

# ***COUNTY OF SAN DIEGO***

## ***Civil Service Rules***

**RULES FOR THE CLASSIFIED SERVICE**

**ADOPTED BY THE BOARD OF SUPERVISORS**

**PURSUANT TO SECTIONS 501.6 AND 910**

**OF THE CHARTER OF THE COUNTY OF SAN DIEGO**



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**DEPARTMENT OF HUMAN RESOURCES**

# THE CIVIL SERVICE RULES

## TABLE OF CONTENTS

PAGE

### RULE I - CIVIL SERVICE COMMISSION 1

#### PART I - CIVIL SERVICE COMMISSION

##### Section

- 1.1.1 Duties and Powers of the Civil Service Commission
- 1.1.2 Organization of the Commission
- 1.1.3 Officers of the Commission
- 1.1.4 Absence of President and Vice President
- 1.1.5 Quorum
- 1.1.6 Minutes of Meeting
- 1.1.7 Communications
- 1.1.8 Meetings of the Commission
- 1.1.9 Place of Meeting
- 1.1.10 Regular Meetings
- 1.1.11 Special Meetings
- 1.1.12 Rules of Order
- 1.1.13 Suspension of Rules of Order
- 1.1.14 Amendments
- 1.1.15 Regulations

#### PART 2 - PERSONNEL ORGANIZATION (REPEALED)

### RULE II - APPLICATIONS 5

##### Section

- 2.1.1 Filing of Application
- 2.1.2 Additions and Corrections to Application on File
- 2.1.3 One Application
- 2.1.4 Applications not to be Returned
- 2.1.5 Age
- 2.1.6 Disqualification, Removal or Inactivation from Employment List
- 2.1.7 Petitions and Appeals of Disqualification and Removal

### RULE III - EXAMINATIONS AND EMPLOYMENT LISTS 7

#### PART I - EXAMINATIONS

##### Section

- 3.1 Responsibility for Examinations
  - 3.1.1 Notice of Examinations
  - 3.1.2 Series Examinations - Continuous Testing
  - 3.1.3 Change to Examination
  - 3.1.4 Competition

- 3.1.5 Special Examination
- 3.1.6 Special Examiners
- 3.1.7 Examination Content
- 3.1.8 Retake of Tests
- 3.1.9 Examination Scores
- 3.1.10 Scores
- 3.1.11 Review of Written Test
- 3.1.12 Objections to other Parts of Examination - Time Periods
- 3.1.13 Investigation of Objections to Examinations
- 3.1.14 Preferential Credits for Military Service
- 3.1.15 Preferential Credit for Veteran's Spouse
- 3.1.16 Credit for Military Disability
- 3.1.17 Eligibility Deadline
- 3.1.18 Temporary Suspension of Competitive Examination

## PART 2 - EMPLOYMENT LISTS

### Section

- 3.2.1 Employment Lists - Types
- 3.2.2 Reinstatement Lists
- 3.2.3 Regular List
- 3.2.4 Seasonal Lists
- 3.2.5 Reemployment Lists
- 3.2.6 Transfer Lists

## RULE IV - CERTIFICATION AND APPOINTMENTS

14

### PART I - CERTIFICATION

#### Section

- 4.1.1 Filling Vacancies
- 4.1.2 Certification from Employment Lists
- 4.1.3 Multiple Vacancies - Same Class
- 4.1.4 Result of Certification
- 4.1.5 Supplemental Certification
- 4.1.6 Changes to Personnel Requisitions after Certification

### PART 2 - APPOINTMENT

#### Section

- 4.2.1 Conditions of Appointment
- 4.2.2 Medical/Psychological Examination
- 4.2.3 Appointments
- 4.2.4 Permanent Appointments
- 4.2.5 Probationary Period for Permanent Appointments in the  
Classified Service
- 4.2.6 Certified Temporary Appointments

- 4.2.7 Provisional Temporary Appointments
- 4.2.8 Emergency Temporary Appointments
- 4.2.9 Change of Certified Temporary Appointment to Permanent
- 4.2.10 Required Separation Between Temporary Appointments

RULE V - EMPLOYEE PERFORMANCE APPRAISALS

22

Section

- 5.1.1 Purpose
- 5.1.2 Appraisals
- 5.1.3 Appraisal Cycle
- 5.1.4 Appraisals on Terminating Employees
- 5.1.5 Issuing and Filing Appraisals
- 5.1.6 Employee Appeal to the Department
- 5.1.7 Investigation and Sealing of Appraisals
- 5.1.8 Changes to Appraisals

RULE VI - DISCRIMINATION COMPLAINTS

25

Section

- 6.1.1 Implementation of Nondiscrimination Policy of the County Charter
- 6.1.2 Receipt of Complaint
- 6.1.3 Investigation and Hearing
- 6.1.4 Issuance of Temporary Orders
- 6.1.5 Determination to Conduct Hearing
- 6.1.6 Answer
- 6.1.7 Failure to Answer
- 6.1.8 Conduct of Hearing
- 6.1.9 Subpoenas
- 6.1.10 Inspection of Documents and Interview of Employees
- 6.1.11 Examination of Complainant, Respondent and Other Persons
- 6.1.12 Failure to Appear
- 6.1.13 Findings and Decision

RULE VII - DISCIPLINE

28

Section

- 7.1 Classified Service
- 7.1.1 Executive Service
- 7.2 Cause for Disciplinary Action
- 7.2.1 Notice of Proposed Action
- 7.3 Notice Given
- 7.4 Appeal and Answer
- 7.5 Service of Appeal and Answer on Appointing Authority
- 7.6 Time for Hearing
- 7.7 Conduct of Hearing
- 7.7.1 Subpoenas

7.7.2	Inspection of Documents and Interview of Employees	
7.7.3	Amendment of Charges	
7.7.4	Examination of Employee and Other Persons	
7.7.5	Failure to Appear	
7.8	Failure to Answer	
7.9	Maximum Period of Suspension	
7.10	Charges by Citizen	
7.11	Finding and Decision	
7.12	Record Filed	
7.13	Time Limits for Judicial Review	
 RULE VIII - CONFLICTS OF INTEREST		37
 Section		
8.1	Outside Employment	
8.2	Contracts with Employees	
 RULE IX - LEAVES OF ABSENCE		38
 Section		
9.2.4	Resignation upon Failure to Return After Leave	
9.9.1	Leaves	
 RULE X - PERSONNEL SELECTION PROCESS APPEALS		39
 Section		
10.1	Right of Appeal	
10.2	Request for Hearing	
10.3	Staff Review	
10.4	Action on Appeal for Hearing	
10.5	Time for Hearing	
10.6	Conduct of Hearing	
10.7	Findings and Decision	
10.8	Record Filed	
 RULE XI - INVESTIGATIONS		41
 Section		
11.1	Investigative Powers of the Commission	
11.2	Legal Action	
11.3	Procedures	
11.4	Finding and Proposed Decision	
11.5	Enforcement	
11.6	Remedy	

RULE XII - POSITION CLASSIFICATION

42

Section

- 12.1 Purpose
- 12.2 Responsibility for Classification of Positions
- 12.3 Conduct of Classification Reviews
- 12.4 Responsibility for Assignment of Work
- 12.5 Employee Request for Classification Review
- 12.6 Employee Request for Civil Service Commission Review

RULE XIII - RULES AND REGULATIONS (REPEALED)

45

RULE XIV - LAYOFF, REINSTATEMENT, RESIGNATION  
AND SEPARATION

46

PART I - LAYOFF AND REINSTATEMENT

Section

- 14.1.1 Layoff and Reinstatement
- 14.1.2 Exceptions
- 14.1.3 Notice of Layoff
- 14.1.4 Approval and Service of Notice
- 14.1.5 Order of Layoff
- 14.1.6 Seniority
- 14.1.7 Calculation of Layoff Rating
- 14.1.8 Demotion in Lieu of Layoff
- 14.1.9 Cash in Lieu of Compensatory Time Off
- 14.1.10 Eligibility to be Placed on Reinstatement List After Layoff
- 14.1.11 Eligibility to be Placed on Reinstatement List After Demotion or  
Disability Retirement
- 14.1.12 Eligibility to be Placed on Reemployment List After Layoff

PART 2 - RESIGNATION

Section

- 14.2.1 Resignation
- 14.2.2 Resignation upon Absence without Leave
- 14.2.3 Resignation upon Failure to Return After Leave

PART 3 - SEPARATION

Section

- 14.3.1 Separation after Transfer or Promotion
- 14.3.2 (Repealed)
- 14.3.3 (Repealed)
- 14.3.4 (Repealed)
- 14.3.5 (Repealed)
- 14.3.6 (Repealed)
- 14.3.7 (Repealed)
- 14.3.8 (Repealed)

RULE XV – APPEAL OF CLERB “SUSTAINED” FINDINGS

56

Section

- 15.1.1 Peace Officers’ Administrative Appeal to Civil Service Commission  
from adverse Citizens’ Law Enforcement Review Board  
(CLERB) Finding
- 15.1.2 Hearing Assignment
- 15.1.3 Written Statement
- 15.1.4 Right to Review File
- 15.1.5 Subpoenas
- 15.1.6 Closed Hearing
- 15.1.7 Burden of Proof
- 15.1.8 Failure to Appear
- 15.1.9 Administrative Appeal Rights
- 15.1.10 Self Incrimination
- 15.1.11 Evidence and Witnesses
- 15.1.12 Findings

RULE XVI - COMPULSORY RETIREMENT (REPEALED)

58

RULE XVII - GLOSSARY

59

Section

- 17.1.1 Definitions

## RULE I

### CIVIL SERVICE COMMISSION

#### PART I - CIVIL SERVICE COMMISSION

##### SECTION 1.1.1 DUTIES AND POWERS OF THE CIVIL SERVICE COMMISSION

The duties and powers of the Commission shall be those prescribed by law and these rules.

General duties of the Commission, as prescribed in the County Charter, are to:

- (a) Protect the merit basis of the personnel system through its appellate authority, investigative powers, review and approval of the Civil Service Rules, and contract approval.
- (b) Be the administrative appeals body for the County in personnel matters authorized by the County Charter. Said appellate authority includes appeals from actions involving:
  - (1) discipline of classified employees with permanent status;
  - (2) the selection process;
  - (3) complaints of discrimination in personnel matters based on non-job-related factors;
  - (4) charges filed by a citizen against a person in the classified service, in accordance with the Civil Service Rules;
  - (5) such other matters as are provided for in the Civil Service Rules.
- (c) Review proposed Rules and approve Rules for the Classified and Executive Services pursuant to Section 910 of the County Charter.
- (d) Establish written procedures to govern the conduct of the Commission's duties.
- (e) Advise the Director, the Chief Administrative Officer, and the Board on matters concerning personnel policies and the administration of the personnel system. (Amended 8-20-96)
- (f) Appoint one of its members a hearing officer, or board to hear appeals and submit findings and a proposed decision to the Commission for its review and action.
- (g) Appoint an Executive Officer who shall be in the Unclassified Service and such other staff as necessary and authorized by the Board in the Classified Service. (Amended 11-24-81)

The Charter gives the Commission the power to:

- (a) Investigate, either as a group or as individuals, the conduct and operations of all departments;
- (b) Administer oaths;
- (c) Subpoena witnesses and materials;
- (d) Make any necessary orders, in conjunction with any investigation, including but not limited to, back pay and classification adjustments, to carry out the provisions of the Charter and the Civil Service Rules.
- (e) Take legal action, as provided by general law for Boards of Supervisors. Individuals failing to comply with its subpoena or refusing to testify, shall be considered in contempt. (Amended 11-24-81)
- (f) Upon appeal, to affirm, revoke, or modify any disciplinary order, including increasing or decreasing the discipline imposed, and may make any appropriate orders in connection with appeals under its jurisdiction. The Commission's decisions shall be final, and shall be followed by the County unless overturned by the courts on appeals.

#### SECTION 1.1.2 ORGANIZATION OF THE COMMISSION

The Civil Service Commission consists of five persons appointed by the Board. Each Commissioner shall be an elector of the County.

Each Commissioner serves a six-year term beginning and ending at noon on the first Monday after January first and continues to serve until the appointment and qualification of a successor. No more than one Commissioner's term may expire in the same year. A Commissioner is limited to one full six-year term.

A Commissioner may be removed by a majority vote of the Board if the Board serves the Commissioner a written statement containing the reasons for removal, records the statement in its minutes, and allows the Commissioner the opportunity to be heard publicly.

A vacancy on the Commission shall be filled within 45 days of its occurrence by the Board for the unexpired term.

#### SECTION 1.1.3 OFFICERS OF THE COMMISSION

At the first meeting in January of each year, the Commission shall elect one member to act as President and one member to act as Vice President. Terms shall be for one year each, or until a successor or successors are elected to fill an unexpired term at the next regular meeting of the Commission. Officers shall not be elected to replace themselves.

#### SECTION 1.1.4 ABSENCE OF PRESIDENT AND VICE PRESIDENT

During the absence of the President and Vice President, a temporary chairperson may be elected to have all the powers of the President.

#### SECTION 1.1.5 QUORUM

Three Commission members shall comprise a quorum to transact business at any meeting.

#### SECTION 1.1.6 MINUTES OF MEETING

The minutes of the proceedings of the Commission shall be prepared and maintained by the Executive Officer on behalf of, and subject to the approval of the Commission. The following shall be recorded in the minutes: (a) the time and place of the meeting, (b) the names of the Commissioners present, (c) all official acts of the Commission, and the votes given by Commissioners, except when the action is unanimous, (d) a Commissioner's dissent with supporting reasons, when requested.

The minutes, or a true copy thereof, may be examined by interested parties at times and conditions prescribed by the Executive Officer.

#### SECTION 1.1.7 COMMUNICATIONS

Communications and requests to the Commission shall be made in writing and the substance of such request and the action taken by the Commission recorded in the minutes.

#### SECTION 1.1.8 MEETINGS OF THE COMMISSION

The Commission may convene the following types of meetings:

- (a) Regular Meetings
- (b) Special Meetings

All meetings of the Commission shall be open to the public.

#### SECTION 1.1.9 PLACE OF MEETING

The place of the regular meetings shall be in Room 358 at 1600 Pacific Highway, San Diego.

#### SECTION 1.1.10 REGULAR MEETINGS

Regular meetings of the Commission shall be held at 1:30 p.m., on the first and third Wednesday of every month. If the Wednesday is a holiday, the Commission meeting will be held the following day. Immediately on commencement of the regular meeting at 1:30 p.m., the Commission shall hold a closed session to discuss security, personnel and legal matters as specified in the Ralph M. Brown Act. (Amended 9-27-05)

In the event that there are no matters requiring a closed session, the meeting will be adjourned by the Commission, any member or members of the Commission, or the Executive Officer until 2:30 p.m. At 2:30 p.m., or as soon thereafter as the consideration of the matters permit, the Commission will convene in public session. (Amended 11-24-81)

#### SECTION 1.1.11 SPECIAL MEETINGS

Special meetings may be called by the President, or a majority of the Commissioners, upon giving the 24-hour advance notice required by the Ralph M. Brown Act, unless such notice may be dispensed with or is waived in the manner required by law.

#### SECTION 1.1.12 RULES OF ORDER

Robert's Rules of Order, except as otherwise provided herein, shall guide the Commission in its proceedings.

#### SECTION 1.1.13 SUSPENSION OF RULES OF ORDER

The Rules of Order may be suspended at any meetings upon the unanimous approval of the Commission members present.

#### SECTION 1.1.14 AMENDMENTS

The Commission shall review proposed rules and amendments as submitted by its Executive Officer, the Director, the Chief Administrative Officer or the Board of Supervisors and, after public hearing, may make any modifications it deems appropriate, and shall transmit the rules and amendments to the Board. All proposed rule changes shall be submitted to the Commission via the Executive Officer. The Commission shall act on such proposals within 30 days after their submittal. The Board may adopt or reject, but may not modify the Rules and amendments following review by the Commission. The Board shall act on such rules and amendments within 30 days after their submittal. (Amended 8-20-96)

#### SECTION 1.1.15 REGULATIONS

The Director shall adopt regulations and procedures for administration of these Rules. A copy shall be furnished to each department.

### PART 2 - PERSONNEL ORGANIZATION

(REPEALED)

## RULE II

### APPLICATIONS

#### SECTION 2.1.1 FILING OF APPLICATION

All applicants for employment shall prepare and file an application on a form prescribed by the Director. Applications must be received in the office of the Director by 5 p.m. on the last day for filing as prescribed on the examination announcement. The Director may accept a late application if the applicant shows that an emergency prevented the filing of an application by the deadline.

#### SECTION 2.1.2 ADDITIONS AND CORRECTIONS TO APPLICATION ON FILE

Corrections or supplements to an application on file may only be done with the permission of the Director.

#### SECTION 2.1.3 ONE APPLICATION

Applicants shall be limited to one application per examination number.

#### SECTION 2.1.4 APPLICATIONS NOT TO BE RETURNED

Applications shall be date stamped upon receipt in the office of the Director, and shall not be returned to the applicant.

#### SECTION 2.1.5 AGE

Eighteen years shall be the minimum age for employment, unless otherwise specified in an examination announcement.

#### SECTION 2.1.6 DISQUALIFICATION, REMOVAL, OR INACTIVATION FROM EMPLOYMENT LIST

The Director may disqualify, refuse to examine, refuse to certify, make inactive or remove a person from an employment list who:

- (a) fails to make application correctly, submits an employment application and/or supplemental materials which are incomplete, illegible or received after the filing deadline; or
- (b) is found to lack any of the established pre-employment standards or requirements for an examination for a class; or
- (c) fails to take or pass any part of the examination or any pre-employment test prior to appointment; or

- (d) fails to keep the Director informed of current address; or
- (e) has been dismissed, for cause, from County Service; or
- (f) has made false statements or attempts to practice deception or fraud on the employment application, during an exam, or in securing eligibility or an appointment; or
- (g) attempts to use any personal or political influence to further eligibility or appointment; or
- (h) has been convicted of a crime which would adversely affect job performance or public safety; or
- (i) fails to respond or refuses to appear for an appointment interview. Such persons shall be made inactive on the employment list until continued interest is indicated in writing; or
- (j) after three certifications for employment consideration are waived. Such persons shall be made inactive on the employment list until continued interest is indicated in writing; or
- (k) has been placed on a regular list as a result of a promotional examination and separates from County Service, except by reason of layoff; but shall be returned to list if reemployed before expiration of list; or
- (l) the Director deems unfit for any other job related reason in order to protect the merit basis of the personnel system.

The Director shall provide written notice of removal or disqualification along with the reasons for the action. Notice of Removal shall be by certified mail. (Amended 1-15-88)

#### SECTION 2.1.7 PETITIONS AND APPEALS OF DISQUALIFICATION AND REMOVAL

An applicant who is disqualified from an employment list, may petition the Director within ten (10) days after the date the notice is postmarked. An applicant whose name is removed from an employment list may petition the Director within ten (10) days of the date of certified mail. Such petition shall be in writing, establish specific grounds for the petition and include additional information, evidence or facts which are contradictory to the disqualification or removal. The Director shall investigate within fourteen (14) days and notify the petitioner of the findings in writing.

If the Director does not respond or denies the petitioner's request, the petitioner may then, within ten (10) days, appeal the matter to the Civil Service Commission.

A petition or an appeal shall not delay the selection process unless the Director or Civil Service Commission determines that the relief sought by the petitioner can be granted through no other means. (Amended 1-15-88)

## RULE III

### EXAMINATIONS AND EMPLOYMENT LISTS

#### PART I - EXAMINATIONS

##### SECTION 3.1 RESPONSIBILITY FOR EXAMINATIONS

All examinations shall be conducted under the direction of the Director. The Director shall announce, recruit for, plan, design, construct, schedule and administer examinations to establish or replenish regular employment lists. The merit system is based upon the principle that preference for public employment is given to those persons found to be most qualified through their success in competitive procedures based on job-related criteria. Therefore, examinations shall be based on job-related criteria and merit principles, and administered in accordance with professional personnel standards and cost-effective methods. (Amended 1-15-88)

##### SECTION 3.1.1 NOTICE OF EXAMINATIONS

The Director shall provide public notice of the competition by publishing an examination announcement and posting it at a public and conspicuous location at the Director's place of business for at least ten (10) days. The notice shall contain all pertinent information as determined by the Director. Announcements shall be distributed to all County Departments and Offices and the examination given other publicity so as to bring the examination to the attention of qualified persons. (Amended 1-15-88) (Amended 9-27-05)

##### SECTION 3.1.2 SERIES EXAMINATIONS - CONTINUOUS TESTING

A series of examinations for the same class of position may be announced by a single notice. Examinations may be administered as applicants are available or as employment needs require. The names of successful candidates shall be placed on one eligible list in relative grade order, regardless of the date they were tested.

##### SECTION 3.1.3 CHANGE TO EXAMINATION

The Director may amend examination announcements and has the right to revise examination plans to better meet the needs of the County. The Director shall notify applicants of the changes. (Amended 1-15-88)

##### SECTION 3.1.4 COMPETITION

Qualified applicants shall compete in one of the following types of examinations:

- (a) Open Examination - The examination shall be open to the public; or
- (b) Promotional Examination - Competition shall be limited to employees in the County Service who received their appointment from an employment list, to former employees of the County Service on a reinstatement list, former employees on a reemployment list as a result of layoff pursuant to Section 14.1.12, or to employees on authorized leave of absence. (Amended 8-20-96)

### SECTION 3.1.5 SPECIAL EXAMINATION

Special examination accommodations will be provided for:

- (a) An employee who missed an examination while on military leave;
- (b) A candidate who cannot take an examination at the regularly scheduled time due to a disability, hospitalization, religious reasons, or other justifiable reason acceptable to the Director. (Amended 9-27-05)

Examinations shall be subject to the conditions that existed at the time the original examination was given, insofar as practicable. Placement on the employment list shall be according to the rule governing employment lists, provided that no appointments already made from the list shall be affected. (Amended 8-20-96)

### SECTION 3.1.6 SPECIAL EXAMINERS

The Director may designate and appoint special examiners to conduct any part of an examination.

### SECTION 3.1.7 EXAMINATION CONTENT

Examinations shall be job related in order to test the ability of applicants to perform the duties of the job classification. Applicants may be given written, oral, physical agility or performance skills tests, as well as being evaluated on the basis of their application or required supplementary material.

### SECTION 3.1.8 RETAKE OF TESTS

Retakes of tests of physical agility and/or performance skills will be permitted when specified in the examination announcement.

### SECTION 3.1.9 EXAMINATION SCORES

Candidates shall be graded on a scale with a maximum value of 100, plus any preferential credit authorized by Charter.

### SECTION 3.1.10 SCORES

Examination scores shall be carried out to one decimal place (tenths). Candidates receiving the same score shall be grouped together in a rank which shall be used in the certification process. (Amended 11-24-81)

### SECTION 3.1.11 REVIEW OF WRITTEN TEST

- (a) Inspection of Answer Key. An examination review period shall usually be established for the purpose of reviewing the answer key to be used to score a written test. At the time of the written test, applicants shall be notified of the review period which shall be at least two (2) work days. Applicants must personally appear in the Director's office during the designated review period.

At the time of the review period, applicants may register objections to any questions, items or answers they believe to be incorrect or unfair. The Director may remove such items and make alterations to the answer key as justified.

A review period shall be designated except in the situation where a standardized test is used, an exam booklet is obtained from another agency or to assure the confidentiality of test materials which have not yet been administered.

(Amended 9-27-05)

- (b) Review of Answer Sheet. Candidates may review their answer sheet against the answer key for a written test in order to check accuracy of the scoring. This review period shall be for ten (10) days from the date the Director's notification of the examination results are postmarked. Any scoring discrepancies must be brought to the Director's attention before leaving the office.

(Amended 1-15-88) (Amended 9-27-05)

### SECTION 3.1.12 OBJECTIONS TO OTHER PARTS OF EXAMINATION - TIME PERIODS

Objections to the examination or its parts shall be petitioned in writing to the Director and include specific grounds, evidence, information or facts to support the objection and a proposed remedy. The following time limits shall apply:

- (a) Objections to the administration of a part of an examination shall be petitioned to the Director at the time of administration or no later than five (5) work days of the occurrence of the examination part.
- (b) Objections to the results of an examination shall be petitioned to the Director no later than ten (10) days from the date results are postmarked. (Amended 1-15-88)

### SECTION 3.1.13 INVESTIGATION OF OBJECTIONS TO EXAMINATIONS

The Director shall investigate and resolve objections to an examination within fourteen (14) days and notify the petitioner of the findings. If the Director does not respond within fourteen (14) days or denies the petitioner's request, the petitioner may then, within ten (10) days, appeal the matter to the Civil Service Commission. A petition or an appeal shall not delay the selection process unless the Director or Civil Service Commission determines that the relief sought by the petitioner can be granted through no other means. (Amended 1-15-88)

#### SECTION 3.1.14 PREFERENTIAL CREDITS FOR MILITARY SERVICE

In open examinations, in addition to all other credits, a credit of five percent of the maximum rating prescribed for the examination shall be given to successful examinees who have served during a war (war is defined in Section 205 of the State Revenue and Taxation Code) in the military or naval service of the United States including all uniformed auxiliaries authorized by Congress, and who have subsequently been separated, placed on inactive duty, or retired under honorable conditions without full pensions.

The Director gives the credit to veterans only once and only upon their first employment or reemployment after disengagement from service. In accordance with the County Charter, this credit can only be granted during the eight-year period following such disengagement.

#### SECTION 3.1.15 PREFERENTIAL CREDIT FOR VETERAN'S SPOUSE

The spouse receives a credit of five percent on every open examination taken and passed if:

- (a) The veteran died in the service;
- (b) A former member of the service cannot engage in a gainful occupation because of a service-connected disability.

#### SECTION 3.1.16 CREDIT FOR MILITARY DISABILITY

A five percent credit shall be given to a person who has been separated, placed on inactive duty, or retired under honorable conditions from the service and who has a service-connected disability as recognized under Federal law. This credit is in addition to the one authorized by Section 3.1.14 and is applicable to every open examination taken and passed.

#### SECTION 3.1.17 ELIGIBILITY DEADLINE

Eligibility for preferential credit must be determined prior to the adoption of the eligible list.

#### SECTION 3.1.18 TEMPORARY SUSPENSION OF COMPETITIVE EXAMINATION

Upon satisfactory evidence that it is impractical to conduct a competitive examination for positions requiring extraordinary scientific, professional or expert qualifications, the Director may temporarily suspend the competitive examination process and permit the appointing authority to make an appointment by the selection of a person of recognized attainment. All such cases of suspension shall be reported, together with the reasons therefore, to the Civil Service Commission. (Amended 1-15-88)

## PART 2 - EMPLOYMENT LISTS

### SECTION 3.2.1 EMPLOYMENT LISTS - TYPES

The Director shall establish, adopt, replenish and maintain, the following employment lists of persons eligible for appointment and qualified to perform the work of a class:

- (a) Reinstatement Lists
  - (b) Regular Lists
  - (c) Seasonal Lists
  - (d) Reemployment Lists
  - (e) Transfer Lists
- (Amended 1-15-88)

### SECTION 3.2.2 REINSTATEMENT LISTS

Reinstatement lists shall be maintained in accordance with Sections 14.1.10 and 14.1.11 of these Rules. (Amended 1-15-88)

### SECTION 3.2.3 REGULAR LIST

A regular list is composed of candidates who have successfully completed an examination. The following shall govern the preparation, maintenance and amendment of a regular list:

- (a) Order of Names. Candidates who are successful in an examination shall have their names placed upon the regular list in the class and option for which they were examined and according to the ranking of their final grades.
- (b) Adoption. A regular list shall be in effect from the date on which it is adopted. Adoption shall be by the Director.
- (c) Duration. Regular lists shall be valid for one year unless otherwise stated in the examination announcement. The Director may authorize extensions for specified periods of time but in no event shall a list be in force for more than three (3) years.

The Director may abolish a regular list upon promulgation of a new list; or upon finding that there has been fraud, collusion, or other irregularity in the examination process. When a list is abolished, the Civil Service Commission and all persons on the list shall be notified of such action and the reasons therefore.

- (d) Merger. The Director may merge regular lists for a class or comparable classes in the order of final grades where the examination plan and tests were substantially similar. Names merged shall bear the same expiration dates as prior to the merger. (Amended 1-15-88)

#### SECTION 3.2.4 SEASONAL LISTS

The Director may establish seasonal lists. Such lists shall be established at the beginning of the calendar year and will consist of the names of persons who were certified from a regular list and performed seasonal services within the past two (2) years. (Amended 1-15-88)

#### SECTION 3.2.5 REEMPLOYMENT LISTS

The Director shall establish and maintain a reemployment list for each class in accordance with the provisions of this rule:

- (a) Eligibility for Placement. Placement on the list must be requested by the former employee and shall be on a form prescribed by the Director. The former employee must have separated from County Service after having attained permanent status and performed satisfactorily with verifiable service of standard or above.

Placement shall be to the same class where permanent status was most recently attained or to a class having the same or a lower top prescribed rate within the same occupational area.

- (b) Order of Names. The order of names shall be unranked.
- (c) Duration. Eligibility shall expire three years from the date of separation from County Service except for former employees receiving County retirement benefits.
- (d) Reemployment of Retired Employees. Former employees receiving County retirement benefits shall be placed on reemployment lists subject to the conditions set forth in (a) and (b) above. Actual reemployment shall be for temporary employment only and shall not exceed one hundred twenty (120) working days or 960 hours, whichever is greater, in a fiscal year in accordance with Government Code Section 31680.6. Placement shall be for one year and retired employees may resubmit placement requests.  
(Amended 1-15-88) (Amended 9-27-05)

#### SECTION 3.2.6 TRANSFER LISTS

The Director shall establish and maintain a transfer list for each class in accordance with the provisions of this rule.

- (a) Eligibility for Placement. Placement may be requested by a current employee serving in a permanent or certified-temporary appointment in the Classified Service. Each request shall be on the form prescribed by the Director and for a period of one year which shall be renewable upon expiration. The Director shall verify eligibility and place names in an unranked order so as to allow for:  
(Amended 9-27-05)
  - (1) Lateral Transfers and Demotions from current class to current class or to any class of equal or lower prescribed pay range, including compensation for special skill assignments, provided that the employee possesses the required employment standards and qualifications for appointment.

- (2) Promotions from current class to a class where permanent status was previously attained, and if the employee served in that class within the last three (3) years.
  - (3) Employees Serving Certified Temporary Appointments may be placed on a transfer list only for certified temporary appointment consideration unless certifiable for a permanent appointment in current class.
  - (4) Employees on a reinstatement list or former employees on a reemployment list as a result of layoff pursuant to Section 14.1.12 may laterally transfer or demote as if an incumbent in the class where reinstatement rights were granted. Eligibility for placement on a transfer list under this provision shall continue until the removal or expiration of the employee's name on the reinstatement or reemployment list. The employee must possess the requisite knowledge and skills for the class as evaluated by the Director, to be granted placement on a transfer list. The Director's evaluation may be appealed to the Civil Service Commission. (Amended 8-20-96)
- (b) Reassignment is NOT a Transfer. For the purpose of this rule, the assignment of an employee to another position in the same class in the same department shall not be considered to be a transfer.
- (c) Probationary Periods After Appointment From a Transfer List.
- (1) Employees shall serve the probationary period established unless waived by the Director.
  - (2) The probationary period shall be waived by the Director when an employee is appointed to a position in a different class in the same department if the knowledge, skills and salary, including compensation paid for special skills or assignments, for the new class are the same as those required in the former class.
  - (3) Probation may be waived by the Director, upon request of the appointing authority, when the employee is appointed to a class in which probation was previously passed. (Amended 1-15-88)

RULE IV

CERTIFICATION AND APPOINTMENTS

PART I - CERTIFICATION

SECTION 4.1.1 FILLING VACANCIES

Vacancies in authorized permanent or temporary positions shall be filled by appointment. Appointments shall be made by an officer of the County having appointing authority and from a list(s) of persons certified as eligible for an appointment by the Director. A request for certification from an appointing authority shall be made on the form prescribed by the Director.  
(Amended 1-15-88)

SECTION 4.1.2 CERTIFICATION FROM EMPLOYMENT LISTS

The Director shall provide certification list(s) of eligible candidates to be considered for appointment by the appointing authority. Vacancies in a class shall be filled from the reinstatement list when one exists for the class. If no reinstatement list exists, an appointing authority may request certification from any employment list(s) available for the class. Certification from an employment list shall be, in the following order and manner:

- (a) Reinstatement List for the Class
  - (1) Persons on the reinstatement list shall be certified on the basis of seniority ratings from high to low. The number of names certified shall equal the number of vacancies. Persons certified must be offered a position.
  - (2) The Director shall notify each eligible of their certification.
  - (3) When an employee is reinstated, the Director shall notify the employee's bargaining representative of the employee's name and class to which the employee is reinstated.
  - (4) A new probationary period shall not be required of an employee reinstated to the department from which he/she was laid off. A new probationary period shall be served when an employee is reinstated to a position in a different department than that from which he/she was laid off.
  - (5) When probation is failed, seniority credit shall be granted for the time served prior to failure. Seniority credit shall be calculated as provided by Rule XIV of these rules and added to the rating existing at the time of certification. The employee's reinstatement list expiration date shall remain as originally determined.

(b) Other Employment Lists for the Class

(1) Regular List. Persons on the regular list shall be certified based on examination scores from high to low, and the Director shall notify each eligible of their certification for appointment consideration. The number of names certified shall be ten (10) more than the number of vacancies in addition to the tie scores in the tenth position. If a full certification cannot be made, the Director shall certify the names available.

(1a) Department Certification. Upon request of the appointing authority, the Director may limit the certification from the regular list to the names of employees currently employed in permanent or certified temporary appointments in the requesting department. The number of names certified shall be in accordance with Section 4.1.2(b) (1).

(1b) Certification - More than ten vacancies. If there are eleven or more vacant positions, and State law requires a thorough background investigation, the appointing authority may request, and the Director may certify additional names so as to provide a higher selection ratio of eligibles for appointment consideration. The number of names certified may be increased to the number of vacancies plus one, two, three, or four times the number of vacancies.

If a full certification cannot be made, the Director shall certify the names available. Certification under this provision must be from a regular list created as a result of an open competitive examination and may not be combined with a request for department certification.

(2) Seasonal List for the Class. The names of all persons on the seasonal list shall be provided.

(3) Reemployment List for the Class. The names of all persons on the reemployment list shall be provided.

(4) Transfer List for the Class. The names of all persons on the transfer list shall be provided.

(c) Most Nearly Appropriate Employment List for the Class

(1) In the event that there is no reinstatement list and if a full certification cannot be made from the regular list for a class, the Director may certify names from an appropriate other employment list for a class. If a regular list is used as a nearly appropriate list, the Director shall limit the certification of names to the number which would provide a full certification.

- (2) The Director shall identify a most nearly appropriate list consistent with the spirit and intent of the merit principle and the concept of career service and based on the following criteria:
  - (2a) The knowledge and skills tested for in the most nearly appropriate employment list are substantially similar to the class of the vacancy; and
  - (2b) The top prescribed pay rate for the most nearly appropriate employment list is not less than the class of the vacancy.  
(Amended 1-15-88)

#### SECTION 4.1.3 MULTIPLE VACANCIES - SAME CLASS

Notwithstanding any other provision of these Rules, when vacancies for a class exist in various departments, the Director may certify successive ranks of eligibles until the entire list is certified. The number of names provided for each certification will be in accordance with Section 4.1.2 of this Rule. (Amended 1-15-88)

#### SECTION 4.1.4 RESULT OF CERTIFICATION

The appointing authority shall return the certification list reporting the results of certification for each eligible to the Director. (Amended 1-15-88)

#### SECTION 4.1.5 SUPPLEMENTAL CERTIFICATION

When an appointing authority notifies the Director that candidates certified for consideration are not actually available for appointment, the Director may supplement the original certification list with additional names from the regular employment list so as to provide a full certification. (Amended 1-15-88)

#### SECTION 4.1.6 CHANGES TO PERSONNEL REQUISITIONS AFTER CERTIFICATION

Changes to the number of vacancies and/or any other condition of employment as stated on the original request for certification, must be reported to the Director immediately and before an offer of employment is made. In such event, the Director shall adjust the certification list by increasing or decreasing the number of persons eligible for appointment in accordance with Section 4.1.2(b)(1) and 4.1.2(c)(1). (Amended 1-15-88)

## PART 2 - APPOINTMENT

### SECTION 4.2.1 CONDITIONS OF APPOINTMENT

Prior to appointment, eligibles must meet the conditions of employment specified for a particular position, including qualification in a medical examination. For job related reasons, eligibles may have to submit to psychological, polygraph, and other similar examinations or tests. Failure of such pre-employment tests or examinations may be cause for the Director to cancel eligible's name from a certification or remove the name from an eligible list.

### SECTION 4.2.2 MEDICAL/PSYCHOLOGICAL EXAMINATION

#### (a) Medical Examination

Prior to initial appointment, reinstatement, or appointment to a classification with different physical demands, a candidate shall undergo medical screening and/or a physical examination. The physician shall be designated by the County and a medical report certifying the medical fitness of a candidate shall be submitted to the Director.

Within 30 days of receipt of notice of rejection for employment for physical reasons, an eligible may petition such decision by presenting to the Director the medical diagnosis of another physician which contradicts the diagnosis of the County physician. The cost of this second medical report shall be borne entirely by the candidate. (Amended 3-15-83)

Upon receipt of a timely petition, the Director shall refer the matter to a third physician. The Director shall then render a decision based on information provided by the third physician. The cost of the third medical examination shall be borne by the County.

The County's Medical Examination Standards and Instructions will be developed and maintained by the Department of Human Resources and will be subject to the approval of the Commission. (Amended 8-20-96)

#### (b) Psychological Examination

Candidates who fail a pre-employment psychological evaluation may, at their own expense, obtain a second evaluation, using the original test material, from another psychologist or psychiatrist of their choice. Candidates availing themselves of this option shall notify the Commission of the intent to do so within five days of receiving notice of the disqualification from the Director.

If a diagnosis of a second psychologist or psychiatrist is different from that of the first psychologist or psychiatrist, and if a second psychologist or psychiatrist determines that the candidate has passed the psychological evaluation, a third psychological evaluation will be ordered by the Commission or one of its members at County expense.

The Commission or one of its members will select a third psychologist or psychiatrist who will also use the original testing material. The Commission will determine whether or not to return the candidate to the eligible list based on the majority of psychologist and/or psychiatrist evaluations. The Commission's decision shall be final. (Amended 3-15-83) (Amended 6-14-11)

#### SECTION 4.2.3 APPOINTMENTS

Appointments shall be either permanent or temporary.

#### SECTION 4.2.4 PERMANENT APPOINTMENTS

- (a) Conditions. Permanent appointments may be made only to authorized permanent positions. A candidate so appointed must have been certified as eligible for appointment from an employment list established by the Director and must serve the probationary period established for the class, unless otherwise provided for in these rules.
- (b) Pursuant to Charter Section 500.4, the Board of Supervisors may enter into agreement with the State or Federal government or a city or special district within the County to assume specific functions of that government agency. In that case, the employees performing these functions may be blanketed into County service if agreed upon by the Board of Supervisors.
- (c) Duration. Permanent appointments shall be for an indefinite period of time subject to satisfactory completion of the probationary period for the class. Upon completion of the probationary period, the appointing authority may terminate the permanent appointment only for cause and in accordance with provisions of the County Charter and these Rules. (Amended 1-15-88)

#### SECTION 4.2.5 PROBATIONARY PERIOD FOR PERMANENT APPOINTMENTS IN THE CLASSIFIED SERVICE

- (a) All appointments from employment lists to permanent positions shall be for a probationary period of six months or such longer period as established by the Director prior to the appointment. Probationary periods shall not exceed one year except for Deputy Sheriffs which shall not exceed 18 months.

The probationary period shall not include the time served as an emergency, provisional, seasonal, or temporary appointee or employee, but shall date from the time of appointment and certification to a permanent position in the classified service; provided, however, that continuous active service under temporary appointment from an employment list in the class of position to which the employee is certified as permanent, which service shall have been rendered within one year prior to permanent appointment, may be counted toward completion of the probationary period, upon request of the appointing authority and the approval of the Director. (Amended 9-27-05)

- (b) No period of absence, or limited duty assignment which is made necessary by a temporary physical or mental disability as determined by a doctor, shall be credited toward completion of the probationary period, provided, however, that at the written request of the appointing authority the Director may credit a maximum of 15 days of absence or limited duty during the probationary period.
- (c) It shall be the duty of the appointing authority, during the probationary period of each employee in the classified service to investigate thoroughly the conduct of such employee, to determine whether the employee is fully qualified for employment in the class of position to which he/she has been appointed. A performance appraisal shall be made by the appointing authority at such time or times as may be prescribed by the Director.

The appointing authority shall dismiss a probationer who is found unsatisfactory for or incompetent to fulfill the duties of the position to which he/she is appointed, except as provided in Rule 14.3.1. The appointing authority shall give the dismissed employee a statement of the reasons for the dismissal and shall file such statement with the Director.

A probationer dismissed at any time within the probationary period shall have no right to appeal to the Commission in regard to his/her separation or performance appraisal. A probationer who alleges facts showing a violation of his/her liberty interest shall be entitled to a hearing in accordance with the rules, procedures and policies implemented by the Commission and/or Director. A probationer has the right to file a complaint of discrimination under Civil Service Rule VI.  
(Amended 9-27-05)

Unless charges are filed against a probationer as provided in these rules, such probationer may be retained upon the employment list at the discretion of the Director and shall be eligible for certification to some other department.  
(Amended 1-15-88)

#### SECTION 4.2.6 CERTIFIED TEMPORARY APPOINTMENTS

- (a) Conditions. Certified temporary appointments shall be made only to temporary positions and to perform work which is temporary, seasonal or extra help in nature. Such an appointment may be authorized by the Director so long as the following conditions have been met:
  - (1) The appointing authority has notified the Director as to the reasons, type and duration of the planned certified temporary appointment.
  - (2) The Director has classified the temporary position.
  - (3) The candidate for appointment has been certified as eligible for appointment from an employment list established by the Director.

- (b) Duration. The Director may authorize a certified temporary appointment for a specified and definite period of time, not to exceed six months and may authorize extension(s), for just cause, for up to an additional six months. Extensions that have been authorized by the Director, beyond six months from the original appointment date, shall be transmitted within fourteen (14) days to the Civil Service Commission for ratification.

The Civil Service Commission may oppose ratification by directing the appointing authority to terminate the certified temporary appointment effective on the last day of the pay period of the Commission's action. In no event shall a person serve in the same or any combination of temporary appointments for more than twelve (12) months.

An appointing authority may terminate such an appointment earlier within the authorized period of time. An employee so appointed shall not accrue a right to continued or subsequent appointment beyond the termination date.

(Amended 1-15-88)

#### SECTION 4.2.7 PROVISIONAL TEMPORARY APPOINTMENTS

- (a) Conditions. The Director may authorize a provisional temporary appointment in the absence of a reinstatement or regular list for a class. Such an appointment may be authorized to a permanent or temporary position, provided that the Director has certified that the candidate for appointment meets and possesses the employment standards established for the class.
- (b) Duration. The Director may authorize a provisional temporary appointment for a specified and definite period of time not to exceed six (6) months or thirty (30) days after a list of eligibles is available for certification from a reinstatement or regular list for the class, whichever comes first. The appointing authority may terminate such an appointment earlier within the authorized period of time.
- (Amended 1-15-88)

#### SECTION 4.2.8 EMERGENCY TEMPORARY APPOINTMENTS

A short term appointment of not more than fourteen (14) days may be approved by the Director to preserve the public peace, health and safety, or to prevent stoppage of public business. The appointment need not be made from an employment list and is not renewable. (Amended 1-15-88)

#### SECTION 4.2.9 CHANGE OF CERTIFIED TEMPORARY APPOINTMENT TO PERMANENT

At the request of the appointing authority, the Director may authorize the permanent appointment of a satisfactory employee who holds a certified temporary appointment. The employee must have been certifiable for permanent employment from the same employment list from which the certified temporary appointment was made. (Amended 1-15-88)

#### SECTION 4.2.10 REQUIRED SEPARATION BETWEEN TEMPORARY APPOINTMENTS

Upon completion of a temporary appointment or any combination of consecutive temporary appointments which has/have continued for more than six months, unless extended by the Civil Service Commission, a person having so served in said temporary position(s) cannot be appointed to the same or another temporary position until after a minimum of 90 calendar days has elapsed. (Amended 1-15-88)

## RULE V

### EMPLOYEE PERFORMANCE APPRAISALS

#### SECTION 5.1.1 PURPOSE

Regular appraisals of an employee's performance can assist in promoting a higher standard of service to the public. The appraisal is a systematic method of measuring, recording, communicating and encouraging the improvement of the work effectiveness and development of employees. (Amended 9/16/91)

#### SECTION 5.1.2 APPRAISALS

All employees appointed to permanent positions shall be given a written appraisal periodically on their individual performance. The appointing authority shall have the responsibility for preparation of the performance appraisal on a form and in accordance with procedures prescribed by the Director. (Amended 9/16/91)

#### SECTION 5.1.3 APPRAISAL CYCLE

Performance appraisals shall be completed at mid-probation, final probation and annually thereafter. Supplemental appraisals may be originated by the appointing authority. An employee who has received an overall rating below standard shall receive, if requested by the employee, a supplemental appraisal midway through the employee's next appraisal cycle. The supplemental appraisal must be dated from the close of the last rating period and will have the effect of adjusting the beginning date of the next performance appraisal. The subsequent performance appraisal(s) will cover the remainder of the reporting cycle. There must be only one performance appraisal for any given rating period. (Amended 9/16/91)

#### SECTION 5.1.4 APPRAISALS ON TERMINATING EMPLOYEES

A supplemental performance appraisal shall be completed when a permanent employee is terminated from a position, whether voluntarily or involuntarily and performance has significantly changed since the last performance appraisal. The appraisal shall be filed with the Director's office and a copy given to the employee prior to termination whenever possible. (Amended 9/16/91)

#### SECTION 5.1.5 ISSUING AND FILING APPRAISALS

All appraisals, as specified in Section 5.1.3, shall be issued to the employee within thirty (30) days from the close of the rating period and filed within an additional ten (10) days with the Department of Human Resources. This filing date may be extended until an appeal of an appraisal is resolved, as provided in Section 5.1.6.

A copy of the written performance appraisal shall be provided to the employee at the time the appraisal is presented to the employee with the rater's and employee's signatures.

An employee may appeal to his/her appointing authority when an appraisal has not been issued. The appointing authority shall provide said appraisal within five (5) days from the receipt of said appeal.

The employee shall have five (5) days in which to consider the performance appraisal before signing it. This time limit may be modified by mutual agreement of the parties. (Amended 9/16/91)

#### SECTION 5.1.6 EMPLOYEE APPEAL TO THE DEPARTMENT

The employee performance appraisal appeal process shall be:

**STEP 1.** The appointing authority shall appoint an unbiased appeal officer within seven (7) days of receipt of the appeal. At the employee's request a selection may be made by the employee from a list of three unbiased appeals officers provided by the appointing authority. A copy of the disputed appraisal and supporting documentation shall be given to the employee within five (5) days of the receipt of the appeal.

**STEP 2.** The appeal officer shall meet initially with the parties within thirty (30) days from the date of being appointed. If the appeal officer is the appointing authority, he/she shall issue to the employee a written final decision and a copy of the final performance appraisal within five (5) days after he/she has concluded meeting(s) with the parties.

If the appeal officer is other than the appointing authority, he/she shall prepare and submit a written report with findings and recommendations to the appointing authority no later than five (5) days after the appeal officer has concluded meeting(s) with the parties.

**STEP 3.** The appointing authority shall consider the appeal officer's findings and recommendations within five (5) days of its submittal. The appointing authority is not bound by and may modify the appeal officer's findings or recommendations.

a) In the event the appointing authority does not modify the appeal officer's findings and recommendations, the appeal officer's report and the appointing authority's written final decision and a copy of the final performance appraisal shall be issued to the employee within five (5) days of the submittal of the appeal officer's report to the appointing authority.

b) In the event the appointing authority modifies the appeal officer's findings or recommendations, the appeal officer's report and a written notice of the appointing authority's intended decision shall be served on the employee within five (5) days of the submittal of the appeal officer's report to the appointing authority.

**STEP 4.** The employee may respond in writing to the appointing authority's action relating to Step 3b above within five (5) days from the receipt of that decision. The response shall be limited to the information which is, by subject matter, related to the grounds for the appointing authority's action.

**STEP 5.** The appointing authority's final decision and a copy of the final performance appraisal shall be issued to the employee within ten (10) days from the employee's receipt of the intended decision.

The appointing authority's decision is not appealable to the Civil Service Commission.

The time limits in Section 5.1.6 may be modified by mutual agreement of the parties. At any and all steps in the process described in this section, employees may represent themselves or be represented by a representative of their choice. (Amended 9/16/91)

#### **SECTION 5.1.7 INVESTIGATION AND SEALING OF APPRAISALS**

The Commission may investigate charges that an appraisal was either improperly issued or that the appraisal violates these rules or the County's Appeal Officer Guidelines (Human Resources Policy and Procedure Manual). (Amended 9-27-05)

If the Commission finds such a violation, the Commission may order all copies of the appraisals and attached documents to be sealed, and the Commission also may order that a new appraisal be prepared.

The Commission is the only County Department with authority to seal performance appraisals.

In cases of department generated requests, the Commission will only seal appraisals with the mutual agreement of the department and employee. (Amended 9/16/91)

#### **SECTION 5.1.8. CHANGES TO APPRAISALS**

1. Once the appraisal has been issued to the employee, changes can only be made with the employee's knowledge. All changes on the appraisal must be initialed by the employee, rater and reviewer.
2. Changes to the appraisal as a result of the departmental appeal process can only be changed by the appointing authority. Also, changes to the appraisal as a result of the departmental appeal process will require the preparation of a new appraisal incorporating all changes and replacing the former appraisal. A copy of the new appraisal shall be given to the employee and filed with the Department of Human Resources. (Amended 9/16/91)

## RULE VI

### DISCRIMINATION COMPLAINTS

#### SECTION 6.1.1 IMPLEMENTATION OF NONDISCRIMINATION POLICY OF THE COUNTY CHARTER

Pursuant to Section 901 of the County Charter, the County shall hire, transfer, promote, discipline or dismiss individuals on the basis of job related qualification, merit and equal opportunity without regard to age, color, creed, disability, national origin, political affiliation, race, religion, sex, sexual orientation or any other non-job related factor, including but not limited to retaliation based on protected activity. (Amended 9-27-05)

In furtherance of that Charter requirement, the duty of the Commission to prescribe, amend and enforce rules for the classified service and the duty of the Commission to enforce the Civil Service provisions of the County Charter through the investigation of the conduct and operation of all departments, it shall be the policy of the Civil Service Commission to investigate complaints of violation of Charter Section 901 and to make such findings and orders as are necessary to insure compliance with Section 901 in accordance with the following procedure.

#### SECTION 6.1.2 RECEIPT OF COMPLAINT

Except as otherwise provided in the Civil Service Rules, including but not limited to Rule VII, upon receipt of a complaint alleging a violation of Charter Section 901 within 60 days of the alleged discriminatory practice, or knowledge thereof, the Commission shall refer the complaint to the Office of Internal Affairs (OIA) for review and report to the Commission. (Amended 9-27-05)

#### SECTION 6.1.3 INVESTIGATION AND HEARING

The Commission may, but need not, appoint one of its members or a hearing board or officer to investigate the matter concurrently with OIA. The Commission shall review the findings of OIA and/or its appointed investigating officer(s). If the complaint is resolved through procedures established by the County for the resolution of such complaints by OIA, the Commission shall receive and file the report.

If OIA finds probable cause of a violation of Charter Section 901, and a remedy is requested which is not within the jurisdiction of OIA or the Chief Administrative Office, the Commission shall conduct a hearing in accordance with the following process. In the event OIA does not find probable cause, the Commission may proceed with a hearing in the matter or may receive and file the report. (Amended 9-27-05)

#### SECTION 6.1.4 ISSUANCE OF TEMPORARY ORDERS

Upon the filing of a complaint, the Commission may issue such orders as are necessary to maintain the status quo, to bar further actions relative to the employment process in issue, or to avoid potential continuing damages. Notice and opportunity to be heard shall be given to the respondent and/or the respondent's appointing authority immediately thereafter.

Any such temporary orders shall be served on the complainant, respondent and respondent's appointing authority (parties) and shall be enforced and followed by them. During the preliminary investigation and hearing, if any the Commission may, upon notice to the parties for good cause shown, modify or revoke such orders. The Commission shall serve notice of such action upon the parties. (Amended 11-24-81)

#### SECTION 6.1.5 DETERMINATION TO CONDUCT HEARING

In the event the Commission makes a determination to conduct a hearing, the Commission will set a hearing date within 20 working days from date of determination. A copy of the discrimination complaint along with the report(s) of OIA and the designated Commission hearing officer, if any, shall be served upon the parties within five working days after Commission determination to proceed with the hearing. (Amended 9-27-05)

The Commission in its discretion may appoint one of its members or a hearing board or officer to hear the matter and submit findings and a proposed decision to the Commission. The Commission shall review the findings and the proposed decision before taking final action in the matter.

#### SECTION 6.1.6 ANSWER

Respondent and/or Respondent's appointing authority shall have five working days from date of service to file an answer with the Commission and serve a copy thereof upon Complainant.

#### SECTION 6.1.7 FAILURE TO ANSWER

Failure on the part of the Respondent and/or Respondent's appointing authority to file an answer within the time allowed may be construed as an admission of the truth of the charges made and judgment against Respondent may be entered forthwith and filed by the Commission. The Commission may upon the receipt from the Respondent of a statement setting forth reasons acceptable to the Commission for the failure to file such answer, set aside such judgment and proceed with the hearing of evidence submitted in the matter.

#### SECTION 6.1.8 CONDUCT OF HEARING

The parties shall be entitled to appear personally, produce evidence, have counsel and a public hearing. Technical rules of evidence shall not apply to such hearing, except that all testimony shall be under oath. No informality in any of the proceedings or in the manner of taking testimony shall invalidate any order, decision, rule or regulations made or approved by the Commission.

#### SECTION 6.1.9 SUBPOENAS

The Commission has the power to issue subpoenas and subpoenas duces tecum, and to compensate persons subpoenaed in accordance with Rule VII.

#### SECTION 6.1.10 INSPECTION OF DOCUMENTS AND INTERVIEW OF EMPLOYEES

A party who has appealed to the Commission, or a representative designated in writing by such party, shall have the right to inspect any documents in the possession of or under the control of the Respondent or Respondent's appointing authority which are relevant to such hearing and which would be admissible in evidence at a hearing. The Complainant, or designated representative, shall also have the right to interview other employees having knowledge of the acts or omissions upon which the charge was based. Interviews of other employees and inspection of documents shall be at times and places reasonable for the employee(s) and the appointing authority(ies).

#### SECTION 6.1.11 EXAMINATION OF COMPLAINANT, RESPONDENT AND OTHER PERSONS

At the hearing the Complainant may be examined and may examine or cause any persons to be examined in the manner provided in the Evidence Code. If the Complainant refused to answer any relevant questions upon examination and after being directed by the Commission, hearing board, or officer to answer, the Commission may order that the hearings be stayed until the order is obeyed or may dismiss the complaint.

#### SECTION 6.1.12 FAILURE TO APPEAR

If the Complainant fails to appear, the Commission may order that the hearing be stayed until the party appears or shall dismiss the complaint if good cause is not shown by Complainant to warrant a continuance.

#### SECTION 6.1.13 FINDINGS AND DECISION

The findings and decision of the Commission shall be final and shall be certified to the parties and shall forthwith be enforced and followed by all parties.

Upon a determination that a violation of Section 901 of the Charter has occurred, the Commission shall issue such remedial orders as are necessary to correct such violation including, but not limited to, the cancellation of an examination, rescission of certification or termination of an appointment. The Commission may also order the Director to add the name of an injured party to the appropriate regular eligible list. In the event the violation resulted in loss of ascertainable wages or benefits, the Commission may order payment of such wages or other benefits and any and all such other relief as may be appropriate.

RULE VII

DISCIPLINE

SECTION 7.1 CLASSIFIED SERVICE

This Rule shall be applicable to persons in the Classified Service appointed to regular positions from employment lists, who have successfully completed the probationary period for that position. Such persons shall only be removed for cause and in accordance with this Rule. All other persons in the Classified Service serve and may be removed by their appointing authorities without right of appeal under this section. (Amended 8-20-96)

The form of discipline imposed on persons in the Classified Service who are designated as exempt employees under the Fair Labor Standards Act (FLSA) shall be in conformance with the FLSA disciplinary regulations governing employee salaried exempt status. (Amended 5-14-96)

SECTION 7.1.1 EXECUTIVE SERVICE

Removals of persons in the Executive Service shall be made in accordance with and under the provisions of Section 909.2 of the County Charter.

SECTION 7.2 CAUSE FOR DISCIPLINARY ACTION

Any of the following shall be deemed sufficient cause for reprimand, transfer, reduction in compensation, suspension, demotion or removal of any person:  
(Amended 9-27-05)

- (a) That the employee has been guilty of incompetency;
- (b) That the employee has been guilty of inefficiency;
- (c) That the employee has been guilty of insubordination;
- (d) That the employee has been guilty of dishonesty;
- (e) That the employee has been guilty of intemperance;
- (f) That the employee has been guilty of immorality;
- (g) That the employee has been guilty of profanity;
- (h) That the employee has been guilty of discourteous treatment of the public or other employees;
- (i) That the employee has some permanent or chronic physical or mental disability which is incapacitating for purposes of performing the essential functions of the job, or makes improper use of sick leave privileges; (Amended 9-27-05)

- (j) That the employee has failed to pay just debts or has failed to make reasonable provision for future payment of just debts, whereby annoyance is caused a superior officer, or scandal is caused the service because of such failure;
- (k) That the employee has been convicted of a criminal offense involving moral turpitude. The word convicted shall be construed to mean a conviction by verdict, by plea of guilty, upon a judgment against the employee, upon a demurrer, or upon a judgment of a court, a jury having been waived, without regard to subsequent disposition of the case by suspension of sentence, probation, or otherwise.

The words moral turpitude shall be construed to mean any act of baseness, vileness or depravity; or any act contrary to justice, honesty, modesty or good morals; or any act done with deception, or through corrupt motives;

- (l) That the employee, through negligence or willful misconduct has caused damage to public property or waste of public supplies;
- (m) That the employee has been guilty of any conduct unbecoming an officer or employee of the County;
- (n) That the employee has been absent without leave, contrary to the rules of the Commission, or has failed to report after leave of absence has expired, or after such leave of absence has been disapproved or revoked and canceled by the Commission, provided, however, that if such absence or failure to report is excusable, the Commission may dismiss the charges;
- (o) That the employee has violated any of the provisions of the County Charter, or of these rules and regulations relating to conduct in the office of persons in the classified service;
- (p) That the employee has been convicted of a felony committed in furtherance of, or while participating in, a riot or civil disorder;
- (q) That the employee has been guilty of negligence resulting in harm or significant risk of harm to the public or the public service;
- (r) That the employee has been guilty of a failure of good behavior;
- (s) That the employee has been guilty of any other act that is incompatible with or inimical to the public service.

## SECTION 7.2.1 NOTICE OF PROPOSED ACTION

- (a) Except as provided in subparagraph (b) of this section, before an appointing authority files any order in writing referred to in Section 7.3 of this Rule, which reduces compensation, suspends, demotes or removes a person in the classified service pursuant to this rule, the pre-removal safeguards to the extent required by *Skelly v. State Personnel Board* (1975) 15 Cal. 3d 194 shall be followed.

These pre-removal safeguards must include:

(Amended 9-27-05)

- (1) notice of the proposed action,
- (2) the reasons therefor,
- (3) a copy of the charges,
- (4) an opportunity to examine any materials upon which the action is based, and
- (5) the right to respond, either orally or in writing, to the appointing authority imposing the discipline.

A copy of this notice and receipt of proof of service shall be filed with the Commission with the notice required by Section 7.3. This notice shall be accompanied by a sealed envelope containing a list generally describing all the materials that the employee was given an opportunity to examine. The list shall be initialed by the employee in cases where the employee has in fact examined and/or received the materials prior to the imposition of discipline.

If for any reason the employee is unable or refuses to initial the list after examining the materials, the circumstances describing the refusal or inability shall be written on the list by the appointing authority. Such notice of proposed action shall be given a reasonable period of time prior to the date the discipline is to be imposed. (Amended 1-15-88)

- (b) In the event that emergency circumstances exist in which the immediate removal of an employee is essential to avert harm to the County or to the public, the appointing authority may dispense with the notice requirement imposed by paragraph (a) hereof and after giving the employee, by whatever means may be available, notice of the proposed action, the reasons therefore and a copy of the charges, and offering the employee an opportunity to immediately respond.

If the employee cannot be found at employee's place of work or residence, the appointing authority may thereafter proceed to impose discipline in the matter otherwise required by these rules. In the event the provisions of this subparagraph (b) are invoked by the appointing authority a complete statement of the reasons and the justification therefore, a copy of any notices and a sealed list of any materials that the employee was given an opportunity to examine and/or furnished the employee shall be filed with the Commission with the notice required by Section 7.3. (Amended 1-15-88)

### SECTION 7.3 NOTICE GIVEN

- (a) Before a person may be disciplined in the form of a reprimand, reduction in compensation, suspension, demotion or removal, the appointing authority shall serve on the person either personally or by certified mail, a copy of a written order stating the specific reasons for the disciplinary action. (Amended 9-27-05)

Said order shall contain specific charges set forth clearly and with such particularity as will enable the employee to understand the charges and to answer to them and shall be filed with the Commission within five (5) days after service on the employee. The Commission may require the suspension of any employee against whom charges have been filed, pending a hearing thereon. (Amended 1-15-88)

- (b) Each order of reduction in compensation, suspension, demotion or removal shall also contain in substantially the following language, notice of the employee's right to appeal to the Commission:  
(Amended 9-27-05)

"If you wish to appeal this order to the Civil Service Commission, you must file such appeal and an answer to the charges in writing with the Commission within ten (10) days after this order is received by you. Such appeal and answer to the charges must be in writing and delivered to the Commission at its office at 1600 Pacific Highway, San Diego, California, 92101, within the prescribed time."  
(Amended 1-15-88)

- (c) Reprimands may not be appealed to the Commission. Review of a reprimand may be pursued through the grievance procedure applicable to the employee's classification.

Each letter of reprimand shall also contain in substantially the following language, notice of the employee's right to review:

"If you wish to seek a review of this letter of reprimand, refer to the grievance procedure applicable to your classification. Such appeal must be in writing on the form provided by the County and within the time limits prescribed by the appropriate procedure."

#### SECTION 7.4 APPEAL AND ANSWER

An employee who has completed the required probationary period, who is reduced in compensation, suspended, demoted or removed, may, within ten (10) days after receipt of the order of reduction in compensation, suspension, demotion or removal as herein before provided, appeal in writing to the Civil Service Commission from such order. An employee who appeals must also, within the same time period, file an answer to the charges with the Commission.

(Amended 1-15-88) (Amended 9-27-05)

#### SECTION 7.5 SERVICE OF APPEAL AND ANSWER ON APPOINTING AUTHORITY

A copy of the appeal and answer required by Section 7.4 shall be served, either personally or by mail by the employee on the appointing authority within ten (10) days after receipt by the employee of the order of discipline. (Amended 1-15-88)

#### SECTION 7.6 TIME FOR HEARING

The Commission shall, consistent with established filing deadlines and at its next regular meeting, following the filing of said appeal, appoint a hearing officer who will notice a date for the hearing thereof, and shall without delay, fully hear the matter and propose to affirm, modify or revoke such order, including increasing or decreasing the discipline imposed.

The Commission, in its discretion may appoint one of its members or a hearing board or officer to hear the appeal and submit findings and a proposed decision to the Commission. The Commission shall review the findings and a proposed decision before taking final action in the matter. (Amended 1-15-88)

#### SECTION 7.7 CONDUCT OF HEARING

The appellant shall be entitled to appear personally, produce evidence, and to have counsel and a public hearing. The appointing authority may also be represented by counsel. All hearings shall be governed by the Charter, and these rules of practice and procedure. Technical rules of evidence shall not apply to such hearings or investigations and no informality in any of the proceedings or in the matter of taking testimony shall invalidate any order, decision, rule or regulation made, approved or governed by the Commission.

##### SECTION 7.7.1 SUBPOENAS

The Commission has the power to issue subpoenas and subpoenas duces tecum, and to compensate persons subpoenaed. The president or the executive officer of the Commission shall sign subpoenas and subpoenas duces tecum for witnesses for the appointing authority. The president or the executive officer of the Commission shall also sign such subpoenas for witnesses for the appealing employee, upon the employee's written request and at the employees' cost; and the president or executive officer may require the prepayment of such costs. (Amended 9-27-05)

Persons, other than County employees, who are subpoenaed shall be entitled to witness fees of \$12.00 a day and \$0.20 a mile, one way only. Such fees shall be paid by the party requesting the subpoena. County employees who are subpoenaed shall not be entitled to any witness fees but shall be entitled to paid service time. The Commission may disallow any fees or paid service time to a witness unnecessarily subpoenaed.

#### SECTION 7.7.2 INSPECTION OF DOCUMENTS AND INTERVIEW OF EMPLOYEES

An employee who has appealed to the Commission, or the employee's designated representative shall have the right to inspect any documents in the possession of or under the control of the appointing authority which are relevant to such appeal and which would be admissible in evidence at a hearing on such appeal.

The employee, or the employee's designated representative shall also have the right to interview other employees having knowledge of the acts or omissions upon which the reduction in compensation, suspension, demotion, or removal was based. Interviews of other employees and inspection of documents shall be at times and places reasonable for the employee and the appointing authority. (Amended 1-15-88) (Amended 9-27-05)

#### SECTION 7.7.3 AMENDMENT OF CHARGES

At any time before the employee's appeal is submitted to the Commission for decision, the appointing authority may, with the consent of the Commission or the hearing board or officer appointed by the Commission, serve on the employee and file with the Commission an amended or supplemental statement of charges.

If the amended or supplemental charges present new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare a defense thereto, but shall not be entitled to file a further answer unless the Commission or the hearing board or officer so orders. Any new causes or allegations shall be deemed controverted and any objections to the amended or supplemental charges may be made orally at the hearing.

#### SECTION 7.7.4 EXAMINATION OF EMPLOYEE AND OTHER PERSONS

At the hearing on the employee's appeal, the employee may be examined and may examine or cause any person to be examined in the manner provided in the Evidence Code. If such employee refuses to answer any question propounded upon examination after being directed by the Commission or hearing board or officer to answer, the Commission may order that the hearing on the appeal be stayed until the order is obeyed or may dismiss the appeal and affirm the order of removal, suspension or reduction.

#### SECTION 7.7.5 FAILURE TO APPEAR

If the employee refuses to appear or fails to appear, the Commission may order that the hearing on the appeal be stayed until the employee appears or may dismiss the appeal and affirm the order of reduction in compensation, suspension, demotion, or removal. (Amended 9-27-05)

## SECTION 7.8 FAILURE TO ANSWER

Failure on the part of an accused employee to file an answer within the time allowed in Section 7.5 shall be construed as an admission of the truth of the charges and judgment against said employee shall be entered forthwith and filed by the Commission. The Commission may upon the receipt from said accused employee of a statement setting forth reasons acceptable to the Commission for failure to file such answer set aside such peremptory judgment and proceed with the hearing of evidence submitted in the matter.

## SECTION 7.9 MAXIMUM PERIOD OF SUSPENSION

Any suspension invoked under this rule against any one employee in the classified service, whether with or without pay, or for one or more periods, shall not aggregate more than 90 calendar days in any one calendar year, provided, however, where the charge upon which a suspension is the subject of criminal complaint or indictment filed against such employee, the period of suspension may exceed 90 calendar days and continue until, but not after, the expiration of 30 calendar days after the judgment of conviction or acquittal of the offense charge in the complaint or indictment has become final.

## SECTION 7.10 CHARGES BY CITIZEN

Charges filed by any citizen of the County against any person in the classified service shall be verified under oath, and shall be supported by affidavit of one or more witnesses.

## SECTION 7.11 FINDING AND DECISION

The finding and decision of the Commission shall be final, and shall be certified to the official from whose order the appeal is taken and shall forthwith be enforced and followed. The decision shall give notice of the time limits for judicial review as set forth in Section 7.13.

## SECTION 7.12 RECORD FILED

A copy of the order in writing, a copy of the answer, together with a copy of the finding and decision of the Commission shall be filed as a public record in the office of the Commission.

## SECTION 7.13 TIME LIMITS FOR JUDICIAL REVIEW

- (a) Judicial review of any decision of the Civil Service Commission of the County of San Diego, or of any officer or agent of the Civil Service Commission of the County of San Diego may be had pursuant to Code of Civil Procedure Section 1094.5 only if the petition for writ of mandate pursuant to such section is filed within the time limits specified in this section.

- (b) Any such petition shall be filed not later than the 90th day following the date on which the decision becomes final. If there is no provision for reconsideration of the decision in any applicable provision of any statute, charter, ordinance, or rule, for the purposes of this section, the decision is final on the date it is made.

If there is such provision for reconsideration, the decision is final for the purposes of this section upon the expiration of the period during which such reconsideration can be sought; provided, that if reconsideration is sought pursuant to any such provision, the decision is final for the purposes of this section on the date that reconsideration is rejected.

- (c) The complete record of the proceedings shall be prepared by the Civil Service Commission of the County of San Diego, or its officer, or agent which made the decision and shall be delivered to the party requesting such record within 90 days after filing a written request therefore. A request for the preparation of the record of the proceedings shall be filed with the person designated in the final decision. Such person shall, within ten days of such request, notify the party of the estimated cost of the preparation of the requested records.

The party requesting such record shall, within ten days of such notification, deposit with the person designated in the decision an amount sufficient to cover the estimated cost. If, during the preparation of the record, it appears that additional costs will be incurred, the party requesting such record may be notified and, if requested, shall deposit such additional amounts before the record will be completed.

If the cost of the preparation of the record exceeds the amount deposited, the party requesting such record shall pay this additional amount. If the amount deposited exceeds the cost, the difference shall be returned to the party requesting such record. Upon receiving the required deposit, the person designated in the decision shall promptly prepare such record in accordance with the request.

Such record shall include the transcript of the proceedings, all pleadings, all notices and orders, any proposed decision by a hearing officer, the final decision, all admitted exhibits, all rejected exhibits in the possession of the Civil Service Commission of the County of San Diego, or its officer, or agent, all written evidence, and any other papers in the case.

- (d) If the party files a request for the record as specified in subdivision (c) within 10 days after the date the decision becomes final as provided in subdivision (b), the time within which a petition pursuant to Code of Civil Procedure Section 1094.5 may be filed shall be extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the party or the party's attorney of record.

- (e) As used in this section, decision means any adjudicatory administrative decision made, after hearing, reducing compensation, suspending, demoting, or removing an officer or employee of the County of San Diego. (Amended 9-27-05)
- (f) In making a final decision as defined in subdivision (e), the Civil Service Commission of the County of San Diego shall provide notice to the party that the time within which judicial review must be sought is governed by this section. Upon giving notice of any decision subject to this section, the person responsible to issue such decision shall include in the decision a statement substantially as follows:

"The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure Section 1094.6, which has been made applicable to the Civil Service Commission of the County of San Diego by Section 7.13 Rule VII of the rules of the Civil Service Commission of the County of San Diego. Any petition or other paper seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision becomes final; however, if within 10 days after the decision becomes final a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the party or the party's attorney of record. A written request for the preparation of the record of the proceedings shall be filed with \_\_\_\_\_  
\_\_\_\_\_  
(name and address of designated person)."

As used in this section, "party" means an officer or employee who has been suspended, demoted or dismissed.

## RULE VIII

### CONFLICTS OF INTEREST

#### SECTION 8.1 OUTSIDE EMPLOYMENT

Employees of the County shall devote all their time and efforts, during their assigned work hours, to their assigned duties. An employee shall not engage, at any time, in any outside employment, or in any outside business activity or enterprise which is inconsistent, incompatible, in conflict with or inimical to assigned duties as a County employee or the duties, functions or responsibilities of the appointing authority and the Department.

Appointing authorities may require an employee of their department to inform them of any outside employment, business activity or enterprise in which the employee is engaged. If the appointing authority determines that such employment, business activity or enterprise is inconsistent, incompatible, in conflict with or inimical as aforesaid, the employee shall be ordered to refrain therefrom; provided, however, that the employee may appeal from such order to refrain in the manner provided in Rule VII for appeals from disciplinary orders. (Amended 9-27-05)

#### SECTION 8.2 CONTRACTS WITH EMPLOYEES

No employee shall be paid as a seller of product or an independent contractor for performing a service, which product or service the employee could be required to produce or perform as a County employee in the class or position in which currently employed, unless the Commission, after making any determination required by Section 916 of the County Charter, finds that under the circumstances of a particular case the purchase of the product from the employee or employment of the employee as an independent contractor would not violate the spirit and intent of Article IX of the Charter.

This section shall not apply to the payment of suggestion awards.

RULE IX

LEAVES OF ABSENCE

SECTION 9.2.4 RESIGNATION UPON FAILURE TO RETURN AFTER LEAVE

Renumbered to 14.2.3

SECTION 9.9.1 LEAVES

The regulation and accumulation of vacation, sick leave and other leaves of absence for persons in the Classified and Executive Services shall be as provided for by the Board of Supervisors by ordinance or resolution after review and approval by the Commission, and shall be administered by the Director. (Amended 8-20-96)

## RULE X

### PERSONNEL SELECTION PROCESS APPEALS

#### SECTION 10.1 RIGHT OF APPEAL

An affected applicant or employee may appeal to the Commission any component of the selection process or any determination of the Director relating to the selection process and may be granted a hearing subject to the conditions contained within section 10.4. This could include, but is not limited to, the establishment of job qualifications, the examination procedures, the certification process, and the appointing authority's selection process. (Amended 1-15-88)

#### SECTION 10.2 REQUEST FOR HEARING

- A. After filing a complaint with the Director (Rule II and Rule III) about any part of the selection process and the Director having made a determination, an applicant or employee may file an appeal with the Civil Service Commission. This would not preclude an appeal to the Commission relating to the appointing authority's selection process.
- B. The applicant or employee must file a "Petition to Appeal Selection Process" form with the Commission within fifteen (15) days from the date of receipt of notification from the Director or the appointing authority of the action being appealed. (Amended 1-15-88)

#### SECTION 10.3 STAFF REVIEW

The Commission's Executive Officer may undertake a preliminary review of the appeal and prepare an appropriate stipulation of facts, statement of issue and recommendation for the consideration of the Commission or the Commission's hearing officer. (Amended 1-15-88)

#### SECTION 10.4 ACTION ON APPEAL FOR HEARING

The Commission may at its discretion grant a hearing or make its decision based on the merits of the information submitted by the parties concerned and the Commission staff.

The Commission shall deny both a request for a hearing and a review of the information submitted if the applicant or employee fails to fully complete the appeal form within the time-frame specified; or, if in the opinion of the Commission the specific facts and reasons stated, if true, would not entitle the applicant or employee to a reasonable remedy. Moreover, a hearing need not be granted if the Commission is of the opinion that the applicant's or employee's appeal is without merit. (Amended 1-15-88) (Amended 9-27-05)

## SECTION 10.5 TIME FOR HEARING

Upon granting a request for a hearing, the Commission's executive officer shall contact the parties involved to establish the time, date, and place of the hearing. (Amended 1-15-88)

## SECTION 10.6 CONDUCT OF HEARING

The Commission shall hear the matter and either affirm, modify or revoke the determination of the process being appealed. The Commission, at its discretion, may appoint one of its members or a hearing board or officer to hear the appeal and submit findings and proposed decision to the Commission. The Commission shall review the findings and the proposed decision before taking final action in the matter. The Commission may, pending conduct of hearing, order a certification and/or selection held in abeyance until a final decision is made.

The Commission or the designated hearing officer shall meet with the appellant and with the Director or the Director's designee to determine the specific facts relative to the process or determination under appeal. Where possible, the Commission or hearing officer shall encourage the joint submittal of a stipulation of facts and issues. Both the appellant and the Director shall be entitled to present such written evidence and/or oral testimony as is necessary to the Commission or hearing officer. Both the appellant and the Director shall be entitled to be present throughout the hearing.

The Commission may permit either party to examine any witnesses. The proceedings shall be tape recorded. Technical rules of evidence shall not apply to the proceedings and no informality in any of the proceedings or in the manner of taking testimony shall invalidate any order, decision, rule or regulation made, approved or governed by the Commission. If the employee refuses to appear or fails to appear, the Commission may order the hearing on the appeal be stayed until the employee appears or may dismiss the appeal. (Amended 1-15-88)

## SECTION 10.7 FINDINGS AND DECISION

The findings and decision of the Commission shall be final and there will be no reconsideration. (Amended 1-15-88)

## SECTION 10.8 RECORD FILED

A copy of the appeal together with a copy of the findings and decision of the Commission shall be filed as a public record in the office of the Commission. (Amended 1-15-88)

## RULE XI

### INVESTIGATIONS

#### SECTION 11.1 INVESTIGATIVE POWERS OF THE COMMISSION

For purposes of protecting the merit basis of the personnel system, the commission may in its discretion upon request of any individual or on its own initiative, investigate, either as a group or as individuals, the conduct and operations of any department. In the course of such investigations the Commission or designated individuals may administer oaths and subpoena witnesses and materials.

#### SECTION 11.2 LEGAL ACTION

The Commission may take legal action, as provided by general law for boards of supervisors, against any person, who failing to comply with its subpoena or by refusing to testify, shall be considered in contempt.

#### SECTION 11.3 PROCEDURES

The Commission shall adopt procedures for the institution and conduct of investigations, which may vary according to the scope and nature of the investigation.

#### SECTION 11.4 FINDING AND PROPOSED DECISION

The Commission shall review the findings and proposed decision of a designated individual Commissioner before taking final action in the matter.

#### SECTION 11.5 ENFORCEMENT

After review of the findings and proposed decision, the Commission may make any necessary orders, including, but not limited to, back pay and classification adjustments, to carry out the provisions of the Charter and the Civil Service Rules. The findings and decision and orders, if any, shall be certified to the appropriate affected county officers and shall forthwith be enforced and followed.

#### SECTION 11.6 REMEDY

Where an employee has taken an authorized employment related action in reliance upon the Civil Service Rules then in existence and the Civil Service Rule relied upon is subsequently amended or repealed resulting in an adverse impact upon the employee, the Commission upon finding that the application of the previously amended or repealed rule would mitigate the adverse impact upon the employee, may apply such previously amended or repealed rule. (Amended 3-15-83)

RULE XII

POSITION CLASSIFICATION

SECTION 12.1 PURPOSE

It is the purpose of this rule to assure that all positions authorized by the Board of Supervisors are classified in accordance with the duties and responsibilities assigned by appointing authorities. It is also the purpose of this rule to assure that the classes which make up the Classified Service are arranged in relation to other classes so as to achieve and maintain a classification plan which will promote the efficient and orderly administration of work and develop a County career service.

SECTION 12.2 RESPONSIBILITY FOR CLASSIFICATION OF POSITIONS

The Director shall administer the classification plan for all positions in the Classified Service. It is the duty of the Director to:

- A. Make recommendations to the Board of Supervisors as to the establishment and deletion of classes;
- B. Develop procedures for the administration of the classification plan for the Classified Service;
- C. Conduct studies of positions in the County Service to determine the proper classification of all positions in the Classified Service;
- D. Recommend the assignment of positions to appropriate classes to the Board of Supervisors;
- E. Approve and maintain all official class specifications, modifications or deletions to class specifications according to the following guidelines:
  - (1) New classes shall include:
    - (a) proposed class specification;
    - (b) reason that no existing class is appropriate;
    - (c) factors which distinguish the new class from related classes;
    - (d) rationale for the proposed compensation and salary allocation;
    - (e) representation status of the class, including bargaining unit, if appropriate, to which the class is proposed to be assigned;
    - (f) rationale for the minimum qualifications.

(Amended 9-27-05)

- (2) Class deletions shall include the class specification to be deleted and the rationale for the deletion.
- (3) A copy of official classification changes shall be filed with the Civil Service Commission at the time of docketing with the Board of Supervisors, so that the Civil Service Commission may advise, if it desires, under the provisions of Charter Section 904.5.

### SECTION 12.3 CONDUCT OF CLASSIFICATION REVIEWS

The Director shall establish procedures for the conduct of classification studies and for the review of proposed duties and responsibilities to determine the proper class allocation in accordance with the guidelines as set forth in Section 12.2 of this rule.

### SECTION 12.4 RESPONSIBILITY FOR ASSIGNMENT OF WORK

- A. The appointing authority shall be solely responsible for the assignment of work. Assignment of duties and responsibilities to a position by the appointing authority shall be consistent with those described for the class.
- B. Should reorganization or business necessity result in potential changes to the assigned duties or responsibilities on other than a volunteer basis, the appointing authority shall promptly notify the Director. The notification shall include the reason for the change in duties that may necessitate review by the Director of the appropriateness of the class to which such positions are assigned.

### SECTION 12.5 EMPLOYEE REQUEST FOR CLASSIFICATION REVIEW

- Step 1: The Employee. If a permanent employee can demonstrate that he/she has been assigned and is regularly performing duties and responsibilities on other than a voluntary basis as authorized by Section 12.4 of this rule, which appear to be outside those of his/her class specification for at least fifty percent (50%) of a continuous six (6) month period preceding the request, the employee may, within 60 days of such six-month period, submit a written request to his/her appointing authority to conduct a classification review.
- Step 2: The Appointing Authority. The appointing authority shall be responsible for conducting the requested review. This review shall be in writing to the employee, shall respond to the classification issue(s) contained in the employee's request, and shall be prepared within thirty (30) days of receipt of the request.
- Step 3: Department of Human Resources. If the appointing authority's response does not resolve the classification issue, the employee may, submit the appointing authority's response in writing to the Department of Human Resources. The submission to the Department of Human Resources must be within ten (10) work days of receipt of the appointing authority's response, and must include the reasons the appointing authority's response does not resolve the classification issue. (Amended 8-20-96)

The Director shall cause a work assignment study, to be conducted by the Department of Human Resources' staff within thirty (30) days of receipt of the employee's submission. A written report and findings of the study shall be issued to the employee and the appointing authority within thirty (30) days of the initiation of the study. (Amended 8-20-96)

Step 4: The Director. If the Department of Human Resources' staff report does not resolve the classification issue, the employee may submit the Department of Human Resources' staff report and findings to the Director for review within fifteen (15) work days of receipt by the employee of the Department of Human Resources' report. The Director or designee shall meet with the employee at a mutually agreeable time, but no later than fifteen (15) work days from receipt of the submission by the Director. (Amended 8-20-96)

The Director shall render a written decision in the matter submitted within ten (10) work days of the meeting. The decision of the Director shall be final.

Step 5: Civil Service Commission Appeal. The employee may appeal the Director's decision to the Commission. Such appeal must be filed within ten (10) days from the date of personal service or date of certified mail of the Director's decision.

The Commission shall, consistent with established filing deadlines and at its next regular meeting notice the date for the hearing thereof, and shall without delay, fully hear and determine the matter; provided, however, the Commission in its discretion may appoint one of its members or a hearing board or officer to hear the appeal and submit the findings and proposed decision to the Commission.

The Commission shall review the findings and the proposed decision before taking final action in the matter. The hearing shall be conducted in the same manner as one conducted pursuant to Rule X of these rules.

If the Commission finds that the employee (a) involuntarily worked out of class in excess of fifty percent (50%) of the continuous six (6) months referenced in the appeal, and (b) the employee has requested appointing authority classification review of the involuntary assignment of duties, all as is set forth in Step 1 hereof, then the Commission may either:

- (a) Order the appointing authority to stop assigning to the employee duties and responsibilities outside those of his/her classification; or
- (b) Order the Director to reclassify the position in question, leaving the incumbent to qualify for the position under applicable Civil Service Rules.

- (c) Additionally, if the involuntary working out of class continues beyond six (6) months, the Commission may in its discretion order the appointing authority to pay the employee not to exceed the premium pay or salary differential between his/her class and that of the higher class for that period in excess of six (6) months until the date of the Commission decision.

The findings and decision of the Commission shall be the final appeal step and shall be certified to the parties and shall be forthwith enforced and followed.

Waiver of Time Limits. Except for those set for in Step 1, the time requirements for the above review process may be waived or modified by mutual agreement of the parties at any step of the process.

#### SECTION 12.6

When a classification action, not covered under Sections 12.1 through 12.5 above, results in an alleged violation of the merit basis of the personnel system, employees may request Commission review as provided for in Rules IV, V, VI, X and XI. Such request must be in writing and must specify the nature of the rule provision subject to the alleged violations.

### RULE XIII

#### RULES AND REGULATIONS

(REPEALED AND INCORPORATED INTO RULE I)

(Repealed)

## RULE XIV

### LAYOFF, REINSTATEMENT, RESIGNATION AND SEPARATION

#### PART 1 - LAYOFF AND REINSTATEMENT

##### SECTION 14.1.1 LAYOFF AND REINSTATEMENT

###### General

When the Board of Supervisors determines it is necessary through lack of work or funds, to reduce the number of employees in any class covered by this Rule, the appointing authority of the department concerned shall notify the Director in writing of the number of employees to be laid off, the class title, and the date the employees are to be laid off. Upon receipt of such notice, the Director shall give to the appointing authority, the names of the employees who should be first laid off in accordance with this Rule.

##### SECTION 14.1.2 EXCEPTIONS

###### (a) Suborganizational Layoff

- (i) This subsection shall apply to employees in classes designated AM, AS, DA, DI, DM, DS, PD, PM, SM and SW. When the appointing authority so requests, the Civil Service Commission, upon finding that it is in the public interest, may, at a public meeting, authorize an appointing authority to lay off employees within a division, office, section, institution or other subdivision of an office, department or institution instead of laying off employees from the office, department or institution as a whole. In such case, the foregoing provisions shall be applied to the division, office, section, institution or other subdivisions within which the Civil Service Commission has authorized the layoff. (Amended 8-20-96) (Amended 9-27-05)
- (ii) This subsection shall apply to employees in classes designated AE, CC, CE, CEM, CL, CS, FS, MA, MM, PR, PS, SS, CR, CM, HS, RN, PO and SO. When the appointing authority so requests, the Chief Administrative Officer may authorize an appointing authority to lay off employees within a division, office, section, institution or other subdivision of an office, department or institution as a whole. In such case, the foregoing provisions shall be applied to the division, office, section, institution or other subdivisions within which the Chief Administrative Officer has authorized the layoff. Except for employees designated CE, CEM, MA, and SO prior to such layoff, the appointing authority shall provide the Union/Association with notice and, upon request, shall meet on the impact of the layoff with the Union/Association to discuss the matter and alternatives to such layoff. (Added 5-14-96) (Amended 9-27-05)

b) Required Specialized Skills

When the appointing authority so requests, employees who perform required services and possess specialized knowledge, and/or skill not possessed by other employees in the Department and which are necessary to the operation of the Department, may be excepted from layoff, as authorized at a public meeting by the Civil Service Commission pursuant to a finding that such exception from layoff is in the public interest.

c) Performance Based Abilities

This subsection shall apply to employees in classes designated CE, CEM and MA. Upon request of the appointing authority and approval of the Director, when a reduction in force is required in a multiple-position classification, the appointing authority may except from layoff employees in such multi-position classification who, in the discretion of the appointing authority, have best demonstrated the ability to carry out department functions and responsibilities. (Added 5-14-96) (Amended 9-27-05)

SECTION 14.1.3 NOTICE OF LAYOFF

(a) DHR Notice to Department and to Union/Association

Prior to the occurrence of a layoff, the Director, shall provide written notice to the Union/Association for employees represented by a recognized employee organization when the Department is notified of any employees covered by this Rule, who are identified for layoff. This notice shall list all persons in the affected class including the number, class title, seniority rating, and date on which affected employees are to be laid off.

(b) Appointing Authority Notice to Employees

Upon receipt of the layoff list, the appointing authority shall prepare and serve a Notice of Layoff. The notice shall contain the following information:

- (1) The effective date of layoff;
- (2) The seniority rating of the employee computed by the Director;
- (3) The seniority ranking of the employee on the layoff list for the particular class involved in the layoff;
- (4) The total number of layoffs for the particular class;
- (5) A statement of the computation of seniority ratings and rankings;
- (6) A copy of the complete layoff list compiled by the Director showing the seniority rating for each employee on the layoff list;

- (7) A statement that the employee has the opportunity to contact the Director or designated representative no later than five (5) business days after receipt of the Notice of Layoff to inspect the records relating to the computation of the layoff list including the employee's seniority rating and ranking, and to meet with the Director or designated representative regarding any corrections related to such list, rating, or ranking.

The employee shall be informed that failure to contact or meet with the Director or designated representative within the prescribed period will be deemed a waiver of any objections that might have been raised regarding the list, rating or ranking;

- (8) A statement that the layoff will be effective on the date indicated unless the appointing authority advises the employee in writing otherwise prior to the effective date and time set forth on the notice;
- (9) A copy of provisions of Rule XIV of the Rules pertaining to layoff.

#### SECTION 14.1.4 APPROVAL AND SERVICE OF NOTICE

The Notice of Layoff shall be approved by County Counsel prior to its distribution to any employee. The Notice of Layoff shall be served, either personally or by mail, on an employee at least fifteen (15) calendar days prior to the effective date of layoff for employees in classes designated AM, AS, CE, CEM, DA, DI, DM, DS, MA, PD, PM and SM, and at least thirty (30) calendar days prior to the effective date of the layoff for all other employees. (Amended 8-20-96) (Amended 9-27-05)

#### SECTION 14.1.5 ORDER OF LAYOFF

Except for permanent employees who volunteer to be laid off, the order of layoff within the class and in the Department, shall be in the following order (the appointing authority may lay off a volunteer for layoff at any point in this order):

- (a) Provisional Employee Definition: An employee who has not completed a probationary period and who has not been appointed to his/her present class from an eligible list.
- (b) Certified Temporary Employee Definition: An employee who has not completed a probationary period and has been temporarily appointed from an eligible list for a specified period.
- (c) Probationary Employee Definition: An employee who has been appointed to a permanent position from an eligible list and is currently serving, but who has never completed, a probationary period.
- (d) Permanent Employee Definition: An employee who has completed a probationary period or a permanent employee who is serving a probationary period in the same or a different class.

Permanent employees shall be laid off according to the layoff rating, lowest ratings first. The order of layoff within categories (a), (b), and (c), and for permanent employees with equal layoff ratings, shall be at the appointing authority's discretion. Employees on leave shall be laid off or demoted in lieu of layoff as if they were active employees.

#### SECTION 14.1.6 SENIORITY

Seniority is the employee's total hours of continuous County service. All service of a blanketed-in employee (see Section 4.2.4(b)) shall, for the period prior to classification to the position, be credited for seniority purposes whether or not it was continuous. All seniority is lost upon resignation or dismissal. Any employee who has gained permanent status and is laid off, shall, if reinstated, regain his/her seniority credit possessed at the time he/she was laid off.  
(Amended 9-27-05)

#### SECTION 14.1.7 CALCULATION OF LAYOFF RATING

(a) Continuous-service-date to May 23, 1986. ("historical" layoff rating)

The purpose of this "historical" layoff rating is to calculate employees' service credit for purposes of the past to the last day of the full pay period beginning May 9, 1986. These points will constitute employee's layoff rating for the past, to which the points calculated for prospective implementation (standard layoff rating) will be added as provided below:

Historical layoff rating: One (1) point for each hour of continuous (unbroken service) from last date employee was hired into the classified service (80 points for each full biweekly pay period).

b) Standard layoff rating: One (1) point for each hour of paid service (excludes all unpaid leaves or periods of suspension but includes short-term voluntary work furlough), after the day specified in (a) above.

(c) Formula for combining historical and standard layoff ratings: Employees in classes identified for layoff shall have their seniority calculated as follows to combine historical and standards ratings:

Total historical ratings: \_\_\_\_\_ Hrs.

Plus: standard rating: \_\_\_\_\_ Hrs.

Total: \_\_\_\_\_ Hrs./Points

The total of these two ratings shall constitute the employee's official layoff rating.

#### SECTION 14.1.8 DEMOTION IN LIEU OF LAYOFF

The appointing authority shall determine by class, subject to review by the Director, whether demotion shall be afforded employees as an option in lieu of layoff.

At the request of the appointing authority, a permanent employee shall, in lieu of layoff, be afforded the option of demotion within the same department to a position in a lower class, provided that no such demotion shall in turn require the layoff or demotion from such lower class of any employee whose layoff rating is at least as high as that of the demoting employee.

A probationary employee may be afforded the opportunity to accept a demotion within the same department to a position in a lower class provided no such demotion shall in turn require the layoff of any employee in the lower class. Such probationer shall not become permanent in the lower class by this action except by completing a new full probation period in such lower class.

#### SECTION 14.1.9 CASH IN LIEU OF COMPENSATORY TIME OFF

The Board of Supervisors may approve the payment of cash in lieu of compensatory time off for any employee who is laid off when such payment is in the best interests of the public service.

#### SECTION 14.1.10 ELIGIBILITY TO BE PLACED ON REINSTATEMENT LIST AFTER LAYOFF

The provisions of Section 14.1.12 shall apply to employees in classes designated CC, CE, CEM, CS and MA. (Added 5-14-96) (Amended 9-27-05)

A permanent employee who is laid off, demoted in lieu of layoff, or whose position is to be deleted as a result of the Board of Supervisors adoption of a Resolution to delete the position, shall have his/her name placed on the reinstatement list for the class from which the employee is, or is to be, laid off or demoted in lieu of layoff. (Amended 9-27-05)

Employees in classes designated AM, AS, DA, DI, DM, DS, PD, PM and SM, shall be on the reinstatement list for two (2) years and all other employees shall be on the reinstatement list for three (3) years except that an employee who three (3) times refuses an offer of reinstatement to the class from which he/she was laid off, or to a class of equal status, or fails to respond to an offer of reinstatement, shall have his/her name removed from the reinstatement list following said refusal. (Amended 8-20-96) (Amended 9-27-05)

In addition, if the employee on the reinstatement list is appointed to a class from which he/she was laid off, or to a different class of equal to or greater status than the reinstatement list class, then his/her name shall be removed from the reinstatement list. An employee who accepts an offer of reinstatement to the class from which he/she was laid off shall also be removed from the reinstatement list upon the date of reinstatement.

The placement on the reinstatement list shall be determined in the same manner as for the order of layoff except in the inverse order thereof. Employees on the reinstatement list shall have the first right of reinstatement to any vacancies in any department for the class for which he/she is eligible for such reinstatement, subject to the following:

- (a) A new probationary period shall not be required of any employee reinstated to the department from which he/she was laid off;
- (b) A new probationary period shall be required of an employee reinstated to a different department than that from which he/she was laid off, except that failure of probation shall return the employee to the reinstatement list. In no event shall such failure of probation extend the employees placement on the reinstatement list beyond two or three years (as specified above) from the date of placement on it.
- (c) A reinstated employee will regain his/her seniority credit possessed at the time he/she was laid off, which shall count for purposes of vacation accrual rate and step increase. In addition, the employee's sick leave balance (except for that portion for which the employee was paid cash at the time of layoff), and compensatory time off balance accrued as of layoff, shall be reinstated.

SECTION 14.1.11 ELIGIBILITY TO BE PLACED ON REINSTATEMENT LIST AFTER DEMOTION OR DISABILITY RETIREMENT

- (a) Any former employee who has been granted disability retirement and subsequently is determined by the Retirement Board to be physically able to perform again the duties of the class of position from which retired may upon application approved by the Director be placed upon the appropriate reinstatement list. The place on such list shall be determined in the same manner as prescribed by these rules for the order of layoff, but in the inverse order thereof.

Eligibility shall be for a period of three years after determination of the physical ability to return to work after disability retirement or until appointment from the reinstatement list to a permanent position in the same class unless the name is removed from the list in accordance with these rules.

- (b) Eligibility shall be for a period of three years after the date of demotion to a lower class in the same position following reclassification of the position or until appointment from the reinstatement list to a permanent position in the same class unless the name is removed from the list in accordance with these rules.

SECTION 14.1.12. ELIGIBILITY TO BE PLACED ON REEMPLOYMENT LIST AFTER LAYOFF

This Section shall apply to employees in classes designated CC, CE, CEM, CS and MA. A permanent employee who is laid off, demoted in lieu of layoff, or whose position is to be deleted as a result of the Board of Supervisors adoption of a Resolution to delete the position, shall have his/her name placed on the reemployment list for the class from which the employee is, or is to be, laid off or demoted in lieu of layoff. In addition, if the former employee who was placed on the reemployment list as a result of layoff is appointed to a position in the same class in the same department from which he/she was laid off, he/she shall not be required to serve a new probationary period. (Amended 9-27-05)

An employee who was laid off and subsequently is reemployed from the reemployment list shall:

1. serve a new probationary period if the appointment is to a different class or different department from which he/she was laid off; and
2. regain his/her seniority credit possessed at the time he/she was laid off which shall count for purposes of vacation accrual rate, step increase and seniority. In addition, the employee's sick leave balance (except for that portion for which the employee was paid cash at the time of layoff), and compensatory time off balance accrued as of layoff, shall be reinstated. (Added 5-14-96)

PART 2 - RESIGNATION

SECTION 14.2.1 RESIGNATION

- (a) An employee wishing to leave the classified County service in good standing shall file with the appointing authority a written resignation on the form prescribed by the Director, giving at least one week's notice of intention to leave the service unless the said appointing authority consents to the employee leaving sooner, resignation shall be forwarded to the Director forthwith.

An employee who leaves the classified service without so filing a written resignation, or giving a week's notice, shall have that fact entered on said employee's service record in the office of the Director and may be denied entrance to fitness tests.

- (b) An employee who has submitted a resignation may request the Director to rescind said resignation. The request must be in writing and submitted prior to the employee's last day of employment as set forth in the resignation. The Director, after investigation, shall notify the employee of said Director's decision prior to the employee's last day of employment. (Amended 11-24-81)

#### SECTION 14.2.2 RESIGNATION UPON ABSENCE WITHOUT LEAVE

- (a) Absence of any employee without authorized leave for three consecutive working days shall separate such employee from the service and be considered in effect a resignation as of the last day on which the employee worked; provided, however, an appointing authority may cancel such separation if it is determined circumstances warrant such cancellation.
- (b) Where the appointing authority does not cancel such separation, the employee may within 30 days of the effective date of such separation file with the Civil Service Commission a written request for reinstatement; provided that if the appointing authority has given written notice to the employee of the automatic separation, any request for reinstatement must be made in writing and filed with the Civil Service Commission within five days of the service of the notice of separation.

Service of said notice shall be by personal service or by mailing a copy to the employee's last known place of residence as shown by the records of the department in which last employed.

- (c) The Civil Service Commission shall, upon the filing of such written request, conduct a hearing thereon. The procedure for the conduct of said hearing shall be as set forth in Section 7.5 and 7.11, inclusive of the Civil Service Rules.
- (d) The Commission, after conducting such hearing, may reinstate the employee if it determines the employee's absence is excusable.
- (e) In the event an employee is reinstated pursuant to this section, the Commission may designate that such reinstatement shall be with or without a break in continuous service for the purposes or accrual of sick leave, computation of vacation credit or determining the salary step at which the employee shall be paid.
- (f) Nothing in this section shall preclude an appointing authority from taking disciplinary action against an employee pursuant to Rule VII for absence without leave.

#### SECTION 14.2.3 RESIGNATION UPON FAILURE TO RETURN AFTER LEAVE

- (a) Failure of any employee to report for duty within three calendar days after the expiration of an authorized leave of absence shall separate such employee from the service and be considered in effect a resignation as of the last day of said leave; provided, however, an appointing authority may cancel such separation if it is determined circumstances warrant such cancellation.

- (b) Where the appointing authority does not cancel such separation, and the leave was other than a leave without pay without right to return to former position, the employee may within 30 days of the effective date of such separation file with the Civil Service Commission a written request for reinstatement; provided that if the appointing authority has given written notice to the employee of the automatic separation, any request for reinstatement must be made in writing and filed with the Civil Service Commission within ten (10) days of the service of the notice of separation.

Service of said notice shall be by personal service or by mailing a copy to the employee's last known place of residence as shown by the records of the department in which employed. A copy of the notice and a receipt of proof of service shall be filed with the Commission. (Amended 1-15-88)

- (c) The Civil Service Commission shall, upon the filing of such written request conduct a hearing thereon. The procedure for the conduct of said hearing shall be as set forth in Sections 7.4 and 7.11, inclusive of the Civil Service Rules. (Amended 1-15-88)
- (d) The Commission, after conducting such hearing, may reinstate the employee if it determines the employees' failure to report is excusable.
- (e) In the event an employee is reinstated pursuant to this section, the Commission may designate that such reinstatement shall be with or without a break in continuous service for the purposes of accrual of sick leave, computation of vacation credit or determining the salary step at which the employee shall be paid.
- (f) Nothing in this section shall preclude an appointing authority from taking disciplinary action against an employee pursuant to Rule VII for absence without leave.

### PART 3 - SEPARATION

#### SECTION 14.3.1 SEPARATION AFTER TRANSFER OR PROMOTION

In case any employee in the classified service has been promoted from a class in which permanent status was held to a class which carries a higher maximum salary or has been appointed from an employment list to a position in another class which carries the same maximum salary as the class in which permanent status was held at the time of such appointment, or transferred, subject to a probationary period and is separated from the position during the probation period, the Director shall restore such employee to the former classification and position in the former department, whether or not it will be necessary to lay off an employee in such former position, unless the appointing authority for the former position removed the employee from County service under the provisions of Rule VII.

If the employee's former class has been abolished, the employee shall be placed in a position in an equivalent class or laid off from the abolished class by applying Rule XIV as though the employee was an incumbent of the class when it was abolished. An employee restored to a position, placed in a position in an equivalent class, or demoted in lieu of layoff as a result of this rule shall not serve another probationary period. (Amended 9-27-05)

A permanent employee separated as a result of an employee being restored to former position shall be laid off as provided in Rule XIV. A probationary employee so separated shall be returned to the appropriate examination employment list with a grade determined by the Director based on education, experience, personal fitness and record of efficiency in the County service. Eligibility shall expire after one year. (Amended 8-20-96)

SECTIONS 14.3.2, 14.3.3 REPEALED (7-5-83)

SECTION 14.3.4 REPEALED (1-15-88) (See 3.2.5d)

SECTION 14.3.5 REPEALED (1-15-88)

SECTION 14.3.6 REPEALED (7-5-83)

SECTION 14.3.7 REPEALED (1-15-88) (See 3.2.5)

SECTION 14.3.8 REPEALED (1-15-88)

RULE XV

FORMER RULE XV COUNTY EMPLOYEES TRANSFERRED,  
WAS REPEALED;

NEW RULE XV – APPEAL OF CLERB “SUSTAINED” FINDING  
ADOPTED 6-10-03

SECTION 15.1.1 PEACE OFFICERS’ ADMINISTRATIVE APPEAL TO CIVIL SERVICE  
COMMISSION FROM ADVERSE CITIZENS’ LAW ENFORCEMENT REVIEW  
BOARD (CLERB) FINDING

Upon a finding by the San Diego County Citizens’ Law Enforcement Review Board (“CLERB”) sustaining a complaint that a peace officer employed by the County in the Sheriff’s Department or the Probation Department has committed or engaged in any of the following conduct as set forth in County Administrative Code Section 340.9:

- a. Use of excessive force,
- b. Discrimination or sexual harassment in respect to members of the public,
- c. The improper discharge of firearms,
- d. Illegal search or seizure,
- e. False arrest,
- f. False reporting,
- g. Criminal conduct,
- h. Misconduct, or
- i. Any punitive action as defined by the Public Safety Officers Procedural Bill of Rights Act, Government Code section 3300 et seq., (items a through i hereinafter collectively referred to as “improper conduct”),

the peace officer may request an administrative appeal by filing a written request with the Civil Service Commission (“Commission”), and serving a copy of the request upon CLERB, within fifteen (15) days of receipt of the CLERB finding. The written request for an administrative appeal shall specify the allegation(s) sustained by CLERB which is (are) being appealed.

SECTION 15.1.2 HEARING ASSIGNMENT

The Commission may assign one of its members to hear the administrative appeal and submit findings and a proposed decision to the Commission regarding whether the evidence presented demonstrates that the incident or act, which was the basis for the complaint sustained by CLERB, did or did not constitute improper conduct.

SECTION 15.1.3 WRITTEN STATEMENT

At least fifteen (15) days prior to the hearing, CLERB shall serve upon the peace officer, and file a copy thereof with the Commission, a written statement of (a) the specific improper conduct which CLERB found was sustained and which is being appealed, and (b) a summary of the evidence supporting the finding of sustained. The written statement may include any report or findings adopted by CLERB.

#### SECTION 15.1.4 RIGHT TO REVIEW FILE

Upon request to CLERB, the peace officer shall have the right to review and receive a copy of all items contained in the CLERB file, except for any evidence that cannot be so made available because its disclosure to the peace officer is prohibited by law.

#### SECTION 15.1.5 SUBPOENAS

The Commission, pursuant to County of San Diego Charter Section 907, has the power to subpoena and require the attendance of witnesses and the production of documents and papers pertinent to the hearing. The President or the Executive Officer of the Commission shall sign subpoenas for witnesses upon written request of CLERB or the peace officer. Persons who are subpoenaed, other than County employees, are entitled to the same witness fees and mileage as witnesses in a civil action in the courts of this state. Such fees shall be paid by the party requesting the subpoena. The President or Executive Officer may require the peace officer to prepay such costs. County employees who are subpoenaed shall not be entitled to any witness fees but shall be entitled to paid service time.

#### SECTION 15.1.6 CLOSED HEARING

A hearing shall be closed to the public if requested by the peace officer, except as otherwise permitted by law.

#### SECTION 15.1.7 BURDEN OF PROOF

The burden of proof shall be on CLERB to demonstrate through a preponderance of the evidence that the incident or act, which was the basis for the complaint sustained by CLERB, occurred and did constitute improper conduct.

#### SECTION 15.1.8 FAILURE TO APPEAR

If the peace officer requesting the administrative appeal fails to appear for the appeal, the Commission shall dismiss the administrative appeal, unless good cause for nonappearance is shown by the peace officer.

#### SECTION 15.1.9 ADMINISTRATIVE APPEAL RIGHTS

For purposes of the administrative appeal, peace officers and CLERB representatives shall have the following rights:

- a. To subpoena witnesses and documents.
- b. To appear personally and be represented by counsel.
- c. To present testimony and documentary evidence.
- d. To cross-examine witnesses.

#### SECTION 15.1.10 SELF INCRIMINATION

At the hearing, the peace officer may be examined, and if the peace officer refuses to answer any question propounded upon examination after being directed by the hearing officer to answer, the Commission may order that the hearing on the appeal be stayed until the order is obeyed or may dismiss the appeal, provided however, if the reason given for refusing to answer a question is the privilege against self-incrimination, the Commission may not order that the hearing be stayed or dismiss the appeal, but may consider the invocation of the privilege in making its decision.

#### SECTION 15.1.11 EVIDENCE AND WITNESSES

All testimony shall be under oath. Technical rules relating to evidence and witnesses shall not apply to the administrative appeal. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action. No informality in any of the proceedings or in the manner of taking testimony shall invalidate any finding or decision of the Commission.

#### SECTION 15.1.12 FINDINGS

The findings and decision of the Commission shall be final and not subject to reconsideration. The findings and decision of the Commission shall be certified to CLERB, to the peace officer who appealed, and to the County department employing the peace officer. A decision by the Commission that the peace officer did not commit or engage in the improper conduct that CLERB determined had been sustained shall be binding upon all County departments, offices and agencies, and such CLERB finding shall not be used for any personnel decision or action regarding the peace officer. A decision by the Commission that the peace officer did commit or engage in the improper conduct that CLERB determined had been sustained shall not change the advisory nature of the CLERB findings or recommendations to the County related thereto.

RULE XVI  
COMPULSORY RETIREMENT  
REPEALED (8-20-96)

## RULE XVII

### GLOSSARY

#### SECTION 17.1.1 DEFINITIONS

For the purpose of these Rules, the following definitions shall apply. Wherever used, the singular shall include the plural and the plural the singular. The word "shall" shall be construed as mandatory, and the word "may" as permissive or discretionary.

<u>Applicant:</u>	A person who has filed a formal application for employment.
<u>Appointing Authority:</u>	The elective or appointive officer of a department, office, board or commission of County government who has the power by County Charter or by lawfully delegated authority to make appointments to or remove persons from positions.
<u>Appointment:</u>	The act of appointing or placing a person in a non-elective position of a class. All County appointments are made in accordance with these Rules to authorized classes of permanent or temporary positions.
<u>Biweekly Rate:</u>	See Compensation Ordinance.
<u>Board:</u>	As used in these Rules, the Board of Supervisors of the County of San Diego.
<u>Candidate:</u>	A person whose application for employment has been accepted as meeting the minimum qualifications and general requirements for County employment.
<u>Certification:</u>	The act of the Director submitting names of eligibles from an employment list for appointment consideration.
<u>Certified Temporary Appointment:</u>	The temporary appointment of a qualified person to a vacant position after certification from an employment list.
<u>Charter:</u>	Charter of the County of San Diego.
<u>Class:</u>	The job title of a position or group of positions containing duties and responsibilities as determined by the Director, to be sufficiently similar or so related that the same education, training, experience, knowledge and ability is required of the incumbent; the same tests of fitness can be used to select qualified individuals; and the same salary range or rate of compensation can be applied. All positions in the Classified Service are assigned to a class by the Director.

<u>Classification:</u>	When used as a noun, synonymous with class. (See Class) Also used to refer to the personnel process used to classify new positions or reclassify existing positions. (See Classify and Reclassify)
<u>Classification Adjustment:</u>	See Reclassification.
<u>Classified Service:</u>	All positions not specifically included in the Unclassified Service as defined in Section 908.2 of the County Charter.
<u>Classify:</u>	The act of assigning a new position or positions to a class based on an analysis of the duties, responsibilities and requirements of the position by the Director.
<u>Class Specification:</u>	The official description of the primary duties, responsibilities and requirements of a class.
<u>Commission:</u>	As used in these Rules, the San Diego County Civil Service Commission.
<u>Compensation:</u>	Any salary, wage, fee, allowances, or all other forms of valuable consideration including benefits earned or paid to an employee by reason of service in a position.
<u>Continuous Service:</u>	County employment uninterrupted by separation.
<u>County:</u>	San Diego County government.
<u>County Service:</u>	In the employ of San Diego County Government.
<u>Days:</u>	Calendar days.
<u>Demotion:</u>	A change in appointment to a class having a lower top prescribed pay rate.
<u>Department:</u>	A major administrative branch of the County organization headed by an elective or appointive official.
<u>Department of Human Resources:</u>	The County Department responsible for administering the County personnel system in accordance with merit principles and the County's Charter and for maintaining these Rules. (Amended 8-20-96)
<u>Director:</u>	As used in these Rules, refers only to the Director, Department of Human Resources. (Amended 8-20-96)
<u>Dismissal:</u>	The involuntary termination of an appointment and the removal of an employee from a position in accordance with Rule VII.

<u>Eligible:</u>	Persons who the Director has deemed qualified to perform the work of a class and whose name appears on an official employment list.
<u>Eligible List:</u>	Same as an employment list.
<u>Eligibility List:</u>	Same as an employment list.
<u>Employee:</u>	A person holding a position in the County service.
<u>Employment List:</u>	A roster containing the names of persons qualified to perform the work of a specific class. The Director certifies candidates as eligible for appointment from a reinstatement, regular, seasonal, reemployment or transfer employment list.
<u>Employment Status:</u>	The permanent or temporary nature of an appointment.
<u>Examination:</u>	Any competitive means of measuring the qualifications and relative fitness of applicants for employment.
<u>Full Certification:</u>	The normal and maximum number of names certifiable, from an employment list, that can be considered for an appointment.
<u>Holidays:</u>	See Compensation Ordinance.
<u>Hourly Rate:</u>	See Compensation Ordinance.
<u>Hours:</u>	See Compensation Ordinance.
<u>Immediate Family:</u>	See Compensation Ordinance.
<u>Incumbent:</u>	The individual serving in a position.
<u>Lateral Transfer:</u>	A change in appointment with no change in top prescribed pay rate.
<u>Layoff:</u>	Involuntary termination of an appointment due to a reduction of the County work force.
<u>Leave of Absence:</u>	Authorization to be absent from duty for a specified period and purpose.
<u>Military Leave:</u>	The leave of absence granted by State law to employees ordered to active duty in the armed forces of the United States.
<u>Office of Internal Affairs:</u>	The County office responsible for investigating allegations of improper County government activity and discrimination based on non-job related factors. (Added 9-27-05)
<u>Paid Service:</u>	Actual time worked, including paid holidays, paid leaves of absence, and compensatory time off followed by a return to work.

<u>Pay Period:</u>	See Compensation Ordinance.
<u>Performance Test:</u>	Examination that has candidates perform a sample of the actual work that would be found on the job.
<u>Permanent Employment Status:</u>	The status gained by a person who has successfully passed a probationary period and has maintained continuous service in the Classified Service.
<u>Permanent Position:</u>	Any non-temporary position designated as such in the Compensation Ordinance. Synonymous with regular position.
<u>Permanent Probationary Employment Status:</u>	The status of an employee who has gained permanent status and who is serving a new probationary period in a different class or department.
<u>Position:</u>	A group of continuing duties and responsibilities assigned by an appointing authority and requiring the full-time or part-time employment of one individual.
<u>Position Status:</u>	The permanent or temporary nature of an authorized position as designated in the Compensation Ordinance.
<u>Present Employment:</u>	Most recent continuous service upon entry or re-entry into the County service. However, continuous service immediately prior to separation of a permanent employee because of disability retirement or layoff shall be counted in computing the duration of present employment if a permanent employee returns to County service within three years of separation.
<u>Probationary Period:</u>	A trial period during which an appointee is required to actually demonstrate ability to perform the duties and responsibilities of a position following permanent appointment from an authorized employment list.
<u>Promotion:</u>	A change in appointment to a class having a higher top prescribed pay rate.
<u>Provisional Temporary Appointment:</u>	The temporary appointment of a qualified person without certification or competition and in the absence of a Reinstatement or Regular Employment List for the class.
<u>Public Notice:</u>	Announcement of examinations, meetings, hearings and other actions of the Civil Service Commission or Department of Human Resources on bulletin boards in such offices. (Amended 8-20-96)

<u>Qualified Injured Worker:</u>	Any bi-weekly rate employee who, after January 1, 1975, became permanently incapable of performing the duties of their present classification and is recommended for transfer consideration by the Director, Department of Human Resources. (Amended 8-20-96)
<u>Reclassification:</u>	The act of assigning an existing authorized position to a different class based on an analysis of substantial changes in the continuing duties, responsibilities or requirements of the position as determined by the Director.
<u>Reemployment:</u>	The rehiring of a former employee.
<u>Reemployment List:</u>	An authorized employment list consisting of former employees who attained permanent employment status in a class, separated from County Service in good standing, and who wish to be rehired within a period of three years.
<u>Reinstatement:</u>	The reappointment of a person to make whole and accompanied with the restoration of seniority or rights.
<u>Reinstatement List:</u>	An authorized employment list containing the names of persons whose permanent appointment has been terminated, through no fault of the employee, who have reappointment rights to their former class.
<u>Removal:</u>	The involuntary termination of an employee from a position and from the classified service in accordance with Rule VII. (Added 9-27-05)
<u>Resignation:</u>	Voluntary separation of an employee from County Service.
<u>Separation:</u>	The termination of an appointment and the removal of an employee from a position in County Service for any reason.
<u>Sick Leave:</u>	A type of authorized leave as defined in the Compensation Ordinance.
<u>Specification:</u>	See Class Specification.
<u>Suspension:</u>	An involuntary temporary absence without pay imposed by the appointing authority for disciplinary purposes.
<u>Temporary Employment Status:</u>	The status of a person who holds any type of temporary appointment subject to expiration and termination.
<u>Transfer List:</u>	An authorized employment list consisting of employees who are seeking lateral transfer or demotion.

<u>Unclassified Service:</u>	Includes all classes and positions in Section 908.2 in the County Charter exempted from the Classified Service. Persons serving in the Unclassified Service accrue no tenure and serve at the pleasure of the appointing authority.
<u>Vacancy or Vacant Position:</u>	Any unfilled authorized position.
<u>Waiver:</u>	The act of relinquishing a right.
<u>Year:</u>	365 consecutive days.