



Filed August 19 1997

By Edna M. Bowcutt
Clerk of the Board of Supervisors

181-97

RESOLUTION

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE

WHEREAS, Chapter 2.56 of the Tuolumne County Ordinance Code provides for the establishment of personnel rules and regulations by resolution; and

WHEREAS, the Board desires to implement local rules and regulations governing personnel practices and has met and conferred in good faith with the recognized employee organizations regarding said rules and regulations.

NOW THEREFORE, BE IT RESOLVED that Attachment A constitutes the Personnel Rules and Regulations of the County of Tuolumne.

BE IT FURTHER RESOLVED that Resolution No. 78-92 regarding the adoption of Personnel Rules and Regulations effective April 25, 1992, are hereby repealed and superseded by this Resolution.

BE IT FURTHER RESOLVED that this Resolution shall become effective August 19, 1997.

ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE ON August 19 1997

AYES: 1st Dist. <u>Rotelli</u>	NOES: _____ Dist. <u>none</u>
2nd Dist. <u>Rountree</u>	_____ Dist. _____
3rd Dist. <u>Marks</u>	ABSENT: _____ Dist. <u>none</u>
4th Dist. <u>Shoultan</u>	_____ Dist. _____
5th Dist. <u>Pleand</u>	ABSTAIN: _____ Dist. <u>none</u>

Larry A. Rotelli
CHAIRMAN OF THE BOARD OF SUPERVISORS

ATTEST: Edna M. Bowcutt
Clerk of the Board of Supervisors

No. 181-97

**Personnel Rules And Regulations
of the
County of Tuolumne**



August 1997

**PERSONNEL RULES AND REGULATIONS
OF THE
COUNTY OF TUOLUMNE**

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**PERSONNEL RULES AND REGULATIONS
OF THE
COUNTY OF TUOLUMNE**

RULE 1: DEFINITIONS

- A. **Anniversary pay period** means the first pay period following twenty-six (26) pay periods of actual service from date of appointment in a permanent position. Absences for approved paid leave shall be considered as service for the purpose of these Rules.
- B. **Board** means the Board of Supervisors of Tuolumne County.
- C. **Classified position** means a position established by the Board to which appointments are made through a competitive process governed by merit system requirements and in which an employee can achieve permanent status in the classification.
- D. **Classified Service** means all classified positions of employment in the service of the County excluding the following non-classified positions:
- (1) Elected Officials;
 - (2) Individuals serving on boards, commissions and agencies;
 - (3) Individuals performing services as independent contractors;
 - (4) Individuals who are not already County employees who perform services during a declared emergency;
 - (5) Individuals appointed to relief positions;
 - (6) County Administrative Officer, County Counsel and Department Heads;
 - (7) Volunteers; and
 - (8) Individuals appointed to grant funded positions.
- E. **County** means the County of Tuolumne and special districts governed by the Board.
- F. **Department head** means the elected official or appointed head of the following units of County government:

**Administrative Office
Assessor-Recorder
Clerk of the Board
Farm Advisor
Library
Planning
Public Guardian
Rural Fire Protection
Superior Court**

**Agricultural Commissioner
Building
County Counsel
Health
Mental Health
Probation
Public Works
Sheriff-Coroner
Treasurer-Tax Collector**

**Airports
Clerk/Auditor-Controller
District Attorney/Public Admin
Hospital
Municipal Court
Public Defender
Recreation
Social Services
Veteran's Services**

All department heads shall be appointed by and serve at the pleasure of the board, except those whose appointment and term of office is otherwise established by law.

- G. **Employee** means any person who occupies a position in the classified service.
- H. **Grant funded employee** means any employee appointed to a grant funded position. Grant funded employees serve at the pleasure of their grant's supervising department head.
- I. **Grant funded position** means a position created within and funded solely by an awarded financial grant.
- J. **Immediate family** means a spouse, son, daughter, mother, father, sister, brother, mother-in-law, father-in-law, grand-parent, grand-parent in-law, stepson, stepdaughter, foster child, foster parent, in loco parentis, or any relative living with the family.
- K. **Month** means a calendar month.
- L. **Probationary employee** means any employee duly appointed to a permanent classified position who is serving a probation period.
- M. **Permanent employee** means an employee who has been duly appointed to a classified position and has successfully completed the required probationary period.
- N. **Protected class member** means any person protected from discrimination under the law on the basis of sex, race, color, religion, national origin, ancestry, age, disability, or medical condition.
- O. **Relief employee** means any employee appointed to a relief position. Relief employees serve at the pleasure of their department head.
- P. **Relief position** means a temporary position of less than a year round basis to cover needs including but not limited to: seasonal peak work loads; emergency work loads of limited duration; paid leave relief; and other situations involving a fluctuating staff.
- Q. **Week** means any seven consecutive days within which an employee normally works.
- R. **Work day** means any day upon which an employee would be required to work.

RULE 2: APPOINTMENTS

Section A: Definitions

An appointment is the offer and acceptance of a job made in accordance with these Rules and any other applicable governing laws. The offer must be made by the department head, or an authorized representative, and only to a person eligible under these Rules for the type of appointment being offered. After the selection interview and background investigation, an

offer of employment may be made to any person certified to the department by the Personnel Officer. Appointment is also subject to completion of a medical examination showing an ability to perform the position's essential duties, approval of the County Administrative Officer, and any other legal requirements.

Section B: Types of Appointments

- 1. Permanent:** All classified positions shall be filled by appointment of an eligible individual who was certified from an appropriate eligible list. To become permanent, the appointee shall be required to successfully complete the probationary period. During the probationary period the employee is an "at will" employee serving at the pleasure of the department head.
- 2. Relief:** Appointment of persons certified from an appropriate eligible list for less than year-round basis to cover such needs as: seasonal peak work loads; emergency work loads of limited duration; vacation and sick leave relief; and other situations involving a fluctuating staff. Relief employees serve at the pleasure of the department head.
- 3. Grant Funded:** Appointment of persons certified from an appropriate eligible list to positions created within and funded solely by an awarded financial grant. No grant funded appointment will serve beyond its originating grant. However, the employee may have bumping rights pursuant to any applicable MOU.
- 4. Underfill:** Appointments to classified positions made from an appropriate eligible list of a lower classification for training purposes.

The Personnel Officer shall prescribe the period of time during which the employee must qualify for the higher classification. If the employee is unable to qualify for the higher classification he/she shall be terminated, except where that underfill appointment is filled by an employee with permanent status in another classification. Rules on probationary periods shall apply in such situations. The employee shall be required to qualify for underfill appointment by one or more of the following methods:

- a. additional qualifying experience;
- b. additional qualifying education;
- c. possession of a state certificate or license; or
- d. successful completion of an appropriate examination.

The original trainee appointment must be made on a competitive basis. During the trainee appointment, the trainee shall have continuous probationary status. Appointments to the higher classification are subject to a new probationary period.

- 5. Provisional:** Unless otherwise provided by these Rules, appointment of a person not on an eligible list is provisional and may be made under any one of the following conditions:

- a. There is no existing eligible list for the classification;
- b. The eligible list contains less than three names and the department head has filed written objection to the employment of each person on the list with the Personnel Officer; or
- c. Persons on the list are not available for appointment under the terms and conditions of employment prescribed for the position.

Such provisional appointment shall be made from persons referred by the Personnel Officer. All provisional employees must meet the minimum qualifications for the classification to which appointed. Provisional appointments shall terminate not later than two (2) pay periods after certification of qualified applicants from an appropriate eligible list or twelve (12) months from the date of the original appointment.

6. Dual Appointment: Appointment of two (2) full-time employees to the same classified position from an appropriate eligible list. The terms and conditions of such dual appointments shall be governed by the appropriate Memorandum of Understanding.

7. Limited Term: Appointment of a person not on an eligible list to a defined set of duties with a pre-determined length of service. Such appointments are "at will" employees who serve at the pleasure of the department head.

Section C: Oath of Allegiance

No appointment shall be complete until the applicant has subscribed to an Oath of Allegiance or affirmation as required by Section 3100 et seq of the Government Code of the State of California. All officials and employees must execute an Oath of Allegiance as follows:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely; without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter."

Section D: Medical Examination

Applicants offered classified positions are required to take a medical examination prior to their first day on the job. Medical examinations shall be conducted by a physician employed by the County for this purpose, unless the Personnel Officer authorizes an examination by another physician. The purpose of the medical examination is to determine the medical and physical fitness of the applicant to perform the essential duties of the position. Inquiry may be made into the medical history and present medical condition of the applicant, as it relates to the ability to perform the essential duties of the position.

Applicants offered initial classified positions and those positions covered by the Department of Transportation Drug Testing Regulations shall be required to submit to post-offer/pre-duty drug and alcohol testing. The purpose of this test is to eliminate substance abuse and its effects in the County workplace. Applicants failing the test will have their employment offer rescinded.

The County's medical examiner shall submit a report to the Personnel Officer containing a recommendation and any essential medical information requested by the Personnel Officer for proper placement restriction or counseling of applicant.

Section E: Legal Requirements and Non-Discrimination

No applicant shall be appointed to any position in the County's service who does not meet the legal requirements for the position. If a name has been improperly placed on the eligible list, the name shall be removed. No applicant shall be discriminated against because of race, color, sex, sexual orientation, age, physical or mental disability, national origin, ancestry, creed, political or religious beliefs or affiliations, marital status, or medical condition except where a bona fide occupational qualification exists.

Section F. Fingerprinting

Applicants who have been offered classified positions are required to be fingerprinted. Fingerprint records shall be filed in the Personnel Office after the completion of a records check.

Section G. Criminal Conduct

Conviction, including pleas of guilty and nolo contendere, of a felony, misdemeanor, or any crime involving moral turpitude may disqualify an applicant for employment or be cause for removal of an employee from County service; provided, however, that the department head may disregard such conviction considering the following factors:

1. The relationships of the qualifications, functions and duties of the position to the nature of the conviction;
2. The nature and seriousness of the offense;
3. The circumstances surrounding the conviction;
4. The length of time lapsed since the conviction;
5. The age of the applicant at the time of conviction;
6. The presence or absence of rehabilitation or efforts at rehabilitation;
7. Contributing social or environmental conditions; and
8. The actual or potential impact on County service.

An applicant disqualified due to a conviction shall be notified of such disqualification. An applicant who is disqualified for employment under this section shall be notified of said action

and the right to appeal the determination of disqualification to the Personnel Officer.

Section H: Outside Employment

No employee in the classified service shall hold any other employment or private commercial enterprise if:

- (a) It would physically or mentally impair or hamper the employee in the performance of County duties; or
- (b) It would create a conflict of interest between the County and the employee; or
- (c) It would be a cause of action under the disciplinary provisions of these Rules or the appropriate memorandum of understanding.

The department head reserves the right to prohibit any outside employment on the part of any County employee under the above circumstances. If a department head prohibits such activity, the employee will be given appropriate notice to terminate such outside employment or be terminated from County service. County equipment, time, or property may not be used for any non-County work.

Any department head who supervises attorneys employed by the County as permanent or probationary employees may, at his or her sole discretion, prohibit the attorneys in his/her department from engaging in the private practice of law.

Section I: Nepotism

No person shall be employed who is the father, mother, grandfather, grandmother, grandchild, brother, sister, father-in-law, mother-in-law, step-son, step-daughter, step-father, step-mother, child, spouse or individual living in spousal-like relationship of any other employee of the County assigned to the same department, if such relative would directly be supervised by or be a supervisor of such employee, or where potential problems of safety, morale, security or conflicts of interest exist .

Department heads shall have the authority and discretion to make a reasonable effort to afford employees in violation of this section the opportunity to be reassigned or to be transferred to another County department, or for exceptional and unusual circumstances to make request of the Personnel Officer for policy exceptions. The decision of the Personnel Officer shall be final.

Section J: Probationary Period

During the probationary period, the department head shall review, examine and monitor the conduct, capacity, efficiency, skill, responsibility, integrity, and effectiveness of an employee to determine whether the employee is fully qualified for employment in the classification to which appointed. Except as otherwise provided in an appropriate Memorandum of

Understanding or County Code, the length of the probationary period shall be twenty six (26) pay periods.

Probationary period progress reports shall be made by the department head on forms provided by the Human Resources Office. Mandatory probationary period progress reports are required on the following schedule:

PROBATIONARY PERIOD

PROGRESS REPORTS REQUIRED

13 pay periods

After 6 pay periods and 10 work days prior to completion.

26 pay periods

After 6 pay periods, 12 pay periods, and 10 work days prior to completion

Except as otherwise provided in an appropriate MOU, a department head may request extension of the probationary period by an additional seven (7) pay periods provided the request is filed and approved before the end of the original probationary period. An extension may be modified at the discretion of the department head. All requests for extensions and modifications require approval of the Personnel Officer. The department head shall inform the employee of the reasons for the request for extension or modification.

If the work or conduct of a probationer, who has not obtained permanent status in another classification of County employment, is found to be below standards acceptable to the department head, the department head shall terminate the probationer. Such terminations are not subject to review or appeal, unless otherwise required by law. A promoted employee who has obtained permanent status in another classification within the same department and who does not successfully complete the probationary period in a promoted class, shall be returned to the lower classification in the same department, and if a vacancy exists. If no vacancy exists in the lower classification, the provisions of the Layoff Article from the applicable MOU shall apply.

A promoted employee who has obtained permanent status in another classification within another County department but does not successfully complete the probationary period in the promoted class shall be returned to the former department (or other department where appropriate as determined by the Personnel Officer) in that lower or a comparable classification but only if a vacancy exists in the lower level classification in that other department. If no vacancy exists, the employee shall be terminated.

RULE 3: RECRUITMENT/EXAMINATION

Section A: Purpose

The fundamental consideration of the examination process is to serve the best interest of all segments of the public and the County. The purposes of the examination process are:

1. To provide qualified persons for County employment and promotions, ensuring equal employment opportunity, as a necessary and integral element of the basic merit system principle.
2. To ensure that interested persons are informed of the examinations, with special recruitment efforts tailored to reach and attract members of protected classes.
3. To ensure that all examinations are valid, impartial, free from personal, political and non-merit considerations and are consistent with law.

Section B: Need

All classified positions in the County service shall be filled by persons who have qualified by examination, except as otherwise provided by these Rules. Department heads have the responsibility to notify the Human Resources Office as soon as a vacancy is anticipated. Examinations may be held and appropriate eligible lists established when deemed appropriate by the Personnel Officer. An examination announcement need not reflect an immediate vacancy.

Section C: Definition

An examination is a reasonable and impartial method of systematically and fairly evaluating an applicant's fitness for performing position requirements. An examination may consist of one or any combination of:

- performance tests;
- structured oral interviews;
- rating of education and experience
- work performance evaluations
- physical fitness and agility
- other tests of knowledge, skill, and ability
- written tests;
- audio-visual tests;
- random certification
- promotional potential evaluations
- post-offer medical fitness

Section D: Contents

The Personnel Officer has primary responsibility for the content and conduct of the examination process. Department heads have the responsibility for selection interviews. Examinations and selection interviews shall consider the following:

1. Analysis of the job's duties.
2. Availability of applicants.
3. Equal employment opportunity/affirmative action.
4. Occupational standards.
5. Professional testing principles.

All examinations shall be analyzed for job relatedness. Examination material shall relate to the fitness of the applicant for the work duties and requirements of the classification to be

filled and shall be confined to the measurement of knowledges, skills and abilities necessary to perform essential tasks. Investigations and oral tests may include an inquiry into an applicant's work background and behavior for purposes of determining specific skills or abilities to perform essential tasks and to ensure a commitment to the mission of the County. Background investigations shall be conducted consistent with rules and regulations adopted by Federal or State law or regulatory agencies. Failure to examine or consider all applicants shall not invalidate an examination, except for promotional examination. The Personnel Officer shall appoint deputy examiners as needed who may be representatives of the departments, the public, interested organizations or other public jurisdictions.

Section E: Type

The type of examination shall be determined by the Personnel Officer in consultation with the department head and in accordance with the provisions of these Rules. The following are types of examinations which may be established separately or in any combination:

1. **Open Competitive:** All interested persons who qualify are admitted to the examination.
2. **Open Limited:** Only current County relief, probationary, permanent, and/or grant funded employees are admitted to the examination. Open limited examinations may not be limited to any particular department or unit.
3. **Promotional:** Only current permanent and probationary County employees are admitted to the examination. Promotional examinations may be limited to a particular department; provided, however, such limitations shall be used only when justified.
4. **Series:** A number of examinations for the same class which are administered from time to time as needed. The same or equivalent tests are used each time the examination is given.

Section F: Notice of Examination

The Personnel Officer shall post notices of examinations in the Human Resources Office and distribute notices to all County departments for posting or distribution. The examination notice shall include the title of the position, the rate of pay, a brief description of the duties, any special requirements which must be met prior to appointment or prior to the acquisition of permanent status, minimum qualifications, any other special conditions of employment, and the examination process to be utilized. Except for relief vacancies, notices of examinations shall be posted in the Human Resources Office for at least five (5) working days preceding the closing date for receiving applications.

Section G: Publicity

The Personnel Officer, in consultation with the affected department head, shall administer a

program of recruitment which will attract qualified persons to County employment, including members of protected classes. A mailing list to publicize recruitment shall include:

1. At least one daily newspaper published within Tuolumne County serving the area where the vacancy occurs.
2. County Board of Supervisors and all County departments.
3. Community agencies which express an interest in receiving notices of County job opportunities and are willing to assist in special recruitment circulation
4. Depending upon the classification, other news media, professional journals and other public sector recruitment sources may be utilized.

Section H: Minimum Qualifications

Whether an applicant possesses the prescribed minimum qualifications for admission to an examination shall be determined by the Personnel Officer and shall be job related in accordance with legal requirements, considering classification specifications, the duties of the position, occupational standards, labor market and past experience. Minimum qualifications shall be based upon an evaluation of the duties and skills required. Artificial barriers to employment will be eliminated. Members of protected classes will be given every reasonable access and encouragement to employment and promotion within Tuolumne County government. Applicants may be required to submit additional information about their job related qualifications or to submit evidence of their possession of license or certificates or the completion of courses of study or training. Failure to supply such information or evidence may disqualify an applicant. Ethnic or personal information may be requested consistent with law.

Section I: Filing of Application

Applications for examinations must be filed on forms furnished by the Human Resources Office unless otherwise specified in examination announcement. Resumes may not be accepted in lieu of applications. No examination shall be finalized until receipt of a completed official application form by the Human Resources Office. Applications shall be date stamped and, whether accepted or rejected, will not be returned. It is the responsibility of the applicant to show that they clearly meet the minimum qualifications for the examination. The applicant shall certify to the correctness of all statements made on the application. After filing, information on the application may be corrected only with the permission of the Personnel Officer. Neither the names of applicants for an examination nor the names of those who competed in an examination shall be made public.

Section J: Application Review

All applications shall be reviewed under the direction of the Personnel Officer for eligibility and admission to the examination. Any application may be denied which is submitted by a person:

1. Who is not eligible for examination under the provision of these Rules.
2. Whose application was received after the last date for accepting applications as specified in the notice.
3. Who does not meet the minimum requirement qualifications as prescribed in the examination announcement.
4. Who has been convicted of any crime which renders the person unsuitable for a position in the classification pursuant to the provisions of Rule 2G.
5. Who does not meet the legal requirements as set forth in Federal, State or County law.
6. Who has sought to overthrow the United States government or State by force or by violence or has disturbed the mission of a public agency.
7. Who has intentionally made a false statement of any material fact or has practiced or attempted to practice any deception or fraud in the application, examination or selection process.
8. Who has used or attempted to use any personal or political influence to further eligibility.

Section K: Modification or Waiver of Examination

The Personnel Officer may modify the examination process as listed on the examination announcement by notifying those applicants who are going to be tested of the modification. If there are ten (10) or less competitors in any part of the examination process, subsequent parts of the current examination may be modified or waived at any time, and certification of the remaining competitors made, provided that the department head interviews all those certified.

Section L: Admission

All applicants not excluded for cause shall be admitted to an examination. No applicant shall be given preferential treatment. Information available to one candidate shall be available to all candidates under the same circumstances; subject to Section M below. The Personnel

Officer may admit an ineligible person to an examination for the purpose of evaluating their qualifications, but that person shall not be eligible for certification as a result thereof.

Section M: Reasonable Accommodation

If an applicant has a physical or mental condition which requires the County to make a reasonable accommodation for the testing process, they shall notify the Human Resources Office at least (3) work days prior to the examination date of an accommodation need. It shall be the applicant's responsibility to notify the County within this reasonable timeframe if such assistance is needed. Examinations given to people who have impaired sensory, speaking, or manual skills, and who have appropriately notified the County of their need for accommodation, shall be given the examination in a format and manner that does not require use of the impaired skill, unless the test is designed to measure that skill.

Section N: Examination Grades

The examination may be composed of one (1) or more tests which are graded either independently or jointly with weights assigned to each test representing relative value importance or other technical considerations. Weights shall be expressed in percentages in terms of their contribution to the total examination grade. The Personnel Officer may specify the maximum number of eligibles to be qualified and certified in the examination or any part thereof. The overall test score shall be given to each applicant upon completion of the examination process in order to assist the applicant in evaluating their performance. In no case will applicants be told their actual ranking.

Section O: Retesting

Applicants may take an identical test only once within a six (6) month period. The Personnel Officer may waive these restrictions when warranted.

Section P: Correction of Examinations

Prior to computing grades, test questions may be deleted on the basis of item analysis, administrative or clerical errors, incorrect keying, and valid objections of applicants who have registered said objections within one (1) work day following the examination. Any such decision shall be entered on the official keyed copy of the examination, together with the reason for the deletion. After grades are assigned, only clerical errors may be corrected. The Personnel Officer may permit a candidate to review the written examination without right of appeal.

Section Q: Completion of Examination

The examination process is completed on the date the Personnel Officer establishes the

eligibility list. The eligibility of successful applicants shall commence as of this date. Applicants shall be notified of the results of the examination.

Section R: Appeals

Appeals may be made by applicants or their designated representative on any part or process of an examination. Appeals concerning the contents or conduct of the examination process must be made within five (5) work days after the date of mailing of the examination results. The Personnel Officer shall investigate the circumstances surrounding the appeal and take appropriate administrative action within ten (10) work days to resolve any complaints. Examination appeals shall not impede the normal appointment process. Appointments made will not be reversed in the absence of any wrongful conduct or action of the part of the appointee or a finding that the appointee fails to meet the minimum qualifications.

RULE 4: ELIGIBLE LISTS

Section A: Definition

An eligible list is an arrangement of applicants for County employment or promotion created as a result of an examination process. Lists are maintained in accordance with the County's classification of positions. The period of eligibility may not be less than six (6) months nor more than one (1) year unless otherwise determined by the Personnel Officer. An eligible list may be abolished sooner when fewer than three (3) names remain or prior to any appointment being made from any eligible list when the Personnel Officer determines it to be in the County's best interest. The types of eligible lists are:

1. **Open Competitive:** Persons who are qualified by competitive examination ~~or service~~ to fill permanent or relief positions.
2. **Open Limited:** Persons who are currently employed in either relief, permanent, probationary, or grant funded positions and who have qualified by examination.
3. **Promotional:** Persons who are currently employed by the County in permanent or probationary positions and who have qualified in examinations for advancement.
4. **Open/Promotional:** Combination of numbers 1, 2, and 3 above.

Section B: Subdivision of Lists

The Personnel Officer may subdivide an eligible list according to any one or combination of the following factors:

1. Geographic Area

2. Shift Assignment
3. Permanent or Relief

Separate eligible lists may also be established for various departments or subdivisions or by tested skills.

Section C: Placement of Names

Except as otherwise provided by these Rules, the name of any person qualified for County employment or promotion must be placed on an appropriate eligible list based upon rank order utilizing the overall test score from the examination process or qualification rating. The Personnel Officer may specify conditions or restrictions on the certification of an applicant as a condition of candidacy. Eligibles may also be placed on lists for lower or parallel classifications according to a formula established by the Personnel Officer. In addition to names placed on lists through the examination process the Personnel Officer may place names on lists according to:

1. **Layoff:** Persons who have been or will be involuntarily demoted or separated without fault on their part.
2. Disability Retirement Returnees or Qualified Injured Workers.
3. **Transfer:** Persons who have obtained permanent status in the classification or a parallel classification and desire to be considered for assignment to other departments.
4. **Leaves of Absence:** Persons who have been granted a leave of absence without right to return to their former position.
5. **Requalification:** Persons who have been qualified for appointment or promotion by waiver of examination pursuant to the provisions of these Rules. Eligibility shall be confined to the position for which the waiver was granted.
6. **Down grades:** Persons who have been downgraded as a result of a classification study.
7. **Voluntary Demotion:** Persons who have obtained permanent status in a higher level classification, who are determined qualified for a lower related classification by the Personnel Officer, and who desire to be considered for assignment in that lower classification.

Section D: Removal of Names

Names shall be removed from any eligible list after appointment to a permanent position or at the end of the eligibility period. The acceptance of relief work by persons on eligible lists

shall not affect their certification to permanent positions. Names shall be removed from the promotional eligible lists upon termination of the employee's services with the County or upon granting a leave of absence without right to return to the job. The Personnel Officer may remove names of any person:

1. Who is not offered an appointment after five (5) selection interviews of that applicant for the same classification.
2. Who fails to appear for any selection interview without adequate explanation.
3. Who has failed to answer an availability inquiry or keep the Human Resources Office informed of current address and telephone number.
4. Whose reasons for waiving certification or appointment are not satisfactory.
5. Who has demonstrated unsatisfactory work performance in a similar position in a relief capacity with the County.
6. For whom valid, job-related written departmental objection has been filed by the department head and received by the Personnel Officer.
7. Who fails to meet minimum qualifications, medical standards or who has falsified the application or any valid cause related to the applicants character and ability to perform satisfactorily on the job.
8. Who has failed to comply with conditions of employment as a County employee.
9. Who has violated any provisions of these Rules.

All persons whose names are removed from eligible lists for cause shall be so notified in writing including the reasons for removal. Except for persons removed pursuant to items 1, 2, and 3 above, applicants shall have the right to appeal. The Personnel Officer may restore the names of persons to the eligible list by renewing or reactivating their eligibility.

Section E: Inactive Status

Applicants whose names are on the eligible list may request inactive status and their names shall be removed from the active eligible list. On notification, such names may be restored to the active eligible list for the remaining period of eligibility. Eligibility shall not be extended by reason of such inactivity.

Section F: Requalification Without Examination

The eligibility of former or voluntarily demoted permanent employees for placement on an

eligible list without examination shall be termed requalification. Requalification is a privilege and is based upon past successful work performance. Employees who resign or are voluntarily demoted after acquiring permanent status, may be requalified for placement on appropriate eligible lists. The eligible period for requalification begins immediately after the date of resignation or voluntary demotion and ends three (3) years after the date of resignation or voluntary demotion. The period of eligibility shall be for the duration of the list and not exceed one (1) year from the date of requalification. The Personnel Officer may determine whether or not to grant the former or voluntary demoted employees request for requalification based upon previous employment with the County and work performance since resignation or voluntary demotion. Former employees shall not be granted requalification eligibility unless their former department head is willing to rehire and indicates that their work performance rating equals or exceeds a grade of 80 on a scale of 100. If the request for requalification is approved, the placement on an eligible list shall be determined by the grade assigned by the former department head. Former employees whose records show excessive absenteeism may be considered for placement on the eligibility list only if the department for which they worked specifically concurs with requalification.

RULE 5: CERTIFICATION

Section A: Definition

Certification is the process whereby available applicants are referred from an appropriate eligible list by the Personnel Officer to the department head for final selection and appointment.

Section B: Requests for Certification

The department head shall request certification by submitting the appropriate form. Upon receipt of this form the Personnel Officer shall certify persons from the appropriate eligible list in accordance with these Rules. If eligibles fail to report for their department scheduled interview, they shall be presumed to have declined the position for which the vacancy exists. At least three (3) eligibles, including all members of protected classes certified by the Personnel Officer shall be interviewed and considered. Department heads shall be required to provide written justification for non-selection of protected class members.

Section C: Appropriate List

The Personnel Officer shall determine the appropriate list for each position based upon:

1. Classification of the position.
2. Special qualifications required to perform the duties of the position.
3. Subdivision of the eligible list.

With the consent of the department head and the Personnel Officer, eligible lists for a lower classification may be given preference in order to fill the position with a trainee or underfill if rationale is consistent with the County's Equal Employment Opportunity Program, rehabilitation program or lay off avoidance program.

Section D: Order of Preference

Certification shall first be made from those candidates on lay off and downgrade lists and from candidates separated from County service on disability retirement and who have subsequently been granted requalification due to a determination that they are no longer incapacitated. All such former employees shall be assured the right of an interview prior to the final selection and appointment to the position. Certification may then be made from other established eligibility lists. The Personnel Officer shall determine the appropriate eligible list to be used. The order of preference for referral from the eligible list shall be as follows:

1. Promotional List: Referrals shall be made from the top four (4) eligibles based on attained score or qualification rating, plus one (1) for each vacancy, and any ties thereof.
2. Open List: Referrals shall be made from the top nine (9) eligibles based on attained score or qualification rating, plus one (1) for each vacancy, and any ties thereof.

In addition, any permanent employee who has submitted a written request for transfer or voluntary demotion and any employee on leave of absence without right to return may be referred for all permanent openings for which they have been determined qualified by the Personnel Officer, along with those applicants certified above.

Section E: Selective Certification

Whenever the possession of a specialized skill, knowledge or ability will enhance efficiency or promote better public service, the Personnel Officer may restrict certification to those persons who possess such skill, knowledge or ability.

Section F: Insufficient Names

When an eligible list contains fewer than three (3) available names, the department head may elect to:

1. Make an appointment from those certified, or;
2. Accept certification of additional names from the most nearly appropriate list as determined by the Personnel Officer, or;

3. Make a provisional appointment and request that additional eligibles be submitted, or;
4. Call for a new examination.

In the absence of names on the eligible list, the Personnel Officer may refer any person for a provisional appointment pending the establishment of an eligible list. Only those who meet the job requirements shall be referred.

Section G: Use of Other Lists

The Personnel Officer may certify an eligible applicant to a position in a lower or equivalent classification with similar duties and responsibilities. Acceptance of the certification shall not deprive the eligible applicant of certification rights on the original, higher list.

Section H: Departmental Objection

The department head may file written, job-related objection to any person certified. Such objection shall contain the reasons for the department's rejection and the objection shall be sustained only with the approval of the Personnel Officer.

Section I: Finding of Insufficiency

A department head, after having considered all eligibles and having interviewed at least three (3) eligibles, all members of protected classes, and all preferred candidates certified by the Personnel Officer, may file in writing with the Personnel Officer a finding of insufficiency. If the Personnel Officer approves this finding, a second list of eligibles will be referred from the next qualification tier based on attained score or rating.

RULE 6: ASSIGNMENTS AND SEPARATIONS

Section A: Policy - Transfers, Voluntary Demotions and Job Changes

Transfers, voluntary demotions and job changes are used to retain employees or to change assignments as needed in the best interest of County government. In addition, such actions are used for proper placement of personnel and for employee development.

Section B: Definition of Voluntary Demotion

A voluntary demotion is the appointment of an employee from an incumbent position to a position in a different classification for which the maximum rate of pay is lower and where the employee has voluntarily requested or agreed to such appointment. At the request of the department head, the Personnel Officer may waive the probationary period for the demoted

) class if determination is made that an employee's service in the higher classification qualifies the employee for performance in the demoted class.

Section C: Definition of Transfer/Reassignment

A transfer is the appointment of an employee, with permanent status in their current classification, from a position under one department head to a position in the same classification under another department head. A transferred employee may be required to serve a new probationary period. If such a transferred employee fails probation they shall be terminated. Reassignment in the same class within the same department does not constitute a transfer.

Section D: Transfer/Voluntary Demotion Procedures

Employees may submit written requests for transfers or voluntary demotions to the Human Resources Office. Names of employees on transfer lists may be referred to departments along with other eligibles. Names of employees on voluntary demotion lists may be referred if the Personnel Officer, in consultation with the affected Department head, has determined there is evidence of the employee's ability to perform competently in the lower classification or if the employee has held permanent status in that lower classification. With the consent of the affected employee and the Personnel Officer, two (2) departments may initiate and agree to the transfer or voluntary demotion of an employee.

Section E: Job Changes

A job change is the appointment of an employee with permanent status from a position in one classification to a position in another like classification at substantially the same rate of pay. There must be evidence of the employee's ability to perform competently in the new position. All job changes require the approval of the Personnel Officer. Such employees retain permanent status in the previous classification but may be required to serve a probationary period in the new class. When more than one department is involved, the approval of both department heads shall be required. Inter-department job changes for probationary employees may be arranged with the approval of the interested department heads and the Personnel Officer. An inter-department job change during a probationary period shall initiate a new probationary period unless specifically modified by the Personnel Officer. If a job change employee fails probation they shall be terminated.

Section F: Automatic Resignation

An employee absent without approved leave for three (3) consecutive work days, who fails to notify their immediate supervisor and provide an acceptable reason for the absence to the department head, shall be considered to have automatically resigned as of the last day on which the employee worked, unless the department head or the County Administrative

Officer approves leave with or without pay to cover the absence. Prior to severing a permanent employee from County service, the department head shall prepare and serve a written notice to inform the permanent employee of the proposed action; the facts upon which the proposed action are based; and a notice of the right to respond to the County Administrative Officer or designee. The employee shall have the right to respond to the County Administrative Officer or designee within seven (7) calendar days after service of the notice either orally or in writing, disputing the facts or providing an acceptable reason for the absence. If the employee disagrees with the decision of the County Administrative Officer, they shall have a right to pursue an appeal pursuant to the provisions of an applicable MOU or Rule 9, Section H of these Personnel Rules and Regulations.

Section G: Resignation

An employee wishing to leave County service in good standing shall file a written resignation with their department head. Employees shall give at least two (2) weeks notice of intention to leave the County unless the department head consents to the employee leaving sooner. Written resignations shall be immediately forwarded to the Human Resources Office. The filing of the written resignation with the department head shall be deemed the official notice and, once accepted in writing by the department head, may not be withdrawn by the employee without the consent of the department head. Resignations are not subject to review or appeal except when obtained from an employee with permanent status by fraud, duress or coercion. An employee alleging that the employee's resignation is obtained by fraud, duress or coercion may appeal the resignation to the County Administrative Officer within ten (10) work days of the employee's submission of the resignation to the department head. At any such hearing before the County Administrative Officer, the employee shall have the burden of proof to establish by clear and convincing evidence that the resignation was obtained by fraud, duress or coercion. A resignation may only be set aside by the County Administrative Officer if the employee meets the above established burden of proof. If the employee disagrees with the decision of the County Administrative Officer, they shall have a right to pursue an appeal pursuant to the provisions of an applicable MOU or Rule 9, Section H of these Personnel Rules and Regulations.

RULE 7: CLASSIFICATION

Section A: Classification Plan

All positions shall be part of a classification plan, established by the Board of Supervisors, which provides for the grouping of positions into a system of classes, class specifications, representation unit allocation, and rules and procedures which provide for maintenance of the plan. The classification plan shall be the basis for selection, compensation, training, promotion, demotion, reduction in force, reemployment and related issues.

Section B: Definition

All positions are allocated to a classification (class) based upon, but not limited to: an analysis of the duties and responsibilities performed, supervision received or exercised, organizational considerations, and the qualifications necessary to perform those duties. The class may include one or more positions. New classes, their representation unit and appropriate salaries are recommended by the appropriate authority (see Section G) and approved by the Board of Supervisors.

Section C: Class Specification

Class specifications are the official description of the duties, responsibilities, and supervisory relationships of a class. Class specifications shall be written and maintained by the Personnel Officer for all positions in the County. Specifications shall include an appropriate title, a general definition of responsibilities assigned, characteristics of the class family, description of the typical duties and responsibilities, and the qualifications required for successful performance. Until a specification is written and approved by the Board of Supervisors, an examination announcement shall serve as the written classification specification. A class specification is not a job description, the latter being the description of duties performed by a specific position within a class of similar positions.

Section D: Classification Series

A Series consists of a grouping of two or more classes performing similar work but at different levels of responsibility, difficulty and pay. A flexibly staffed series allows for promotion without examination from one level to the next upon department head recommendation and Personnel Officer approval.

Section E: Position Authorization

Positions are authorized as permanent, grant funded, or relief based upon the following criteria:

- 1. Permanent Position:** Permanent positions are authorized by the Board of Supervisors and may be budgeted at either a full time or part time level. Employees in permanent positions gain permanent status pursuant to the provisions of these Rules and upon satisfactory completion of the required probationary period.
- 2. Grant Funded Position:** Grant funded positions are created under the terms of an awarded grant and authorized by the Board of Supervisors. Grant funded positions are created by the grant and terminate when the grant expires.
- 3. Relief Positions:** Relief positions are authorized by the County

Administrative Officer. These positions are created for a limited period to cover unanticipated work loads, emergency, extra work loads of limited duration, necessary vacation relief, sick leave and other situations involving a fluctuating staff. All relief positions serve at the pleasure of the department head and require classification by the Personnel Officer prior to appointment.

Section F: Maintenance of the Classification Plan

The Personnel Officer shall be responsible for the classification investigation of all positions in both the classified and unclassified service. Classification review of positions may be conducted through the following types of classification studies:

- representation unit studies
- job family studies
- new position studies
- reorganization studies
- special studies

All requests for classification study shall be accompanied by a job description questionnaire, completed by the employee and approved through their chain of command. Job description questionnaires for vacant positions shall be prepared by the first line supervisor.

Section G: Classification Review Procedures

1. **Representation and Job Family Review Procedures:** Representation units and job families may be reviewed on a systematic basis and shall be studied pursuant to any applicable provision of the appropriate MOU in force and effect. Upon completion of representation unit or job family study, recommended classification concepts, allocations, representation unit assignments, and new salary recommendations shall be submitted by the Personnel Officer to the Board of Supervisors for review, adoption, and resolution of appeals, if any.
2. **New Position Review Procedures:** Before a newly budgeted permanent position is approved by the Board of Supervisors, the department head shall submit a request for classification of the new position to the Personnel Officer. Requests shall contain a description of the duties and responsibilities of the new position. The Personnel Officer shall report classification recommendations to the department head who shall report the recommendations on classification representation unit and salary to the Board of Supervisors.
3. **Reorganization and Special Unit Study:**
 - a. **Reorganization Studies:** Whenever a department or unit thereof is proposed to be substantially reorganized, classification allocation of positions within the department or unit may be reviewed with the department

head and a determination made as to the need for classification review and investigation. Except for reorganizations processed as a part of the normal budget process, reorganization studies require the prior approval of the County Administrative Officer. As a result of any reorganization study employees with permanent status shall be placed in equivalent classifications within the affected department if positions are available. If a change in classification allocation of a position results due to the reorganization, rules on upgrades and downgrades shall apply. When reorganization results in a surplus of employees or an employee fails to meet the required job standards and qualifications resulting from the reorganization, provisions governing lay-off shall apply. Whenever positions are transferred from one department head to another without significant change in duties, employees with permanent status shall retain rights to such positions.

- b. **Special Studies:** Special studies include exceptional situations such as the need for improved career ladders, unique recruitment needs, gradual departmental restructuring of duties, or legal or contractual mandates.
- c. **Requests for Approval of Special Studies:** Requests for special classification studies may be filed by permanent employees, exclusive recognized employee organizations, or the County Administrative Officer. All such requests shall be submitted to the Personnel Officer for review and determination of whether or not a study is warranted or feasible. No study shall be conducted unless the study initiator can demonstrate that;
 - 1. the position has substantially changed since its last review;
 - 2. the duties, tasks, or responsibilities of the position are no longer substantially described by the classification specifications; or
 - 3. changes in technology or organizational relationships dictate a change in classification concepts.
- d. **Recommendation of Authorized Reorganization or Special Studies:** After conducting a classification analysis of the positions authorized for an approved study, the Personnel Officer will notify the department head and the study initiator and the recognized employee organization of the recommended classification allocation. Recommended allocations shall be submitted to the Board of Supervisors and will become effective only upon Board of Supervisors approval. Recommended allocations resulting from reorganization studies shall be reported to the Board of Supervisors by the affected department head and recommended allocations resulting from special studies shall be reported by the Personnel Officer.

- e. **Report and Recommendation:** Based upon an approved reorganization or special study request, a classification report shall be prepared within ninety (90) calendar days from the date of the initial request received by the Human Resources Office.

Section H: Classification Appeal Procedure

All classification allocation appeals will be directed to the County Administrator. Appeals of recommended allocations may be filed through the department head by incumbents of the affected positions or by the exclusive recognized employee organization through the department head. The burden of proof of any classification appeal rests with the appellant to establish why the recommended allocation is not an appropriate allocation. The content of and decision on classification appeals shall be restricted to consideration of the recommended and the requested classification. All classification appeals shall be limited to a discussion of duties and responsibilities performed at the time the position was studied. In the event an appellant disagrees with County Administrator's decision the appellant may agendize and present his/her case to the Board of Supervisors. Notwithstanding any other provisions of these rules, the decision of the Board of Supervisors on the final classification allocation shall be final and binding.

Section I: Results of Classification Studies

1. **Upgrading:** A change in the title of a position accompanied by an assignment of the position to a classification at a higher salary range/rate constitutes an upgrading. Incumbents are not automatically promoted to the upgraded position, but must compete through a promotional examination and appointment process, unless the process is specifically waived by the Board of Supervisors as outlined below.

The examination process may be waived by the Board of Supervisors and the employee promoted to the upgraded position only under either of the following conditions:

- a. The position upgrading has resulted from a representation unit or job family classification study and promotion of the employee is recommended by the department head and determined qualified by the Personnel Officer.
- b. The upgrading has resulted from an incremental change in duties and the employee has been in the position at least twelve (12) months and during that time has performed the new grade-determining duties.

In all other cases, upgraded positions are to be filled by examination. Employees promoted to an upgraded position shall be required to serve a probationary period in the new classification. Employees not appointed to the upgraded position retain status in their current classification and may request a transfer to a vacant position in their current or equivalent classification, be retained in the position as an underfill, or be laid off according to the provisions of the appropriate Memoranda of Understanding. Where vacant positions are not available to accommodate a transfer request, employees may request a voluntary demotion to a vacant position.

2. **Downgrading:** A change in the title of the position accompanied by an assignment of the position to a classification with a lower salary range/rate shall constitute a downgrading. When an employee with permanent status occupies a position which has been downgraded, the employee shall be placed on an eligibility list for any other classification equivalent to their former classification, as determined by the Personnel Officer, in the inverse order of seniority for a period of one year. Employees on this list will be entitled to an interview for any vacancy in said classification for that one year period. Employees appointed from this eligibility list shall retain the service status they held in their classification at the time of the downgrading. Employees with probationary status when downgraded shall be credited for time completed in their probationary period.

Section J: Technical Title Change

Change in the title of a position without any change in salary range or substantial change in duties or requirements constitutes a technical title change. Technical title changes shall become effective upon the Personnel Officer's approval.

RULE 8: WORK PERFORMANCE EVALUATION

Section A: Purpose

The purpose of a work performance evaluation is to provide a systematic method of measuring, recording and improving the work effectiveness and development of all County employees with permanent status in their current classification. Work performance evaluations are intended to be supportive and corrective and may reveal work inefficiencies that require corrective or disciplinary action.

Section B: Standards

County employment requires establishment of standards for both conduct and production. Production standards refer to work achievement required for an individual job and are the responsibility of the employing department. Conduct standards refer to acceptable behavior and enforcement and are the responsibility of the employing department concurrent with these Rules and department standards. Conduct standards may be established by the State, County or employing department and may be expressed in law, rules, regulations, policy or generally accepted practices.

Section C: Departmental Responsibility

It is the duty of the departments to accurately evaluate the work accomplishments and conduct of employees, to inform employees of their evaluations in writing, and to assist employees in improving work effectiveness.

Section D: Employee Responsibility

It is the responsibility of the employee to meet and to strive to exceed the minimum standards established for work accomplishment and conduct, to strive to improve work effectiveness, and to perform at highest competency levels.

Section E: Evaluations

A systematic method of periodic evaluations of employee's performance shall be established. Such evaluations shall be made at least annually and whenever needed to maintain a record of the employee's work performance. The evaluations shall include the following elements:

1. A written record to be reviewed and acknowledged in writing by the employee. No change shall be made after review and acknowledgment.
2. A copy for the employee.
3. An evaluator and at least one (1) reviewing official, except for evaluations of department heads and assistant department heads or when the evaluator is the department head. The evaluator shall be the employee's immediate supervisor.
4. A discussion between the evaluator and the employee being evaluated on the contents of the performance evaluation.
5. A provision whereby an employee may submit a written answer or exception to any evaluation or statement made on the evaluation which

must be filed with the evaluator and forwarded to the department head. Such answer or exception must be acknowledged by the department head and shall become an official part of the evaluation.

Work performance evaluations are not subject to appeal.

Section F: Use

Evaluations of work performance shall be considered for all relevant personnel actions and shall be reviewed for training and other personnel management needs. An overall evaluation of "Meets Job Standards" or higher will satisfy the requirement for certification and recertification of competency which may be required by these Rules.

Section G: Records

Each department shall keep the work performance evaluation in a confidential personnel file. All copies of performance evaluations, documents and commendation or penalty or any thing else that has a bearing on employment status shall be forwarded to the Human Resources Office which may only then be considered part of the employee's official record. Work performance evaluations, documents of reprimand or penalty or any other record or document that has a bearing on employment status may be removed from an employee's official personnel file only upon request of the employee and approval by the department head and the Personnel Officer. Material so removed shall be given to the affected employee.

RULE 9: DISCIPLINARY ACTION

Section A: Definition

Except as otherwise provided in an appropriate Memorandum of Understanding, the following constitutes the appropriate procedures for taking disciplinary action against a permanent employee. Disciplinary action means an action taken by the County resulting in a letter of reprimand, dismissal, suspension, reduction in salary step for a specified time period or demotion of a permanent employee.

Section B: Cause(s) of Action

An employee with permanent status with the County may be disciplined only for cause. The following are declared to be causes for action although charges may be based upon causes other than those listed herein:

1. Omission or willful misrepresentation of a material fact or other fraud in securing employment including, but not limited to, the following:

- a. Falsification of application for work;
 - b. False information regarding driver's license; or
 - c. False information regarding professional licenses, credentials, or certificates;
2. Falsification of an official statement or document;
3. Failure to meet work performance standards and requirements;
4. Willful or negligent disobedience of any job-related law, ordinance, County rule, or departmental regulation or any superior's lawful order.
5. Incompetence;
6. Inefficiency;
7. Inexcusable neglect of duties;
8. Insubordination;
9. Dishonesty;
10. Improper use of drugs or alcohol including, but not limited to, the following:
 - a. In possession of, under the influence of, alcohol beverages, while at work or in County work areas; or
 - b. In possession, in use, under the influence of, or trafficking in habit-forming drugs and/or narcotics while at work or on County property. The term "drugs" means controlled substances as defined in Division 10 (commencing with Section 11000) of the California Health and Safety Code;
11. Unexcused absence from duty, including, but not limited to, participation in unlawful strikes or other job actions, such as sick-ins or slow downs;
12. Conviction of a felony or conviction of a misdemeanor involving moral turpitude; a plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning this subsection;
13. Discourteous treatment of the public or other employees;

14. Misuse of County property or damage to County property resulting from misuse or negligence;
15. Inconsistent, incompatible or conflicting employment activity or enterprise;
16. Violation of a department rule;
17. Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the County;
18. Sexual harassment;
19. Failure to comply with any requirements of the Department of Transportation Drug Testing Regulations; and
20. Confirmed failure of any drug test.

Section C: General Provisions

Except as otherwise provided, provisional, probationary or relief employees may be dismissed, suspended, reduced in salary step for a specified time period or demoted without right to review or appeal unless otherwise required by law. Except as otherwise provided, probationary employees who have obtained permanent status with the County in another classification shall not be dismissed without following the procedures contained herein.

Section D: Notice of Proposed Disciplinary Action

Prior to imposing discipline, the department head shall review the proposed action with the Personnel Officer. The department head shall prepare and serve a written notice, reviewed by the County Counsel, to inform the permanent employee of the proposed action; the reasons for the proposed action pursuant to Section B herein; a copy of charges stating specific incidents or specific courses of conduct; and a copy of all the written materials pertaining to those incidents or course of conduct; and a notice of the right to respond to the department head intending to impose the discipline.

Section E: Response to Notice of Proposed Disciplinary Action

A permanent employee given notice of intended disciplinary action may, within seven (7) calendar days after service of the notice, respond to the department head either orally or in writing. The employee shall not be entitled to a formal hearing with examination of witnesses, but he may present statements by himself, written statements of any witnesses and other documentary material. He may be represented by another in presenting his response. The department head shall fairly and impartially consider the employee's response

and shall thereafter:

- a. Uphold the proposed disciplinary action;
- b. Notify the employee that the proposed disciplinary action will not be imposed;
- c. Impose a lesser disciplinary action; or
- d. Amend the charges.

In the event the department head substantively amends the intended charges or punishment, he shall give another notice as provided in Section D.

Section F: Order of Disciplinary Action

After completing the requirement of Section E the department head shall serve upon the employee an Order of Disciplinary Action in writing stating:

1. The nature of the disciplinary action;
2. The effective date of the action;
3. The causes therefore;
4. The specific acts or omissions upon which the causes are based, stated in ordinary and concise language; and
5. The right of the employee to appeal.

The effective date of the disciplinary action shall be as provided in the Order of Disciplinary Action.

Section G: Disciplinary Action - Minor Suspension and Appeal Procedure

Notwithstanding any other provisions of this rule, a minor suspension is a suspension for a period of ten (10) work days or less in any twelve month period (or the equivalent reduction in salary step). A department head considering a minor suspension shall comply with Section D and, if requested, Section E. After receiving the Order of Disciplinary Action provided in Section F, the employee may, within seven (7) calendar days after service of an Order imposing a minor suspension, appeal in writing to the County Administrative Officer who shall thereafter conduct such meetings and informal discussions as deemed appropriate. The County Administrative Officer shall make a written decision within fourteen (14) calendar days affirming, modifying or revoking the order which shall be transmitted to the employee

and the department head and shall place a copy in the employee's personnel file. Notwithstanding any other provisions of these rules, the decision of the County Administrative Officer or designee shall be final and binding on all parties.

A Letter of Reprimand is considered to be a disciplinary action. Any employee receiving a Letter of Reprimand may respond in writing to the Letter of Reprimand within thirty (30) calendar days from the date of the Letter of Reprimand is received. The employee's written response shall be attached to the Letter of Reprimand and placed in the employee's personnel file. The Letter of Reprimand shall not be appealable.

Section H: Appeal of Order of Disciplinary Action - Other than Minor Suspensions

The employee acted against may, within seven (7) calendar days after service of the Order, appeal the action of the department head. An appeal shall be in writing, shall be filed with the Personnel Officer, shall contain an answer to each charge in the Order, and shall designate the requested hearing body as provided in this procedure. As soon as practicable, the Personnel Officer shall set the appeal for hearing before the requested hearing body and notify the interested parties of the date and time of the hearing.

Section I: Disciplinary Action - Maximum Suspensions

No disciplinary suspension or equivalent reduction in salary step shall be imposed by a department head for any period exceeding thirty (30) calendar days, and the Order of Suspension shall expressly state, in addition to the reasons therefore, the dates of the of suspension.

Section J: Service of Notice

For purposes of this procedure, notification to a party may be given either personally or by mail. When notice is mailed to an employee, it shall be sent to the employee's current address of record by certified mail, return receipt requested. The department head shall promptly furnish the Personnel Officer with a copy of each Notice or Order and a statement showing by whom, the manner and the date the notice or order was served.

Section K: Disciplinary Action - Amendment of Order

At any time before the hearing, the department head may file with the Personnel Officer an amended or supplemental Order, which shall be served upon the employee. If an amended Order presents new causes for discipline, the employee shall be afforded all of the procedural safeguards enumerated in Section D and Section E herein prior to the discipline becoming effective.

Section L: Disciplinary Action - Immediate Suspension

The department head may suspend an employee without prior notice if immediate suspension is essential to avert harm to the County or to the public. In such case, the notice of suspension shall inform the employee of his or her right to reconsideration by the department head who shall follow the procedures outlined in this Rule.

Section M: Disciplinary Action - The Hearing

A permanent employee shall have the option of a hearing either before a hearing panel or an arbitrator as provided herein. In either instance, the decision of the hearing official shall be considered final and binding.

A hearing panel shall be comprised of one (1) representative appointed by the County Administrative Officer, one (1) representative appointed by the employees, and one neutral member selected by the other two members. The cost, if any, of the hearing panel shall be shared equally by both parties.

An arbitrator from the State of California Department of Industrial Relations or the American Arbitration Association shall be chosen from a list of five arbitrators supplied by said Department or Association following an alternate striking process. The first strike shall be chosen by lot. The cost of arbitration shall be shared equally by both parties.

The hearing shall be held in closed session unless the employee notifies the Personnel Officer in writing at least two (2) work days prior to the hearing date that he or she desires to have the hearing in public. In any event, the department head shall be entitled to have those matters, which constitute complaints against him or her, heard in closed session. The employee shall have the right to be represented and to present evidentiary facts. The hearing official may at any time exclude any person who may be a witness in the case under consideration, with the exception of the employee and the departmental representative.

The hearing shall be informal and the hearing official shall not be bound by the rules of evidence governing trial procedure in State Courts. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing other evidence; however, it shall not be deemed sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

In arriving at a decision, the hearing official may consider any prior County disciplinary action including any relevant letters of reprimand filed with the Personnel Officer. The hearing official shall make an official decision either affirming, modifying or revoking the order. The decision shall contain findings of fact which may be stated in the language of the pleadings or by reference thereto. A copy of the written decision of the hearing official shall be transmitted to the department head and the Personnel Officer. The department head shall serve a copy of the decision upon the employee. A copy of the decision shall be placed in the employee's personnel file.

Section N: Disciplinary Action - Burden of Proof

The burden of proof shall be on the department head issuing the disciplinary order. The quantum of proof required to sustain such action shall be a preponderance of the evidence.

Section O: Disciplinary Action - Examination under Evidence Code

At the hearing the employee may be examined under Section 776 of the California Evidence Code. Failure of the employee to appear at the hearing or failure to testify if called as a witness without extenuating circumstances shall be deemed a withdrawal of the employee's appeal and the action of the department head shall be final and binding.

Section P: Disciplinary Action - Affirmation or Revocation of Action

The hearing official may affirm or revoke the action taken by the department head or may modify such action to a less severe punishment. The hearing official may order the employee returned to his or her position either as of the date of the punitive action by the department head or as of such later date as specified. If the hearing official revokes or modifies the Order of the department head, the appealing employee shall be granted forthwith all rights and privileges pertaining to County service in accordance with the Order of the hearing official.

Section Q: Disciplinary Action - Use of Competent Recorder

The hearing official may direct the Personnel Officer to arrange for a competent reporter to record the proceedings at the hearing if, in the opinion of the hearing official, such a record is necessary. Any person may purchase all or part of the record provided the request therefore is made within ninety (90) calendar days of the date of service of the final decision on the employee; provided, however, that only the employee, the department head or the Personnel Officer shall have a right to purchase a transcript of a hearing held in closed session. A request for the record shall be accompanied by payment of the estimated cost thereof as determined by the Personnel Officer and the person making the request shall be obligated to pay the full cost prior to delivery of the transcript.

RULE 10: APPEAL PROCEDURE

Written appeals from any administrative action of the Personnel Officer may be made by any applicant, employee or their designated representative to the County Administrative Officer within seven (7) calendar days from date of notification of the results of such administrative action. The County Administrative Officer shall conduct an investigation or hold a hearing with the appellant within ninety (90) days of the filing of the appeal to determine the nature of the appeal and the facts thereto. Notwithstanding any other provision of these rules, the decision of the County Administrative Officer on any appeal shall be final and binding on all parties.

RULE 11: TUOLUMNE COUNTY TRAVEL POLICY

Section A: Travel Outside the State or County

Travel outside the State of California or the United States is normally discouraged. When such travel is considered in the best interest of the County, specific approval must be obtained from the County Administrator (CAO).

Section B: Travel Within the State

Department heads or their designee must approve all departmental travel within the State. This includes travel and overnight accommodations to attend conventions, conferences, training conferences and other similar meetings.

Section C: Travel to Meet the Legal Obligations of the County

Travel must be approved by the department head or other designated individuals in the department. This category shall include transportation of prisoners, placement of juveniles, and similar mandatory travel consistent with the current travel policy.

Section D: Non-Salaried Boards or Commissions

Non-salaried members of boards or commissions established by state law or county ordinance may be allowed expenses incurred for meals, lodging, mileage or public transportation while attending called meetings or on authorized trips. Trips and expenses must be approved in advance by the CAO, unless the board or commission has been given a specific exemption to this policy and funds are budgeted.

Section E: Special Committees

Special committees created and appointed by the Board of Supervisors may be reimbursed for actual expenses when permitted by law and specifically authorized in advance by the

Board of Supervisors. Grand Jury members are to be reimbursed for mileage according to the current rate set by the Board of Supervisors.

Section F: Non-County Agencies

Agencies governed by outside boards for whom the County maintains complete accounting records shall notify the Auditor-Controller, in writing, of the individual(s) authorized to approve the agency's travel expense claims.

Section G: Departments of Social Services and Probation, Children in the Departments' Care, and Foster Parents

Travel of employees of Health Care Services, Probation, Human Services Agency, or law enforcement and Family Support officers required to accompany patients, clients, or minors, or to supervise placement of minors in the course of their duties, will be subject to the approval of the employee's department head or other designated individual in the department within county guidelines.

Section H: Volunteers

Travel may be approved by the department head or other designated individuals in the department for volunteers of the County. The current travel policy would also apply to volunteers.

Section I: Expenditures For Travel

1. Credit Cards: Credit cards will be issued to departments to be used for all job related expenses related to travel. Department heads are responsible for ensuring that employees in their department utilize the credit cards in accordance with existing policy.

Each department is responsible for auditing their credit card expenditures and ensuring that existing policy guidelines are followed. Subsequent internal audits will be conducted at random to verify that the travel policy guidelines have been followed. Departments are required to follow the departmental credit card audit and processing procedures established by the Auditor/Controller.

The departmental county credit card should be used for all travel expenses, including hotel, seminar, airline and car rental reservations. Credit cards can be distributed to staff at the discretion of the department head, provided the proper "Credit Card Authorization" form is completed by each person using the card. The original of this form must be sent to the Auditor's Office Accounts Payable Division. AU travel policy regulations apply and **must** be enforced by departments when utilizing their cards.

Government Code Section 29743 states:

"If the auditor finds that any claim presented is a proper county charge, but is greater in amount than is justly due, he may allow the claim in part and issue his warrant for the portion allowed."

This section also applies to this travel policy.

2. Discounts: Employees are required to take advantage of government discounts or travel agency's special rates available for car rentals, hotels and other incidental travel requirements.

3. Hotel/Motel Charges: Lodging charges shall only be those actual and necessary and considered moderate for the area. A guideline of medium-priced lodging (no luxury accommodations) is considered acceptable in most areas.

Single rates prevail except when the room is occupied by more than one county employee. "Doubling up" in rooms is encouraged. Single rates, if different than double rates, must be shown in some manner on the lodging receipt. Conference rates will be accepted with proper documentation. Receipts are always required.

Hotel/Motel Transient Occupancy Tax Waiver Exemption Certificates should be used by all departments during the hotel/motel registration process. Since Tuolumne County is a governmental agency, we can qualify for and receive this Transient Occupancy Tax Exemption if the hotel/motel will accept it. Departments are responsible for filing this form for each room at each hotel. Present this form at the time of registration (copy attached).

4. Lodging Prior to County Business: Lodging the night before or prior to a conference, training, or meeting is discouraged. The department head shall make a determination based on such factors as distance and weather conditions before approving these expenses. This policy places the decision relating to overnight lodging prior to a conference at the department head level. There are no specific distances or destinations mentioned in the policy, however, a department head should consider the cost-effectiveness of prior-night lodging and the impact it would have on his/her travel budget. It is expected that requests for prior-night lodging will be the exception, rather than the rule, and that a prudent approach to the expenditure of county funds will be exercised by all department heads.

5. Saturday Night Stay-Overs: Saturday night stay-overs are encouraged when the cost of meals and lodging is more than offset by savings in airfare.

6. Airfare vs. Mileage: If airfare is less expensive and the employee prefers to drive his private vehicle on his own time, reimbursement shall be made only for the cost of airfare. The department head may approve either means of travel in advance, however, reimbursement will be at the lower rate.

Employees taking advantage of a two-for-one airfare while traveling on county business with spouse: the County will only pay up to the cost of a single rate and the difference will be the responsibility of the employee.

7. Private Air Travel: Reimbursement for travel by private aircraft or chartered aircraft shall be limited to commercial airfare. The County Administrator may approve exceptions to the foregoing when it is necessary or desirable to meet the business obligations of the County.

8. Use of Private Vehicle: The County will reimburse mileage associated with travel or the use of a personal vehicle on County business at the Internal Revenue Service allowable rate.

There is no mileage reimbursement for travel between an employee's residence and the workplace or work site.

In addition the use of County vehicles and private vehicles for County use is covered under the Guideline to County Vehicle Usage Policies. This includes policies governing private passengers and insurance requirements.

9. Rental Cars: Automobile rental will be limited to the cost of compact cars.

Department head approval is required if a car is rented bigger than a compact size, this is only when traveling with more than two people.

10. Meals: You are to claim only the actual amounts spent for meals. (Refer to "Travel Reimbursement" section of this Travel Policy for specific meal limits, etc)

In-county meals are allowable when incurred in conjunction with a county-sanctioned meeting, when oral interview boards contain non-county employees, or for recognized training programs (POST or otherwise) where the employee's attendance is required all day without a full-hour discretionary lunch period and the meal is not claimable through another agency. The maximum meal rates would apply.

Meals provided as part of a training seminar or association meeting that exceed meal limits are allowable and are not considered an exception.

The County Administrator must approve any exceptions to the meal policy.

Section J: Travel Reimbursement

1. Spouse/Companion: The County will not pay for any costs incurred by or related to a spouse or companion.

Employees utilizing a county vehicle for travel are prohibited from transporting a spouse or

companion unless prior approval is granted by the employee's department head and a written waiver is obtained from the spouse or companion exonerating the County from liability.

2. Alcoholic Beverages: The County will not pay for any alcoholic beverages.

3. Tobacco: The County will not pay for any type of tobacco.

4. Personal Expenses: Personal expenses shall not be allowed. Personal expenses include, but are not limited to, laundering, barbering, alcoholic beverage, and any pay TV expenses. Employees, however, will be allowed one personal phone call home on the day of arrival and one personal phone call home on the day of departure. The cost of these calls cannot exceed \$5.00 per call.

5. Meals: All meals should be charged using the county credit card. If there are times when the credit card cannot be used, then reimbursement will be made through the accounts payable system.

Per the Attorney General, the County may not lawfully expend funds to reimburse county officers and employees for their expenses in buying meals for legislators or their aides at meetings to discuss legislation of interest to the County.

MEAL RATES ARE LIMITS, NOT ALLOWANCES, YOU ARE TO CLAIM THE ACTUAL AMOUNT SPENT UP TO THE LIMIT, THERE IS NO PER DIEM ALLOWANCE FOR MEALS.

The limit on meals includes an allowance for a maximum 15% tip.

Limits for meals are as follows (including tax and maximum 15% tip):

Breakfast	\$10.00
Lunch	11.00
Dinner	21.00

For seminars and meetings at which luncheons and/or dinners are provided, the employee is not also entitled to a meal allowance. A complimentary continental breakfast is not considered a meal and a limit for breakfast is allowable-

Receipts are not required to be submitted for meals.

6. Taxi Fares, etc.: Receipts are required for the following if maximum is exceeded:

- Taxi fares if over \$10.00
- Streetcar, city bus, ferry fares, BART fares, bridge and road tolls if over \$7.00

- Parking expenses if over \$7.00

7. Communications: Only business-related communications charges will be reimbursed. This would include telephone, fax, telegraph, etc. Any non-business communication charges appearing on any billings must be identified and excluded from the reimbursement claim.

Section K: GENERAL TRAVEL POLICIES

1. Training: Under the Fair Labor Standards Act (FLSA) and the Department of Labor's regulations (Section 785.27), attendance at training sessions is not counted as time worked if.

- Attendance at the training session is outside of the employee's regular working hours; and
- Attendance at the session is truly voluntary; and
- The training session is not directly related to the employee's job; and
- The employee does not perform any productive work during the training session.

In addition, if attendance at classes required for certification which is required under FLSA (Section 553.226) by law or a "higher level of government," need not be counted as hours worked. Further, the rules concerning the non-compensable nature of such training are not altered if part of all of the costs of training is borne by the employer.

If the foregoing applies, the department head may authorize release time if the training occurs during normal work hours, however, overtime compensation for hours beyond the normal working hours should not be approved.

- If attendance at training is not voluntary and is required by the department head, or the training is directly related to the employee's job and will make the employee perform the job more effectively, the time in attendance at training shall be considered as time worked. Meals periods, if training is not occurring, shall not be considered as work time. This does not preclude a department from flexing the employee's work hours during the established work week to avoid overtime compensation, if the training exceeded the normal work day.

2. Travel Time: Ordinarily, travel time from home to work is not compensable under the FLSA as hours worked. However, if an employee eligible to receive overtime compensation is called to work in an emergency situation to a location which is a "substantial distance" from his or her home, such travel time is counted as hours worked.

Travel time is counted as time worked if it takes an employee away from home overnight. However, Department of Labor regulations Section 785.39 provides: "As an enforcement policy, the Division will not consider as work time that time spent in travel away from home

) outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile." Please note that working hours for employees covered by the FLSA includes travel on an employee's day off. For example, if an employee works Monday through Friday 8 a.m. to 5 p.m. and travels on Sunday between the hours of 8 a.m. to 5 p.m., this time shall be considered as time worked. Travel away from home is clearly work time when it cuts across the employee's workday. The employee is simply substituting travel for other duties. This would not be the case for an employee exempt from the FLSA, and management employees. These employees are salaried and receive no additional compensation for travel time even though they are on county business while in transit.

If alternative forms of travel exists, such as public transportation, but the employee opts to use his or her personal car instead, the employer is only obligated to count as hours worked the time the employer would have had to count had the employee elected to fly or use whatever other public conveyance was offered by the employer.

Any work which an employee is required to perform while traveling must be counted as hours worked. This includes transporting prisoners and minors in the care and custody of the employee.

Sleep time is excluded as time worked if the employee is able to have at least five hours of uninterrupted sleep.

) Uninterrupted meal time is also not included as time worked.

3. **Disclaimer:** This Travel Policy does not supersede any existing Memorandum of Understanding Between the County and any of its employee groups.