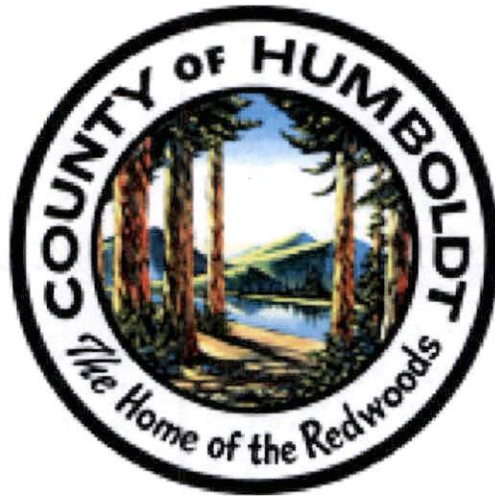


Appendix E



HUMBOLDT COUNTY MERIT SYSTEM RULES

ADOPTED: AUGUST 26, 1997
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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.