

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 he/she is absent from his/her 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 his/her 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 his/her 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 he or she 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 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.

2.21 OFFICER

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

2.22 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 he/she fills. 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.

2.23 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.

2.24 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.

2.25 PROMOTION

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

2.26 PROMOTIONAL LIST

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

2.27 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.

2.28 REGULAR EMPLOYEE

Regular 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 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.

2.29 REPRIMAND

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

2.30 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.

2.31 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.

2.32 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.

2.33 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.

2.34 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.

2.35 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.

2.36 STEP

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

2.37 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 he/she is 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.

2.38 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 he/she deems 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 him/her by the Board, unless by Board rule or by law he/she is 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 his/her 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. The normal work schedule for full-time, regular 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. **Flex-time and Alternative Schedules**

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 work days (4-10's), four-nine hour days and one 4 hour day). The County has the right to change schedules subject to the applicable MOU or in accordance with meet and confer requirements. Schedule changes shall not be implemented unless or until attaining agreement of all affected employees or 30 days' notice has passed without a written response from the affected employees.

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 work day. 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 work day. 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 work day/ 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 his or her 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 his/her 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.)

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 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 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, County-related social media, cloud services, hosted applications, portable storage devices, and documentation that supports electronic communications services (“Electronic Communications Resources”).

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.

All employees are required to abide by the County's Information Security Policy NCSP- 127 Social Media Policy. 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 Security Policy (NCSP) documentation collection. Refer to NCSP-001 for general information and listing of all current NCSP policies. To apply for access to County of Nevada computing and communications systems, refer to NCSP-001 and NCSP-101 (NCSP-102 for vendors) for further details.

C. Employee Owned Equipment:

Employee privately owned equipment (cell/smart-phones, 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 his/her personal email address, the employee shall forward the communication to his/her County email address, and respond to the communication from his/her 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 this address. County employees and officials must use the official County email, instead of their 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 his/her 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: The County issues employees unique and individual credentials for access to all system (NCSP 101). These credentials uniquely identify a user within systems and users are required to keep their assigned personal login credentials private and safe and not share it with anyone. Users may not delete or change login credentials without County authorization.

Employees may change their passwords and are encouraged to do so regularly for security reasons.

Software: Only software that has been purchased or authorized by the County of Nevada IGS may be loaded onto County owned computers or other communication equipment. To assure that all software is licensed and virus free, all software that is to be implemented on County Resources will be installed by the Information and General Services Department. All software or data brought in from outside the County (whether via physical media or via download) must be scanned by an updated County approved anti-virus and anti-malware software program before being loaded onto any County computer system.

Downloading programs from sources outside of County maintained systems must be pre-approved by Information and General Services Department. All such programs will be scanned for virus and malware and evaluated for appropriate licensing. Such programs will be necessary and related to County business. All equipment connected to the County of Nevada network must be authorized by IGS prior to attaching to the network or associated peripherals.

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 NCSP 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 he or she creates, receives, stores, sends, or deletes 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 his/her 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 his/her 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 he or she knows 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 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 his/her 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 he/she 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 employee may petition his/her department head with a request to initiate a position classification review of his/her 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 15th.
 - 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 his/her 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 his/her 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 15th. Whether or not the parties resolve any disputed or undisputed areas, the recommendation(s) and their rationale shall be submitted to the Board of Supervisors no later than March 15th.
 - f. Position reclassifications that are approved through this process will be effective the first full pay period beginning in July.
- 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 he or she was reclassified.
 - c. 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 he/she is 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 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 he/she is 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 his/her 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 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.

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 his/her 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.

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. Following receipt of CEO approval, the hiring authority must submit a requisition to the Human Resources Department for a copy of the eligibility list. The requisition will state 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 he/she seeks appointment and if disabled cannot be reasonably accommodated,
- (b) has failed the pre-employment drug/alcohol test associated with the position to which he/she seeks 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 his or her 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

At such time as 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, professional, managerial, or executive position, the County Executive Officer, within meet and confer obligations, may authorize the appointing authority to negotiate with the candidate. Such negotiations may include payment of moving expenses or for payment of such other related expenses pertaining to relocation of the candidate to the County of Nevada, or for adjustment of benefit accruals.

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”). 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 ten or less, the County Human Resources Director may, at his/her discretion:

- A. Waive the competition entirely and submit the names of applicants meeting the minimum qualifications to the appointing authority, or
- B. Revise the conditions of the recruitment to a more practical basis under the circumstances.

The County’s Human Resources Director may, in his/her discretion, forego regular selection procedures for the appointment of persons to temporary positions.

7.3 APPLICANT NOTIFICATION

Each applicant shall be notified of the status of his/her 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 weight 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 his or her 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, he or she must forego the competition on that selection procedure unless he or she submits 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 his/her 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 him or her 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 ten ranked candidates at one time. When multiple names in one rank compose the tenth (10th) or final rank, all names in the rank shall be certified to the appointing authority.

If the department has more than one vacancy for a specific classification the department shall be certified one additional candidate for each additional vacancy.

If any applicant who is certified (placed on an eligible list) is unwilling to interview, the hiring department shall be given one more candidate name.

If the list does not contain the names of ten candidates willing to accept an interview or appointment, the County Human Resources Director may include additional names from an eligible list for an appropriate class of substantially the same or higher level, provided such candidates possess the qualifications for the position to be filled.

When, in the opinion of the Human Resources Director, the number of candidates certified does not meet the needs of the hiring department, additional names may be certified to the appointment authority. 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.

(a) 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.

(b) 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 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.

(c) 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 he or she was 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 he or she was originally examined.

E. Sufficiency of Eligibility List

When an eligibility list for either a non-exempt or exempt position contains less than ten names, 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.

When the eligibility list for either a non-exempt or exempt position contains three or less names, the hiring authority may request the Human Resources Director to expire the list.

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, he/she 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).

F. 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. Re-employment eligibility lists (due to layoff) shall have the names certified one at a time.

G. 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 one year, unless otherwise expired. Such lists may be extended by the Director in increments of three months but not to exceed the maximum of two years.

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 he/she no longer desires 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 two (2) times 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 his or her 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, his or her name placed on the re-employment list for the classification from which he or she has been laid off. Any regular employee who is laid off in good standing may, upon written request, have his or her name placed on a re-employment list for any other classification of equivalent or lower pay for which he or she is 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 his or her 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, he or she will be placed on a re-employment eligibility list for the class of position from which he or she 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 he or she 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. The appointing authority may, at his/her discretion, appoint or refuse to appoint from any eligibility list when the list contains less than three names. 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 five (5) 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 he or she has 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 his 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 employee who is promoted to a position in a class with a higher salary range than the class from which he or she was 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 he or she is 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 commence 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 work days. 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 he or she held regular status and at the range and step held prior to promotion, unless he or she is 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 he or she has previously held regular status and from which he or she was 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 his or her 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 his/her appointing authority 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.

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 his/her 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 his or her designee, shall prepare three (3) performance reports regarding the probationary employee's performance, which he/she 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 shall be made and filed with the Personnel/ Human Resources Director two (2) times during the probationary period. The appointing authority, or his or her 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 five (5) consecutive work days or in cases where an employee is on light duty and unable to be evaluated regarding his/her 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 EMPLOYEE PERFORMANCE EVALUATIONS

Performance reports conducted on regular 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 his/her 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 his or her 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 OCCURING ON SALARY ANNIVERSARY DATE

Whenever, on his or her salary anniversary date, an employee is promoted, receives a range change, or his or her 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 POST TRAINING INCENTIVE PAY

POST training incentive pays are as delineated in the Memoranda of Understanding and individual employment agreements for bargaining units and unrepresented employees subject to POST training requirements.

14.2 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.

14.3 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.

14.4 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.

14.5 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, his/her department head shall forward the appropriate Personnel Action form to the Department of Human Resources.

Confidential department heads may be approved to receive a five percent (5%) confidential differential 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) 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, he or she 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 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 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 his/her regular position at the salary step he/she 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 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.

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 he or she is 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 he/she 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 his/her classification. The salary for Y-Rated employees is typically frozen until the employee's salary falls within the established range for his or her 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 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 he or

she was demoted. For example, if the employee was in Step B in his/her prior classification, he/she 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 his or her former class following promotion or demotion, the employee shall return to the step she/he 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 his or her position without authorized leave and without a reasonable excuse) for a period of five (5) consecutive working days shall be deemed to have resigned his or her 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 his or her 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 his or her 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) Receive or accept 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 would render during regular work hours as part of such officer's or employee's assigned or prescribed duties;
- 4) Be involved in 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 without first obtaining the express approval of the CEO.

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.

- 5) 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 Section 18.

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 or his/her designated representative for disciplinary reasons due to employee conduct. A corrective action memo, verbal or written reprimand issued by the appointing authority or his/her 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 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, or military and veteran status
- (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 work place
- (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.

A. Notice of Proposed Disciplinary Action

To initiate disciplinary action against a regular employee, the appointing authority shall contact and discuss such action with the Human Resources Director prior to taking such action. In conference with the Human Resources Director and County Counsel, the appointing authority shall Draft a written notice outlining and including:

- (i) The proposed disciplinary action and reasons for such action;
- (ii) The code and ordinance sections which the employee is alleged to have violated;
- (iii) A copy of the materials upon which the proposed discipline is based;
- (iv) Notice of the employee's right to respond to the appointing authority regarding the intended discipline; and
- (v) The timelines in which the response must take place, and notice that the failure to respond within those timelines constitutes of 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 his/her right to respond.

If the employee chooses to respond orally to the Notice, the appointing authority will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to rebut the charges against him or her and present any mitigating circumstances. The employee shall have the right to have a representative of his or her choice at the informal meeting. However, such meeting will not be an evidentiary hearing, and the employee will not have any opportunity to present or question witnesses.

The employee's failure to attend a scheduled informal meeting shall constitute a waiver of the right to respond orally.

The appointing authority must consider the employee's written and/or oral response before issuing the disciplinary action.

C. Decision to Impose, Modify or Withdraw Proposed Discipline

After either time has elapsed for receiving response from the employee or the response has been received and considered, the appointing authority shall decide whether the proposed action should be taken, whether to modify the proposed action, or whether to take no disciplinary action.

- (i) If the appointing authority decides not to impose discipline, the appointing authority shall, following review by County Counsel, notify the employee in writing that the proposed discipline is withdrawn.
- (ii) If the appointing authority decides to impose or modify the proposed discipline, he/she shall prepare an Order of Discipline, to be reviewed with the County Counsel for legal sufficiency, and the imposed discipline shall commence at such time so as not to disrupt the operations of the department.

D. Order of Discipline

The Order of Discipline shall contain the following information:

- (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 Order 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 certified mail to the employee at the last known address.

E. 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.

F. 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

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

Any regular 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 Order of Discipline. Failure to file Notice of Appeal within ten (10) working days after the effective date of the Order 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 Order 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 his or her 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 Order 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.

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

Any regular 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 Order of Discipline. Failure to file Notice of Appeal within ten (10) working days after the effective date of the Order 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 Order 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 his or her 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 that the County Human Resources Director contact the State of California, Office of Administrative Hearings.

Should the employee desire to request that the Human Resources Director contact the State Office of Administrative Hearings to hear his/her appeal, such request 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 request a hearing before a Hearing Officer of the State Office of Administrative Hearings and the imposed disciplinary action shall stand.

The Human Resources Director shall, upon timely receipt of a request to contact the State Office of Administrative Hearings, request the assignment of a Hearing Officer to hear the appeal under the ~~guidelines~~ hearing procedures stipulated below.

Said hearing officer will commence hearing the matter as soon as possible.

18.5 HEARING PROCEDURE

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

- A. The hearing shall be public except that if the employee requests that the matter be heard privately, it shall be so heard.

- B. The provisions of Section 11507.6 of the Government Code shall provide the exclusive right to and method of discovery except that time limitations will be those established by the Hearing Officer. In those cases where the Board rehears the matter as provided by this Section, the Board shall establish such limitations.
- C. Evidence may be submitted by affidavit or by deposition in accordance with the provisions of Section 11514 and Section 11511 of the Government Code, respectively.
- D. Subpoenas for attendance or the production of documents at the hearing shall be issued in accordance with Sections 11450.10-11450.40 of the Government Code.
- E. The hearing shall be conducted in accordance with evidence rules as outlined in Section 11513 of the Government Code.
- F. All costs related to the hearing incurred by the Hearing Officer and all fees of the Hearing Officer will be shared equally by the parties. Other costs including attorney fees shall be borne by the party who incurs said costs.

18.6 DECISION

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

Written findings and recommendations shall be forwarded by the Hearing Officer 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 agendized.

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 Hearing Officer shall have the authority to reinstate the employee without prejudice. Such a decision, which shall be supported by the written findings of the Hearing Officer, shall be final and binding upon all parties and shall not be subject to any modification by the Board of Supervisors.

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

The Board may:

- (a) Adopt the proposed decision of the Hearing Officer 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 Hearing Officer 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

If employee fails to file an answer or to appear at the hearing, the employee will be considered to be in default and action may be taken in accordance with the provisions of Section 11520 of the Government Code.

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 his/her 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 his or her 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 he or she meets 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 his/her 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 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 his or her 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 his/her disability retirement on his/her behalf under the County's Personnel Rules. However, the employee will be entitled to appeal any decision of CalPERS to effect his/her disability retirement.

18.11 NON-DISCIPLINARY CORRECTIVE ACTION – LETTERS OF REPRIMAND

- A. Any regular 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 his/her 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 he or she has a grievance shall, before filing the same in writing, discuss his or her 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 his or her 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 his or her representative shall use the standard grievance form developed by the Human Resources Department for this purpose. The department head receiving the grievance shall enter his/her 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 his or her 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: Board of Supervisors

If the employee does not agree with the decision of the County Human Resources Director or his or her authorized representative, he or she may appeal in writing to the Board of Supervisors. 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 Board of Supervisors or its 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 Board of Supervisors, with a copy to the grievant, a recommendation on proper resolution of the issue(s). The Board shall consider all information and testimony as it deems 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 Board of Supervisors' 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 his or her own choosing in preparing and presenting his or her 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 his/her 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 him or her.

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 his/her 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 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 his or her 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 his or her 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 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 employees.
- 4) All part-time regular employees shall be laid off, in an order determined by the appointing authority, before any full-time regular 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 his/her 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 his/her 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 his/her 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 his/her 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 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 employees.

- 4) All part-time regular employees shall be laid off, in an order determined by the appointing authority, before any full-time regular 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 his/her 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 his/her 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 his/her 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 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 his or her 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 his or her succeeding appointment.

D. Notice of Layoff

Regular 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 the work will not be seriously handicapped by the temporary absence of an employee from a regular position, 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 his/her 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 DONATION OF ACCRUED VACATION TIME/PLP

- A. An employee may, upon approval, transfer all or any portion of his/her accrued vacation leave, PLP leave time, CTO, HTO or Administrative Leave time to another employee of the County. Transfer of vacation, PLP, CTO, HTO or Administrative Leave time from one employee to another pursuant to this subsection shall be permitted only in unusual, unanticipated, emergency situations involving serious illness or injury of an employee or serious illness, injury, imminent death or death of a member of the employee's immediate family. A request for transfer of vacation leave, PLP, CTO, HTO or Administrative leave time may be initiated by either the employee in need of additional time or by an employee or employees who wish to donate time to another employee.
- B. A request for transfer of vacation, PLP, CTO, HTO or Administrative leave time shall be processed as follows:
 - a. The employee(s) making the request shall do so in writing to his/her department head.
 - b. The department head shall then forward the request, with a recommendation, to the Human Resources Director.
 - c. The Human Resources Director shall review the request and recommendation and shall approve or deny the request within a reasonable period of time. The Human Resources Director's decision to approve or deny the request shall be final and binding on the parties.

- d. Upon receipt of the Human Resources Director's approval, employees willing to donate accrued leave time for transfer to another employee shall do soon the Donated Leave Transfer Form developed by the Department of Human Resources.
 - e. Completed Donated Leave Transfer Forms shall be submitted directly to the Auditor-Controller's Office by the donor employee. The Auditor shall then credit the recipient employee's vacation leave account by the amount of time donated, as needed, in the order received from the donating employees. The donating employee's leave will be deducted at the time the leave is transferred and not before. In determining the amount of donated leave time to be credited to the recipient, the Auditor-Controller shall divide the donor's hourly wage rate by the recipient's hourly wage rate and shall multiply the resulting quotient by the number of hours donated.
- C. A donor's name may not be released to recipient unless specifically requested by the donor.
 - D. Participation in this program shall be strictly voluntary. No employee shall be required or expected to participate and no employee shall be subject to coercion or threat or intimidation of any kind for failure to donate leave time pursuant to this program.
 - E. To be eligible for receipt of donated time, the affected employee must first exhaust all his/her accrued leave hours.
 - F. Any donated time in excess of that necessary to carry the employee through the term outlined in number one (1) above, shall be returned to the donor employee(s).

21.4 LEAVE - VOLUNTEER FIREFIGHTERS, RESERVE DEPUTY SHERIFFS

- A. A volunteer firefighter may respond to fire and rescue calls within his/her department jurisdiction during County working hours provided his/her immediate work is such that he/she may leave, as determined by his/her 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 his/her immediate work is such that he/she may leave, as determined by his/her 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 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 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) Part-time or temporary employees who work for thirty (30) or more days for the County within a year from the commencement of employment, shall accrue at the rate of one (1) hour of sick leave for each thirty (30) hours worked effective July 1, 2015.
- e) Regular and temporary employees shall accrue sick leave beginning their first day of hire, but shall not be permitted to use such sick leave during the first ninety (90) days of employment.
- f) 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 his/her sick leave time taken, the employee shall receive sick leave pay equal to the average hourly wage paid over the last ninety (90) days.
- g) Temporary County employees can accrue a maximum of 48 hours of sick leave which may be carried over from one fiscal year to the next.
- i) Temporary County employees are limited to using 24 hours or 3 days of sick leave per fiscal year, whichever is more.

- j) 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 48 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.
- k) 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.
- l) 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.
- m) 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.
- n) An employee may utilize his/her allowance of sick leave when unable to perform his/her 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 his/her 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 her work duties due to pregnancy must utilize her 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 FMLA leave under Section P3.

An employee may utilize his/her 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 his/her child, parent, spouse, domestic partner, child of his/her domestic partner, sibling, grandchild or grandparent;
- 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 a victim of domestic violence, sexual assault, or stalking, 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.
- o) 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, 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) A female 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 leave. FMLA 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 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 her 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 her 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 her 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 her position. If upon return from leave an employee is unable to perform the essential functions of her 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 HOLIDAY LEAVE

- a) Each regular 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 1st
- (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 4th known as "Independence Day"
- (6) The first Monday in September known as "Labor Day".
- (7) The 2nd Monday in October known as "Columbus Day".
- (8) November 11th, known as "Veterans' Day".
- (9) Thanksgiving Day, designated Thursday in November.
- (10) The Friday immediately following Thanksgiving Day.
- (11) December 25th.
- (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 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 work day before and the regular work day 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.

21.8 MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of the Military and Veterans' Code. All employees entitled to military leave shall give the appointing authority an opportunity within the limits of applicable military regulations to determine when such leave shall be taken, and shall provide the appointing authority with a copy of the military order.

21.9 COURT/JURY DUTY

A County employee, who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify his or her supervisor or department head as soon as possible. Any employee who is released from jury service prior to the end of his or her scheduled work hours must report to work unless otherwise authorized by his or her 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 he/she 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 he/she is 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 him or her shall be reduced by an amount equal to any compensation he/she 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 his/her officially assigned duties, he/she 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, or stalking, 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 his or her 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.

21.10 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 his/her 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.

21.11 LEAVE FOR PURPOSE OF DONATING BLOOD

A regular employee may be granted up to one (1) hour of leave with pay for purposes of donating blood during his/her 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.

21.12 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 child care 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.

21.13 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 his or her 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.

21.14 LEAVE FOR PURPOSE OF WORKING IN THE VOLUNTARY NEVADA COUNTY EMPLOYEE POLLWORKER PROGRAM

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

21.15 STATE DISABILITY INSURANCE/PAID FAMILY LEAVE INTEGRATION

The County shall augment the amount of SDI/PFL benefits being received by an amount sufficient to provide the employee with a gross biweekly salary equal to the employee's normal biweekly base salary. 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 to the Auditor-Controller's office for augmentation.

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 his or her 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.

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 his/her designee may require any employee in his/her 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 management positions or exempt confidential unit covered 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 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 REIMBURSEMENT

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

- A. Courses must be related to the work of the employee's position or occupation.
- B. Courses must be taken at accredited institutions approved by the County.
- C. The employee must be in good standing with the County which includes positive performance evaluations and no disciplinary history.
- D. Employees may only participate in one County tuition reimbursement program at a time.
- E. Courses are not eligible for tuition reimbursement 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.
- F. 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 REIMBURSEMENT

Regular full-time employees performing their jobs satisfactorily are eligible for reimbursement at the sole discretion of the County, as determined annually by the Board or its designee subsequent to adoption of the County operating budget.

23.4 NATURE OF REIMBURSEMENT

The nature of reimbursement is as follows:

- A. Reimbursement amount is specified in applicable MOUs.

- B. Reimbursement shall be made for tuition, books, registration fees and laboratory fees. Expenses for parking, travel, meals and other incidental costs are not reimbursable.
- C. Reimbursement shall be made to the employee on the completion of the course with a minimum final grade of C or its equivalent in an undergraduate course, or B or its equivalent in a graduate level course. No reimbursement shall be made for audited courses or incomplete courses.
- D. 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 OUTLINE OF PROCEDURE FOR TUITION REIMBURSEMENT

The procedure for tuition reimbursement follows these steps.

- A. The employee shall apply for tuition reimbursement, prior to enrollment, through normal supervisory channels on forms provided by the Human Resources Director.
- B. The employee's Department Head shall either recommend approval of the application, or deny it. If the Department Head recommends approval, he/she shall forward the application to the County Executive Office for review and final approval or denial.
- C. Approval for reimbursement will be contingent on employee's agreement to the terms in the "Tuition Reimbursement Program Annual CEO Application" and the "Nevada County Tuition Reimbursement/Education Assistance Agreement" which may be amended by the County and is subject to annual review and renewal
- D. Upon completion of an approved course(s), the employee shall obtain from the institution certification of fees paid and grade received and sends certification to the Human Resources Director's Office as soon as possible. Fees paid shall be itemized on a standard Nevada County Claim Form. The receipt shall accompany the Claim Form with pertinent information including the signature of the Department Head and employee's signature.

23.6 SUSPENSION

This program may be suspended when deemed necessary by the CEO due to any serious fiscal crisis as determined 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 is hereby authorized to 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 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.

- C. Any employee who on or after July 1, 1990, is appointed, transferred, assigned, or reassigned to a part-time position of not less than fifty percent (50%) of a normal schedule shall receive any County contribution toward health and welfare plans, as provided hereinafter, on a pro rata basis using the employee's regularly-assigned work hours as a percentage of a full-time schedule. Any employee who is working in a part-time position of not less than fifty percent (50%) prior to July 1, 1990, and who remains employed with no break in the part-time status shall continue to receive insurance benefits as though he/she were a full-time employee.

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 him or herself and his/her 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 him or herself and his/her 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 he or she has 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 he or she has 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 his/her 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 his/her 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, he/she 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 his or her 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 his/her 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, he/she 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 his/her determination is in the negative, he/she 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 his negative determination is reversed on appeal, he/she 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 his/her own motion, when he/she has 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 he/she 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 his/her 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.

NEVADA COUNTY, CALIFORNIA
Personnel Administrative Guidelines
P-1

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, 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 California Department of Fair Employment and Housing. 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, 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 he or she has 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, 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, he or she may, within fifteen (15) days of the incident, file a formal written complaint.

(2) Formal Complaint

The employee/applicant must, to the best of his or her 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, he or she 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 Department of Fair Employment and Housing (DFEH). 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.

NEVADA COUNTY, CALIFORNIA
Personnel Administrative Guidelines
P-2

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, 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:

Verbal: 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.

Physical: 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.

Visual or Written: 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.

Environmental: 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, 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 is 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 Department of Fair Employment and Housing 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 Department of Fair Employment and Housing (DFEH) and Equal Employment Opportunity Commission (EEOC) regarding alleged Policy violations. The Human Resources Director will make available upon request information from the DFEH 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 his/her 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 his/her 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 his/her 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 he or she has 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 DFEH 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.

NEVADA COUNTY, CALIFORNIA
Personnel Administrative Guidelines
P-3

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”** means a son or daughter, such as a biological, adopted, or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis, 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.

A child is “incapable of self-care” if he or she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living such as, caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, etc.

- 3) **“County”** means the County of Nevada.
- 4) **“Parent”** means the biological, adoptive, step or foster parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- 5) **“Spouse”** under the definition of FMLA means a husband or wife as defined or recognized under California State law for purposes of marriage. This includes same sex partners in marriage. Under CFRA regulation, registered domestic partners are also recognized as spouses.

- 6) **“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); 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. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law an employee disabled by pregnancy is entitled to pregnancy disability leave.)
 - 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 for treatment by a health care provider, which consists of visiting a health care provider at

least twice a year for the same condition, 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.

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, parent, spouse or registered domestic partner who has a serious health condition; or
- 4) Because of a serious health condition that makes the employee unable to perform the functions of his/her position.
- 5) For a variety of "qualifying exigencies" arising out of the fact that an employee's spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation.
- 6) To care for a spouse, son, daughter, 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.

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 him/herself 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 his/her 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 his/her 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 his/her 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 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 his or her 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 his/her 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 he or she 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 his/her 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 his/her readiness to return.

2) Employee’s Obligation To Periodically Report On His/Her 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 his/her 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.

L. REQUIRED FORMS

Employees must fill out or submit the following applicable forms in connections 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

Effective January 16, 2009, 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 his or her 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 his/her 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 or may not 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 his/her 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 his/her personnel file at a time when the employee is actually required to render services for the County. A former employee is entitled to inspect his or her 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 his/her designee.
- c. A current or former employee wishing to inspect his/her personnel file must submit a written request for an appointment with the Human Resources Director or his/her designee at least 24 hours in advance. The Human Resources Director or his/her 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 his/her file.
- d. In the event a current or former employee wishes to have another person/representative inspect his/her 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 his/her designee at least 24 hours in advance. The Human Resources Director or his/her 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 his/her 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 his/her 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 his/her personnel file has the right to request that the Human Resources Director or his/her 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 thirty (30) 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 or 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 about its employees 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.
- c. Medical Information. Medical information will be released only in accordance with 5(c), above.

NEVADA COUNTY, CALIFORNIA
Personnel Administrative Guidelines
P-5

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 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, 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 his or her 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 rule 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 promotion, transfer, or demotion of a regular employee.

NEVADA COUNTY, CALIFORNIA
Personnel Administrative Guidelines
P-6

SUBJECT: REASONABLE ACCOMODATIONS 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 his or her position (or position to which he/she 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 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 his or her 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 his/her right to obtain a second opinion at his/her expense and that he/she 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 his or her job when there is significant evidence that:

- (a) The employee's ability to perform one or more essential functions of his or her job has declined; or
- (b) Could cause a reasonable person to question whether an employee is still capable of performing one or more of his or her essential job duties, or is still capable of performing those duties in a manner that does not harm him or herself 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 his/her 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 him or herself 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 his or her 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 him or herself 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 his or her determination in writing. The Human Resources Director will use his or her 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.

Whenever circumstances trigger the need to conduct an interactive process meeting, the Human Resources Director or his or her designee will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee

and his or her 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 his or her 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 his or her current job, or for an applicant to obtain the position to which he/she 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.

NEVADA COUNTY, CALIFORNIA
Personnel Administrative Guidelines
P-7

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 County Executive Officer (CEO) or designee.
 - a) Retroactive CEO authorization for emergency out-of-state travel by county officers and regular employees, temporary employees, and volunteers is allowed, with written documentation of the need for the emergency travel.
 - b) Out-of-state travel by the CEO must be authorized by the Board Chairperson.

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 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 Work Place** - 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 s/he spends the largest portion of his/her regular County workday or working time or, in the case of field workers, the assigned location/headquarters to which s/he returns 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 work place reassignment unless the travel involves remaining away from an employee's primary work place 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 work place 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). 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 his or her 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.

NEVADA COUNTY, CALIFORNIA
Personnel Administrative Guidelines
P-8

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 his or her 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.

NEVADA COUNTY, CALIFORNIA
Personnel Administrative Guidelines

P-9

**SUBJECT: DRUG FREE WORKPLACE AND ALCOHOL AND CONTROLLED
SUBSTANCE TESTING POLICY**

A. 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.

Nevada County 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 safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (USDOT) 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.

B. 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 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 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 vehicle that requires a Commercial Driver's license 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.

C. **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 contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

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 purposed of Drug and Alcohol regulatory oversight, the DOT encompasses all DOT agencies, including, but not limited to: FAA, FRA, FMCSA, FTA, PHMSA, NHTSA, Office of the Secretary (OST), and any

designee of a DOT agency. For the purposes of testing under 49 CFR Part 40, the 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. Approved devices are listed on the ODAPC's website.

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 a specific gravity value lower than expected for human urine.

Negative Test Result: The verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. 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: marijuana, cocaine, amphetamines, phencyclidine (PCP) and opioids, including semi-synthetic opioids (i.e. hydrocodone, oxycodone, hydromorphone, oxymorphone), at levels above the minimum thresholds specified in 49 CFR Part 40, as amended and 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 or that require a CDL to operate. Include all ancillary vehicles used in support of the transit system.

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 the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse (ICRC) or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC)) 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;
- (3) Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations;
- (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;
- (7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures;

- (8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection 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 consumes alcohol within eight (8) hours following involvement in an accident without first having submitted to post-accident drug/alcohol tests.
- (15) Employee leaves the scene of an accident without a legitimate explanation prior to submission to drug/alcohol tests.
- (16) Employee provides false information in connection with a drug test.

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 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 above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

D. 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.

E. PROHIBITED SUBSTANCES

Prohibited substances addressed by this policy include the following:

Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988; all illegal drugs as defined by the California Health and Safety Code and all controlled substances taken without a prescription. This includes, but is not limited to: marijuana (cannabis),, amphetamines (including MDA as an initial test analyte), opioids (codeine, morphine, heroin, hydrocodone, hydromorphone, oxycodone and oxymorphone – common brand names for these semi-synthetic opioids include but may not be limited to: Oxycontin®, Percodan®, Percocet®, Vicodin®, Lortab®, Norco®, Dilaudid®, and Exalgo®), phencyclidine (PCP), and cocaine. Illegal use includes use of any illegal drug as defined by this policy, use of prescribed medication in excess of the prescribed dose or prescription drugs for which the employee does not have a legally obtained prescription. The prohibited substances identified in this policy apply to all Nevada County employees. For purposes of this policy, marijuana (cannabis) is considered an “illegal drug” as set forth under federal law.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all covered employees be tested for marijuana (cannabis), cocaine, amphetamines, opioids, and phencyclidine as described in Section H of this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty. Marijuana (cannabis) is considered an “illegal drug” under this provision.

Legal Drugs:

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 the employee's supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions. For non-safety sensitive employees, a written release from the employee's doctor indicating that the employee can perform his/her job may be required. Marijuana (cannabis) is not considered a "legal drug" under this provision.

The County of Nevada has the right to restrict an employee's work activities while an employee is using legal drugs. The County may also require an employee on prescribed medication to take a leave of absence while taking such medication. In any case, no employee may report to work if he/she is impaired by the use of the drugs to the point the impairment might endanger the employee's safety or the safety of anyone else, pose a risk of significant breach of security, or substantially interfere with the performance of assigned job duties or the efficient operations of the County.

Alcohol:

The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. A random or reasonable suspicion alcohol test may be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under Nevada County's authority, an alcohol test can be performed any time a covered employee is on duty. All other employees may be subject to reasonable suspicion testing, as provided by this Policy.

F. PROHIBITED CONDUCT

Consistent with the Drug-free Workplace Act, all Nevada County employees are prohibited from engaging in the unlawful manufacture, distribution, sale, dispensing, possession, or use of prohibited substances in the work place, anytime on duty, when subject to call-in, during rest or meal breaks, including Transit Department premises and transit vehicles, while representing the County after an assigned work shift or on any other County premises.

All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

Nevada County under its own authority also prohibits the consumption of alcohol 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.

Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If a

standby employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her standby responsibilities and may be subject to discipline.

The Transit Department as well as all other County departments shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol. Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater when the employee tests positive for alcohol consumption, regardless of when the alcohol was consumed.

No covered employee shall consume alcohol for eight (8) hours following involvement in an accident as defined by this policy or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

No covered employee shall consume alcohol within at least four (4) hours prior to the performance of safety-sensitive job functions.

When there is reasonable suspicion to believe an employee engaged in his or her duties is currently under the influence of alcohol or drugs he or she 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. Transit and DOT safety-sensitive employees who fail to pass a controlled substance or alcohol test shall be required to submit to an examination by a substance abuse professional (SAP) that may require the employee to undergo treatment as a prerequisite to return to duty. Transit and DOT safety-sensitive employees must submit to a return to duty controlled substance and/or alcohol test prior to returning to work and will be subject to unannounced follow-up testing for a period of time to be determined by the Substance Abuse Professional (SAP). A controlled substance or alcohol test is considered positive (failed) if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds as defined in this policy.

The decision to discipline or discharge will be carried out in conformance with Section 18 of the Personnel Code or applicable Memorandum of Understanding. The disciplinary aspect is intended to focus on employee commitment to a safe work environment and emphasizes the responsibility of employees for their own behavior. Should an employee self-identify his/her own substance abuse problem or agree to obtain treatment as a result of a positive drug/alcohol test, consideration may be given to postpone, reduce or cancel a pending disciplinary action.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the Nevada County management of any criminal drug statute conviction for a violation occurring in the workplace within five (5) days after such conviction. Each employee also has the obligation under Nevada County authority to report to his/her department, a conviction for a drug-related offense within thirty (30) calendar days of such conviction. Failure to report may constitute a cause for serious disciplinary action up to and including termination.

H. TESTING REQUIREMENTS

All employees shall be subject to testing for reasonable suspicion and following an accident as defined in this policy.

All Transit and DOT 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 Transit and DOT 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.

If the confirmatory test is positive, the employee must provide within 24 hours of request, a bona fide verification of a valid prescription by a physician for the drug identified in the drug screen. The prescription must be in the employee's name. If not, the employee will be subject to disciplinary action up to and including discharge.

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR part 40 as amended. All covered employees shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Sections K, L, M, and N of this policy, and if applicable, return to duty/follow-up testing.

A drug test can be performed any time a covered safety sensitive employee is on duty. A reasonable suspicion and random alcohol test can be performed just before, during or after the performance of a safety-sensitive job function.

All covered employees who have tested positive for drugs or alcohol will be tested 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) or who provides false information in connection with a test or who attempts to falsify test results through tampering, contamination, adulteration or substitution shall be removed from duty immediately and subject to disciplinary action.

As defined above, refusal to submit to a test can include an inability to provide a urine specimen or breath sample without a valid medical reason as well as a verbal declaration, obstructive behavior or physical absence after being given a rightful request to remain for testing, which results in the inability to conduct the test and obtain usable results.

All Transit and DOT safety sensitive employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment. Any covered employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of the above listed actions will be considered a test refusal and will result in the employee's removal from duty and subject to disciplinary action. Refer to Section C for behavior that constitutes a refusal to test.

I. DRUG TESTING PROCEDURES

When conducted or required, all controlled substance testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended for safety sensitive employees. Pre-employment specimens for non-safety sensitive positions will be collected as single specimens. Each specimen will be accompanied by a DOT or non-DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those split specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the HHS certified laboratory will be reported to a Medical Review Officer. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to Nevada County's Drug and Alcohol Program Manager (DAPM). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM and no further action will be taken.

If the test is invalid without a medical explanation, a retest will be conducted. For safety-sensitive employees, such retest will be conducted under direct observation.

Any covered employee who questions the results of a required drug test under paragraphs L through P of this policy may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice by the MRO of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. The employee is responsible for the cost of the split sample testing.

If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct Nevada County to retest the employee under direct observation.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary specimen is positive, the primary and the split will be retained for longer than one year for testing if so requested by the employee through the Medical Review Officer, or by the County, by the MRO, or by the relevant DOT agency.

Observed collections – Safety Sensitive Employees:

Consistent with 49 CFR Part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:

- a. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Nevada County that there was not an adequate medical explanation for the result; or
- b. The MRO reports to Nevada County that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed.
- c. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).

- d. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
- e. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen; or
- f. The temperature on the original specimen was out of range.
- g. All follow-up tests; or
- h. All return-to-duty tests

J. ALCOHOL TESTING PROCEDURES

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. A second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered 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 or for the duration of the work day 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, 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.

Nevada County affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor

inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign Step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

All applicants for covered FTA/DOT positions and County designated safety sensitive positions shall undergo urine drug testing and breath alcohol testing prior to performance of a safety-sensitive function for Nevada County. 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.

All offers of employment for specified positions shall be extended conditional upon the applicant passing a drug and alcohol test. An applicant shall not be placed into a FTA/DOT/County designated safety-sensitive position unless the applicant takes a drug test with verified negative results, and an alcohol test with a result of a concentration below 0.02.

A non-safety sensitive employee shall not be placed, transferred or promoted into a covered specified position until the employee takes a drug test with verified negative results and a test with a result of a concentration below 0.02.

If a specified applicant fails a pre-employment drug or alcohol test, the conditional offer of employment shall be rescinded. The applicant is then ineligible for employment for a period of one year. To reapply, the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

When an employee being placed, transferred, or promoted from a non-specified position to a specified 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.

If a pre-employment/pre-transfer test is canceled, Nevada County will require the applicant to take and pass another pre-employment drug/alcohol test.

In instances where a covered employee does not perform a safety-sensitive function for a period of 90 days or more regardless of reason, and during that period is not in the random testing pool, the employee will be required to take a drug and alcohol test under 49 CFR Part 655 and have negative test results prior to resuming the conduct of safety-sensitive job functions.

An applicant with a dilute negative test result will be required to retest.

Applicants for safety sensitive positions are required to report previous Transit and 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 Transit and DOT covered employer, the applicant must then provide Nevada County proof of having successfully completed a referral, evaluation and treatment plan as described in Section 655.62 of Subpart G.

L. REASONABLE SUSPICION TESTING

All Nevada County employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably conclude that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. Under Federal Regulations, applicable to FTA/DOT covered safety-sensitive employees, a reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under Nevada County's authority, a non-DOT reasonable suspicion alcohol test may be performed any time an employee is on duty.

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 of 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.

Nevada County 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 his or her shift and shall immediately be placed on administrative leave pending disciplinary action.

M. POST-ACCIDENT TESTING

Fatal Accidents

1. All FTA/DOT covered employees will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident.
2. All employees (all employees means 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.

Non-Fatal Accidents

1. FTA/DOT Covered employees will be required to undergo controlled substance and/or breath or saliva alcohol testing if they are involved in an accident while operating County vehicles or equipment if the accident results in injuries requiring transportation to a medical treatment facility; or where one or more vehicles incurs disabling damage that requires towing from the site; or if the employee receives a citation under state or local law for a moving traffic violation arising from the accident.
2. In addition, a post-accident test may be conducted for all employees if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident or unless alcohol and /or controlled substance/drug use by the operator can be eliminated as a contributing factor to the accident. If post-accident testing is performed, the Supervisor must document the reasons justifying the testing.

3. As soon as practicable following an accident, as defined in this policy, the supervisor investigating the accident will notify the employee operating the vehicle and all other employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.
4. The appropriate supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and within 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within eight (8) hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.
5. Any employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.
6. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
7. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an 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.
8. In the rare event that Nevada County is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Nevada County may use drug and alcohol post-accident test results administered by law enforcement officials in lieu of the FTA test. The law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with the law.
9. Any employee who, having first been requested to submit to such test, leaves the scene of such accident without appropriate authorization prior to submission to controlled substance and alcohol testing will be considered to have refused the test and subject to disciplinary action.

N. RANDOM TESTING (Transit and DOT Specified Safety Sensitive Employees Only)

1. Pursuant to 49 CFR, Part 655.45 and Part 40, employees working in the Transit and DOT safety-sensitive positions as defined in this Policy shall be subject to randomly selected, unannounced testing. The random selection shall be conducted by a scientifically valid method.
2. The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal

regulations for those Transit and DOT safety-sensitive employees subject to random testing by Federal Regulations. Each Transit and DOT safety-sensitive employee shall have an equal chance of being tested each time selections are made. Transit and DOT safety-sensitive employees shall be tested either just before, while performing, or just after performing a safety-sensitive duty or function. The current random testing rate for drugs/alcohol established by FTA equals twenty-five percent (25%) shall be randomly tested for controlled substances and ten percent (10%) shall be randomly tested for alcohol abuse or misuse in a twelve-month period. Effective January 1, 2019 the testing established by FTA changes to fifty percent (50%) shall be randomly tested for controlled substances and ten percent (10%) shall be randomly tested for alcohol abuse or misuse in a twelve-month period.

3. The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
4. Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
5. Covered Transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety sensitive employees that are included solely under Nevada County's authority.
6. Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can be performed just before, during, or just after the performance of a safety sensitive duty. However, under Nevada County's authority, a random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
7. Upon notification of their random selection, employees are required to proceed immediately to the collection site.

O. RETURN-TO-DUTY TESTING

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test, a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual which the employee shall comply with at his or her own cost, and on his or her own time. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement

and is known to be drug and alcohol-free and there are no undue concerns for public safety.

P. FOLLOW-UP TESTING

Covered employees will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty after a positive drug/alcohol test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing. The costs for follow-up testing shall be the responsibility of the employee.

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 will be conducted under company authority and will be performed using non-DOT testing forms.

Q. RESULT OF DRUG/ALCOHOL TEST

1. Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her position, informed of educational and rehabilitation programs available and referred to a Substance Abuse Professional (SAP) for assessment and will be subject to discipline. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the County. Non-safety sensitive employees may also be removed from duty as a result of a positive drug/alcohol test, or refusal to test, and may be subject to the same return to duty procedures as covered employees.
2. A drug test with the result of negative dilute shall be retested. Should the second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
3. Refusal to submit to a drug/alcohol test (as defined above) shall be considered a positive test result and a direct act of insubordination and shall result in proposed termination and a referral to SAP. A test refusal includes the following circumstances:
 - (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
 - (7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
 - (8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
 - (9) If the MRO reports that there is verified adulterated or substituted test result
 - (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 you adulterated or substituted the specimen.
4. The Employee shall be notified of proposed disciplinary action pursuant to the applicable section of the Personnel Code or respective Memorandum of Understanding.

5. 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 him/her to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.

R. 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.

S. PROPER APPLICATION OF THE POLICY

Nevada County 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.

T. 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 referrals and 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 preceding. The information will only be released with binding stipulation from the decision maker will make it available only to parties in the preceding. 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.

U. SYSTEM CONTACTS

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the individual(s) listed below. A current list of individuals assigned to these areas and his/her respective telephone numbers can be obtained through the Human Resources Department or via the County “Infonet” site.

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

Safety Sensitive Classifications

Transit safety-sensitive duties include, but are not limited to, any of the duties performed by incumbents of the following classifications:

- * Supervising Bus Driver
- * Bus Driver
- * Bus Driver Trainee
- * Equipment Mechanic I/II
- * Fleet Services Manager
- * Heavy Equipment Mechanic I/II
- * Senior Heavy Equipment Mechanic
- * Supervising Mechanic
- * Transit System Supervisor
- * Transit Services Manager

County and/or DOT specified safety sensitive duties include, but are not limited to, any of the duties performed by incumbents of the following classifications:

- * Agricultural Biologist I/II/III
- * Road Supervisor
- * Road Services Manager
- * Road Maintenance Worker I/II/III
- * Supervising Road Maintenance Worker
- * Traffic Sign Technician
- * Senior Traffic Sign Technician
- * Wastewater Service Worker I/II
- * Senior Wastewater Service Worker
- * Wastewater Collections Supervisor

Classifications considered safety sensitive by the County of Nevada that are working with at-risk children/adults include (not subject to random testing):

- * Correctional Officer I/II
- * Correctional Lieutenant
- * Correctional Sergeant
- * Deputy Sheriff I/II/Trainee
- * Sheriff's Dispatcher I/II/Senior
- * Sheriff's Lieutenant
- * Sheriff's Sergeant
- * Sheriff's Captain
- * District Attorney Investigator

- * Chief District Attorney Investigator
- * Social Workers I/II/III/IV
- * Social Worker Supervisor I/II
- * Social Services Aide
- * Behavioral Health Worker I/II/III
- * Project Coordinator
- * Behavioral Health Therapist I/II/Licensed
- * Behavioral Health Nurse I/II
- * Behavioral Health Clinic Supervisor
- * Behavioral Health Medical Director
- * Public Health Nurse I/II/Senior
- * Registered Nurse I/II
- * Program Managers in Children and Adult Services
- * Deputy Probation Officers I/II/III/Supervisor
- * Group Supervisor I/II/Senior
- * Welfare Fraud Investigator I/II
- * Cook
- * Supervising Cook

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 his or her personal safety or the safety of his or her 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 his/her 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 his or her 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 his or her 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.

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 ten 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 10 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 10 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 10 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 10-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.

H. CONTACT INFORMATION

Any questions regarding interpretation of this policy should be directed to:

Nevada County Human Resources
human.resources@co.nevada.ca.us
Phone: 530-265-7010
Fax: 530-265-9841
950 Maidu Avenue
Suite 260
Nevada City, CA 95959

I. EFFECTIVE DATE

This policy is effective December 11, 2018.

NEVADA COUNTY, CALIFORNIA
Personnel Administrative Guidelines

P-12

**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 records 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 records 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.

F. CONTACT INFORMATION

Any questions regarding interpretation of this policy should be directed to:

Nevada County Human Resources
human.resources@co.nevada.ca.us
Phone: 530-265-7010
Fax: 530-265-9841
950 Maidu Avenue
Suite 260

G. EFFECTIVE DATE

This policy commences December 11, 2018 and is to remain in effect until rescinded by the Director of Human Resources, Nevada County, CA.

1.9.2 Background and Fingerprint-Based Criminal Offender Record Information Search

- A. All persons, including non-criminal justice, volunteer personnel and private vendor technical or maintenance personnel with physical access to the CLETS equipment, information from the CLETS or to criminal offender record information, are required to undergo a background and fingerprint-based criminal offender record information search pursuant to the California Code of Regulations, Title 11, Division 1, Chapter 7, Article 1, subsections 703(d) and 707(b).
1. Where CLETS access is available without criminal offender record information, all persons, including non-criminal justice and private vendor technical or maintenance personnel, accessing areas where the CLETS equipment or information from the CLETS is located are required to undergo a background and fingerprint-based criminal offender record information search.
 2. Pursuant to the FBI CSP section 5.12, if the fingerprint-based criminal offender record information search reveals a felony conviction of any kind, CLETS/NCIC access shall not be granted.

If it is revealed that the person appears to be a fugitive or has an arrest history without conviction for a felony, the agency head or his/her designee will review the matter and decide if CLETS access is appropriate.

Excerpt from CLETS Policies, Practices, and Procedures manual, pgs. 36 and 37.