

**EMPLOYER-EMPLOYEE RELATIONS POLICY
FOR THE COUNTY OF HUMBOLDT**



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I. PURPOSE

The purpose of this Resolution is to implement Section 3500, et. seq., of the Government Code of the State of California, by providing orderly procedures for the administration of employer-employee relations between the County of Humboldt and its employees.

This Resolution is intended to strengthen the Merit System and improve the public service through the establishment of uniform and orderly methods of communication between the County of Humboldt and its employees and to promote harmonious employer-employee relations.

Nothing in this Resolution shall be deemed to supersede the provisions of existing State and Federal laws.

II. DEFINITIONS

The words and terms defined in this section shall have the following meanings throughout this Resolution. Any term not defined herein which is defined in Government Code Sections 3500-3510 shall have the meaning set forth therein.

A. Board shall mean the Board of Supervisors of the County of Humboldt.

B. C.A.O. shall mean the County Administrative Officer of the County of Humboldt or his designee.

C. Confidential Employee shall mean any employee who, in the routine course of his or her duties, has access to information relating to the County's employer-employee relations.

D. Consult shall mean to communicate orally or in writing for the purpose of presenting and obtaining information concerning proposed action in an effort to reach consensus and does not require the exchange of written proposals or an endeavor to reach agreement.

E. County shall mean the County of Humboldt and, where appropriate herein, the Board or any duly authorized representative thereof.

F. Day shall mean calendar day unless expressly stated otherwise.

G. Employee shall mean any employee employed by the County, excepting those persons elected by popular vote or appointed to office by the Governor of this State.

H. Employee Relations Officer shall mean the Humboldt County Administrative Officer or designee.

I. Exclusive Employee Organization shall mean an employee organization which has been selected by majority vote of the employees in a representation unit to be the sole organization representing employees in that unit.

J. Factfinding shall mean the identification of the issues in a dispute on matters within the scope of representation, the investigation and reporting of the facts of the dispute and the making of recommendations for settlement by a panel.

K. Impasse shall mean that the representatives of the County and a recognized or exclusive employee organization have reached a point in meeting and conferring where their differences on matters to be included in a Memorandum of Understanding, and which are within the scope of representation, remain so substantial and prolonged that further meeting and conferring would be futile.

L. Management Employee shall mean any employee who has significant authority to formulate or administer County or departmental policies or programs or to administer the County or a department with respect to employer- employee relations matters.

M. Mediation shall mean effort by an impartial third party to assist in reconciling an impasse on matters to be included in a Memorandum of Understanding through interpretation, suggestion or advice.

N. Meet and Confer in Good Faith shall mean that representatives of the County and a recognized or exclusive employee organization shall have the mutual obligation personally to meet and confer promptly at the request of either party in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption of the County's final budget for the ensuing year. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

O. Memorandum of Understanding shall mean a written statement incorporating matters agreed upon through meeting and conferring between representatives of the County and an exclusive or recognized employee organization. The agreement set forth in the Memorandum of Understanding shall become binding only if formally ratified by the Board.

P. Professional Employee shall mean any employee engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers and various types of physical, chemical and biological scientists.

Q. Recognized Employee Organization shall mean an employee organization formally recognized by the County to represent employees in a particular representation unit.

R. Representation Unit shall mean County employees in regular positions in a designated group of classifications and positions constituted for the purpose of representation in employee relations matters.

S. Scope of Representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

T. Supervisory Employee shall mean any employee who, in the course of his or her duties, may hire, transfer, suspend, lay off, recall, promote, discharge, assign, direct or discipline other employees or who may adjust their grievances or who may effectively recommend such actions, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

III. REPRESENTATION UNITS

All positions in the County shall be designated by the Employee Relations Officer for inclusion in an appropriate representation unit or the Management or Confidential grouping.

A. Establishment of Units

The Employee Relations Officer shall establish the representation units in accordance with the policies set forth in Section III D below, after consultation with affected employee organizations.

1. After such consultation, the Employee Relations Officer shall consider the presentations made and shall inform the affected employee organizations of his/her determination, in writing.

2. The composition of these units shall be as indicated in a list maintained by the Employee Relations Officer. The list shall also indicate positions and classifications which are designated as Management or Confidential.

B. Modification of Units

1. The Employee Relations Officer may, after consultation with affected recognized or exclusive employee organizations, modify on his/her own motion the representation units by reassigning classifications or positions with changed communities of interest from one unit to another, adding new classifications or positions and/or deleting existing classifications or positions at any time. Such modifications shall be in accordance with the policies set forth below in Section III D.

a. The Employee Relations Officer shall consider any presentations made and shall inform the affected recognized or exclusive employee organizations of his/her determination, in writing, within fifteen (15) working days.

b. The list of the composition of the representation units shall be kept current with such changes.

2. An employee organization may request the Employee Relations Officer to modify a representation unit only during the period specified in Section IV A 3 or Section IV A 4 of this Policy, depending upon whether the currently recognized organization has a Memorandum of Understanding with the County. In the event that the request comes from an employee organization which is neither a recognized nor an exclusive employee organization for County employees, the requesting organization must also submit to the Employee Relations Officer the information required in Section IV B below, items a through k, inclusive.

a. Such request shall contain a complete statement of all relevant facts and citations in support of modifying the unit(s) in terms of the policies and standards set forth in Section III D below.

b. Upon receipt of a request to modify a representation unit, the Employee Relations Officer shall give written notice of such request to affected employee organizations and shall hold a meeting concerning the proposed modifications, at which time the affected employee organizations shall be given the opportunity to be heard.

c. After such consultation, the Employee Relations Officer shall consider the presentations made and determine, in accordance with the policy set forth in Section III D below, what modifications, if any, are appropriate. The affected employee organizations shall be notified, in writing, of the determinations of the Employee Relations Officer.

d. The list of the composition of the representation unit shall be kept current with such changes. Such list shall be a public document.

e. In the event that a new unit is split from an existing unit represented by a recognized or an exclusive employee organization, the recognized or exclusive representative shall still represent the new unit and a different employee organization may become the representative of the new unit only by way of an election for the new unit that was split from an existing unit.

f. The effective date of any modification of a representation unit shall be established by the Employee Relations Officer.

C. Appeal of Appropriateness of a Unit

Any employee organization which is a party to a dispute concerning the appropriateness of a representation unit may appeal the decision of the Employee

Relations Officer in establishing or modifying a unit or units under the terms of Sections III A and III B above, through the following process.

1. An employee organization which disagrees with a unit determination may within fifteen (15) days of the written notice thereof, request that the issue be mediated by the California State Conciliation Service. If the employee organization continues to dispute the unit determination, the employee organization may request that the Board review and make a final decision on the matter.

2. Such appeal must be delivered in writing to the office of the Employee Relations Officer within the fifteen (15) day time limit or no dispute is deemed to exist.

3. The appeal shall be considered by the Board at its first regular meeting scheduled at least fifteen (15) days subsequent to the date of the direct appeal to the Board, or at least fifteen (15) days subsequent to the unsuccessful termination of mediation by the California State Conciliation Service. A final decision shall be rendered within thirty (30) days of initial consideration by the Board of Supervisors.

4. Any court action under this Section must be brought within ninety (90) days of the final decision of the Board of Supervisors in the matter.

D. Policies and Standards for the

Determination of Appropriate

Representation Units

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

1. Criteria to be considered shall be:

a. Similarity of the general kinds of work performed, types of qualifications required, supervision received, and the general working conditions.

b. History of representation in the County and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit belong to a particular organization.

c. Consistency with the functional organizational patterns of the County government.

d. Number of employees and classifications, and the effect on the administration of employer- employee relations created by the fragmentation of classifications and proliferation of units.

e. The effect on the classification structure and impact on the stability of the employer- employee relationship of dividing a single or related classifications among two or more units.

2. Notwithstanding any of the above:

a. Professional employees shall not be denied the right to be represented in a separate unit from nonprofessional employees.

b. Supervisory employees, excluding sergeants in the Sheriff's Department, shall only be included in a unit consisting solely of supervisory employees.

c. Full-time peace officers shall have the right to be represented within a unit composed solely of full-time peace officers.

d. Confidential employees shall only be included in a unit consisting solely of Confidential employees.

e. Notwithstanding subsection 2 c above, Management employees shall only be included in a unit consisting solely of Management employees. Management employees shall not represent any employee organization which represents other employees of the County.

IV. RECOGNITION OF EMPLOYEE ORGANIZATIONS

An employee organization recognized by the County to be the representative of one or more of its representation units on the basis of a past history of such representation rather than as a result of an election by the employees of those units, is a recognized employee organization.

Currently, all eligible positions and classifications are designated as belonging to a particular representation unit (see Appendix A), or the confidential group or a management group. In order to maintain stability in its employer- employee relations, the County will no longer certify any additional organizations as recognized employee organizations. However, if an employee organization wishes to become the exclusive employee organization for one or more units, the following procedure shall pertain:

A. Period for Filing Petition

Petitions for exclusive representation of a particular unit may only be filed under the following conditions:

1. If a recognized employee organization wishes to become the exclusive employee organization for the unit(s) it represents, there is no time restriction on filing a petition.

2. If an employee organization wishes to petition for exclusive recognition of a unit represented by a recognized employee organization which has a current Memorandum of Understanding with the County, the petition must be filed with the Employee Relations Officer within the thirty (30) day period falling between the 120th and 90th day prior to the expiration date of the Memorandum of Understanding.

a. In the event that a Memorandum of Understanding of more than three years duration is extended beyond the date of expiration provided in the Memorandum of Understanding, a petition may be filed at any time during the extension period.

b. If the Memorandum of Understanding expires without a successor agreement, and in the absence of a mutual extension of the existing Memorandum of Understanding, a recognition petition for the unit may be filed.

3. If an employee organization wishes to petition for exclusive recognition of a unit represented by an exclusive or recognized employee organization which has no current Memorandum of Understanding with the County, it may file a petition any time subsequent to one (1) year after the date of certification of the current exclusive or recognized representative of the unit.

4. If an employee organization wishes to petition for exclusive recognition of a unit represented by an exclusive employee organization which has a current Memorandum of Understanding with the County, the petition must be filed within the thirty (30) day period falling between the 120th and 90th day prior to the expiration date of the Memorandum of Understanding, provided that the thirty (30) day period falls later than one (1) year subsequent to the certification of the current exclusive employee organization.

a. In the event that the thirty (30) day period does not fall subsequent to one (1) year later than the certification date of the current exclusive employee organization, no petition may be filed at that time.

b. A petition deemed untimely under subsection a above may be refiled:

1. within the thirty (30) day period falling between the 120th and 90th day prior to the expiration date of a subsequent Memorandum of Understanding; or

2. when the Memorandum of Understanding expires for the unit without a successor agreement; or

3. when a Memorandum of Understanding of more than three years duration is extended beyond the date of expiration provided in the Memorandum of Understanding.

B. Filing of Petition

An employee organization that seeks to be formally acknowledged as the exclusive employee organization representing the employees in a particular representation unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

1. Name and address of the employee organization.
2. Names and titles of its officers.
3. Names of employee organization representatives who are authorized to speak on behalf of the organization.
4. A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the County.
5. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner with, a local, regional, state, national or international organization and, if so, the name and address of each such other organization.
6. Certified copies of the employee organization's constitution and bylaws.
7. A designation of those persons, not exceeding two (2) in number and their addresses, to whom notice, sent by regular United States mail, will be deemed sufficient notice on the employee organization for any purpose.
8. A statement that the employee organization has no restriction on membership based on race, color, creed, sex or national origin.
9. The job classifications or titles of employees in one or more of the County's units and the number of member employees therein.
10. A statement that the employee organization has in its possession proof of employee support to establish that a majority of the employees in the unit have designated the employee organization to represent them in their employment relations with the County. Such written proof shall be submitted for confirmation to the Employee Relations Officer or designee.
11. A request that the Employee Relations Officer formally acknowledge the petitioner as the exclusive employee organization representing the employees in the unit claimed.

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

C. The Response by the County to the Petition for Recognition

1. Upon receipt of the petition, the Employee Relations Officer shall determine whether:

a. there has been compliance with the requirements for the recognition petition; and

b. the time limits have been complied with.

2. a. If an affirmative determination is made by the Employee Relations Officer on the foregoing two (2) matters, he shall so inform the petitioning employee organization, shall give written notice of such request for exclusive recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter.

b. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization, and, if such determination thereafter remains unchanged shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section IV F.

D. Open Period for Filing a Challenging Petition

1. Within thirty (30) days of the date that written notice was given to the affected employees that a valid petition has been filed, any other employee organization may file a competing request to be the exclusive employee organization of the same unit.

2. The competing organization shall file a petition which evidences proof of employee support in the unit of at least thirty percent (30%).

3. a. The petition shall be in the same form as set forth in Section IV B above and shall be reviewed by the Employee Relations Officer for compliance with Sections IV A and IV D 1 and 2 above.

b. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization, and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section IV F below.

E. Election Procedure

1. The Employee Relations Officer shall arrange for a secret ballot election to be conducted by the State Conciliation Service. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Section shall be included on the ballot.

2. The choice of "no organization" shall also be included on the ballot. Employees entitled to vote in such election shall be those persons employed within the designated representation unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the County in the same unit on the date of the election.

3. An employee organization shall be formally acknowledged as the exclusive employee organization for the designated appropriate unit following an election or runoff election if it receives a numerical majority of all valid votes cast in the election.

4. In an election involving three (3) or more choices, where none of the choices receives a majority of the valid votes cast, a runoff election shall be conducted between the two (2) choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a runoff election.

5. The Employee Relations Officer shall certify, under penalty of perjury, in writing the outcome of the election(s) to all participating employee organizations and the employees in the representation unit.

6. There shall be no election for a unit where a valid election has been held within the prior twelve (12) months.

F. Appeal Procedure

1. An employee organization aggrieved by a determination under this Section may within ten (10) days of the determination appeal by filing notice with the Employee Relations Officer requesting the Board of Supervisors to adjudicate the matter. The Board of Supervisors shall render a final decision within thirty (30) days of the filing of such appeal.

2. Any court action under this Section must be brought within ninety (90) days of the final decision of the Board of Supervisors in the matter.

G. Submission of Current Information

All changes in the information filed with the Employee Relations Officer by an employee organization shall be submitted in writing to the Employee Relations Officer within fifteen (15) days of such change.

V. RIGHTS AND RESPONSIBILITIES

A. Rights of Employees

Employees of the County shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters within the scope of representation. Employees of the County also shall have the right to refuse to join or participate in the activities of employee organizations. It shall be an additional right of the employees to represent themselves individually through a consultation process in their employee relations with the County. Neither the County nor the employee organizations shall interfere with, intimidate, restrain, coerce, or discriminate against employees because of the exercise of their rights under this Section.

B. Employee Organization Rights and Responsibilities

1. Recognized employee organizations shall have the following rights and responsibilities:

a. Reasonable advance notice of any County ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the Board.

b. Reasonable use of County bulletin boards at County work facilities.

c. The maintenance of existing dues checkoff.

d. The attendance of a reasonable number of employees at meetings involving employer- employee relations, i.e., meet and confer sessions, grievance proceedings, scheduled meetings with the County Employee Relations Officer and such other meetings mutually agreed to be in the interest of the parties.

e. The access to the membership of the organization for the purposes of ongoing communication.

f. Access to County work locations and the use of County paid time and facilities by employee organizations and those representing them shall be authorized to the extent provided for in Memoranda of Understanding and shall be limited to activities pertaining directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office or organizational meetings and elections, and shall not interfere with the efficiency, safety and security of County operations.

g. Appeals processes for disputes for which no provision has been made in this policy shall be as provided in valid Memoranda of Understanding.

2. Exclusive employee organizations shall have the following rights and responsibilities in addition to those outlined in Section V B 1 above:

a. No other employee organization, nor any agents thereof, may represent employees in a unit for which an exclusive representative has been certified.

b. The exclusive employee organization has the obligation to represent all employees in the representation unit.

c. Nothing in this policy shall be construed to abridge the right of employees to represent themselves individually through a consultation process in their employment relations with the County.

C. Rights and Responsibilities of the County

1. The rights of the County derive from the Constitution of the State of California and applicable State Codes. All rights not specifically addressed in this policy or expressly waived in a Memorandum of Understanding, are reserved to the County.

2. The express and implied powers, rights, duties and responsibilities of the County, such as the adoption of policies, rules, regulations and practices, and the use of judgement and discretion in connection therewith shall be limited only by the specific and express terms of this policy.

3. The County has and will continue to retain, whether exercised or not, the unilateral and exclusive right to operate, administer and manage its services and the work force performing these services. The exclusive rights of the County shall include, but not be limited to, the right to determine the organization of County Government and the mission of its constituent agencies; to determine the nature, quantity and quality of services to be offered to the public and to determine the means of operations, the materials and personnel to be used; to introduce new or improved methods or facilities and to change or alter personnel, level of work force, methods, means, materials and facilities; to exercise control and discretion over its organization and operation through its managerial employees; to establish and effect rules and regulations consistent with applicable law; to establish and implement standards of selecting County personnel and standards for continuing employment with the County; to direct the work force by determining the work to be performed, the personnel who shall perform the work, assigning overtime and scheduling the work; to take disciplinary action; to relieve its employees because of lack of work, funds or for other reasons; to determine whether material or services shall be made, purchased or contracted for; and to otherwise act in the best interest of efficient service to the citizens of Humboldt County.

4. The County retains its rights to take whatever actions it deems appropriate during an emergency. The determination of whether an emergency exists is solely within the discretion of the County and such determination is expressly excluded from any grievance procedure.

VI. MEETING AND CONFERRING

A. Procedure

1. Representatives of the County and a recognized or exclusive employee organization shall have the mutual obligation personally to meet and confer promptly at the request of either party, in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption of the County's final budget for the ensuing year. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

2. Meeting and conferring on a Memorandum of Understanding shall begin promptly at the request of either party prior to the adoption of the final County budget for the ensuing fiscal year or at such time provided for in an existing Memorandum of Understanding.

B. Memorandum of Understanding

1. If representatives of the County and representatives of an exclusive or recognized employee organization reach an agreement, they shall jointly prepare a written Memorandum of Understanding.

2. Such Memorandum of Understanding will not be effective until formally ratified by the Board of Supervisors.

3. In the event of a conflict between a specific provision of a current Memorandum of Understanding and a written rule, regulation, ordinance or policy of the County of Humboldt or any of its divisions, the specific terms of the Memorandum of Understanding shall prevail and said written rule, regulation, ordinance or policy shall be physically amended to conform to the specific provisions of the Memorandum of Understanding.

VII. IMPASSE PROCEDURE

In the event that a point in meeting and conferring on matters to be included in a Memorandum of Understanding is reached where differences between the parties remain so substantial and prolonged that further meeting and conferring would be futile, either party may declare an impasse.

A. Declaration of Impasse

1. The party declaring the impasse shall do so by notifying the other party in writing that: the impasse exists and shall submit a list of the matters or items which remain unresolved.

2. The Employee Relations Officer shall promptly schedule an impasse meeting to:

- a. clearly identify each issue remaining in dispute;
- b. clearly identify each party's position on each issue remaining in dispute;
- c. make a final effort to resolve the dispute; and
- d. discuss arrangements for the utilization of the impasse procedure provided herein, in the event that the final effort to resolve the dispute is unsuccessful.

B. Mediation

1. In the event that the impasse meeting is unsuccessful in arriving at an agreement, either party may request mediation by indicating its desire to do so at the impasse meeting or not later than ten (10) working days after the date of the impasse meeting.

2. Upon such notice, the parties shall jointly request the State Conciliation Service to appoint a mediator to assist them in reconciling differences and resolving the controversy in terms which are mutually acceptable.

3. The mediator will convene a meeting "forthwith" with the parties to be conducted under conditions determined by the State Conciliation Service.

4. The mediator will take such other steps as she/he deems appropriate to her/his role to persuade the parties to resolve differences and gain an acceptable and mutual agreement.

5. In the event that the mediator has not effected a settlement of the controversy within fifteen (15) working days of his appointment, either party may request factfinding.

C. Factfinding

1. Either party may request factfinding by filing such request, in writing, with the other party, any time after the fifteenth (15th) working day of mediation if such mediation is continuing or within five (5) days of the unsuccessful cessation of mediation. The use of factfinding is not limited to economic issues only.

2. Within three (3) working days after the request has been filed, each party shall select a person to serve as its member of the panel.

3. Within five (5) working days after selection of the two (2) panelists, they shall jointly select a chairperson of the panel who shall be the third (3rd) panelist. If the chairperson is not mutually agreed upon, the State Conciliation Service shall be requested

to provide seven (7) State Conciliation names. Each panelist may strike three (3) names so submitted. The panelist striking first will be determined by lot.

4. Within seven (7) working days following its appointment, the panel must meet with the parties either jointly or separately.

5. The factfinding panel shall make inquiries and investigations, hold hearings and:

a. take such other procedural steps it deems appropriate;

b. have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence; and

c. consider, weigh, and be guided by a set of criteria in arriving at their findings and recommendations. These criteria are:

1. State and Federal laws applicable to the employer.

2. Stipulations of the parties.

3. The interests and the welfare of the public as represented by County programs or policies and the financial ability of the County to implement and carry out such programs or policies as compared with the financial ability of the County to implement employee organization proposals.

4. The comparison of the wages, hours and conditions of employment of the employees involved in factfinding with others in comparable agencies and classifications. The overall compensation presently received includes direct salary, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization premiums, the continuity and stability of employment and all other benefits received, i.e., "Total Equivalent Compensation."

5. Such other facts as submitted by the parties that are normally or traditionally taken into consideration in making findings and recommendations.

6. If the dispute is not settled within fifteen (15) working days after the appointment of the panel--or upon a longer period when both parties agree-- the panel must make findings of fact and recommend settlement in terms of the last, best and final offers on individual issues. These recommendations shall be submitted in writing to the Employee Relations Officer and the employee organization.

7. Any findings of facts and recommendations shall be submitted in writing to the parties privately before they are made public.

6. The County shall make such findings and recommendations public within ten (10) days after they have been received.

D. Costs

Each party to the impasse procedure shall bear its own costs in connection therewith. Mutually incurred costs such as fees of the fact-finding panel chairperson or expenses generated by the panel shall be borne equally by the County and the employee organization.

E. Adoption of the Budget

Nothing contained herein shall be construed to prevent or delay the adoption of the final budget by the Board in accordance with the terms of Section 3505 of the Government Code.

VIII. UNFAIR LABOR PRACTICE CHARGE

A. County Unfair Labor Practices

1. It shall be an unfair labor practice for the County to:

a. interfere with, restrain or coerce employees in the exercise of the rights recognized or granted in this Resolution or valid Memorandum of Understanding;

b. dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another, provided that the County may permit the use of its facilities, make dues deductions, and permit employees who are officers or representatives of recognized or exclusive employee organizations to confer with County representatives during work hours without loss of time or pay, subject to applicable regulations;

c. refuse to meet and confer in good faith at reasonable times, places and frequencies with representatives of recognized or exclusive employee organizations subject to the specific applicable provisions of the Government Code, this policy or a valid Memorandum of Understanding;

d. refuse or fail to cooperate in the impasse procedure involved under the provisions of this Resolution;

e. deny to employee organizations, rights guaranteed by the Meyers-Milias-Brown Act.

2. It shall be an unfair labor practice for any officer of the County or any aide or administrative assistant of any officer of the County to meet and confer or consult or to

attempt to meet and confer or consult with an employee, employee organization, or an employee representative, or any person acting as an agent thereof, on matters within the scope of representation other than at a meeting duly authorized by the Employee Relations Officer or at a public meeting of the Board. It shall not, however, be an unfair labor practice for the County to distribute information on its positions in meeting and conferring to its Management or Confidential employees.

B. Employee and Employee Organizations

Unfair Labor Practices

1. It shall be an unfair labor practice for an employee, an employee organization, an employee representative, or any person acting as agent thereof to:

a. interfere with, restrain, or coerce employees in the exercise of the rights recognized or granted in this Resolution or valid Memorandum of Understanding;

b. refuse to meet and confer in good faith at reasonable times, places and frequencies with the duly authorized representative(s) of the County subject to the specific applicable provisions of a valid Memorandum of Understanding;

c. refuse or fail to cooperate in the impasse procedure involved under the provisions of this Resolution;

d. deny to the County, rights contained in the Meyers-Milias-Brown Act.

2. It shall be an unfair labor practice for any employee, an employee organization, an employee representative, or any person acting as an agent thereof, to meet and confer or consult or attempt to meet and confer or consult with any officer, aide or administrative assistant to an officer of the County on matters within the scope of representation other than at a meeting duly authorized by the Employee Relations Officer or at a public meeting of the Board.

3. The provisions of this subsection shall not apply to an employee, an employee organization, an employee representative, or any person acting as an agent thereof, who desires to communicate with the Board or appropriate officer, during the meeting and conferring process and does so in writing with the request that all members of the Board and the Employee Relations Officer be provided with copies of the communication.

C. Resolution of Unfair Labor Practice Charge

1. An employee of the County, a recognized or exclusive employee organization or the County may file an unfair labor practice charge by submitting a letter to the offending party and filing a copy of such charges with the Employee Relations Officer.

a. Such charge must be filed within thirty (30) days of the alleged unfair labor practice or within thirty (30) days of the time the charging party could reasonably be expected to have become aware of such alleged unfair labor practice.

b. The letter of charges shall include the following information:

1. The offending party or parties.
2. The nature of the unfair labor practice, in terms of standards set forth in Paragraphs A and B of this Section.
3. The time the alleged unfair labor practice took place.
4. Any supporting evidence for the charge.
5. The requested resolution of the charges.

2. Upon receipt of such charges, the Employee Relations Officer shall convene an unfair labor practice meeting of the concerned parties within seven (7) working days to resolve the charge. If the charging party should fail to attend such meeting, the charge shall be dismissed.

a. If the charge is resolved by the unfair labor practice meeting, the parties shall jointly prepare and sign a Memorandum of Understanding setting forth the terms and conditions of the settlement.

b. If the charge is unresolved by the unfair labor practice meeting, the charging party may request resolution of the charges by an appeals panel. Such request must be made in writing to the Employee Relations Officer within five (5) working days of the unfair labor practice meeting or the charge is dismissed.

3. Upon receipt of a valid request to submit the charge to an appeals panel, the Employee Relations Officer shall notify the parties to the dispute.

a. Each party shall select one member of the panel.

b. These panel members shall jointly select a chairperson of the panel. In the event that agreement cannot be reached on a chairperson, the State Conciliation Service shall be requested to submit a list of seven (7) neutrals. Such panel member selected by a party to the charge shall strike one (1) name in an order determined by lot until only one (1) name remains on the list.

4. The panel shall conduct hearings on the charge which shall be closed to the public unless any of the parties to the charge requests an open hearing.

5. The findings of the appeals panel shall be to uphold the charge in part or in whole or to dismiss the charge.

a. In the event the charge is upheld, the panel may issue binding cease and desist orders to the offending party, provided that the charges do not involve an interest dispute and may make advisory recommendations to "make whole" the offended party, provided that such recommendations do not result in an interest arbitration award.

b. The costs of the appeals panel process shall be borne by the losing party. The appeals panel shall determine the proportion of costs to be borne by each party in the event that a partial or compromise decision is rendered.

IX. MAINTENANCE OF OPERATIONS

A. The continued and uninterrupted provision of service to the public is of paramount importance. Therefore, neither an employee organization, nor any person acting in its behalf, nor any employee in a classification or position represented by the employee organization, nor any combination thereof, shall cause, authorize, engage in, encourage or sanction a work stoppage, slowdown, picketing against the County (other than informational picketing on the employee's own time), the concerted failure to report for duty, or any abstinence from the full and faithful performance of the duties of employment, including compliance with the request of another employee organization or representation unit to engage in such activity.

B. If the County determines to its satisfaction that an employee is, or has, engaged in any activity prohibited by Section IX A above, the County may withhold that employee's wages and other County paid benefits and/or take whatever action it deems appropriate.

C. If the County determines to its satisfaction that an employee organization is, or has, engaged in any activity prohibited by Section IX A above, the County may withhold dues deduction, decertify the employee organization and/or take whatever other remedial action it deems appropriate.

D. In the event of any activity prohibited by Section IX A above, an employee organization is required to exercise its full resources and abilities to ensure compliance with this policy.

X. ADMINISTRATION

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

XI. CONSTRUCTION AND SEPARABILITY

A. Construction

1. Nothing in this Resolution shall be construed to deny the Board, any person, employee, or employee organization the rights granted by Federal and State laws.

2. The rights, powers and authority of the Board and the rights of employee organizations in all matters, including the right to maintain any legal action, shall not be modified or restricted by this policy.

B. Separability

If any section or provision of this policy or any addendum or amendment thereto should be held to be invalid by operation of law or by a tribunal of competent jurisdiction, or if compliance or enforcement of any section or provision should be restrained by such tribunal or the enactment of superseding law, rule or regulation by any governmental authority other than the County, such article or provision shall be immediately suspended and be of no force and effect. Such invalidation of a part or portion of this policy shall not invalidate any remaining portions and those remaining portions shall remain in full force and effect unless those remaining portions were contingent upon the operation of the invalidated section. In the event that a part or portion of this policy is suspended pursuant to the above, the County or any recognized employee organization that is subject to the provisions of this policy has the right to initiate meet and confer on the effect of such suspension.

XII. SUPERSESSION

The policy set forth in this Resolution shall supersede existing resolutions, rules, regulations, and policies concerning employer-employee relations.

XIII. TERM OF AGREEMENT

The Employer-Employee Relations Policy is an on-going County-wide policy and does not have a termination date.



HUMBOLDT COUNTY MERIT SYSTEM RULES

ADOPTED: AUGUST 26, 1997
REVISED: January 23, 2018

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RULE I – GENERAL PROVISIONS

1. INTENT

The objectives of these rules are to implement the Humboldt County Merit System Resolution and to facilitate efficient and economical services to the public and to provide for a fair and just system of personnel management in the County government. These rules set forth policies and procedures which insure like treatment for those who present themselves for original employment, transfer or promotion, and the obligations, rights, privileges, benefits, and prohibitions which are placed on all employees in the classified service of the County. At the same time, within the limits of administrative feasibility, recognition shall be given to the fact that individuals differ, that no two individuals react alike to reward and punishment or to uniform motivation and encouragement. For this reason, considerable latitude shall be given to the Human Resources Director in the execution of the Director's duties and responsibilities relating to employee morale and discipline.

2. DISCRIMINATION

Fair and consistent treatment of applicants and employees in all aspects of human resources administration will be assured, without discrimination or disparate treatment based upon any protected category.

Prohibitions against discrimination and different/disparate treatment as outlined in the County of Humboldt Equal Employment Opportunity Policy, the Civil Rights Act of 1964 as amended (42 U.S.C. 2000e et seq.), the Rehabilitation Act of 1973 as amended (29 U.S.C 791 et seq.), the Age Discrimination in Employment Act of 1967 as amended (29 U.S.C. 621 et seq.), the Equal Pay Act of 1963 (29 U.S.C. 206 (d)(1)), Fair Employment and Housing Act, Uniform Guidelines on Employee Selection Procedures, and other relevant federal and state statutes, regulations and guidelines shall be established and enforced.

3. AMENDMENTS AND REVISION OF RULES

The Human Resources Director promulgates these Rules and may revise them as necessary provided that no revision nullifying the basic principle of a merit system shall be effective unless approved by the Board of Supervisors.

The Human Resources Director and designees bear the ultimate responsibility for the appropriateness of all actions, and authority for the content, weight, pass point, administration and modification of any and all competitive assessments in establishing the eligible list of candidates.

The Human Resources Director has authority to overrule, modify, rescind, set practices and delegate authority as necessary to ensure that the competitive assessment is job-related, assesses candidates to ensure that the most competitive are included on eligible lists, and that the process meets business needs.

Any amendment or revision to these rules which falls within the scope of representation of a recognized employee organization shall be met and conferred upon with that employee organization upon request.

RULE II – CLASSIFICATION PLAN, CLASSES AND POSITIONS

1. PREPARATION OF CLASSIFICATION PLAN

After consulting with appointing powers affected, the Human Resources Director, or designee shall prepare a classification plan for all positions in the classified service.

The classification plan shall be so developed and maintained that all positions which are substantially similar in duties, responsibilities, knowledge, abilities and authority are included within the same class and that the same salary range may be made to apply with equity, under like working conditions, to all positions in the same class.

The classification plan shall consist of a list of titles of the classes to which all positions in the classified service are to be allocated and a written specification defining each class. The class specification shall include the class title, a summary statement of duties and responsibilities, minimum or desirable qualifications for appointment and may include such other pertinent material as the Human Resources Director, or designee may deem desirable.

2. ADOPTION OF THE PLAN

Upon adoption of the initial classification plan by the Board of Supervisors, its provisions shall be observed in the handling of all personnel actions and activities and it shall be considered an administrative tool and not deemed to be a part of the rules.

3. REVISIONS TO THE CLASSIFICATION PLAN

After the adoption of the classification plan, the Human Resources Director, or designee may, after considering the interests of the employees and department heads, revise the content of the individual specifications to reflect changes in class content, changes in labor market conditions and for other valid reasons. Such revisions shall be effective upon approval by the Board of Supervisors.

4. NEED FOR CHANGE IN DUTIES AND RESPONSIBILITIES OF A POSITION

Whenever, in the opinion of an appointing power or an employee, there is a basis for a change in the allocation of a position, the Human Resources Director, or designee shall be notified.

5. REALLOCATION OF POSITIONS

If there is a change in the duties or responsibilities of a position, such position may be reallocated to a different class by the Human Resources Director, or designee after discussion with the appointing power, subject to the approval of the County Administrative Officer and the Board of Supervisors.

6. NATURE OF THE CLASS SPECIFICATION

The class specification shall be construed as being descriptive and not restrictive. Whenever a determination is to be made as to the class to which a given position is to be allocated, the specification of each class shall be considered in its entirety and in relation to other specifications in the classification plan.

7. NEW OR VACANT POSITION

Before a newly created position or a vacant position for which duties have been changed may be filled, the Human Resources Director, or designee shall, with the approval of the County Administrative Officer and the Board of Supervisors, allocate the position to the proper class.

8. EFFECT OF REALLOCATION ON EMPLOYEE STATUS

If the current duties of a position justify the reallocation of the position to a different class, and the position is reallocated pursuant to the provisions of Section 5 above, the incumbent employee shall retain the employment status which was held on the date of reallocation. If such an employee was in probationary status, then the employee shall complete the original probationary period as if there had been no change in the allocation of the position. If a position is reallocated based upon a prospective set of duties, then an appointment to the position shall be made from an appropriate employment list and the appointee shall be required to serve a probationary period prior to gaining permanent status.

RULE III – COMPENSATION AND WAGE ADMINISTRATION

1. PREPARATION OF COMPENSATION PLAN

The Human Resources Director, or designee shall prepare a compensation plan for all classes of positions in the classified service, showing in a systematic manner the minimum, intermediate, and maximum rates of pay for each class.

2. ADOPTION OF THE PLAN

After adoption of the initial compensation plan by the Board of Supervisors, no position shall be assigned a salary that is higher than the maximum or lower than the minimum provided for the class to which the position is allocated excepting Rule III, Section 5, and except as provided in Section 7 of the Salary Resolution.

3. APPOINTMENTS AND SALARIES

At the request of the appointing power, the Human Resources Director, or designee shall, with approval of the County Administrative Officer, fix the specific wage step within the applicable range at which a person is to be initially compensated.

4. PROMOTION—EFFECT UPON RATE OF COMPENSATION

An employee promoted to a position having a higher maximum rate than that of their present class shall receive the minimum wage rate for that class or the rate in the new range which is next above their present rate, whichever is greater. When the normal promotion or reclassification of an employee to a higher class would result in a wage rate increase of less than 5%, the wage rate of such employee will be adjusted to the step in the new range which is at least 5% higher than the present wage rate, or the maximum wage rate for the class, whichever is less.

5. DEMOTION—EFFECT UPON RATE OF COMPENSATION

Upon a demotion, an employee will receive a wage rate adjustment to the step in the lower range that would have been attained if the total service in both the higher and lower classes were combined and full credit given for step increases, provided that the new rate does not exceed the maximum of the new class.

Notwithstanding the foregoing, when demotion results from a downward reclassification of the employee's current position, their salary shall be retained, even though the wage rate is above the maximum of the wage range for the new class. In such a case, the employee shall not be granted step increases or wage rate adjustments until such increases are appropriate within the new wage range. If the employee's current wage rate does not exceed the wage rate in the demoted class, the employee's wage rate shall be adjusted to the equivalent wage rate in the demoted class. A demoted employee's wage rate, which is within the range of the demoted class, shall be adjusted to

the next higher step in that range at the employee's next six month or annual increase, whichever occurs first, except as provided in Section 7 of the Salary Resolution.

6. EFFECT OF LEAVE OF ABSENCE WITHOUT PAY UPON SALARY ADVANCEMENT

Except as otherwise provided by law, an employee who has taken leave of absence without pay for a total of one (1) pay period or more within a given service year, shall have their anniversary date adjusted by the time in excess of the one (1) pay period and rounded to the next nearest pay period.

RULE IV – RECRUITMENT, SELECTION AND APPOINTMENT

1. RECRUITMENT OF APPLICANTS FOR EXAMINATION

It shall be the responsibility of the Human Resources Director, or designee to publicize each examination for appointments to the classified service to the end that the best available persons shall be attracted to the service of the County. Announcements shall be posted for a minimum of five (5) working days unless the Human Resources Director, or designee determine that a shorter posting period is necessary to meet the needs of the appointing authority

A. Content of Examination Announcement

Each examination announcement shall specify the classification title, the nature of the work to be performed, the pay rate or range for the classification, the minimum or desirable qualifications, and the closing date for the filing of applications. The Human Resources Director, or designee may, in addition, add such other information as deemed advisable.

B. Application Forms

An application is considered the County's currently approved online form and any attachments. A separate application must be submitted for each examination. The application must be submitted during the announced recruitment period using the county's current application process. The application and any attachments must provide sufficient detail to allow a job-related comprehensive review and evaluation of the applicant's qualifications.

C. Applicant Notification

1. Each accepted applicant shall be informed of the exact time, place and date of any examination.
2. Applicants will be notified of their status through the examination and selection process.
3. Applicants placed on an eligibility list shall be notified of their final score group.

D. Examination Results

The Human Resources Director, or designee may accept, in lieu of an examination or part of an examination, the results of any examination administered by any recognized testing authority whether governmental, public, or private, provided further that any examination given shall be uniform for the class for which the examination is given, as determined by the Human Resources Director, or designee.

E. Disqualification

Any of the following actions or deficiencies may constitute grounds for the disqualification of an applicant.

- (1) Failure to meet the requirements prescribed for participation in the examination as announced in the announcement
- (2) Actual or attempted use of any method to obtain an advantage to which he/she is not rightfully entitled in an examination or appointment.
- (3) Obtaining unauthorized knowledge of test content, or participation in compiling, administering, scoring or correction of the exam.
- (4) False statements of material facts or attempted deception in the application or examination.
- (5) Conviction of a crime which renders the person unsuitable for a position in the class
- (6) Dismissal from prior employment for a cause rendering the applicant unfit for any position.
- (7) Use or attempted use of political pressure or bribery to secure an advantage in an examination or appointment.
- (8) Failure to file the application during the recruitment period or to complete the application in sufficient detail.
- (9) Any other action of the applicant that renders the applicant unsuitable for employment.

2. SELECTION

The selection techniques used in the employment examination processes shall be impartial, of a practical nature, and shall relate to those matters which fairly test the relative capacity of the persons examined to discharge the duties and responsibilities of the classification to which they seek to be appointed.

3. PROMOTIONAL EXAMINATIONS

Promotional examinations are open to County employees and former employees who are in layoff status (for HDSO Unit 6 this provision applies only to former employees who have been in layoff status up to one year) and who meet both of the following conditions:

- A. Each employee shall meet all of the minimum qualifications and other requirements set forth in the examination announcement or bulletin.
- B. Each employee shall have successfully completed the initial probationary period or, in the case of grant status employees, shall have served time in their position equal to a probationary period for that class.

4. EXAMINATION OF QUALIFICATIONS

All applications will be screened against the job specification to identify those candidates who meet the minimum qualifications for the position. Approved applications will be evaluated further to identify the most qualified candidate. The examination process may include one or more of the following components: application evaluation, competitive rating of the application materials, supplemental questionnaire, job-related exercise, computer skills examination or structured oral exam.

5. CERTIFICATION

Appointing powers shall fill a vacancy by selecting one of the persons from the eligibility list. Eligible candidates will be referred by banded score group and the appointing authority may consider all eligible candidates from the top score group.

If no eligible list exists for a class, or the list is exhausted as provided, the Human Resources Director, or designee, may authorize the appointing authority to make provisional appointments to that class. The provisional appointee must meet the minimum qualifications for the class. No person may serve in a provisional appointment for more than 60 calendar days after an eligible list has been established for the class, and in no event for more than six (6) months from the date of appointment unless an extension is authorized by the Board of Supervisors.

Certification shall be made from eligibility lists in the following order: layoff, promotional and open. Names of qualified eligible candidates shall not be certified from the open or promotional lists until all qualified persons for appointment on the layoff lists are certified. After certification of qualified layoff eligible candidates, the promotional list shall be used to fulfill the certification requirements. If the number of qualified promotional eligible candidates is insufficient to meet certification requirements, the open list shall be used.

A layoff list shall be established in accordance with Rule VII, Section 3.

A promotional list results from the competition of County employees in accordance with Rule IV, Section 3.

An open list results from competition other than a promotional examination. Whenever a vacant position requires that an employee be of a particular sex, or that the position has special lifting or pushing requirements, or that it requires residence in a certain locality, willingness and ability to work certain unusual hours or at a certain location, or other special qualifications, the Human Resources Director, or designee may, upon written request by the appointing authority, certify only those candidates who meet the required employment conditions.

6. ELIGIBILITY LISTS

As soon as possible after the completion of the examination process, the Human Resources Director, or designee shall prepare an eligibility list consisting of the names of persons qualifying for selection. Names shall be placed on the eligible list in order of their final rating, starting with the highest.

The Human Resources Director, or designee may merge eligible lists for a class. Names shall be placed on a merged list in order of their scores on the original lists, starting with the highest.

If an eligible list is exhausted, the Human Resources Director, or designee may certify names from an eligible list or lists for a related class.

The Human Resources Director, or designee shall advise the appointing powers as to the availability of employees for layoff and demotion, requests for transfer and reinstatement, and of eligibles on promotional or open employment lists for the class.

If it is neither possible to fill the vacancy by certification from a layoff list, nor to the County's best interest to fill it by transfer or demotion, certification shall be made from an appropriate eligible list, provided such list is available. If an appropriate list is not in effect, appointment of a provisional employee may be made.

The Human Resources Director, or designee may certify the names of employees who are in layoff status to vacant positions in any class for which they are deemed qualified, as determined by the Human Resources Director, or designee, regardless of the class of layoff. Persons reemployed as a result of this provision shall be considered to be "reinstated" as provided in Section 8 of this Rule.

The Human Resources Director, or designee may certify the names of employees who have Qualified Injured Worker status under the Workers' Compensation laws and who are therefore eligible for vocational rehabilitation benefits to vacant positions in any class for which they are deemed qualified, as determined by the Human Resources Director, or designee, regardless of the class they were in at the time of injury. Persons appointed to this section shall be required to serve a new probationary period.

Eligibility lists shall be established, merged, extended or abolished as determined by the Human Resources Director, or designee.

7. APPOINTMENT PROCEDURE

The appointing power shall make a selection from among the certified eligible candidates and shall notify the person or persons of their appointment. The appointing power shall also notify the candidates not selected. The appointing power notifies the Human Resources Director, or designee of the selection who then arranges a medical examination as required by Rule XII. The appointed candidate is only considered ready for duty after satisfactorily passing the medical examination. Those candidates not accepted, except through medical rejection, shall be returned to the appropriate eligibility list. The Human Resources Director, or designee may remove the name of an eligible candidate from the appropriate list if the eligible candidate declines three (3) offers of employment to the class for which the eligible list was established.

In an emergency situation, when it is necessary to prevent stoppage of public business, loss of life, or damage to persons or property, the County Administrative Officer may authorize an appointing power to employ such persons as may be needed for the duration of the emergency without regard to the personnel rule governing appointments and medical examinations. Such appointments shall be reported to the Human Resources Director by the first day of employment in the position.

Persons appointed pursuant to this section shall be deemed to serve under emergency appointments. Time served under such emergency appointments shall not be considered as part of a probationary period for the purposes of conferring permanent status, except as provided in Rule V.

If, upon certification, an eligible declines in writing or fails to report or communicate with an appointing power or the Human Resources Department within five (5) working days, in addition to the time required for transmission of the notice, the Human Resources Director, or designee shall certify to the appointing power the name of the person standing next highest on the appropriate list.

8. REINSTATEMENT

Any person previously employed by the County who had permanent status and left in good standing shall be eligible for reinstatement within a three year period from date of separation. Reinstatement may only be made to a position in the same class or in a lower level within the same or closely related classification series. The reinstated employee's fringe benefit accrual and seniority rights will be the same as those of a new employee; except that an employee who is reinstated and whose name is on a current layoff list may have seniority and other employment benefits reinstated, to the extent permitted by the type of appointment, as if there had been no break in service due to layoff.

Any current County employee who voluntarily demoted from a class in which permanent status had been achieved and left in good standing shall be eligible for reinstatement for a period of three years from the date of demotion.

Reinstatement may only be made to a position in the same class or lower level within the same or closely related classification series. The person requesting reinstatement must meet the minimum qualifications for the position prior to certification to the department. Names of persons requesting reinstatement will be provided to departments in addition to those names normally submitted. If the reinstatement results in:

- A. appointment to the same department, the department head may, at their discretion, require completion of a new probationary period;
- B. appointment to another department, the employee shall be required to serve a new probationary period.

A grant employee who has separated from County service due to termination of the grant or layoff may request reinstatement pursuant to this section. Such reinstatement may only be made to a position in the same class or in a lower level within the same or closely related classification series within the same department. For purposes of this section, "the same department" shall include all budget units administered by the employee's original appointing power. An employee who is reinstated shall have seniority and other employment benefits reinstated, as determined by the Human Resources Director, or designee.

9. MEDICAL REINSTATEMENT

If it is determined by the Human Resources Director, or designee, upon petition of the employee, that the employee who was medically reassigned or medically terminated, is no longer incapacitated for duty, the employee shall be reinstated to a vacant position in the class from which they were originally removed, in a comparable class, or in a lower related class in the department the employee was reassigned or terminated from.

If there is no vacant position available in the class from which the employee was originally removed, the name of the employee shall be placed upon the reemployment lists for that class as provided in Merit System Rule VII, Section H, I, and J, and said employee shall have the same status and rights as if they had been laid off from their position except that an employee returning under this provision is subject to medical examination to certify fitness to perform the required duties.

RULE V – PROBATIONARY PERIOD

1. PURPOSE OF THE PROBATIONARY PERIOD

The probationary period is regarded as a part of the examination process providing the appointing power an opportunity to observe and evaluate an employee's competence and ability to perform the assigned duties satisfactorily.

2. LENGTH OF PROBATIONARY PERIOD

Appointments made from open or promotional employment lists to regular full-time and regular part-time positions shall be subject to a probationary period. With the approval of the Human Resources Director, or designee, continuous temporary or provisional service prior to appointment shall be counted as part of the probationary period provided that the temporary or provisional service was in the same class and the same position to which the probationary appointment is made. A probationary period shall be for six (6) months for all employees except as hereinafter provided. In the case of regular part-time employees, six (6) calendar months of part-time employment shall be considered the probationary period unless extended pursuant to this Rule.

The appointing power may request an extension of the probationary period up to a total of twelve (12) months on an employee. The request shall contain the reasons and justification for the extension, duration of extension, and be accompanied by the employee's six month performance report. If approved by the Human Resources Director, the employee shall be notified in writing by the appointing power of the extension of the employee's probationary period. An employee attains permanent status unless otherwise notified prior to completion of the probationary period.

All Safety employees in the Sheriff's Department shall serve a one (1) year probationary period. Employees in the Correctional Officer class series shall serve a one (1) year probationary period. Employees appointed to positions in the Sheriff's Department communications dispatcher series shall serve a one (1) year probationary period. Employees hired in the Juvenile Corrections Officer class series after November 1, 2005, shall serve a one (1) year probationary period.

In addition to the above requirements an extension of the probationary period may only occur if the employee is given the 3 month and 6 month performance evaluations as described in subsection 5 (Probationary Performance Reports) of this Article.

3. UNSATISFACTORY PERFORMANCE DURING PROBATIONARY PERIOD

During the probationary period following initial employment, any probationary employee may be determined unsatisfactory at any time by the appointing power and separated from County service. Notification of unsatisfactory performance shall be served up to the probationer in writing and a copy filed with the Human Resources Department. The employee shall have no right to appeal such separation.

4. REJECTION OF PROBATIONER FOLLOWING PROMOTION

Any employee who fails to satisfactorily complete the probationary period following a promotion shall be reinstated to their former position. If a separation is necessary as a result of the employee's return, the layoff procedure (Rule VII, Section 3) shall be followed.

5. PROBATIONARY PERFORMANCE REPORTS

It shall be the duty of each appointing authority during the probationary period of each employee in their organization to investigate thoroughly the probationer's adjustment, performance and general acceptability to determine whether or not the probationer is fully qualified for permanent appointment. The appointing authority shall make a report on the probationer's performance and conduct at the completion of three (3) months of the probationary period and at least ten (10) working days prior to the completion of the probationary period.

Such reports shall be upon forms prescribed by and submitted to the Human Resources Department. The final probationary report on each probationary employee shall include the appointing authority's recommendation to the Human Resources Director either to retain or reject the probationer.

6. EFFECT OF LEAVES OF ABSENCE ON PROBATIONARY PERIOD

The probationary period of a given employee may be extended by the time on leave of absence during the probationary period.

RULE VI – IN-SERVICE PERSONNEL TRANSACTIONS

1. GENERAL

The purpose of this rule is to provide an orderly method of controlling and effecting the movement of personnel in the classified service.

2. PROMOTION

Insofar as practicable and consistent with the best interest of the County and the classified service as determined by the Human Resources Director, or designee, vacancies in the classified service shall be filled by promotion from among those County employees who meet the requirements for the higher class.

3. DEMOTION

An employee may be demoted to a vacant position in a lower class having similar duties, responsibilities, and requirements upon the employee's written request and the approval of the new appointing power. Such demotion shall be known as a voluntary demotion and shall be so noted on all official records.

An employee serving a probationary period may request a voluntary demotion and be demoted to a vacant position for which the employee qualifies. If the demotion results in:

- A. the employee remaining in the same department, the probationary period shall be a continuation of the probationary time spent at the higher level.
- B. an appointment to another department, the employee shall, upon request of the new appointing power, be required to serve a new, full probationary period.
- C. a return to a former class from which the employee had been promoted, the employee shall not be required to serve a new probationary period if the demotion occurs in the same department; if the demotion results in an appointment to another department, the employee shall, upon request of the new appointing power, be required to serve a new, full probationary period.

An employee with permanent status in a class may request a voluntary demotion and be demoted to a vacant position for which the employee qualifies. If the demotion results in:

- A. the employee remaining in the same department the employee shall not be required to serve a new probationary period in the next lower class.
- B. an appointment to another department, the employee shall, upon request of the new appointing power, be required to serve a new, full probationary period.

4. MEDICAL REASSIGNMENT

An employee, whose ability to perform the essential job functions of their position has been impaired, may be medically reassigned to a vacant position in a classification for which the employee is qualified and able to perform the essential functions. Reassignment should be made to an equivalent position (pay and status), if no equivalent position is vacant the reassignment may be made to a vacant position in a lower classification. Medical reassignment shall be approved by the Human Resources Director, or designee.

If there is no vacant position available in the department, the employee can request reassignment by the Human Resources Director, or designee, to a vacant position in another department for which the employee is qualified (and can perform the essential functions). Persons medically reassigned to a vacant position in the same department shall not serve a probationary period. Persons medically reassigned to a vacant position in another department shall be required to serve a probationary period.

In the event no positions are available the Human Resources Director, or designee may grant a medical leave of absence not to exceed one year. The medical leave of absence in this section is not in addition to the Medical Leave of Absence pursuant to Memoranda of Understanding between the County of Humboldt and individual employee organizations. The actual duration of the leave of absence shall depend on the nature and extent of the employee's disability. Any extensions of the medical leave of absence shall depend on the nature and extent of the employee's disability. Any extensions of the medical leave of absence within the specified one (1) year maximum shall require medical certification or verification of the employee's continued disability. Medical reassignment shall not be considered a disciplinary action, but employees demoted under this section shall be entitled to due process specified in Merit System Rule XI.

5. TRANSFER

An appointing power may transfer any employee from one position to any other position in the same class in their organization. The Human Resources Director, or designee may transfer an employee from one position to another position in the same class in a different department after notification to each party and with the consent of the receiving appointing power and the employee. Any party aggrieved by a transaction occurring pursuant to this Section may be heard, as provided in Rule VIII.

6. ANNUAL PERFORMANCE REPORT

Each supervisor shall, upon completion of proper training, annually evaluate the performance of all employees they supervise within 30 calendar days following the employees' anniversary dates on forms provided by the Human Resources Director.

Furthermore, each supervisor shall thereafter counsel the employees whom the supervisor has appraised regarding their job performance.

RULE VII – TERMINATION OF EMPLOYMENT

1. GENERAL

This rule is intended to provide an orderly method of separating employees from service with the County. Fair and objective consideration shall be given to the best interest of the affected employee as well as to the best interests of the County.

2. RESIGNATION

An employee wishing to leave the classified service in good standing shall file with their supervisor, at least two weeks before leaving the service, a written resignation stating the effective date and reasons for resigning. The resignation shall be forwarded to the Human Resources Director, or designee, with a written statement by the appointing power as to whether the employee is or is not recommended for rehire by that department.

Failure to comply with this rule shall be entered on the employee's service record and may be cause for denying future employment with the County. Any resignation without notice shall be reported in writing immediately to the Human Resources Director, or designee by the appointing power, or designee.

3. LAYOFF

A. Reduction in Force

An employee may be laid off by the appointing power for the following reasons: a shortage of work; lack of funds; material change in duties or organization; or in the interests of economy, to reduce the staff of any County function or agency. The order of separations due to reduction in force shall be based upon class, type of appointment and seniority. The appropriate recognized employee organization will be notified as soon as it becomes certain that a layoff of employees represented by that organization will occur.

B. Area of Layoff

Whenever the layoff of one or more employees shall become necessary, such layoff shall be made by class, within the same department.

C. Seniority List

The Human Resources Director, or designee shall establish seniority lists for those employees represented by the Humboldt Deputy Sheriff's Organization based upon employees' length of service in their present class. The Human Resources Director, or designee shall establish seniority lists for all other classes based upon employees' length of service with the County. Such lists shall be established on a departmental basis. For purposes of these procedures, "department" means those budget units administered by one appointing power.

- (1) Total seniority credit shall be counted from the initial date of hire under any type of appointment, as long as there has been no break in service; otherwise, total seniority credits shall be counted from the first day of employment following the last break in service.
- (2) One point of seniority credit shall be given for each qualifying month of service. For other than fulltime employees, 160 hours worked shall be equivalent to one month's service and seniority credit shall be given upon the completion of each 160 hours worked. A fulltime employee who has 15 or more calendar days of service in a calendar month shall be considered to have worked a complete month.
- (3) Authorized leaves of absence without pay of less than one year shall not be considered breaks in service, but time spent on such leaves without pay shall not count toward seniority credits.
- (4) Intermittent service under a temporary appointment shall not count toward seniority credits, except that seniority credit for those temporary employees who are working at the time of layoff shall be calculated from their last break in service.
- (5) Seniority credit for regular, part-time service shall be computed on an hourly basis from the original date of appointment.
- (6) Seniority credits for a particular class shall only include credit for service which is also included in the time period for total seniority credits.
- (7) When two or more employees have the same total seniority score, the tie shall be broken and preference given in the following sequence: employee with the greatest seniority in the class in which layoff is being made and in related higher classes; employee with the greatest seniority in the County; employee with the greatest seniority in the department of layoff; employee whose name is drawn by lot by the Human Resources Director, or designee.

D. Order of Separation in Reduction in Force

- (1) Separation of employees shall be in the order in which their names appear on the seniority list for the affected class, with those persons having the least seniority credit being the first separated, except as otherwise provided in this Section 3.
- (2) Employees in the same class shall be separated during a reduction in force, according to the type of appointment under which they serve, in the following sequence: emergency, temporary, provisional, substitute, probationary, permanent.
- (3) The layoff of employees in grant funded positions shall be guided by pertinent regulations set forth in the grant contract. For employees in Unit 6 (HDSO) if a grant contract does not provide guidelines for layoff, then grant funded employees who occupy previously allocated regular, fulltime positions shall be considered to have, for the purposes of this layoff procedure, the same appointment status as regularly funded employees as determined by their seniority in class. Any grant funded employee may be displaced by a qualified

substitute, probationary or permanent employee in the same department who is scheduled for layoff and who has a larger number of seniority credits than the grant funded employee.

E. Notice to Affected Employees

After being advised by the appointing power of the number of positions involved, the Human Resources Director, or designee shall send written notice to the last known address of each employee affected by a reduction in force by certified mail, return receipt requested, or by hand delivering such written notice, in person or through the management of the employee's department. For employees represented by AFSCME Local 1684 the Human Resources Director, or designee, shall have the option of either sending written notice to the last known address of each employee affected by a reduction in force by certified mail, return receipt requested; or by hand delivering such written notice, either in person or through the employee's department, with signed receipt requested. For employees represented by AFSCME Local 1684 such written notice shall be sent at least twenty-one (21) calendar days prior to the effective date of the action. For all other employees such notice shall be sent at least fourteen (14) calendar days prior to the effective date of the action. The notice shall be deemed to have been received one (1) working day after attempted delivery by the post office. For employees represented by AFSCME Local 1684 the mailed notice shall be deemed to have been received one working day after attempted delivery by the post office. The notice shall include the:

- (1) reason for layoff;
- (2) effective date of the action;
- (3) classes to which the employee may demote within the department;
- (4) seniority score of the employee;
- (5) location of the seniority list;
- (6) formula by which the seniority score is computed;
- (7) conditions regarding retention on and reinstatement from reemployment lists;
- (8) rules regarding waiver of reinstatement and voluntary withdrawal from the reemployment list;
- (9) any other relevant information regarding the reduction in force;
- (10) appeal rights of the employee; and
- (11) health insurance continuation information

F. Demotion in Lieu of Layoff

An employee who is laid off may demote to a lower class in the same department which has similar duties, responsibilities and requirements, as designated by the Human Resources Director, or designee, providing the total seniority credits exceed the total seniority credits of one employee in the lower class. For employees represented by AFSCME Local 1684 and HDSO (Unit 7), in the event that a regular part-time employee elects to demote to a lower class in which only fulltime employees are less senior, the regular part-time employee must accept fulltime employment in order to demote. To be considered for demotion in lieu of layoff, an employee must notify the Human Resources Director, or designee in writing of the employee's selection not later than seven (7) calendar days after receiving the notice of layoff.

G. Layoff (Reemployment) Lists—General

- (1) The Human Resources Director, or designee shall establish a layoff list for each class in which a reduction in force occurs. Such lists shall contain the names of permanent employees who were laid off or demoted in lieu of layoff from that class. For those employees represented by the Humboldt Deputy Sheriff's Organization, names shall be placed on a layoff list in order of seniority in present class, with the highest seniority being first on the list. For all other employees, names shall be placed on a layoff list in order of total seniority, with the highest seniority being first on the list.
- (2) The names on a layoff list shall be valid for three years. An employee not rehired by the end of three years shall be eligible for reinstatement through Rule IV, Section 8.

H. Department Layoff List

A layoff list shall be established for the department in which layoff occurs.

Appointments shall be made from the highest available eligible employee on the department layoff list who has expressed a willingness to accept reemployment. This list shall take precedence over the County layoff list. An employee whose name appears on a department layoff list will be allowed an unlimited number of waivers to offers of employment. The employee's name shall be removed from the layoff list and the employee's employment rights terminated, however, if the employee fails to reply to an offer of reemployment within ten calendar days after receipt of the offer or, after accepting a job offer, fails to report to work.

For employees represented by AFSCME Local 1684 the following shall apply. A layoff list shall be established for the department in which layoff occurs. Appointments shall be made from the highest eligible employee on the department layoff list. This list shall take precedence over the County layoff list. An employee whose name appears on a department layoff list will be allowed two waivers to offers of employment in a regular fulltime position.

The employee's name shall be removed from the department layoff list and employment rights from the list terminated if the employee fails to accept the third offer of reemployment in a regular full-time position within ten calendar days after receipt of the offer, or after accepting a job offer, fails to report to work.

I. County Layoff List

A layoff list shall be established on a County-wide basis. In the absence of a department layoff list, the County layoff list shall be used to fill vacancies in all County departments operating under these procedures. Individual names shall be removed from the County layoff list if the individual rejects or fails to reply to an offer for reemployment in the class within ten (10) calendar days after receipt of the offer or, after accepting a job offer, fails to report for work. An appointment from a County layoff list shall not remove a name from the department layoff list.

J. Layoff from Probationary Appointment

- (1) If an employee is laid off who is on a probationary appointment from initial County employment, the employee's name will be placed back on the eligible list from which the employee was appointed if the same list has not expired.
- (2) If an employee with permanent status is promoted and a layoff occurs during the probationary period, the employee shall be entitled to return to their former position. If a separation is necessary as a result of the employee's return, the layoff procedure shall be followed.

K. Personnel reinstated from a layoff list shall be exempt from minimum medical and age requirements.

L. Employee Appeal Rights

- (1) An employee who is laid off under this procedure shall have the right to appeal such layoff, subject to the conditions contained in this paragraph. Any appeal of a layoff shall be restricted to seniority score computation, classes to which demotion may occur, or other mechanical or procedural aspects of the layoff process, and shall not be based upon the merits of or the necessity for the layoff as determined by the Board of Supervisors or its designee.
- (2) For employees not represented by AFSCME Local 1684, in the event of a layoff under this procedure, a Layoff Appeals Committee, consisting of an equal number of representatives of County management and the appropriate employee organization, shall be formed to review and act upon appeals based upon such layoff.
- (3) All appeals pertaining to the layoff procedure shall be filed in writing with the Human Resources Director:
 - (a) In the case of appeals filed by employees represented by AFSCME Local 1684, such appeals shall be filed within ten (10) calendar days of the date of delivery or attempted delivery of the notice of layoff to the employee. The Human Resources Director shall have the discretion to partially or totally adjust the appeal in the employee's favor in lieu of initiating the Appeals Panel process in Merit System Rule XI; otherwise the Human Resources Director shall submit the appeal to the Merit System Appeals Panel as specified in Rule XI.
 - (b) In the case of appeals filed by employees not represented by AFSCME Local 1684, such appeals shall be filed within five (5) working days of the date that notice of layoff was received by the employee. The Human Resources Director shall file the appeal with the Layoff Appeals Committee within five (5) working days of the date he receives the appeal.

The decision of the Layoff Appeals Committee shall be returned to the employee in writing within ten (10) calendar days of the date the appeal is received by the Layoff

Appeals Committee. The decision of the Layoff Appeals Committee shall be final. If the Layoff Appeals Committee fails to come to a decision within ten (10) calendar days of the date the appeal is received, it shall submit a written request to the Human Resources Director, on behalf of the employee, for a hearing before the Merit System Appeals Panel pursuant to Rule XI. The time periods specified in this paragraph may be extended by an agreement of the parties to the appeal.

- (4) All appeals pertaining to the layoff procedure shall contain the following information:
- (a) the name of the employee;
 - (b) the employee's class title;
 - (c) the employee's department, division, and section;
 - (d) the employee's mailing address;
 - (e) a statement explaining the nature of the appeal;
 - (f) a proposed solution to the matter;
 - (g) the date of the execution of the appeal document; and
 - (h) the signature of the employee.

4. MEDICAL TERMINATION

Medical termination by the Human Resources Director, or designee shall be considered when an employee whose ability to perform the essential job functions has been impaired, has exhausted their accumulated benefit time, and is unable to return to their former position within one (1) year and if reassignment to another position is not practicable. An employee terminated under this provision is eligible to return to County employment under Rule IV, Section 9, MEDICAL REINSTATEMENT. Medical termination shall not be considered a disciplinary action, but employees terminated under this section shall be entitled to due process specified in Merit System Rule XI – NOTICE OF SEPARATION

Appointing powers shall notify the Human Resources Director, or designee of all separation actions before or within two (2) days after the termination has occurred unless specifically stated otherwise in this rule. Such notice shall be on forms prescribed and furnished by the Human Resources Director, or designee, and shall indicate the time and reasons for separation and whether or not the employee's services have been satisfactory.

RULE VIII – GRIEVANCE PROCEDURE

1. INTENT

The intent of this rule is to provide an employee the means to settle a grievance prior to filing an appeal for a hearing. The initiation in good faith of a grievance by an employee shall not be interpreted as reflecting unfavorably upon the relationship with the employee's supervisors, nor upon their loyalty as a County employee, nor shall it be interpreted as reflecting unfavorably upon those involved.

2. DEFINITIONS

- A. A "grievant" shall mean an employee or group of employees or the recognized employee organization filing a grievance.
- B. A "grievance" shall mean a statement by a grievant that a controversy, dispute, or disagreement of any kind or character exists arising out of or in any way involving interpretation or application of the terms of this agreement or of an existing (County and/or department) rule, policy, MOU, or practice, or that an employee has been treated unfairly or inequitably, or that there exists a condition which jeopardizes employee health and safety, which is beyond the control of the grievant.
- C. A "recognized employee organization" for purposes of this rule shall mean that organization which represents the grievant consistent with Section III, Subsection A 9 of the Employer-Employee Relations Policy. Any employee affected by a disciplinary action may utilize this procedure in addition to exercising the appeals procedure, as set forth in Rule XI. Provisions of this rule are not intended to affect the time for commencing appeals under Rule XI.

3. PROCEDURES AND STEPS

A. Step 1

Within not more than ninety calendar days following the day when the grievant knew, or the day when it is reasonable to conclude that the grievant was aware or should have been aware, of the act or condition which is the basis of the complaint, the grievant may initiate a grievance by discussing the complaint in an informal conference with the supervisor with immediate administrative responsibilities for the position to which the grievant is assigned. No additional management or supervisory employee or employee organization representative may participate in this step. Failure to attempt to resolve the grievance at this step shall constitute grounds for dismissing the grievance.

B. Step 2

If the matter is not resolved to the grievant's satisfaction at the informal conference (or within five (5) days), the grievant may, within ten (10) working days from the date of the informal

conference, present the grievance in writing to the supervisor with immediate administrative responsibility for the position to which the grievant is assigned, on a form provided by the Personnel Department. Said supervisor shall have five (5) working days to give to the grievant a written decision after receipt of the written grievance.

C. Step 3

If the grievant is not satisfied with the decision of the immediate supervisor, the grievant may, within ten (10) working days of receiving the written decision of the immediate supervisor, appeal the grievance in writing to the division administrator or next level of supervision. Said division administrator or next level supervisor shall have five (5) working days to meet with all parties to the grievance and to give a written decision after receipt of the written grievance.

D. Step 4

If the grievant is not satisfied with the decision of the division administrator or next level supervisor, the grievant may, within ten (10) working days of receiving the written decision of the division administrator or next level supervisor, appeal the grievance in writing to the department head. The affected department head shall have five (5) working days to give a written decision after receipt of the written grievance. The department head will meet with all parties to the grievance.

Prior to Step 5 and upon mutual agreement of the parties, a grievance shall be submitted to grievance mediation through the California State Mediation and Conciliation Services.

E. Step 5

If the grievance is not settled in Steps 1-4 above, the grievant and/or the employer may, within five (5) days of receiving the written decision of the department head, move the matter to appeal to the Merit System Appeals Panel as set forth in Rule XI. Neither party to this agreement shall refuse to proceed to the appeal procedure upon the grounds that the matter in question is not appealable. If the question of appealability is raised by either party, such question shall be determined in the first instance by the Appeals Panel. The Panel's award is final and binding upon the parties.

5. EMPLOYEE ORGANIZATION REPRESENTATION

All employees shall have the right of employee organization representation at each step of the grievance procedure except Step 1 and shall not be required to be present at any step other than Step 1.

Any individual employee or group of employees shall have the right at any time to present grievances to their employer and to have such grievances adjusted, without the intervention of the employee organization as long as the adjustment is not inconsistent with the terms of any agreement, and the employee organization has been given the opportunity to be present and make

statements at such adjustment. Copies of employer decisions given at any step of the grievance procedure in any grievance whatsoever shall be promptly delivered to the employee organization.

6. NO REPRISALS

No reprisals whatsoever shall be invoked against any employee for processing a grievance or participating in any way in the grievance procedure.

7. RELEASE TIME

Paid release time shall be provided when requested for all participants in the investigating and processing of grievances, including the grievant, employee organization representatives, and witnesses.

8. TIME FRAMES

Failure by grievant to comply with any of the time limit requirements specified in Steps 1-5 herein shall bar the grievant from proceeding to the next step, and the grievance shall be dismissed. Failure by employer representatives to comply with any of the time limit requirements specified in Steps 2-4 shall allow the grievant to proceed to the next step in the process.

9. EXTENSION OF TIME LIMITS

Any of the time limits related to grievant or employer representative actions or responses specified herein may be extended by mutual consent of the parties.

RULE IX – RIGHTS DISPUTE RESOLUTION

1. PURPOSES

The purposes of this rule are to:

- A. provide measures to protect the rights of the County, the rights of recognized employee organizations, and the rights of the individual County employee in the matters of employer-employee relations; and
- B. resolve disputes, contests and controversies between and among parties; and
- C. avoid costly and time consuming court actions by providing the remedies herein specified.

2. DEFINITIONS

As used in this rule:

“County” means the Board of Supervisors, its agents, committees, commissions, and designated management and confidential employees and officers.

“Recognized employee organization” means an employee organization which has been formally acknowledged and recognized by the Board of Supervisors as the organization that represents employees of the County.

“Individual employee” means any County employee who has chosen, under Section 3502 of the Government Code, to represent themselves individually in employment relations with the County.

3. DEFINITION: RIGHTS DISPUTE

As used in this rule, a “rights dispute” means a controversy over any charge of an alleged violation or contested matter relating to the rights of the parties. Allegations or contested matters subject to this rule shall include, but not be limited to:

- A. Unfair labor practices.
- B. Refusal to, or failure to, meet and confer in good faith.
- C. Specifically, matters contested by the parties relating to interpretation of “scope of representation” (wages, hours, and other terms and conditions of employment).
- D. Misinterpretation or misapplication of the County’s rights as set forth in the Meyers-Milias-Brown Act, policies, rules, regulations, ordinances, procedures, and memoranda of understanding.

- E. Misinterpretation or misapplication of the employee organization's rights as set forth in the Meyers-Milias-Brown Act, policies, rules, regulations, ordinances, procedures, and memoranda of understanding.
- F. Misinterpretation or misapplication of the individual County employee's rights as set forth in the Meyers-Milias-Brown Act, policies, rules, regulations, ordinances, procedures, and memoranda of understanding.

Disputes to be resolved through this rule are reserved specifically to those set forth above and do not include grievances, disciplinary matters or application of layoff procedures; and this rule shall not supersede, nor influence, nor be influenced by, the provisions for resolving such disputes.

4. PROCEDURES: INFORMAL RESOLUTION

The parties shall first attempt to resolve a rights dispute informally. The party charging the alleged violation or contesting a matter shall notify the other party in writing. Such written notice shall provide information of the charge and shall, in addition, include, but not be limited to:

- A. a description of the alleged violation or contested matter;
- B. the date(s) of the occurrence;
- C. the names of the persons directly involved; and
- D. the names of witnesses, if any.

Within five (5) working days after notification, an informal meeting shall be held for the purpose of resolving the dispute. The charging party shall be the moving party relative to calling the meeting.

If resolved at the informal stage, the parties shall jointly prepare and sign a memorandum setting forth the terms and conditions of the settlement. Failure to comply with the provisions of the informal resolution stage shall constitute grounds for dismissing the dispute.

5. FORMAL RESOLUTION

The failure to sign a memorandum setting forth the terms and conditions of the settlement moves the dispute to the appeals procedure as provided in Rule XI. The original charging party shall be the moving party (appellant) to prepare the notice of appeal.

RULE X – DISCIPLINARY ACTIONS

1. BASIS FOR DISMISSAL, SUSPENSION, AND REDUCTION IN RANK OR COMPENSATION

The tenure of every employee holding a probationary or permanent appointment in the classified service shall be during good behavior and fit and efficient service. Any employee may be discharged, suspended or reduced in rank or compensation for good cause including, but not limited to, the following:

- A. Discourteous treatment of the public or fellow employees while on duty.
- B. Incompetence or inefficiency.
- C. Insubordination or willful disobedience.
- D. Inexcusable neglect of duty.
- E. Fraud in securing appointment.
- F. Mental or physical incapacity.
- G. Abuse, damage to or waste of public equipment, property or supplies due to gross negligence or willful acts.
- H. Drunkenness on duty.
- I. Unauthorized absence from duty.
- J. Falsification of any records.
- K. Conviction of a crime, the nature of which has a direct bearing on continued employment.
- L. Any other failure of good behavior which has been demonstrated to have impaired the effectiveness of the employee in rendering services to the County.

2. PROCEDURE

All disciplinary actions are to be preceded by an explicit verbal and/or written warning depending on the severity of the offense unless the circumstances clearly preclude such warning. The employee is to be informed as to the reason for the warning and the necessary corrective action.

The County and the Union recognize the right of an employee to have a representative of that employee's choice present during an investigatory interview called by a supervisor, when the employee reasonably believes that disciplinary action might result. The obligation is on the employee to request the presence of a representative at the investigatory interview. The County does not have an obligation to inform the employee of this right.

Written warning shall indicate that further action will be taken if the causes are not corrected.

Any offense warranting dismissal, suspension without pay, demotion, or reduction in compensation is to be cleared through the Personnel Department prior to any final action taken to insure conformity with rules and procedures.

Any proposed disciplinary action which may result in dismissal, suspension without pay, demotion, or reduction in compensation shall be set forth in writing to the employee at least five (5) working days before the proposed effective date of the action stating:

- A. a description of the proposed action and its effective date or dates;
- B. a clear and concise statement of the acts or omissions upon which the proposed action is based;
- C. a statement that a copy of the materials upon which the action is based are attached or available for inspection upon request; and
- D. a statement advising the employee of the right to respond, either verbally or in writing, to the appointing power proposing the action before the effective date.

Disciplinary action resulting in dismissal, suspension without pay, demotion, or reduction in compensation shall be set forth in writing to the employee within five (5) working days after such action stating:

- A. a description of the action taken and its effective date or dates;
- B. a clear and concise statement of the acts or omissions upon which the action was based;
- C. a statement advising the employee of the right to appeal and the time within which the employee must file the appeal per Rule XI. A copy of the foregoing written notification shall be sent to the Personnel Department at the same time as to the employee. This procedure does not apply to voluntary reductions in rank or compensation.

3. DEMOTION

The appointing power may demote an employee to a vacant position in a lower classification or reclassify an employee's position downward if such employee's performance does not meet required standards. The Human Resources Director, or designee shall determine the appropriate classification. Such action may only occur within the demoting department. The appointing power shall follow the procedures outlined in Section 2 of this Rule to effect the demotion.

RULE XI – APPEALS PROCEDURE

1. PURPOSE

It is the purpose of this rule to provide a fair and orderly process by which appeals as specified in Rule VII, Section 3 (“LAYOFF”), Rule VIII (“GRIEVANCES”), Rule IX (“RIGHTS DISPUTES”), and Rule X (“DISCIPLINARY ACTIONS”) are to be administered.

All remedies for resolving grievances, disputes and contested matters prior to appeal shall be exhausted before appealing under this rule. Failure to exhaust such remedies shall constitute grounds for waiving the rights to appeal.

The Merit System Appeals Panel as constituted under this rule shall serve as the body charged with, and responsible for, hearing such appeals as are provided under these rules.

2. COMPOSITION OF MERIT SYSTEM APPEALS PANEL

The Merit System Appeals Panel shall be created to hear and decide on appeals involving: layoff as defined under Rule VII, grievances as defined under Rule VIII, rights disputes as defined under Rule IX, and disciplinary actions as described under Rule X of these rules.

The Merit System Appeals Panel shall not serve to resolve impasse conditions resulting from interest disputes as described and defined in the Humboldt County Employer-Employee Relations Policy.

The Panel shall consist of three (3) members and shall be created in the following manner: one (1) member selected by the employer (Board of Supervisors); one (1) member selected by the employee or his/her employee organization; and the third member, who shall serve as chairperson, selected by the other two members. In the event agreement cannot be reached on the selection of the third member (chairperson), the other two members shall, within five (5) working days, formally and jointly request a list of five (5) neutrals from the State Conciliation Service.

Within five (5) working days after receiving the list of neutrals, the parties shall select a name from the list and shall notify the State Conciliation Service of the name of the selected chairperson. If the parties are unable to agree on a name, the chairperson shall be selected by alternately striking a name from the list with the first option to strike determined by lot.

Any costs of the service of the chairperson shall be shared equally by the parties.

3. NOTICE OF APPEAL AND INITIAL MEETING

Notice of appeal to the Merit System Appeals Panel shall be made in writing to the Human Resources Director by the appellant or the appellant’s authorized designated representative. Such written notice shall be limited to the following:

A. Layoff Appeals

Submitted by the Layoff Appeals Committee on behalf of the employee when it fails to come to a decision within ten (10) calendar days of the date the appeal is received (Rule VII, Section 3 M). For employees represented by AFSCME Local 1684 the following shall apply: Submitted by the employee to the Human Resources Director, or designee within ten (10) calendar days of the date of delivery or attempted delivery of the notice of layoff (Rule VII, Section 3 M).

B. Grievance Appeals

Submitted by the grievant within five (5) working days after receiving the answer from the department head (Rule VIII, Section 3 E).

C. Rights Dispute Appeals

Submitted by the appellant within five (5) working days after the failure to sign a memorandum of settlement (Rule IX, Section 5).

D. Disciplinary Appeals

Submitted by the employee within five (5) working days after receiving the written order from the appointing authority (Rule X, Section 2). Failure to comply with the above notice requirements shall constitute grounds for waiving the rights to appeal. Upon receipt of a written notice of appeal, the Human Resources Director shall check it as to form.

The written notice shall include the section of the rules under which the appeal is made and shall have as attachments any and all information developed during the pre-appeal stages.

After checking the notice as to form, and within five (5) working days of receipt of the notice, the Human Resources Director shall notify the Board of Supervisors, the employee, or employee organization for the purpose of receiving from the parties the two (2) names selected to serve on the Appeals Panel. The two (2) persons so selected shall meet within five (5) working days after their selection for the purpose of selecting the chairperson as provided under Section 2.

4. POWERS AND DUTIES OF THE PANEL

Unless extended by mutual agreement of the parties, or by direction of the chairperson, the Merit System Appeals Panel shall commence its hearing at the earliest opportunity after the selection of the chairperson. When an appeal has been received, the Panel shall, through the direction of its chairperson, be fully authorized and empowered to grant or refuse extensions of time, to set such proceeding for hearing, and to perform any and all other acts in connection with such proceedings that may be authorized by law or these rules.

The Panel may compel by subpoena witnesses to appear at the hearings as provided in Section 25170 of the Government Code.

The matters which the Panel shall consider, weigh and be guided by shall include, but not be limited to, the following:

- A. The State and Federal laws applicable to the parties.
- B. The stipulations of the parties.
- C. The interests and welfare of the public.
- D. Such other facts and information normally or traditionally taken into consideration in making findings and decisions.

5. EVIDENCE SUBMITTED IN HEARING

Oral evidence shall be taken only on oath or affirmation. Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issue, even though the matter was not covered in the direct examination; to impeach any witnesses; and to rebut evidence. If the appellant does not testify in their own behalf, they may be called and examined as if under cross-examination. The hearing need not be conducted according to technical rules of evidence. Any relevant evidence may be admitted if it is the sort of evidence upon 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. Irrelevant and unduly repetitious evidence may be excluded.

6. RIGHT OF REPRESENTATION

Either party may be represented by counsel or other representation at the hearing.

7. REPORTING AND RECORDS

All appeals proceedings shall be recorded. Recordings and records of appeal proceedings shall be maintained within the Human Resources Department for a period of two (2) years after the final decision is rendered by the panel. Either party may request a stenographic reporter to record the proceedings. The cost of the stenographic reporter shall be at the expense of the requesting party. Requests to arrange for a stenographic reporter shall be given by written notice to the Human Resources Director five (5) days prior to the hearing and shall be accompanied by a sufficient fee to pay the costs of the stenographic reporter. In the event a transcript is requested by either party to a proceeding, the original and one (1) copy thereof shall be filed with the Human Resources Director within thirty (30) days following the date of the final decision of the Panel.

8. HEARINGS

All hearings shall be closed to the public, except upon request of the aggrieved party for an open hearing.

At the request of either party, and in the sound discretion of the Panel, witnesses who have not testified may be excluded from the hearing room until such time as they are called to testify.

9. FINDINGS, DECISIONS AND ORDERS

Following the hearing the Panel shall consider the evidence presented and shall make written findings of fact regarding the appeal. The Panel shall further prepare a written decision stating the appropriate action to be taken. Copies of the decision shall be sent to the Human Resources Director, who shall distribute them to all essential parties in the appeal.

The decisions of the Panel shall be final and binding on all parties, except for parties also covered under Local Agency Personnel System regulations, and shall be a matter of public record.

This final and binding administrative appeals procedure must be utilized in its entirety prior to filing any other actions.

Any court action brought by either party must be brought within ninety (90) days of the final decision of the Panel in the matter.

10. HEARING OFFICER OPTION

Upon mutual agreement of the appeal panel member selected by the employer and the appeal panel member selected by the employee or employee organization, the Chairperson of the Merit System Appeals Panel may sit as a hearing officer to make a decision on the issue(s) at hand. The hearing officer shall conduct the hearing and make a decision on the issue(s) in accordance with the procedures set forth in this Rule. The decision of the hearing officer shall be made in lieu of the decision of the Appeals Panel referenced in Section 9 of this Rule.

RULE XII – MEDICAL EXAMINATION

1. PURPOSE

The purpose of conducting medical examinations is to maintain a health program calculated to improve the efficiency, morale and safety of County employees.

2. MEDICAL EXAMINATIONS

- A. With the exception of elected and appointed officials, physicians, and attorneys, the medical history of employees shall be evaluated by a licensed health professional approved by the Human Resources Director prior to their initial appointment. Such evaluation shall include a physical examination if it has been determined by the Human Resources Director, or designee that the nature of the duties to be performed warrants such examination.
- B. Statements submitted by approved licensed health professionals shall certify that:
 - (1) the candidate has the health and physical qualifications for the position; and
 - (2) any physical incapacities the candidate may have are not such that his job performance will be below the accepted level for the position or constitute a danger to himself or others.
- C. The detailed medical history and record of physical examination shall be confidential and kept in the Human Resources Department.
- D. Persons presently employed who are to be appointed to a classification which has more demanding physical requirements than the position presently held may be required to undergo a physical examination prior to appointment, as determined by the Human Resources Director. If a temporary employee is reemployed, the necessity for a physical examination shall be determined by the Human Resources Director. Emergency appointments shall not require medical history evaluations or physical examinations.
- E. If reasonable cause exists the Human Resources Director, or designee may require an employee to submit to a medical examination by a medical professional designated by the County to evaluate the capacity of the employee to perform the work of the position. The County shall pay for such medical examination(s) specifically required by the Human Resources Director, or designee.
- F. In any examination when a condition is found that affects the ability of the employee to provide fit and efficient service in the position that the employee holds, it will be the responsibility of the employee to correct the condition if possible or to accept whatever action may be taken by the appointing power.

The employee, therefore, shall be responsible for the costs incurred for any follow-up medical care to correct the condition.

- G. In any examination when an employee is found to have a condition that may reasonably be expected to be a direct threat to his fellow employees or the public, it will be the responsibility of the appointing authority and the Human Resources Director, or designee to take such action as necessary to assure the safety of the employee, other employees, and the public.

3. RETURN-TO-WORK EXAMINATIONS

Employees who have been on leaves of absence for medical reasons shall be required by the Human Resources Director, or designee to submit a statement from their attending physician indicating the ability of the employee to resume normal duties and shall include any specific limitations the employee may have in performing the duties. If the statement modifies the working ability, it shall indicate a time when the employee may resume full duties.

RULE XIII – REPORTS AND RECORDS

1. MASTER EMPLOYMENT RECORDS

The Human Resources Director, or designee shall maintain, or cause to be maintained, a record for each employee in the service of the County, showing the name, title or position held, the department to which assigned, salary received, changes in employment status and such other information as may be considered pertinent, and this information shall be available to the individual employee.

2. CHANGE OF STATUS REPORTS

Every appointment, transfer, promotion, demotion, change of salary rate and any other temporary or permanent change in status of an employee shall be reported to and approved by the Human Resources Director in such a manner as the Director shall prescribe.