HUMAN RESOURCES RULES AND REGULATIONS
RESOLUTION NO. 2007-22
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RESOLUTION NO. 2007-22

A RESOLUTION PROVIDING FOR THE APPOINTMENT, PROMOTION, TRANSFER, VACATION, SICK LEAVE, RETIREMENT, POLITICAL ACTIVITY, EDUCATIONAL LEAVES AND OTHER MATTERS, PERTAINING TO COUNTY EMPLOYMENT

Merced County is an equal opportunity employer providing opportunities to all persons regardless of sex, race, religion, national origin, color, age, disability, veteran's status, political affiliation, medical condition, marital status or sexual orientation in all areas of employment including hiring, promotion and employee development.

It is the policy of the County to provide reasonable accommodation to qualified disabled employees in the application of the following rules and regulations.

SECTION 1. TITLE AND DEFINITIONS

This Resolution shall be known and may be cited as the ***"HUMAN RESOURCES RESOLUTION OF MERCED COUNTY".***

Words used in the present tense include the future, except where the natural construction of this resolution otherwise indicates. Words in the singular number include the plural, and words in the plural number include the singular; and the word "shall" is mandatory and not directory.

Words in the male gender include the female gender.

"County Officers" shall mean those certain officers designated in Section 24,000 of the Government Code of the State of California as now enacted or as later may be amended.

"Appointive Officers" shall mean those certain persons not "County Officers" who are appointed or employed by the Board of Supervisors, or otherwise, as the principal employee of a department or for the discharge of duties expressly provided by law or particular delegated functions.

"Officers" shall mean and include all "County Officers", and "Appointive Officers", as herein defined, except where the natural construction of this resolution otherwise indicates.

"Employees" shall mean all persons employed by the County of Merced, other than "Officers", except where the natural construction of this resolution otherwise indicates.

"Permanent Employee" means an employee who has completed his probationary period in a regular position.

"Permanent Part-time Employee" shall mean employees engaged in permanent, regular, continuous part-time service assigned to work a definite schedule that is less than the normal time schedule for the department in which employed.

"Variable Shift Employees" shall mean employees engaged in permanent, part-time service, which is regularly scheduled for no less than 32 hours per biweekly pay period.

"Contract Employee" shall mean employees hired pursuant to a time-limited contract to perform services for which regular or Extra-help employment is not a viable option. Such employees shall have their compensation set by the terms of their contract and shall only be

entitled to statutory benefits (Workers' Compensation, State Unemployment Insurance, Social Security, General Liability Insurance, and Medical Malpractice Insurance, if required) unless otherwise specifically delineated in their contract. Provisions of the Human Resources Rules and Regulations shall not cover contract employees identified as applicable to "regular employees" or employees of specific bargaining units.

"Employment At-Will Status" shall apply, except as provided by law, to all "A" level managers and unrepresented management in the positions of Assistant District Attorney and Chief Deputy District Attorney. Incumbents in these positions serve at the pleasure of the department appointing authority as an Employment At-Will unrepresented management employee. Employees appointed to Employment At-Will status may be dismissed or disciplined without notice, hearing, or cause, at the discretion of the appointing authority. Employees appointed to an Employment At-Will position are excluded from any provisions of this Resolution that state, indicate, or may imply notice, hearing or cause is required prior to discipline or dismissal, or that due process provisions should or may be applicable. A current permanent employee in a regular position cannot be changed to an Employment At-Will status or position unless the County obtains the employee's knowledge and consent.

"Regular Position" means a position established by this resolution on a continuing basis, as distinct from intermittent, seasonal, Extra-help, contract, and temporary positions and employees appointed to Employment At-Will Status. "Regular Employee" means the holder of a regular position.

"Limited Term" shall mean time limited regular employment not to exceed the length of the probationary period for the class.

"Intermittent, Seasonal and Extra-help Employee" shall mean and include all employees whose employment is not permanent and whose rate of pay is fixed on an hourly basis. This employment may be regularly recurrent in certain offices or departments because of the particular duties and functions to be discharged that occur periodically each year, or that the workload in a department periodically is at too great a volume to be handled expeditiously by the regular employees within the department. Refer to Extra-help policy (Section 2 AA.) for complete information on County of Merced policy for Extra-help employees.

"Alternate Work Schedule" shall mean an 80 hour bi-weekly work week that is scheduled for less than ten (10) workdays and/or outside the regularly scheduled Monday through Friday 8 to 5 work week.

"Domestic Partner" or "Registered Domestic Partner" shall mean two adults in a committed relationship in accordance with the requirements of Division 2.5, Section 297 of the Family Code and have filed a Declaration of Domestic Partnership with the Secretary of State pursuant to Division 2.5, Section 298 and 298.5 of the Family Code.

"Classified Service" shall mean all positions that are provided for by the Classification Plan referred to in Section 5 of the Salary Resolution.

"Anniversary Date" shall mean the date upon which a step advance in salary becomes effective under the provisions of this resolution.
"Pay Period" shall mean 14 calendar days from 11:00 P.M. Sunday to 11:00 P.M. the second Sunday thereafter.

The following conditions shall apply to all employees in the Classified Service of the

County of Merced.

SECTION 2. TERMS OF EMPLOYMENT

A. APPOINTMENTS

1. All appointments to the positions in the Classified Service shall be made by the head of the department in accordance with the rules of the Board of Supervisors as established by the Recruitment and Selection Resolution. Department heads shall appoint only those persons who meet the qualifications set forth in the Merced County Classification Plan for the particular classification of employment, provided, however, that any employee of the Human Services Agency, Child Support Services, and Office of Emergency Services subject to the State Merit System, shall be subject also to standards imposed under the System.

2. Appointments shall be made in writing on forms prescribed by Human Resources. A copy of the appointment, signed by the appointing authority, or his/her deputy, and approved by Human Resources shall be delivered to the County Auditor before payment shall be made to any employee occupying a position in the Classified Service.

3. Individuals shall not be appointed to an Employment At-Will, permanent, variable shift, temporary, or Extra-help position while already employed by Merced County under circumstances that would result in the employee receiving more than one pay check in the same pay period, unless previously approved by the Board of Supervisors.

4. Appointment to Employment At-Will positions may be exempt from the recruitment and selection requirements and procedures as outlined in the Human Resources Recruitment and Selection Resolution No. 2006-121. However, new appointments to an Employment At-Will position will require a certification by Human Resources that the person selected does in fact meet the minimum qualifications for the position. If a recruitment flyer is used to attract applicants for these type of positions, recruitment flyers will announce prominently the Employment At-Will employment status. To assure that an individual who accepts employment in an Employment At-Will position is fully and officially informed regarding his/her status and of the implications of serving at the pleasure of the appointing authority, an acknowledgment of the position's Employment At-Will status will be signed by the new appointee, when the offer is made and prior to the first day of work. All background investigations, medical examinations, physical requirements, or other qualification requirements, will be completed prior to the first day of work. Personnel Transmittal Actions that appoint any applicant to Employment At-Will employment status will not be processed until a signed acknowledgment of Employment At-Will employment status by the applicant has been received in Human Resources. The applicant shall not start employment until the written acknowledgment of the Employment At-Will employment status is received by Human Resources.

B. MEDICAL EXAMINATIONS, BACKGROUND AND CRIMINAL HISTORY INFORMATION

1. Appointment to certain classifications may require a Health Examination as a condition of employment. The Health Examination will be conducted in accordance with procedures established in the Health Examination Resolution.

2. Public Safety Officers (i.e., law enforcement, etc.) may have an agility test as well as the Health Examination, which shall be accomplished prior to beginning employment.

3. All Health Examinations must be reviewed by an Occupational Health Provider designated by the County, whose History and Medical Evaluation review shall comply with all rules and regulations as established by the Board of Supervisors and the Merced County Retirement Board. All Health Examinations and the foregoing shall be accomplished prior to commencement of employment. Test measurements and medical examinations will be given at no charge to the employee. If the employee desires to go to his own doctor, the employee must pay for the examination and/or test measurements. If the employee elects to go to their own doctor, it will be the employee's responsibility to insure use of the Health Examination forms in accordance with established procedures, and to make sure that the results of the examination are sent to the County or its Occupational Health Provider designee for review. Those employees unable to meet the medical standards required or recommended for the particular position applied for may be subject to termination of employment.

4. Medical examinations will be provided by the Occupational Health Provider at no cost to the employee, for those employees required to have a Class A or Class B Driver's License in their employment with the County. Employees desiring medical examinations completed by a private physician shall be responsible for any cost involved.

5. Medical examinations shall be provided at no cost to employees of the Merced County Health Department to the extent and at such intervals as said examinations are required for maintenance of licensure or as otherwise required by law or Department policy.

6. Merced County will make all reasonable attempts to accommodate all employees or applicants in compliance with the provisions of the American's with Disabilities Act and Fair Employment and Housing Act.

7. No county employee or county contractor who has been convicted of a felony within the last five (5) years or who is currently on supervised probation or parole shall be assigned duties in any office housing a California Law Enforcement Teletype Systems (CLETS) terminal computer, without direct supervision.

8. Applicants/employees hired for certain County classifications, as defined in Penal Code Section 11105.3, are subject to a review of their criminal history information. Human Resources is authorized access to State Summary Criminal History Information pursuant to Penal Code Section 11105(b) (10) to obtain such information. The official County Class Specifications indicate which classifications are subject to these reviews.

9. New employees, whose criminal history information indicates omissions, or false or inaccurate responses on their employment application, or a disqualifying conviction, shall be subject to termination of employment. Regular County employees who are offered a transfer, promotion, or voluntary demotion into a position subject to a criminal history information review shall not assume their new position until the review has been completed. Employees transferring, promoting, or demoting into a new position who are disqualified because of the criminal history information review shall remain in their current position, unless the review information is also disqualifying for that position. In such instances, the employee will be subject to termination.

10. Applicants/employees convicted of any of the Code sections described in Penal Code Section 11105.3 may be subject to disqualification or termination pursuant to the criminal history information process described below. Applicants/employees will be disqualified

from public employment for a period of five years from the date of final conviction or the date upon which the public employee is released from incarceration after conviction of any of the enumerated offenses set forth herein, whichever is later, if found guilty of a felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of his or her duties as a public employee. For the purposes of this section, ”public employee” means any person employed at will for the purposes of providing services to an elected public officer who takes public office, or is reelected to public office, on or after January 1, 2013. (Government Code §1021.5).

11. Applicants/employees hired, transferred, promoted, or voluntarily demoted into a classification subject to a criminal history information review will have their electronic fingerprints submitted to the Bureau of Identification of the State Department of Justice for a review of summary criminal history information. All reports from the Department of Justice will be addressed to the Merced County Director of Human Resources. The Director of Human Resources, or designee, will review the Department of Justice report to determine the job relatedness of any information contained in the report. If disqualifying information is contained in the report, the Director of Human Resources will contact the hiring department head so that appropriate action can be taken.

12. Except for employees in Employment At-Will Status and Law Enforcement Applicants/employees may appeal any decision made under the criminal history information review process by filing, in writing, with the Director of Human Resources a request for review of the disqualifying information. Any such appeal must be filed within five (5) working days of the notice of disqualification. The decision of the Director of Human Resources on any appeal shall be final.

13. All information related to the criminal information review process shall be kept in a special confidential file separate from all other employee personnel files. This special file shall be located in the office of the Director of Human Resources and shall remain locked at all times. No specific information on the criminal history information review will be shared with the hiring department or any other County staff, except as may be necessary under Federal, State or County rules and regulations to initiate any disqualification or termination action.

C. WORKING HOURS, WORK WEEK AND OVERTIME

1. All County Offices shall operate and be open to the public from 8:00 a.m. to 5:00 p.m. Monday through Friday, unless the Board of Supervisors specifically approves other operating hours.

2. Eight (8) hours shall constitute a day's work for all employees unless otherwise provided in Section C of this Resolution, excepting "Permanent Part-time, Variable Shift, Intermittent, Seasonal and Extra-help employees".

3. Except as may be otherwise provided in Section C of this Resolution and excepting "Permanent Part-time, Variable Shift, Intermittent, Seasonal and Extra-help employees" and employees assigned to work an alternate work schedule, the official work week of the County of Merced shall begin at 11:00 p.m. on Sunday and shall be five (5) working days of eight (8) hours each. It shall be the duty of each department head to arrange the work

of his department so that each employee therein shall work not more than five (5) days in each calendar week except that a department head may require any employee in his department to temporarily perform services in excess of five (5) days per week when public necessity or convenience so requires.

4. "Overtime" for employees assigned to work a regular 40 hour work week shall be defined as time actually worked beyond eight (8) hours in a work day, or 40 hours in a work week. Holidays and CTO (compensatory time off) shall be considered hours worked. Overtime for employees assigned to work an alternate work schedule (AWS) shall be defined as time actually worked beyond their regularly scheduled hours in a day or 40 hours in the designated workweek.

   a. The County retains the option to establish the official work period for law enforcement personnel (as represented in Certified Bargaining Unit 2, 10 and 30) at 28 days, pursuant to Section 7(k) of the Fair Labor Standards Act (FLSA). The County retains the option to establish the official work period for Juvenile Institution Officers and Supervising Juvenile Institutions Officers at the Juvenile Hall at 28 days, pursuant to Section 7(k), of the Fair Labor Standards Act (FLSA).

   b. All Extra-help employees at the Merced County Spring Fair shall be exempt from the overtime provisions as contained in Section 2,C,3 above in accordance with the provisions of FLSA Section 213(a)(3) while they work at the Spring Fair and only while the Spring Fair is in operation.

   c. The County retains the option to establish the official work period for Mental Health Inpatient Unit personnel at 14 consecutive days, pursuant to Section 7 (j), of the Fair Labor Standards Act (FLSA), with overtime defined as regular hours worked beyond eight (8) in a day or 80 in a bi-weekly pay period.

5. If in the judgment of a department head, work beyond the normal workweek provided in this Resolution is required, he/she shall authorize such overtime to be compensated for in pay or equivalent time off at the rate of time and one-half. Overtime compensation will be paid to the nearest quarter-hour. Amounts of up to eight (8) minutes may be rounded down, but amounts over eight (8) minutes must be rounded up. (For Units 3,4,5,6 and 8 - Employees may accumulate up to eighty (80) hours of Compensatory Time Earned (CTE)*. Overtime earned that would increase an employee's CTE balance beyond 80 hours must be paid. Either paid overtime or CTE must be approved in advance by the Department Head or designee. Employees will be permitted to use accrued CTE as requested, provided it is requested with adequate advance notice and does not unduly disrupt department operations. (Requiring the use of overtime to replace an employee utilizing CTE is not considered unduly disruptive to a department's operations.)). Compensating time off must be taken within seven (7) biweekly pay periods. If an employee is unable to take compensating time off within the seven (7) biweekly pay periods due to workload in the department, the employee shall be paid overtime at the rate of time and one-half of their regular rate of pay including area differential, but no other special pays. Employees may request and be paid overtime services at the rate of time and one-half upon approval of the department head and provided funds for such overtime payment have been appropriated in the departmental budget. Such overtime compensation shall be separately itemized on the biweekly payroll. Department heads shall request advance approval for payment of overtime in excess of the overtime

contained in the line item appropriation of the departmental budget and such approval shall be in writing from the County Executive Officer. Copies of prior authorization for overtime payment shall be provided to the Auditor-Controller's Office and Human Resources. The County Executive Officer shall have authority to monitor the overall use of overtime in the County.

6. Compensatory time earned should be used for approved time off prior to using earned vacation time. Department heads shall deny use of vacation hours to cover approved time off whenever the affected employee has an unused comp time balance to substitute for all or part of the approved time off. The exception would be if the employee was nearing their maximum vacation accumulation.

   a. Employees represented by Bargaining Units 2, 10, 12 and Unit 30 shall be entitled to accumulate compensatory time up to a maximum of 120 hours. The seven (7) biweekly pay period time frame, as described in 2, C, 4, above shall not apply.

   b. Sheriff Department personnel working on outside police protection shall be paid at time and one-half their regular rate of pay.

   c. Sheriff's Dispatcher (Full Time) shall work five (5) eight (8) hour shifts, with two (2) shifts off the sixth and seventh day.

   d. Sheriff Department personnel attending quarterly shift change meetings, POST required and State-mandated training classes, along with any other in-service training sessions that are designated mandatory, and are held outside of an employee's duty hours, shall be compensated at time and one-half rate in either time off, or pay where funds are available. All other in-service training shall be voluntary for off-duty personnel.

   e. Effective July 1, 2005, members of Unit 7 (Attorney Unit) shall receive as of July 1, of each fiscal year, compensating time off that may be taken during the fiscal year in lieu of overtime, equivalent to Unrepresented Management (currently 96 hours) and are also subject to the same calculation basis of hours credited and method of usage approved by the Board of Supervisors. Unit 7 will be informed of any changes prior to Board consideration. Usage of these hours is subject to the approval of the District Attorney, Director of Child Support Services, and County Public Defender. This compensating time off shall be in lieu of the overtime provisions stated above, except for actual time required to be in Traffic Night Court which will be compensated at the time and one-half rate, and shall not be cumulative from one fiscal year to the next.

7. Alternate work schedules may be established by a department upon completion of the following:

   a. Development of plans, following approval by the department head, and appropriate Certified Employee Organization(s).

   b. Submission of the plan to the County Executive Officer and Director of Human Resources for appraisal and approval.

   c. Changes to existing approved AWS plans require approval of department and Union.

8. a. It shall be the responsibility of all employees to report to work on time. If an employee reports to work late, the department head has the option to allow the employee to make up the time during the same work day, or charge it to earned sick leave, if appropriate, to earned vacation or CTE, in one-quarter (1/4) hour increments rounded to the nearest one-quarter (1/4) hour.

   b. If, in the judgment of the department head, an employee's tardiness is excessive and the department head elects to dock the employee for tardiness, the amount charged shall be to the nearest quarter-hour. Amounts of up to eight (8) minutes may be rounded down, but amounts over eight (8) minutes must be rounded up.

   c. The department head shall be consistent in his/her application of these tardiness options.

D. HOLIDAYS

1. A new employee whose first working day is the day after a paid holiday shall not be paid for that holiday.

2. An employee who is terminating his employment for reasons other than paid County retirement and whose last day as a paid employee is the day before a holiday, shall not be paid for that holiday.

3. An employee who is on a leave of absence without pay in such a way that he is not authorized any pay for both the regularly scheduled working day before the holiday and after the holiday shall not be paid for that holiday.

4. Any Non-Exempt employee who may be required to work any holiday, shall be entitled to compensatory time off for such work. Any non exempt employee whose regularly scheduled day off falls on any holiday herein mentioned, shall be entitled to an additional day off. Employees shall have 90 calendar days (seven (7) biweekly payroll periods in which to take equivalent time off. Any employee not authorized to take compensatory time off within the time frames allowed, shall be paid for the holiday. Compensation for holidays shall be at the straight time rate. Contractual employees are excluded from holiday benefits with pay. Extra-help employees are not entitled to paid holidays.

5. Sheriff Department employees (except unit 30) occupying a position at a biweekly salary is required to work a holiday, they shall have 180 calendar days in which to take equivalent time off.

   Employees represented by Bargaining Unit 30 will be paid for all holiday compensatory time earned in excess of 40 hours on the first pay period of November of each year. Compensation for holidays shall be at the straight time rate.

6. In the case of employees working under an alternate work schedule, Holidays as contained in this Section shall be determined to consist of eight working hours, unless otherwise provided in the alternate work schedule.

7. Variable shift employees in receive four (4) hours for Holiday or Personal Holiday pay unless they have a recent 6-month working history (January 1 thru June 30 or July 1 thru December 31). Those with recent payroll history as a permanent or variable shift employee receive holiday pay equal to the average daily hours worked based on the six months of

payroll that would apply.

8. Holidays for employees represented by Bargaining Unit 2 and 10 shall be granted on a first come, first served basis, except when taken in conjunction with vacation. Requests for specific holidays off will be accepted no more than 120 days prior to the holiday requested. Should two or more employees make requests on the same day for a holiday, seniority, as described in Section 2, M, shall apply.

   The following are hereby established as holidays for all full time employed County employees:

   a. **January 1**, New Years Day

   b. **Third Monday in January**, Martin Luther King's birthday

   c. **February 12**, Lincoln's Birthday

   d. **Third Monday in February,** Washington's Birthday

   e. **Last Monday in May**, Memorial Day

   f. **July 4,** Independence Day

   g. **First Monday in September**, Labor Day

   h. **Second Monday in October,** Columbus Day

   I. **November 11,** Veteran's Day

   j. **November** (The day designated as Thanksgiving Day)

   k. **November** (The day after Thanksgiving Day)

   l. **December 25**, Christmas Day

   A holiday that falls on a Saturday will be observed on the Friday before the holiday. When it falls on a Sunday it will be observed on the Monday following the holiday.

   m. **Optional Holiday** - This shall mean any consecutive eight (8) hour working day during the fiscal year selected by an employee and approved by his department head. Selection of the Optional Holiday by the employee shall be requested at least fifteen (15) days prior to the date requested, except in cases of emergency and for special circumstances that would require immediate approval by the department head. Any employee who has requested, in writing, their optional holiday within the prescribed time frames, and had it denied due to departmental workload constraints, shall be paid for that day in the first pay period following the end of the fiscal year.

   n. The above constitutes the official designated holidays for Merced County with the exception of special days proclaimed by the President or Governor.

E. VACATION

1. Every employee in a regular full time position or Employment At-Will Status shall be entitled to paid vacations of approximately ten (10) days per year during the 1st five (5) years of continuous employment, fifteen (15) days during the 2nd five (5) years of

continuous employment, and twenty (20) days after ten (10) years of continuous employment. Said vacation shall be earned and credited on a paid regular scheduled work hour basis as hereinafter provided, with no credit to be applied during the progress of any pay period or for any portion of pay period during which the employee terminates his County service and not to exceed credit for more than the following during a biweekly pay period:

80 Paid regular scheduled working hours in a biweekly pay period for a 40-hour work week;

Years of Service/Regular Hours Worked	Vacation Hours/Days Earned (per hour worked)	Full-Time Employee's Vacation Accumulation Account Limit	Variable-Shift Employee's Vacation Accumulation Account Limit	40 additional vacation hours will be credited to account:
0 – 5 Years Up to 10,400 hrs	**(.03846) 10 Days per year**	**160**	**80**	**At completion of 10,400 hours worked.**
5 – 10 Years Up to 20,800 hrs	**(.0577) 15 Days per year**	**240**	**120**	**At completion of 20,800 hours worked.**
10 Years & over Above 20,801 hrs	**(.07694) 20 Days per year**	**320**	**160**	**N/A**

2. Variable-Shift employees shall earn vacation based upon each paid regular work hour. After completion of five (5) years of continuous service (130 biweekly pay periods) in which the employee worked at least 32 hours in each pay period, the employee's vacation account will be credited additional vacation hours equal to their average weekly hours worked, up to a maximum of 40 hours. After completion of ten (10) years of continuous service (260 pay periods) in which the employee worked at least 32 hours in each pay period, the employee's vacation account will be credited additional vacation hours equal to their average weekly hours worked, up to a maximum of 40 hours.

   Intermittent, Extra-help, or seasonal employment shall not be entitled to any vacation at all.

3. **Vacation Scheduling**

   a. Each department head shall be responsible for scheduling the vacation of employees in such a manner as to achieve the most efficient functioning of the department and the County Service.

   b. Departments may schedule employee vacation time on an annual basis as follows: Commencing in January of each year, and for a period of thirty (30) calendar days, employees may designate on a form provided by the department head, their preferences for scheduled vacation leave for the balance of the calendar year. The form provided by the employer shall indicate those dates when vacation may not be taken by employees, if any, excluding employees appointed to Employment At-Will Status. When a conflict exists among the designated preferences of employees in

the same work unit, seniority, as defined in Section 2, M, of the Human Resources Rules and Regulations shall prevail in order to resolve such conflicts, unless in the judgment of the department head such scheduling would adversely affect the efficient operation of the department during the period requested. The department head shall post a vacation schedule in the appropriate work unit or on a departmental bulletin board within thirty (30) days after completion of the selection period, or no later than March 1st.

c. Sheriff's employees represented by Unit 2, 10 and 30 shall designate their preference for vacation leave on a form provided by the Department, prior to each shift rotation. Such selection shall be for vacation to be taken during the upcoming shift rotation only. Rotation of shifts in the Sheriff's Department is currently at four (4) month intervals and occur three (3) times in each twelve (12) month period.

   1. Shift assignments shall be posted twenty (20) days prior to the shift change. Once the upcoming shift assignments have been posted, employees assigned to each shift will then be allowed to designate their preference, by seniority, for scheduled vacation for that shift rotation only. The vacation sign up shall remain up for ten (10) days after shift assignments have been posted. Vacation requests shall be approved or denied within seven (7) days after the vacation sign-ups have been taken down.

   2. Employees on each shift shall bid, by seniority, in the following manner: beginning with the most senior employee and following in seniority order, each employee may make one (1) vacation request which must consist of a minimum of three consecutive days (24 hours of vacation) off, up to the maximum allowed by Human Resources Rules and Regulations, Section 2, E, 1.

   3. After each employee on the shift has had the opportunity to select a single block of vacation time as described above, employees may then bid, in order of seniority, for remaining available vacation slots up to the maximum set by Human Resources Rules and Regulations 2, E, 1. Vacation days selected in the second round must be consecutive days. If an individual employee has a change in shift between scheduled shift rotation, vacation schedule approval for time bid will be at the discretion of the new Shift Commander/Sergeant. Any approved, scheduled vacation leave for each shift rotation shall be taken unless Human Resources Rules and Regulations, Section 2, E, 12 applies.

   4. After the vacation schedule is taken down and approved, further requests for vacation during the shift will be approved or denied on a first come, first approved basis.

d. The department head shall have the right to change said vacation requests if such requests conflict with the efficient functioning of the department and the County Service. It shall be the obligation of the department head or his/her designated representative to notify the affected employee as soon as possible after said conflict becomes known to the department head. No employee shall lose any vacation time due to such action.

e. Notwithstanding the above, employees may request to use vacation time whenever, the need for such becomes known. The department head or his/her designated representative may approve or deny such requests.

4. In any use of vacation, the minimum charge to the employee's vacation account shall be one-quarter hour, while any additional actual absence over one quarter hour shall be charged to the nearest quarter hour increment.

5. No person shall be permitted to work for compensation for the County in any capacity during the time of his paid vacation from the County Service.

6. An employee who becomes ill or injured during their vacation leave will have the opportunity of using sick leave for the period of illness or injury provided a physician's statement is furnished as proof of such illness or injury, to the department head upon return to work.

7. If a designated holiday occurs during the work week in which vacation leave is taken by the employee, the holiday shall not be charged to vacation leave.

F. SICK LEAVE

1. Except elective officials, each full time employee of the County of Merced shall earn .0462 hours of sick leave with pay for each paid regularly scheduled working hour to a maximum of:

   80 Working hours for 40 hour work week;

   Sick leave earned shall be added to the employee's sick leave accumulation account on the completion of the pay period. No credit to be applied during the progress of a pay period.

2. Sick leave earned may be applied to absence caused by illness or injury of an employee. Sick leave may be used for medical and dental office calls when absent during working hours for this purpose. Such leave earned may also be used by an employee when an illness or injury of an immediate family member, as defined in 2, a, is serious enough to require the employee to be absent from duty to personally care for such a person.

   a. "Immediate" family refers to an employee's current relative which is defined as follows: Husband, wife, registered domestic partner, child (biological, foster or adopted child, stepchild by current marriage, legal ward, child of a domestic partner, or a child of a person standing in loco parentis), parent (biological, foster or adoptive parent, a step-parent, or a legal guardian), sister, brother, father-in-law, mother-in-law, grandparents, son-in-law, daughter-in-law, and grandchildren, permanently residing in the employee's household, with the following exceptions:

      (1) For the purpose of this section, a child does not have to permanently reside in the household.

      (2) For those regular County employees represented in Certified bargaining units 3 7, 11, and Unrepresented Management, a physician's written statement certifying the need for home care of a parent or parent-in-law and stating the number of days such home care is required, shall be sufficient to allow usage

of family sick leave although the parent or parent-in-law does not permanently reside in the employee's household.

b. In instances involving the use of a fraction of a day's sick leave, the minimum charge to the employee's sick leave account shall be one-quarter hour while any additional actual absence over one quarter hour shall be charged to the nearest quarter hour increment. Such sick leave with pay can only be granted in accordance with Section 2, F, 2.

c. Family sick leave may be used in conjunction with approved Family Care Leave (Section 2, H, 2) to the limits described in Section 2, F, 2 above.

3. Employees engaged in permanent, regular, continuous, and part-time service as specified in the Salary Resolution, based upon a definite work schedule shall be allowed sick leave by reducing the amount of sick leave earned in direct proportion as such part-time service compares to regular full time service. Intermittent, Extra-help or seasonal employment shall not be entitled to any sick leave at all.

"Variable Shift Employees" may use sick leave for those days the employee is scheduled to work and may not exceed 8 hours in a day or 40 hours in a biweekly pay period. In any biweekly pay period, total paid regular work hours when added to paid sick leave may not exceed 80 hours.

4. All employees, upon return to work after an illness or medical/dental appointment, shall complete a Certificate of Illness Form, signed by the department head, such form to accompany the biweekly payroll on which the illness is shown. In the event this form does not accompany the biweekly payroll, the time away from work will be charged to either earned vacation or the employee shall be marked absent on the payroll. No sick leave will be honored without completion of this form.

5. If, in the judgment of a department head, an employee may be using sick leave improperly, or a department head has reasonable cause to believe an employee may be intending to improperly use sick leave, (for employees in Units 2, 3, 7, 10, 12, 14, 30 and Unrepresented Management), or if the department is experiencing a job action such as a sick out, blue flu, strike, work stoppage, or other concerted activity (for employees in Units 4, 5, 6, 8, and 11), the department head may require a doctor's certificate as verification of the employee's illness, sickness or injury, provided notice of such requirement has previously been given to the employee. This provision is intended for use in those cases where the department head has reasonable cause to believe that sick leave is or may be improperly used.

a. Should the affected department head, pursuant to the provisions of this section, demand that a Unit 2, 10, 12, 14 or 30 employee obtain medical verification, the following conditions shall apply:

(1) The employee may obtain verification of illness from his/her personal physician;
(2) Verification may be obtained on County time; and
(3) The cost of the doctor's appointment to obtain verification will be borne by the County (limited to actual employee costs under the County Health Plan).

b. The foregoing subparagraph a. shall not apply, however, when the affected department head reasonably determines that a sick-out or other concerted job action is being taken by the Association on the day(s) on which the employee is claiming to be ill. Should such a determination reasonably be made, verification of illness shall not be paid for by the County, nor may the employee charge the time taken for medical verification to the County, unless it is positively verified that the employee was actually ill on the day(s) in question.

6. When an employee is absent for more than five (5) consecutive working days (or 40 consecutive regular work hours as per alternate work schedule), the employee shall present a statement by the employee's physician releasing the employee for normal duty. If such statement is not provided by the employee, the department head may require an immediate examination by the Health Officer, relating to the illnesses or injuries which caused the absence, prior to permitting the employee to return to work.

7. Except as provided in Management Resolution 2008-138, Section IV.2., Leave Provisions, employees shall be paid their accumulated unused sick leave upon service retirement, excluding deferred retirement, and upon disability retirement or death as follows, with the remainder credited toward service time as of the date of retirement:

Years of Continuous Service:

Options for all units: Except as provided in Management Resolution 2008-138, Section IV.2., Leave Provisions, the employee may elect to credit 100% of their accumulated sick leave toward service time as of the date of their retirement, with that time in addition to their service credit.

Units	After 5 Years	After 10 or more years
2, 10, 12 and 30	**25% up to a maximum of 240 hours**	**50% up to 320 hours**
3, 4, 5, 6, 8, 11 and 14	**25% up to a maximum of 320 hours**	**50% up to 460 hours**
7	**25% up to a maximum of 480 hours**	**50 % up to 640 hours**

8. County employees shall have the option of participating in a plan to buy back a portion of their accumulated sick leave hours upon meeting certain criteria as outlined below: Payment for this sick leave will be based on the hourly wage rate of the employee at the end of Pay Period 24 and issued with paychecks for Pay Period 25. This cash out will be based on the employee's regular rate of pay and will not include any special pays.

For Units 2, 7, 10, 12, 14 and 30:
Employees who have a sick leave balance of at least 96 hours at the end of Pay Period 24 and have used less than 40 hours of sick leave during the previous 26 pay periods may cash out up to 50% of the difference between 40 hours and the number of hours actually used during the previous 26 pay period up to a maximum of 20 hours.

Examples:

Sick Leave Balance	Maximum Hours Allowed	Hours used during the previous 26 PP's	Available Cash Out Hours
96	**40**	**0**	**40 – 0 = 40 ÷ 50% = 20 hours**
100	**40**	**10**	**40 – 10 = 30 ÷ 50% = 15 hours**
150	**40**	**20**	**40 – 20 = 20 ÷ 50% = 10 hours**

For Units 3, 4, 5, 6, 8, 11, and Unrepresented Management:
Employees who have a sick leave balance of at least 156 hours at the end of Pay Period 24 and who have used less than 100 hours of sick leave during the previous 26 pay periods may, at their option, cash out up to 50% of the difference between 100 hours and the number of sick leave hours actually used during the previous 26 pay period up to a maximum of 50 hours.

Examples:

Sick Leave Balance	Maximum Hours Allowed	Hours used during the previous 26 PP's	Available Cash Out Hours
156	**100**	**0**	**100 – 0 = 100 ÷ 50% = 50 hours**
170	**100**	**10**	**100 – 10 = 90 ÷ 50% = 45 hours**
200	**100**	**50**	**100 – 50 = 50 ÷ 50% = 25 hours**

An employee shall have the obligation to notify his or her immediate supervisor before leaving the job because of sickness or illness, and thereafter to notify the immediate supervisor daily of any continued absence unless the employee has stated an estimated date of return to work.

G. EMPLOYEE BENEFIT PROGRAMS FOR INJURY OR ILLNESS

(The purpose of this section is to provide County employees with basic information about the programs that are available to assist them in dealing with both work related and non-work related injury and illness. The programs described below have various requirements and restrictions for both the employee and the employer. Individual situations will usually require discussion with County Risk Management staff. Each County department was provided a WC Procedure Manual to facilitate adherence to proper procedures and to provide information about responsibilities of both the employee and the employer).

1. Workers' Compensation Program (WC)

If an employee sustains an injury or occupational related illness while working, he/she may be entitled to benefits under the California Workers' Compensation Law. These benefits include:

a. **Medical Care**
Authorized medical expenses are fully covered. Employees needing medical care, will

be referred by the County to an occupational medicine provider, unless they have pre-designated a personal physician.

b. **Disability Income**
If hospitalized or unable to work for more than three (3) days, the employee (non-safety only) will receive income equal to two-thirds (2/3) of their average weekly pay up to the legal maximum per week. Safety employees are covered under the provisions of Section 4850 of the Labor Code and receive income as provided under this section. Temporary Disability Benefits are capped at 104 weeks from commencement of the first payment of Temporary Disability Benefits. Should permanent disability occur, additional benefits might be available.

c. **Rehabilitation**
If an injury or illness prevents an employee from returning to their usual and customary job, they may be eligible for vocational rehabilitation and retraining, as of January 1, 2004. When an employee enters a State approved vocational rehabilitation program under the provision of Section 139.5 of the Labor Code, and such vocational rehabilitation is for the purpose of employment in a position outside of County service, the employee will be terminated.

Vocational Rehabilitation Services are not available for injuries sustained on or after January 1, 2004. An employee who sustains an injury after January 1, 2004 may be eligible for a voucher (Supplemental Job Displacement Voucher) for education related retraining or skill enhancements payable to a state approved or accredited school. There will be no vouchers after January 1, 2009.

d. **Death Benefits**
Should the work related injury or illness result in death; dependents may be eligible to receive a death benefit.

e. **Limitations Regarding Outside Employment While Receiving WC Benefits**
WC laws include limitations and requirements relating to any earned income from other employment or unemployment insurance received while also receiving WC benefits. Any earned income (or other benefits) must be reported regardless of whether the type of work performed, even if it is very different from the employee's County position. Such income(s) may affect an employee's disability status and any failure to report may result in legal action. Engaging in physical activities that are inconsistent with temporary disability status may compromise your eligibility for WC benefits.

f. **Coordination of Other Benefits with WC**

(1) While receiving WC benefits as a qualified injured worker, an employee will be subject to any health coverage terms or limitations imposed by the County's current health care insurance carrier. Generally, group health plan provisions allow coverage to continue for 12 months while an employee is on any form of approved leave, as long as the employee continues to pay their share of costs.

(2) While receiving WC benefits, employees shall coordinate the use of accrued leaves balances such that payment shall not exceed their established gross salary. Pursuant to provisions of the California Labor Code, employees may be re-credited with any leave time used should WC eligibility be determined to cover

the absence.

g. **Medical Treatments Covered by WC**
Medical treatments (i.e. physician visits, check-ups, lab test, or physical therapy sessions) related to an injury or illness covered by WC and scheduled during an employee's regular work hours shall be compensated as regular work hours only prior to the employee's claim reaching permanent and stationary status. Once the employee's claim has been determined to be permanent and stationary, the employee will be required to use his/her own accrued leave balances.

h. **Return to Work Policy**
Merced County has a Return to Work Policy which states the County's goal to provide any injured employee the opportunity to recover quickly, minimize wage loss and maintain productivity after an illness or injury. A copy of this policy is available from department payroll and supervisory personnel and will be placed on the Intranet.

2. <u>Temporary Transitional Assignments</u>

Transitional Plans for employees returning to work after an injury or illness may include transitional work assignments in accordance with the recommendations of the treating physician. These assignments may involve temporary schedule changes and/or shift changes in addition to temporary changes in duties to accommodate any physician restrictions until an employee's condition becomes Permanent and Stationary.

3. <u>State Disability Insurance (SDI)</u>

Merced County non-management employees are enrolled in the State Disability Insurance Program (SDI). Premiums for this insurance are paid solely by the employee. This insurance is administered solely by the State, who determines eligibility and issues premium payments.

a. **Coverage**
Under the provisions for SDI, a disability is defined as any illness or injury, either physical or mental that prevents you from doing your regular or customary work. Non work-related disability also includes elective surgery, pregnancy, childbirth, or related medical conditions.

b. **Waiting Period and Benefits**
The first seven (7) days after a claim is filed are a waiting period and no benefits are paid. After all required information is received and coverage is approved, benefits are paid as soon as possible. Benefits are calculated by the state based on the employee's record of wage earnings during a 12 month base period. There are a number of specific rules and criteria used to calculate the benefit. Specific information on this is available from the State Employment Development.

c. While receiving SDI benefits, employees shall coordinate the use of accrued leave balances such that payment shall not exceed their regular gross bi-weekly wages pursuant to the provisions of current regulations. Once you stop using paid time, you may not use it again until you return to work.

4. Management Disability Program

Merced County contracts with a vendor to provide Disability Insurance for full-time Management employees classified as A, B, C, D, & E and employees of Bargaining Unit 7 (Merced County Lawyers Association). Premiums for Unit 7 are paid by the employee; the County pays premiums for un-represented management employees and Unit 11. Insurance becomes effective on employees first paycheck. Please see current employee booklet concerning Group Short Term and Long Term Disability Insurance Program for complete schedule of benefits. A summary of benefits is as follows:

a. Under the provisions of the Management Disability Program, "disability" means you are off work due to Injury or Sickness and:

(1) unable to do the material duties of your job; and
(2) not doing any work for payment; and
(3) under the regular care of a physician.

b. "Injury" means bodily injury resulting directly from an accident, independent of all other causes. "Sickness" means illness or disease causing disability. Sickness includes pregnancy, childbirth, or related medical conditions.

c. Benefits are payable after you have been disabled due to a covered illness or injury for 30 days. Benefit is 66 2/3% of basic salary (maximum benefit is described in the employee booklet discussed in 4). Long Term (LTD) benefits, for most disabilities, are paid until Normal Retirement Age. Your LTD benefit will be reduced by Social Security Disability benefits, retirement benefits, and Workers Compensation benefits.

d. While receiving LTD benefits, employees shall coordinate the use of accrued leave balances such that payment shall not exceed their regular gross bi-weekly wages pursuant to the provisions of current regulations. Once you stop using paid time, you may not use it again until you return to work.

5. Paid Family Leave Insurance Program (PFL)

Merced County non-management employees are enrolled in the Paid Family Leave Insurance Program. This insurance is administered solely by the State, who determines eligibility and issues premium payments.

a. PFL is intended to compensate in part for the lost wages of an individual who is unable to work due to the sickness or injury of a child, spouse, parent, or domestic partner, or the birth, adoption foster care placement of a new child of the employee or domestic partner.

b. Under the provisions of PFL, the employee is responsible for submitting claims for benefits to the Employment Development Department (EDD). EDD is responsible for determining that the employee has provided the required documentation for the claim. EDD, not the employer, is obligated to assess whether claims for the benefit are valid and are responsible for approving or denying claims.

c. In general, the first seven (7) days after a claim is filed are a waiting period and no benefits are paid. After all required information is received and coverage is approved, benefits are paid as soon as possible.

d. While receiving PFL benefits, employees shall coordinate the use of accrued leaves

balances such that payment shall not exceed their regular gross bi-weekly wages pursuant to the provisions of the California Unemployment Insurance Code, Sections 3300 et seq.

H. LEAVES OF ABSENCE

1. General Provisions

a. Unless otherwise noted, all employees, (except Extra Help and Contract Employees), may request their department head approve a leave of absence pursuant to the terms and conditions outlined in this section.

b. An approved leave of absence is required for any employee who either lacks sufficient accrued leave(s) to cover a necessary absence from work, desires to be off payroll in lieu of using accrued leave time or is receiving temporary disability benefits.

c. Requests for any leave of absence shall be made in writing to the department head and include a statement of the specific reason for the request, and the date such leave is to commence and end. Approved requests shall be delivered promptly by the approving department to Human Resources with copies to the Auditor-Controller and the Retirement Office.

d. An approved leave of absence does not constitute a break in service for purposes of longevity and/or seniority. Employees do not accrue seniority during the unpaid portion of a leave of absence. An employee returning from family care leave shall return with no less seniority than the employee had when the leave commenced for purposes of layoff, recall, promotion, job assignment, shift assignment, and seniority-related benefits such as vacation. Retirement benefits do not accrue during a leave of absence without pay.

e. Unless otherwise required below, employees who are granted a leave of absence without pay shall have the option to exhaust any accumulated vacation time or compensatory time off prior to beginning their leave of absence, or to leave such vacation time or compensating time off in their accumulation account. Once the leave of absence begins, the employee may not utilize any remaining accumulated vacation or compensatory time off balances unless approved by the department head and Human Resources.

f. When an employee who has been granted a leave of absence without pay desires to return before expiration of such leave, he shall notify his department head as soon as possible in advance of the return.

2. Medical Reasons

It is the policy of Merced County to comply with the provisions of federal and state laws pertaining to medical and family care leave for employees.

3. Leave Definition

Eligible employees may apply for a leave of absence due to personal illness, illness of a family member or care for a newborn or newly adopted child. Employees requesting

leave under these circumstances must use one of the options provided below and meet the applicable eligibility requirements.

4. <u>Option A: Family Medical Leave Act (Federal Law)</u>

FMLA is the federal law requiring employers to provide up to 12 weeks of leave during a 12 month period for eligible employees with a *serious health condition*, or a child, parent or spouse with a serious health condition which requires the employee to provide care. Birth of a child, adoption or placement of a foster care child with the employee are also circumstances which qualify for FMLA.

FMLA may be requested by the employee or the employer.

The 12-month period is measured forward from when the employee's first FMLA leave begins.

Family care leave is permitted to be taken in one or more periods, or intermittent periods, up to a cumulative total of 12 weeks (480 hours) within a 12-month period of time.

Serious Health Condition is defined as an illness, injury, impairment, or physical/mental condition which makes an employee unable to perform the essential functions of their job.

a. **Eligibility Criteria**

(1) **Length of Employment:** Employee must have worked for Merced County for at least 12 months <u>and</u> have at least 1,250 paid work hours in the 12 months preceding the beginning of FMLA leave.

(2) **Completion of Request Form**: Requests for FMLA leave can be completed by the employee or the department head and must be submitted on the County's FMLA Leave Request Form.

If the need for FMLA arises from an emergency situation, it is the employee's responsibility to notify their immediate supervisor as soon as possible. A completed request form must follow within 15 working days and include the required Health provider certification. In the event the nature of the emergency makes this time frame difficult, the department head may coordinate with Human Resources to resolve the issue.

(3) **Attending Health Care Provider Certification**: For leave request pertaining to an employee's health condition, a certification from the attending physician must be provided (preferably on the County's form), indicating the nature of the employee's health condition and dates stating the duration of the health condition.

b. **Approval Process and Conditions**

(1) **Foreseeable Leaves**: If the employee's need for leave is known in advance, (birth of a child or planned medical treatment), at least 30 days advanced notice from the employee is expected in order to avoid disruptions in department operations.

(2) **Use of Paid Leave**: Employees are required to use accrued sick leave Holiday CTE, CTE, or vacation, during the otherwise unpaid portion of their leave until

such time as their accrued time is exhausted. Use of accrued time off is considered part of FMLA leave.

(3) **Continuation of Benefits:** During FMLA Leave, the employee's medical, dental and vision premiums will be paid by the County for the first 12 weeks off work. In addition, the employee may continue dependent care health insurance coverage by paying their 50% share of dependent medical, dental and or vision coverage during the first 12 weeks off work.

If the employee fails to pay their share of premiums, the County will discontinue its payment of dependent care premiums. After that, an employee may continue personal and dependent health, dental, vision, and life insurance benefits by paying the total monthly premiums to the County. Employees who elect not to continue dependent premiums, or who do not maintain their share of dependent premiums payments will not have dependent coverage until they return to work and resume paying their share of dependent premiums.

Employees who do not return to work from a Family Care Leave may be required to refund the County any premium payments made by the County for the employee and dependents while they were off payroll.

c. **Return to Work**

An employee on medical leave of absence due to illness or injury for a period of 5 consecutive work days or more shall present a statement by the employee's physician releasing the employee for normal duty prior to returning to work.

5. <u>Option B: California Family Rights Act (State)</u>

a. CFRA entitles eligible employees up to 12 weeks of leave during any 12-month period for serious health condition, or to care for a child, parent or spouse with a serious health condition, or to provide care or bonding with a newborn child, adopted child or foster child.

b. CFRA regulations are identical to FMLA regulations and run concurrently with FMLA, with one exception: CFRA does not include pregnancy or related medical conditions within the definition of serious health condition; these are covered under the State's Pregnancy Disability Leave.

c. Eligibility Criteria and Approval Process
Same as for FMLA.

a. Conditions:
Payment of health insurance premiums under CFRA and/or FMLA are limited to a total of 12 weeks over a 12 month period.

6. <u>Option C: Pregnancy Disability Leave (State)</u>

Employees who are disabled by pregnancy, childbirth or related medical conditions are entitled to pregnancy disability leave (PDL) of up to four months, depending on the period of actual disability as indicated by the attending physician.

a. **Eligibility Criteria**
All employees are eligible for PDL.

b. **Approval Process/Conditions**
Same as for FMLA; except, employees are required to use sick time during the otherwise unpaid portion of their leave until such time as their accrued time is exhausted. The employee may, at their discretion, use accrued vacation time.

7. Option D: Care for Eligible Relative

a. **Definition**
Eligible employees may apply for a leave of absence to care for an eligible relative in accordance with the provisions of FMLA and CFRA as outlined above. Eligible relatives are defined in Section 2. F. 2. a. of the Human Resources Rules and Regulations.

b. **Eligibility, Approval Process and Conditions**
Eligibility criteria, process procedures and conditions, as outlined for the employee remain the same when care is given to an eligible family member.

Certification from the eligible relatives' attending care provider must include the nature of the relative's condition which necessitates care from a family member, and dates indicating the duration of the care needed.

c. **Grievance Process**
All employees, except those appointed to an Employment At-Will Status, who are denied a leave under the provisions of Family Care Leave may file a grievance with Human Resources. The decision of the Director of Human Resources shall be issued within five (5) working days after the grievance is filed, and shall be final.

8. Educational Leave of Absence

a. **Definition**
Leave without pay for an employee to pursue a course of study that will increase an employee's abilities and skills upon return to the job.

b. **Eligibility Criteria**
(1) Employee must have completed their Probation Period and received standard or above performance evaluations.

(2) Course of study must be approved by the employee's department head.

c. **Approval**
(1) The department head may approve an education leave of absence for up to 90 continuous calendar days.

(2) Education leave requests that exceed 90 calendar days must be approved by the department head and Human Resources.

9. Personal Reasons Leave of Absence

a. **Definition**
Leave without pay for reasons acceptable to the approving authority.

b. **Eligibility Criteria**
Employee must have completed their Probation Period and received standard or above performance evaluations.

c. **Approval**
(1) The department head may approve a personal leave of absence for up to 30 continuous days.

(2) Personal leave requests that exceed 30 calendar days must be approved by the department head and Human Resources.

10. <u>Military Service Leave of Absence</u>

a. **Definition**
Employees, (except Extra Help and Contract employees) shall be entitled to a leave of absence for military duty authorized by and under the conditions specified in the California Military and Veterans Codes Sections 395 through 395.9 inclusive.

b. **General Provisions of the California Military and Veterans Codes**
(1) Employees must provide as much advance notice as possible when requesting military leave of absence and provide a copy of their orders to verify the dates of leave requested.

(2) Employees are eligible to be paid for the first 30 calendar days of ordered military leave, subject to their having served in the military for one full year.

11. <u>Spousal Military Leave (SML)</u>
Under Spousal Military Leave (SML), a covered employer must permit an employee up to 15 days unpaid leave while his/her spouse is on military leave during deployment to a foreign country.

a. Only those employees who work an average of 20 or more hours per week are eligible for the leave. Spouses must be qualified members of the Regular Armed Forces deployed to a foreign country, OR National Guard or Reserves who are deployed to a foreign country under a call or order to active duty in a contingency operation.

b. Request for SML must be submitted within two business days of receiving official notice that the military spouse will be on leave from deployment. The employee also must submit written documentation certifying that the military spouse will be on leave from deployment during the time the employee is requesting leave.

c. All eligible employees are entitled to take up to 15 days of unpaid leave during the period that his/her spouse is on leave from deployment. Taking leave under SML does not affect an employee's right to other leave or benefits that the employee is otherwise entitled.

12. <u>Military Caregiver Leave</u>
The Federal Family and Medical Leave Act (FMLA) entitle eligible employees to take leave for a covered family member's service in the Armed Forces ("Servicemember

FMLA"). This section provides general notice of employee rights to such leave. Except as mentioned below, an employee's rights and obligations to Servicemember FMLA leave are governed by existing federal, state, and local law.

a. **Leave Entitlement**

Servicemember FMLA provides eligible employees unpaid leave for any one, or for a combination, of the following reasons:

(1) A "Qualifying Exigency" arising out of a covered family member's covered active duty or call to covered active duty in the Armed Forces; and/or:

(2) To care for a covered family member who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces provided that such injury or illness may render the family member medically unfit to perform duties of the member's office, grade, rank or rating.

(3) To care for a covered veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that was incurred or aggravated by the member in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran. The veteran must have been discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. (The period between enactment of the FY 2010 NDAA on 10/28/09 and the effective date of the 201 Final Rule is excluded in the determination of the five-year period for covered veteran status).

(4) To care for an active servicemember who had a pre-existing injury that is aggravated while on active duty.

b. **Duration of Servicemember FMLA**

(1) **When leave is due to a "Qualifying Exigency":** Qualified employees may take up to 12 weeks of FMLA leave for any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty or has been notified of an impending call or order to active duty in the Regular Armed Forces, National Guard and Reserves.

(a) Contingency – Any military operation or hostilities against an enemy of the United States or a broad array of military assignments during a war or national emergency.

(b) The employee must provide sufficient information that indicates that a family member is on active duty or called to active duty status, that the requested leave is for one of the qualifying exigencies listed in the regulations, and the anticipated duration of the absence.

(2) **When leave is to care for an injured or ill service member.** Employees may_take up to 26 workweeks of leave during a single 12-month period to care for a spouse, son, daughter, parent or next of kin when an illness or injury incurred in the line of duty while in the Armed Forces, National Guard

or Reserves or a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness. The veteran must have been a member of the Armed Forces (including the National Guard or Reserves) at any time within five (5) years preceding his or her treatment for the serious injury or illness (excluding the period 10/28/09 thru 3/8/13). An employee may also take this leave to care for an active servicemember or veteran who had a pre-existing injury that is aggravated while on active duty.

(a) The 26-workweek entitlement is a one-time entitlement applied on a per-service-member per-injury basis.

(b) An eligible employee is entitled to a combined total of 26 workweeks of military caregiver leave and leave for any other FMLA-qualifying reason in a "single 12-month period," provided that the employee may not take more than 12 workweeks of leave for any other FMLA-qualifying reason.

I. ADDITIONAL COMPENSATION

1. Notwithstanding anything in this resolution to the contrary, when in the judgment of the Board of Supervisors, it becomes necessary or desirable to utilize the service of County employees in capacities other than those for which they are regularly employed, the Board of Supervisors, may by Minute Order, so authorize and fix an additional rate of compensation for such employees who shall be paid such additional compensation upon claims presented and approved in like manner as other claims against the County are presented and approved.

2. A regular County employee who is also a Volunteer Firefighter will be paid a fee of $30.00 per incident to cover related expenses. Such employee will not be paid regular salary for the regular work hour time spent as a Volunteer Firefighter unless accrued vacation hours, compensatory time, or administrative management time is utilized. Such employees will be paid in a manner prescribed by the Auditor-Controller's Office.

J. POLITICAL ACTIVITY

No person employed under the system hereby created, either in the classified or unclassified system, shall during his working hours seek election, nomination or appointment as an officer of a political campaign favoring or opposing any candidate for election, or distribute badges, pamphlets, dodgers or handbills of any kind favoring or opposing any candidate for election or for nomination to any public office. This resolution does not prevent any such officer or employee from becoming, or continuing to be a member of a political club or organization, from attending political meetings, or from seeking or accepting election or appointment to a public office during his off duty hours, nor does it prevent the display of campaign advertisement on personal vehicles. Any employee of the Human Services Agency, Office of Emergency Services and Child Support Services, subject to the State Merit System, shall be subject also to the rules and regulations imposed under that system.

Violation of any of these provisions of this resolution shall make the employee subject to disciplinary action.

K. JURY DUTY AND COURT APPEARANCES

1. Any regular employee or Employee in Employment At-Will Status summoned for attendance to any Court for jury duty during his normal working hours shall be deemed to be on duty (jury duty, not to exceed eight hours in a day, is considered to be paid hours for the purpose of determining an employee's eligibility for overtime pay) and there shall be no loss in salary, but any jury fees received by him shall be paid forthwith to the Auditor-Controller to be deposited in the General Fund of the County, together with any mileage allowed if he shall use County transportation. Employees shall report to work for their regularly assigned shift prior to reporting for jury duty, or receive prior approval from their supervisor to report directly to jury duty. Employees released from Jury Duty during their normal duty hours shall report back to their departments.

   Extra-help employees are not entitled to pay for jury duty.

2. Employees scheduled to work the evening or late night shift and who serves four (4) or more hours on jury duty, will not be required to report for duty on the evening or late night shift and shall be deemed to be on duty and there shall be no loss in salary, but any fees received shall be paid forthwith to the Auditor-Controller to be deposited in the General Fund of the County. This does not apply to employees working under an alternate work schedule whose work hours are not considered part of an evening or late night shift, or overlap an evening or late night shift unless otherwise specifically provided for in an approved departmental alternate work schedule.

3. The following applies to all employees except to those who are either a party to or an expert witness in a preceding against or not involving the county: Any employee who is subpoenaed because of their County employment, to be a witness in a Court or official administrative hearing during their scheduled working hours shall receive their regular rate of pay. Any employee called as a witness at such hearing arising out of and in the course of their County employment during off duty hours shall be compensated in accordance with County policy for the time spent at their normal rate of pay, including overtime or compensatory time off if applicable, or shall be compensated for a one hour minimum, whichever is greater. The party at whose request the subpoena was issued shall reimburse the County in accordance with the provisions of Government Code Section 68096.1.

4. An employee (other than a terminated employee) who is appealing their disciplinary action under Section 9 of this Human Resources Rules and Regulations shall be considered to be on duty with no loss of pay while attending the hearing.

5. Any employee called as a witness in a private or civil matter between other parties shall be compensated in accordance with the California Civil Code of procedures for witnesses.

L. BEREAVEMENT LEAVE

1. Bereavement leave with pay not chargeable to vacation or sick leave shall be granted due to the death of a relative in the first degree.

   An employee's relative in the first degree is defined as follows:

1) Spouse by current marriage;
2) Child, stepchild by current marriage;
3) Son-in-law, daughter-in-law, parent-in-law by current marriage;
4) Parent, stepparent, foster parent, guardian;
5) Siblings;
6) Grandparents/grandchildren.
7) Registered Domestic Partner

2. Regular full-time County employees or employees in Employment At-Will status compelled to be absent from duty due to a death of a relative in the first degree, shall be entitled to three (3) regularly scheduled work days. Employees working under an alternate work schedule shall be entitled to the equivalent of three (3) eight (8) hour workdays not to exceed twenty-four (24) work hours off.

   A regular Variable-Shift employee shall be entitled to a maximum of 12 work hours off for bereavement leave.

3. Under exceptional circumstances necessitated by distance to travel over 500 miles one way a regular full time County employee or employee in Employment At-Will status may be authorized by the department head to take up to an additional two (2) regularly scheduled working days. Employees working under an alternate work schedule may be entitled up to an additional equivalent of two (2) eight (8) hour work days not to exceed sixteen (16) work hours off.

   A regular Variable Shift employee may be authorized by the department head to take up to an additional eight (8) work hours off.

4. Employees on unpaid leaves are not eligible for paid bereavement leave.

5. Extra-help employees are not entitled to paid bereavement leave.

M. SENIORITY

1. Seniority shall be determined by length of continuous paid employment within a classification (or series, if applicable), within a department. Time on SDI, PFL or LTD will be included in calculating seniority while the employee is coordinating with vacation, sick leave, or compensatory time off. Time off payroll while on SDI, PFL or LTD, unpaid leave or suspension shall not be included in calculating seniority. If the length of service within a classification is the same for two or more employees, The length of continuous paid employment from original date of hire shall determine seniority.

   Time off payroll resulting from SDI, PFL <u>and</u> medical leave of absence, will count as time worked to establish seniority for Unit 2, 10, 14 and Unit 30 employees in the Sheriff's Department for the purposes of this Section.

2. Seniority for employees represented by Bargaining Unit 30 shall be determined by length of continuous paid employment within the current classification.

3. Seniority shall be recognized in the event of:

   a. Reduction in Force (see Section 2, W).

b. Recall

c. Assignment of Shifts

d. Work Site location changes within a department - In the absence of employee(s) volunteering to transfer, seniority shall be utilized when designating an employee for assignment to a work site location in another city or town. (For Bargaining Units 4, 5, 6, 8, and 11 only.)

e. Scheduling of vacations in accordance with the provisions of the Personnel Resolution, Section 2, E.

f. Holidays - Based on continuity of service.

g. Voluntary Demotions - In accordance with Section 2, P - Demotions.

h. Overtime - Overtime shall be assigned on an equal basis except in those cases where continuity of service is required and shall be in accordance with Section 2, C. For Bargaining Units 4, 5, 6, and 8 overtime shall be offered to qualified employees by seniority except in those cases where continuity of service is required.

i. Bilingual assignment. If additional bilingual positions become available, those positions will be offered to the most senior certified bilingual employee(s) first. If it is necessary to reduce the number of bilingual assignments, the certified employee(s) with the least seniority shall be removed from the bilingual assignment(s).

4. The rule of seniority shall apply to all permanent, permanent part-time, and variable shift employees, except those portions of the seniority rules superseded by the California Merit System Rules, and Elected Officers, Department Heads, Assistant Department Heads and positions designated as positions of confidence. The time employed in an Employment At-Will status shall not be included when calculating seniority.

5. In the assignment of shifts or work hours, "Seniority" as contained in this Section shall not apply to those employees working an alternate shift schedule unless otherwise specifically provided for in an approved departmental alternate work schedule.

6. Notwithstanding the foregoing, if the appointing authority determines that the public interest will not be served by the application of seniority as defined in Section 2, M, 3, subparts through "I", the appointing authority may depart therefrom on the basis of a clearly demonstrable superiority in performance and/or qualifications. In such case, the appointing authority shall notify the employee(s) affected by this ruling. The affected employee(s) shall have the right to appeal in accordance with the appeals procedure contained in the Human Resources Rules and Regulations.

7. The rule of seniority may be set aside to provide accommodation for placement of a disabled employee in the event of shift assignments or work site location changes.

8. Employees hired **on or after September 1, 1998** who accept an Employment At-Will position shall not be eligible for reinstatement to a previously held classification or class series, or to use seniority provisions of this Resolution.

N. TRANSFERS

Any regular County employee who desires to initiate a request for transfer to the same classification in another County department shall be given consideration based upon qualifications, performance, and length of service. Those employees requesting transfer to classifications in departments are subject to the rules of selection under Section IV, 6, of the Recruitment and Selection Resolution. Salary on transfer shall be in accordance with Section 3, F.

O. PROMOTIONAL OPPORTUNITY

Department heads shall take reasonable steps to inform employees of promotional opportunities to more responsible positions in their departments. All persons in the classified service shall be entitled to take necessary time off with pay for the purpose of taking qualifying and/or promotional examinations; and appearing for scheduled interviews conducted for promotional opportunity in the County Classification Plan. In the appointment process consideration shall be given based upon qualifications, performance, and length of service. Salary on promotion shall be in accordance with Section 3, D. Extra-help employees are not entitled to take time off with pay.

P. VOLUNTARY TRANSFER - DEMOTION

Regular, permanent employees, with prior appointing authority approval, may voluntarily demote to any previously held vacant position in a lower class in which the employee held permanent status or to any other vacant position in a lower class for which they meet the Minimum Qualifications. If the salary ranges of the classes are equal, the salary shall be in accordance with Section 3, F, of this Resolution. Salary on demotion to a lower class shall be in accordance with Section 3, E, of this Resolution. These transfer-demotion provisions would apply to Merit System classifications only with prior Merit System Services approval.

Q. PROBATIONARY PERIOD

1. All persons accepting a regular position with the County are initially placed on probation. The probationary period is an extension of the selection process, and must be successfully completed before an individual becomes a permanent employee. During the probationary period, employees may be dismissed without notice or stated cause.

   Employees of Human Services Agency, Child Support Services and Emergency Services Department, who are subject to State Merit System rules and regulations, shall be governed by those rules and regulations concerning probationary employment.

   Most classified positions serve a probationary period consisting of 1040 regular paid hours. Those persons employed in the following classifications require a probationary period of 2080 regular paid hours: Deputy Probation Officer I/II/III; Supervising Probation Officer; Probation Division Manager; Juvenile Institutions Officer I/II/III; Supervising Juvenile Institutions Officer; Environmental Health Specialist I/II/III; Supervising Environmental Health Specialist; Assistant Sheriff, Sheriff Sergeant, Commander, Deputy Sheriff I/II; Supervising Sheriff's Dispatcher; Sheriff's Dispatcher; Correctional Sergeant, Correctional Officer I/II; Family Services Representative I, Deputy Public Defender I/II/III/IV and Child Support Attorney I/II/III/IV hired after July, 2001; Deputy County Counsel I/II/III/IV hired after

February 3, 2009, and 3120 regular paid hours for Deputy District Attorney I/II/III/IV hired after November 30, 2009.

a. Employees hired in law enforcement classifications which require P.O.S.T. training shall begin their probationary period following completion of the P.O.S.T. Academy and immediately upon commencement of duty in the department. County employees transferring into a Unit 2 or Unit 10 safety classification shall be considered a probationary employee for a period of 2080 paid hours, unless said employees have previously served a 2080 paid hour's probationary period in a Unit 2 or Unit 10 safety classification. The probationary period for said employees shall be computed in the same manner as a new employee in the same classification.

2. Employees who receive an overall unsatisfactory evaluation rating may have, at department head discretion, the probationary period extended an additional 520 paid work status hours, not including overtime, unpaid leaves or time off on Workers' Compensation status.

3. Except as provided in (a.) above, employees in a 1040 hour probationary classification who become employed in a 2080 hour probationary classification shall be required to serve the remainder of the 2080 hour probationary period with credit for the probation time already served in the previous classification.

4. Upon successful completion of the probationary period, the employee shall become a regular permanent employee.

5. Employees who are subject to State Merit System Rules and Regulations shall be governed by those Rules and Regulations concerning probationary employment.

6. Employees appointed to Employment At-Will status are excluded from these probationary period provisions.

R. EMPLOYEE DEVELOPMENT

1. Employees new to County employment in regular positions or newly appointed to an Employment At-Will status shall be provided a basic orientation program. It shall include introduction to objectives of County employment service and employee responsibility, benefits and privileges, and will include information on recognized employee organizations.

2. Job related training is ordinarily accomplished by the individual employee at his request outside the normal working hours.

   a. Those employees holding regular permanent positions or in Employment At-Will status with the County are eligible to receive reimbursement for tuition and/or fees and the required textbooks when paid for by the employee taking job related training. If claim for reimbursement of textbooks is requested, the books shall revert to and remain the property of Merced County upon completion of the training.

   b. Job related training which is pursued must be within the scope of duties of the employee, which will provide for a more effective performance of the employee's position, and that of his respective department.

c. It shall be the responsibility of the employee to initiate the request for reimbursement to his department head in sufficient time to receive the necessary approval prior to beginning the training.

d. The department head shall then request in writing to the County Executive Officer or his designee for approval of such training and reimbursement.

e. Claims for payment to the employee shall be made by the department upon certification to the department head that the approved training has been satisfactorily completed. Funds must be available for this training in the departmental budget.

3. In-service training is normally conducted during regular working hours on a departmental basis. It is oriented to develop skills or to enhance an employee's ability to perform. In-service training may be compulsory. Department heads shall attempt, wherever possible, to schedule such training so employees assigned to evening and morning shifts have an opportunity for such training. In the event in-service training is deemed compulsory, employees required to attend during off duty hours shall be compensated for overtime in accordance with Section 2, C, of this Resolution. Employees working under an alternate work schedule who are required to attend compulsory training during off duty hours will receive time off and will have their schedule adjusted accordingly unless otherwise specifically provided for in the approved departmental work schedule.

4. Unit 7 attorneys holding regular, permanent positions are eligible for reimbursement of $1,200 per fiscal year, subject to approval of the department head, for continuing legal education. Textbooks or other materials purchased under this provision shall become the property of Merced County.

5. For Bargaining Unit 3 counseling memos are a training tool utilized to present the supervisor's and/or department's expectations for an employee. They should reflect expected performance or other work related standards, and may indicate areas where an employee needs to improve to meet those standards. Counseling memos are not placed in an employee's official personnel file, but shall be referenced in an employee's performance evaluation (or in the official disciplinary process) if addressing issues still unresolved. Counseling memos referring to issues that have been corrected should be destroyed. Counseling memos associated with an action initiated by an employee relative to a discrimination complaint must be retained until that complaint is resolved.

S. REST PERIODS

1. All employees shall be allowed a rest period~~s~~ of (15) minutes during each one-half work shift.

2. Variable shift employees shall be allowed rest periods as follows:

   a. For scheduled shifts of at least three (3) and up to five (5) hours-one (1) fifteen minute rest period.
   b. For scheduled shifts of more that five (5) and up to seven (7) hours - two (2) ten minute rest periods.
   c. For scheduled shifts of more than seven (7) hours - two (2) fifteen minute rest periods.

3. Rest periods are to be scheduled at the middle of each one-half shift or whenever feasible in accordance with efficient department operations.

T. MEAL PERIOD

All employees will be allowed an unpaid meal period of not less than thirty (30) minutes, nor more than one (1) hour, scheduled approximately at the midpoint or middle of work shift. Employees required to remain at work for eight (8) or more consecutive hours shall have their meal during work hours.

U. DEPARTMENTAL WORK RULES

Departmental work rules may be established and any work rules upon which disciplinary action is taken shall be subject to the test of reasonableness in the appeals or grievance procedures. Department work rules shall not be in conflict with the specific provisions of a Memorandum of Understanding. The department shall make reasonable efforts to acquaint employees with work rules and work rules shall be uniformly applied. Work rules are defined to be employee regulations upon which disciplinary action may be taken. This does not prohibit departments from taking disciplinary action in accordance with Section 8, C "Causes for Disciplinary Action."

Any proposed changes to departmental work rules shall be reviewed by Human Resources prior to submission to the union. Any change in work rules initiated and established by the department shall be posted on the bulletin boards at least ten (10) work days prior to the effective date, except in emergencies. The notice of proposed changes or new departmental work rules shall be provided to the Union(s) in writing prior to posting. Such notices may be removed after thirty (30) days from the effective date. Upon request, the department will meet and discuss work rule issues within the scope of bargaining.

V. COUNTY EXECUTIVE OFFICER AUTHORITY

The County **Executive Officer** may:

1. Grant administrative leave with pay:

   a. When demonstrated by the department head that the employee's continued presence at work could be of serious detriment to either the employer or the employee;
   b. For health and safety reasons due to working conditions.

2. Reinstate an employee to prior status with all pay and benefits including, if appropriate:

   a. Reinstatement of prior sick leave and vacation balances;
   b. Direct that vacation leave and sick leave accrue for a specified period;
   c. Direct that hours worked credit be given for seniority purposes;
   d. Direct that back wages or retroactive wage adjustments be paid for a period not to exceed five (5) pay periods with all appropriate withholding and retirement deductions.

Any back wages or pay adjustments for a period beyond five (5) pay periods requires specific Board of Supervisors' approval.

3. All actions taken under 2 above will be reported to the Board of Supervisors. Any cash payment settlements apart from wages requires specific Board of Supervisors' approval.

4. Transfer an employee to a vacant position as a reasonable accommodation under the terms of the Americans with Disability Act.

5. May approve and adjust the step placement of a regular employee within the authorized salary range for their classification, upon written justification by the Department Director and written recommendation of the Director of Human Resources. This item will be restricted to use for retention of critical County personnel or to provide a method of adjustment wherein assigned salary steps may be contrary to federal guidelines. This item will not be used to set aside previously approved salary adjustments and salary placements already established for the individual by authority of the Human Resources Rules and Regulations, Section 3. This item will be reviewed annually by the Director of Human Resources and the County Officer for modification and continuance.

   a. Notwithstanding any other section in this resolution to the contrary, the County Executive Officer may approve and adjust the step placement of a regular employee within the authorized salary range of their classification, one step or more up to step 5. The CEO is authorized to make the step(s) advancement at any time if warranted. This section shall only apply to unrepresented management employees other than department heads.

W. REDUCTION IN FORCE

1. When deemed necessary and directed by the Board of Supervisors, a reduction in the County's work force may be initiated due to a) lack of work, or b) lack of funds, or c) program or organizational changes resulting in a surplus of employees, or elimination of a specific program or services. Employees in Employment At-Will status shall be in accordance with Section 2, W, 10, F, of this resolution.

2. Insofar as possible, a Reduction in Force shall be accomplished by attrition. When it is determined by the Board of Supervisors that attrition will not provide sufficient relief for the condition warranting a reduction in the number of County employees, the Board may direct a specific layoff by department(s), budget unit, classification/series, and number of employees pursuant to this policy.

3. For the purposes of this policy, a department is defined as a budget unit or division, or a group of budget units or divisions, that all are under the authority of a single "A" level, executive management department head. For informational purposes, the following is a list of County Departments as of January 2007.

LIST OF COUNTY DEPARTMENTS

County Executive Office

Auditor-Controller/ Recorder/County Clerk

Cooperative Extension

Castle Aviation/Economic Development

Information/Administration Systems

Agricultural Commission

Assessor

Board of Supervisors

County Counsel

District Attorney/Public Administrator

Fire

Health

Human Services Agency/Public Guardian Conservator

Planning/Community Development

Probation/Juvenile Hall

Public Works

Sheriff/Coroner

Human Resources

Library

Mental Health

Workforce Investment

Public Defender

Spring Fair

Tax Collector/Treasurer

4. When determined by the Board of Supervisors that a Reduction in Force is to be initiated, layoff shall be determined by retention points as computed below and implemented by classification series within department.

a. Retention Points

(1) One point shall be given for each payroll period during which an employee was in a paid status and was in continuous service as a regular County employee, within their current classification series in their current department. Paid status shall mean paid time worked and paid time off for holidays, sick leave and vacation. Deductions shall be made from the one point on a prorated basis for time off without pay. For example, if an employee were off payroll for 20 hours during a pay period, they would receive 0.75 retention points for that pay period.

(2) Employees on approved leaves of absence such as educational leave, military leave, family care leave and non-work related disability leave, shall retain seniority accumulated before the leave of absence. The time utilized in the leave of absence will not be included in the seniority score. Time on industrial disability leave (Worker's Compensation) shall be included in the seniority score computation.

b. Seniority Within Classifications

(1) Seniority shall be determined by length of service within a classification (or series, if applicable) within a department. For purposes of this Section, seniority for employees represented by Bargaining Unit 30, shall be determined as outlined in Section 2, M, of the Human Resources Rules and Regulations. For purposes of this Section, seniority for employees represented by Bargaining Units 3, 4, 5, 6, 8, and 11 shall include time on SDI, while the SDI benefit is being coordinated with the employee's vacation, sick leave, or compensatory time off. Time while on an unpaid leave or suspension shall not be included in the calculation.

(2) A series is a natural progression within a set of classifications whereby the incumbent progresses from a "trainee" to "journey-level and/or advanced journey-level" (i.e., the most obvious example will be a flexibly allocated I/II/III). Where appropriate, natural progression through management levels may be included in a series.

(3) A series may also be designated by similar minimum qualifications, whereby the primary difference between one level of class in a series and the next is the number of years experience required and also the possible need for supervisory/lead experience.

(4) Definition of a classification series shall be determined by Human Resources after consultation with the department and the appropriate employee organization.

(5) For an employee, whose current position has been reclassified and the title of the classification changed, the length of continuous service in the previous title classification will count towards establishing seniority in the present classification of the employee. The employee will not have bumping rights to the classification they were reclassed from.

5. Any required reduction shall be in the following order within the same classification and/or classification series within department.

   a. Seasonal, Intermittent and Extra-help employees

   b. Provisional and/or Limited Term employees.

   c. Probationary employees.

   d. Permanent Part-time or Variable Shift positions.

   e. Permanent Full Time positions.

   Bumping rights must be exercised within five (5) working days or the right to bump is lost. Employees in 5a, b, and c shall be released as of the date the Board of Supervisor's authorize the Reduction in Force. All variable shift positions in the affected classifications must be eliminated by the effective date of the Reduction in Force.

6. Based upon retention points, an employee who so requests, shall in lieu of layoff be demoted (bump and replace an employee with fewer retention points) to a lower position in his/her department. Demotion shall be through those classes or class series) in which the employee previously held permanent status, or through their current classification series.

7. In cases where employees have accrued an equal number of retention points, the department head can make a determination to break the tie on the basis of the following:

   a. Prior time in County service for an employee who has a break in service or who has transferred between County departments.

   b. Qualifications and performance.

8. Notwithstanding the foregoing, if the appointing authority determines that the public interest will not be served by application of the above criteria, the appointing authority may depart therefrom based on of a clearly demonstrable superiority in performance and/or

qualifications. In such case, the appointing authority shall notify the employee to be laid off and such employee shall have the right of appeal in accordance with the appeals procedure contained in the Human Resources Rules and Regulations.

9. In the event of a County Reduction in Force, Human Resources shall maintain the following two lists:

   a. A re-employment list for those employees laid off as a result of the work force reduction.

   b. A demotion/promotional list for those employees demoted as a result of the layoff who may compete for vacancies in other County departments.

   c. These lists shall also be maintained by each department, according to descending order of Retention Points. Employees with the most points must be re-employed in their former class ahead of all others until the lists expire. Each eligible former employee or demoted employee will remain on the list for eighteen (18) months from the effective date of the layoff or demotion. Former employees will be responsible for keeping Human Resources advised, in writing, of a current address. When notified in writing by return receipt mail that they will be re-employed, former employees must indicate their availability and acceptance of the opportunity to return to work within seven (7) calendar days of the mailing of said notice, unless otherwise mutually agreed upon, or they will be removed from the list.

10. Employment Eligibility List:

   a. All employees demoted in lieu of layoff or who maintain eligibility on a re-employment list shall be eligible to compete in Countywide or Department Only Promotional Examinations.

   b. All employees eligible for re-employment with the County shall be maintained on County Classification Lists as established by the Human Resources Department, and shall be interviewed for vacancies in other departments when those vacancies occur in the same classification series from which they were laid off.

      (Example: A Typist Clerk II that had been laid off in the Sheriff's Department would be placed on the Typist Clerk II Classification List, would be referred for a Typist Clerk II vacancy at the Planning Department.)

   c. If a regular eligible list exists for a vacancy, the department will interview the appropriate individuals from that list as well as the eligible employees from the County Classification List as mentioned in 10, b, above and eligible employees from the eligibility lists mentioned in 10, d, below.

   d. Employees eligible for re-employment with the County shall be maintained on Eligibility Lists as established by Human Resources and shall be interviewed for vacancies in other departments for which they served in the same classification series or meet the minimum qualifications. These positions must be at a salary range equal to or less than the classification from which the employee was laid off. Only after interviewing such employees and presenting written documentation acceptable to the Director of Human Resources may the department reject such employees and request a regular certification list, or in the absence of such a list, request commencement of a regular recruitment to fill the vacancy.

e. Any permanent, permanent part-time, and variable shift employee being laid off in accordance with County rules shall be eligible to transfer to a vacant position at equal salary, or voluntarily accept a demotion to a vacant position of lower salary, in any department in regular County service if the employee meets the minimum qualifications as set forth in the class specification. Human Resources shall make every reasonable effort to facilitate such a transfer or voluntary demotion when so requested by an employee affected by reduction in force yet remain within the guidelines as provided in the County rules. Human Resources will refer a list of all such interested employees to the departmental hiring authority where the vacancy exists. Only after interviewing such employees, and presenting written documentation acceptable to the Director of Human Resources, may the department reject such employees and request a regular certification list, or in the absence of such a list, request commencement of a regular recruitment to fill the vacancy.

f. In the event, permanent employees in the classification of Supervising District Attorney, Deputy District Attorney I/II/III/IV, Deputy Public Defender I/II/III/IV and Deputy County Counsel I/II/III/IV, who were hired prior to September 1, 1998, and are subsequently, without a break in service, are appointed to an Employment At-Will position and are dismissed from that position for reasons other than being discharged for conduct as defined in Human Resources Rules and Regulations, Section 8.C, Disciplinary Action, they have a right to demote to a lower position in a previously held classification or class series in his previous department as determined by Section 2, W, 3, 4, 6 and 7, of this Resolution. If eligible for reinstatement, the employee may bump or displace employees who have fewer retention points. An employee in an Employment At-Will position can not use bumping rights for voluntary reasons. Human Resources will determine if demoted classification is comparable to the prior permanent position the incumbent held.

Employees hired on or after September 1, 1998 who accept an Employment At-Will position are excluded from the Reduction in Force policy and bumping rights.

11. <u>Procedures</u>

a. When it is determined by the Board of Supervisors that a reduction in the number of County employees is required, the County Executive Officer and/or his designee and the affected department head will prepare a revised departmental allocation list which complies with the limitations imposed by the Reduction in Force. Such position allocation list shall be reviewed by the Board of Supervisors at a regularly convened policy review meeting.

b. Thereafter, by Resolution, the Board of Supervisors will designate by budget unit, the number and classifications of employees to be affected by the layoff, and the effective date of such layoff.

c. The department head and Human Resources will jointly compute the retention points for each concerned department. The rank order of layoff will then be published in the appropriate department after review with the appropriate employee organization. Copies will be filed with Human Resources and the County Executive Officer.

d. An employee shall be given a written notice of proposed layoff at least fourteen (14) calendar days prior to the effective date of such action stating: (1) the last day of work for the employee, (2) reason for the layoff, (3) re-employment rights, (4) voluntary demotion rights, and (5) appeal procedures. Any appeal of such layoff shall be in accordance with Section 9, of the Human Resources Rules and Regulations, and shall be limited to the issue of seniority or the application of the procedures under this Resolution. This procedure does not affect the department head's authority to terminate intermittent, seasonal and Extra-help employees as dictated by the workload of the department.

12. State Merit System Procedures
Layoff and reinstatement procedures for employees covered under the State Merit System shall be subject to rules established in that system.

13. Other State or Federal Procedures
Layoff procedures for employees covered by other State or Federal procedures shall be subject to the rules and regulations established by those procedures.

14. Benefits Upon Reinstatement Following a Reduction in Force

a. Upon re-employment in the classification from which the employee held previous permanent status and was laid off, the employee shall be re-employed on the same step in the range at the time of layoff.

b. Seniority at the time of layoff shall be recognized upon re-employment for the purposes of determining merit increases, vacation accruals, and future Reduction in Force. Sick leave accrual amount at the time of layoff, if any, shall be reinstated upon re-employment.

c. If the employee chooses to be re-employed in a lower classification for which he may have seniority status and which has a salary range lower than the classification from which he was laid off, then salary placement shall be in accordance with the Human Resources Rules and Regulations Section 3.E.

X. TEMPORARY WORK LOCATION

When an employee is assigned to work at a location different from his/her regularly assigned work location(s), he/she shall be allowed to travel on County time to that different work location, if the distance to the temporary work location exceeds the distance to the regular work location. Time allotted for travel shall be based on that additional distance. The County will either supply transportation for such travel or shall pay mileage at the prevailing County rate based on the above additional distance. The County assumes no obligation to the worker who for self-convenience voluntarily reports to other than the regularly assigned work location.

Y. TRAVEL/TRAINING TIME

1. Employees required to attend job-related training sessions shall be compensated at the time and one-half rate or compensatory time off (at the Department's option) for time spent in training sessions in excess of eight (8) hours in any single work day, or forty (40)

hours in any work week. Travel-time to and from such training sessions shall be compensated in accordance with FLSA provisions.

2. Employees attending optional job-related training sessions shall not receive additional compensation for time spent in excess of eight (8) hours in any single work day, or forty (40) hours in any work week, including travel time to and from such training sessions, unless required under FLSA provisions.

3. Employees required to use their personal vehicle for County business shall be paid for the actual mileage traveled at the prevailing County mileage rate.

AA. EXTRA-HELP POLICY

1. PURPOSE:

To establish a one document policy for the recruitment, selection and employment of Extra-help employees including seasonal and/or recurring appointments.

2. TITLE AND DEFINITION

The term Extra-help employee shall mean and include all employees whose employment is not permanent and whose rate of pay is fixed on an hourly basis and paid only for actual hours worked. This employment may be regularly recurrent in certain offices or departments because of the particular duties and functions to be discharged which occur periodically each year or that the workload in a department periodically is too great a volume to be handled expeditiously by the regular employees within the department. This employment shall not exceed more than 1040 hours in any fiscal year for an employee in an Extra-help classification aligned with a full time or variable shift permanent classifications and shall not exceed 1560 hours in a fiscal year for those employees in an Extra-help class not aligned to an existing full time or variable shift classification. Employment for Extra-help employees in Bargaining Units 2, 7, 10, 12, and 14 shall not exceed 1560 hours in a fiscal year. Extra-help employees may serve in the same extra-help classification in another department or in a different extra-help class for which they are qualified in the same department. The respective 1040 hour and 1560 hour limits are not cumulative for different positions. For example, Employee “A” works as an Extra-help Account Clerk in Human Resources for 1040 hours. The employee then applies, and is selected for, Extra-help Typist Clerk II in Human Resources. Employee “A” may complete 1040 hours as an Extra-help Typist Clerk II in the Human Resources Department.

Restated, extra-help employees shall not work in the same aligned extra-help classification in the same department beyond 1040 hours, but may be hired in another extra-help aligned classification. Extra-help employees in aligned classes are limited to 1040 hours in the same extra-help class or class series per fiscal year while working in the same department.

Extra-help employees are retained for temporary, emergency or seasonal help. They are not regular County employees and do not receive County benefits except Family Care Leave wherein they are eligible for such leave in accordance with State and Federal law. Extra-help employees, like probationary employees, may be terminated from County employment at any time without notice or stated cause.

3. **APPOINTMENT**

Applicants for Extra-help positions shall not be appointed by a department unless an authorization is documented with Human Resources, a completed application from the employee has been received by Human Resources and all County pre-employment and post-offer requirements are completed.

4. **RECRUITMENT**

With the exception of special recruitment provisions provided in this policy, the regular recruitment and selection procedures will be adhered to in filling Extra-help positions. Departments will be required to use existing qualified applications. New qualified applications will be collected whenever it is necessary as determined by Human Resources.

A. Special Recruitments

Extra-help positions may qualify for special recruitment if the positions fall within any of the following categories:

(1) A continuous recruitment may be established based on insufficient qualified applicants or continuing high turnover as defined by Human Resources.

(2) Extra-help positions may be established for Employment Training/Student Placements/Interns. These positions are either filled by students through arrangements with various educational institutions, or as program participants in job training programs.

(3) When a no-notice termination occurs or specific work experience is required for vacant positions making the regular recruitment process ineffective and costly, or if the appointment is required immediately as determined by the department and Human Resources.

B. Waiver

When time is a factor and no eligible list exists, Human Resources can approve waiver of the regular recruitment and selection process and limit the recruitment to advertising and checking the minimum qualifications shown on the application. The department where the vacancy exists must report in writing an emergency such as work stoppage or cessation of service to the public for the recruitment and selection process and/or checking of minimum qualifications to be waived.

C. Criminal History Check

Extra-help employees accepting an offer of employment are required to be reviewed for their criminal history information as stated in Section 2, B, 9. Extra-help employees required under Section 2, B, 9, shall be live scanned. Human Resources

Rules and Regulations Sections 2, B, 10, 11, 12, 13, 14 and 15 shall apply to Extra-help employees covered by Section 2, B, 9.

D. Extra-help employees accepting an offer of employment from the County must meet all physical requirements for the position and successfully complete a physical and/or psychological examination as required in the position's qualifications.

E. All candidates accepting an Extra-help position must sign the County of Merced Extra-Help Employment Acknowledgment prior to the first day of employment.

5. **WORKING HOURS, WORK WEEK, AND OVERTIME**

Extra-help employees will be paid overtime only for actual time worked beyond 40 hours in a work week.

Extra-help employees are not entitled to take time off with pay for the purpose of application for appointment to County positions or for taking qualifying and/or promotional examinations and/or appearing for interviews conducted for regular appointment or promotional opportunities within Merced County employment.

6. **RETIREE EXTRA-HELP EMPLOYMENT**

Retired employees may be re-employed in a position requiring special skills or knowledge, as determined by Human Resources, for a period not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year (Section 6, 2 of Human Resources Rules and Regulations).

Extra-help employees do not participate in the County Retirement system. Deductions for retirement contributions are not taken from their pay.

7. **EXTRA-HELP SALARIES**

Extra-help employees will not be appointed above the first step unless approved by the County Executive Officer or his designee. Extra-help positions may be appointed at different steps of the assigned salary range as shown below. As a matter of practice, appointment of Extra-help at a step wherein they would be at a higher step than their permanent, department co-workers in that same class is to be avoided except as in A and B below.

A. Each position to be designated as eligible for step advancement will be identified in the Board Action Item establishing the position.

B. Step advancements within County service shall be available as follows:

Upon completion of 2080 hours to total service time, Extra-help employees appointed in positions designated as seasonal, recurring, or intermittent, for a limited work period for succeeding years shall be eligible for advancement to the next higher salary step upon submission to Human Resources of an employee performance evaluation evidencing satisfactory performance for that entire 2080 hour period along with the completed transmittal form changing the employee's salary rate. Hours worked in another extra-help class shall not count toward the 2080 hours. An extra-help employee is eligible for such a step advancement after completion of each 2080 actual work hour increment until the last step in the salary range is awarded.

C. Extra-help employees shall receive special pays and differentials only if specified in the Salary and Position Allocation Resolutions.

8. **BENEFITS**

A. Paid Time Benefits

Extra-help employees are not entitled to paid bereavement, sick, vacation, or holidays.

B. Health Plans and Life Insurance

Extra-help employees are not entitled to County-paid medical, dental, vision, life insurance employee assistance program (EAP) benefits and are not eligible to participate in the Deferred Compensation Plan.

C. Social Security

Extra-help employee contribution to Social Security (Old Age Survivors and Disability Insurance - OASDI) and Medicare are paid by the employee by deduction from each paycheck.

D. Jury Duty

Extra-help employees are not entitled to pay or reimbursement from the County for Jury Duty.

E. Workers' Compensation/Unemployment Insurance

The County does provide benefits to those eligible under the State Workers Compensation and Unemployment Insurance statutes.

F. The Human Resources Rules and Regulations, Section 2, H, 10, Family Care Leave, applies to all employees who work 1250 or more hours in any twelve month period.

SECTION 3: COMPENSATION ADMINISTRATION

A. SALARY ON APPOINTMENT

Except as otherwise provided in this ordinance, new employees shall be appointed at the first step of the salary range in effect for the particular class or position to which the appointment is made. The County Executive Officer may authorize advance step appointments up through step five (5) of the salary range schedule in effect when warranted. Employees in Employment At-Will status shall have their salary step upon appointment determined by the appointing authority within the range approved by the Board of Supervisors for the position.

B. SALARY ON REINSTATEMENT

A person reinstated in a class of position which he previously held permanent status and separated in good standing, may, upon recommendation of the head of the department in which he is being reinstated and approval of the County Executive Officer, be appointed to the same step of the salary which they occupied at the effective date of his resignation.

C. INCREASES WITHIN A RANGE

1. Every employee in a regular position or in an Employment At-Will status shall have a merit increase eligible date that shall be the first day of the pay period following completion of the first 2080 hours of service with the County. Subsequent merit increase eligible dates shall be the first day of the pay period following completion of 52 week intervals. The granting of any leave of absence without pay, other than military leaves, exceeding 15 consecutive calendar days, shall cause the 52 weeks to be extended a number of calendar days equal to the leave of absence, less the first 15 calendar days.

2. Salary increases within a range shall not be automatic but shall be given the employee upon the affirmative recommendation of the department head. Employees retain the right to grieve a denial of a merit salary increase. Merit ratings, salary increase recommendations for appointive department heads shall be made by the Board of Supervisors.

3. Thirty (30) days prior to each employee's merit increase eligibility date. Human Resource shall advise the department head in writing that the employee will be eligible for a merit salary increase and the department head shall advise Human Resources, in writing, prior to the employee's merit increase eligibility date whether he wishes to grant, deny, or defer merit increase.

4. Human Resources shall notify the Auditor-Controller in writing of all merit increases. Such notification shall be constitution to the Auditor-Controller to make payments to the employee at a higher rate. Should an employee's merit increase eligibility date be overlooked through an error and should the employee be recommended for the merit increase, the Auditor-Controller shall, on the next regular pay period, compensate the employee for the additional salary he would have received dating from his merit increase eligibility date.

D. SALARY ON PROMOTION

Employees must meet the minimum qualifications of the higher classification upon promotion. Any employee appointed to a position in a class having a higher salary range than the class of position formerly occupied shall be placed on the step having a salary approximately 5% higher than the salary received prior to promotion as of the date upon which the appointment becomes effective, unless he has been on the fifth step a year or more, in which case he shall be placed on the step having a salary approximately 10% higher than the salary received prior to promotion. If the difference between such ranges is less than 5% and the employee is on the last step, they shall be placed to the last step of the range even though it is less than 5%.

For purposes of further merit increases within the salary range, the employee shall receive a new anniversary date in accordance with the effective date of promotion. In the event a non-management employee is receiving, (within the pay period prior to promotion) a differential pay, in addition to base salary which may result in the same pay in the new salary range, the anniversary date shall remain the same as before the promotion.

Unrepresented management employees who are promoted and have received a differential pay on a continual basis for one (1) year or more will have such differential counted toward placement on the new salary range resulting in a salary that is approximately 5% higher than the salary he was receiving prior to promotion. This is not applicable if the management employee is eligible to continue to receive the same differential.

The effective date of all promotions shall coincide with the first working day of the pay period.

E. SALARY ON DEMOTION

1. Any employee who is demoted for reasons of unsatisfactory performance to a class of position having a lower salary range shall be placed on the salary in the range of their new classification that is closest to, but not equal or greater than the salary were receiving before demotion. For purposes of further merit increases within the salary range, the employee shall receive a new merit anniversary date.

2. Any employee who accepts a voluntary demotion (goes to a classification at a lower salary range than the classification being vacated) in lieu of layoff, or is demoted for reasons other than unsatisfactory service shall be placed on the biweekly salary in the range of their new classification that is closest to, but not greater than, the biweekly salary they were receiving in their previous classifications. For purposes of further merit increases within the salary range, the employee's salary anniversary date shall not change.

3. An employee in Employment At-Will status who is eligible for reinstatement and is returned to a previously held permanent classification in a regular permanent position (or equivalent classification as determined by Human Resources) in the department shall be placed in the same salary step held prior to appointment to the Employment At-Will

status. For purposes of further merit increases within the salary range, the employee's anniversary date shall remain the same as it was before appointment to Employment At-Will status.

F. SALARY ON TRANSFER

Any employee transferred from one position in the same class or to another in a class having the same salary range shall be compensated at the same step in the salary range as previously received. For purposes of further annual increase within the salary range, the anniversary date shall remain the same as it was before the transfer. The effective date of all transfers shall be the first working day of a pay period.

G. SALARY ON RANGE CHANGE

An employee who receives a range change (adjustment) to a higher salary range, shall remain on the same step in the new salary range. The employee's anniversary date for step advancement shall not change.

H. SALARY ON POSITION RECLASSIFICATION

The salary of the incumbent of a position that is reclassified shall be determined as follows:

1. If the position is reclassified to a class that is allocated to the same salary range as is the class of the position before it was reclassified, the salary anniversary date of the employee shall not change.

2. If the position is reclassified to a class that is allocated a higher salary range than the class of position before it was reclassified, the employee shall remain on the same step in the new salary range. The salary anniversary date of the employee shall not change unless he has been on the fifth step a year or more, in which case he shall be placed on the step having a salary approximately 10% higher than the salary received at the time of reclassification and receive a new anniversary date as governed by Section 3, C. of this resolution. Employees occupying reclassified positions which are allocated to a higher salary range must meet the minimum qualifications of the higher classification prior to any change in salary.

3. If the position is reclassified to a class which is allocated to a lower salary range than the class of the position before it was reclassified, the employee shall receive the step, if any, in the new range which is the same as the salary he was receiving prior to reclassification and the anniversary date shall not change.

4. If the salary of the employee is greater than the maximum of the new range, the salary of the employee shall be designated as a "Y" rate, and shall not change during continuous regular service until the maximum of the new range exceeds the salary of the employee.

I. TEMPORARY PROMOTIONS

A regular employee may be promoted on a temporary basis to fill a vacant position, as a result of a continuous leave of absence or extended sick leave of the incumbent of the position, or a pending appointment of another person to that position if the employee meets the minimum qualifications of the higher class. A temporary position shall only apply as follows:

1. An employee who is temporarily assigned on a continuous basis for a period in excess of one (1) full biweekly pay period to work in a class having a higher salary range shall be considered temporarily promoted, and shall receive the salary that is approximately 10% (5% for Bargaining Units 2, 7 and 10) higher than his present salary range for that time in excess of one (1) full biweekly pay period.

2. After a department head has been continuously absent, as a result of illness or injury, or on leave of absence, or if the position is vacant, for a period in excess of one (1) full biweekly pay period, the assistant department head or if there is none, the senior employee next in authority, may be designated as acting department head by the Board of Supervisors, and shall be deemed a temporary promotion. In compensation for this temporary promotion, the employee shall receive the salary that is approximately 10% higher than his present salary range for that period in excess of one (1) full biweekly pay period. Employees temporarily promoted into a department head position shall receive the un-reimbursed expense allowance authorized for that position. Extension of the department automobile and cell phone allowances to the temporarily promoted employee will require specific authorization by the Board of Supervisors.

3. The effective date of all temporary promotions, for pay purposes, shall be the first working day in excess of the one (1) full biweekly pay period. At the conclusion of such an assignment, the employee shall return to his appropriate rate of pay effective the day after the conclusion of the temporary promotion.

4. Any employee receiving a temporary promotion shall not be required to serve more than one waiting period in any 12-month period.

5. These provisions do not apply to the employee in a lower classification who is under filling a higher classification. Employees under filling a higher classification shall be compensated at the salary range of the lower classification while in an underfill status.

6. Nothing in this section shall restrict a department in the best interest of departmental efficiency from managing normal sick leave and vacation scheduling, leaving authorized positions vacant, or from hiring seasonal or Extra-help persons to fill temporary vacant positions as described in this section.

7. Regular employees cannot be temporarily promoted to Employment At-Will status.

J. BOARD AUTHORITY TO SPECIFY SALARY

Notwithstanding anything in the resolution to the contrary, the Board of Supervisors may by resolution or minute order, upon the recommendation of the County Executive Officer

specify that the incumbent of a particular position shall occupy a step on the salary range for that class, either higher or lower than that provided for elsewhere in this ordinance.

SECTION 4. VEHICLE POLICY

A. Except as otherwise provided by law or Travel Policy (adopted by the Board of Supervisors) County Officers and Employees shall be entitled to receive a mileage rate per mile whenever they use a motor vehicle not owned by the County while engaged in the performance of their official duties as such officer or employee. This rate is established to coincide with the Federal IRS rate and will be adjusted whenever that rate changes.

B. Employees whose vehicle is damaged in a collision with another vehicle while driving a personal vehicle on County business shall be reimbursed for the deductible insurance cost not to exceed three hundred dollars ($300.00) provided:

1. The accident has been verified by a police report, and the damage shall be unrecoverable from the other party by reason of lack of liability insurance, or
2. The damage is caused by a hit-run or unidentified driver as verified by a police report, or
3. The amount of damage to be reimbursed by the County is not recoverable under any policy of insurance available to the employee. The County shall be subrogated to the employees' rights of recovery from the responsible party.

C. Employees represented by Bargaining Units 4, 5, and 8, who are required to use their personal vehicles for County business on a continuous basis shall be reimbursed up to a limit of $200 per year for any additional business-use insurance surcharge under the following conditions:

1. Employee must provide verification from the department head of required use of personal vehicle for County business.
2. Coverage to be $250,000/$500,000 split limits or $300,000 combined single limit with $5,000 medical payment coverage of non-employees.
3. Employee must provide a copy of the insurance policy or certificate of insurance showing the above coverages for the required business use of the vehicle.
4. Employee must provide policy or letter from insurance company or agent showing actual additional cost of business use coverage.

D. Employees who drive a County vehicle, or utilize their personal vehicle on County business, must maintain a valid driver's license and present their license for departmental copying prior to beginning their driving duties. Employees must inform their department, by the next workday, whenever their driving status changes (license suspension, revocation, expiration or other change in status). An employee's driving responsibilities may be suspended if they fail to provide the required driver's license copy or fail to report a change in driving status within the prescribed time frames. Suspension of driving responsibilities, as indicated above, may subject the employee to disciplinary action, up to and including termination, if driving is an assigned part of their job duties.

Employees who, while driving a County vehicle, are involved in an accident where they are determined to be at fault, or convicted of a moving violation, or found to be driving a County vehicle in an unsafe manner, may be subject to disciplinary action, up to and including termination. Employees who receive a ticket while driving a County vehicle, or who receive a parking ticket for a County vehicle they illegally parked, will be responsible for paying the full amount of the ticket. Tickets related to DMV registration of County vehicles or the maintenance of County vehicles will be the responsibility of the County.

SECTION 5. LIMITATIONS UPON COMPENSATION

All fees, commissions, and mileage, except that mileage specifically mentioned in Section (4) hereof, and compensation of whatever nature or character including profits from feeding prisoners, transportation of persons and the jail commissary, received by any County officer, deputy, assistant, or employee by virtue of his office shall be turned into the County Treasury for each calendar month not later than the fifth of the succeeding month and be deposited in the General Fund of the County, or such other fund as may be provided by law and shall become the property of the County of Merced immediately upon its receipt by such officer, deputy, assistant or employee.

SECTION 6. RETIREMENT

1. Employees appointed as Employment At-Will, Permanent, Permanent Part-time, and Variable Shift Employees shall be members of the County Employee's Retirement System in accordance with the County Employees Retirement Law of 1937 as amended.

2. Retired employees may be re-employed in a position requiring special skills or knowledge, as determined by the Human Resources Department, for a period not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year.

SECTION 7. GRIEVANCE AND APPEAL REPRESENTATION

A. The County agrees that in keeping with the Merced County Employer/Employee Relations Policy, employees shall have the right of representation of their choice in the appeals and grievance process.

B. The County agrees and recognizes that A.F.S.C.M.E. Local 2703 may designate thirty-five (35) stewards, and Merced County Independents Employees Association may designate ten (10) stewards.

C. A written list of the stewards, broken down by departmental areas of responsibility, shall be furnished the County immediately after their designation and the Union shall notify the County promptly of any changes of such Stewards. Stewards shall not be recognized by the County until such list of changes thereto are received by the County Executive Officer.

D. At the request of an employee, a steward shall be relieved of duty without loss of pay to assist such employee in accordance with the following conditions:

1. If the issue is of a grievance nature, the Steward shall be relieved in accordance with the provision of the Grievance Procedure. However, if the issue is of a formal disciplinary nature involving a written reprimand for which a notation is made in the employee's personnel file, the employee shall have the right, upon request, to the presence of a steward at the time such action is taken.

2. If the issue is of a disciplinary nature involving a suspension, demotion, or dismissal a steward may be released to represent an employee at the initial meeting, if the employee or the supervisor so requests, provided, however, that the employee is advised of the right to representation. After the initial meeting, the employee shall have the right to representation in accordance with the Appeals Procedure.

3. Stewards shall be relieved of duty provided the grievance or disciplinary action is in his assigned area, and subject to prior notification and approval of his supervisor.

SECTION 8. DISCIPLINARY ACTION

A. Any regular permanent employee in the County service may be disciplined for just cause and such cause shall be based upon incompetence, misconduct or employee conduct which reflects discredit upon the public service or which interferes with the effective performance of the duty assignment of the employees, the effective performance of the duty assignment of other County officers, employees, or with the effective performance of the department in which he is employed.

Employees in Employment At-Will status can be dismissed or disciplined without cause or notice. Employment At-Will employees are excluded from Section 8.A, B, E, and F, of this Resolution. Employees in Employment At-Will positions discharged for conduct as defined by Section 8.C, Disciplinary Action have no notice, bumping rights, right of appeal or hearing.

All employees may have a representative of their choice at any meeting between the employee and a supervisor or other management where the employee reasonably believes the meeting may lead to disciplinary action, so long as the representative does not unduly delay or obstruct the meeting.

B. Types of Disciplinary Action

1. Written Reprimand
2. Suspension
3. Reduction in Salary Range Step
4. Demotion
5. Dismissal

Employees who are exempt from FLSA are not subject to disciplinary reductions in pay that would be in violation of FLSA.

C. Causes for Disciplinary Action

1. Incompetence
2. Inefficiency
3. Insubordination
4. Neglect of Duties
5. Absent without leave
6. Dishonesty
7. Fraud in securing employment
8. Discourteous treatment of the public or other employees
9. Violation of the Drug-Free Workplace Policy and/or Merced County Alcohol and Drug Testing Policy
10. Drinking of alcoholic beverages on the job, or reporting for work under the influence of alcohol or intoxicants

11. Addiction to narcotics or other habit-forming drug
12. Conviction of any felony or misdemeanor, including a conviction pursuant to a plea of “no contest” to any crime.
13. Failure to pay just debts, as reflected by multiple or repeated salary execution, Court judgment and/or repeated contact by creditors during working hours
14. Violation of any County code or lawful departmental or County regulation or code
15. Improper political activity as provided in the Human Resources Rules and Regulations or by Government Code
16. Conduct unbecoming a public employee or reflecting discredit upon the department or County service
17. Willful abuse or damaging of public property
18. Misappropriation of public property or funds
19. Disorderly or immoral conduct
20. Sexual Harassment
21. Violation of the County Workplace Violence Policy.
22. Other employee conduct that may constitute cause for disciplinary action that is not specifically enumerated by the above

D. Skelly Process

In disciplinary actions that involve a regular permanent employee's dismissal, suspension or reduction in rank or salary range step, the employee shall be notified of the proposed disciplinary action by the department head or his/her designee at least five (5) working days prior to the effective date of the proposed action.

Notice of Intent to Discipline: The Notice of Intent to Discipline shall include:

a. A statement of the cause and of the specific acts and omissions upon which the disciplinary action is based;
b. If it is claimed that the employee has violated a rule or regulation, a reference to the specific rule or regulation;
c. A statement of the disciplinary action proposed;
d. A statement that the employee has a right to respond verbally or in writing in a pre-disciplinary hearing (Skelly hearing).

The employee has a right to appeal in a pre-disciplinary (Skelly) hearing such a decision and charges to the Department Head or his/her designee if requested within five (5) working days after service of the notice. The five (5) day time frame can be extended by written mutual consent. (Agreement by electronic format is sufficient).

Such actions involving all other employees, including probationary employees, remain unaffected. In the case of employees working an alternate work schedule, the term "working days" shall mean Monday through Friday during the County's regular workweek. Holidays and furlough days are excluded from this time period.

1. The department shall provide to the employee and his/her representative, if representation is desired, a written copy of the reasons for the action including statements of the charges and documents upon which the action is based.

2. Employees shall be notified of their right to respond orally or in writing, to the charges prior to the effective date of the proposed action. The employing Department Head or his/her designee will consider the response by the employee to the charges.

3. The pre-disciplinary (Skelly) hearing or written response to a Notice of Intent to Discipline is intended to provide the employee with an opportunity to respond to the charges against him/her as set forth in the Notice of Intent to Discipline. As such, the employee should bring with him/her, or produce, any and all documents which he/she would like to be considered. However, the employee does not have the right to present witnesses for examination or cross-examination.

4. Final Notice of Discipline: The Department Head and/or his/her designee will consider any response by the employee to the charges. He/she will notify the employee of his/her decision in writing to either:

    a. impose the intended discipline;
    b. to reject the intended discipline altogether; or
    c. to impose a lesser discipline

5. The Final Notice of Discipline shall be served personally on the employee or served by U.S. certified mail to the employee's most current address shown in the personnel records of the County Human Resources Department.

6. Other disciplinary action, up to and including suspension, may be taken without prior notice in cases where it is indicated that the employee's continued presence at the work site could have detrimental consequences as determined by the department head or his/her designee. In such cases, notice shall be provided within a reasonable time after the fact, but no later than five (5) working days. Paid Administrative Leave time does not count towards the calculation of the five working days.

E. <u>Personnel File</u>

A copy of all written disciplinary actions shall be provided to the employee and filed in his/her personnel file. An employee shall have the right to answer such action in writing within ten (10) working days and such answer shall be filed in his/her personnel file. The employee shall have reasonable access to review his/her personnel file.

1. In the absence of the employee, a signed statement by the employee authorizing the designated representative to review his/her personnel file will be acceptable.

2. Disciplinary actions more than twelve (12) months old, which were made a part of the employees personnel file and for reasons that are non-related to any further

disciplinary action, shall not be considered in such disciplinary action regarding the employee.

3. Written reprimands shall be removed from an employee's personnel file after twelve (12) months. This provision applies only to those employees in Units 3, 4, 5, 6, 8, 11 and 14. For employees in Unit 2, 10 and 12 written reprimands for reasons other than use of excessive force, shall be removed from an employee's personnel file after twelve (12) months.

F. State Merit System

Those employees subject to the State Merit System shall be governed by those rules and regulations established by the Merit System Division, State Personnel Board.

SECTION 9. APPEALS PROCEDURE (All Bargaining Units)

An employee of the County of Merced who is in the classified service and who has a status of "regular, permanent employee" shall have the following rights and privileges concerning his/her discharge, suspension, or reduction in rank or compensation with the exception of the following: those employees subject to State Merit System shall use the appeals procedure established by the Merit System Division, State Personnel Board; and those employees subject to State regulations, who shall use the appropriate appeals procedure. This does not include “A” level or At-Will employees.

The term "regular, permanent employee" shall not include appointive and elective officials, or probationary employees as defined in the Human Resources Rules and Regulations. For “peace officers” subject to the Public Safety Officers Procedural Bill of Rights Act (POBRA), where the rights, remedies, or procedures provided under the POBRA are greater than those provided herein, the POBRA shall govern.

A. EMPLOYEE APPEALS OF SUSPENSIONS, DEMOTIONS, TERMINATIONS OR OTHER DISCIPLINARY REDUCTIONS IN COMPENSATION

1. Whenever a regular, permanent employee is suspended, demoted to a classification at a lower salary range, terminated or is subject to a disciplinary reduction in compensation he/she shall receive written notice, pursuant to Section 8.D and 8.E. Said notice shall be served personally upon the employee or mailed by registered mail to said employee at the address shown in the personnel records of the County Human Resources Department.

2. If an employee wishes to appeal this action the employee or their representative must file, in writing with the County Human Resources Department, a notice requesting a hearing before the Administrative Hearing Officer. All appeal notices will be hand delivered or emailed to County Human Resources within the time frames listed below. Acknowledgement of receipt of the appeal will be provided to the employee and/or their representative. It shall be the burden of the appealing party to obtain written acknowledgement of receipt from the County. Appeals will not be processed unless there is written acknowledgement by the County of timely filing of the appeal.

    a. The appeal notice must be filed within ten (10) working days of the personal service upon the employee or the date of mailing of the final disciplinary action notice. For purposes of this section, for employees working an alternate work schedule, the term “working days” shall mean Monday through Friday during the County’s regular work week. Holidays and furlough days are excluded. If an employee does not present his/her appeal within the prescribed time limits, or fails to appear at any scheduled hearing date, the appeal shall be considered resolved in favor of the County. The time limitations at any level in the procedure may be extended by mutual consent of the parties. By mutual written agreement between the parties, an appeal may revert to a prior level for reconsideration.

    b. Any Union or Association may elect not to represent non-dues/fee paying members. If the appeal is taken to the Administrative Hearing Officer level, the decision of the Administrative Hearing Officer shall not be used to establish a

precedent if the Union or Association elected not to represent the employee or group of employees.

c. Within ten (10) working days of timely filed appeal, the County will make a request to State Mediation and Conciliation Services (SMCS) for a list of seven (7) Administrative Hearing Officers. A list of five (5) Administrative Hearing Officers will be accepted if a list of seven (7) is not provided by SMCS. If the County does not request a list of Administrative Hearing Officers from SMCS within the prescribed time frames, the appealing party may request the list. Within ten (10) working days from the receipt of the list, the parties shall alternate striking names from the list until one (1) name remains. That person shall be the Administrative Hearing Officer for the appeal. The party who shall strike first shall be determined by mutual agreement, otherwise, by a coin toss.

d. If for any reason the SMCS is unable to provide the parties with a list of five (5) to seven (7) Administrative Hearing Officers, or if within thirty (30) days of selection, the Administrative Hearing Officer is not able to schedule a hearing date, then either party may request a new list of seven (7) Administrative Hearing Officers from SMCS. If the Administrative Hearing Officer under the second list is not able to schedule a hearing date within thirty (30) days of selection, the parties may agree to an alternative Administrative Hearing Officer. It is understood that the thirty (30) days referenced in this section “d” refers to the act of calendaring the hearing and does not mean the date of the hearing shall occur within the thirty (30) days. If the parties cannot agree upon an alternative Administrative Hearing Officer, the parties shall meet and confer for the purposes of selecting an Administrative Hearing Officer following these Rules and Regulations.

e. All costs of the Administrative Hearing Officer and a court reporter, if used in the hearing, shall be shared equally by both parties.

f. All hearings will be conducted in the County of Merced unless all parties mutually agree, in writing, to an alternative hearing location.

g. If the employee requests an appeal of discipline, it shall not prevent the discipline from being served or imposed prior to the appeal hearing or decision of the Administrative Hearing Officer.

h. The Administrative Hearing Officer shall conduct the hearing in an orderly fashion, make evidentiary and procedural rulings, and make written findings of fact.

i. Oral evidence shall be taken under oath and subject to penalty of perjury.

j. Each party shall have the following hearing rights:

    1. To call and examine witnesses
    2. To introduce exhibits
    3. To cross-examine opposing witnesses on any matter relevant to the issue, even though the matter was not covered in direct examination
    4. To impeach any witness regardless of which party first called the witness to testify; and to rebut the evidence

5. Either party may issue subpoenas and subpoenas duces tecum for the production of witnesses and/or documents.

k. If the employee does not testify in his/her own behalf, he/she may be called and examined by the County as if under cross-examination.

l. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action under California law.

m. The parties shall exchange lists of anticipated or potential witnesses not less than ten (10) working days in advance of the scheduled hearing date.

n. Employees shall not suffer a loss of compensation for time spent appearing and testifying as a witness at an administrative hearing held pursuant to this section. Employees who are called to testify as a witness at a time outside his/her scheduled working hours shall be compensated, if at all, by the party calling him or her to testify. The parties agree that the number of witnesses requested to attend and their scheduling shall be kept to a reasonable minimum.

o. At the request of either party witnesses who have not testified or may be recalled to testify shall be excluded from the hearing room until such time as they are called to testify. The employee and department representative are exempt from this provision. The employee is free to designate and have present a non-witness support person during hearings.

p. All appeal hearings, excluding terminations, shall be recorded by either the County or the Administrative Hearing Officer. All terminations will be transcribed by a Certified Court Reporter, unless the appellant waives the right to such transcription, in which case the County reserves the right to utilize a Certified Court Reporter. If the appellant requests a copy of the certified transcription, the appellant shall share equally all costs associated with the Certified Court Reporter.

q. In no event shall the Administrative Hearing Officer impose rules of procedure or evidence more stringent than those used in civil actions under the California Rules of Civil Procedure and the California Evidence Code.

r. At hearing, the County shall have the burden of proving the charges based upon a preponderance of the evidence.

s. The Administrative Hearing Officer shall render a written decision within sixty (60) days of the close of the hearing. Time frame may be extended by written mutual agreement by the parties. The Administrative Hearing Officer's decision shall be in accordance with California Code of Civil Procedures Section 1094.5 requirements. The Administrative Hearing Officer shall have no authority to add to, delete, or alter any provision of the MOU or County Human Resources Rules and Regulations and shall make no decisions in violation of existing law. Copies of the decision will be furnished to all parties.

t. The written Notice of Decision and Findings of the Administrative Hearing Officer shall be final for purposes of internal administrative exhaustion. Administrative Hearing Officer decisions are not advisory decisions or recommendations to the Board of Supervisors for their further action.

u. A party seeking to challenge the final decision of the Administrative Hearing Officer in superior or district court must file a petition in a court of competent jurisdiction within ninety (90) days after the Notice of Decision and Findings is mailed to the employee or will otherwise be considered to have waived the right to do so. (Code Civ. Proc. Section 1094.6.)

v. The procedures, hearing, and/or the Administrative Hearing Officer's written decision provided for under this Section or under these Rules and Regulations shall not be used or interpreted as an agreement of the parties to final and binding arbitration under California Code of Civil Procedure 1280 et seq. (California Arbitration Act). Both parties retain the right to seek judicial review, upon the full evidentiary merits of the Administrative record and the Administrative Hearing Officer's written decision (pursuant to Code of Civil Procedure 1094.5). Neither party agrees to binding arbitration.

w. An employee who chooses not to exercise his/her right to appeal the imposition of discipline pursuant to this Section shall be barred from appealing the imposition of such discipline in superior or district court for failure to exhaust administrative remedies. This shall include any employee who chooses to prematurely terminate appeal proceedings before the Administrative Hearing Officer has issued the Notice of Decision.

x. Those employees subject to the State Merit System shall be governed by those rules and regulations established by the Merit System Division, State Personnel Board.

y. If any provision of this Resolution is found to be unlawful, that finding shall not affect the validity of any other remaining provisions of this Resolution.

B. MEDIATION

1. Either party may request to utilize the services of a mediator from State Mediation and Conciliation Services (SMCS) prior to having the matter heard by an Administrative Hearing Officer, however both parties must agree to mediation. If the parties agree to mediation, a request for a mediator shall be made to SMCS. Timeframes under the appeal procedures shall be tolled while the parties consider or participate in mediation. The cost, if any, will be shared by both parties equally.

2. The mediator shall have no authority to make a ruling in the matter but shall only make recommendations. If the matter is settled during the mediation, the terms of the settlement shall be in writing.

3. Neither party will be bound by any recommendation of the mediator. If the mediation does not successfully resolve the matter, the matter will continue to hearing. Other than a statement that mediation was attempted but was unsuccessful, no other information,

including the mediators recommendation, shall be made known to the Administrative Hearing Officer.

SECTION 10. GRIEVANCE PROCEDURE (All Bargaining Units)

THE FOLLOWING RULE IS APPLICABLE ONLY TO REGULAR PERMANENT COUNTY EMPLOYEES.

A. STATEMENT OF PURPOSE

Procedure is hereby established to permit systematic consideration of an individual employee grievance. The object of this procedure is to resolve grievances as informally as possible and within the organization, unit, and level in which the grievance has arisen. It is the intent of the parties to resolve grievances at the lowest practicable level and as promptly as possible. The Grievance Procedure is intended to assure a grieving employee the right to present his/her grievance without fear of disciplinary action or reprisal by his/her supervisor or department head.

B. SCOPE

1. A grievance is an alleged violation of a County or departmental policy, procedure, established practice, or provision of an MOU by a grievant's department, supervisor, or other County management employee. A grievant is an employee who declares they have been adversely affected by the alleged violation.

2. The following are excluded from the Grievance Procedure:

    a. Dismissals, suspensions, demotions, disciplinary salary reductions, recruitment and selection issues, reclassifications and other matters that have other means of appeals.

    b. Those employees subject to State Regulations, who shall use the appropriate complaint procedure.

    c. Counseling memos or employee performance evaluations, except performance evaluations which result in a denial of a merit step increase. Such case is not discipline and the employee retains the burden of proof.

    d. Meet and Confer Items or unfair labor charges. Such items will be handled through the Meet and Confer process and/or filed as unfair labor practices with the Public Employee Relations Board (PERB).

3. Final determination on a grievance's applicability under this Section or the EERP shall rest with the County Executive Officer or his/her designee.

C. SUBMISSION OF GRIEVANCE

1. Any individual employee shall have the right to present a grievance. If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievance will be handled as a single grievance.

2. Any Union or Association may elect not to represent non-dues/fee paying members. If the grievance is taken to the Administrative Hearing Officer level, the decision of the Administrative Hearing Officer shall not be used to establish a precedent if the Union or Association elected not to represent the employee or group of employees.

D. PROCEDURE

1. INFORMAL PROCESS

a. If an employee feels that he or she has a grievance relating to his/her work situation, he/she shall verbally present his/her grievance to the immediate supervisor within ten (10) working days from the occurrence that gave rise to the grievance, or ten (10) working days of when the employee knew or reasonably should have known of such occurrence.

b. The immediate supervisor shall meet with the employee within five (5) working days after the grievance is presented to discuss the grievance in an effort to clarify the issue and to cooperatively work toward a settlement.

c. The immediate supervisor shall verbally present his/her decision no later than five (5) working days after the informal discussion. If it is the judgment of any management representative that he/she does not have the authority to resolve the grievance, he/she may refer the grievance to the next level in the procedure.

d. The employee may request the assistance of another person of his/her choosing to act as a representative during the informal discussion, or he/she may be represented by a recognized employee organization of which he/she is a member. The employee and his/her representative may use a maximum of thirty (30) minutes of work time to prepare the informal grievance.

e. Grievances not resolved or responded to in the informal process may be advanced to the formal process.

f. Upon written consent of both parties to a grievance, the time limitations at any level in the procedure may be extended.

g. By written mutual agreement between the parties, a grievance, may revert to a prior level for reconsideration.

2. FORMAL PROCESS

a. If the matter is still unresolved the employee and his/her representative may then schedule a grievance resolution meeting to discuss the grievance with the employee's department head or his/her designee.

b. Formal grievances shall be timely submitted in writing on the Merced County Grievance Form.

c. The employee may request the assistance of another person of his/her choosing to act as a representative in the formal grievance procedure, or the employee may be represented by a recognized employee organization of which he/she is a member.

d. The employee and his/her representative may use a maximum of one (1) hour of work time to prepare the formal grievance form. The completed formal grievance form shall be forwarded to the employee's department head or designee.

e. The department head or their designee shall immediately schedule a grievance resolution meeting to be held within five (5) working days of the employee's request.

f. A Human Resources Department representative may be requested to attend the meeting and act as a neutral third party to facilitate a resolution to the grievance. Every reasonable effort shall be made to find an acceptable resolution by informal means at this level.

g. The department head or designee shall enter his/her decision and comments in writing and return the original grievance form to the employee within five (5) working days after the grievance resolution meeting.

h. If the written decision of the department head or designee does not resolve the grievance, the employee may, within ten (10) working days after receipt of the written response, file the original grievance form with the Human Resources Department. Unresolved formal grievances shall be heard by an Administrative Hearing Officer, pursuant to Section 9 of the Merced County Human Resources Rules and Regulations.

i. It is the employee's responsibility to ensure a copy of his/her completed grievance form is delivered and a written acknowledgement of receipt is provided by County Human Resources within the above time frames.

j. Any grievance not initiated or pursued within the time limits of the steps, will be considered settled on the basis of the last timely answer by the employer. Failure by the employer to meet the time limits allows the grievance to proceed to the next step of the grievance process.

k. The parties may mutually agree in writing to waive the time frames.

l. If an employee does not present his/her grievance, attend scheduled Administrative Hearing Officer hearings, or does not appeal the decision rendered regarding his/her grievance within the prescribed time limits, the grievance shall be considered resolved.

3. <u>ADMINISTRATIVE HEARING OFFICER</u>

a. The Administrative Hearing Officer shall schedule a hearing date within thirty (30) days of selection. It is understood that the thirty (30) days referenced in this section "a" refers to the act of calendaring the hearing and does not mean the date of the hearing shall occur within the thirty (30) days. The Administrative Hearing Officer shall render a written decision within sixty (60) days of the close of the hearing. Time frame may be extended by written mutual agreement by the parties. The Administrative Hearing Officer's decision shall be in accordance with California Code of Civil Procedures Section 1094.5 requirements. The Administrative Hearing Officer shall have no authority to add to, delete, or alter any provision of the MOU or County Human Resources Rules and Regulations

and shall make no decisions in violation of existing law. Copies of the decision will be furnished to all parties.

b. The written Notice of Decision and Findings of the Administrative Hearing Officer shall be final for purposes of internal administrative exhaustion. Administrative Hearing Officer decisions are not advisory decisions or recommendations to the Board of Supervisors for their further action.

c. A party seeking to challenge the final decision of the Administrative Hearing Officer in superior or district court must file a petition in a court of competent jurisdiction within ninety (90) days after the Notice of Decision and Findings is mailed to the employee or will otherwise be considered to have waived the right to do so. (Code Civ. Proc. Section 1094.6.)

d. The procedures, hearing, and/or the Administrative Hearing Officer's written decision provided for under this Section or under these Rules and Regulations shall not be used or interpreted as an agreement of the parties to final and binding arbitration under California Code of Civil Procedure 1280 et seq. (California Arbitration Act). Both parties retain the right to seek judicial review, upon the full evidentiary merits of the Administrative record and the Administrative Hearing Officer's written decision (pursuant to Code of Civil Procedure 1094.5). Neither party agrees to binding arbitration.

e. An employee who chooses not to exercise his/her right to appeal the imposition of discipline pursuant to this Section shall be barred from appealing the imposition of such discipline in superior or district court for failure to exhaust administrative remedies. This shall include any employee who chooses to prematurely terminate grievance proceedings before the Administrative Hearing Officer has issued the Notice of Decision.

SECTION 11. MANAGEMENT EMPLOYEES GRIEVANCE AND APPEALS PROCEDURE

Notwithstanding anything said to the contrary herein, the following procedure shall apply to regular County employees who have been officially designated as management, except employees represented by Bargaining Unit 30 - Law Enforcement Sergeants.

A. B, C, D, and E - level management employees shall follow the same procedure and rules as set forth herein for non-management. The County shall have the option to process and set the grievance or appeal hearing for non-represented managers with either American Arbitration Association (AAA) or State Mediation Conciliation Services (SMCS). The decision of the External Hearing Officer shall be final and binding.

B. A - level management - the decision of the appointing authority shall be final and binding.

C. Employees appointed to Employment At-Will status are excluded from the Management Employees Grievance and Appeals procedure.

SECTION 12. MEDICAL TERMINATION

The provisions of this section apply to employees with permanent or probationary appointments. An appointing authority may require an employee to submit to a medical examination by a physician or physicians designated by the appointing authority to evaluate the capacity of the employee to perform the work of the position. When such a requirement is made of an employee, fees for the examination shall be paid by the appointing authority. When the appointing authority, after considering the conclusions of the medical examination provided for by this section, or medical reports from the employee's physician, and other pertinent information, concludes that the employee is unable to perform the work of the present position, but is able to perform the work of another position including one of less than full time, the appointing authority may demote or transfer the employee to such a position.

When the appointing authority concludes that the employee is unable to perform the work of the present position, or any other available position in the department, the appointing authority may terminate the employee. The appointing authority shall make reasonable job restructuring and other accommodations before demoting or terminating an employee under this section.
The appointing authority may demote, transfer, or terminate an employee, without requiring the employee to submit to a medical examination, when the appointing authority relies upon the written statement submitted to the appointing authority by the employee as to the employee's condition, or upon medical reports submitted to the appointing authority by the employee.

The employee shall be given written notice 15 calendar days prior to the demotion, transfer, or termination. No later than 30 calendar days following the notification of action, the employee may file an appeal as provided in Section 9, Appeals Procedure.

If it is determined by the appointing authority, or under the appeals procedure, that the employee who was terminated, demoted, or transferred in accordance with this section is no longer incapacitated for duty, the employee shall be reinstated to a vacant position in the classification from which he or she was originally removed, in a comparable classification, or in a lower related classification as provided in Section 2.W.9.c. If there is no vacant position in the classification from which the employee was originally removed, the name of the employee shall be placed upon the reemployment list for that classification.

SECTION 13. DRUG-FREE WORKPLACE POLICY

A. PURPOSE

It is the intention of this policy to eliminate controlled substance abuse and the effects of drugs in the workplace. While Merced County does not intend to intrude into the private lives of its employees, involvement with drugs off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public as well as themselves. The unlawful presence, manufacture, distribution, dispensing, possession, solicitation or use of controlled substances or the criminal use of prescription drugs on the job and on-call, and the influence of these substances and alcohol on employees during working hours, are inconsistent with this objective.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program Counselor to be designated by the County. While the County will be supportive of those who seek help voluntarily, the County will be equally firm in identifying and disciplining those who continue to be controlled substance abusers and do not seek help.

Supervisors will be trained to recognize abusers and become involved in this control process by staff on contract to the Mental Health Department. Controlled substance abuse, the criminal use of prescription drugs will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of criminal drug abuse. Therefore, it also outlines the responsibilities of County managers, supervisors and employees. To that end the County will act to eliminate any unlawful use of controlled substances or criminal use of prescription drugs, or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job, or which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the County's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

B. POLICY

The County Board of Supervisors believes that the County of Merced has the responsibility of maintaining a safe and efficient working environment. Employees who work while under the influence of alcohol and other drugs present a safety hazard to themselves and their co-workers, and to the public.

The County's policy prohibiting drinking of alcoholic beverages on the job or reporting to work under the influence of alcohol or intoxicants remains in full force and effect Moreover, the Board of Supervisors believes the presence of alcohol and other drugs in the workplace limits our ability to provide high quality service to the public.

Accordingly, we have implemented procedures to assure that the County continues to ensure compliance to the Drug-Free Workplace Act, and to maintain its reputation as a quality employer.

The following paragraphs are provided in compliance to the Drug-Free Workplace Act of 1988, Title 21, Code of Federal Regulations (CFR), Chapter III, Subpart F, Section 1404.600, and in amplification of Section 8, Human Resources Rules, and Regulations, as pertains to that Act.

1. For County of Merced employees, the following conduct are grounds for discipline, up to and including termination.

   a. Unlawful use, manufacture, possession, distribution, dispensing, sale or solicitation of a controlled substance (as defined by California law) while on County property, at work locations, or while on duty or subject to being called to duty (e.g., On-Call status).

   b. Failure to notify the County Human Resources Department of any controlled substance criminal conviction for a violation occurring in the workplace no later than 5 days after such conviction.

   c. Failure to participate satisfactorily in a drug abuse assistance or rehabilitation program following a controlled substance criminal conviction for a violation occurring in the workplace or if ordered by the Court to participate in such a program.

   d. Failure to disclose a criminal controlled substance conviction on the employment application. This is applicable after July 1, 1989.

2. The County shall have the right to investigate any suspected violations of this Drug-Free Workplace Policy Statement or of the County policy on alcohol abuse.

C. <u>APPLICATION</u>

This policy applies to all employees of, and to all applicants for positions with, the County.

SECTION 14. WORKPLACE VIOLENCE POLICY

Effectively managing critical workplace incidents, especially those dealing with actual or potential violence, is a top priority of Merced County. The County is committed to providing a safe work environment that is free of violence and the threat of violence.

A. Violence, or the threat of violence, against any employee of Merced County is unacceptable, prohibited and will subject the perpetrator(s), in appropriate cases, to criminal prosecution.

B. Violence, or threat of violence, by any employee of Merced County is unacceptable, prohibited and will subject the perpetrator(s) to disciplinary action up to and including termination. In appropriate cases, the County will seek criminal prosecution.

C. The following actions by a County employee on the job (or by a non-County employee who is working on County premises) undertaken against another County employee during the latter employee's working hours, or undertaken against an employee's family member, will subject that employee to disciplinary action, unless the action is deemed an appropriate execution of the employee's duties:

   1. Striking, punching, slapping or assaulting another person.

   2. Fighting or challenging another person to a fight.

   3. Grabbing, pinching or touching another person in an unwanted way (whether sexually or otherwise).

   4. Engaging in dangerous, threatening or unwanted horseplay.

   5. Possession, use, or threat of use, of a gun, knife or other weapon of any kind on County property, including parking lots, other exterior premises, County vehicles, or while engaged in activities for the County in other locations, unless such possession or use is a requirement of the job.

   6. Threatening harm or harming another person, or any other action or conduct that implies the threat of harm.

D. Any employee who is the victim of any violent, threatening or harassing conduct, witnesses such conduct taking place, or receives a report of conduct prohibited by this policy (whether the perpetrator is a County employee or a non-employee) shall immediately report the incident to their supervisor or other appropriate person in the chain-of-command, to be followed immediately by a written report. Failure to properly report conduct prohibited by this policy may result in disciplinary action up to and including termination.

E. No employee, acting in good faith, who initiates a complaint or reports an incident under this policy will be subject to retaliation or harassment based upon their report.

SECTION 15. SEVERABILITY CLAUSE

If any paragraph, sentence, clause, or phrase of this resolution for any reason is held to be unconstitutional or invalid, such shall not affect the remaining portion of this resolution, and the Board of Supervisors hereby declares it would have passed each paragraph, sentence, clause, and phrase thereof irrespective of the fact that any one or more than one sentence, clause, or phrase be declared unconstitutional or invalid.

NOW, THEREFORE, BE IT RESOLVED that by this Resolution, that the foregoing Personnel Rules and Regulations are hereby adopted effective ___February 13, 2007___; and shall supersede the current Personnel Rules and Regulations, Resolution No. 92-01.

I, DEMITRIOS O. TATUM, *County Clerk of the Board of Supervisors of the County of Merced, do hereby certify that the foregoing resolution was regularly introduced, passed and adopted by said Board at a regular meeting thereof held on February 13, 2007 by the following vote:*

SUPERVISORS

Ayes:

Noes:

Not Present:

WITNESS my hand and the seal of this Board this __13th_____ day of _February, 2007.

DEMITRIOS O. TATUM, Clerk

By _____
Deputy

CHANGE SHEET

1. Section 2, Terms of Employment, E. Vacation, 1. added Variable-Shift column to table. 2. Deleted prior language, added "Variable-Shift employees shall earn vacation based upon each paid regular work hour. After completion of five (5) years of continuous service (130 biweekly pay periods) in which the employee worked at least 32 hours in each pay period, the employee's vacation account will be credited additional vacation hours equal to their average weekly hours worked, up to a maximum of 40 hours. After completion of ten (10) years of continuous service (260 pay periods) in which the employee worked at least 32 hours in each pay period, the employee's vacation account will be credited additional vacation hours equal to their average weekly hours worked, up to a maximum of 40 hours". (BAI #66, 6/19/07)

2. Section 2, Terms of Employment, M. Seniority, 3, h, added "Overtime shall be assigned on an equal basis except in those cases where continuity of service is required and shall be in accordance with Section 2, C. For Bargaining Units 4, 5, 6, and 8", removed in error 1/30/07 when Rules and Regulations adopted at Resolution 2007-22. (BAI #66, 6/19/07)

3. Section 3, Compensation Administration, D. Salary on Promotion, modified language to add "approximately" 5%, and "unless he has been on the fifth step a year or more, in which case he shall be placed on the step having a salary approximately 10% higher than the salary received prior to promotion." (BAI #66, 6/19/07)

4. Section 3, Compensation Administration, H. Salary on Position Classification, modified language to add "placed on the step having a salary approximately 10% higher than the salary received", and deleted "eligible for a step up". (BAI #66, 6/19/07)

5. Section 8, Disciplinary Action, C. Causes for Disciplinary Action, 22, added " – Action after a designated physician, or the employee or employee's physician, concludes the employee is unable to perform the work of the position, and appointing authority has made reasonable job restructuring and other accommodations prior to action taken." (BAI #66, 6/19/07)

6. Section 2, B. Medical Examinations, modified language to remove County Health Officer and Health Department and add language for Occupational Health Provider, per County Employee Health Examinations Resolution 2008-25. (BAI # 36, 2/19/08)

7. Modified Section 2.I.2. – Changed incident fee from $10.00 to $30.00 per BAI CEO 74, November 18, 2008.

8. Reformatted numbering and spacing in Section 2. G. and H. Added to Section 2.H. item 11. – Spousal Military Leave (SML) and item 12. – Military Caregiver Leave per BAI HR 15, January 6, 2009.

9. Section 2. Q. Probationary Period – add to paragraph 1. "Deputy County Counsel I/II/III/IV hired after February 3, 2009 per BAI HR 16, February 3, 2009.

10. Section 2. M. Seniority – added to paragraph 1. and second paragraph "PFL" per BAI HR 17, March 3, 2009.

11. Section 2. F. Sick Leave – Modify 2.F.a. Immediate Family language (Labor Code 233) and Section 2.F.7 add "Except as provided in Management Resolution 2008-138, Section IV.2., Leave Provisions" per BAI HR 28, June 16, 2009.

12. Add Section 12.Medical Termination. Renumber Section 13. Drug-Free Workplace Policy, Section 14. Workplace Violence Policy and Section 15. Severability Clause, per BAI HR 32, August 18, 2009

13. Section 8, 9, & 10 re-written after meet and confer agreement from all bargaining units. Needed to select new Admin. Hearing Officer vendor as contract with SPB terminated. New language added and sections clarified to include our past unwritten appeals procedures. BAI approved by BOS on December 8, 2009.

14. Section 2.Q.Probationary Period – extended probationary period for Deputy District Attorney I/II/III/IV from 2080 regular paid hours to 3120 regular paid hours for those hired after November 30, 2009.

15. Section 2.H. Military Caregiver Leave - added care for veteran or active servicemember per National Defense Authorization Act (NDAA 2010), and Section 11 – update to appeals language for unrepresented management. BAI approved by BOS on January 12, 2010.

16. Supervising Juvenile Institutions Officers added to Section 2.C.4.a., Unit 11 added to Sections 2.F.2.a.2./ 2.F.5, / 2.F.8. / 2.G.4. / 2.M.3.d. / 2.W.4.b.1. / and Section 8.E.3. per MOU. BAI 12/6/11 (HR 79).

17. Unit 14 added to Sections 2.F.5 / 2.F.5.a / 2.F.7 / 2.F.8 / 2.M.1 / 2.AA.2 / and 8.E.3 per MOU. BAI 4/3/12 (HR 90).

18. Section 2.B Medical Examinations, Background and Criminal History Information – Added to 2.B.10 disqualification from public employment language (Government Code §1021.5) per BAI 6/25/13 (HR 116)

19. Section 2.H.11 and 2.H.12 Spousal Military Leave (SML) and Military Caregiver Leave – Updated language to comply with 3/8/13 revisions to FMLA laws per BAI 6/25/13 (HR 116)

20. Section 2.V.1 County Executive Officer Authority - Removed 15 calendar day administrative leave designation per BAI 6/25/13 (HR 116).