.

2. An employee may be requested to telework due to departmental or County need, such as emergencies, power outages, natural disasters, or building closure.

### **Process for Employee to Request to Telework; Final Determination; No Right to Appeal:**

To make a request for a teleworking arrangement, employees must complete a Flexible Work Schedule and/or Telework Request and file the complete request form with their supervisor or manager.

The employee's supervisor or manager will provide the request form to the Department Head or their designee and will discuss the employee's request with the Department Head, or their designee.

In consultation with or based on information provided by the employee's supervisor or manager, the Department Head, or their designee, will make a recommendation for a determination regarding the employee's request to telework to the CEO or their designee.

The CEO or their designee will consider Teleworking requests on a case-by-case basis consistent with the criteria above and other factors relevant to the employee's request to telework.

The decision of the CEO or their designee regarding an employee's Teleworking request is final and binding. Neither the employee nor the employee's employee organization possesses any right to appeal or grieve the decision.

When an eligible and qualified employee who has requested and been granted the opportunity to telework, the employee agrees to work the approved alternate schedule (if applicable) and at the alternate location and follow all applicable work-related policies and procedures. The request form shall provide the mutual understanding of the employee, the employee's supervisor or manager, and the CEO or their designee concerning the teleworking arrangement.

### **General Duties, Obligations, Responsibilities:**

1. All existing duties, obligations, responsibilities and conditions of employment remain unchanged. Teleworking employees shall abide by all County and departmental rules and regulations, policies and procedures.
2. All of the Teleworking employees' existing supervisory relations, lines of authority and supervisory practices remain in effect.
3. Teleworking employees must have an Alternative Worksite that is adequate for performance of official duties (see checklist), including an Alternate Worksite that is quiet and free of distractions and which has reliable and secure power, internet and/or wireless access.
4. Teleworking employees must notify their supervisor or manager promptly when unable to perform work assignments because of equipment failure or any other unforeseen circumstances.
5. Teleworking employees must ensure dependent care will not interfere with work responsibilities.

6. Teleworking employees must not bring clients, customers, vendors or other persons into their home to conduct County business.
7. Teleworking employees must safeguard any County equipment and only use the equipment according to County policy.
8. Teleworking employees shall ensure that all official County documents are retained and maintained according to the normal operating procedures in the same manner as if working at a County worksite. Employees agree to safeguard the County records from disclosure or access by unauthorized individuals and will comply with all confidentiality and privacy laws, rules, regulations, and policies applicable to their position and the handling, security and storage of the records and information related thereto.
9. Employees, upon approval of a request for Telework, agree that the County will not be liable for damages to an employee's personal or real property while the employee is working at the approved alternate work location.
10. Employees agree that teleworking authorized pursuant to this Policy does not entitle them to telework at will. Employees will return to their normal assignment location upon completion of the approved telework assignment.
11. Nothing in this policy precludes the County from taking any appropriate disciplinary action or adverse action against an employee who fails to comply with Personnel Code Section 18 or their applicable MOU.

#### **Space and Equipment, Information, Security and Confidentiality**

1. Teleworking employees will either receive approval to use personal computer equipment or will be provided with County issued equipment at the discretion of the CEO.
2. If the County provided any County issued equipment, teleworking employees agree to follow the County's policy for the use of such equipment. Teleworking employees must report to their supervisor any loss, damage, or unauthorized access to County-owned equipment, immediately upon discovery of such loss, damage, or unauthorized access.
3. Where, in response to a request to Telework, the County allows an employee to Telework, the County shall not be responsible for Teleworking costs, including, but not limited to, the employee's use of their home or place of residence, their personal computer, utilities, internet, data, network costs, home maintenance, workspace furniture, ergonomic equipment, or any other incidental costs, unless expressly provided for in the Agreement. When an employee is directed to telework for the majority of a pay period (more than half), for example, during an emergency or natural disaster, the employee will receive a stipend of \$25 per pay period for use of personal items and utilities, that will begin the pay period such telework starts and will end the pay period such telework ends (i.e., the employee is directed to return to the worksite for the majority of a pay period). Complete the Auditor-Controller Stipend Form (available on the Auditor-Controller's Infonet site) when directed to telework for the majority of a pay period or more.
4. Employees must take reasonable precautions to ensure their devices (*e.g.*, computers, laptops,

tablets, smart phones, etc.) are secure before connecting remotely to the County's network and must close or secure all connections to County desktop or system resources (*e.g.*, remote desktop, VPN connections, etc.) when not conducting work for the County. Employees must maintain adequate firewall and security protection on all such devices used to conduct County work from the Alternate Worksite.

5. Teleworking employees shall exercise the same precautions to safeguard electronic and paper information, protect confidentiality, and adhere to the County's records retention policies, especially as it pertains to the California Public Records Act ("CPRA"). Teleworking employees must safeguard all sensitive and confidential information (both on paper and in electronic form) relating to County work they access from the Alternate Worksite or transport from their County worksite to the Alternate Worksite. Teleworking employees must also take reasonable precautions to prevent third parties from accessing or handling sensitive and confidential information they access from the Alternate Worksite or transport from their County worksite to the Alternate Worksite. Teleworking employees must return all records, documents, and correspondence to the County at the termination of the Agreement or upon request by their supervisor or manager, Department Head or Human Resources.
6. Continuously throughout a telework assignment, telework employees must maintain a safe and ergonomically sound workspace environment.

#### **Work Schedule, Overtime, Leave and Benefits**

1. For non-exempt employees, the County will either provide such employee: (1) a work schedule that will be included in the Agreement and, which will include meal and rest breaks ("Work Schedule"); or (2) authorization to work on an intermittent basis.
2. For non-exempt employees assigned a Work Schedule, any deviation from the Work Schedule must be approved in advance, in writing, by the employee's supervisor or manager and the Department Head.
3. Non-exempt telework employees working at an Alternate Worksite must not Telework outside their normal work hours without prior written authorization from their supervisor or manager and the Department Head. A non-exempt employee who fails to secure written authorization before Teleworking outside their normal work hours may face discipline in accordance with the County's policy for working unauthorized overtime.
4. Telework employees acknowledge that Telework does not change the employee's classification or rate of pay, salary, or benefits.
5. Telework employee must be available and accessible by phone and email during their agreed upon telework Work Schedule.
6. Non-exempt employees, regardless of whether assigned a Work Schedule or authorized to work intermittently, must take meal and rest breaks while Teleworking as required under applicable law and/or under applicable contract or County policy.
7. For non-exempt employees assigned a Work Schedule, all periods of Teleworking employees'

unavailability must be approved in advance by their supervisor or manager and the Department Head in accordance with County policy and documented on the appropriate leave request form. For non-exempt employees authorized to work intermittently, any intermittent schedule must be approved in advance by their supervisor or manager.

8. Non-exempt employees, regardless of whether assigned a Work Schedule or authorized to work intermittently, are required to report in a timely manner all hours worked at the Alternate Worksite and make that record available to their supervisor upon request. Employees shall record the use of all leave time on their timesheet.
9. Employees shall continue to abide by County policies and procedures for requests of sick, vacation and other leaves of absences. If an employee becomes ill while working under the Agreement, they shall notify their supervisor or manager immediately and record on their timesheet any hours not worked due to illness and/or incapacitation.
10. Non-exempt employees, regardless of whether assigned a Work Schedule or authorized to work intermittently, are required to request to work overtime in advance of doing so and such requests must be pre-approved in writing by the employee's supervisor or manager.
11. Workers' Compensation benefits will apply only to injuries arising out of and in the course of employment as defined by Workers' Compensation law. Teleworking employees must report any such work-related injuries to their supervisor or manager immediately. The County shall not be responsible for injuries or property damage unrelated to such work activities, including injuries to third persons when said injuries occur at the Alternate Worksite. In the event of a telework workplace injury, employee agrees to allow the County's Risk Manager or designee, to access the employee's telework workspace upon request for purposes of investigating the injury only.

**NEVADA COUNTY, CALIFORNIA**  
**Personnel Administrative Guidelines**

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**SUBJECT: EMPLOYEE APPEARANCE STANDARDS – DRESS CODE**

**PURPOSE**

These dress code appearance standards are designed to promote the County's legitimate and non-discriminatory goals to promote workplace safety and a professional image that is consistent with the employee's job duties and level of public contact.

**POLICY**

Employees are required to dress appropriately for the jobs they are performing. The following dress code regulations shall apply to all County employees. If an employee has questions about how these standards apply to them, the matter should be immediately raised with their supervisor for consideration and determination.

- A. All clothing and footwear must be neat, clean, in good repair, and appropriate for the work environment and functions performed.
- B. Prescribed uniforms and safety equipment must be worn.
- C. Hair must be neat, clean and well-groomed.
- D. Beards, mustaches, and sideburns must be maintained in neat and well-groomed fashion.
- E. Good personal hygiene is required.
- F. Dress must be professionally appropriate to the work setting, particularly if the employee has contact with the public at work.
- G. Employees whose work setting includes appearing in court must adhere to the dress code requirements of that court.