

# CONTRA COSTA COUNTY

## *Personnel Management Regulations*



**Effective January 1, 1982**

**Human Resources Department**

# PERSONNEL MANAGEMENT REGULATIONS

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## **PART 1**

### **DEFINITION OF TERMS**

These terms used in these regulations shall have the meaning indicated below unless the context indicates otherwise.

101. "APPOINTING AUTHORITY" means the Department Head unless otherwise provided by statute or ordinance.

102. "CLASS" means a position or a group of positions sufficiently similar with respect to the duties and responsibilities, that similar selection procedures and qualifications may apply and that the same descriptive title may be used to designate each position allocated to the group.

103. "CLASS TITLE" means the designation given to a class, to each position allocated to the class, and to the employee allocated to the class.

104. "COUNTY" means the County of Contra Costa.

105. "DIRECTOR OF HUMAN RESOURCES" means the person designated by the County Administrator to serve as the Assistant County Administrator-Director of Human Resources.

106. "ELIGIBLE" means any person whose name is on an employment, reemployment, or layoff list for a given class.

107. "EMPLOYEE" means a person who is an incumbent of a position or who is on leave of absence according to these rules and whose position is held pending return.

108. "EMPLOYMENT LIST" means a list of names of persons who have been found qualified for employment in a specific class.

109. "LAYOFF LIST" means a list of persons who have occupied positions allocated to a class in the merit system, and who have been involuntarily separated by layoff, displacement, or demoted by displacement, or have voluntarily demoted in lieu of layoff or displacement, or have voluntarily transferred in lieu of layoff or displacement.  
(Amended 12/02/97, Res. No. 97/651)

110. "MERIT BOARD" means the Merit Board of Contra Costa County.

111. "PERMANENT-INTERMITTENT POSITION" means any position which requires the services of an employee for irregular periods of time, as needed, paid on an hourly basis.
112. "PERMANENT PART-TIME POSITION" means any position which requires the services of an employee on a regularly scheduled basis less than full time.
113. "PERMANENT FULL-TIME POSITION" means any position which requires the full-time services of an employee.
114. "PERMANENT STATUS" means appointment to a position which must be confirmed by successful completion of the probationary period specified for the class.
115. "POSITION" means the duties and responsibilities calling for the regular full-time, part-time or intermittent employment of a person.
116. "PROMOTION" means the change of a permanent employee to another position in a class allocated to a salary range for which the top step is higher than the top step of the class which the employee formerly occupied except as otherwise provided for in these rules or in ordinances or resolutions governing deep classifications.
117. "REALLOCATION" means the act of reassigning an individual position from one class to another class at the same range of the salary schedule, or to a class which is allocated to another range that is within five (5) percent of the top step except as otherwise provided for in these rules or in ordinances.
118. "RECLASSIFICATION" means the act of reassignment or change in allocation of a position by raising it to a higher class or reducing it to a lower class on the basis of significant changes in the nature, difficulty, or responsibility of duties performed in the position.
119. "REDUCTION" is the demotion of an employee to another position in a class having a lower salary allocation at the top step than the class previously occupied by the employee or to a lower compensation level within the employee's salary range.
120. "REEMPLOYMENT LIST" means a list of persons who have occupied positions allocated to a class who have voluntarily separated and are qualified for consideration for reappointment under these rules.
121. "RESIGNATION" means the voluntary termination of permanent employment with the County.

122. "TEMPORARY EMPLOYMENT" means any employment which will require the services of a person for a limited period of time paid on an hourly basis.

123. "TRANSFER" means the change of an employee to another position in the same class in a different department, or to another position in a class which is allocated to a salary schedule the top step of which is within five (5) percent of the top step of the class previously occupied in the same or different department or as otherwise defined in deep class ordinances or resolutions.

## PART 2

### MERIT BOARD ORGANIZATION

201. APPOINTMENT. The Merit Board shall consist of five (5) (or seven [7] if authorized by legislation) qualified electors of the County of Contra Costa who are neither County or District employees nor employees of any organization representing County or District employees. Merit Board members shall be appointed by the Board of Supervisors.

202. TERM OF APPOINTMENT. The term of Merit Board members shall be four (4) years except for the initial appointments.

203. INITIAL MERIT BOARD TERMS. The terms of office of two (2) members of the first Merit Board shall be one (1) year. The terms of office of the other members of the first Merit Board shall be two (2), three (3), and four (4) years, respectively. The members shall determine by lot the relative order of the expiration of their terms.

204. CHAIR. Each calendar year the Merit Board shall select a chairperson from its members to serve a one (1) year term.

205. STAFF. The Merit Board shall appoint an Executive Secretary who shall serve at the pleasure of the Board and shall be an exempt County employee. The Board of Supervisors shall set the salary and benefits of the Executive Secretary and any other authorized Merit Board employees.

206. COUNSEL. The County Counsel shall act as legal advisor to the Merit Board.

207. COMPENSATION OF BOARD MEMBERS. Each Merit Board member shall receive compensation for each meeting attended, as established by the Board of Supervisors, not to exceed 24 meetings per calendar year.

208. MEETINGS. The Board shall hold not more than two (2) regular meetings a month at a County building in Martinez, California. Regular meetings for the first three (3) months of operation of the Merit Board shall be held on the second and fourth Tuesdays of the month at 7:30 p.m.; thereafter, regular meetings shall be held at a date and time established by the Merit Board.

209. HEARING OFFICER. A hearing officer shall hear all Merit Board appeals from orders of dismissal, suspension or reduction in rank or compensation except appeals from suspensions of ten (10) days (seventy-two [72] hours for twenty-four [24] hour shift employees) or less which may be heard by the Merit Board; and except if the appellant and



the appointing authority agree, the appeal may be heard by the Merit Board. The hearing officer may also hear such other matters as may be referred for hearing before the Merit Board. The cost of the hearing officer shall be borne by the County.

(Amended 04/21/82; Amended 12/02/97, Res. No. 97/651)

210. MERIT BOARD POWERS AND DUTIES. The Merit Board shall make final determinations on appeals from: orders and actions of dismissal, suspension, demotion or reduction of compensation; application of the layoff regulations; coerced resignation and constructive resignation; unless in the alternative, the employee elects in writing, to waive the employees' right to a hearing and decision by the Merit Board in favor of appeal rights under a specific grievance procedure. The jurisdiction of the Merit Board otherwise shall be to oversee the merit system and to hear and decide the following matters:

- (a) unlawful discrimination appeals or complaints,
- (b) appeals from denial of flexibly staffed promotions.

211. DIRECTOR OF HUMAN RESOURCES POWERS AND DUTIES. Except to the extent that the power to make a decision is expressly conferred upon the Merit Board, the appointing authority, or an employee, and subject to the provisions of Section 211.1, the Director of Human Resources, or the Director's designee, shall make determinations with respect to all matters expressed in these regulations.

211.1 Appeals from Decisions of the Director of Human Resources. Employees may appeal to the Appeals Officer from decisions of the Director of Human Resources in promotional examinations under the following regulations:

- Section 404. Disqualification of Applicants
- Section 513. Review, Audit, Protest and Appeals Procedures
- Section 514. Review of Written Test Key
- Section 515. Review of Written Test Paper
- Section 516. Appeals from other Selection Procedures except ratings received from promotional Qualifications Appraisal Boards which may be appealed to an Examination Appeal Committee as provided for in Regulation 517
- Section 610. Removal of Names from Lists

Appeals are limited to the grounds provided for in the above regulations. Appeals must be in writing, and filed by appellant with the Director of Human Resources within five (5) business days of the mailing of the Director's decision. No such appeal will be considered unless it contains specific allegations of fact citing the exact cause and the relief requested. Decisions of the Appeals Officer as to examinations are limited to adjustments of any test item or portion of the test which do not have the effect of setting aside the test as a whole; awarding a passing score; or permitting the appellant to retake the test. The Appeals Officer must consider the fairness of possible relief to all the other competitors in the examination. The decision of the Appeals Officer shall be final, and shall be transmitted by written report

to the Director of Human Resources. The Appeals Officer shall be appointed by the Board of Supervisors.

(Amended 02/15/83; Amended 08/22/84)

212. MEETINGS OPEN TO PUBLIC. All meetings and hearings shall be open to the public, provided that the Merit Board may adjourn to executive session when permitted by law.

213. RULES. The Merit Board may adopt such rules and procedures as may be necessary to conduct its business.

214. MERIT BOARD SUBPOENAS.

214.1 Subpoena Power and Policy.

(a) Pursuant and subject to Government Code Section 31110.2 and Section 10 of County Ordinance 80-47, the Merit Board subpoena power shall be exercised as set forth here.

(b) As used herein, unless the context otherwise requires, "subpoena" includes "subpoena duces tecum". Where no contrary provision is made here, the general practices of the courts concerning subpoenas shall be a guide for the form and issuance of subpoenas.

(c) It is the Merit Board's policy in exercising its subpoena powers to afford a method of compelling attendance of material witnesses for any party to a proceeding requesting issuance of subpoenas in good faith.

(d) Subpoenas shall include the name of the appellant or proceeding and shall specify the name of the witness and the time and place of hearing.

214.2 Issuance and Signature.

(a) At the request of the Merit Board, or any party to a proceeding before the Merit Board, subpoenas shall be issued and signed by,

(1) The Executive Secretary of the Merit Board, or in his/her absence his/her chief subordinate as Acting Secretary,

(2) The Chairman of the Merit Board, or in his/her absence, the Vice-Chairman, or

(3) The Hearing Officer.

(b) A subpoena duces tecum shall not be issued unless it is accompanied by an affidavit or declaration conforming to Code of Civil Procedure Section 1985.

(c) A subpoena is effective for fifteen (15) days after issuance, unless extended by the Executive Secretary, Merit Board or Hearing Officer.

(d) The party to whom the subpoenas are issued or his/her attorney shall, not later than the second last day before the date of the hearing, furnish the opposing party or his/her attorney the names, addresses and occupations of the persons personally served, otherwise the opposing party may have a reasonable continuance of the hearing.

214.3 Motion to Quash.

(a) A written motion to quash all or part of a subpoena may be made to the Merit Board or Hearing Officer on one or more of the following grounds, which shall be clearly and fully stated in the motion:

- (1) Compliance will be unduly burdensome.
- (2) The testimony or things subpoenaed, or any part of them, are privileged by law.
- (3) The testimony or things subpoenaed, or any part of them, are irrelevant, cumulative or unnecessary to the proceeding.
- (4) The things subpoenaed, or any part of them, have not been specified and described with sufficient clarity to enable the witness to comply.
- (5) Compliance would be against public policy.

(b) Before commencing or continuing with the proceeding, the Hearing Officer or the Merit Board shall wholly or partly quash, grant or deny the motion to quash.  
(Amended 02/10/82)

## 215. WITNESS FEES AND EXPENSES.

215.1 Fees and Expenses, Merit System Witnesses. Where the witness is a person whose position is subject to the jurisdiction of the Merit Board, there shall be no allowance for witness fees or any mileage or expenses in connection with the attendance of the witness before the Merit Board or Hearing Officer, except that, if the Merit Board determines there was undue hardship to the witness, it may allow fees and/or mileage and/or expenses as in the case of other witnesses.

### 215.2 Fees and Expenses, Other Witnesses.

(a) Where a witness is not a person whose position is subject to the Board of Supervisors, witness fees shall be at the rate of \$35.00 per diem, plus mileage at the rate of \$.20 per mile, for mileage actually traveled, both ways.

(b) In addition, the Merit Board may allow actual and necessary expenses of an extraordinary nature, or expert witness fees, if the Merit Board determines that such expert testimony may be of significant value to the Merit Board in reaching its decision, provided that the Merit Board has authorized such expenses or expert witness fees before they are incurred.

(c) Expert witness fees and expenses of an extraordinary nature that have not been authorized may be requested after completion of the proceeding before the Merit Board, but the Merit Board shall not allow expenses or fees after the completion of the hearing unless the Merit Board finds that there was good cause for failure to obtain prior approval and the testimony was of significant value to the Merit Board in reaching its decision or the expenses were of an extraordinary nature and necessary.  
(Amended 08/07/85)

215.3 Payment. The above payments shall be made after forms for "witness demand" or "County claim" have been approved by the Merit Board and forwarded to the County Auditor. (Amended 02/10/82)

216. DISMISSAL.

(a) No appeal or complaint to the Merit Board may be withdrawn, waived, or dismissed by the appealing or complaining person(s) without the written consent of the respondent Department or person(s), after any hearing has commenced.

(b) Subject to part (a), and pursuant to such rules as it may adopt, the Merit Board may dismiss any appeal or complaint which has been withdrawn, settled, or otherwise resolved by the parties.

(c) Pursuant to such rules as it may adopt, the Merit Board may dismiss after notice and hearing, and appeal or complaint for non-prosecution, and such dismissal shall be effective as a Merit Board ruling on the merits against such appeal or complaint.

(Added 12/01/98, Res. No. 98/593)

## **PART 3**

### **POSITION CLASSIFICATION**

301. **CLASSIFICATION PLAN.** The Director of Human Resources shall prepare and maintain a classification plan based on the needs of county service. The plan will provide for the allocation, reallocation, or reclassification of all positions.

Specifications for each class of positions shall include:

- (a) The class title.
- (b) A definition of the class, indicating in terms of duties and responsibilities, the kinds of positions to be included in the class.
- (c) A statement of the distinguishing characteristics of the class.
- (d) A statement of the tasks typically performed in positions allocated to the class.
- (e) A statement of minimum and any additional desirable qualifications required of applicants for examination in the class, which minimum qualifications may specify education, experience, knowledge, skills, abilities, personal traits and physical characteristics.

302. **AMENDMENT OF CLASSIFICATION PLAN.** Existing classes of positions may be abolished or changed and new classes may be added to the classification plan by the Director of Human Resources subject to approval by the Board of Supervisors.

303. **ALLOCATION OF POSITIONS.** Each position shall be allocated to the class into which the duties and responsibilities of the position most nearly fit as determined by the Director of Human Resources.

304. **REALLOCATION AND RECLASSIFICATION OF POSITIONS.** In the event that the duties and responsibilities of a position become so altered that the position does not fit into the classification to which it was originally allocated, the Director of Human Resources may reallocate or reclassify the position to an appropriate classification.

305. **STATUS OF EMPLOYEES IN REALLOCATED AND RECLASSIFIED POSITIONS.** When a position is reallocated or reclassified by the Director of Human Resources to a different class, the status of the employee in such position shall be changed in accordance with the reallocation or reclassification as follows:

305.1 **Reallocation or Reclassification to Class having a Higher Salary.** An employee, who occupies a position which is reallocated or reclassified by the Director of Human Resources from one class to another class having a higher salary than the class to which the position was previously allocated shall have status in the class to which reallocated or reclassified as determined in accordance with these regulations.

305.2 Reallocation to Class having a Salary within Five (5) Percent of the Former Class. An employee, who occupies a position which is reallocated by the Director of Human Resources from one class to another class having a salary within five (5) percent of the former class, shall have status in the class to which the position has been reallocated.

305.3 Reclassification to Class having a Lower Salary. An employee, who occupies a position which is reclassified by the Director of Human Resources from one class to another class having a lower salary, shall have status in the class to which the position has been reclassified, and the employee's name shall be placed on a layoff list for the class from which reclassified.

306. INTERPRETATION OF CLASS SPECIFICATIONS. The following principles shall be applied in interpreting specifications for the various classes of positions:

(a) The specifications are descriptive only and are not restrictive. They are intended to indicate the kinds of positions that should be allocated to the respective classes as determined by their duties, responsibilities and qualification requirements. Use of a particular expression or illustration shall not be held to exclude others not mentioned, if such others are similar in kind or quality.

(b) In determining the class to which any position should be allocated, the specification for each class shall be considered as a whole. Consideration is to be given to the general duties, the specific tasks, the responsibilities, the minimum qualifications and the relationships to other classes as affording together a picture of the kinds of positions that the class is intended to include.

(c) The duties statement shall be construed as a general description of a kind of work usually performed by the incumbent of a position that is properly allocated to the class, and not as prescribing what the duties of any position shall be, nor as limiting the expressed or implied power of the authority now or hereafter vested with the right to prescribe or alter the duties of any position.

(d) The typical tasks shall be construed as examples only, illustrative of the duties as outlined by the general statement. These examples are not intended to be complete or exclusive and the fact that the actual task performed by the incumbent of a position does not appear therein shall not be taken to mean that the position is necessarily excluded from the class, provided that the tasks constituting the main work or employment are duly covered by the general statement of duties. On the other hand, any one example of a typical task without relations to the general statement of duties and all other parts of the specifications shall not be construed as determining whether a position should be allocated to the class.

(e) The statement of minimum qualifications constitutes a part of the description of the kind of employment included within the class, and expresses the minimum and any additional desirable qualifications expected of an appointee.

## PART 4

### EXAMINATION ANNOUNCEMENTS AND APPLICATIONS

401. ANNOUNCEMENT OF EXAMINATIONS. The Director of Human Resources shall make public announcements of all examinations and will determine the extent to which the examination will be publicized, commensurate with factors such as the availability of qualified candidates, number of projected positions to be filled, examination considerations and the County Equal Employment Opportunity Policy. All examination announcements shall be posted for a minimum of five (5) working days in appropriate County work locations. Examination announcements shall include:

- (a) information concerning the time for filing applications;
  - (b) a description of the duties and responsibilities of the class;
  - (c) minimum, and any additional desirable qualifications;
  - (d) compensation;
  - (e) a general description of the conditions of competition including the method of examination, and the relative weights assigned to the steps of the examination.
- (Amended 5/18/2010, Res. No. 2010/284)

402. APPLICATIONS. No person shall be admitted to any examination except upon application for such examination submitted as follows:

402.1 Filing Applications. All applications shall be made upon forms furnished by the Human Resources Department, filled out as therein directed and filed or postmarked on or before the closing date as specified in the examination announcement. In continuous examinations, other application filing conditions may be specified. All applications shall be signed and the truth of all statements contained therein certified by such signature.

402.2 General Qualifications. Applicants must:

- (a) be either United States Citizens if required by state or federal law, immigrants admitted for permanent residence, or other aliens who are permitted to work as determined by the United States Department of Justice, Immigration and Naturalization Service;
- (b) possess all the minimum qualifications established for the class;
- (c) be mentally, physically, and personally fit to perform the duties and responsibilities of the position.

402.3 Applications Not to be Returned. All applications are confidential records of the County and will not be returned to the applicant.

403. QUALIFICATIONS FOR VETERANS' PREFERENCE CREDIT. In order to qualify for Veterans' Preference Credit, a person shall:

- (a) have (1) served in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard in time of war, in any expedition of the Armed Forces of the United States, or continuously on active duty for more than 180 days, and (2) received an honorable discharge or certificate of honorable act of service;
- (b) or be a disabled Veteran;
- (c) and present to the Director of Human Resources not later than the closing date specified in the examination announcement, acceptable evidence of the required military service.

(Amended 11/07/95, Res. No. 95/545)

404. DISQUALIFICATION OF APPLICANTS. The Director of Human Resources may refuse to examine an applicant, or after examination may disqualify an applicant, or remove an applicant's name from an eligible list, or refuse to certify an eligible for failure to meet the conditions set forth in these rules.

404.1 Causes for Disqualification. An applicant or eligible may be disqualified for any reason expressed in Section 1104 or if the person:

- (a) is lacking the requirements established for the class;
- (b) is mentally, physically or personally unfit to perform the duties and responsibilities of the class or position;
- (c) habitually uses intoxicating liquors or controlled substances;
- (d) has been convicted of any felony or any crimes involving moral turpitude; has been convicted of offenses which indicate unfitness for performing the duties and responsibilities of the class or position;
- (e) has made a false statement of material fact(s) in the application;
- (f) has been discharged from any employment for reasons which indicate unfitness for performing the duties and responsibilities of the class or position;
- (g) has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment;
- (h) has directly or indirectly obtained information regarding examinations to which the applicant was not entitled, or has otherwise defrauded the examination process;
- (i) failed to submit an application correctly or within the prescribed time limits;
- (j) has taken part in the compilation, administration or correction of the examination;
- (k) has taken a test which is being held on a continuous basis within 30 days immediately prior to the giving of the test for which applied or has taken the particular form of the test within the six (6) months immediately preceding the giving of the test for which applied;
- (l) has permanent status in the class for which making application to be examined;
- (m) has otherwise violated provisions of these rules.

404.2 Background Investigation. The Director of Human Resources may conduct such investigation of the applicant's training and experience and mental, physical and personal fitness as may be necessary to verify and clarify statements contained in the application.

404.3 Notification of Disqualified Applicant. A disqualified applicant shall be notified of the cause of disqualification. In the case of disqualification because of failure to meet the requirements, the applicant shall be notified by mail to the last known address sufficiently in advance of the examination to allow for submission of additional evidence to the Director of Human Resources. An applicant who has been disqualified may appeal the decision within five (5) business days of the mailing of the notice. The appeal must be submitted to the Director of Human Resources in writing and must include additional evidence in support of the request. The Director of Human Resources shall not in any event waive the minimum qualifications for entrance to examination for, or appointment to, a position in a merit system classification. The decision of the Director of Human Resources shall be final.

(Amended 06/30/82, Res. No. 82/752)



## PART 5

### SELECTION PROCEDURES

501. TYPES OF SELECTION PROCEDURES. Appointment to positions shall be by competitive examination except as otherwise provided for in these regulations.

502. SUSPENSION OF COMPETITION. The Director of Human Resources may determine that the use of competitive examination procedures to fill one or more vacancies is impractical and may suspend competition and authorize direct appointment. A report of these suspensions of competition giving the reasons shall be reported to the Board of Supervisors on a monthly basis.

503. PROMOTION BY RECLASSIFICATION WITHOUT EXAMINATION. An employee may be promoted from one classification to a higher classification without examination and the employee's position reclassified under the following conditions:

(a) An evaluation of the position must show that the duties and responsibilities have significantly increased and constitute a higher level of work.

(b) The employee in the position must have performed at the higher level for at least six (6) months. This regulation also may be applied to an employee in a flexibly staffed occupational series, if the employee has occupied the position in the lower class, or has performed the work of the lower class for at least six (6) months; or under circumstances deemed appropriate by the Director of Human Resources, the six (6) month's requirement may be waived upon the request of the appointing authority.

(c) The employee must meet the minimum qualifications for the higher classification.

(d) The action must have the recommendation of the appointing authority and the approval of the Director of Human Resources. The appropriate rules regarding probationary status and salary on promotion are applicable.

(e) A record of such certifications will be maintained by the Human Resources Department.

(Amended 09/22/82)

504. COMPETITIVE SELECTION PROCEDURES. The Director of Human Resources shall designate selection procedures which may be written tests, oral tests, performance tests, physical agility tests, assessment centers, training and experience evaluations or other selection procedures, or any combination of these. Selection procedures shall be practical and job related, constructed to sample the knowledge, skills, abilities and/or personal attributes required for successful job performance.

505. ASSIGNMENT OF WEIGHTS. The Director of Human Resources shall assign weights to each part of the examination which shall be included in the examination announcement.

506. PROHIBITED QUESTIONS. There shall be no questions of any applicant during the testing procedures as to political views, religious beliefs, labor affiliations, race or other questions which are unlawfully discriminatory.

507. RANDOM SELECTION. When the number of applicants for an open examination so far exceeds the number of expected positions to be filled that reduction of the number of persons to be tested is necessary in the best interest of the merit system, random selection of a reasonable number may be authorized by the Director of Human Resources. When imbalance has been determined to exist under the County's Affirmative Action Policy, a stratified random selection may be used in order to insure equal representation among the final competitors. The Director of Human Resources shall determine when random selection is appropriate and its possible use will be published in examination announcements. Random selection will be accomplished automatically using a computer system or manually using a statistical table of random numbers. Random selection may be utilized in the selection process after final filing of application is closed, but must occur before candidates are subject to any weighted ranking.

When random selection is utilized for the entry level classification of Firefighter, an initial random selection may be utilized to create an applicant pool from which multiple eligible lists are created.

(Amended 04/02/91)

508. WAIVER OF EXAMINATION. When, after public announcement, the number of accepted candidates is equal to or less than the number necessary for a full certification, after consultation with the appointing authority, the Director of Human Resources may waive competitive testing and certify the applicants without score or rank. The certification shall indicate that the candidates are not in rank order. The Director of Human Resources may follow the same procedure for waiver of examination under these conditions at any step in the examination process. Competitive testing will not be waived when the appointing authority requests the entire employment list be certified for a management classification (Section 711) when the number of names on the list would exceed the number that would be provided under the alternate certification process for management classes (Section 706 and 711.2).

509. CONDUCT OF EXAMINATIONS. The Director of Human Resources shall designate the places where, and the conditions under which examinations are to be conducted.

510. IDENTIFICATION OF EXAMINEES. All methods and procedures for administering examinations shall comply with reasonable standards of fairness, confidentiality, standardization and reliability. Scoring procedures shall be developed prior to the examination, and when practical, candidates' names shall not appear on any test papers before they are scored.

511. RECORDING INTERVIEWS. Interviews of examinees by qualifications appraisal boards shall be recorded by means of electronic recording equipment.

512. SCORING OF EXAMINATIONS. Examinations shall be scored and final grades determined as follows:

512.1 Test Scores. A passing score shall be determined by the Director of Human Resources giving consideration to test difficulty, quality of competition, needs of the service, identification of a score predictive of minimum acceptable job performance, and other relevant factors. The passing score may be assigned an adjusted rating of 70 on a 100 point rating scale and all other scores assigned a proportional rating. The rating of 70 referred to above may be the same, below or above, an arithmetic 70 percent of the total possible score.

512.2 Application Evaluation Boards. In examinations where it is anticipated that large numbers of applications will be received from qualified applicants, the Director of Human Resources may appoint one (1) or more application evaluation boards to select the best qualified applicants to be invited to participate in the next phase of the examination. At least one member of each such board shall be technically familiar with the character of the work in the position for which applicants are being examined. The board will review the applications, resumes, special questionnaires and other information submitted by each qualified applicant. It will evaluate the qualifications of the applicants as they relate to the duties, responsibilities and requirements of the class under examination. Applicants shall be evaluated in accordance with procedures and criteria established by the Director of Human Resources. The best qualified applicants in a number specified by the Director of Human Resources shall be invited to participate in the next phase of the examination. Whenever practical, applicants competing for the same class shall be rated by the same evaluation board.

512.3 Qualifications Appraisal Boards. In examinations where an oral interview is to be included as part of the total examination, the Director of Human Resources shall appoint one or more qualifications appraisal boards as needed. At least one member of each such board shall be technically familiar with the character of the work in the position for which applicants are being examined. The rating of an examinee in the qualifications appraisal procedure shall be the average of the ratings assigned by each individual rater. If the examinee receives a majority of passing ratings, the examinee will be considered to have passed in this part of the examination. If an examinee receives a majority of failing ratings, the examinee shall be considered failing in this part of the examination. If practical, all applicants competing for the same class shall be rated by the Qualifications Appraisal Board.

512.4 Minimum Passing Ratings. The Director of Human Resources may establish for each total examination, and for any portion thereof, a minimum passing rating. The method of examination shall be set forth in the announcement. Failure by an examinee to attain a passing rating or to be selected in any portion of an examination shall eliminate such examinee from further competition and the examinee shall be immediately notified in writing.

513. REVIEW, AUDIT, PROTEST AND APPEALS PROCEDURES. Persons competing in examinations may appeal from the ratings received from selection procedures as provided in these regulations. Where written tests are provided by an outside consultant, keyed copies of the examination will be provided for inspection by competitors only upon the consent of the consultant. In such cases, review of the test papers as provided for under Section 515 may be made with a scoring key only. Where keyed copies of the examination are available for inspection, competitors may appeal from the inclusion of any item or portion of a written test or from the answer indicated as correct for any item as prescribed herein.

514. REVIEW OF WRITTEN TEST KEY. A copy of the written test given in connection with any non-continuous examination showing the answer indicated as correct for each item shall be made available for inspection to persons competing in the test for five (5) business days beginning the first business day that the test key is available for inspection following the written test; for continuous examinations, the key inspection period shall be for three (3) business days beginning on the second business day following the written test. During the period, a competitor may file a written protest with the Human Resources Department concerning the inclusion of any item, or portion of the test or from the answer indicated as correct for any item stating the item and page number and the reason or authority in support of the contention. Thereafter, no further protests will be accepted which are concerned with the materials included or answers indicated as correct for items in the written test. Any protest which fails to set forth the reason or authority therefore will not be considered. The Director of Human Resources shall rule on the protest and the candidate shall be notified in writing. Upon request, the Director shall make the decision available to any affected examinee. The test key from which the test papers are to be scored shall be made to conform to the Director's decision. The decision of the Director of Human Resources shall be final.

515. REVIEW OF WRITTEN TEST PAPER. Competitors in non-continuous examination may inspect their test papers, together with the keyed copy of the written test, beginning on the second business day following mailing of "Notice of Written Test Results" for five (5) business days. Review of continuous examination test papers may be made by a candidate during a period of three (3) business days beginning on the second business day following the written examination. During this period, a competitor may file a written protest with the Human Resources Department concerning the scoring of the test paper on

the grounds of fraud or mistake. The Director of Human Resources shall rule on the protest and the candidate shall be notified in writing. The decision of the Director of Human Resources shall be final.

516. APPEAL FROM OTHER SELECTION PROCEDURES. Candidates shall be notified by mail as to the results of examinations. During a period beginning on the second day of business following the mailing of "Notification of Examination Results" and continuing for five (5) business days, the Director of Human Resources shall, upon written request, inform any competitor in such examination of the rating(s) the competitor received. During such period, a competitor who failed the examination may appeal the rating(s), and a passing competitor may appeal the lowest rating awarded by an individual Board member if such rating is more than ten (10) points below the next lowest rating, in writing to the Director of Human Resources on the basis of fraud, bias, or erroneous interpretation of the minimum qualifications. No such appeal may be considered unless it contains specific allegations of fact citing the exact cause, and the relief requested; and no other appeal may be considered from a passing candidate. The Director of Human Resources shall rule upon such appeals and the competitor shall be notified in writing. The final rating of the competitor shall be made to conform to the Director's decision. During such period, any competitor may appeal the rating to the Merit Board on the ground of unlawful discrimination. Such appeals must be in writing, signed by the appellant, and contain specific facts by which it is alleged that unlawful discrimination took place. If it grants an appeal, the Merit Board may determine that the appellant is awarded a lowest passing rating or that the appellant be allowed to re-take the examination.

517. PROMOTIONAL QUALIFICATION APPRAISAL BOARD EXAMINATION APPEALS.

517.1 Competitors in promotional examinations may appeal Qualification Appraisal Board ratings to an Examination Appeal Committee on the grounds expressed in Section 516. The decision of a committee will be final as to the competitor's rating.

517.2 Appeals must be written and filed with the Director of Human Resources within the time limits expressed in Section 516. No such appeal may be considered unless it contains specific allegations of fact which, if true, justify correction of the examination ratings.

517.3 Examination Appeal Committees will be composed of three (3) members. The members will be selected from a panel of County employees consisting of a list of twenty-nine (29) employees nominated by management, and a list of twenty-nine (29) employees nominated by the recognized employee organizations. Each recognized employee organization may nominate a number of panel members proportional to the number of County employees represented by such organization on July 1, 1981, according to the following formula:

Employees Represented      Number of

<u>As of July 1, 1981</u>			<u>Panel Members</u>
0	-	200	1
200	-	400	2
400	-	600	3
600	-	800	4
800	-	1000	5
1000	-	1200	6
1200	-	1400	7
1400	-	1600	8
1600	-	1800	9
1800	-	2000	10

Management and the employee organizations collectively shall each be entitled to challenge up to thirty (30) of the others' nominees without cause. If the employee organizations cannot unanimously agree upon the use of their thirty (30) challenges, each employee organization shall be entitled to challenges equal to the number of panel members it is entitled to appoint. Persons nominated must be merit system employees with at least five (5) years of service in their occupational series. Management nominees will be from among unrepresented management employees and may not include Department Heads or management employees of the Human Resources, County Administrator or County Counsel Departments. Employee organization nominees may not include the president, vice-president, secretary, treasurer, chief shop steward or paid business representatives of employee organizations. Persons who resign from County service, are on leave of absence or otherwise become ineligible to serve on the panel(s) will be replaced by the original nominating group. A person so nominated may be challenged and removed by the other nominating group, but only one (1) such challenge will be allowed per replacement.

A panel member whose participation in committee hearings is not in the best interest of the merit system may be removed from the committee by the Director of Human Resources after: (1) The allegations regarding member's conduct have been investigated by the Director of Human Resources, and (2) the employee and the nominating group have been provided with the reasons, in writing, for the removal, and (3) the employee has been given the opportunity to respond to the allegations.

517.4 A single Examination Appeal Committee consisting of three (3) members shall be convened by the Human Resources Department to hear all appeals from a single examination step. Subject to the following provisions for replacement pursuant to which additional selections may be required, one person shall be selected from the management nominees, one from the employee organization nominees, and one from the combined panel, using random selection by jury box. An alternate from each nominating group will also be selected in the event a committee member is otherwise disqualified. Persons shall be replaced if they are unable to serve, are an employee from the same department in which an

appellant(s) is employed, an applicant for the examination to be considered, a person who assisted in the design and construction of the examination, a person in the same bargaining unit as the appellant(s); or for any other bias or conflict of interest as determined by the Director of Human Resources. All names will be returned to the panel for the next committee selection except persons currently committed to serve on a committee.

517.5 An Examination Appeal Committee will select one of its members as chairperson, who will conduct the meetings of the committee, and rule upon questions concerning evidence or procedure. The committee will conduct informal administrative hearings on the appeals and formal procedures and rules of evidence shall not apply.

(a) The committee will meet and will hear and decide the appeal(s) as soon as possible following receipt. The committee may agree to postpone a hearing if an appellant cannot appear for good cause, but only one such postponement shall be allowed. Otherwise, the committee will consider and decide appeal(s) on the written submissions.

(b) An employee may request before a hearing commences, that a member of the committee be disqualified for good cause. The committee will meet in private to consider the request. The member for whom the disqualification is requested may withdraw voluntarily or will be replaced unless the other two members of the committee consider the request invalid. In the event of disqualification, the hearing will proceed as soon as possible with one of the alternates selected from the panel.

(c) The committee will receive and consider oral and documentary evidence from the appellant, the appellant's representative, the Human Resources Department and any witnesses. Attorneys may not represent the appellant nor the Human Resources Department.

(d) The committee will consider the merits of each case only with respect to the grounds for appeal allowed by Section 516, and asserted by the appellant, and must consider the fairness of possible relief to all the other competitors in the examination. If it grants an appeal, the committee may determine only that the appellant is awarded a lowest passing rating, that the appellant be allowed to re-take the examination, or that the lowest rating should be eliminated from the scoring.

(e) The committee will be assisted by an employee in the Human Resources Department who will keep a record of its proceedings consisting of the written appeal, other written submissions, and the committee's decision, including the votes of the committee members.

517.6 Committee meetings normally will be held during regular week day business hours. Committee members, appellants and witnesses who are County employees will be excused from work with pay as necessary to attend committee meetings. If hearings are lengthy, meetings may run after regular business hours or be scheduled after business hours, and nominees must be willing to serve on that basis. Overtime will not be paid. The County will pay or provide for necessary transportation or meals under general administrative guidelines or under the Memorandum of Understanding provisions that apply to the employee's representation unit.

(Amended 02/15/83; 08/22/84)

518. AUDIT OF QUALIFICATIONS APPRAISAL INTERVIEW RECORDING.

During a period commencing on the same beginning day as listed in Section 516, a competitor receiving a disqualifying score in the qualifications appraisal part of an examination and/or the competitor's authorized representative may upon written request and upon payment of a fee set by the County Administrator's Office, audit that portion of the electronic interview recording which covers the competitor's participation. Such review shall take place in the County Human Resources offices. The failure to make a recording, loss of a recording or unintelligibility of a recording shall not be in itself a ground for appeal and shall not prejudice the selection procedure. Recordings shall be retained until the promulgation date of the eligible list or until the resolution of any appeal.

519. EXAMINATION RECORDS. Examination papers, eligible lists, applications and other records pertaining to examinations shall be open for inspection under the conditions set forth herein. The keyed copy of any written examination and written test papers submitted by competitors are the property of the examining agency and are confidential records which are open to inspection only for such purposes and under such conditions as specified by the examining agency and the Director of Human Resources. A competitor's paper shall be open to inspection by the competitor or representative when authorized in writing. The unauthorized copying of questions or answers by any person from any paper made available for inspection is forbidden and may result in cancellation of eligibility and disbarment from future examinations.

520. CRIMINAL HISTORY INFORMATION. The Director of Human Resources, in consultation with the appointing authorities, shall designate job classifications, or positions within job classifications, for which a review of criminal history information shall be a condition of employment.

520.1 Such designations shall be based on the relationship of criminal convictions to the qualifications, responsibilities, duties, and sensitivity of the job classifications or positions, including, but not limited to, applicable statutory requirements.

520.2 Such designations shall include a determination as to whether criminal convictions will preclude appointment or whether the Director of Human Resources may certify candidates with criminal convictions for appointment, taking into account the following factors:

- (a) the nature and seriousness of the offense;
- (b) the circumstances under which the offense occurred;
- (c) the recency of the offense;
- (d) the age of the person at the time the offense was committed;
- (e) the offense within the context of the total pertinent criminal history record, as whether or not it is an isolated or repeated violation;
- (f) evidence of rehabilitation.

520.3 When a class or position has been designated as requiring a review of criminal history information, any appointment to such class or position shall be contingent on a



review by the Director of Human Resources and the appointing authority, of criminal history information not disclosing conviction of crimes which preclude employment.

520.4 The Director of Human Resources may suspend an applicant from an employment list when the applicant has been charged with a crime or crimes the conviction of which would preclude employment, until the disposition of the charges.

520.5 The Director of Human Resources and the appointing authority shall obtain and review criminal history information concerning incumbents of designated job classifications or positions when:

(a) in the opinion of the Director of Human Resources or the appointing authority, there is reason to believe that such information exists and that it is material to the competence of the employee in question, or

(b) upon reappointment to county service after resignation or separation, or

(c) upon application for employment to a classification other than that held at the time this regulation is promulgated.

520.6 The Director of Human Resources and the appointing authority are authorized pursuant to Penal Code Section 11105 (b)(10) to seek and obtain access to state summary criminal history information from the Attorney General respecting all applicants for or incumbents in job classifications or positions designated as requiring a review of criminal history information.

520.7 The Director of Human Resources is authorized to require that applicants and employees be fingerprinted for the purpose of obtaining criminal history records. The County will bear the cost of fingerprinting and obtaining criminal history records.

520.8 The Director of Human Resources, and designees, shall maintain custody and control of criminal history records obtained to carry out this regulation. The records shall be accessible only to the Director of Human Resources, the appointing authority, the County Administrator, the County Counsel, and their designees, to the person to whom the records pertain, or to a person authorized access in writing by the person to whom the record pertains. Criminal history records shall be retained for such period as may be required by state or federal law and shall then be destroyed.

(Added 06/25/85)

## PART 6

### EMPLOYMENT AND REEMPLOYMENT LIST

601. ESTABLISHMENT AND PREPARATION OF EMPLOYMENT LISTS. The Director of Human Resources shall establish and maintain employment lists.

602. EMPLOYMENT LIST RECORDS. The Director of Human Resources shall prepare records of the results of each part of an examination showing the names of the applicants for the examination, applications rejected, the rating of each examinee in each portion of the examination, and the final score and rank of each examinee who passed except as otherwise provided in these regulations. For continuous examinations, the rank of eligibles will be based upon the eligibles' final score as it relates to the final score of other eligibles after merging the new eligibles onto the list.

603. FINAL SCORES. After computing scores on separate parts of an examination, weighting the scores, adding veterans' credits on open examinations, and adding seniority credits on promotional examinations for represented classes, the final score shall be rounded to the nearest hundredths of a point. Fractions of .4999 and below shall be rounded down; fractions of .5000 and up shall be rounded up to the nearest hundredths of a point.

604. RANK ORDER IN CASE OF IDENTICAL SCORES. If two (2) or more successful examinees have final scores which are identical, they shall be ranked in the order of their scores in that portion of the examination which had the greatest weight, provided that if the percentage scores in the portion of the test having the greatest weight are identical, then the rank order shall be determined by random selection at the time the employment list is established. However, in the case of a continuous employment list where a new eligible has the same score as an eligible already on the list, the eligible who was placed on the list at the earliest date will be ranked highest.

605. DESIGNATION OF EMPLOYMENT LISTS. The Director of Human Resources will prepare employment lists from examinations as provided below:

605.1 Open Lists are lists prepared from examinations designated as "open" by the Director of Human Resources, on which passing examinees may receive veterans' preference credits, and for which any qualified person may apply subject to such limitations which may be determined by the Director of Human Resources in accordance with these rules.

605.2 Promotional Lists are lists prepared from examinations designated as "promotional" by the Director of Human Resources, and for which only qualified Contra Costa County Merit System employees may apply.

605.3 Additional Designations. Open and promotional lists may also be designated by the Director of Human Resources as follows:

(a) Regular lists are lists prepared from examinations which are open for filing within a defined period of time.

(b) Continuous lists are lists prepared from examinations which are open for continuous filing of applications. The names of successful candidates in an examination, which is being administered on a continuous basis, are added to the continuous employment list for the class on the first business day succeeding the day on which the candidates' notice of examination results is mailed.

(c) Management lists are for management, supervisory and administrative classifications and different rules of certification may apply as provided for in these rules.

(d) Band lists may be used for the entry-level classes of Firefighter, Firefighter-Recruit, Firefighter-Paramedic-Recruit, Deputy Sheriff, Deputy Sheriff-Recruit, Sheriff's Dispatcher I, Probation Counselor I, Eligibility Worker I, Maintenance Worker I, Animal Center Technician and Animal Services Officer. Under the band certification process, the names of candidates who have qualified on the examination are placed into one, two or three groups designated as Bands A, B and C. All names within each band shall be considered equally qualified and there shall be no additional ranking within the bands.

(Added 08/04/87; Amended 02/23/88; Amended 03/27/90; Amended 04/26/94; Amended 01/05/99, Res. No. 99/2; Amended 06/15/99, Res. No. 99/312; Amended 11/16/99, Res. No. 99/603; Amended 02/11/03, Res. No. 2003/100; Amended 06/26/07, Res. No. 2007/338)

605.4 Preparation of Band Lists.

(a) After computing final scores for all candidates, including any promotional or veterans' credits to which they may be entitled under these rules, candidates will be placed in either Band A, B or C.

(b) Band A shall contain the names of those candidates found to be the best qualified for the class.

(c) Band B shall contain the names of those candidates who are well qualified for the class, but not as highly qualified as those candidates placed in Band A.

(d) Band C shall contain the names of those candidates who are qualified for the class, but not as qualified as those candidates placed in Bands A or B.

(e) Designation of cutoff scores for Bands A, B and C and the resulting placement of eligibles into the above bands shall be made by the Director of Human Resources. There is no limitation on the number of candidates that may be placed in any band.

(Added 08/04/87)

606. VETERANS' PREFERENCE CREDITS ON OPEN EMPLOYMENT LISTS. Examinees who have qualified for veterans' preference as provided in Part 4, and who have qualified in all parts of an examination, shall receive in addition to all other credits, five (5) percent of the total credits earned in any open examination, which shall be added to the examinees' final score. Veterans' preference credits shall not apply to promotional, reemployment or layoff lists.

607. SENIORITY CREDITS IN PROMOTIONAL EXAMINATIONS FOR REPRESENTED CLASSIFICATIONS. Employees in promotional examinations for represented classifications who have qualified on all parts of examination shall receive, in addition to all other credits, five one-hundredths (.05) of one percent for each completed month of service as a permanent County employee continuously preceding the final date for filing application for the examination. For purposes of seniority credit, leaves of absences shall be considered as service. Periods of separation may be bridged if the separation is a result of a layoff in which case bridging will be authorized if the employee is reemployed in a permanent position within the period of layoff eligibility. The credits shall be included in the final percentage score from which the rank on the promotional list is determined. No employee, however, shall receive more than a total of five (5) percent credit for seniority in any promotional examination.

608. DURATION OF EMPLOYMENT LISTS. Employment lists shall continue in force for such periods of time as determined by the Director of Human Resources provided that the period in no case shall be less than six (6) months nor more than two (2) years from the date the list is promulgated, except that upon the request of the appointing authority, the Director of Human Resources may continue a list for up to an additional one (1) year or until a new list is promulgated for the class.

608.1 Cancellation of Regular Lists. Lists or any remaining portions of lists, which have not been extended by the Director of Human Resources, shall be automatically canceled on the specified expiration date.

608.2 Cancellation of Eligibility on Continuous Lists. The eligibility of any person on a continuous list shall terminate one (1) year following the date on which that person's name was placed on the eligible list, except, as determined by the Director of Human Resources, eligibility on open continuous lists may be terminated six (6) months following the date on which a person's name was placed on the eligible list.

(Amended 01/17/89)

608.3 Exception to Cancellation of Lists on Which Certifications are Active. Where a certification request is active, the list shall not be cancelled until the active certifications have been completed or cancelled. No new certification may be initiated or additional referrals made to the certification unless the list is extended by the Director of Human Resources.

608.4 Early Cancellation of List. The Director of Human Resources may cancel lists before the specified expiration date for good cause upon the request of the appointing authority.

609. REVISION OF EMPLOYMENT LISTS. Whenever it becomes evident that an error or mistake has occurred in the preparation of a list, the Director of Human Resources shall revise the list, placing the eligibles in the proper order to correct the error. If a name has been improperly omitted from or included in the list, the correction may be made in the same

manner. If appointment(s) have been made from the employment list before an error is discovered, revision of the list to correct the error shall not affect appointments previously made.

610. REMOVAL OF NAMES FROM LISTS. The Director of Human Resources may remove the names of eligibles from a list for any of the following reasons, providing that the Director shall mail notice of the action and the reason therefore to the last known address of the eligible. Decisions by the Director of Human Resources are final.

- (a) For any cause stipulated in Section 404.1.
- (b) On evidence that the eligible cannot be located by postal authorities.
- (c) On receipt of a statement from the appointing authority or eligible that the eligible declines certification or indicates no further desire for appointment in the class.
- (d) If three (3) offers of permanent appointment to the class for which the eligible list was established have been declined by the eligible.
- (e) If five (5) certifications for permanent appointment from an open employment list, including certification to two (2) different departments if the class has permanent positions in more than one (1) department, have failed to result in selection and appointment.
- (f) If the eligible fails to respond to the Director of Human Resources or the appointing authority within five (5) days to written notice of certification mailed to the person's last known address, or telephone notice of certification to the person's last known telephone number.

611. NOTIFICATION OF ELIGIBLES. Whenever any list is revised or cancelled in advance of the specified expiration date or any eligible is removed from the list as provided for above, the affected eligible(s) shall be notified by mail to the last known address as follows:

611.1 List Cancellation. After a list is cancelled, the remaining eligibles shall be notified.

611.2 List Revision. After a list is revised so as to change the rank of eligibles, those affected shall be notified.

611.3 Eligible Removal. The Director of Human Resources shall notify an eligible of removal from a list and specify the reasons.

611.4 Restoration of an Eligible. The Director of Human Resources may restore an eligible to the list for reasons which satisfactorily explain the cause for removal.

612. ELIGIBILITY OF REEMPLOYMENT LIST. The Director of Human Resources shall establish and maintain reemployment lists and layoff lists.

613. ELIGIBILITY FOR REEMPLOYMENT LIST. Within one (1) year of resignation in good standing from County service, a person who has had permanent status which included satisfactory completion of probation may make application by letter to the Director of Human Resources for placement on a reemployment list as follows: the class from which

the person resigned; or any one (1) class of equal or lesser rank in the occupational series and in which the person had previously attained permanent status; or for any class or deep class which has replaced the class in which the person previously had status, provided that the person meets the minimum requirements for the new class. If the appointing authority of the department from which the person resigned recommends reemployment, the Director of Human Resources shall grant reemployment privileges to the person. If the appointing authority does not recommend reemployment, the employee may appeal to the Director of Human Resources. Consideration of names from a reemployment list is mandatory if the appointing authority recommended reemployment of the individual(s) listed but is optional for other appointing authorities.

614. ELIGIBILITY FOR LAYOFF LIST. Whenever any person who has permanent status is laid off, has been displaced, has been demoted by displacement or has voluntarily demoted in lieu of layoff or displacement, or has transferred in lieu of layoff or displacement, the person's name shall be placed on the layoff list for the class of positions from which that person has been removed.

(Amended 10/27/82)

615. ORDER OF NAMES ON LAYOFF AND REEMPLOYMENT LISTS.

(a) Layoff Lists. First, layoff lists shall contain the names of persons laid off, displaced or demoted as a result of a layoff or displacement, or who have voluntarily demoted in lieu of layoff or displacement, or who have transferred in lieu of layoff or displacement. Names shall be listed in order of layoff seniority in the class from which laid off, displaced, demoted or transferred on the date of layoff, the most senior person listed first. In the case of ties in seniority, the seniority rules shall apply except that where there is a class seniority tie between persons laid off from different departments, the tie(s) shall be broken by length of last continuous permanent County employment with remaining ties broken by random selection among the employees involved.

(Amended 07/07/82; Amended 10/27/82)

(b) Reemployment Lists. Second, reemployment lists shall contain the names of persons granted reemployment privileges after resignation in the order of the date of application for reemployment, the most recent applicant last. Any ties on reemployment list rankings will be broken by random selection.

616. DURATION OF LAYOFF AND REEMPLOYMENT RIGHTS. The name of any person granted reemployment privileges shall continue on the appropriate list for a period of two (2) years. Persons placed on layoff lists shall continue on the appropriate list for a period of four (4) years.

(Amended 08/16/94)

617. REMOVAL OF NAMES FROM LAYOFF AND REEMPLOYMENT LISTS.

617.1 The Director of Human Resources may remove the name of any eligible from a reemployment or layoff list for any reason listed below:

(a) For any cause stipulated in Section 404.1 of the Personnel Management Regulations.

(b) On evidence that the eligible cannot be located by postal authorities.

(c) On receipt of a statement from the appointing authority or eligible that the eligible declines certification or indicates no further desire for appointment in the class.

(d) If three offers of permanent appointment to the class for which the eligible list was established have been declined by the eligible.

(e) If the eligible fails to respond to the Director of Human Resources or the appointing authority within ten (10) days to written notice of certification mailed to the person's last known address.

(Amended 08/16/94)

617.2 If the person on the reemployment or layoff list is appointed to another position in the same or lower classification, the name of the person shall be removed.

(Amended 08/16/94)

617.3 However, if the first permanent appointment of a person on a layoff list is to a lower class which has a top step salary lower than the top step of the class from which the person was laid off, the name of the person shall not be removed from the layoff list. Any subsequent appointment of such person from the layoff list shall result in removal of that person's name.

(Added 08/16/94)

618. SPECIAL EMPLOYMENT LISTS. The County will establish an Employment Pool which will include the names of all laid-off County employees. Special employment lists for job classes may be established from the pool. Persons placed on a special employment list must meet the minimum qualifications for the class. An appointment from such a list will not affect the individual's status on a layoff list(s).

(Added 08/16/94)

## PART 7

### CERTIFICATION

701. REQUEST FOR PERSONNEL. Whenever a vacancy is to be filled, the appointing authority shall submit a personnel request to the Director of Human Resources as long in advance as possible. The names of persons eligible for appointment to positions in a class to which a vacant position is allocated or is being reclassified shall be referred by the Director of Human Resources subject to such transfers, demotions or other alternate provisions as may be applicable.

702. CONTENT OF PERSONNEL REQUEST. The appointing authority shall make personnel requests on the form prescribed by the Director of Human Resources and provide such information as may be required. Any request for "special skills or qualifications certifications" must be approved by the Director of Human Resources.

703. CERTIFICATION TO PROVISIONAL APPOINTMENTS. A provisional appointment is a continuing request for certification of eligibles for permanent appointment. Immediately following the establishment of an appropriate employment list, the Director of Human Resources shall certify eligibles to such position without further request from the appointing authority.

704. CERTIFICATION OF NAMES. Upon receipt of an appointing authority's personnel request, or as soon as practical thereafter, the Director of Human Resources shall certify to the appointing authority, the names, addresses and phone numbers of the persons entitled to certification in accordance with these rules.

705. ORDER OF CERTIFICATION FROM LISTS. The order of certification from employment lists for any class shall be first, layoff list; second, reemployment list if mandatory on the appointing authority or if requested by an appointing authority; third, promotional employment list; and fourth, open employment list. However, the Director of Human Resources may determine a different order of certification priority for a specific classification.

706. NUMBER TO BE CERTIFIED. Except as otherwise provided in these regulations, names shall be certified on each request for personnel in the order prescribed under Section 705 as follows:

706.1 Open Employment Lists - Rule of Ten. On each request for personnel from an open employment list, ten (10) names shall be certified. If more than one (1) position is to be filled in any class in a department at the same time from the same request for



personnel, the number of names to be certified from an open employment list shall be equal to the number of positions to be filled plus nine (9).

706.2 Promotional Employment Lists - Rule of Three. On each request for personnel from a promotional employment list, three (3) names shall be certified. If more than one (1) position is to be filled in any class in a department at the same time from the same request for personnel, the number of names to be certified from a promotional employment list shall be equal to the number of positions to be filled plus two (2).

706.3 Promotional Employment Lists - Rule of Five. On each request for personnel from a promotional employment list for a class as to which the County has agreed to a promotional Rule of Five by memorandum of understanding, five (5) names shall be certified. If more than one (1) position is to be filled in such class in a department at the same time and from the same request for personnel, the number of names to be certified from such promotional appointment list shall be equal to the number of positions to be filled plus four (4).

706.4 Open and Promotional Employment List. On each request for personnel from employment lists containing open and promotional eligibles, the Rules expressed in Sections 706.2 and 706.3, shall be applied to both lists so long as any promotional eligibles remain available for referral. On any referral from a list containing open and promotional eligibles, when the names of promotional eligibles have been exhausted or are not available for appointment, additional open eligibles will be certified under the Rule of Ten, as defined in Section 706.1.

706.5 Reemployment Lists. Where reemployment referrals are mandatory for a department or when a department requests referral of reemployment eligibles on a request for personnel, reemployment eligibles shall be certified in the same manner as promotional eligibles, as expressed in Sections 706.2, 706.3 and 706.4.

706.6 Complete Certification. Certification of the maximum number of eligibles, as described above, constitutes a complete certification.

707. CERTIFICATION OF PERSONS FROM LAYOFF LISTS. Layoff lists contain the names(s) of person(s) laid off, displaced or demoted by displacement or voluntarily demoted in lieu of layoff or displacement, or transferred in lieu of layoff or displacement. When a request for personnel is received from the appointing authority of a department from which an eligible(s) was laid off, the appointing authority shall receive and appoint the eligible highest on the layoff list from the department. When a request for personnel is received from a department from which an eligible(s) was not laid off, the appointing authority shall receive and appoint the eligible highest on the layoff list who shall be subject to a probationary period. A person employed from a layoff list shall be appointed at the same step of the salary range the employee held on the day of layoff.

(Amended 10/27/82; Amended 12/02/97, Res. No. 97/651)

708. CERTIFICATION OF PERSONS FROM REEMPLOYMENT LISTS. Certification of names from a reemployment list is mandatory for the appointing authority who recommended reemployment but is optional for other appointing authorities.

709. CERTIFICATION OF PERSONS FROM CONTINUOUS LISTS. Names shall be certified from continuous lists on the basis of the condition of the list as of the date the personnel request is processed by the Human Resources Department.

710. CERTIFICATION LIMIT. If an individual is certified to three (3) departments at any one time, that person shall be considered unavailable for referral until the person's name becomes active on less than three (3) personnel requests.

711. NUMBER OF NAMES TO BE CERTIFIED FOR MANAGEMENT CLASSES. For unrepresented management, supervisory and administrative classifications, and for represented classifications when agreed to by a Memorandum of Understanding, upon the request of the appointing authority and subject to the approval of the Director of Human Resources, the entire employment list may be referred in rank order.

711.1 The request of the appointing authority and the approval of the Director of Human Resources must be obtained prior to administration of the competitive examination. Absent timely request and approval to implement Regulation 711, certification shall be governed by Regulation 706.

711.2 When the entire employment list is certified, the appointing authority must, before selection, contact the eligibles and interview all interested eligibles above the rank of the person selected for appointment.

(Amended 03/22/83)

712. CERTIFICATION OF ELIGIBLES WITH SPECIAL QUALIFICATIONS. In case a position to be filled requires a person (1) with residence in a certain locality or with willingness and ability to work certain unusual hours, or (2) of a particular sex, or with some other special qualification, skill or bona fide occupational qualification, and upon written request of the appointing authority, the Director of Human Resources may authorize the certification of eligibles who possess such qualifications. A record of special qualification certifications will be maintained by the Director of Human Resources.

713. CERTIFICATION OF ELIGIBLES IN FLEXIBLY STAFFED POSITIONS. In flexibly staffed positions, if the employee occupying the position has been in the lower class, or has performed the work of the lower class, for at least six (6) months immediately prior to certification and upon written request of the appointing authority, the Director of Human Resources shall certify eligibles from the list on a departmental basis. Under circumstances deemed appropriate by the Director of Human Resources, the above six (6) month's experience requirement may be waived upon request by the appointing authority. In the

alternative, the Director of Human Resources may authorize the promotion of employees in flexibly staffed positions in accordance with Regulation Section 503(b).  
(Amended 09/22/82)

714. CERTIFICATION OF ELIGIBLES IN POSITIONS APPROPRIATE FOR RECLASSIFICATION. When the Director of Human Resources has determined that a filled position is appropriate for reclassification to a higher level classification, upon the request of the appointing authority, the Director of Human Resources may authorize the certification of incumbent(s) eligible(s) from the appropriate list on a departmental basis. Ordinarily such certification shall not be authorized unless the incumbent of the affected position has completed the probationary period in the lower class and has occupied the position to be reclassified for a period of at least six (6) months; however, if requested by the appointing authority, this requirement may be waived under circumstances deemed appropriate by the Director of Human Resources.

715. CERTIFICATION OF MANPOWER TRAINEES. The Director of Human Resources may certify current or former Manpower Trainees who are on an appropriate open-only entry-level eligible list if all of the following conditions are met: (a) the eligible has been employed by the Contra Costa County government, in a position funded by state or federal Manpower programs for transitioning persons into the work force, for at least six (6) months in the two (2) years immediately preceding certification; (b) the appointing authority requests in writing certification of Manpower Trainee eligibles to fill a currently vacant Merit System position; and (c) the Director of Human Resources gives written approval for the certification. Manpower certifications may be made on a countywide or departmental basis as requested by the appointing authority.  
(Amended 09/25/84)

716. NOTIFYING ELIGIBLES OF CERTIFICATION. Whenever the name of an eligible is certified to an appointing authority, the Director of Human Resources shall mail a written notice to the last known address of the person certified. Appointing authorities may request removal of an eligible from certification if the eligible cannot be contacted, is unavailable, or declines consideration for appointment.  
(Amended 09/25/84)

717. WAIVERS OF CERTIFICATION. Certification or appointment may be waived by an eligible as follows:

717.1 Temporary Withdrawal from List. Upon written or telephone request, an eligible may withdraw from an employment layoff or reemployment list for a specified period of time, provided, however, that upon again becoming an active eligible, the person may not claim eligibility for any appointment to which certification or authorization of provisional appointment has been made during the period when the person's name was inactive.

717.2 Conditional Waivers. An eligible may waive certification with permission of the Director of Human Resources, by written or telephone request, stating the conditions of employment such as location and hours of position.

717.3 Waiver of Particular Certifications. An eligible may waive right to certification to any particular position or after certification may waive possible or offered appointment by written or telephone statement to the Director of Human Resources or the appointing authority giving the reason for waiver. After three (3) such waivers of certification or appointment to permanent positions in any class, the eligible's name may be removed from the employment list. Waivers made to an appointing authority must be reported by the appointing authority to the Director of Human Resources.

717.4 Waiver after Permanent Appointment. The permanent appointment of an eligible to a position in the Merit System is an automatic waiver of certification of such person from any other employment list on which the person's name appears for a class of position the salary of which is either equal or lower than the salary of the position to which the person has been appointed, unless the person requests certification from such lists in writing or by telephone.

717.5 Request for Certification while on Leave of Absence. An eligible who is a County employee and is granted a leave of absence may request in writing to the Director of Human Resources to be certified from any employment list upon which the employee's name appears during the period of the leave of absence. Such requests must be submitted prior to the beginning of the leave and must include an explanation acceptable to the Director of Human Resources.

717.6 Failure to Respond to Certification. Failure of an eligible to respond to a written or telephone notice of certification within five (5) calendar days is an automatic waiver of certification. The appointing authority shall be furnished an additional name in lieu of the eligible. An eligible who fails to keep the Director of Human Resources advised of a correct mailing address or telephone number may be removed from the employment list. The Director of Human Resources may restore a person so removed upon receipt of a satisfactory reason for failure to respond.

(Amended 09/25/84)

#### 718. CERTIFICATION FROM ALTERNATE OR HIGHER EMPLOYMENT LIST.

Whenever a personnel request is received to fill a position in a class for which no employment list exists, the Director of Human Resources, upon the request of the appointing authority, may certify consenting eligibles from a layoff, reemployment or employment list for a class, the top salary of which is within five (5) percent or higher of the top step of the class for which names were requested. The minimum qualifications of the classification from which names are requested must be similar to or greater than the minimum qualifications of the class in which the vacancy exists. Such certifications shall otherwise be in accordance with regular certification procedures and shall result in cancellation of eligibility for the class from which referred if the person is appointed. A record of these certifications will be maintained by the Director of Human Resources.

(Amended 09/25/84)

719. BAND CERTIFICATION OF FIREFIGHTER, FIREFIGHTER-RECRUIT, FIREFIGHTER-PARAMEDIC-RECRUIT, DEPUTY SHERIFF, DEPUTY SHERIFF-RECRUIT, SHERIFF'S DISPATCHER I, PROBATION COUNSELOR I, ELIGIBILITY WORKER I, MAINTENANCE WORKER I, ANIMAL CENTER TECHNICIAN AND ANIMAL SERVICES OFFICER. The Director of Human Resources may elect to use a band certification as provided in Section 605.3(d) to certify names for Firefighter, Firefighter-Recruit, Firefighter-Paramedic-Recruit, Deputy Sheriff, Deputy Sheriff-Recruit, Sheriff's Dispatcher I, Probation Counselor I, Eligibility Worker I, Maintenance Worker I, Animal Center Technician and/or Animal Services Officer positions from eligible lists. Under the band certification process, candidates who have qualified on the examination will be placed into one, two or three groups designated as Bands A, B and C. The number of eligible candidates certified from the Firefighter, Firefighter-Recruit, Firefighter-Paramedic-Recruit, Deputy Sheriff, Deputy Sheriff-Recruit, Sheriff's Dispatcher I, Probation Counselor I, Eligibility Worker I, Maintenance Worker I, Animal Center Technician or Animal Services Officer eligible list established as a result of an open competitive examination shall include all of the names in Band A. If there are fewer than nine (9) more names available in Band A than the number of vacancies to be filled, then all of the names in Band B shall be certified along with the names in Band A. If there are fewer than nine (9) more names available in Bands A and B combined than the number of vacancies to be filled, then all the names in Band C shall be certified along with the names in Bands A and B.

(Added 08/04/87; Amended 02/23/88; Amended 03/27/90; Amended 04/26/94; Amended 01/05/99, Res. No. 99/2; Amended 06/15/99, Res. No. 99/312; Amended 11/16/99, Res. No. 99/603; Amended 02/11/03, Res. No. 2003/100; Amended 06/26/07, Res. No. 2007/338)

720. CERTIFICATION ON A DEPARTMENTAL BASIS OF ELIGIBLE(S) EMPLOYED FOR AT LEAST TWELVE (12) MONTHS IN TEMPORARY POSITIONS.

The following conditions are all necessary for selective certification for such eligibles:

- (a) a vacancy exists in a classified merit system position;
- (b) the eligible has worked in a temporary employment status in a position within the class or a closely related class for at least 2080 hours within the last three (3) years;
- (c) the appointing authority requests the selective certification in writing;
- (d) the Director of Human Resources approves the requested selective certification.

(Added 11/24/92; Amended 04/11/95; extend for additional 24-month period through 04/11/97; Amended 12/02/97, Res. No. 97/651, extended for additional 24-month period through 04/11/99; Amended 12/14/04, Res. No. 2004/651)

721. REMOVAL OF NAMES FROM REEMPLOYMENT AND LAYOFF CERTIFICATIONS. The Director of Human Resources may remove the name of any

eligible from a reemployment or layoff certification if the eligible fails to respond within five (5) days to a written notice of certification mailed to the person's last known address.  
(Added 08/16/94)

## PART 8

### APPOINTMENTS

801. APPOINTMENT AFTER CERTIFICATION. Upon receipt of the certification of eligibles, the appointing authority shall contact the persons certified and shall offer to interview them as provided in these regulations. The appointing authority may examine applications, examination records and any reports of background investigation of the eligibles certified. The appointing authority may conduct any additional investigations or tests of fitness which are job related. Appointments must be signed by the appointing authority and by the Director of Human Resources.

802. PERMANENT APPOINTMENTS. Appointments to a permanent position from a layoff or reemployment list is subject to a probation period if the position is in a department other than the department from which the eligible separated, displaced, or voluntarily demoted in lieu of layoff. An appointment from a layoff or reemployment list is not subject to a probation period if the position is in the department from which the eligible separated, displaced or voluntarily demoted in lieu of layoff.

803. APPOINTMENT TO LEAVE OF ABSENCE VACANCY. Appointment to a permanent position from which another employee has been granted leave of absence is subject to the return of the employee on leave, in which case the provisions of these rules pertaining to layoff shall apply.

804. APPOINTMENT TO TRAINEE POSITIONS. Permanent positions in trainee classes shall be so designated. Appointments to these positions shall be from eligible lists and shall be permanent subject to the conditions set forth in the specifications governing the class.

805. STATUS DURING PROMOTIONAL PROBATION PERIOD. An employee who has permanent status and promotes to another position shall have the right, in case of rejection from probation, to displace into a position in the department and in the class from which the employee promoted and an incumbent in such position shall be subject to layoff. In such cases, the rejected employee's rights and responsibilities of employment status in the original position shall apply as though the promotion had not occurred.

806. PROVISIONAL APPOINTMENTS. Any appointment to a permanent position in the Merit System of a person not on an appropriate employment list is a provisional appointment, except as otherwise provided in these regulations or by ordinance.

806.1 Authorization for Provisional Appointment. Whenever an appointing authority makes a request for personnel to fill a position in a class for which no lists are

available, or in a class with insufficient eligibles to complete a certification, the Director of Human Resources may authorize the appointing authority to appoint any person who possesses the minimum qualifications for the class. The name's of available eligibles shall be referred to the appointing authority at the time such authorization is issued.

806.2 Duration of Provisional Appointment. Provisional appointment(s) shall not exceed six (6) calendar months except under the following conditions:

(a) If an examination has been announced for the class or otherwise for cause, the Director of Human Resources may authorize the continuation of a provisional appointment until an eligible list is established, and for a period not to exceed thirty (30) days after the date of certification of eligibles from the list.

(b) A provisional appointment to a permanent position vacated by a leave of absence may, with the consent of the Director of Human Resources, be continued for the duration of the leave.

806.3 Provisional Promotion of a Permanent Employee. The acceptance by an employee who has permanent status of a provisional appointment to another position having a higher salary allocation, shall not jeopardize the employee's status in the position from which promoted or in any other way affect such employee's employment benefits.

#### 807. APPOINTMENT TO PERMANENT-INTERMITTENT POSITIONS.

Appointments to permanent-intermittent positions are permanent appointments and the services of permanent-intermittent employees are to be utilized rather than temporary employees when practical.

808. TEMPORARY APPOINTMENTS. An appointment for a limited period of time, paid on an hourly basis, is a temporary appointment. Temporary appointments shall follow the same rules of selection and certification as provided for permanent appointments. When a complete certification from an employment list cannot be provided, and upon the request of an appointing authority, the Director of Human Resources may authorize the appointment of any person who meets the minimum qualifications for the class. Acceptance or refusal to accept appointment to a temporary position by an eligible shall not limit an eligible's right to certification to a permanent position.

808.1 Duration. Temporary appointment shall not exceed one (1) year.

808.2 Reappointment. Upon the request of an appointing authority, the Director of Human Resources may authorize reappointment of a temporary employee under the following conditions: (a) the person worked in the class for at least thirty (30) days during the year preceding the reappointment, and (b) the person was previously appointed from an eligible list, or no examination was conducted for the class, and (c) no permanent vacancy exists in the department in the class, or there is an incomplete certification of names, or (d) for other reasons satisfactory to the Director of Human Resources.

809. APPOINTMENT IN EMERGENCIES. In emergency situations, which are defined as situations where there is a threatened interruption of essential County services and



immediate action is necessary, the appointing authority may appoint a person or persons without reference to employment lists for a period not to exceed one (1) calendar month. The appointing authority shall immediately notify the Human Resources Department of such action and shall submit required appointment papers.

810. FIXED TERM APPOINTMENTS. Positions so designated by Ordinance and unrepresented positions so designated by the Director of Human Resources are fixed term positions. Appointments to these positions shall be for fixed terms subject to probationary requirements and the other provisions of the Merit System. Such appointments shall be from eligible lists and shall be subject to conditions set forth in the class specification.

(Amended 07/14/82)

811. REPORTS OF APPOINTMENT. All appointments in the Merit System shall be promptly reported to the Director of Human Resources.

## PART 9

### PROBATIONARY PERIOD

901. PURPOSE OF PROBATION. The probation period shall be the final phase of the examination process, and shall be utilized by the appointing authority for the effective adjustment of the new employee, and for the termination of an employee whose performance is unsatisfactory.

902. DURATION. All appointments, whether for original entrance or promotion, shall be subject to a probationary period. Probationary periods shall be not less than six (6) months nor more than two (2) years. Probationary periods in excess of six (6) months may be requested by an appointing authority and are subject to approval by the Director of Human Resources for specific classifications. Only new appointees to positions in a classification shall be subject to the changed probationary periods.

903. TIME INCLUDED.

(a) The probationary period shall commence from the date of appointment. It shall not include time served in provisional or temporary appointments or any period of continuous absence exceeding fifteen (15) calendar days, except as otherwise provided in these rules or by law.

(b) For those employees appointed to permanent-intermittent positions, probation will be considered completed upon serving 1000 hours after appointment per six (6) month's period of probation except that in no instance will this period be less than six (6) calendar months from the date of appointment. If a permanent-intermittent probationary employee is reassigned to full time, credit toward probation completion in the full-time position shall be pro-rated on the basis of 173 hours per month.

904. LAYOFF DURING PROBATION. An employee who is laid off during probation, if reemployed in the same class by the same department, shall be required to complete only the balance of the required probation period.

If reemployed in another department or in another classification, the employee shall serve a full probation period.

905. REJECTION DURING PROBATION. An employee who is rejected during the probation period and restored to the eligible list shall begin a new probation period if subsequently certified and appointed.

(a) Appeal from Rejection. Notwithstanding any other provisions of this article, an employee (probationer) shall have the right to appeal from any rejection during the

probationary period based on political or religious or union activities, or race, color, national origin, sex, age, handicap or sexual orientation, or as otherwise provided by law.

(b) Time, Form and Consideration. The appeal must be written, must be signed by the employee and set forth the grounds and facts by which it is claimed that grounds for appeal exist under Subsection (a), and must be filed through the Director of Human Resources to the Merit Board by 5:00 p.m. on the seventh (7th) calendar day after the date of delivery to the employee of notice of rejection.

(Amended 09/25/84)

(c) Hearing. The Merit Board shall consider the appeal, and if it finds probable cause to believe that the rejection may have been based on grounds prohibited in Subsection (a), it may refer the matter to a Hearing Officer for hearing and recommended findings of fact, conclusions of law and decision, pursuant to the relevant provisions of Part 11 in which proceedings the rejected probationer has the burden of proof.

(d) Final Disposition. If the Merit Board finds no probable cause for a hearing, it shall deny the appeal. If, after hearing, the Merit Board upholds the appeal, it shall direct that the appellant be reinstated in the position and the appellant shall be reinstated in the probationary period unless the Merit Board specifically directs the appellant begin a new probationary period.

906. CONDITIONS PRELIMINARY TO REGULAR APPOINTMENT. The regular appointment of a probationary employee shall begin on the day following the end of the probationary period, subject to the condition that the Director of Human Resources receive from the appointing authority a statement in writing that the services of the employee during the probationary period were satisfactory and that the employee is recommended for permanent appointment.

907. TIME OF PROBATION REPORT. The Director of Human Resources shall notify the appointing authority of the end of such probationary period at least four (4) weeks in advance thereof, and shall supply forms upon which the probation report will be submitted. The appointing authority should advise the employee prior to completion of probation whether the employee's services are to be continued under regular status or are to be terminated. It is desirable but not mandatory that such notice be given at least five (5) days prior to completion of probation. The appointing authority shall then return the probation report to the Human Resources Department. If the appointing authority has not returned the probation report within seven (7) calendar days following completion of probation, the Director of Human Resources shall immediately make such investigation as necessary to determine whether the employee should acquire regular status. If a clerical or administrative error delays a probationary report and it is determined that it was the intent of appointing authority to retain the probationer, the employee affected will not suffer any loss of pay or benefits.

908. SEPARATION OF PROBATIONARY EMPLOYEE. A probationary employee may be rejected from the service at any time during the probation period without regard to the Skelly provisions of these rules, without notice and without right of appeal or hearing. If the appointing authority has not returned the probation report, a probationary employee may be rejected from the service within a reasonable time after the probation period for failure to pass probation.

909. RESTORATION OF PROMOTIONAL PROBATIONARY EMPLOYEE. Notwithstanding any other provisions of this article, an employee rejected during the probationary period from a position in the Merit System to which the employee had been promoted, shall be restored to a position in the classification in the department from which the employee was promoted. An employee dismissed for other than disciplinary reasons within (6) months after being promoted or transferred from a position in the Merit System to a position not included in the Merit System shall be restored to a position in the classification in the department from which the employee was promoted or transferred.

910. RESTORATION OF ELIGIBILITY. The Director of Human Resources, after consultation with the appointing authority, may restore the name of a probationary employee who has been rejected or has resigned from probation, to the eligible list from which the employee was certified. The Director of Human Resources shall not certify the name of such person to the same appointing authority by whom the person was rejected from the same eligible list, unless such certification is requested in writing by the appointing authority.

911. PROBATION PERIOD FOR LAID OFF EMPLOYEES. An employee appointed to a permanent position from a layoff or reemployment list is subject to a probation period if the position is in a department other than the department from which the employee separated, displaced or voluntarily demoted in lieu of layoff. An appointment from a layoff or reemployment list is not subject to a probation period if the position is in the department from which the employee separated, displaced or voluntarily demoted in lieu of layoff.

912. REJECTION DURING PROBATION OF LAID OFF EMPLOYEE. An employee who has achieved permanent status in the class before layoff and who subsequently is appointed from the layoff list and then rejected during the probation period shall be automatically restored to the layoff list, unless discharged for cause, if the person is within the period of layoff eligibility. The employee shall begin a new probation period if subsequently certified and appointed in a different department or classification than that from which the employee was laid off.

## **PART 10**

### **PERSONNEL TRANSACTIONS**

1001. PROMOTION. Promotion is the change of a permanent employee to another position in a class allocated to a salary range for which the top step is higher than the top step of the class which the employee formerly occupied except as otherwise provided for in these rules or in ordinances or resolutions governing deep classifications. Promotion to a permanent position shall be by competitive examination except as provided in Part 5. The Director of Human Resources, upon the request of an appointing authority, shall determine whether an examination is to be conducted on a promotional only, promotional and open, or open only basis. To qualify for a promotional examination, persons must have probationary or permanent status and must possess the minimum qualifications for the class on or before the final filing date for the examination. Names of persons who separate, except by layoff, shall be removed from promotional employment lists.

1002. APPEAL FROM DENIAL OF PROMOTION IN FLEXIBLY STAFFED POSITIONS. An employee may appeal to the Merit Board from a failure to promote from a flexibly staffed position to another flexibly staffed position within the same classification series after written request for promotion. No more than one (1) request may be made by an employee during any six (6) month period. The appeal must be written and signed by the appellant. The written request must state that a demand for promotion has been made and not granted within three (3) days of the request, set forth specific facts by which it is claimed the failure to promote was arbitrary or capricious and must be filed with the Merit Board with a copy provided the Director of Human Resources not later than 5:00 p.m. on the tenth (10th) calendar day after the date of the written request for promotion. The appellant has the burden of proof that the refusal to promote was arbitrary and capricious.

1003. ASSIGNMENT AND REASSIGNMENT. The appointing authority may assign an employee from one position to another position in the same class within the department.

1003.1 Reassignment of Laid-Off Employees. Employees who displaced within the same classification from full-time to part-time or intermittent status in a layoff, or who voluntarily reduced their work hours to reduce the impact of layoff, or who accepted a position of another status than that from which they were laid off upon referral from the layoff list, may request reassignment back to their pre-layoff status (full-time or part-time or increased hours). The request must be in writing in accord with each department's reassignment bid or selection process. Employees will be advised of the reassignment procedure to be followed to obtain reassignment back to their former status at the time of the workforce reduction. The most senior laid-off employee in this status who requests such a reassignment will be selected for the vacancy; except when a more senior laid-off individual

remains on the layoff list and has not been appointed back to the class from which laid off, a referral from the layoff list will be made to fill the vacancy.

(Added 08/16/94)

1004. TRANSFER. Transfer is the change of an employee to another position in the same class in a different department, or to another position in a class which is allocated to a salary schedule the top step of which is within five (5) percent of the top step of the class previously occupied in the same or a different department or as otherwise defined in deep class ordinances or resolutions. Any employee or appointing authority may request a transfer by advising the Director of Human Resources, in writing, stating the reason(s) for the request. Upon consent of the appointing authority(s) and the employee involved, the Director of Human Resources shall approve a transfer within the employee's classification. If the transfer is to a position in a different class, the Director of Human Resources must determine that it is a comparable position. Transfers may also be accomplished through the regular examination and appointment procedures.

1004.1 Transfer Without Examination. After consultation with the appropriate appointing authority(s), the Director of Human Resources may transfer an employee from one job classification to another job classification without examination under the following conditions:

(a) The duties and responsibilities of the position from which the employee is being transferred from are within the occupational area or directly associated with the duties and responsibilities of the position to which the employee is being transferred.

(b) The transfer is deemed appropriate by a review of the particular duties and responsibilities of the position under consideration.

(c) The employee must possess the minimum qualifications for the job classification to which the employee is being transferred.

(d) The employee must serve the probationary period required for the classification into which the employee is being transferred.

(e) An employee rejected during the probationary period or who resigns during the probationary period for other than disciplinary reasons shall have the right at that time to be restored to a position in the classification in the department from which the employee was transferred.

This regulation expires one (1) year from the date of its adoption.

(Added 11/18/86)

1005. DEMOTION. Demotion is the reduction of an employee to another position in a class having a lower salary allocation than the class previously occupied by the employee or to a lower compensation level within the employee's salary range. An employee may be involuntarily demoted for cause by an appointing authority in accordance with Part 11 of these regulations. An employee may be voluntarily demoted by an appointing authority to a position in another class for which the employee possesses the minimum qualifications. Appointing authorities shall report voluntary demotions in writing to the Human Resources

Department indicating the effective date, accompanied by a signed statement of agreement by the employee. Voluntary demotions also may be accomplished through the regular examination and appointment procedures.

1006. LEAVE OF ABSENCE WITHOUT PAY. Any employee who has permanent status may be granted a leave of absence without pay upon written request, approved by the appointing authority; provided, however, that leaves for pregnancy, pregnancy disability, serious health conditions, and family care shall be granted in accordance with applicable state and federal law.

(Amended 08/16/94)

1006.1 General Administration - Leaves of Absence. Requests for leave of absence without pay shall be made upon forms prescribed by the Director of Human Resources and shall state specifically the reason for the request, the date when it is desired to begin the leave, and the probable date of return.

(a) Reasons for Leave Without Pay. Leave without pay may be granted for any of the following reasons:

- (1) illness, disability, or serious health condition;
- (2) pregnancy or pregnancy disability;
- (3) family care;
- (4) to take a course of study such as will increase the employee's usefulness on return to the position;
- (5) for other reasons or circumstances acceptable to the appointing authority.

(b) Request for Family Care Leave. An employee must request family care leave at least 30 days before the leave is to begin if the need for the leave is foreseeable. If the need is not foreseeable, the employee must provide written notice to the employer within five (5) days of learning of the event by which the need for family care leave arises.

(c) A leave without pay may be for a period not to exceed one (1) year, provided the appointing authority may extend such leave for additional periods. The procedure in granting extensions shall be the same as that in granting the original leave provided that the request for extension must be made not later than thirty (30) calendar days before the expiration of the original leave.

(d) Nevertheless, a leave of absence for the employee's serious health condition or for family care shall be granted to an employee who so requests it for up to eighteen (18) weeks in each calendar year period in accord with Section 1006.3 below.

(e) Whenever an employee who has been granted a leave without pay desires to return before the expiration of such leave, the employee shall submit a request to the appointing authority in writing at least fifteen (15) days in advance of the proposed return. Early return is subject to prior approval by the appointing authority. The Human Resources Department shall be notified promptly of such return.

(f) Except in the case of leave of absence due to family care, pregnancy, pregnancy disability, illness, disability, or serious health condition, the decision of the

appointing authority granting or denying leave or early return from leave shall be subject to appeal to the Director of Human Resources and not subject to appeal through the grievance procedure set forth in this Memorandum of Understanding.

(Amended 08/16/94)

1006.2 Military Leave. Any employee in the merit system and who is ordered to serve as a member of the state militia or the United States Army, Navy, Air Force, Marine Corps, Coast Guard or any division thereof, shall be granted a military leave for the period of such service, plus ninety (90) days. Additionally, any employee who volunteers for such service during a mobilization under Executive Order of the President or the Congress of the United States and/or the State Governor in time of emergency, shall be granted a leave of absence if necessary in accordance with applicable state or federal laws. Upon the termination of such service or upon honorable discharge, the employee shall be entitled to return to his/her position from which granted leave in the classified service provided the position still exists and the employee is otherwise qualified, without any loss of standing of any kind whatsoever.

(Amended 12/02/97, Res. No. 97/651)

(a) Military Leave and Employee Rights. An employee who has been granted a military leave shall not suffer loss of vacation, holiday, or sick leave credits which have accrued to the employee at the time leave is granted, but shall not accrue vacation or sick leave credits while on unpaid military leave. Employees on military leave shall not be prejudiced with reference to salary adjustments or continuation of employment. For purposes of determining eligibility for salary adjustments or seniority in case of layoff or promotional examination, military leave shall be considered as time in County service.

(b) Proof of Military Service. An employee who has been granted a military leave may, upon return, be required to furnish proof of performance of military service or of honorable discharge.

(Amended 08/16/94, formerly Section 1007)

1006.3 Family Care Leave or Medical Leave. Upon request to the appointing authority, in each calendar year any employee who has permanent status shall be entitled to at least eighteen (18) weeks (less if so requested by the employee) leave for:

(a) Medical leave of absence for the employee's own serious health condition which makes the employee unable to perform the functions of the employee's position; or

(b) Family care leave of absence without pay for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee, or the serious illness or health condition of a child, parent, spouse, or domestic partner of the employee.

(c) The employee may be asked to provide certification of the need for family care leave or medical leave. Additional period(s) of family care or medical leave may be granted by the appointing authority.

(d) The eighteen (18) weeks' entitlement may be in broken periods, intermittently on a regular or irregular basis, or may include reduced work schedules depending on the specific circumstances and situations surrounding the request for leave. The eighteen (18)



weeks may include use of appropriate available paid leave accruals when accruals are used to maintain pay status, but use of such accruals is not required beyond that specified in Section 7 below. When paid leave accruals are used for a medical or family care leave, such time shall be counted as a part of the eighteen (18) week entitlement.

(e) In the situation where husband and wife are both employed by the County, the family care or medical leave entitlement based on the birth, adoption or foster care of a child is limited to an aggregate for both employees together of eighteen (18) weeks during each calendar year period. Employees requesting family care leave are required to advise their appointing authority(ies) when their spouse is also employed by the County.

(f) For medical and family care leaves of absence under this section, the following definitions apply:

(1) Child: A biological, adopted, or foster child, stepchild, legal ward, conservatee or a child who is under eighteen (18) years of age for whom an employee stands in loco parentis or for whom the employee is the guardian or conservator or an adult dependent child of the employee.

(2) Parent: A biological, foster, or adoptive parent, a stepparent, legal guardian, conservator, or other person standing in loco parentis to a child.

(3) Spouse: A partner in marriage as defined in California Civil Code Section 4100.

(4) Domestic Partner: An unmarried person, eighteen (18) years or older, to whom the employee is not related and with whom the employee resides and shares the common necessities of life.

(5) Serious Health Condition: An illness, injury, impairment, or physical or mental condition which warrants the participation of a family member to provide care during a period of treatment or supervision and involves either inpatient care in a hospital, hospice or residential health care facility or continuing treatment or continuing supervision by a health care provider (e.g. physician or surgeon) as defined by state and federal law.

(6) Certification for Family Care Leave: A written communication to the employer from a health care provider of a person for whose care the leave is being taken which need not identify the serious health condition involved, but shall contain:

(a) the date, if known, on which the serious health condition commenced;

(b) the probable duration of the condition;

(c) an estimate of the amount of time which the employee needs to render care or supervision;

(d) a statement that the serious health condition warrants the participation of a family member to provide care during a period of treatment or supervision;

(e) if for intermittent leave or a reduced work schedule leave, the certification should indicate that the intermittent leave or reduced leave schedule is necessary for the care of the individual or will assist in their recovery, and its expected duration.

(7) Certification for Medical Leave: A written communication from a health care provider of an employee with a serious health condition or illness to the employer, which need not identify the serious health condition involved, but shall contain:

(a) the date, if known, on which the serious health condition commenced;

(b) the probable duration of the condition;

(c) a statement that the employee is unable to perform the functions of the employee's job;

(d) if for intermittent leave or a reduced work schedule leave, the certification should indicate the medical necessity for the intermittent leave or reduced leave schedule and its expected duration.

(8) Comparable Position: A position with the same or similar duties and pay which can be performed at the same or similar geographic location as the position held prior to the leave. Ordinarily, the job assignment will be the same duties in the same program area located in the same city, although specific clients, caseload, co-workers, supervisor(s), or other staffing may have changed during an employee's leave.

(Amended 08/16/94)

1006.4 Pregnancy Disability Leave. Insofar as pregnancy disability leave is used as provided for in County Administrative Bulletins and Memoranda of Understanding on Sick Leave Use for Pregnancy Disability, that time will not be considered a part of the eighteen (18) week family care leave period.

(Added 08/16/94)

1006.5 Group Health Plan Coverage. Employees who were members of one of the group health plans prior to commencement of their leave of absence can maintain their health plan coverage with the County contribution by maintaining their employment in pay status as described in Section 1006.6. During the eighteen (18) weeks of an approved medical or family care leave under Section 1006.3 above, the County will continue its contribution for such health plan coverage even if accruals are not available for use to maintain pay status as required under Section 1006.6. In order to maintain such coverage, employees are required to pay timely the full employee contribution to maintain their group health plan coverage, either through payroll deduction or by paying the County directly.

(Added 08/16/94)

1006.6 Leave Without Pay - Use of Accruals.

(a) All Leaves of Absence. During the first twelve (12) month period of any leave of absence without pay, an employee may elect to maintain pay status each month by using available sick leave (if so entitled under County Administrative Bulletins and Memoranda of Understanding on Policies Governing the Use of Paid Sick Leave), vacation, floating holiday, compensatory time off or other accruals or entitlements; in other words, during the first twelve (12) months, a leave of absence without pay may be "broken" into segments and accruals used on a monthly basis at the employee's discretion. After the first twelve (12) months, the leave period may not be "broken" into segments and accruals may

not be used, except when required by LTD Benefit Coordination or SDI/Sick Leave Integration or as provided in the sections below.

(b) Family Care or Medical Leave. During the eighteen (18) weeks of an approved medical or family care leave, if a portion of that leave will be on a leave of absence without pay, the employee will be **required** to use **at least** 0.1 hour of sick leave (if so entitled under County Administrative Bulletins and Memoranda of Understanding on Policies Governing the Use of Paid Sick Leave), vacation, floating holiday, compensatory time off or other accruals or entitlements if such are available, although use of additional accruals is permitted under subsection (a) above.

(c) Leave of Absence/Long-Term Disability (LTD) Benefit Coordination. An eligible employee who files an LTD claim and concurrently takes a leave of absence without pay will be required to use accruals as provided in Section (b) herein during the eighteen (18) weeks entitlement period of a medical leave specified in Section 1006.3 above. If an eligible employee continues beyond the eighteen (18) weeks entitlement period on a concurrent leave of absence/LTD claim, the employee may choose to maintain further pay status only as allowed under subsection (a) herein.

(d) Sick leave accruals may not be used during any leave of absence, except as allowed under County Administrative Bulletins and Memoranda of Understanding on Policies Governing the Use of Paid Sick Leave.

(Added 08/16/94)

1006.7 Leave of Absence Replacement and Reinstatement. Any permanent employee who requests reinstatement to the classification held by the employee in the same department at the time the employee was granted a leave of absence, shall be reinstated to a position in that classification and department and then only on the basis of seniority. In case of severance from service by reason of the reinstatement of a permanent employee, the provisions of Part 12 (Layoff and Seniority) shall apply.

(Added 08/16/94)

1006.8 Reinstatement from Family Care Medical Leave. In the case of a family care or medical leave, an employee on a 5/40 schedule shall be reinstated to the same or comparable position if the return to work is after no more than 90 work days of leave from the initial date of a continuous leave, including use of accruals, or within the equivalent on an alternate work schedule. A full-time employee taking an intermittent or reduced work schedule leave shall be reinstated to the same or comparable position if the return to work on a full schedule is after no more than 720 hours, including use of accruals, of intermittent or reduced schedule leave. At the time the original leave is approved, the appointing authority shall notify the employee in writing of the final date to return to work, or the maximum number of hours of leave, in order to guarantee reinstatement to the same or comparable position. An employee on a schedule other than 5/40 shall have the time frame for reinstatement to the same or comparable position adjusted on a pro-rata basis.

(Added 08/16/94)

1006.9 Salary Review While on Leave of Absence. The salary of an employee who is on leave of absence from a County position on any anniversary date and who has not been

absent from the position on leave without pay more than six (6) months during the preceding year shall be reviewed on the anniversary date. Employees on military leave shall receive salary increments that may accrue to them during the period of military leave.

(Added 08/16/94)

1006.10 Unauthorized Absence. An unauthorized absence from the work site or failure to report for duty after a leave request has been disapproved, revoked, or canceled by the appointing authority, or at the expiration of a leave, shall be without pay. Such absence may also be grounds for disciplinary action.

(Added 08/16/94)

1006.11 No Vacation and Sick Leave Accruals. An employee who is on leave without pay, or who is otherwise absent without pay, shall not accrue vacation or sick leave during such time.

(Added 08/16/94)

1007. MILITARY LEAVE.

(Deleted 08/16/94, Section 1007 replaced by Section 1006.2)

## PART 11

### SEPARATIONS

1101. SEPARATION - GENERAL PROVISIONS. The separation of any employee holding a position in the merit system shall comply with these regulations and shall be reported to the Human Resources Department in the manner and on the forms prescribed.

1102. RESIGNATION. An employee's voluntary termination of service is a resignation. Written resignation shall be forwarded to the Human Resources Department by the appointing authority immediately on receipt, and shall indicate the effective date of termination. Oral resignation shall be immediately confirmed by the appointing authority, in writing, to the employee and to the Human Resources Department and shall indicate the effective date of termination.

1102.1 Resignation in Good Standing. A resignation giving the appointing authority written notice at least two (2) weeks in advance of the last date of service (unless appointing authority requires a longer period of notice or consents to the employee's terminating on shorter notice) is a resignation in good standing.

1102.2 Effective and Operative Dates of Resignations.

(a) Expressed Resignations. An expressed resignation is effective when delivered or spoken to the appointing authority, operative either on that date or another date specified.

(b) Constructive Resignations. A constructive resignation occurs and is effective when:

(1) an employee has been absent from duty for five (5) consecutive working days without leave, and

(2) five (5) more consecutive working days have elapsed without response by the employee after the mailing of a notice of resignation by the appointing authority to the employee at the employee's last known address.

(Amended 09/25/84)

1102.3 Revocation. A resignation that is effective is revocable only by written concurrence of the employee and the appointing authority.

1102.4 Coerced Resignations.

(a) Time Limit. A resignation which the employee believes has been coerced by the appointing authority may be revoked within seven (7) calendar days after its expression by serving written notice on the Director of Human Resources and a copy on the appointing authority.

(b) Reinstatement. If the appointing authority acknowledges that the employee could have believed that the resignation was coerced, it shall be revoked and the employee returned to duty effective on the day following the appointing authority's acknowledgement without loss of seniority.

(c) Contest. Unless, within seven (7) days of the receipt of the notice, the appointing authority acknowledges that the resignation could have been believed to be coerced, this question shall be handled as an appeal to the Merit Board.

(d) Disposition. Upon appeal, the Merit Board shall determine whether the resignation was coerced and, if not, the resignation shall stand. If coerced, the resignation shall be deemed revoked and the employee returned to duty effective on the day following the decision of the Merit Board, but without loss of seniority or pay, subject to the employee's duty to mitigate damages.

1103. TENURE AND DISMISSAL, SUSPENSION AND REDUCTION. The tenure of every officer or employee holding permanent status in a position in the merit system shall be during good behavior, and the rendering of efficient service, but any such officer or employee may be dismissed, suspended or reduced in rank or compensation for cause.

1104. CAUSE. The appointing authority may dismiss, suspend or demote any employee for cause. The following are sufficient causes for such action; the list is indicative rather than inclusive of restrictions and dismissal, suspension or demotion may be based on reasons other than those specifically mentioned:

- (a) absence without leave,
- (b) conviction of any criminal act involving moral turpitude,
- (c) conduct tending to bring the merit system into disrepute,
- (d) disorderly or immoral conduct,
- (e) incompetence or inefficiency,
- (f) insubordination,
- (g) being at work under the influence of liquor or drugs, carrying onto the premises liquor or drugs or consuming or using liquor or drugs during work hours and/or on County premises,
- (h) neglect of duty,
- (i) negligent or willful damage to public property or waste of public supplies or equipment,
- (j) violation of any lawful or reasonable regulation or order given by a supervisor or department head,
- (k) willful violation of any of the provisions of the Merit System Ordinance or Personnel Management Regulations,
- (l) material and intentional misrepresentation or concealment of any fact in connection with obtaining employment,
- (m) misappropriation of County funds or property,
- (n) unreasonable failure or refusal to undergo any physical, medical and/or psychiatric exam and/or treatment authorized by these regulations,
- (o) dishonesty or theft,
- (p) excessive or unexcused absenteeism and/or tardiness,

(q) sexual harassment including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when such conduct has the purpose or effect of affecting employment decisions concerning an individual, or unreasonably interfering with an individual's work performance, or creating an intimidating or hostile working environment.

(Amended 09/25/84)

1104.1 Suspension. Notwithstanding Section 1104, management and professional employees may not be suspended for a period of less than one (1) week.

(Added 11/17/92)

#### 1105. DISABILITY.

(a) An employee physically or mentally incapacitated for the performance of duty is subject to dismissal, suspension or demotion, subject to the County Employees Retirement Law of 1937. An appointing authority, after giving notice, may place an employee on leave if the appointing authority has filed an application for disability retirement for the employee, or whom the appointing authority believes to be temporarily or permanently physically or mentally incapacitated for the performance of the employee's duties.

(b) An appointing authority who has reasonable cause to believe that there are physical or mental health conditions present in an employee which endanger the health or safety of the employee, other employees, or the public, or which impair the employee's performance of duty, may order the employee to undergo, at County expense and on the employee's paid time, a physical, medical and/or psychiatric examination by a licensed physician and receive a report of the findings on such examination. If the examining physician recommends that treatment for physical or mental health problems, including leave, are in the best interests of the employee or the County in relation to the employee overcoming any disability and/or performing his or her duties, the appointing authority may direct the employee to take such leave and/or undergo such treatment.

(c) Leave due to temporary or permanent disability shall be without prejudice to the employee's right to use sick leave, vacation or any other benefit to which the employee is entitled other than regular salary. The Director of Human Resources may order lost pay restored for good cause and subject to the employee's duty to mitigate damages.

(d) Before an employee returns to work from any absence for illness or injury, other leave of absence or disability leave, exceeding two (2) weeks in duration, the appointing authority may order the employee to undergo, at County expense, a physical, medical and/or psychiatric examination by a licensed physician, and may consider a report of the findings on such examination. If the report shows that such employee is physically or mentally incapacitated for the performance of duty, the appointing authority may take such action as deemed necessary as authorized by these regulations.

1106. SUSPENSION. Suspensions are without pay and shall be for cause or disability.

(Amended 01/22/91)

1107. SUSPENSION DUE TO PENDING CRIMINAL CHARGES.

(a) An appointing authority, upon giving notice as provided in Section 1110, may immediately suspend an employee against whom there is pending a criminal charge which adversely affects the county service or conflicts with continued employment until the appointing authority has knowledge a disposition has been made on the charges. Pending criminal charges exist when an employee has been arrested or has been named a defendant in a criminal complaint or indictment filed in any court.

(b) The Merit Board may order lost pay restored for good cause, and subject to the employee's duty to mitigate damages, but not if the employee

(1) is given a Notice of Proposed Action (Skelly Notice) and

(2) is dismissed or otherwise disciplined for cause directly related to the charges within fourteen (14) calendar days after the appointing authority has knowledge of a disposition upon the charges.

**(SECTION 1107 - REPEALED 01/22/91)**

1108. SKELLY REQUIREMENTS.

1108.1 Notice of Proposed Action (Skelly Notice). Before taking action to dismiss, suspend for more than forty (40) work hours (forty-eight (48) hours for twenty-four (24) hour shift employees) or to reduce an employee in rank or compensation, the appointing authority shall cause to be served on the employee, either personally or by certified mail, a Notice of Proposed Action which shall contain the following:

(a) A statement of the action proposed to be taken.

(b) A copy of the charges, including the acts or omissions and grounds upon which the action was based.

(c) If it is claimed that the employee has violated a rule or regulation of the County, department or district, a copy of said rule shall be included with the notice.

(d) A statement that the employee may review and request copies of materials upon which the proposed action is based.

(e) A statement that the employee has seven (7) calendar days to respond to the appointing authority either orally or in writing.

1108.2 Employee Response. The employee upon whom a Notice of Proposed Action has been served shall have seven (7) calendar days to respond to the appointing authority either orally or in writing before the proposed action may be taken. Upon application and for good cause, the appointing authority may extend in writing the period to respond. If the employee's response is not filed within seven (7) days of any extension, the right to respond is lost.

1108.3 Leave Pending Employee Response. Pending response to a Notice of Proposed Action, the appointing authority, for cause specified in writing, may place the employee on temporary leave of absence with pay.

1109. NOTICE OF SUSPENSION DUE TO PENDING CRIMINAL CHARGES.



(a) Before suspending an employee due to pending criminal charges, the appointing authority shall serve on the employee either personally or by certified mail a Notice of Suspension Due to Pending Criminal Charges which shall contain the following:

(1) A statement that the employee is suspended due to pending criminal charges.

(2) A statement of the charges upon which the suspension is based and of the facts by which such charges adversely affect the County service or conflict with continued employment.

(3) A statement that the employee may respond to the appointing authority either orally or in writing within seven (7) calendar days.

(4) A statement that disciplinary action may be taken after disposition of the charges.

(b) The Notice of Suspension Due to Pending Criminal Charges may include a Notice of Proposed Action (Skelly Notice) under Section 1108.

**(SECTION 1109 - REPEALED 04/02/91)**

1110. PROCEDURE ON DISMISSAL, SUSPENSION OR REDUCTION. In any action to dismiss, suspend or reduce in rank or compensation an officer or employee having permanent status in a position in the merit system, after having complied with such Skelly requirements as may be applicable, the appointing authority shall make an order in writing stating specifically the causes for the action.

1111. SERVICE OF ORDER. Said order of dismissal, suspension or reduction in rank or compensation shall be filed with the Director of Human Resources, showing by whom and the date a copy was served upon the employee, either personally or by certified mail to the employee's last known mailing address. The order shall be effective either upon personal service or deposit in the U.S. Postal Service.

1112. EMPLOYEE APPEALS FROM ORDER. Such officer or employee dismissed, suspended or reduced in rank or compensation may, within ten (10) calendar days after service or mailing to the employee of the order, appeal in writing through the Director of Human Resources to the Merit Board from such order. In the alternative, the employee may file a written election with the Director of Human Resources waiving the employee's right of appeal to the Merit Board in favor of the employee's appeal rights under a specific grievance procedure.

1113. TRANSMITTAL TO MERIT BOARD. The Director of Human Resources shall transmit the order and appeal to the Merit Board for hearing.

1114. MERIT BOARD HEARING. The Merit Board shall, within twenty (20) days from the filing of the appeal, determine whether to take jurisdiction of the matter for hearing. If the Merit Board grants a hearing, the Secretary to the Merit Board or Hearing Officer shall

notify the interested parties of the time and place of hearing at least five (5) days in advance thereof. The appellant shall be entitled to appear personally, produce evidence and to have counsel and a public hearing.

1115. DISPOSITION OF APPEAL. The Merit Board shall either affirm, modify or revoke such order of dismissal, suspension or reduction in rank or compensation, and the Merit Board shall certify its findings and decision to the appointing authority whose action was the subject of the hearing, who shall forthwith enforce and follow them.

1116. HEARINGS. Appeals subject to Section 1114 shall be referred for hearing as provided in Section 209 subject to the provisions of this part. The Merit Board may refer any other appropriate matter to a Hearing Officer or to itself for hearing. All final decisions shall be made independently by the Merit Board.

1117. NOTIFYING HEARING OFFICER. The Merit Board shall notify the Hearing Officer and furnish the Hearing Officer with a statement of pertinent data such as name, date of employment, classification, termination notice, etc., and with documents filed in the appeal and such other documents as the Hearing Officer may request for the purpose of conducting the hearing.

1118. HEARING DATE. Upon receipt of notification and documents, the Hearing Officer shall notify all interested parties and set a suitable date for the hearing as expeditiously as possible.

1119. HEARING PROCEDURE. The Hearing Officer shall conduct the hearing pursuant to these regulations and the Hearing Officer's discretion. The Hearing Officer shall determine all legal questions that arise during the hearing, considering the usual legal authorities including local official administrative and legal interpretations. Continuances are to be discouraged, and shall be granted only for cause. The Hearing Officer may issue subpoenas as provided by the Merit Board and orders for discovery.

1120. COURT REPORTER. The Merit Board shall determine whether the oral evidence at the hearing shall be recorded by a court reporter at County expense.

1121. CONTEMPT. Any incident of contempt before the Hearing Officer shall be reported to the Merit Board. The Hearing Officer shall not discontinue the hearing because of any such contempt, unless it is impossible to conduct the hearing because of the nature of the contempt.

1122. HEARING OFFICER REPORT AND RECORD.

(a) After the hearing, the Hearing Officer shall send a written report to the Merit Board containing:

(1) a record of the proceeding consisting of a summary or description of the material evidence admitted, oral, documentary and physical; and

(2) the Hearing Officer's recommended findings of fact, conclusions of law and decision(s).

(b) The Hearing Officer's report is the record of the proceedings. The Merit Board shall mail a copy of the Hearing Officer's report to the appellant and the appointing authority, and shall place the appeal on the agenda for Merit Board action at its next meeting occurring after six (6) calendar days from such mailing.

1123. MERIT BOARD DECISION. The Merit Board shall either adopt the Hearing Officer's recommended decision or reject it in whole or in part and make its own decision.

1124. AUGMENTING RECORD.

(a) At the request of a party as hereinafter provided, or on its own motion, the Merit Board may augment the record with a full or partial transcript of testimony before the Hearing Officer, if such testimony can be transcribed.

(b) Such request must be made in writing, must include a specific statement of the evidence which the party seeks to introduce by transcript, and must show cause why the evidence should be considered as an augmentation of the record. A copy of the request must be mailed to the other party(s) not later than seven (7) calendar days after the Merit Board mails the Hearing Officer's report.

(c) If the Merit Board grants a party's request for augmentation of the record, the requesting party is responsible to obtain and provide the transcript allowed, including a copy for each Merit Board member and other party(s), at the requester's expense. The Merit Board shall bear the expense of any transcript ordered upon its own motion.

1125. FURTHER HEARING.

(a) At the request of a party as hereinafter provided, or on its own motion, the Merit Board may refer any matter back to the Hearing Officer for further consideration or for further hearing.

(b) Such request must be made in writing, must include a specific statement of the evidence or other matter which the party wishes to bring before the Hearing Officer, and must show cause why the request should be granted. A copy of the request must be mailed to the other party(s) not later than seven (7) calendar days after the Merit Board mails the Hearing Officer's report.

1126. REHEARING.

(a) Within thirty (30) calendar days after the Secretary to the Merit Board certifies the Merit Board's decision to the appointing authority, at the request of a party or on its own motion, the Merit Board may order a rehearing.

(b) Any party to the hearing may request that the Merit Board order a rehearing for the purpose of presenting new evidence not known or available with reasonable diligence

to such party at the time of hearing, or of rectifying any obvious mistake of law made during said hearing or any obvious injustice not known at the time of hearing. Such request must be made in writing and must demonstrate cause supported by specific references to the record or other specific circumstances why the request should be granted. Merit Board consideration will be limited to the written request and any written response thereto.

1127. AFFIRMATIVE ACTION OFFICER INFORMATION CONFIDENTIAL. In addition to other confidential information of the Merit Board and its staff, all written or oral communications to or by the Affirmative Action Officer or to persons working with the Affirmative Action Officer in the course of mediation efforts are confidential. Such communications shall not be received as evidence in any action or proceedings including, but not limited to, proceedings before the Merit Board or its Hearing Officer.

1128. Code of Civil Procedure Section 1094.6 is applicable with respect to judicial review of Merit Board Decisions.

## **PART 12**

### **LAYOFF**

1201.  GROUNDS FOR LAYOFF. Any employee(s) having permanent status in position(s) in the merit service may be laid off when the position is no longer necessary, or for reasons of economy, lack of work, lack of funds or for such other reason(s) as the Board of Supervisors deems sufficient for abolishing the position(s).

1201.1 Notice. The County will give employees scheduled for layoff at least ten (10) work days' notice prior to their last day of employment, or fourteen (14) calendar days' notice for employees on a work schedule other than 5-40 per week.  
(Added 08/16/94)

1202.  ORDER OF LAYOFF. The order of layoff in a department shall be based on inverse seniority in the class of positions, the employee in that department with least seniority being laid off first and so on.

1203.  LAYOFF BY DISPLACEMENT.

(a)  In the Same Class. A laid-off permanent full-time employee may displace an employee in the department having less seniority in the same class who occupies a permanent-intermittent or permanent part-time position, the least senior employee being displaced first.

(b)  In the Same Level or Lower Class. A laid-off or displaced employee who had achieved permanent status in a class at the same or lower salary level as determined by the salary schedule in effect at the time of layoff may displace within the department and in the class an employee having less seniority; the least senior employee being displaced first, and so on with senior displaced employees displacing junior employees.

1204.  PARTICULAR RULES ON DISPLACING.

(a) Permanent-intermittent and permanent part-time employees may displace only employees holding permanent positions of the same type respectively.

(b) A permanent full-time employee may displace any intermittent or part-time employee with less seniority (1) in the same class as provided in Paragraph 1203(a), or (2) in a class of the same or lower salary level as provided in Paragraph 1203(b) if no full-time employee in a class at the same or lower salary level has less seniority than the displacing employees.

(c) Former permanent full-time employees who have voluntarily become permanent part-time employees for the purpose of reducing the impact of a proposed layoff with the written approval of the Director of Human Resources or designee retain their permanent full-time employee seniority rights for layoff purposes only and may in a later layoff displace a full-time employee with less seniority as provided in these rules.

1205. SENIORITY. An employee's seniority within a class for layoff and displacement purposes shall be determined by adding the employee's length of service in the particular class in question to the employee's length of service in other classes at the same or higher salary levels as determined by the salary schedule in effect at the time of layoff. Employees reallocated or transferred without examination from one class to another class having a salary within five (5) percent of the former class, as provided in Section 305.2, shall carry the seniority accrued in the former class into the new class. Employees reallocated to a new deep class upon its initiation or otherwise reallocated to a deep class because the duties of the position occupied are appropriately described in the deep class shall carry into the deep class the seniority accrued or carried forward in the former class and seniority accrued in other classes which have been included in the deep class. Service for layoff and displacement purposes includes only the employee's last continuous permanent County employment. Periods of separation may not be bridged to extend such service unless the separation is a result of layoff in which case bridging will be authorized if the employee is reemployed in a permanent position within the period of the employee's layoff eligibility. Approved leaves of absence as provided for in these rules and regulations shall not constitute a period of separation. In the event of ties in seniority rights in the particular class in question, such ties shall be broken by length of last continuous permanent County employment. If there remain ties in seniority rights, such ties shall be broken by counting total time in the department in permanent employment. Any remaining ties shall be broken by random selection among the employees involved.

(Amended 09/25/84)

1206. APPEAL FROM LAYOFF. In the event of layoff, employees with permanent status may appeal the application of layoff rules as they relate to the establishment of and certification from layoff and reemployment lists to the Merit Board. Appeals must be filed in writing with the Director of Human Resources within seven (7) calendar days after the public posting of a layoff or reemployment list or mailing of a layoff or reemployment notice, and must state the specific reasons for the appeal and the remedy sought. This provision shall not be construed to provide for employee appeals of management rights to identify the classes of layoff, number of positions to be reduced or the effective date of the layoffs.

1207. SEPARATIONS FROM TRAINEE AND FIXED TERM POSITIONS. Incumbents of positions designated as trainee and fixed term positions will be separated from these positions in accordance with and not later than the completion of the preestablished conditions as set forth in the classification specifications.

## PART 13

### PRE-EMPLOYMENT HEALTH EXAMINATION

1301. ADMINISTRATION OF THE PROGRAM. The Director of Human Resources shall administer the Pre-Employment Health Examination Program with the advice of the Medical Consultant who shall be the County Health Services Director.

1302. THE PRE-EMPLOYMENT HEALTH EXAMINATION REQUIREMENT. Each candidate for employment in a job classification designated by the Board of Supervisors, or the Director of Human Resources, in consultation with the appointing authority(s) and the Medical Consultant, shall be required to take a pre-employment health examination and shall be required to meet job-related health standards as a condition precedent to appointment.

1303. EMPLOYMENT OF THE HANDICAPPED. Persons who are handicapped, (as defined by federal and state laws), who are otherwise qualified shall be considered for employment. An applicant must be able to perform essential job functions effectively and safely, shall not pose a threat to the safety of others and shall not be placed in a job which could be self-injurious. Referrals of such candidates shall take into account the recommendations of the Medical Consultant and the needs of the appointing authority.

1304. HEALTH STANDARDS. The Medical Consultant shall establish job-related health standards for each job classification subject to a pre-employment health examination. The standards shall be based on information developed by the Director of Human Resources, the appointing authority or the Medical Consultant.

1305. EXAMINATION CONTENT. The health examination shall be conducted by the Medical Consultant or a designated licensed physician approved by the Director of Human Resources, and may include a complete case history, x-rays, laboratory tests and any other pertinent medical reports and tests.

1306. SCHEDULING OF EXAMINATIONS. The health examination shall be given prior to the effective date of appointment, unless the Director of Human Resources determines that circumstances clearly make this impractical in which case it shall be scheduled immediately on reporting. The appointing authority at the time of selection shall arrange through the Director of Human Resources for the examination to take place prior to the reporting date.

1307. ELIGIBILITY PROCEDURE. The Medical Consultant shall decide as to the health qualification or disqualification of candidates, and may make recommendations as to the

possible employment of handicapped persons. The Director of Human Resources shall notify the appointing authority and the candidate, in writing, as to the results of the health examination. The notice shall be mailed to the candidate's last known address. The Director of Human Resources shall consult with the appointing authority to determine whether or not reasonable accommodation can be made for the employment of handicapped persons within specified limitations of federal and state law. Subject to decisions and recommendations of the Medical Consultant, the Director of Human Resources may certify candidates for appointment; may suspend eligibility until disabilities are corrected; or may restrict eligibility to particular positions within a classification as appropriate to the individual case.

1308. REVIEW OF HEALTH EXAMINATION RESULTS. A candidate who has been disqualified for failure to meet the health standards for a position may request a review within fifteen (15) calendar days after the mailing of notice of the health examination results. The request must be submitted to the Director of Human Resources in writing and must include written medical reports or evidence in support of the request. The Medical Consultant will review the material and advise the Director as to whether or not the original disqualification should be reversed or modified. The Director of Human Resources shall mail the candidate notice of the results of the review. Within five (5) calendar days after the mailing of the notice, a candidate may appeal the decision to the Merit Board only on the basis of specific allegations of unlawful discrimination. In reviewing the appeal, the Merit Board may order an additional health examination and a report and recommendation by a licensed physician of its choosing. The costs of the additional examination and report and recommendation shall be borne by the County.

1309. CONFIDENTIALITY OF MEDICAL RECORDS. Medical examination records shall be retained by the Medical Consultant and shall remain confidential except in the following circumstances:

(a) The records may be opened for inspection by the candidate or a person authorized in writing by the candidate.

(b) The records shall be released to the Merit Board in cases where there is an appeal from medical disqualification.

(c) The records shall be opened for inspection in Workers' Compensation cases or in other claims or actions against the County.

(d) That portion of the records relevant to employment shall be opened to inspection by the Director of Human Resources and the appointing authority.

1310. DRUG AND ALCOHOL SCREENING. In accordance with the County's Drug and Alcohol Screening Program adopted by the Board of Supervisors in Resolution No. 95/630 and amended in Resolution No. 96/559, persons offered employment in classes covered by that Program shall successfully pass a drug screening test as described in the Program to be appointed to a position.

(Added 12/02/97, Res. No. 97/651)





## PART 14

### **PROHIBITED DISCRIMINATION**

1401. NO DISCRIMINATION. No person in the merit system or seeking admission thereto shall be appointed, promoted, disciplined, reduced, removed or in any way favored, disfavored, or discriminated against because of political or religious or union activities, or race, color, national origin, sex, age, handicap, sexual orientation or other unlawful discrimination.

1402. AFFIRMATIVE ACTION OFFICER. A person may file a complaint of unlawful discrimination with the County's Affirmative Action Officer. A discrimination complaint must be in writing and must set forth the grounds and facts upon which discrimination is alleged and the remedy sought. The Affirmative Action Officer shall investigate the complaint and shall attempt to mediate it.

1403. MERIT BOARD. A person may file a complaint of unlawful discrimination with the Merit Board within sixty (60) days of the date the alleged discrimination occurred, or within thirty (30) days of termination of mediation effort by the Affirmative Action Officer, whichever is later, except that as to matters in which these rules provide specific appeal procedures and time limits, such appeal procedures and time limits shall apply. Discrimination complaints must be in writing and must set forth the grounds and facts upon which discrimination is alleged and the remedy sought. Final decisions of the Merit Board on discrimination complaints shall be enforced and followed by the County or the appointing authority whose action was the subject of the complaint. Unlawful discrimination complaints are not subject to any grievance procedure.

## **PART 15**

### **PAYROLL CERTIFICATION**

1501. GENERAL PROVISIONS. No payment of any salary, wage or other compensation may be made to any county employee holding any position in the Merit System until the proper form showing the name, classification and salary or wage rate, the duration of service and the amount to be paid shall have been certified by the Director of Human Resources to be in compliance with the Merit System ordinance and regulations.

1502. PAYROLL CHECKING PROCEDURE. The Human Resources Department may compare its official roster of employees with the payroll to determine whether the employees named have been properly appointed and employed during the period for which compensation is claimed. If the Director of Human Resources finds that a person named in the payroll has not been properly appointed or employed, the Director shall notify the Auditor-Controller to delete the item from the payroll and shall immediately notify the appointing authority of the action.

## PART 16

### TRANSFERS TO MERIT SYSTEM AGENCIES

1601. TRANSFERS BETWEEN MERIT SYSTEM AGENCIES. Subject Regulation 1004, employees of Contra Costa County, the Contra Costa County Flood Control and Water Conservation District, Contra Costa County (Consolidated) Fire Protection District, Orinda Fire Protection District, Moraga Fire Protection District, West County Fire Protection District and Riverview Fire Protection District may transfer between and within said agencies.

1602. TRANSFERS TO MERIT SYSTEM AGENCIES.

1602.1 Status on Transfers to a Merit System Agency. Any person in a position of the personnel system of another governmental subdivision, who has achieved status comparable to permanent status in the merit system, which position is subsequently transferred by the Board of Supervisors to the service of a public agency governed by this merit system, shall have permanent status of and be integrated into the merit system in the class of the classification plan to which the position is allocated by the Director of Human Resources. This permanent status in the merit system shall include all the rights, privileges, and responsibilities enjoyed by merit system employees as though the person had originally qualified under merit system procedures.

1602.2 Seniority on Transfer to a Merit System Agency. For purposes of layoff and seniority credit in promotional examinations, such transferred persons shall be considered as commencing work under the merit system on the date they achieved status in the other governmental subdivision comparable to permanent status in the merit system. For purposes of layoff, the employee's seniority as to merit system classes shall commence on the first day of appointment to such classes and to comparable classes in the other governmental subdivision, in accordance with the layoff regulations.

1603. TRANSFER OF PROJECT POSITIONS.

1603.1 Project Position Transfer. When the Board of Supervisors establishes as regular service a program initially established by the Board for a specific limited period as part of an approved project, employees who have served in project positions for at least one (1) year shall be included in the merit system if:

(a) The Director of Human Resources recommends such inclusion and allocates the position to a class in the classification plan; and

(b) The Board of Supervisors approves the classification and addition of the position to the merit system; and

(Amended 03/29/88)

(c) The employee was originally appointed to the project position from an eligible list on an open competitive basis.

(Added 12/02/97, Res. No. 97/651)

1603.1.0 Requirement for Competitive Examination. In order to be included in the merit system under provisions of Section 1603, any employee who was not originally appointed to the project position being transferred from an established eligible list must obtain eligibility on an employment list through the competitive examination process and is subject to applicable certification provisions of the Personnel Management Regulations.

(Added 12/02/97, Res. No. 97/651)

1603.2 Status on Project Position Transfer. Employees included in the merit system pursuant to Section 1603.1 have all rights, privileges and responsibilities of other merit system employees as if they had originally qualified under merit system procedures.

1603.3 Seniority on Project Position Transfer. For purposes of layoff and seniority credit in promotional examinations, such employee's first day of work is the date permanent employment began in a project position comparable to permanent status in the merit system. For purposes of layoff, the employee's seniority as to merit system classes shall commence on the first day of permanent appointment to such classes and to comparable project classes, in accordance with the layoff regulations.

#### 1604. TRANSFERS TO APPRENTICE FIRE/MEDIC CLASS.

1604.1 Status on Transfer to Apprentice Fire/Medic Class. Any trainee of the California Fire Fighter Joint Apprenticeship Committee who successfully completes a training academy course of instruction, thereby qualifying to become an Apprentice Fire/Medic may be appointed to the Apprentice Fire/Medic class without further examination and if appointed shall be integrated into the merit system in the Apprentice Fire/Medic Class. Permanent status in the merit system shall be subject to successful completion of probation and shall include all the rights, privileges, and responsibilities enjoyed by merit system employees as though the person had originally qualified under merit system procedures from the date such person was appointed to the Apprentice Fire/Medic class either on an exempt or non-exempt basis.

1604.2 Seniority on Transfer to Apprentice Fire/Medic Class. For purposes of layoff and seniority credit in promotional examinations, such transferred persons shall be considered as commencing work under the merit system on the date they were employed by a fire merit system agency in the Apprentice Fire/Medic class following successful completion of the Joint Apprenticeship Committee training academy.

(Res. No. 84/22, effective 01/10/84)

## **PART 17**

### **AMENDMENTS**

1701. AMENDMENT PROCEDURE. Amendments to these regulations may be proposed in writing and adopted by Resolution by a majority vote at any regular or special meeting of the Board of Supervisors.

## PART 18

### DEEP CLASS REASSIGNMENTS

1801. REASSIGNMENT. Deep class incumbents are subject to reassignment to higher or lower responsibility levels within the class, and to higher or lower base salary steps within the class, in accordance with the work assignments of such incumbents which shall be determined and may be modified from time to time by the appointing authority.

1802. PRELIMINARY NOTICE. Prior to a downward reassignment, the appointing authority shall advise the incumbent in writing of the proposed action and the reasons for the proposed action and provide the incumbent an opportunity to respond to the appointing authority within not less than five (5) calendar days.

1803. DOWNWARD REASSIGNMENT ORDER. Downward reassignment shall be carried out by a written order to the incumbent stating specifically the reasons for the downward reassignment. A copy of the order shall be filed with the Director of Human Resources.

1804. APPEAL FROM DOWNWARD REASSIGNMENT ORDER. The incumbent may reply in writing to the reassignment order within ten (10) calendar days of its filing with the Director of Human Resources, and may appeal the reassignment order within seven (7) calendar days to the Merit Board. Upon an appeal from a reassignment order, the incumbent shall have the burden of proof to show that the order was arbitrary or capricious and not in accordance with the appointing authority's right to direct the work assignments within the deep class.

1805. APPEAL PROCEDURE. Appeals from Downward Reassignment Orders shall be heard and decided in accordance with Personnel Management Regulations 1114 through 1128, inclusive.

1806. APPLICABILITY. Part 18 of the Personnel Management Regulations is applicable to all management deep classes.

(Added 06/05/84, Res. #84/325)